

## Memorandum 2001-97

### **Statutes Made Obsolete by Trial Court Restructuring: Court Clerks**

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The draft tentative recommendation attached to Memorandum 2001-88 includes a number of revisions to convert statutory references from the county clerk to the clerk of the court in matters involving court operations.

The Commission has asked for further input on a couple of issues relating to the court clerk:

- (1) Should grand jury reports currently filed with the county clerk instead be filed with the court clerk?
- (2) Should an order transferring a prisoner to another county be filed with the court clerk instead of the county clerk?

We have also received from the California Association of Clerks and Election Officers a draft of additional statutes they believe should refer to the court clerk rather than the county clerk.

Attached to this memorandum is a supplemental staff draft of with appropriate conversions from county clerk to court clerk references. This memorandum presents further discussion of problematic provisions.

#### **Grand Jury Reports**

Penal Code Sections 932 authorizes the grand jury to order the district attorney to bring suit for embezzled county funds and requires the order to be filed with the county clerk. Section 933 requires the grand jury annually to make a final report on county government matters and requires a copy of the report and any responses to be filed with the county clerk. Section 938.1 requires a grand jury indictment to be delivered to the county clerk for filing and transmission to the district attorney and the defendant.

We requested county clerks, court clerks, and others for further input on proper treatment of these statutes. There was unanimity that the indictment (Penal Code Section 938.1) should go to the court clerk rather than the county clerk.

Opinion ran three to one in favor of filing the grand jury reports (Penal Code Sections 932 and 933) with the court clerk. Comments in favor of keeping the filing with the county clerk indicated that this aspect of the grand jury work was basically a county function. Comments in favor of shifting to the court clerk indicated that the grand jury is an adjunct of the court system. The California Grand Jurors' Association noted, "We believe that citizens are as, or more, likely to seek grand jury records from the court than from the county clerk. We also believe that court clerks are more attuned to the need to maintain, in accessible fashion, grand jury records than are county clerks."

Based on this input, the staff suggests that these county clerk references be converted to the court clerk for purposes of the tentative recommendation. We have included language in the attached staff draft.

### **Order Transferring Prisoner to Another County**

The opinion of interested persons on a court order transferring a prisoner to another county (Penal Code § 4007 (county jail); Welf. & Inst. Code § 872 (juvenile hall)) ran four to one in favor of filing with the court clerk rather than the county clerk. The general (though not unanimous) feeling was that this is a judicial function and should be treated as such. As one commentator noted, "the clerk of the court, [should be] custodian of records of court proceedings, including orders made by bench officers of the court." The records belong in the prisoner's case file.

Based on this input, we have included appropriate revisions of these two sections in the attached staff draft.

### **County Law Library**

Business and Professions Code Section 6365 permits discontinuance of the county law library in one-judge counties. There are no longer any one-judge counties as a consequence of unification. However, to keep the spirit of this section, rather than repealing it, the staff draft converts it into a two-judge statute.

The policy here is not clear, however, and we suggest that the tentative recommendation call attention to this provision. (We would also send it to the county law library association for reaction.)

## **Probation Records**

Code of Civil Procedure Section 131.3 requires the county clerk to provide , at county expense, books of record in which probation officers record relevant information concerning probationers. At the suggestion of the county clerks association we have revised this section to impose the duty on the court clerk to provide books of record, while maintaining county liability for the expense.

We are not sure this is an elegant solution, but it may work. Probation is still a county function, not a court function, for trial court funding purposes.

## **Dangerous or Vicious Dogs**

Food and Agricultural Code Section 31622 provides for appeal to the superior court of a decision declaring a dangerous or vicious dog. The filing fee is \$20, payable to the county clerk. The attached draft converts this to a court clerk fee at the suggestion of the county clerks association.

The staff notes that generally we have been reluctant to change any county fees based on the counties' assertion that all fees should continue to go to the county until such a time as a comprehensive further restructuring occurs. The staff has made an exception in this draft because it was requested by the county clerks and appears to be a minor fee.

We should bring this matter to the attention of the counties to make sure they are satisfied with it.

## **Child Support Enforcement**

Government Code Section 6103.9 is an apparently obsolete provision relating to child support enforcement by the district attorney. District attorneys are no longer involved in child support collection. However, this obsolete provision is beyond the scope of the present project; we have not attempted to deal with it in this draft.

## **Foreign Language Interpreters**

Government Code Section 26806 deals with assignment and employment of foreign language interpreters. The draft tentative recommendation would revise the section, with a note that treatment of foreign language interpreters is the subject of a separate study.

The county clerks association suggests a different treatment of Section 26806 than that set out in the tentative recommendation draft. The staff proposes to

take their suggestions into account in our research on this matter, and report back to the Commission at an appropriate time.

### **Filing Fees**

Government Code Section 26820 et seq. deals with filing fees and their collection by the county clerk or clerk of the court. This whole body of law needs substantial reorganization and perhaps substantive revision. The matter is under study by the Judicial Council. We have not included revisions of this body of law in the attached draft, except for a few sections where the change from county clerk to court clerk is clearly called for and does not affect the substance of the provision.

### **Court Executive Officer**

Government Code Section 69898 provides for appointment of a court executive officer. The draft tentative recommendation would repeal this provision on grounds that it is superseded by the Trial Court Employment Protection and Governance Act. Gov't Code § 71620 (trial court personnel); see also proposed Section 69840 (powers, duties, and responsibilities of clerk of court).

The county clerks association would take a different approach. They would preserve this section in a form that provides for compensation of the county by the court if the court uses the county clerk for court clerk services.

The staff suggests we add a Note to the tentative recommendation soliciting comment on the proposed repeal of Section 69898 and inquiring whether there is a need to preserve the section in some form for those situations in which the county clerk performs the functions of the court clerk.

### **Official Reporters**

A number of county-specific statutes involve official reporter fees and transmission of amounts by the county clerk to the county treasury. See Gov't Code §§ 69999 (Ventura County), 70017 (Orange County), 70062 (various counties), 70128 (Humboldt County). Each of these provisions is tentatively repealed by the tentative recommendation, with a note that the provisions may need to be preserved pending resolution of the fiscal issues, and soliciting comment on the matter. For this reason we have not included in the attached draft any clarifying revision of these sections relating to the court clerks.

## **Bail**

We have dealt with Penal Code Section 1269b (bail) from a number of different perspectives during the course of this project, but not from the court clerk perspective. The county clerks association has indicated that the county clerk is no longer the appropriate officer to keep bail deposits — it should be the court clerk. They would revise Section 1269b(f) accordingly:

(f) Upon posting bail, the defendant or arrested person shall be discharged from custody as to the offense on which the bail is posted.

All money and surety bonds so deposited with an officer authorized to receive bail shall be transmitted immediately to the judge or clerk of the court by which the order was made or warrant issued or bail schedule fixed. If, in the case of felonies, an indictment is filed, ~~the judge or clerk of the court shall transmit all of the money and surety bonds~~ shall be transmitted to the ~~county clerk of the court~~.

The staff would add this change to the tentative recommendation.

## **Certificate of Rehabilitation**

The county clerk is required by Penal Code Section 4852.18 to print certificate of rehabilitation forms and make them available at no charge to persons requesting them. This duty is more properly imposed on the court clerk, but there is a cost.

The staff suggests that we propose the change, but add a Note to the effect that the cost issue is tied up with fees, that the amendment may be premature until the parties have resolved the issues, and soliciting comment on the matter.

Respectfully submitted,

Nathaniel Sterling  
Executive Secretary

Exhibit

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**SUPPLEMENTAL STAFF DRAFT:  
COUNTY CLERK AND COURT CLERK REFERENCES**

**Bus. & Prof. Code § 6324 (amended). Additions to law library fund**

SEC. \_\_\_\_\_. Section 6324 of the Business and Professions Code is amended to read:

6324. The board of supervisors of any county may set apart from the fees collected by the ~~county~~ clerk of the court, sums not exceeding one thousand two hundred dollars (\$1,200) in any one fiscal year, to be paid by the ~~county~~ clerk into the law library fund in addition to the moneys otherwise provided to be deposited in that fund by law. The board of supervisors may also appropriate from the county treasury for law library purposes such additional sums as may in their discretion appear proper. When so paid into the law library fund, such sums shall constitute a part of the fund and be used for the same purposes.

