

Memorandum 2002-57

**Statutes Made Obsolete by Trial Court Restructuring
(Draft of Tentative Recommendation)**

This memorandum presents for Commission approval a staff draft tentative recommendation on statutes made obsolete by trial court restructuring. If approved, the tentative recommendation will be circulated for comment, subject to any revisions to reflect Commission action at the meeting.

This memorandum discusses a few outstanding issues that require Commission attention before a tentative recommendation is approved for distribution. A few other issues may be raised at the Commission meeting in a supplemental memorandum.

Sessions

At the November meeting, the staff noted that new Government Code Section 69645 — which authorizes each trial court to determine the location and number of sessions — had been located in an article otherwise applicable only to superior court districts and should be relocated. The draft tentative recommendation would repeal Section 69645 and continue it as “added” Government Code Section 69740, with the addition of new language in subdivision (a):

69740. (a) Notwithstanding any other provision of law, each trial court shall determine the number and location of sessions of the court necessary for the prompt disposition of the business before the court. In making this determination, the court shall consider, among other factors, the impact of this provision on court employees pursuant to Section 71634, the availability and adequacy of facilities for holding the court session at the specific location, the efficiency and cost of holding the session at the specific location, any applicable security issues, and the convenience to the parties and the public served by the court.

The added language is taken from Family Code Section 1811, which is proposed for revision in the draft tentative recommendation:

Fam. Code § 1811 (amended). Assignment of judges

~~1811. In counties having more than one judge of the superior court, the~~ The presiding judge of the superior court shall annually, in the month of January, designate at least one judge to hear all cases under this part. ~~The judge or judges so designated shall hold as many sessions of the family conciliation court in each week as are necessary for the prompt disposition of the business before the court.~~

The draft tentative recommendation would delete the last sentence (as superseded by Section 69740) and preserve the “prompt disposition” clause in Section 69740(a). This should be a nonsubstantive revision, particularly since Section 69740 already requires that “efficiency” be considered in holding a session at a specific location.

The draft tentative recommendation proposes the repeal of only a handful of the municipal court sessions statutes that were reenacted in Senate Bill 1316 (Senate Judiciary Committee). The other reenacted municipal court sessions provisions are contained in sections that also include facilities provisions. These sections will be ripe for repeal when the transfer of responsibility for each court facility is completed pursuant to the Trial Court Facilities Act of 2002 (between July 1, 2004, and June 30, 2007). Rather than treat these sections on a piecemeal basis, the staff proposes leaving them intact until they can be repealed. Therefore, the introductory “notwithstanding” clause in Section 69740(a) has not been deleted in the draft tentative recommendation. Once all of the municipal court statutes are repealed, the staff would propose changing the clause to read: “Subject to any other provision of law.”

Unchanged Sections

Sections that are not proposed for revision but have a “note” attached requesting comment on specific issues are included in the tentative recommendation. Otherwise, unchanged sections have not been reproduced.

Conflicts Check

While SB 1316 was proceeding through the legislative process, a number of conflicts with other bills arose with regard to one or more sections. Due to the subordination clause in SB 1316, the other bills “chaptered out” the revisions to these sections that had been included in SB 1316.

The authors of many of the conflicting bills agreed to incorporate the chaptered out revisions in their bills. However, a few of the conflicting bills were chaptered before the conflict could be resolved. In one instance, a typographical error occurred when the Commission's proposed revisions to Penal Code Section 830.1 were incorporated in the conflicting bill. The draft tentative recommendation would reinstate the revisions made to these sections.

The staff has not yet had the opportunity to complete a conflicts check of every section contained in SB 1316 (which included over 1500 sections). This will be done shortly. It may uncover additional conflicts that will need to be corrected in the new recommendation.

Respectfully submitted,

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CALIFORNIA LAW REVISION COMMISSION

Staff Draft

TENTATIVE RECOMMENDATION

Statutes Made Obsolete by Trial Court Restructuring: Part 2

November 2002

This tentative recommendation is being distributed so that interested persons will be advised of the Commission's tentative conclusions and can make their views known to the Commission. Any comments sent to the Commission will be a part of the public record and will be considered at a public meeting when the Commission determines the provisions it will include in legislation the Commission plans to recommend to the Legislature. It is just as important to advise the Commission that you approve the tentative recommendation as it is to advise the Commission that you believe revisions should be made in the tentative recommendation.

COMMENTS ON THIS TENTATIVE RECOMMENDATION SHOULD BE RECEIVED BY THE COMMISSION NOT LATER THAN [Date To Be Determined].

The Commission often substantially revises tentative recommendations as a result of the comments it receives. Hence, this tentative recommendation is not necessarily the recommendation the Commission will submit to the Legislature.

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SUMMARY OF TENTATIVE RECOMMENDATION

In 2002 the Law Revision Commission proposed the amendment or repeal of numerous obsolete constitutional and statutory provisions to reflect the restructuring of the trial court system that occurred in California during the late 1990's. Many other statutes were in need of amendment or repeal but were not included in the 2002 recommendation because they were not yet ripe for revision or, although ripe for revision, they required more time and care to address. This recommendation proposes additional cleanup of statutes made obsolete by trial court restructuring.

This recommendation was prepared pursuant to Government Code Section 71674.

1 The Commission submitted its Recommendation on *Statutes Made Obsolete by*
2 *Trial Court Restructuring: Part 1*⁹ (hereafter the “2002 recommendation”) in
3 fulfillment of the legislative directive. The recommendation proposed the
4 amendment and repeal of hundreds of obsolete constitutional and statutory
5 provisions. The recommendation, however, did not deal with all statutes made
6 obsolete by trial court restructuring because stakeholders had not yet reached
7 agreement on key issues, further research was necessary in light of the complexity
8 of the law, or additional time was required to prepare appropriate revisions due to
9 the large volume of material involved. As a result, the January 1, 2002, deadline
10 was removed from the statute to allow the Commission to continue its work in this
11 area and recommend further cleanup of the statutes from time to time.¹⁰

12 This recommendation proposes additional reforms to statutes made obsolete by
13 trial court restructuring. As before, the recommendation addresses some but not all
14 of the statutes in need of revision. The stakeholders have made significant
15 headway in resolving a number of substantive and fiscal issues. However, some
16 key issues remain unsettled.¹¹ In addition, several of the remaining issues and
17 references are of a complex nature requiring additional research and analysis.¹²
18 The Commission will recommend further reforms from time to time as warranted.

19 MATTERS COVERED IN THIS RECOMMENDATION

20 **Trial Court Sessions and Facilities**

21 *Sessions.* Government Code Section 69645, effective January 1, 2003,¹³
22 authorizes each trial court to determine the number and location of sessions of the
23 court.¹⁴ With this general grant of authority to superior courts, most of the existing
24 sessions statutes can be repealed or amended.

25 Section 69645 was inadvertently located in an article pertaining to superior court
26 districts. Only Los Angeles County is divided into superior court districts.¹⁵

9. 32 Cal. L. Revision Comm’n Reports 1 (2002). Legislation implementing the Commission’s statutory recommendations was enacted in 2002, effective January 1, 2003. See 2002 Cal. Stat. ch. 784 (SB 1316). A resolution implementing the Commission’s recommended constitutional revisions was adopted by the Legislature (ACA 15) and approved by the voters on November 5, 2002 (Prop. 48, operative Nov. 6, 2002).

10. See 2002 Cal. Stat. ch. 784, § 360.

11. For example, court-related fees and fines paid to counties, court reporter compensation, and judicial benefits.

12. For example, concurrent jurisdiction and local venue.

13. 2002 Cal. Stat. ch. 1008, § 25.

