

Study J-1400

November 14, 2001

## Third Supplement to Memorandum 2001-88

### **Statutes Made Obsolete by Trial Court Restructuring: Further Revisions**

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Attached for the Commission's consideration are proposed amendments of Government Code Section 26529, Penal Code Sections 28, 977, 1000, 1036.5, 1203.1b, and 1214, and Revenue and Taxation Code Section 19707. Some of these amendments address cross-references to provisions that we plan to repeal. Others incorporate recently enacted legislation that was not incorporated in the draft attached to the First Supplement to Memorandum 2001-88. Notes in the attached draft indicate which amendments would replace earlier versions.

Respectfully submitted,

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## STATUTES MADE OBSOLETE BY TRIAL COURT RESTRUCTURING: FURTHER REVISIONS

GOVERNMENT CODE .....	1
Gov't Code § 26529 (amended). County counsel to discharge duties of district attorney .....	1
PENAL CODE .....	2
Penal Code § 28 (amended). Evidence of mental disease, mental defect or mental disorder .....	2
Penal Code § 977 (amended). Presence of defendant and counsel .....	2
Penal Code § 1000 (amended). Application of chapter to certain violations .....	3
Penal Code § 1036.5 (amended). Setting aside order to change venue .....	5
Penal Code § 1203.1b (amended). Defendant's obligation to pay for probation supervision or conditional sentence .....	5
Penal Code § 1214 (amended). Enforcement of judgment for restitution fine or other fine .....	7
REVENUE AND TAXATION CODE .....	9
Rev. & Tax. Code § 19707 (amended). Venue .....	9

### GOVERNMENT CODE

1   **Gov't Code § 26529 (amended). County counsel to discharge duties of district attorney**

2       SEC. \_\_\_\_\_. Section 26529 of the Government Code is amended to read:

3       26529. (a) In counties that have a county counsel, the county counsel shall discharge all  
4       the duties vested in the district attorney by Sections 26520, 26522, 26523, **26524**, and  
5       26526. The county counsel shall defend or prosecute all civil actions and proceedings in  
6       which the county or any of its officers is concerned or is a party in his or her official  
7       capacity. Except where the county provides other counsel, the county counsel shall  
8       defend as provided in Part 7 (commencing with Section 995) of Division 3.6 of Title 1 of  
9       the Government Code any action or proceeding brought against an officer, employee, or  
10      servant of the county.

11      (b) Notwithstanding any other provision of law, the County Counsel of the County of  
12      Solano may, and when directed by the board of supervisors of that county shall, bring a  
13      civil action when the county, or any of its officers, has a cause of action to abate a public  
14      nuisance in the county. The County Counsel and the District Attorney of Solano County  
15      have the concurrent right to bring an action to abate a public nuisance pursuant to this  
16      subdivision.

17      **Comment.** Subdivision (a) of Section 26529 is amended to reflect the repeal of Section 26524,  
18      concerning a representation of a trial court or trial court judge by the district attorney.

19      ☞ **Note.** This amendment of Section 26529 presumes that Section 26524 will be repealed as  
20      proposed at page 133 of the staff draft tentative recommendation attached to Memorandum 2001-  
21      88.

22      This section reflects legislative changes made in SB 195 (Chesbro). See 2001 Cal. Stat. ch 767,  
23      § 2.

24      This provision is already in the staff draft attached to the First Supplement to Memorandum  
25      2001-88. The amendment proposed above would replace the version in that draft, which did not  
26      incorporate the changes made in SB 195 (Chesbro).

## PENAL CODE

1   **Penal Code § 28 (amended). Evidence of mental disease, mental defect or mental disorder**

2   SEC. \_\_\_. Section 28 of the Penal Code is amended to read:

3   28. (a) Evidence of mental disease, mental defect, or mental disorder shall not be  
4   admitted to show or negate the capacity to form any mental state, including, but not  
5   limited to, purpose, intent, knowledge, premeditation, deliberation, or malice  
6   aforethought, with which the accused committed the act. Evidence of mental disease,  
7   mental defect, or mental disorder is admissible solely on the issue of whether or not the  
8   accused actually formed a required specific intent, premeditated, deliberated, or harbored  
9   malice aforethought, when a specific intent crime is charged.