**Comment.** Section 6324 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Bus. & Prof. Code § 6365 (amended). Discontinuance of law library**

SEC. \_\_\_\_\_. Section 6365 of the Business and Professions Code is amended to read:

6365. Whenever the board of supervisors in any county in this State in which there ~~is but one judge~~ are but two judges of the superior court, which board shall have adopted the provisions of this chapter and established a law library, desire to discontinue such law library, they shall by ordinance declare their intention so to do, and shall provide in such ordinance that the books already in the library shall be transferred to and kept in the chambers of the ~~judge~~ judges of the superior court of such county. All moneys on hand in the law library fund of such county shall be by the same ordinance transferred to the school fund of such county, and the office of member of the board of law library trustees of such law library shall be abolished. After such an ordinance takes effect, the ~~county~~ clerk of the superior court of such county shall not collect the fees and costs provided for the law library.

**Comment.** Section 6365 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

The section is also amended to address language referring to "the judge" of the court. Every superior court has at least two judgeships as a result of trial court unification. *See* Gov't Code § 69580 *et seq.* (number of judges). Where a court has only one judge due to a vacancy or otherwise, a reference to the judges of the court means the sole judge of the court. *See* Gov't Code § 13 (plural includes singular).

☞ **Note.** The Commission solicits comment on the question whether this section should be repealed rather than amended.

**Bus. & Prof. Code § 25361 (amended). Notice of seizure and intended forfeiture proceeding**

SEC. \_\_\_\_\_. Section 25361 of the Business and Professions Code is amended to read:

25361. Notice of the seizure and of the intended forfeiture proceeding shall be filed with the county clerk of the court and shall be served on all persons, firms, or corporations having any right, title, or interest in the alcoholic beverages or other property seized. If the owner or owners are unknown or cannot be found, notice of the seizure and intended forfeiture proceedings shall be made upon such owners by publication pursuant to Section 6061 of the Government Code in the county where the seizure was made.

**Comment.** Section 25361 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Code Civ. Proc. § 131.3 (amended). Probation records**

SEC. \_\_\_\_\_. Section 131.3 of the Code of Civil Procedure is amended to read:

131.3. Either at the time of the arrest for crime of any person over 16 years of age, or at the time of the plea or verdict of guilty, the probation officer of the county of the jurisdiction of said crime shall, when so directed by the court, inquire into the antecedents, character, history, family environment and offense of such person, and must report the same to the court and file ~~his~~ a report in writing in the records of said court. ~~His~~ The report shall contain ~~his~~ the officer's recommendation for or against the release of such person on probation. If any such person shall be released on probation and committed to the care of the probation officer, such officer must keep a complete and accurate record in suitable books of the history of the case in court and of the name of the probation officer, and ~~his~~ the officer's acts in connection with said case; also the age, sex, nativity, residence, education, habits of temperance, whether married or single, and the conduct, employment and occupation and the parents' occupation and the condition of such

person so committed to his the officer's care during the term of such probation, and the result of such probation, which record shall be and constitute a part of the records of the court and shall at all times be open to the inspection of the court or any person appointed by the court for that purpose, as well as of all magistrates and the chief of police or other head of the police, unless otherwise ordered by the court. The said books of record shall be furnished by the ~~county~~ clerk of the court of said county, and shall be paid for out of the county treasury.

Five years after termination of probation in any case subject to this section, the probation officer may destroy any records and papers in his the officer's possession relating to such case.

The probation officer shall furnish to each person released on probation and committed to his the officer's care, a written statement of the terms and conditions of his the person's probation, and shall report to the court or judge appointing him the officer, any violation or breach of the terms and conditions imposed by such court on the person placed in his the officer's care.

**Comment.** Section 131.3 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Code Civ. Proc. § 1607 (amended). Assertion of interest in unclaimed property**

SEC. \_\_\_\_\_. Section 1607 of the Code of Civil Procedure is amended to read:

1607. When a report is received from the Comptroller General or other proper officer of the United States, the Controller shall prepare and forward a copy thereof to the ~~county~~ clerk of the superior court of each county within this State and the said clerk shall post such copy at the courthouse for a period of 60 days. Any person asserting an interest in property mentioned in the report may elect to claim against the United States under the laws of the United States, in which event and within 90 days following the date of initial posting by the ~~county~~ clerk such person shall notify the State Controller of his the asserted interest and intention to so claim. The Controller shall omit such property from any claim by the State until such time as the asserted interest may be finally determined against the claimant. Such interest shall not thereafter be asserted against the State.

**Comment.** Section 1607 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Code Civ. Proc. § 1609 (amended). Commencement of proceeding by Attorney General**

SEC. \_\_\_\_\_. Section 1609 of the Code of Civil Procedure is amended to read:



1609. Within 120 days following the date of initial posting by the county clerk, the Attorney General shall commence a proceeding by filing a petition to determine the State's right to custody of all property mentioned in such report and unclaimed within the time and in the manner provided by Section 1607. The proceeding shall be commenced and heard in the superior court in the County of Sacramento and venue shall not be affected by the provisions of Section 401, Code of Civil Procedure.

**Comment.** Section 1609 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Educ. Code § 69763.1 (amended). Default on student loan**

SEC. \_\_\_\_\_. Section 69763.1 of the Education Code is amended to read:

69763.1. (a) If a borrower defaults on a guaranteed student loan and the lender's default claim has been paid, the Student Aid Commission shall fulfill the collection efforts required by federal law, which includes initiating a civil suit against the borrower for repayment of the loan.

(b) After the period specified in federal law for commencing action, the amount of the promissory note, plus interest and costs, may be collected by the filing of a certificate requesting judgment pursuant to subdivision (c) or by other appropriate civil action.

(c) If the loan principal, interest, and predefault and collection costs are not paid when due, and there is evidence that the borrower does not intend to pay under the terms of the promissory note or promissory notes, the commission may file in the office of the County Clerk of the Superior Court of Sacramento County, or any other county, a certificate specifying the amount of the loan principal, interest, and predefault and collection costs due, the name and last known address of the individual liable for the amount due, the fact that the commission has complied with all applicable state and federal laws in the computation of the amount due, and a request that judgment be entered against the individual in the amount of the loan principal, interest, and predefault and collection costs specified in the certificate.

(d) Prior to the filing of the certificate, the commission shall, by mail, notify the individual of the amount that is due and of the opportunity for a hearing. If a hearing is requested, 10 days' notice shall be given of the time and place of the hearing, which shall be held in Sacramento County or, if properly requested, the county of residence of the person requesting the hearing. The hearing shall be conducted by a referee who shall submit findings and recommendations to the director of the commission, or an authorized representative, who shall decide the matter. The decision shall be effective upon notice to the interested parties. The director of the commission, or the authorized representative, may rescind the

decision and reconsider the matter for good cause shown at any time within three years after the date the disputed loan first became due, or within one year from the hearing, whichever is later. If no hearing is requested within 15 days after mailing the notice required by this subdivision, the certificate required by subdivision (b) may be filed.

**Comment.** Section 69763.1 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Educ. Code § 69763.2 (amended). Entry and enforcement of judgment**

SEC. \_\_\_\_\_. Section 69763.2 of the Education Code is amended to read:

69763.2. (a) The county clerk, immediately upon the filing of the certificate specified in Section 69763.1, shall enter a judgment for the people of the State of California against the individual in the amount of the loan principal, interest, and predefault and collection costs listed on the certificate. The county clerk may file the judgment in the book entitled "California Student Aid Commission Judgments."

(b) Execution shall issue upon the judgment specified in subdivision (a) upon request of the Student Aid Commission in the same manner as execution may issue upon other judgments as prescribed in the Code of Civil Procedure.

(c) At least 10 days before executing any writ to collect, the commission shall send notice of the intent to execute upon a writ to the borrower and to any cosigners, by certified mail, to the most recent addresses maintained in the files of the commission. Any person receiving the notice of the intent to execute upon a writ may request a hearing to contest the existence or the amount of the writ.