14. It also authorizes a session of the superior court to be held outside of the county of the court under certain circumstances.

15. This recommendation also proposes the repeal of Article 4 (commencing at Section 69640) of Chapter 5 of Title 8 of the Government Code pertaining to superior court districts. See “Proposed Legislation,” *infra*.

1 Therefore, the proposed law would renumber Section 69645 as Government Code
2 Section 69740.¹⁶

3 The proposed law would also repeal Government Code Section 69741, which
4 requires that regular sessions be held commencing on the first Mondays of
5 January, April, July, and October. That statute further provides that a superior
6 court may hold special sessions at such other times as may be prescribed by the
7 judges of the court, except that in the City and County of San Francisco the
8 presiding judge shall prescribe the times of holding special sessions. The
9 distinction between regular and special sessions is contrary to the modern concept
10 that courts are continuously open and may hold session at any time except as
11 specifically prohibited by law.¹⁷ The times specified for the holding of regular
12 sessions are anachronistic and do not reflect the current realities of the judicial
13 system in California.

14 *Facilities.* The location of a particular session is dependent, to a large degree, on
15 the existence and maintenance of a court facility in the area. The availability and
16 adequacy of facilities for holding a court session at a specific location is a
17 consideration that Section 69645 requires a court to take into account.

18 Court facilities have historically been county structures. However, in 2002 the
19 Trial Court Facilities Act¹⁸ was enacted, which will unite responsibility for trial
20 court operations and facilities in the state. Under the Act, the transfer of
21 responsibility for the funding and operation of trial court facilities will be
22 negotiated on a building-by-building basis between the state and each county from
23 July 1, 2003, through June 30, 2007.

24 Inasmuch as the transfer of responsibility will be county and building specific —
25 and may not be completed until 2007 — it is premature to revise facilities
26 provisions at this time. Until the transfers are complete, the existing statutes are
27 not obsolete. Furthermore, even though general policies have been established, the
28 details of each transfer are still subject to negotiation and may vary from county to
29 county. The Commission will continue to monitor the situation and propose
30 appropriate revisions in the future.

31 **Trial Court Coordination**

32 Several statutes pertain to the coordination of operations of the municipal and
33 superior courts in a county.¹⁹ The statutes are no longer necessary as a
34 consequence of unification of the courts. They would be repealed.²⁰

16. See “added” Gov’t Code § 69740, *infra*.

17. See Code Civ. Proc. §§ 74, 133, 134.

18. 2002 Cal. Stat. ch. 1082 (eff. Jan. 1, 2003).

19. Gov’t Code §§ 68112, 68112.5, 68114, 68114.5, 68114.6, 68114.7, 68114.9.

20. Government Code Section 68114.7 is not proposed for repeal since it includes provisions regarding judicial benefits, which are still unsettled.

1 **Superior Court References**

2 [To be added if time permits]

3 **Jury Commissioners**

4 Pursuant to Code of Civil Procedure Section 195, every county has a jury
5 commissioner who is appointed by the judges of the superior court. The jury
6 commissioner is primarily responsible for managing the trial court jury system, but
7 may also perform duties with regard to the selection of jurors for grand juries and
8 juries of inquest.

9 Jury commissioner references appear in provisions of the Code of Civil
10 Procedure, Government Code, and Penal Code. The proposed legislation includes
11 revisions to the jury commissioner provisions and to Penal Code statutes relating
12 to grand jury selection.²¹ The proposed revisions would lodge selection-related
13 functions with the jury commissioner rather than with the county clerk or court
14 clerk. Designation of the jury commissioner as the responsible officer with regard
15 to all grand jury selection functions is consistent with other grand jury selection
16 provisions,²² the Trial Court Funding Act,²³ Code of Civil Procedure Section 195,
17 and Judicial Council standards.²⁴

18 **Other Issues**

19 *Bail schedules.* Penal Code Section 1269b establishes a procedure for the
20 preparation, adoption, and annual revision of uniform countywide bail schedules
21 by superior and municipal court judges. The proposed law would remove the
22 municipal court references and provide for one bail schedule for all bailable crimes
23 (except Vehicle Code infractions). The proposal would also permit superior court
24 judges to adopt a local rule of court governing the procedures for the preparation,
25 adoption, and annual revision of the bail schedule, subject to a default procedure in
26 the event a local rule is not adopted.

27 *Juvenile court referees.* Welfare and Institutions Code Section 247 provides for
28 the appointment of a juvenile court referee by the presiding judge of the juvenile
29 court.²⁵ The proposed law would repeal that statute. Under the Trial Court
30 Employment Protection and Governance Act, the trial court appoints subordinate

21. See proposed amendments to Penal Code §§ 896, 900, 904, 908, 908.1, 908.2, *infra*.

22. Penal Code §§ 903-903.4.

23. See Gov't Code § 77003. Under Rule 810(d), Function 2, of the California Rules of Court, the "salaries, wages, and benefits of jury commissioner and jury services staff (including selection of grand jury)" are allowable court operations costs. See also Cal. R. Ct. 810(b) (grand jury *selection* not excluded from definition of "court operations").

24. Section 17 of the Standards of Judicial Administration (selection of regular grand jury) provides for the jury commissioner to prepare a list of qualified candidates to be considered for nomination.

25. The section also provides that the referee serves at the pleasure of the presiding judge and imposes a qualification of five years of California practice experience for appointment.

1 judicial officers who serve at the pleasure of the court.²⁶ That statute also requires
2 the Judicial Council to prescribe minimum qualifications and training
3 requirements for subordinate judicial officers.²⁷ A conforming change would be
4 made to Government Code Section 71622 to make clear that the court’s authority
5 to appoint and terminate a subordinate judicial officer includes the authority to
6 delegate the appointment or termination decisions (e.g., to the presiding judge of
7 the juvenile court).²⁸ **[Note: The proposed legislation is not included in the
8 attached draft but will be added later.]**

9 *Traffic hearing officers.* References to “traffic hearing officers” in a number of
10 statutes would be revised to reflect the redesignation of traffic hearing officers as
11 “juvenile hearing officers.”²⁹

12 *Chaptered out provisions.* Some revisions that were proposed in the
13 Commission’s 2002 recommendation and included in the implementing legislation
14 were “chaptered out” by conflicting bills introduced in the same legislative
15 session. Those proposed revisions are reintroduced in this recommendation.

16 *Technical revisions.* Other technical cleanup revisions would be made.³⁰

17 CONCLUSION

18 This tentative recommendation does not purport to deal with all remaining
19 statutes made obsolete by trial court restructuring. The Commission will continue
20 to propose the cleanup of obsolete statutes as issues are resolved and time
21 warrants. The fact that this recommendation does not address a particular statute
22 should not be construed to indicate that the Commission has decided that the
23 statute should be preserved over the general restructuring provisions. These
24 statutes may be the subject of a future recommendation by the Commission.

26. Gov’t Code § 71622.

27. The Judicial Council has promulgated proposed rules on subordinate judicial officer qualifications with a January 1, 2003, effective date.

28. See proposed amendment to Government Code Section 71622, *infra*.

29. See 1997 Cal. Stat. ch. 679.

30. For example, the proposed law would continue the cleanup of language referring to “the judge or judges” of the superior court begun in the 2002 recommendation. As a result of unification, every superior court now has at least two judgeships. 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).

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PROPOSED LEGISLATION

Note. Although the proposed legislation was prepared during 2002, amendments are directed towards the statutes as they will exist on January 1, 2003. Therefore, the code sections set out in the proposed legislation incorporate legislative changes made in 2002.