10   (b) As a matter of public policy there shall be no defense of diminished capacity,  
11   diminished responsibility, or irresistible impulse in a criminal action or juvenile  
12   adjudication hearing.

13   (c) This section shall not be applicable to an insanity hearing pursuant to Section 1026  
14   or 1429.5.

15   (d) Nothing in this section shall limit a court's discretion, pursuant to the Evidence  
16   Code, to exclude psychiatric or psychological evidence on whether the accused had a  
17   mental disease, mental defect, or mental disorder at the time of the alleged offense.

18   **Comment.** Subdivision (c) of Section 28 is amended to reflect the repeal of Section 1429.5,  
19   concerning a plea of not guilty by reason of insanity in a municipal court.

20   |  **Note.** This section reflects a legislative change made in S.B. 205 (McPherson). See 2001 Cal.  
21   Stat. ch. 854, § 18. |

22   **Penal Code § 977 (amended). Presence of defendant and counsel**

23   SEC. \_\_\_. Section 977 of the Penal Code is amended to read:

24   977. (a)(1) In all cases in which the accused is charged with a misdemeanor only, he or  
25   she may appear by counsel only, except as provided in paragraph (2). If the accused  
26   agrees, the initial court appearance, arraignment, and plea may be by video, as provided  
27   by subdivision (c).

28   (2) If the accused is charged with a misdemeanor offense involving domestic violence,  
29   as defined in Section 6211 of the Family Code, or a misdemeanor violation of Section  
30   273.6, the accused shall be present for arraignment and sentencing.

31   (b)(1) In all cases in which a felony is charged, the accused shall be present at the  
32   arraignment, at the time of plea, during the preliminary hearing, during those portions of  
33   the trial when evidence is taken before the trier of fact, and at the time of the imposition  
34   of sentence. The accused shall be personally present at all other proceedings unless he or  
35   she shall, with leave of court, execute in open court, a written waiver of his or her right to  
36   be personally present, as provided by paragraph (2). If the accused agrees, the initial court  
37   appearance, arraignment, and plea may be by video, as provided by subdivision (c).

38   (2) The accused may execute a written waiver of his or her right to be personally  
39   present, approved by his or her counsel, and the waiver shall be filed with the court.  
40   However, the court may specifically direct the defendant to be personally present at any  
41   particular proceeding or portion thereof. The waiver shall be substantially in the  
42   following form:

43                         “Waiver of Defendant’s Personal Presence”

1        “The undersigned defendant, having been advised of his or her right to be present at all  
2 stages of the proceedings, including, but not limited to, presentation of and arguments on  
3 questions of fact and law, and to be confronted by and cross-examine all witnesses,  
4 hereby waives the right to be present at the hearing of any motion or other proceeding in  
5 this cause. The undersigned defendant hereby requests the court to proceed during every  
6 absence of the defendant that the court may permit pursuant to this waiver, and hereby  
7 agrees that his or her interest is represented at all times by the presence of his or her  
8 attorney the same as if the defendant were personally present in court, and further agrees  
9 that notice to his or her attorney that his or her presence in court on a particular day at a  
10 particular time is required is notice to the defendant of the requirement of his or her  
11 appearance at that time and place.”