At the request of the individual, the commission shall conduct a hearing pursuant to Section 69763.1, at which it shall be determined whether the loan principal, interest, and predefault and collection costs in the amount claimed by the commission are due and whether the individual named on the certificate is liable for the amount. If no hearing is requested, the execution shall be commenced for the garnishment of wages, the attachment of property, or other legal collection action.

**Comment.** Section 69763.2 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Fam. Code § 6387 (amended). Clerk to provide petitioner with copies of order**

SEC. \_\_\_\_\_. Section 6387 of the Family Code is amended to read:

6387. The court shall order the county clerk of the court to provide to a petitioner, without cost, five certified, stamped, and endorsed copies of any order issued under this part, and of an extension, modification, or termination of the order.

**Comment.** Section 6387 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Fam. Code § 8613 (amended). Appearance by counsel for adoptive parent in military or Red Cross service**

SEC. \_\_\_\_\_. Section 8613 of the Family Code is amended to read:

8613. (a) If the prospective adoptive parent is commissioned or enlisted in the military service, or auxiliary thereof, of the United States, or of any of its allies, or is engaged in service on behalf of any governmental entity of the United States, or in the American Red Cross, or in any other recognized charitable or religious organization, so that it is impossible or impracticable, because of the prospective adoptive parent's absence from this state, or otherwise, to make an appearance in person, and the circumstances are established by satisfactory evidence, the appearance may be made for the prospective adoptive parent by counsel, commissioned and empowered in writing for that purpose. The power of attorney may be incorporated in the adoption petition.

(b) Where the prospective adoptive parent is permitted to appear by counsel, the agreement may be executed and acknowledged by the counsel, or may be executed by the absent party before a notary public, or any other person authorized to take acknowledgments including the persons authorized by Sections 1183 and 1183.5 of the Civil Code.

(c) Where the prospective adoptive parent is permitted to appear by counsel, or otherwise, the court may, in its discretion, cause an examination of the prospective adoptive parent, other interested person, or witness to be made upon deposition, as it deems necessary.

The deposition shall be taken upon commission, as prescribed by the Code of Civil Procedure, and the expense thereof shall be borne by the petitioner.

(d) The petition, relinquishment or consent, agreement, order, report to the court from any investigating agency, and any power of attorney and deposition shall be filed in the office of the county clerk of the court.

(e) The provisions of this section permitting an appearance through counsel are equally applicable to the spouse of a prospective adoptive parent who resides with the prospective adoptive parent outside this state.

(f) Where, pursuant to this section, neither prospective adoptive parent need appear before the court, the child proposed to be adopted need not appear. If the

law otherwise requires that the child execute any document during the course of the hearing, the child may do so through counsel.

(g) Where none of the parties appears, the court may not make an order of adoption until after a report has been filed with the court pursuant to Section 8715, 8807, 8914, or 9001.

**Comment.** Section 8613 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Fam. Code § 8614 (amended). Certificate of adoption**

SEC. \_\_\_\_\_. Section 8614 of the Family Code is amended to read:

8614. Upon the request of the adoptive parents or the adopted child, a county clerk of the superior court may issue a certificate of adoption that states the date and place of adoption, the birthday of the child, the names of the adoptive parents, and the name the child has taken. Unless the child has been adopted by a stepparent or by a relative, as defined in subdivision (c) of Section 8714.7, the certificate shall not state the name of the birth parents of the child.

**Comment.** Section 8614 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Fam. Code § 8702 (amended). Statement to birth parents at time of relinquishment**

SEC. \_\_\_\_\_. Section 8702 of the Family Code is amended to read:

8702. (a) The department shall adopt a statement to be presented to the birth parents at the time a relinquishment is signed and to prospective adoptive parents at the time of the home study. The statement shall, in a clear and concise manner and in words calculated to ensure the confidence of the birth parents in the integrity of the adoption process, communicate to the birth parents of a child who is the subject of an adoption petition all of the following facts:

(1) It is in the child's best interest that the birth parent keep the department or licensed adoption agency to whom the child was relinquished for adoption informed of any health problems that the parent develops that could affect the child.

(2) It is extremely important that the birth parent keep an address current with the department or licensed adoption agency to whom the child was relinquished for adoption in order to permit a response to inquiries concerning medical or social history.

(3) Section 9203 of the Family Code authorizes a person who has been adopted and who attains the age of 21 years to request the department or the licensed

adoption agency to disclose the name and address of the adoptee's birth parents. Consequently, it is of the utmost importance that the birth parent indicate whether to allow this disclosure by checking the appropriate box provided on the form.

(4) The birth parent may change the decision whether to permit disclosure of the birth parent's name and address, at any time, by sending a notarized letter to that effect, by certified mail, return receipt requested, to the department or to the licensed adoption agency that joined in the adoption petition.

(5) The relinquishment will be filed in the office of the ~~county clerk of the~~ county clerk of the court in which the adoption takes place. The file is not open to inspection by any persons other than the parties to the adoption proceeding, their attorneys, and the department, except upon order of a judge of the superior court.

(b) The department shall adopt a form to be signed by the birth parents at the time the relinquishment is signed, which shall provide as follows:

“Section 9203 of the Family Code authorizes a person who has been adopted and who attains the age of 21 years to make a request to the State Department of Social Services, or the licensed adoption agency that joined in the adoption petition, for the name and address of the adoptee's birth parents. Indicate by checking one of the boxes below whether or not you wish your name and address to be disclosed:

YES  NO  UNCERTAIN AT THIS TIME; WILL NOTIFY AGENCY AT LATER DATE.”

**Comment.** Section 8702 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Fam. Code § 8714.5 (amended). Adoption by relatives**

SEC. \_\_\_\_\_. Section 8714.5 of the Family Code is amended to read:

8714.5. (a) The Legislature finds and declares the following:

(1) It is the intent of the Legislature to expedite legal permanency for children who cannot return to their parents and to remove barriers to adoption by relatives of children who are already in the dependency system or who are at risk of entering the dependency system.

(2) This goal will be achieved by empowering families, including extended families, to care for their own children safely and permanently whenever possible, by preserving existing family relationships, thereby causing the least amount of disruption to the child and the family, and by recognizing the importance of sibling and half-sibling relationships.

(b) A relative desiring to adopt a child may for that purpose file a petition in the county in which the petitioner resides. Where a child has been adjudged to be a dependent of the juvenile court pursuant to Section 300 of the Welfare and Institutions Code, and thereafter has been freed for adoption by the juvenile court,

the petition may be filed either in the county where the petitioner resides or in the county where the child was freed for adoption.

(c) Upon the filing of a petition for adoption by a relative, the county clerk of the court shall immediately notify the State Department of Social Services in Sacramento in writing of the pendency of the proceeding and of any subsequent action taken.

(d) If the adopting relative has entered into a postadoption contact agreement with the birth parent as set forth in Section 8714.7, the agreement, signed by the participating parties shall be attached to and filed with the petition for adoption under subdivision (b).

(e) The caption of the adoption petition shall contain the name of the relative petitioner. The petition shall state the child's name, sex, and date of birth.

(f) If the child is the subject of a guardianship petition, the adoption petition shall so state and shall include the caption and docket number or have attached a copy of the letters of the guardianship or temporary guardianship. The petitioner shall notify the court of any petition for adoption. The guardianship proceeding shall be consolidated with the adoption proceeding.

(g) The order of adoption shall contain the child's adopted name and, if requested by the adopting relative, or if requested by the child who is 12 years of age or older, the name the child had before adoption.

(h) For purposes of this section, "relative" means an adult who is related to the child or the child's half-sibling by blood or affinity, including all relatives whose status is preceded by the words "step," "great," "great-great," or "grand," or the spouse of any of these persons, even if the marriage was terminated by death or dissolution.

**Comment.** Section 8714.5 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Fam. Code § 8818 (amended). Statement to birth parents at time of consent**

SEC. \_\_\_\_\_. Section 8818 of the Family Code is amended to read:

8818. (a) The department shall adopt a statement to be presented to the birth parents at the time the consent to adoption is signed and to prospective adoptive parents at the time of the home study. The statement shall, in a clear and concise manner and in words calculated to ensure the confidence of the birth parents in the integrity of the adoption process, communicate to the birth parent of a child who is the subject of an adoption petition all of the following facts:

(1) It is in the child's best interest that the birth parents keep the department informed of any health problems that the parent develops that could affect the child.