BAIL

Penal Code § 1269b (amended). Bail

SEC. ____ . Section 1269b of the Penal Code is amended to read:

1269b. (a) The officer in charge of a jail where an arrested person is held in custody, an officer of a sheriff’s department or police department of a city who is in charge of a jail or is employed at a fixed police or sheriff’s facility and is acting under an agreement with the agency that keeps the jail wherein an arrested person is held in custody, an employee of a sheriff’s department or police department of a city who is assigned by the department to collect bail, the clerk of the municipal superior court of the judicial district county in which the offense was alleged to have been committed, and the clerk of the superior court in which the case against the defendant is pending may approve and accept bail in the amount fixed by the warrant of arrest, schedule of bail, or order admitting to bail in cash or surety bond executed by a certified, admitted surety insurer as provided in the Insurance Code, to issue and sign an order for the release of the arrested person, and to set a time and place for the appearance of the arrested person before the appropriate court and give notice thereof.

(b) If a defendant has appeared before a judge of the court on the charge contained in the complaint, indictment, or information, the bail shall be in the amount fixed by the judge at the time of the appearance; if that appearance has not been made, the bail shall be in the amount fixed in the warrant of arrest or, if no warrant of arrest has been issued, the amount of bail shall be pursuant to the uniform countywide schedule of bail for the county in which the defendant is required to appear, previously fixed and approved as provided in subdivisions (c) and (d).

(c) It is the duty of the superior ~~and municipal~~ court judges in each county to prepare, adopt, and annually revise, ~~by a majority vote, at a meeting called by the presiding judge of the superior court of the county,~~ a uniform countywide schedule of bail for all bailable felony offenses and for all misdemeanor and infraction offenses except Vehicle Code infractions. The penalty schedule for infraction violations of the Vehicle Code shall be established by the Judicial Council in accordance with Section 40310 of the Vehicle Code.

(d) A court may by local rule prescribe the procedure by which the uniform countywide schedule of bail is prepared, adopted, and annually revised by the judges. If a court does not adopt a local rule, the uniform countywide schedule of

1 bail shall be prepared, adopted, and annually revised in the same manner as
2 provided for adoption of local rules.

3 (e) In adopting a uniform countywide schedule of bail for allailable felony
4 offenses the judges shall consider the seriousness of the offense charged. In
5 considering the seriousness of the offense charged the judges shall assign an
6 additional amount of required bail for each aggravating or enhancing factor
7 chargeable in the complaint, including, but not limited to, additional bail for
8 charges alleging facts that would bring a person within any of the following
9 sections:

10 Section 667.5, 667.51, 667.6, 667.8, 667.85, 667.9, 667.10, 12022, 12022.1,
11 12022.2, 12022.3, 12022.4, 12022.5, 12022.53, 12022.6, 12022.7, 12022.8, or
12 12022.9, or Section 11356.5, 11370.2, or 11370.4 of the Health and Safety Code.

13 In considering offenses wherein a violation of Chapter 6 (commencing with
14 Section 11350) of Division 10 of the Health and Safety Code is alleged, the judge
15 shall assign an additional amount of required bail for offenses involving large
16 quantities of controlled substances.

17 ~~(d) The municipal court judges in each county, at a meeting called by the~~
18 ~~presiding judge of the municipal court at each county seat, or the superior court~~
19 ~~judges in each county in which there is no municipal court, at a meeting called by~~
20 ~~the presiding judge of the superior court, shall prepare, adopt, and annually revise,~~
21 ~~by a majority vote, a uniform, countywide schedule of bail for all misdemeanor~~
22 ~~and infraction offenses except Vehicle Code infractions. The penalty schedule for~~
23 ~~infraction violations of the Vehicle Code shall be established by the Judicial~~
24 ~~Council in accordance with Section 40310 of the Vehicle Code.~~

25 (e) ~~(f) Each~~ The countywide bail schedule shall contain a list of the offenses and
26 the amounts of bail applicable thereto as the judges determine to be appropriate. If
27 ~~the schedules do~~ schedule does not list all offenses specifically, ~~they~~ it shall
28 contain a general clause for designated amounts of bail as the judges of the county
29 determine to be appropriate for all the offenses not specifically listed in the
30 ~~schedules~~ schedule. A copy of the countywide bail schedule shall be sent to the
31 officer in charge of the county jail, to the officer in charge of each city jail within
32 the county, to each superior ~~and municipal~~ court judge and commissioner in the
33 county, and to the Judicial Council.

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

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

41 ~~(g)~~ (h) If a defendant or arrested person so released fails to appear at the time
42 and in the court so ordered upon his or her release from custody, Sections 1305
43 and 1306 apply.

1 **Comment.** Section 1269b is amended to reflect unification of the municipal and superior courts
2 pursuant to former Section 5(e) of Article VI of the California Constitution. *Cf.* Code Civ. Proc. §
3 38 (judicial districts). Under subdivision (c), a single uniform countywide schedule of bail for
4 bailable felonies, misdemeanors, and infractions (except Vehicle Code infractions) is required.

5 Subdivision (d) is added to permit each superior court to provide its own procedure for the
6 preparation, adoption, and annual revision of a countywide schedule of bail by the judges. Where
7 a court does not provide its own procedure, the schedule of bail is to be prepared, adopted, and
8 annually revised in the same manner as provided for the adoption of local rules.

9 **Note.** As proposed for revision, Penal Code Section 1269b would require a single uniform
10 countywide schedule of bail, rather than one schedule for bailable felonies and a separate
11 schedule for misdemeanors and infractions. The requirement of a single schedule would not
12 preclude enforcement personnel from using the schedule in the physical form most reasonable for
13 their needs. For example, physically separating the portion of the schedule pertaining to bailable
14 felonies from the portion pertaining to misdemeanors and infractions, if appropriate. The
15 Commission solicits comment on whether a single bail schedule is workable.

16 JUDGES

17 **Gov't Code § 24151 (amended). Amount of supervisor's bond**

18 SEC. _____. Section 24151 of the Government Code is amended to read:

19 24151. Prior to the primary election immediately preceding the election of
20 county officers the judge ~~or~~ judges of the superior court shall prescribe the amount
21 in which each member of the board of supervisors shall execute an official bond,
22 before entering upon the discharge of the duties of his the office.

23 **Comment.** Section 24151 is amended to delete language referring to “the judge” of the court.
24 Every superior court has at least two judgeships as a result of trial court unification. See Section
25 69580 *et seq.* (number of judges). Where a court has only one judge due to a vacancy or
26 otherwise, a reference to the judges of the court means the sole judge of the court. See Section 13
27 (plural includes singular).

28 **Gov't Code § 68079 (amended). Provision of superior court seal**

29 SEC. _____. Section 68079 of the Government Code is amended to read:

30 68079. A court for which the necessary seal has not been provided, or the judge
31 ~~or~~ judges of that court, shall provide it. The expense shall be an item of court
32 operations. Until the seal is provided the clerk or a judge of each the court may use
33 his or her private seal whenever a seal is required.

34 **Comment.** Section 68079 is amended to reflect the fact that every superior court has at least
35 two judgeships as a result of trial court unification. See Section 69580 *et seq.* (number of judges).
36 Where a court has only one judge due to a vacancy or otherwise, a reference to the judges of the
37 court means the sole judge of the court. See Section 13 (plural includes singular).

38 **Note.** Does the last sentence of Government Code Section 68079 still serve a useful purpose?
39 Do superior court judges have their own private seals? The Commission solicits comment on this
40 issue.