12      (c) The court may permit the initial court appearance and arraignment in ~~municipal~~ or  
13 superior court of defendants held in any state, county, or local facility within the county  
14 on felony or misdemeanor charges, except for those defendants who were indicted by a  
15 grand jury, to be conducted by two-way electronic audiovideo communication between  
16 the defendant and the courtroom in lieu of the physical presence of the defendant in the  
17 courtroom. If the defendant is represented by counsel, the attorney shall be present with  
18 the defendant at the initial court appearance and arraignment, and may enter a plea during  
19 the arraignment. However, if the defendant is represented by counsel at an initial hearing  
20 in superior court in a felony case, and if the defendant does not plead guilty or nolo  
21 contendere to any charge, the attorney shall be present with the defendant or if the  
22 attorney is not present with the defendant, the attorney shall be present in court during the  
23 hearing. The defendant shall have the right to make his or her plea while physically  
24 present in the courtroom if he or she so requests. If the defendant decides not to exercise  
25 the right to be physically present in the courtroom, he or she shall execute a written  
26 waiver of that right. A judge may order a defendant’s personal appearance in court for the  
27 initial court appearance and arraignment. In a misdemeanor case, a judge may, pursuant  
28 to this subdivision, accept a plea of guilty or no contest from a defendant who is not  
29 physically in the courtroom. In a felony case, a judge may, pursuant to this subdivision,  
30 accept a plea of guilty or no contest from a defendant who is not physically in the  
31 courtroom if the parties stipulate thereto.

32      (d) Notwithstanding subdivision (c), if the defendant is represented by counsel, the  
33 attorney shall be present with the defendant in any county exceeding 4,000,000 persons in  
34 population.

35      **Comment.** Subdivision (c) of Section 977 is amended to reflect unification of the municipal  
36 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

37       **Note.** This section reflects legislative changes made in AB 477 (Cohn). See 2001 Cal. Stat. ch  
38 82, § 1.

39      This provision is already in the staff draft attached to the First Supplement to Memorandum  
40 2001-88. The amendment proposed above would replace the version in that draft, which did not  
41 incorporate the changes made in AB 477 (Cohn).

42      **Penal Code § 1000 (amended). Application of chapter to certain violations**

43      SEC. \_\_\_\_\_. Section 1000 of the Penal Code is amended to read:

44      1000. (a) This chapter shall apply whenever a case is before any court upon an  
45 accusatory pleading for a violation of Section 11350, 11357, 11364, 11365, 11377, or  
46 11550 of the Health and Safety Code, or Section 11358 of the Health and Safety Code if  
47 the marijuana planted, cultivated, harvested, dried, or processed is for personal use, or  
48 Section 11368 of the Health and Safety Code if the narcotic drug was secured by a

1 fictitious prescription and is for the personal use of the defendant and was not sold or  
2 furnished to another, or subdivision (d) of Section 653f if the solicitation was for acts  
3 directed to personal use only, or Section 381 or subdivision (f) of Section 647 of the  
4 Penal Code, if for being under the influence of a controlled substance, or Section 4060 of  
5 the Business and Professions Code, and it appears to the prosecuting attorney that, except  
6 as provided in subdivision (b) of Section 11357 of the Health and Safety Code, all of the  
7 following apply to the defendant:

8 (1) The defendant has no conviction for any offense involving controlled substances  
9 prior to the alleged commission of the charged offense.

10 (2) The offense charged did not involve a crime of violence or threatened violence.

11 (3) There is no evidence of a violation relating to narcotics or restricted dangerous  
12 drugs other than a violation of the sections listed in this subdivision.

13 (4) The defendant's record does not indicate that probation or parole has ever been  
14 revoked without thereafter being completed.

15 (5) The defendant's record does not indicate that he or she has successfully completed  
16 or been terminated from diversion or deferred entry of judgment pursuant to this chapter  
17 within five years prior to the alleged commission of the charged offense.

18 (6) The defendant has no prior felony conviction within five years prior to the alleged  
19 commission of the charged offense.

20 (b) The prosecuting attorney shall review his or her file to determine whether or not  
21 paragraphs (1) to (6), inclusive, of subdivision (a) apply to the defendant. Upon the  
22 agreement of the prosecuting attorney, law enforcement, the public defender, and the  
23 presiding judge of the criminal division of the ~~municipal court or of the~~ superior court ~~in~~  
24 ~~a county in which there is no municipal court~~, or a judge designated by the presiding  
25 judge, this procedure shall be completed as soon as possible after the initial filing of the  
26 charges. If the defendant is found eligible, the prosecuting attorney shall file with the  
27 court a declaration in writing or state for the record the grounds upon which the  
28 determination is based, and shall make this information available to the defendant and his  
29 or her attorney. This procedure is intended to allow the court to set the hearing for  
30 deferred entry of judgment at the arraignment. If the defendant is found ineligible for  
31 deferred entry of judgment, the prosecuting attorney shall file with the court a declaration  
32 in writing or state for the record the grounds upon which the determination is based, and  
33 shall make this information available to the defendant and his or her attorney. The sole  
34 remedy of a defendant who is found ineligible for deferred entry of judgment is a  
35 postconviction appeal.