(2) It is extremely important that the birth parent keep an address current with the department in order to permit a response to inquiries concerning medical or social history.

(3) Section 9203 of the Family Code authorizes a person who has been adopted and who attains the age of 21 years to request the department to disclose the name and address of the adoptee's birth parents. Consequently, it is of the utmost importance that the birth parent indicate whether to allow this disclosure by checking the appropriate box provided on the form.

(4) The birth parent may change the decision whether to permit disclosure of the birth parent's name and address, at any time, by sending a notarized letter to that effect, by certified mail, return receipt requested, to the department.

(5) The consent will be filed in the office of the ~~county clerk of the county~~ clerk of the court in which the adoption takes place. The file is not open to inspection by any persons other than the parties to the adoption proceeding, their attorneys, and the department, except upon order of a judge of the superior court.

(b) The department shall adopt a form to be signed by the birth parents at the time the consent to adoption is signed, which shall provide as follows:

“Section 9203 of the Family Code authorizes a person who has been adopted and who attains the age of 21 years to make a request to the State Department of Social Services, or the licensed adoption agency that joined in the adoption petition, for the name and address of the adoptee's birth parents. Indicate by checking one of the boxes below whether or not you wish your name and address to be disclosed:

YES  NO  UNCERTAIN AT THIS TIME; WILL NOTIFY AGENCY AT LATER DATE.”

**Comment.** Section 8818 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Fam. Code § 9200 (amended). Confidentiality of records; certificate of adoption**

SEC. \_\_\_\_\_. Section 9200 of the Family Code is amended to read:

9200. (a) The petition, relinquishment or consent, agreement, order, report to the court from any investigating agency, and any power of attorney and deposition filed in the office of the ~~county clerk~~ of the court pursuant to this part is not open to inspection by any person other than the parties to the proceeding and their attorneys and the department, except upon the written authority of the judge of the superior court. A judge of the superior court may not authorize anyone to inspect the petition, relinquishment or consent, agreement, order, report to the court from any investigating agency, or power of attorney or deposition or any portion of any of these documents, except in exceptional circumstances and for good cause approaching the necessitous. The petitioner may be required to pay the expenses for preparing the copies of the documents to be inspected.

(b) Upon written request of any party to the proceeding and upon the order of any judge of the superior court, the county clerk of the court shall not provide any documents referred to in this section for inspection or copying to any other person, unless the name of the child's birth parents or any information tending to identify the child's birth parents is deleted from the documents or copies thereof.

(c) Upon the request of the adoptive parents or the child, a county clerk of the court may issue a certificate of adoption that states the date and place of adoption, the child's birth date, the names of the adoptive parents, and the name the child has taken. Unless the child has been adopted by a stepparent, the certificate shall not state the name of the child's birth parents.

**Comment.** Section 9200 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Fam. Code § 17406 (amended). Enforcement by local child support agency or Attorney General**

**General**

SEC. \_\_\_\_\_. Section 17406 of the Family Code is amended to read:

17406. (a) In all actions involving paternity or support, including, but not limited to, other proceedings under this code, and under Division 9 (commencing with Section 10000) of the Welfare and Institutions Code, the local child support agency and the Attorney General represent the public interest in establishing, modifying, and enforcing support obligations. No attorney-client relationship shall be deemed to have been created between the local child support agency or Attorney General and any person by virtue of the action of the local child support agency or the Attorney General in carrying out these statutory duties.

(b) Subdivision (a) is declaratory of existing law.

(c) In all requests for services of the local child support agency or Attorney General pursuant to Section 17400 relating to actions involving paternity or support, not later than the same day an individual makes a request for these services in person, and not later than five working days after either (1) a case is referred for services from the county welfare department, (2) receipt of a request by mail for an application for services, or (3) an individual makes a request for services by telephone, the local child support agency or Attorney General shall give notice to the individual requesting services or on whose behalf services have been requested that the local child support agency or Attorney General does not represent the individual or the children who are the subject of the case, that no attorney-client relationship exists between the local child support agency or Attorney General and those persons, and that no such representation or relationship shall arise if the local child support agency or Attorney General provides the services requested. Notice shall be in bold print and in plain English



and shall be translated into the language understandable by the recipient when reasonable.

The notice shall include the advice that the absence of an attorney-client relationship means that communications from the recipient are not privileged and that the local child support agency or Attorney General may provide support enforcement services to the other parent in the future.

(d) The local child support agency or Attorney General shall give the notice required pursuant to subdivision (c) to all recipients of services under Section 17400 who have not otherwise been provided that notice, not later than the date of the next annual notice required under Section 11476.2 of the Welfare and Institutions Code.

This notice shall include notification to the recipient of services under Section 17400 that the recipient may inspect the ~~clerk's~~ file at the ~~county clerk's~~ office of the clerk of the court, and that, upon request, the local child support agency, or, if appropriate, the Attorney General, will furnish a copy of the most recent order entered in the case.

(e) The local child support agency or, if appropriate, the Attorney General shall serve a copy of the complaint for paternity or support, or both, on recipients of support services under Section 17400, as specified in paragraph (2) of subdivision (e) of Section 17404. A notice shall accompany the complaint that informs the recipient that the local child support agency or Attorney General may enter into a stipulated order resolving the complaint, and that the recipient shall assist the prosecuting attorney, by sending all information on the noncustodial parent's earnings and assets to the prosecuting attorney.

(f) (1) (A) The local child support agency or Attorney General shall provide written notice to recipients of services under Section 17400 of the initial date and time, and purpose of every hearing in a civil action for paternity or support.

*[Remainder of Section Omitted]*

**Comment.** Section 17406 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Food & Agric. Code § 31622 (amended). Dangerous or vicious dogs**

SEC. \_\_\_\_\_. Section 31622 of the Food and Agricultural Code is amended to read:

31622. (a) After the hearing conducted pursuant to Section 31621, the owner or keeper of the dog shall be notified in writing of the determination and orders issued, either personally or by first-class mail postage prepaid by the court or hearing entity. If a determination is made that the dog is potentially dangerous or vicious, the owner or keeper shall comply with Article 3 (commencing with Section 31641) in accordance with a time schedule established by the chief officer

of the public pound or animal control department or the head of the local law enforcement agency, but in no case more than 30 days after the date of the determination or 35 days if notice of the determination is mailed to the owner or keeper of the dog.

If the petitioner or the owner or keeper of the dog contests the determination, he or she may, within five days of the receipt of the notice of determination, appeal the decision of the court or hearing entity of original jurisdiction to a court authorized to hear the appeal. The fee for filing an appeal shall be twenty dollars (\$20), payable to the county clerk of the court. If the original hearing held pursuant to Section 31621 was before a hearing entity other than a court of the jurisdiction, appeal shall be to the municipal court or superior court in a county in which there is no municipal court. If the original hearing was held in the municipal court, appeal shall be to the superior court. If the original hearing was held in the superior court, appeal shall be to the superior court before a judge other than the judge who originally heard the petition. The petitioner or the owner or keeper of the dog shall serve personally or by first-class mail, postage prepaid, notice of the appeal upon the other party.

(b) The court hearing the appeal shall conduct a hearing de novo, without a jury, and make its own determination as to potential danger and viciousness and make other orders authorized by this chapter, based upon the evidence presented. The hearing shall be conducted in the same manner and within the time periods set forth in Section 31621 and subdivision (a). The court may admit all relevant evidence, including incident reports and the affidavits of witnesses, limit the scope of discovery, and may shorten the time to produce records or witnesses. The issue shall be decided upon the preponderance of the evidence. If the court rules the dog to be potentially dangerous or vicious, the court may establish a time schedule to ensure compliance with this chapter, but in no case more than 30 days subsequent to the date of the court's determination or 35 days if the service of the judgment is by first-class mail.

**Comment.** Subdivision (a) of Section 31622 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Subdivision (a) is also amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

☞ **Note.** The Commission solicits comment on the question whether the filing fee should go to the court, absent general treatment of fee collection and funding changes.