41 **Gov't Code § 69841 (amended). Clerk's attendance on court**

42 SEC. _____. Section 69841 of the Government Code is amended to read:

1 69841. The clerk of the superior court shall attend each session of the superior
2 court in his the county and upon the ~~judge or~~ judges of the court in chambers when
3 required.

4 **Comment.** Section 69841 is amended to delete language referring to “the judge” of the court.
5 Every superior court has at least two judgeships as a result of trial court unification. See Section
6 69580 *et seq.* (number of judges). Where a court has only one judge due to a vacancy or
7 otherwise, a reference to the judges of the court means the sole judge of the court. See Section 13
8 (plural includes singular).

9 **Harb. & Nav. Code § 4042 (amended). Harbor commissioners**

10 SEC. ____ . Section 4042 of the Harbors and Navigation Code is amended to read:

11 4042. (a) Each commissioner shall, within 20 days after receiving notice of
12 appointment, qualify by taking and subscribing the constitutional oath of office,
13 and by executing and filing with the clerk of the county wherein the commissioner
14 is appointed, a bond in a sum to be fixed by the board of supervisors which bond,
15 when approved by the ~~judge or judges of the~~ superior court of the county, shall be
16 recorded in the office of the county recorder, as other official bonds are recorded,
17 at any time subsequent to 20 days after the appointment.

18 (b) The commissioners, or a majority of them having qualified, shall meet at
19 some convenient place in the county and organize by electing one of their number
20 chairman.

21 **Comment.** Subdivision (a) of Section 4042 is amended for consistency of terminology. See
22 Code Civ. Proc. §§ 995.020 (applicability of chapter), 995.410 (approval of bond by court). The
23 reference to “the judge” is also obsolete since every superior court has at least two judgeships as a
24 result of trial court unification. See Gov’t Code § 69580 *et seq.* (number of judges).

25 **Sts. & Hy. Code § 30865 (amended). Estimate by commissioners**

26 SEC. ____ . Section 30865 of the Streets and Highways Code is amended to read:

27 30865. If the estimate of the board is not agreed to by the owner or keeper of the
28 bridge or ferry, it shall be fixed by three commissioners, one to be appointed by
29 the board, one by the owner and keeper, and the third by the presiding judge of the
30 superior court, who shall hear testimony and fix the value and cost according to
31 the facts, and report it to the board of supervisors under oath. In all estimates of the
32 fair cash value of the bridge or ferry the value of the franchise shall not be taken
33 into consideration.

34 **Comment.** Section 30865 is amended to replace language referring to “the judge” with a
35 reference to the presiding judge. Every superior court has a presiding judge. See Gov’t Code §§
36 69508, 69508.5. Where a court has only one judge due to a vacancy or otherwise, the reference to
37 the “presiding judge” means the sole judge of the court. See Gov’t Code § 69508.5 (presiding
38 judge).

39 JURY COMMISSIONERS

40 **Code Civ. Proc. § 196 (amended). Inquiry into qualifications**

41 SEC. ____ . Section 196 of the Code of Civil Procedure is amended to read:

1 196. (a) The jury commissioner or the court shall inquire as to the qualifications
2 of persons on the master list or source list who are or may be summoned for jury
3 service. The commissioner or the court may require any person to answer, under
4 oath, orally or in written form, all questions as may be addressed to that person,
5 regarding the person's qualifications and ability to serve as a prospective trial
6 juror. The commissioner and his or her assistants, shall have power to administer
7 oaths and shall be allowed actual traveling expenses incurred in the performance
8 of their duties. ~~Such traveling expenses shall be audited, allowed, and paid out of~~
9 ~~the general fund of the county.~~

10 (b) Response to the jury commissioner or the court concerning an inquiry or
11 summons may be made by any person having knowledge that the prospective juror
12 is unable to respond to such inquiry or summons.

13 (c) Any person who fails to respond to jury commissioner or court inquiry as
14 instructed, may be summoned to appear before the jury commissioner or the court
15 to answer such inquiry, or may be deemed to be qualified for jury service in the
16 absence of a response to the inquiry. Any information thus acquired by the court or
17 jury commissioner shall be noted in jury commissioner or court records.

18 **Comment.** Subdivision (a) of Section 196 is amended to reflect enactment of the Trial Court
19 Funding Act. See Gov't Code §§ 77003 ("court operations" defined), 77200 (state funding of trial
20 court operations). Cf. Cal. R. Ct. 810(d), Function 2 (jury services). Subdivision (a) is also
21 amended to reflect enactment of Government Code Section 69505 (business-related travel
22 expenses of trial court judges and employees).

23 **Code Civ. Proc. § 208 (amended). Summoning prospective jurors**

24 SEC. ____ . Section 208 of the Code of Civil Procedure is amended to read:

25 208. The jury commissioner shall estimate the number of prospective jurors that
26 may be required to serve the needs of the ~~trial courts~~ court, and shall summon such
27 prospective jurors for service. Prospective jurors shall be summoned by mailing a
28 summons by first-class mail or by personal service or, in urgency situations, as
29 elsewhere provided by law. The summons, when served by mail, shall be mailed at
30 least 10 days prior to the date of required appearance. Once a prospective juror has
31 been summoned, the date, time, or place of appearance may be modified or further
32 specified by the jury commissioner, by means of written, telegraphic, telephonic,
33 or direct oral communication with the prospective juror.

34 **Comment.** Section 208 is amended to reflect unification of the municipal and superior courts
35 pursuant to former Section 5(e) of Article VI of the California Constitution.

36 **Code Civ. Proc. § 235 (unchanged). Juries of inquest**

37 235. At the request of the sheriff, coroner, or other ministerial officer, the jury
38 commissioner shall provide such prospective jurors as may be required to form a
39 jury of inquest. Prospective jurors so provided shall be selected, obligated, and
40 compensated in the same manner as other jurors selected under the provisions of
41 this chapter.

1 **Note.** The Commission solicits comment on the proper treatment of Code of Civil Procedure
2 Section 235 since enactment of the Trial Court Funding Act and Trial Court Employment
3 Protection and Governance Act.

4 **Gov't Code § 69891 (repealed). Appointment and salary of stenographer or secretary**

5 SEC. ____ . Section 69891 of the Government Code is repealed.

6 ~~69891. In each county with a population of 65,500 or over where there is no jury~~
7 ~~commissioner provided, and with not more than three departments of the superior~~
8 ~~court in the county, to assist the court in the transaction of its judicial business, the~~
9 ~~judges of the court may appoint one competent stenographer or secretary skilled in~~
10 ~~such work for each judge of the superior court of the county, who shall render such~~
11 ~~service as the judge may require each day. The monthly salary of each such~~
12 ~~stenographer or secretary shall be three hundred dollars (\$300).~~

13 ~~The salary shall be paid out of the salary fund of the county, or if there is none,~~
14 ~~out of such fund as other salary demands against the county are paid. The salary~~
15 ~~shall be allowed and audited in the same manner as the law requires for other~~
16 ~~salary demands against the county.~~

17 **Comment.** Section 69891 is repealed to reflect the fact that each county has a jury
18 commissioner. See Code Civ. Proc. § 195 (jury commissioner).

19 The section is also repealed to reflect enactment of the Trial Court Funding Act and Trial Court
20 Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of
21 employees' job classifications), 71620 (trial court personnel), 71623 (salaries), 77003 ("court
22 operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court
23 operations).

24 **Gov't Code § 69893 (repealed). Secretary performing duties of jury commissioner**

25 SEC. ____ . Section 69893 of the Government Code is repealed.

26 ~~69893. In any county where there is a secretary of the judges of the superior~~
27 ~~court, a majority of the judges may require the secretary to perform the duties of~~
28 ~~jury commissioner in addition to his regular duties as secretary.~~

29 **Comment.** Section 69893 is repealed to reflect the fact that each county has a jury
30 commissioner. See Code Civ. Proc. § 195 (jury commissioner).