36 (c) All referrals for deferred entry of judgment granted by the court pursuant to this  
37 chapter shall be made only to programs that have been certified by the county drug  
38 program administrator pursuant to Chapter 1.5 (commencing with Section 1211) of Title  
39 8, or to programs that provide services at no cost to the participant and have been deemed  
40 by the court and the county drug program administrator to be credible and effective. The  
41 defendant may request to be referred to a program in any county, as long as that program  
42 meets the criteria set forth in this subdivision.

43 (d) Deferred entry of judgment for a violation of Section 11368 of the Health and  
44 Safety Code shall not prohibit any administrative agency from taking disciplinary action  
45 against a licensee or from denying a license. Nothing in this subdivision shall be  
46 construed to expand or restrict the provisions of section 1000.4.

47 (e) Any defendant who is participating in a program referred to in this section may be  
48 required to undergo analysis of his or her urine for the purpose of testing for the presence

1 of any drug as part of the program. However, urine analysis results shall not be  
2 admissible as a basis for any new criminal prosecution or proceeding.

3 **Comment.** Subdivision (b) of Section 1000 is amended to reflect unification of the municipal  
4 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

5  **Note.** This section reflects legislative changes made in SB 485 (Committee on Public Safety).  
6 See 2001 Cal. Stat. ch 473, § 7.

7 This provision is already in the staff draft attached to the First Supplement to Memorandum  
8 2001-88. The amendment proposed above would replace the version in that draft, which did not  
9 incorporate the changes made in SB 485 (Committee on Public Safety).

10 **Penal Code § 1036.5 (amended). Setting aside order to change venue**

11 SEC. \_\_\_\_\_. Section 1036.5 of the Penal Code is amended to read:

12 1036.5. Following the resolution of pre-trial motions, and prior to the issuance of an  
13 order under Section 1036 or the transmittal of the case file for the purpose of trial to the  
14 court to which venue has been ordered transferred, the court may, upon its own motion or  
15 the motion of any party and on appropriate notice to the court to which venue has been  
16 transferred, set aside its order to change venue on the ground that the conditions which  
17 originally required the order to change venue, as set forth in Section 1033 ~~or 1034~~, no  
18 longer apply.

19 **Comment.** Section 1036.5 is amended to reflect the repeal of Section 1034, concerning a  
20 change of venue in a criminal action pending in a municipal court.

21 **Penal Code § 1203.1b (amended). Defendant's obligation to pay for probation supervision  
22 or conditional sentence**

23 SEC. \_\_\_\_\_. Section 1203.1b of the Penal Code is amended to read:

24 1203.1b. (a) In any case in which a defendant is convicted of an offense and is the  
25 subject of any preplea or presentence investigation and report, whether or not probation  
26 supervision is ordered by the court, and in any case in which a defendant is granted  
27 probation or given a conditional sentence, the probation officer, or his or her authorized  
28 representative, taking into account any amount that the defendant is ordered to pay in  
29 fines, assessments, and restitution, shall make a determination of the ability of the  
30 defendant to pay all or a portion of the reasonable cost of any probation supervision or a  
31 conditional sentence, of conducting any preplea investigation and preparing any preplea  
32 report pursuant to Section 1203.7, of conducting any presentence investigation and  
33 preparing any presentence report made pursuant to Section 1203, and of processing a  
34 jurisdictional transfer pursuant to Section 1203.9 or of processing a request for interstate  
35 compact supervision pursuant to Sections 11175 to 11179, inclusive, whichever applies.  
36 The reasonable cost of these services and of probation supervision or a conditional  
37 sentence shall not exceed the amount determined to be the actual average cost thereof. A  
38 payment schedule for the reimbursement of the costs of preplea or presentence  
39 investigations based on income shall be developed by the probation department of each  
40 county and approved by the presiding judges of the municipal and superior courts judge  
41 of the superior court. The court shall order the defendant to appear before the probation  
42 officer, or his or her authorized representative, to make an inquiry into the ability of the  
43 defendant to pay all or a portion of these costs. The probation officer, or his or her  
44 authorized representative, shall determine the amount of payment and the manner in  
45 which the payments shall be made to the county, based upon the defendant's ability to  
46 pay. The probation officer shall inform the defendant that the defendant is entitled to a  
47 hearing, that includes the right to counsel, in which the court shall make a determination