#### **Gov't Code § 26832 (amended). Marriage dissolution record**

SEC. \_\_\_\_\_. Section 26832 of the Government Code is amended to read:

26832. (a) Notwithstanding the fee authorized by Section 26833, a fee of three dollars (\$3) shall be paid by a public agency applicant for a certified copy of a

marriage dissolution record that the agency is required to obtain in the ordinary course of business. A fee of six dollars (\$6) shall be paid by any other applicant for a certified copy of a marriage dissolution record. Three dollars (\$3) of any six-dollar (\$6) fee shall be transmitted monthly by each county clerk of the court to the state for deposit into the General Fund as provided by Section 1852 of the Family Code.

(b) As used in this section, “marriage dissolution record” means the judgment.

**Comment.** Section 26832 is amended to reflect elimination of the county clerk’s role as ex officio clerk of the superior court. *See* former Gov’t Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Gov’t Code § 26835 (repealed). Authentication of documents**

SEC. \_\_\_\_\_. Section 26835 of the Government Code is repealed.

~~26835. (a) The county clerk shall collect a fee of two dollars (\$2) per signature for any document that he or she is required to authenticate pursuant to court order.~~

~~(b) Each document authenticated by the county clerk shall contain the following statement:~~

~~“\_\_\_\_\_, County Clerk and ex officio Clerk of the Superior Court, in and for the County of \_\_\_\_\_, State of California. Signed pursuant to court order dated \_\_\_\_\_ in the matter of \_\_\_\_\_ petitioner v. \_\_\_\_\_, respondent, Case No. \_\_\_\_\_.”~~

**Comment.** Section 26835 is repealed to reflect elimination of the county clerk’s role as ex officio clerk of the superior court. *See* former Gov’t Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Gov’t Code § 26835.1 (amended). Authentication of documents**

SEC. \_\_\_\_\_. Section 26835.1 of the Government Code is amended to read:

26835.1. (a) The clerk of the court shall collect a fee of six dollars (\$6) per signature for any document that is required to be authenticated pursuant to court order.

(b) Each document authenticated by the ~~county clerk~~ clerk of the court shall contain the following statement:

“\_\_\_\_\_, ~~County Clerk and ex officio~~ Clerk of the Superior Court, in and for the County of \_\_\_\_\_, State of California. Signed pursuant to court order dated \_\_\_\_\_ in the matter of \_\_\_\_\_ petitioner v. \_\_\_\_\_, respondent, Case No. \_\_\_\_\_.”

(c) Notwithstanding Section 68085, two dollars (\$2) of the fee authorized by subdivision (a) shall be deposited in the county general fund for use as county general fund revenue.

**Comment.** Section 26835.1 is amended to reflect elimination of the county clerk’s role as ex officio clerk of the superior court. *See* former Gov’t Code § 26800 (county clerk acting as clerk of

superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Gov't Code § 26856 (amended). Fees for services of court clerk**

SEC. \_\_\_\_\_. Section 26856 of the Government Code is amended to read:

26856. The fees fixed by this article are in full for all services rendered by the county clerk of the court in any civil action or special proceeding.

**Comment.** Section 26856 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Gov't Code § 26859 (amended). Fees for dissolution and other petition**

SEC. \_\_\_\_\_. Section 26859 of the Government Code is amended to read:

26859. At the time of filing of each initial petition for dissolution of marriage, legal separation, or nullity, the petitioner shall pay a fee of two dollars (\$2) to the county clerk of the court for the costs of complying with Chapter 10 (commencing with Section 103200) of Part 1 of Division 102 of the Health and Safety Code.

The county clerk shall pay one-half of all those fees to the State Registrar of Vital Statistics each month. The State Registrar shall transmit those sums to the State Treasurer for deposit in the General Fund.

**Comment.** Section 26859 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

☞ **Note.** This revision would argue for a conforming revision in Health & Safety Code § 103200:

103200. The county clerk of the superior court of each county shall send a copy of every judgment of dissolution of marriage, of legal separation, and of declaration of nullity to the State Registrar monthly. If a judgment of dissolution of marriage is vacated, the county clerk shall send a copy of the order or dismissal to the State Registrar.

**Gov't Code § 27081 (amended). Deposit of jury fees and naturalization fees**

SEC. \_\_\_\_\_. Section 27081 of the Government Code is amended to read:

27081. The county clerk of the court may deposit in the county treasury any money deposited with ~~him~~ as jury fees or as a portion of the naturalization fees required by law to be paid by ~~him~~ to the United States. The treasurer shall accept and keep separate accounts of such deposits. The money may be withdrawn at any time by the county clerk of the court upon ~~his~~ the clerk's written order. For the safekeeping of the money the treasurer is liable on ~~his~~ the treasurer's official bond.

**Comment.** Section 27081 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Gov't Code § 27464 (amended). Suicide note**

SEC. \_\_\_\_\_. Section 27464 of the Government Code is amended to read:

27464. Whenever the death of any person shall have been referred to the coroner for investigation, there shall be delivered to the coroner any note, letter or other document apparently written by the deceased which may tend to indicate an intention by the writer to take ~~his~~ the writer's life, including directions for disposition of ~~his~~ property or disposal of ~~his~~ remains. A facsimile copy thereof shall be placed in the coroner's records, and, if an inquest be held, a true copy shall be read into the record and transcribed into the notes of the official stenographer. Upon completion of legal proceedings arising from such death, the original instrument shall be delivered by the coroner to the addressee or to the legal representative of the estate of the decedent; provided, however, that if the instrument purports to be testamentary in nature, it shall be filed with the ~~county clerk of the court~~ as provided by law.

**Comment.** Section 27464 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Harb. & Nav. Code § 515 (amended). Bond requirement**

SEC. \_\_\_\_\_. Section 515 of the Harbors and Navigation Code is amended to read:

515. Before making the order, the judge shall require from the claimant a bond to the people to be approved by the judge and filed with the ~~county clerk of the court~~, in a penalty double the value of the property or proceeds. The bond shall be conditioned upon the payment of all damages that may be recovered against the claimant or the claimant's representatives, within three years after its date, by any person establishing title to the property or proceeds.

**Comment.** Section 515 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Ins. Code § 11706 (amended). Filing copy of award**

SEC. \_\_\_\_\_. Section 11706 of the Insurance Code is amended to read:

11706. Such party may file a certified copy of any such award in the office of any ~~county~~ clerk of a superior court of this State. Upon the filing of such copy the clerk shall immediately enter a judgment thereon against the surety.

**Comment.** Section 11706 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Lab. Code § 1181 (amended). Public notice**

SEC. \_\_\_\_\_. Section 1181 of the Labor Code is amended to read:

1181. Upon the fixing of the time and place for the holding of a hearing for the purpose of considering and acting upon the proposed regulations or any matters referred to in Sections 1176 to 1180, inclusive, the commission shall:

(a) Give public notice thereof by advertisement in at least one newspaper published in each of the cities of Los Angeles, Oakland, Sacramento, San Jose, Fresno, Eureka, San Diego, Long Beach, Alameda, Berkeley, Stockton, San Bernardino, and San Francisco.

(b) Mail a copy of the notice and the proposed regulations to the ~~county~~ clerk of the superior court of each county in the state to be posted at the courthouse; to each association of employers or employees which, in the opinion of the commission, would be affected by the hearing; and to any person or organization within this state filing with the commission a written request for notice of such hearing. Failure to mail such notice shall not invalidate any order of the commission issued after such hearing.

The notice shall also state the time and place fixed for the hearing, which shall not be less than 30 days from the date of publication and mailing of such notices.

**Comment.** Section 1181 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Lab. Code § 5600 (amended). Writ of attachment**

SEC. \_\_\_\_\_. Section 5600 of the Labor Code is amended to read:

5600. The appeals board may, upon the filing of an application by or on behalf of an injured employee, the employee's dependents, or any other party in interest, direct the ~~county~~ clerk of the superior court of any county to issue writs of attachment authorizing the sheriff to attach the property of the defendant as security for the payment of any compensation which may be awarded in any of the following cases:

(a) In any case mentioned in Section 415.50 of the Code of Civil Procedure.