31 The section is also repealed to reflect enactment of the Trial Court Employment Protection and
32 Governance Act. See Sections 71620 (trial court personnel), 71673 (authority of court).

33 **Gov't Code § 69902.5 (repealed). Inclusion in retirement system**

34 SEC. ____ . Section 69902.5 of the Government Code is repealed.

35 ~~69902.5. Any county having a retirement system for its employees may include~~
36 ~~in it the jury commissioner, deputy jury commissioners, and other assistants,~~
37 ~~attaches and employees of the office of the jury commissioner of that county~~
38 ~~whose salaries are paid by the county. Where such action is taken by any county,~~
39 ~~the included jury commissioner, deputy jury commissioners, and other assistants,~~
40 ~~attaches and employees of the office of the jury commissioner shall be subject to~~
41 ~~all of the provisions of the local retirement system.~~

1 **Comment.** Section 69902.5 is repealed to reflect enactment of the Trial Court Employment
2 Protection and Governance Act. See Sections 71620 (trial court personnel), 71623 (salaries),
3 71624 (retirement plans), 71629 (trial court employment benefits not affected), 71673 (authority
4 of court). See also Code Civ. Proc. § 195 (jury commissioner).

5 **Penal Code § 896 (amended). Selection of grand jurors**

6 SEC. ____ . Section 896 of the Penal Code is amended to read:

7 896. (a) Immediately after such order is made, the court shall select the grand
8 jurors required by personal interview for the purpose of ascertaining whether they
9 possess the qualifications prescribed by subdivision (a) of Section 893. If a person
10 so interviewed, in the opinion of the court, possesses such qualifications, in order
11 for his name to be listed he the person shall sign a statement declaring that he the
12 person will be available for jury service for the number of hours usually required
13 of a member of the grand jury in that county.

14 (b) The selections shall be made of men and women who are not exempt from
15 serving and who are suitable and competent to serve as grand jurors pursuant to
16 Sections 893, 898, and 899. The court shall list the persons so selected and
17 required by the order to serve as grand jurors during the ensuing fiscal year of the
18 county, or until a new list of grand jurors is provided, and shall at once place this
19 list in the possession of the county clerk jury commissioner.

20 **Comment.** Subdivision (b) of Section 896 is amended to reflect elimination of the county
21 clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk
22 acting as clerk of superior court). Subdivision (b) is also amended to reflect enactment of the Trial
23 Court Funding Act. See Gov't Code §§ 77003 ("court operations" defined), 77200 (state funding
24 of trial court operations); Cal. R. Ct. 810(d), Function 2 (salaries, wages, and benefits of jury
25 commissioner and jury services staff, including grand jury selection, allowable court operations
26 costs). See also Cal. Standards Jud. Admin. § 17(b) (list of qualified grand jury candidates
27 prepared by jury commissioner).

28  **Note.** The proposed revision of Penal Code Section 896 would substitute the "jury
29 commissioner" for "the county clerk" with regard to grand jury selection functions. See Cal. R.
30 Ct. 810(d), Function 2 (salaries, wages, and benefits of jury commissioner and jury services staff,
31 including grand jury selection, allowable court operations costs). The Commission solicits
32 comment regarding the appropriateness of the proposed revision.

33 **Penal Code § 900 (amended). Duties of jury commissioner**

34 SEC. ____ . Section 900 of the Penal Code is amended to read:

35 900. On receiving the list of persons selected by the court, the county clerk jury
36 commissioner shall file it in his the jury commissioner's office and have such list,
37 which shall include the name of the judge who selected each person on the list,
38 published one time in a newspaper of general circulation, as defined in Section
39 6000 of the Government Code, in the county. The county clerk jury commissioner
40 shall thereupon do either of the following:

41 (a) Write down the names on the list onto separate pieces of paper of the same
42 size and appearance, fold each piece so as to conceal the name thereon, and
43 deposit the pieces in a box to be called the "grand jury box."

1 (b) Assign a number to each name on the list and place, in a box to be called the
2 “grand jury box,” markers of the same size, shape, and color, each containing a
3 number which corresponds with a number on the list.

4 **Comment.** Section 900 is amended to reflect elimination of the county clerk’s role as ex officio
5 clerk of the superior court. See former Gov’t Code § 26800 (county clerk acting as clerk of
6 superior court).

7 The section is also amended to reflect enactment of the Trial Court Funding Act. See Gov’t
8 Code §§ 77003 (“court operations” defined), 77200 (state funding of trial court operations); Cal.
9 R. Ct. 810(d), Function 2 (salaries, wages, and benefits of jury commissioner and jury services
10 staff, including grand jury selection, allowable court operations costs). See also Cal. Standards
11 Jud. Admin. § 17(b) (list of qualified grand jury candidates prepared by jury commissioner).

12  **Note.** The proposed revision of Penal Code Section 900 would substitute “the jury
13 commissioner” for “the county clerk” with regard to grand jury selection functions. See Cal. R.
14 Ct. 810(d), Function 2 (salaries, wages, and benefits of jury commissioner and jury services staff,
15 including grand jury selection, allowable court operations costs). The Commission solicits
16 comment regarding the appropriateness of the proposed revision.

17 **Penal Code § 903 (repealed). Applicability of article**

18 SEC. ____ . Section 903 of the Penal Code is repealed.

19 ~~903. This article applies in each county in which a jury commissioner is~~
20 ~~appointed pursuant to Section 195 of the Code of Civil Procedure and in each~~
21 ~~county in which the secretary of the judges of the superior court performs the~~
22 ~~duties of jury commissioner pursuant to Section 69893 of the Government Code.~~

23 **Comment.** Section 903 is repealed to reflect:

24 (1) The fact that each county has a jury commissioner. See Code Civ. Proc. § 195 (jury
25 commissioner).

26 (2) The repeal of Government Code Section 69893.

27 It should be noted that application of the article is not mandatory. See Sections 903.1 (judges
28 may adopt written rules or instructions to guide jury commissioner), 903.4 (judges may select
29 grand jurors without regard to list returned by jury commissioner); *People v. Goodspeed*, 22 Cal.
30 App. 3d, 690, 701, 99 Cal. Rptr. 696 (1972) (provisions of Penal Code § 903 *et seq.* not
31 mandatory).

32 **Penal Code § 903.2 (amended). Jury commissioner’s powers and duties**

33 SEC. ____ . Section 903.2 of the Penal Code is amended to read:

34 903.2. The jury commissioner shall diligently inquire ~~and inform himself in~~
35 ~~respect as~~ to the qualifications of persons resident in his the county who may be
36 liable to be summoned for grand jury duty. ~~He~~ The jury commissioner may require
37 any person to answer, under oath to be administered by him the jury
38 commissioner, all such questions as ~~he~~ the jury commissioner may address to such
39 person, touching his the person’s name, age, residence, occupation, and
40 qualifications as a grand juror, and also all questions as to similar matters
41 concerning other persons of whose qualifications for grand jury duty ~~he~~ the person
42 has knowledge.

43 The commissioner and ~~his~~ the commissioner’s assistants, ~~referred to in Sections~~
44 ~~69895 and 69896 of the Government Code,~~ shall have power to administer oaths

1 and shall be allowed actual traveling expenses incurred in the performance of their
2 duties. ~~Such traveling expenses shall be audited, allowed, and paid out of the~~
3 ~~general fund of the county.~~

4 **Comment.** Section 903.2 is amended to reflect the repeal of Government Code Sections 69895
5 and 69896. *Cf.* Code Civ. Proc. § 196(a) (jury commissioner and assistants authorized to
6 administer oaths and allowed actual traveling expenses).