1 of the defendant's ability to pay and the payment amount. The defendant must waive the  
2 right to a determination by the court of his or her ability to pay and the payment amount  
3 by a knowing and intelligent waiver.

4 (b) When the defendant fails to waive the right provided in subdivision (a) to a  
5 determination by the court of his or her ability to pay and the payment amount, the  
6 probation officer shall refer the matter to the court for the scheduling of a hearing to  
7 determine the amount of payment and the manner in which the payments shall be made.  
8 The court shall order the defendant to pay the reasonable costs if it determines that the  
9 defendant has the ability to pay those costs based on the report of the probation officer, or  
10 his or her authorized representative. The following shall apply to a hearing conducted  
11 pursuant to this subdivision:

12 (1) At the hearing, the defendant shall be entitled to have, but shall not be limited to,  
13 the opportunity to be heard in person, to present witnesses and other documentary  
14 evidence, and to confront and cross-examine adverse witnesses, and to disclosure of the  
15 evidence against the defendant, and a written statement of the findings of the court or the  
16 probation officer, or his or her authorized representative.

17 (2) At the hearing, if the court determines that the defendant has the ability to pay all or  
18 part of the costs, the court shall set the amount to be reimbursed and order the defendant  
19 to pay that sum to the county in the manner in which the court believes reasonable and  
20 compatible with the defendant's financial ability.

21 (3) At the hearing, in making a determination of whether a defendant has the ability to  
22 pay, the court shall take into account the amount of any fine imposed upon the defendant  
23 and any amount the defendant has been ordered to pay in restitution.

24 (4) When the court determines that the defendant's ability to pay is different from the  
25 determination of the probation officer, the court shall state on the record the reason for its  
26 order.

27 (c) The court may hold additional hearings during the probationary or conditional  
28 sentence period to review the defendant's financial ability to pay the amount, and in the  
29 manner, as set by the probation officer, or his or her authorized representative, or as set  
30 by the court pursuant to this section.

31 (d) If practicable, the court shall order or the probation officer shall set payments  
32 pursuant to subdivisions (a) and (b) to be made on a monthly basis. Execution may be  
33 issued on the order issued pursuant to this section in the same manner as a judgment in a  
34 civil action. The order to pay all or part of the costs shall not be enforced by contempt.

35 (e) The term "ability to pay" means the overall capability of the defendant to reimburse  
36 the costs, or a portion of the costs, of conducting the presentence investigation, preparing  
37 the preplea or presentence report, processing a jurisdictional transfer pursuant to Section  
38 1203.9, processing requests for interstate compact supervision pursuant to Sections 11175  
39 to 11179, inclusive, and probation supervision or conditional sentence, and shall include,  
40 but shall not be limited to, the defendant's:

41 (1) Present financial position.

42 (2) Reasonably discernible future financial position. In no event shall the court consider  
43 a period of more than one year from the date of the hearing for purposes of determining  
44 reasonably discernible future financial position.

45 (3) Likelihood that the defendant shall be able to obtain employment within the one-  
46 year period from the date of the hearing.

47 (4) Any other factor or factors that may bear upon the defendant's financial capability  
48 to reimburse the county for the costs.