(b) Where the employer has failed to secure the payment of compensation as required by Article 1 (commencing with Section 3700) of Chapter 4 of Part 1.

The attachment shall be in an amount fixed by the appeals board, not exceeding the greatest probable award against the defendant in the matter.

**Comment.** Section 5600 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Penal Code § 932 (amended). Order of grand jury**

SEC. \_\_\_\_\_. Section 932 of the Penal Code is amended to read:

932. After investigating the books and accounts of the various officials of the county, as provided in the foregoing sections of this article, the grand jury may order the district attorney of the county to institute suit to recover any money that, in the judgment of the grand jury, may from any cause be due the county. The order of the grand jury, certified by the foreman of the grand jury and filed with the county clerk of the superior court of the county, shall be full authority for the district attorney to institute and maintain any such suit.

**Comment.** Section 932 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Penal Code § 933 (amended). Final report of grand jury**

SEC. \_\_\_\_\_. Section 933 of the Penal Code is amended to read:

933. (a) Each grand jury shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year. Final reports on any appropriate subject may be submitted to the presiding judge of the superior court at any time during the term of service of a grand jury. A final report may be submitted for comment to responsible officers, agencies, or departments, including the county board of supervisors, when applicable, upon finding of the presiding judge that the report is in compliance with this title. For 45 days after the end of the term, the foreperson and his or her designees shall, upon reasonable notice, be available to clarify the recommendations of the report.

(b) One copy of each final report, together with the responses thereto, found to be in compliance with this title shall be placed on file with the county clerk of the court and remain on file in the office of the county clerk. The county clerk shall immediately forward a true copy of the report and the responses to the State Archivist who shall retain that report and all responses in perpetuity.

(c) No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.

(d) As used in this section “agency” includes a department.

**Comment.** Section 933 is amended to reflect elimination of the county clerk’s role as ex officio clerk of the superior court. *See* former Gov’t Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Penal Code § 938.1 (amended). Transcript of grand jury proceedings**

SEC. \_\_\_\_\_. Section 938.1 of the Penal Code is amended to read:

938.1. (a) If an indictment has been found or accusation presented against a defendant, such stenographic reporter shall certify and deliver to the county clerk of the superior court an original transcription of his the reporter’s shorthand notes and a copy thereof and as many additional copies as there are defendants, other than fictitious defendants, regardless of the number of charges or fictitious defendants included in the same investigation. The reporter shall complete such certification and delivery within 10 days after the indictment has been found or the accusation presented unless the court for good cause makes an order extending the time. The time shall not be extended more than 20 days. The county clerk shall file the original of the transcript, deliver a copy of the transcript to the district attorney immediately upon his receipt thereof and deliver a copy of such transcript to each such defendant or his the defendant’s attorney. If the copy of the testimony is not served as provided in this section the court shall on motion of the defendant continue the trial to such time as may be necessary to secure to the defendant receipt of a copy of such testimony 10 days before such trial. If several criminal charges are investigated against a defendant on one investigation and thereafter



separate indictments are returned or accusations presented upon said several charges, the delivery to such defendant or his the defendant's attorney of one copy of the transcript of such investigation shall be a compliance with this section as to all of such indictments or accusations.

(b) The transcript shall not be open to the public until 10 days after its delivery to the defendant or his the defendant's attorney. Thereafter the transcript shall be open to the public unless the court orders otherwise on its own motion or on motion of a party pending a determination as to whether all or part of the transcript should be sealed. If the court determines that there is a reasonable likelihood that making all or any part of the transcript public may prejudice a defendant's right to a fair and impartial trial, that part of the transcript shall be sealed until the defendant's trial has been completed.

**Comment.** Section 938.1 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Penal Code § 4007 (amended). Transfer of prisoner**

SEC. \_\_\_\_\_. Section 4007 of the Penal Code is amended to read:

4007. When there is no jail in the county, or when the jail becomes unfit or unsafe for the confinement of prisoners, the judge of the superior court may, by a written order filed with the ~~county~~ clerk of the court, designate the jail of a contiguous county for the confinement of any prisoner of his or her county, and may at any time modify or vacate the order.

When there are reasonable grounds to believe that a prisoner may be forcibly removed from a county jail, the sheriff may remove the prisoner to any California state prison for safekeeping and it is the duty of the warden of the prison to accept and detain the prisoner in his or her custody until his or her removal is ordered by the superior court of the county from which he or she was delivered.

Immediately upon receiving the prisoner the warden shall advise the Director of Corrections of that fact in writing.

When a county prisoner requires medical treatment necessitating hospitalization which cannot be provided at the county jail or county hospital because of lack of adequate detention facilities, and when the prisoner also presents a serious custodial problem because of his or her past or present behavior, the judge of the superior court may, on the request of the county sheriff and with the consent of the Director of Corrections, designate by written order the nearest state prison or correctional facility which would be able to provide the necessary medical treatment and secure confinement of the prisoner. The written order of the judge shall be filed with the ~~county~~ clerk of the court. The court shall immediately calendar the matter for a hearing to determine whether the order shall continue or be rescinded. The hearing shall be held within 48 hours of the initial order or the

next judicial day, whichever occurs later. The prisoner shall not be transferred to the state prison or correctional facility prior to the hearing, except upon a determination by the physician responsible for the prisoner's health care that a medical emergency exists which requires the transfer of the prisoner to the state prison or correctional facility prior to the hearing. The prisoner shall be entitled to be present at the hearing and to be represented by counsel. The prisoner may waive his or her right to this hearing in writing at any time. If the prisoner waives his or her right to the hearing, the county sheriff shall notify the prisoner's attorney of the transfer within 48 hours, or the next business day, whichever is later. The court may modify or vacate the order at any time.

The rate of compensation for the prisoner's medical treatment and confinement within a California state prison or correctional facility shall be established by the Department of Corrections, and shall be charged against the county making the request.

When there are reasonable grounds to believe that there is a prisoner in a county jail who is likely to be a threat to other persons in the facility or who is likely to cause substantial damage to the facility, the judge of the superior court may, on the request of the county sheriff and with the consent of the Director of Corrections, designate by written order the nearest state prison or correctional facility which would be able to secure confinement of the prisoner, subject to space available. The written order of the judge must be filed with the ~~county~~ county clerk of the court. The court shall immediately calendar the matter for a hearing to determine whether the order shall continue or be rescinded. The hearing shall be held within 48 hours of the initial order or the next judicial day, whichever occurs later. The prisoner shall be entitled to be present at the hearing and to be represented by counsel. The court may modify or vacate that order at any time. The rate of compensation for the prisoner's confinement within a California state prison or correctional facility shall be established by the Department of Corrections and shall be charged against the county making the request.

**Comment.** Section 4007 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Penal Code § 4008 (amended). Copy of appointment**

SEC. \_\_\_\_\_. Section 4008 of the Penal Code is amended to read:

4008. A copy of the appointment, certified by the ~~county~~ county clerk of the court, must be served on the sheriff or keeper of the jail designated, who must receive into his ~~the~~ jail all prisoners authorized to be confined therein, pursuant to ~~the last section~~ Section 4007, and who is responsible for the safekeeping of the persons so committed, in the same manner and to the same extent as if ~~he~~ the sheriff or keeper of the jail were sheriff of the county for whose use his ~~the~~ jail is designated, and

with respect to the persons so committed he the sheriff or keeper of the jail is deemed the sheriff of the county from which they were removed.

**Comment.** Section 4008 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Penal Code § 4009 (amended). Revocation of designation**

SEC. \_\_\_\_\_. Section 4009 of the Penal Code is amended to read:

4009. When a jail is erected in a county for the use of which the designation was made, or its jail is rendered fit and safe for the confinement of prisoners, the judge of the superior court of that county must, by a written revocation, filed with the ~~county clerk thereof~~ clerk of the court, declare that the necessity for the designation has ceased, and that it is revoked.

**Comment.** Section 4009 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Penal Code § 4010 (amended). Service of copy of revocation**

SEC. \_\_\_\_\_. Section 4010 of the Penal Code is amended to read:

4010. The ~~county clerk~~ of the court must immediately serve a copy of the revocation upon the sheriff of the county, who must thereupon remove the prisoners to the jail of the county from which the removal was had.