7 The section is also amended to reflect enactment of the Trial Court Funding Act. See Gov't
8 Code §§ 77003 (“court operations” defined), 77200 (state funding of trial court operations). *Cf.*
9 Cal. R. Ct. 810(d), Function 2 (jury services).

10 The section is also amended to reflect enactment of Government Code Section 69505
11 (business-related travel expenses of trial court judges and employees).

12 **Note.** The Commission solicits comment on whether the proposed deletion of the last
13 sentence of Penal Code Section 903.2 (regarding the payment of traveling expenses out of the
14 county general fund) is proper.

15 **Penal Code § 904 (amended). Drawing of grand jury**

16 SEC. ____ . Section 904 of the Penal Code is amended to read:

17 904. Every superior court, whenever in its opinion the public interest so requires,
18 shall make and file with the ~~county clerk~~ jury commissioner an order directing a
19 grand jury to be drawn. Such order shall designate the number of grand jurors to
20 be drawn, which shall not be less than 29 or more than 40 in counties having a
21 population exceeding four million and not less than 25 nor more than 30 in other
22 counties.

23 **Comment.** Section 904 is amended to reflect elimination of the county clerk’s role as ex officio
24 clerk of the superior court. See former Gov’t Code § 26800 (county clerk acting as clerk of
25 superior court).

26 The section is also amended to reflect enactment of the Trial Court Funding Act. See Gov’t
27 Code §§ 77003 (“court operations” defined), 77200 (state funding of trial court operations); Cal.
28 R. Ct. 810(d), Function 2 (salaries, wages, and benefits of jury commissioner and jury services
29 staff, including grand jury selection, allowable court operations costs). See also Cal. Standards
30 Jud. Admin. § 17(b) (list of qualified grand jury candidates prepared by jury commissioner).

31 **Note.** The proposed amendment of Penal Code Section 904 would substitute “the jury
32 commissioner” for “the county clerk” with regard to grand jury selection functions. See Cal. R.
33 Ct. 810(d), Function 2 (salaries, wages, and benefits of jury commissioner and jury services staff,
34 including grand jury selection, allowable court operations costs). The Commission solicits
35 comment regarding the appropriateness of the proposed revision.

36 **Penal Code § 908 (amended). Selection of grand jury**

37 SEC. ____ . Section 908 of the Penal Code is amended to read:

38 908. If the required number of the persons summoned as grand jurors are present
39 and not excused, such required number shall constitute the grand jury. If more than
40 the required number of such persons are present, the ~~clerk~~ jury commissioner shall
41 write their names on separate ballots, which ~~he~~ the jury commissioner shall fold so
42 that the names cannot be seen, place them in a box, and draw out the required
43 number of them. The persons whose names are on the ballots so drawn shall
44 constitute the grand jury. If less than the required number of such persons are

1 present, the panel may be filled as provided in Section ~~226~~ 211 of the Code of
2 Civil Procedure. If more of the persons summoned to complete a grand jury attend
3 than are required, the requisite number shall be obtained by writing the names of
4 those summoned and not excused on ballots, depositing them in a box, and
5 drawing as above provided.

6 **Comment.** Section 908 is amended to replace “clerk” with “jury commissioner” for
7 consistency with trial court funding principles. See Cal. R. Ct. 810(d), Function 2 (salaries,
8 wages, and benefits of jury commissioner and jury services staff, including grand jury selection,
9 allowable court operations costs). See also Cal. Standards Jud. Admin. § 17(b) (list of qualified
10 grand jury candidates prepared by jury commissioner).

11 The section is also amended to correct a reference to former Code of Civil Procedure Section
12 226.

13 **Note.** The proposed amendment of Penal Code Section 908 would: (1) Substitute “the jury
14 commissioner” for “the clerk” with regard to grand jury selection functions; see Cal. R. Ct.
15 810(d), Function 2 (salaries, wages, and benefits of jury commissioner and jury services staff,
16 including grand jury selection, allowable court operations costs); and (2) replace an obsolete
17 reference to former Code of Civil Procedure Section 226 with a reference to Section 211 of that
18 code. The Commission solicits comment regarding the appropriateness of the proposed revisions.

19 **Penal Code § 908.1 (amended). Filling of vacancies**

20 SEC. ____ . Section 908.1 of the Penal Code is amended to read:

21 908.1. When, after the grand jury consisting of the required number of persons
22 has been impaneled pursuant to law, the membership is reduced for any reason,
23 such vacancies within an existing grand jury may be filled, so as to maintain the
24 full membership at the required number of persons, by the ~~clerk of the superior~~
25 ~~court~~ jury commissioner, in the presence of the court, drawing out sufficient names
26 to fill the vacancies from the grand jury box, pursuant to law, or from a special
27 venire as provided in Section ~~226~~ 211 of the Code of Civil Procedure. No person
28 selected as a grand juror to fill a vacancy pursuant to this section shall vote as a
29 grand juror on any matter upon which evidence has been taken by the grand jury
30 prior to the time of ~~his~~ the person’s selection.

31 **Comment.** Section 908.1 is amended to replace “clerk of the superior court” with “jury
32 commissioner” for consistency with trial court funding principles. See Cal. R. Ct. 810(d),
33 Function 2 (salaries, wages, and benefits of jury commissioner and jury services staff, including
34 grand jury selection, allowable court operations costs). See also Cal. Standards Jud. Admin. §
35 17(b) (list of qualified grand jury candidates prepared by jury commissioner).

36 The section is also amended to correct a reference to former Code of Civil Procedure Section
37 226.

38 **Note.** The proposed amendment of Penal Code Section 908.1 would: (1) Substitute “the jury
39 commissioner” for “the clerk of the superior court” with regard to grand jury selection functions;
40 see Cal. R. Ct. 810(d), Function 2 (salaries, wages, and benefits of jury commissioner and jury
41 services staff, including grand jury selection, allowable court operations costs); and (2) replace an
42 obsolete reference to former Code of Civil Procedure Section 226 with a reference to Section 211
43 of that code. The Commission solicits comment regarding the appropriateness of the proposed
44 revisions.

1 **Penal Code § 908.2 (amended). Staggered selection procedure**

2 SEC. ____ . Section 908.2 of the Penal Code is amended to read:

3 908.2. (a) Upon the decision of the superior court pursuant to Section 901 to
4 adopt this method of selecting grand jurors, when the required number of persons
5 have been impaneled as the grand jury pursuant to law, the ~~clerk~~ jury
6 commissioner shall write the names of each such person on separate ballots. The
7 ~~clerk~~ jury commissioner shall fold the ballots so that the names cannot be seen,
8 place them in a box, and draw out half of such ballots, or in a county where the
9 number of grand jurors is uneven, one more than half. The persons whose names
10 are on the ballots so drawn shall serve for 12 months until July 1 of the following
11 year. The persons whose names are not on the ballots so drawn shall serve for six
12 months until January 1 of the following year.

13 (b) Each subsequent year, on January 2 and July 2, a sufficient number of grand
14 jurors shall be impaneled to replace those whose service concluded the previous
15 day. Those persons impaneled on January 2, shall serve until January 1 of the
16 following year. Those persons impaneled on July 2, shall serve until July 1 of the
17 following year. No person shall serve on the grand jury for more than one year.