1       (f) At any time during the pendency of the judgment rendered according to the terms of  
2 this section, a defendant against whom a judgment has been rendered may petition the  
3 probation officer for a review of the defendant's financial ability to pay or the rendering  
4 court to modify or vacate its previous judgment on the grounds of a change of  
5 circumstances with regard to the defendant's ability to pay the judgment. The probation  
6 officer and the court shall advise the defendant of this right at the time of rendering of the  
7 terms of probation or the judgment.

8       (g) All sums paid by a defendant pursuant to this section shall be allocated for the  
9 operating expenses of the county probation department.

10     (h) The board of supervisors in any county, by resolution, may establish a fee for the  
11 processing of payments made in installments to the probation department pursuant to this  
12 section, not to exceed the administrative and clerical costs of the collection of those  
13 installment payments as determined by the board of supervisors, except that the fee shall  
14 not exceed fifty dollars (\$50).

15     (i) This section shall be operative in a county upon the adoption of an ordinance to that  
16 effect by the board of supervisors.

17     **Comment.** Subdivision (a) of Section 1203.1b is amended to reflect unification of the  
18 municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

19     ☞ **Note.** This section reflects legislative changes made in SB 485 (Committee on Public Safety).  
20 See 2001 Cal. Stat. ch 473, § 8.

21     This provision is already in the staff draft attached to the First Supplement to Memorandum  
22 2001-88. The amendment proposed above would replace the version in that draft, which did not  
23 incorporate the changes made in SB 485 (Committee on Public Safety).

24     **Penal Code § 1214 (amended). Enforcement of judgment for restitution fine or other fine**

25     SEC. \_\_\_\_\_. Section 1214 of the Penal Code is amended to read:

26     1214. (a) If the judgment is for a fine, including a restitution fine ordered pursuant to  
27 Section 1202.4 or Section 1203.04 as operative on or before August 2, 1995, or Section  
28 13967 of the Government Code, as operative on or before September 28, 1994, with or  
29 without imprisonment, the judgment may be enforced in the manner provided for the  
30 enforcement of money judgments generally. Any portion of a restitution fine that  
31 remains unsatisfied after a defendant is no longer on probation or parole is enforceable by  
32 the State Board of Control pursuant to this section. Notwithstanding any other provision  
33 of law prohibiting disclosure, the state, as defined in Section 900.6 of the Government  
34 Code, a local public entity, as defined in Section 900.4 of the Government Code, or any  
35 other entity, may provide the State Board of Control any and all information to assist in  
36 the collection of unpaid portions of a restitution fine for terminated probation or parole  
37 cases. For purposes of the preceding sentence, "state, as defined in Section 900.6 of the  
38 Government Code," and "any other entity" shall not include the Franchise Tax Board.

39     (b) In any case in which a defendant is ordered to pay restitution, the order to pay  
40 restitution (1) is deemed a money judgment if the defendant was informed of his or her  
41 right to have a judicial determination of the amount and was provided with a hearing,  
42 waived a hearing, or stipulated to the amount of the restitution ordered, and (2) shall be  
43 fully enforceable by a victim as if the restitution order were a civil judgment, and  
44 enforceable in the same manner as is provided for the enforcement of any other money  
45 judgment. Upon the victim's request, the court shall provide the victim in whose favor  
46 the order of restitution is entered with a certified copy of that order and a copy of the  
47 defendant's disclosure pursuant to paragraph (4) of subdivision (f) of Section 1202.4,  
48 affidavit or information pursuant to paragraph (5) of subdivision (f) of Section 1202.4, or

1 report pursuant to paragraph (7) of subdivision (f) of Section 1202.4. The court also shall  
2 provide this information to the district attorney upon request in connection with an  
3 investigation or prosecution involving perjury or the veracity of the information  
4 contained within the defendant's financial disclosure. In addition, upon request, the court  
5 shall provide the State Board of Control with a certified copy of any order imposing a  
6 restitution fine or order and a copy of the defendant's disclosure pursuant to paragraph (7)  
7 of subdivision (f) of Section 1202.4, affidavit or information pursuant to paragraph (5)  
8 of subdivision (f) of Section 1202.4, or report pursuant to paragraph (7) of subdivision (f)  
9 of Section 1202.4. A victim shall have access to all resources available under the law to  
10 enforce the restitution order, including, but not limited to, access to the defendant's  
11 financial records, use of wage garnishment and lien procedures, information regarding the  
12 defendant's assets, and the ability to apply for restitution from any fund established for  
13 the purpose of compensating victims in civil cases. Any portion of a restitution order that  
14 remains unsatisfied after a defendant is no longer on probation or parole is enforceable by  
15 the victim pursuant to this section. Victims and the State Board of Control shall inform  
16 the court whenever an order to pay restitution is satisfied.