**Comment.** Section 4010 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Penal Code § 4012 (amended). Pestilence or contagious disease**

SEC. \_\_\_\_\_. Section 4012 of the Penal Code is amended to read:

4012. When a pestilence or contagious disease breaks out in or near a jail, and the physician thereof certifies that it is liable to endanger the health of the prisoners, the county judge may, by a written appointment, designate a safe and convenient place in the county, or the jail in a contiguous county, as the place of their confinement. The appointment must be filed in the office of the ~~county clerk~~ of the court, and authorize the sheriff to remove the prisoners to the place or jail designated, and there confine them until they can be safely returned to the jail from which they were taken.

**Comment.** Section 4012 is amended to reflect elimination of the county clerk’s role as ex officio clerk of the superior court. *See* former Gov’t Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Penal Code § 4852.18 (amended). Certificate of rehabilitation**

SEC. \_\_\_\_\_. Section 4852.18 of the Penal Code is amended to read:

4852.18. The Board of Prison Terms shall furnish to the county clerk of the superior court of each county a set of sample forms for a petition for certificate of rehabilitation and pardon, a notice of filing of petition for certificate of rehabilitation and pardon, and a certificate of rehabilitation. The county clerk of the court shall have a sufficient number of these forms printed to meet the needs of the people of his the county, and he shall make these forms available at no charge to persons requesting them.

**Comment.** Section 4852.18 is amended to reflect elimination of the county clerk’s role as ex officio clerk of the superior court. *See* former Gov’t Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

☞ **Note.** The Commission is reviewing whether county cost and expense provisions remain viable, given the enactment of the Trial Court Funding Act, the Trial Court Employment Protection and Governance Act, and other changes to the structure of the trial courts. *See* Gov’t Code §§ 77003 and Cal. R. Ct. 810 (“court operations” defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations). These matters are also being examined by a Joint Court-County Working Group on Trial Court Funding. The Commission solicits comment on the proper treatment of this provision.

**Prob. Code § 15688 (amended). Compensation of public guardian**

SEC. \_\_\_\_\_. Section 15688 of the Probate Code is amended to read:

15688. Notwithstanding any other provision of this article and the terms of the trust, a public guardian who is appointed as a trustee of a trust pursuant to Section 15660.5 shall be paid from the trust property for all of the following:

(a) Reasonable expenses incurred in the administration of the trust.

(b) Compensation for services of the public guardian and the attorney of the public guardian, and for the filing and processing services of the county clerk of the court in the amount the court determines is just and reasonable.

(c) An annual bond fee in the amount of twenty-five dollars (\$25) plus one-fourth of 1 percent of the amount of the trust assets greater than ten thousand dollars (\$10,000). The amount charged shall be deposited in the county treasury.

**Comment.** Section 15688 is amended to reflect elimination of the county clerk’s role as ex officio clerk of the superior court. *See* former Gov’t Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the

county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Sts. & Hy. Code § 5419 (amended). Notice to street superintendent**

SEC. \_\_\_\_\_. Section 5419 of the Streets and Highways Code is amended to read:

5419. Upon the entry of judgment or dismissal of the action the county clerk of the court shall forthwith mail to the street superintendent of the city having jurisdiction over the proceeding in which the assessment was levied, a certified copy of the judgment or other evidence sufficient to advise the street superintendent of the judgment of the court in the action.

**Comment.** Section 5419 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Sts. & Hy. Code § 6619 (amended). Notice to treasurer**

SEC. \_\_\_\_\_. Section 6619 of the Streets and Highways Code is amended to read:

6619. A written notice of the pendency of any action for recovery on a bond shall be filed with the treasurer. After the filing of such notice the treasurer shall not receive any money on account of the bond and he shall have no authority to cancel the entries on the bond in his the register or give a discharge of the bond without the written consent of the owner thereof until judgment has been rendered in the action or until it has been dismissed.

Upon the entry of judgment or dismissal of the action the county clerk of the court shall forthwith mail to the treasurer a certified copy of the judgment or other evidence sufficient to advise ~~him~~ the treasurer of the judgment of the court in the action.

**Comment.** Section 6619 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Sts. & Hy. Code § 6621 (amended). Decree of foreclosure**

SEC. \_\_\_\_\_. Section 6621 of the Streets and Highways Code is amended to read:

6621. Whenever a bond is foreclosed pursuant to this chapter, the decree of foreclosure shall direct the county clerk of the court to deliver the bond sued upon to the treasurer of the city which issued said bond together with a memorandum setting forth the title and number of the action and the fact that the bond has been foreclosed.

**Comment.** Section 6621 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as

ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Sts. & Hy. Code § 6622 (amended). Certificate of cancellation**

SEC. \_\_\_\_\_. Section 6622 of the Streets and Highways Code is amended to read:  
6622. The treasurer shall cancel the bond upon his the records and deliver to the county clerk of the court a receipt substantially in the following form:

“Certificate of Cancellation of Street Improvement Bond Series (designating it), in the City (or County) of (naming it).

\$\_\_\_\_\_/100 No.\_\_\_\_\_

I, \_\_\_\_\_, Treasurer of the City (or County) of \_\_\_\_\_ do hereby certify that I have received the above bond from the county clerk of the Superior Court of \_\_\_\_\_ (naming county) in that certain foreclosure action entitled \_\_\_\_\_ vs. \_\_\_\_\_ No.\_\_\_\_\_, Superior Court of \_\_\_\_\_ County; and I have this day canceled said bond on my records, pursuant to the order of the court made in said case.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
Treasurer of the City (or County) of \_\_\_\_\_

By \_\_\_\_\_  
Deputy”

**Comment.** Section 6622 is amended to reflect elimination of the county clerk’s role as ex officio clerk of the superior court. *See* former Gov’t Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Sts. & Hy. Code § 6623 (amended). Entry of judgment or decree**

SEC. \_\_\_\_\_. Section 6623 of the Streets and Highways Code is amended to read:  
6623. The county clerk of the court shall enter the judgment or decree of foreclosure in the action upon the delivery of the certificate of cancellation to ~~him~~.

**Comment.** Section 6623 is amended to reflect elimination of the county clerk’s role as ex officio clerk of the superior court. *See* former Gov’t Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Sts. & Hy. Code § 8266 (amended). Filing complaint**

SEC. \_\_\_\_\_. Section 8266 of the Streets and Highways Code is amended to read:  
8266. The proceeding is instituted by filing with the county clerk of the court a complaint setting forth:

- (a) The name of the district.
- (b) Its exterior boundaries.

(c) The date of its organization.

(d) A prayer that the district be judged legally formed under this part

**Comment.** Section 8266 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Unemp. Ins. Code § 1815 (amended). Unemployment contributions judgment**

SEC. \_\_\_\_\_. Section 1815 of the Unemployment Insurance Code is amended to read:

1815. If any employing unit is delinquent in the payment of any contributions, penalties or interest provided for in this division, the director may, not later than 10 years after the payment became delinquent or within 10 years after the last entry of a judgment under this article or within 10 years after the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, file in the Office of the ~~County~~ County Clerk of the Superior Court of Sacramento County, or with the ~~county~~ county clerk of the superior court of the county in which the employer has his its principal place of business, a certificate specifying the amount of the contributions, interest and penalty due and the name and last known address of the employer liable therefor. The certificate shall also contain a statement that the director has complied with all the provisions of this division in relation to the computation and levy of the contributions, interest and penalty, and a request that judgment be entered against the employer in the amount set forth in the certificate. The ~~county~~ county clerk immediately upon the filing of the certificate shall enter a judgment for the State of California against the employer in the amount set forth in the certificate. Such judgment may be filed by the ~~county~~ county clerk in a looseleaf book entitled "Unemployment Contributions Judgments."