18 (c) The provisions of subdivisions (a) and (b) shall not be applicable to the
19 selection of grand jurors for an additional grand jury authorized pursuant to
20 Sections ~~904.5, Section~~ 904.6, ~~904.7, 904.8, and 904.9.~~

21 **Comment.** Subdivision (a) of Section 908.2 is amended to replace “clerk” with “jury
22 commissioner” for consistency with trial court funding principles. See Cal. R. Ct. 810(d),
23 Function 2 (salaries, wages, and benefits of jury commissioner and jury services staff, including
24 grand jury selection, allowable court operations costs). See also Cal. Standards Jud. Admin. §
25 17(b) (list of qualified grand jury candidates prepared by jury commissioner).
26 Subdivision (c) is amended to reflect the repeal of Sections 904.5, 904.7, 904.8, and 904.9.

27 **Note.** The proposed amendment of subdivision (a) of Penal Code Section 908.2 would
28 substitute “the jury commissioner” for “the clerk” with regard to grand jury selection functions.
29 See Cal. R. Ct. 810(d), Function 2 (salaries, wages, and benefits of jury commissioner and jury
30 services staff, including grand jury selection, allowable court operations costs). The Commission
31 solicits comment regarding the appropriateness of the proposed revision.

32 JUSTICE’S COURT

33 **Pub. Util. Code § 7814 (amended). Penalty for overcharge of fare**

34 SEC. ____ . Section 7814 of the Public Utilities Code is amended to read:

35 7814. Any corporation, or agent or employee thereof, demanding or charging a
36 greater sum of money for fare on the cars of a street railroad than that fixed as
37 provided by law forfeits to the person from whom the sum is received, or who is
38 thus overcharged, the sum of two hundred dollars (\$200), to be recovered in a civil
39 action, ~~in any justice’s court having jurisdiction thereof,~~ against the corporation.

40 **Comment.** Section 7814 is amended to eliminate an obsolete reference to the former justice’s
41 court (justice of the peace court). Cal. Const. art. VI, § 1. For small claims jurisdiction, see Code

1 Civ. Proc. § 116.220. For limited civil cases, see Code Civ. Proc. § 85. For unlimited civil cases,
2 see Code Civ. Proc. § 88.

3 MARSHALS

4 **Gov't Code § 20437 (amended). "County peace officer" as including constables, marshals,
5 and deputies**

6 SEC. ____ . Section 20437 of the Government Code is amended to read:

7 20437. (a) "County peace officer" shall also include the constable and each
8 regularly employed deputy constable and the marshal and each regularly employed
9 deputy marshal ~~of any judicial district~~ who serves the superior court. He or she
10 shall receive credit for service as a peace officer for any time he or she served as
11 constable or deputy constable of a township or justice court or marshal or deputy
12 marshal of a municipal court in the same county.

13 (b) The provisions of this section do not apply to the employees of a contracting
14 agency nor to the agency, unless and until the contracting agency elects to be
15 subject to this section by amendment to its contract with the board, made as
16 provided in Section 20474, or by express provision in its contract with the board.

17 (c) "County peace officer" does not include any officer or employee who is a
18 local sheriff, as defined in Section 20432.5.

19 **Comment.** Subdivision (a) of Section 20437 is amended to reflect unification of the municipal
20 and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution.
21 Subdivision (a) is also amended to reflect elimination of the justice court pursuant to Section 1
22 and former Section 5(b) of Article VI of the California Constitution.

23 **Staff Note.** The proposed revisions to Government Code Section 20437 are identical to those
24 contained in SB 1316. As a result of the subordination clause in SB 1316, the Commission's
25 proposed revisions were chaptered out by SB 1317, which amended the same section.

26 **Penal Code § 830.1 (amended). Peace officers**

27 SEC. ____ . Section 830.1 of the Penal Code is amended to read:

28 830.1. (a) Any sheriff, undersheriff, or deputy sheriff, employed in that capacity,
29 of a county, any chief of police of a city or chief, director, or chief executive
30 officer of a consolidated municipal public safety agency that performs police
31 functions, any police officer, employed in that capacity and appointed by the chief
32 of police or chief, director, or chief executive of a public safety agency, of a city,
33 any chief of police, or police officer of a district, including police officers of the
34 San Diego Unified Port District Harbor Police, authorized by statute to maintain a
35 police department, any marshal or deputy marshal of a superior court or county
36 court, any port warden or special officer of the Harbor Department of the City of
37 Los Angeles, or any inspector or investigator employed in that capacity in the
38 office of a district attorney, is a peace officer. The authority of these peace officers
39 extends to any place in the state, as follows:

1 (1) As to any public offense committed or which there is probable cause to
2 believe has been committed within the political subdivision that employs the peace
3 officer or in which the peace officer serves.

4 (2) Where the peace officer has the prior consent of the chief of police or chief,
5 director, or chief executive officer of a consolidated municipal public safety
6 agency, or person authorized by him or her to give consent, if the place is within a
7 city or of the sheriff, or person authorized by him or her to give consent, if the
8 place is within a county.

9 (3) As to any public offense committed or which there is probable cause to
10 believe has been committed in the peace officer's presence, and with respect to
11 which there is immediate danger to person or property, or of the escape of the
12 perpetrator of the offense.

13 (b) The Attorney General and special agents and investigators of the Department
14 of Justice are peace officers, and those assistant chiefs, deputy chiefs, chiefs,
15 deputy directors, and division directors designated as peace officers by the
16 Attorney General are peace officers. The authority of these peace officers extends
17 to any place in the state where a public offense has been committed or where there
18 is probable cause to believe one has been committed.

19 (c) Any deputy sheriff of the County of Los Angeles, and any deputy sheriff of
20 the Counties of Kern, Humboldt, Imperial, Mendocino, Plumas, Riverside, San
21 Diego, Santa Barbara, Siskiyou, Sonoma, Sutter, and Tehama who is employed to
22 perform duties exclusively or initially relating to custodial assignments with
23 responsibilities for maintaining the operations of county custodial facilities,
24 including the custody, care, supervision, security, movement, and transportation of
25 inmates, is a peace officer whose authority extends to any place in the state only
26 while engaged in the performance of the duties of his or her respective
27 employment and for the purpose of carrying out the primary function of
28 employment relating to his or her custodial assignments, or when performing other
29 law enforcement duties directed by his or her employing agency during a local
30 state of emergency.

31 **Comment.** Subdivision (a) of Section 830.1 is amended to make clear that a marshal or deputy
32 marshal may be employed by a superior court or by a county to reflect enactment of the Trial
33 Court Employment Protection and Governance Act. See Gov't Code §§ 71601(l) ("trial court
34 employee" defined), 71615(c)(5) (trial court as employer of all trial court employees), 71620
35 (trial court personnel).

36  **Staff Note.** The Commission's proposed revisions to Penal Code Section 830.1 contained in
37 SB 1316 were incorporated into AB 2346 (2002 Cal. Stat. ch. 185) to prevent the revisions from
38 being chaptered out as a result of the subordination clause in SB 1316. The revision to Penal
39 Code Section 830.1 proposed in this tentative recommendation is necessary to correct an error
40 that occurred in the implementation of the Commission's proposed revisions in AB 2346.

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SESSIONS

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Note. Assembly Bill 3028 (2002 Cal. Stat. ch. 1008, § 25) added a new Section 69645 to the Government Code (*renumbered as Section 69740 below*). Subdivision (a) provides that “Notwithstanding any other provision of law, each trial court shall determine the number and location of sessions of the court.” The following proposed revisions reflect the new law. The Law Revision Commission has interpreted Section 69645(a) conservatively — the superior court may determine only the *number* and *location* of sessions. Thus existing legislative policy determinations beyond the scope of Section 69645(a) remain unchanged.