17 (c) Except as provided in subdivision (d), and notwithstanding the amount in  
18 controversy limitation of Section 85 of the Code of Civil Procedure, a restitution order or  
19 restitution fine that was imposed pursuant to Section 1202.4 ~~by a municipal court, or by~~  
20 ~~the superior court acting pursuant to subdivision (d) of Section 1462, in any of the~~  
21 ~~following cases~~ may be enforced in the same manner as a money judgment in a limited  
22 civil case:

23 (1) In a misdemeanor case.

24 (2) In a case involving violation of a city or town ordinance.

25 (3) In a noncapital criminal case where the court has received a plea of guilty or nolo  
26 contendre.

27 (d) Chapter 3 (commencing with Section 683.010) of Division 1 of Title 9 of Part 2 of  
28 the Code of Civil Procedure shall not apply to a judgment for any fine or restitution  
29 ordered pursuant to Section 1202.4 or Section 1203.04 as operative on or before August  
30 2, 1995, or Section 13967 of the Government Code, as operative on or before September  
31 28, 1994.

32 (e)(1) This section shall become operative on January 1, 2000, and shall be applicable  
33 to all courts, except when all of the following apply:

34 (A) A majority of judges of a court apply to the Judicial Council for an extension.

35 (B) The judicial application described in paragraph (1) documents the need for time to  
36 adjust restitution procedures and practices, as well as to facilitate judicial education and  
37 training in direct restitution to victims under subdivision (f) of Section 1202.4.

38 (C) The Judicial Council grants the extension upon finding good cause.

39 (2) Upon the grant of an extension pursuant to the application of a court under this  
40 subdivision, the provisions of former Section 1202.4 shall continue to apply with respect  
41 to that court. The extension may be for any period of time set by the Judicial Council,  
42 but shall not exceed January 1, 2002, in any case.

43 **Comment.** Subdivision (c) of Section 1214 is amended to reflect unification of the municipal  
44 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution, and to  
45 reflect the repeal of Section 1462, concerning the jurisdiction of the municipal and superior  
46 courts. Subdivisions (c)(1)-(c)(3) are drawn from former Section 1462(a)-(b).

47 This provision is already in the staff draft attached to the First Supplement to Memorandum 2001-  
48 88. The amendment proposed above would replace the version in that draft. It is the same as the |

1 | previous version, except that it addresses the cross-reference to Section 1462, which the |  
2 | Commission is proposing to repeal. |

3                   **REVENUE AND TAXATION CODE**

4                   **Rev. & Tax. Code § 19707 (amended). Venue**

5                   SEC. \_\_\_\_\_. Section 19707 of the Revenue and Taxation Code is amended to read:  
6                   19707. The place of trial for the offenses enumerated in this chapter shall be in the  
7                   county of residence or principal place of business of the defendant or defendants at the  
8                   time of commission of the offense. However, if the defendant or defendants had no  
9                   residence or principal place of business in this state at the time of commission of the  
10                  offense, the trial shall be held in the County of Sacramento.

11                  In a criminal case charging a defendant or defendants with committing an offense  
12                  enumerated in this chapter, the place of trial may be as set forth in this section, or as  
13                  provided for in ~~Seetions~~ 1462 and Section 1462.2 or Chapter 1 (commencing with  
14                  Section 777) of Title 3 of Part 2 of the Penal Code.

15                  **Comment.** Section 19707 is amended to reflect the repeal of Penal Code Section 1462,  
16                  concerning the jurisdiction of the municipal and superior courts.