**Comment.** Section 1815 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Veh. Code § 9805 (amended). Certificate of amount due**

SEC. \_\_\_\_\_. Section 9805 of the Vehicle Code is amended to read:

9805. (a) The department may file in the office of the ~~county~~ county clerk of the superior court of Sacramento County, or any other county, a certificate specifying the amount of any fee, tax, penalty, and collection cost due, the name and last known address of the individual, company, or corporation liable for the amount due, and the fact that the department has complied with all the provisions of this division in the computation of the amount due, and a request that judgment be entered against the individual, company, or corporation in the amount of the fee,

tax, penalty, and collection cost set forth in the certificate if the fee, tax, penalty, or collection cost constitutes either of the following:

(1) A lien under this division on the vehicle on which it is due is not paid when due, and there is evidence that the vehicle has been operated in violation of this code or any regulations adopted pursuant to this code.

(2) A lessee liability as provided in Section 10879 of the Revenue and Taxation Code.

(b) Prior to the filing of the certificate, the department shall, by mail, notify the individual, company, or corporation of the amount which is due and of the opportunity for a hearing as provided in this subdivision. At the request of the individual, company, or corporation, the department shall conduct a hearing pursuant to Section 9801, at which it shall be determined whether the claimed fee, tax, penalty, or collection cost in the amount claimed by the department is due and constitutes a lien on the vehicle, and whether the individual, company, or corporation is liable therefor.

(c) If no hearing is requested within 15 days after mailing the notice required by subdivision (b), the certificate required by subdivision (b) may be filed.

**Comment.** Section 9805 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Veh. Code § 9806 (amended). Judgment for amount due**

SEC. \_\_\_\_\_. Section 9806 of the Vehicle Code is amended to read:

9806. The ~~county clerk~~ of the court, immediately upon the filing of the certificate specified in Section 9805, shall enter a judgment for the people of the State of California against the individual, company, or corporation in the amount of any fee, tax, penalty, and collection cost set forth in the certificate. The ~~county clerk~~ may file the judgment in a looseleaf book entitled "Department of Motor Vehicles Registration Judgments."

**Comment.** Section 9806 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Welf. & Inst. Code § 872 (amended). Transfer to juvenile hall outside county**

SEC. \_\_\_\_\_. Section 872 of the Welfare and Institutions Code is amended to read:

872. Where there is no juvenile hall in the county of residence of minors, or when the juvenile hall becomes unfit or unsafe for detention of minors, the presiding or sole juvenile court judge may, with the recommendation of the probation officer of the sending county and the consent of the probation officer of



the receiving county, by written order filed with the county clerk of the court, designate the juvenile hall of any county in the state for the detention of an individual minor for not to exceed 60 days. The court may, at any time, modify or vacate the order and shall require notice of the transfer to be given to the parent or guardian. The county of residence of a minor so transferred shall reimburse the receiving county for costs and liability as agreed upon by the two counties in connection with the order.

As used in this section, the terms “unfit” and “unsafe” shall include a condition in which a juvenile hall is considered by the juvenile court judge, the probation officer of that county, or the Board of Corrections to be too crowded for the proper and safe detention of minors.

**Comment.** Section 872 is amended to reflect elimination of the county clerk’s role as ex officio clerk of the superior court. See former Gov’t Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Welf. & Inst. Code § 5205 (amended). Petition**

SEC. \_\_\_\_\_. Section 5205 of the Welfare and Institutions Code is amended to read:

5205. The petition shall be in substantially the following form:

*[Portion of Statutory Form Omitted]*

That the person is \_\_\_\_\_ years of age; that he the person is \_\_\_\_ (sex); and that he the person is \_\_\_\_ (single, married, widowed, or divorced); and that \_\_\_\_\_ occupation is \_\_\_\_\_.

That the facts upon which the allegations of the petition are based are as follows:

That he the person, at \_\_\_\_\_ in the county, on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_,

\_\_\_\_\_  
That petitioner’s interest in the case is \_\_\_\_\_

That the person responsible for the care, support, and maintenance of the person, and their relationship to the person are, so far as known to the petitioner, as follows:

(Give names, addresses, and relationship of persons named as respondents)

Wherefore, petitioner prays that evaluation be made to determine the condition of \_\_\_\_\_, alleged, as a result of mental disorder, to be a danger to others, or to himself,  
or to be gravely disabled.

\_\_\_\_\_  
Petitioner

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_, County Clerk of the Court

By \_\_\_\_\_ Deputy

**Comment.** Section 5205 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Welf. & Inst. Code § 6251 (amended). Petition**

SEC. \_\_\_\_\_. Section 6251 of the Welfare and Institutions Code is amended to read:

6251. Wherever, on the basis of a petition, provision is made in this code for issuing and delivering an order for examination and detention directing that a person be apprehended and taken before a judge of a superior court for a hearing and examination on an allegation of being a person subject to judicial commitment, the petition shall be in substantially the following form:

*[Portion of Statutory Form Omitted]*

\_\_\_\_\_, residing at \_\_\_\_\_ (tel. \_\_\_\_\_), being duly sworn deposes and says:

That there is now in the county in the City or Town of \_\_\_\_\_ a person named \_\_\_\_\_, who resides at \_\_\_\_\_, and who is believed to be a \_\_\_\_\_. That the person is \_\_\_\_\_ years of age; that ~~he~~ the person is \_\_\_\_\_ (sex) and that ~~he~~ the person is \_\_\_\_\_ (single, married, widowed, or divorced); and that \_\_\_\_\_ occupation is \_\_\_\_\_. That the facts because of which petitioner believes that the person is a \_\_\_\_\_ are as follows: That ~~he~~ the person, at \_\_\_\_\_ in the county, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_,

\_\_\_\_\_ That petitioner's interest in and case is \_\_\_\_\_

That petitioner believes that said person is \_\_\_\_\_ as defined in Section \_\_\_\_\_. That the persons responsible for the care, support, and maintenance of the \_\_\_\_\_, and their relationship to the person are, so far as known to the petitioner, as follows: (Give names, addresses, and relationship of persons named as respondents) Wherefore, petitioner prays that examination be made to determine the state of the mental health of \_\_\_\_\_, alleged to be \_\_\_\_\_, and that such measures be taken for the best interest and protection of said \_\_\_\_\_, in respect to ~~his~~ the person's supervision, care and treatment, as may be necessary and provided by law.

\_\_\_\_\_  
Petitioner

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_, County Clerk of the Court

By \_\_\_\_\_ Deputy

**Comment.** Section 6251 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

**Welf. & Inst. Code § 14172 (amended). Health care overpayment recovery**

SEC. \_\_\_\_\_. Section 14172 of the Welfare and Institutions Code is amended to read:

14172. (a) Except as provided in subdivision (b), if any amount is due and payable and unpaid as the result of an overpayment to a provider of health care services, durable medical equipment, or incontinence supplies identified through an audit or examination conducted by or on behalf of the director, and the findings of the audit or examination are completed and no appeal is taken or the director has issued a final decision on the appeal pursuant to Section 14171, and 90 days has elapsed from the completion of that audit or examination or issuance of that final decision on appeal, the director may, not later than three years after the payment became due and owing, file in the office of the County Clerk of the Superior Court of Sacramento County, and with the county clerk of the superior court of the county in which the provider has his its principal place of business, a certificate containing the following:

(1) Interest, as prescribed by Section 14171.

(2) A statement that the director has complied with this article prior to the filing of the certificate.

(3) A request that judgment be entered against the provider in the amount set forth in the certificate.

The county clerk immediately upon the filing of the certificate shall enter a judgment for the State of California against the provider in the amount set forth in the certificate. The judgment may be filed by the county clerk in a looseleaf book entitled "Health Care Overpayment Recovery Judgments."

(b) If the provider seeks judicial review of the final decision of the director pursuant to subdivision (k) of Section 14171 and notice of that action is properly served on the director within 90 days of the issuance of the final decision of the director, the director shall not file any certificate as provided in subdivision (a).

If the provider does not seek judicial review of the final decision of the director pursuant to subdivision (k) of Section 14171 and does not properly serve notice within 90 days from the date of the final decision of the director, the director may file the certificate provided in subdivision (a). If the provider seeks judicial review of the final decision of the director more than 90 days from the date of the decision in accordance with subdivision (k) of Section 14171, the director shall within 10 days after receiving notice of that action release any lien imposed pursuant to this article and any judgment entered is for all purposes null and void.

**Comment.** Section 14172 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. *See* former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. *See* Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).