The Commission also proposes the repeal of Government Code Section 69741, which authorizes regular and special sessions. The distinction between regular and special sessions is contrary to the modern concept that courts are continuously open and may hold session at any time except as specifically prohibited by law. See Code Civ. Proc. §§ 74, 133, 134.

The Commission solicits comment on this approach. Also, if you believe that a particular statute needs revision and is not included in this tentative recommendation, please bring it to our attention.

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Code Civ. Proc. § 73c (amended). Place of hearings relating to sale, exchange, or disposition of property of savings and loan association

SEC. ____ . Section 73c of the Code of Civil Procedure is amended to read:

73c. Notwithstanding anything to the contrary contained in ~~Sections 73 and 142 of this code, or contained in~~ any other law of this State, the judge ~~or judges~~ of the superior court of the county in which is located the principal office in this State of any ~~building~~ savings and loan association of whose business, property and assets possession shall have been taken by the ~~Building and Loan~~ Commissioner of Financial Institutions, may, in ~~his or~~ their discretion, whenever such judge ~~or judges~~ deem it necessary or advisable, hold hearings relating to the sale, exchange or other disposition of any parcel of real property or any item of personal property of such association, regardless of the location of such property, at the county seat of any county in this State or at such places in the county in which the principal office in this State of such association is located at which sessions of such superior court ~~shall be~~ are held as provided in this code.

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Comment. Section 73c is amended to reflect enactment of Government Code Section 69740(a) (number and location of trial court sessions).

The section is also amended to delete 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).

The section is also amended to delete the references to former Sections 73 and 142.

The section is also amended to replace the reference to the former “Building and Loan Commissioner” with a reference to the “Commissioner of Financial Institutions.” See 1955 Cal. Stat. ch. 40, § 1; Fin. Code § 210.5(c).

The section is also amended to replace the reference to “building and loan association” with a reference to “savings and loan association.” See 1955 Cal. Stat. ch. 40, § 1.

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Note. The Commission solicits comment on whether Code of Civil Procedure Sections 73c and 73d (below) have continuing viability or are obsolete and should be repealed.

1 **Code Civ. Proc. § 73d (amended). Expenses of court officials in attending hearings relating**
2 **to sale, exchange, or disposition of property of savings and loan association**

3 SEC. ____ . Section 73d of the Code of Civil Procedure is amended to read:

4 73d. Whenever, under the provisions of Section 73c of this code, it becomes
5 necessary for a judge, clerk, deputy clerk, court reporter or bailiff of or sitting in
6 the superior court of the county in this State in which is located the principal office
7 of any ~~building~~ savings and loan association whose business, property and assets
8 are in the possession of the ~~Building and Loan Commissioner of Financial~~
9 Institutions, to travel to another county, there temporarily to attend hearings
10 relating to the sale, exchange or other disposition of real or personal property of
11 such association, each such judge, clerk, deputy clerk, court reporter or bailiff shall
12 be allowed his the necessary expenses in going to, returning from and attending
13 upon the business of such court. Such expenses shall upon order of such court, be
14 a charge against the funds of such association and paid out of such funds by the
15 ~~Building and Loan Commissioner of Financial Institutions~~.

16 **Comment.** Section 73d is amended to replace references to the former “Building and Loan
17 Commissioner” with references to the “Commissioner of Financial Institutions.” See 1955 Cal.
18 Stat. ch. 40, § 1; Fin. Code § 210.5(c).

19 The section is also amended to replace the reference to “building and loan association” with a
20 reference to “savings and loan association.” See 1955 Cal. Stat. ch. 40, § 1.

21 **Code Civ. Proc. § 73e (unchanged). Session at location of juvenile hall**

22 73e. Notwithstanding any other provisions of law, in each county wherein the
23 juvenile hall is not located at the county seat of the county, a majority of the
24 judges of the superior court in and for such county may by an order filed with the
25 clerk of the court direct that a session or sessions of the superior court, while
26 sitting for the purpose of hearing and determining cases and proceedings arising
27 under Chapter 2 of Part 1 of Division 2 or Chapter 2 of Part 1 of Division 6 or
28 Chapter 4 of Part 4 of Division 6 of the Welfare and Institutions Code, may be
29 held or continued in any place in the county in which the juvenile hall is located
30 and thereafter such session or sessions of the court may be held or continued in the
31 location designated in such order. In a county having two superior court judges the
32 presiding judge may make the order.

33  **Note.** Out of an abundance of caution, Code of Civil Procedure Section 73e has not been
34 revised since it may be construed as authorization for the court to use a county facility. The
35 Commission solicits comment on this issue.

36 **Code Civ. Proc. § 116.250 (amended). Small claims court sessions**

37 SEC. ____ . Section 116.250 of the Code of Civil Procedure is amended to read:

38 116.250. (a) Sessions of the small claims court may be scheduled at any time and
39 on any day, including Saturdays, but excluding other judicial holidays. ~~They may~~
40 ~~also be scheduled at any public building within the county, including places~~
41 ~~outside the courthouse.~~

1 (b) Each small claims division of a superior court with seven or more judicial
2 officers shall conduct at least one night session or Saturday session each month for
3 the purpose of hearing small claims cases other than small claims appeals. The
4 term “session” includes, but is not limited to, a proceeding conducted by a member
5 of the State Bar acting as a mediator or referee.

6 **Comment.** Subdivision (a) of Section 116.250 is amended to reflect enactment of Government
7 Code Section 69740(a) (number and location of trial court sessions).

8 **Note.** Could the last sentence of subdivision (a) of Code of Civil Procedure Section 116.250
9 be read to authorize courts to use public buildings? Is it an implied limitation on the type of space
10 (“public building”) in which the court may hold sessions of the small claims court? The
11 Commission solicits comment on these issues.

12 **Elec. Code § 16603 (amended). Judgment**

13 SEC. ____ . Section 16603 of the Elections Code is amended to read:

14 16603. The court shall continue in special session to hear and determine all
15 issues arising in contested elections. After hearing the proofs and allegations of the
16 parties and within 10 days after the submission thereof, the court shall file its
17 findings of fact and conclusions of law, and immediately thereafter shall
18 pronounce judgment in the premises, either confirming or annulling and setting
19 aside the election. The judgment shall be entered immediately thereafter.

20 **Comment.** Section 16603 is amended to reflect the repeal of Government Code Section 69741
21 (regular and special sessions).

22 **Fam. Code § 1811 (amended). Assignment of judges**

23 SEC. ____ . Section 1811 of the Family Code is amended to read:

24 ~~1811. In counties having more than one judge of the superior court, the~~ The
25 presiding judge of the superior court shall annually, in the month of January,
26 designate at least one judge to hear all cases under this part. ~~The judge or judges so~~
27 ~~designated shall hold as many sessions of the family conciliation court in each~~
28 ~~week as are necessary for the prompt disposition of the business before the court.~~

29 **Comment.** Section 1811 is amended to reflect enactment of Government Code Section
30 69740(a) (number and location of trial court sessions).

31 The section is also amended to reflect the fact that every superior court has at least two
32 judgeships as a result of trial court unification. See Gov’t Code § 69580 *et seq.* (number of
33 judges).

34 **Fin. Code § 17647 (amended). Place of hearings**

35 SEC. ____ . Section 17647 of the Financial Code is amended to read:

36 17647. Regardless of any law of this State, the ~~judge~~ judges of the superior court
37 of the county in this State in which the principal office of the licensee is located,
38 may whenever ~~he deems~~ the judges deem it necessary or advisable, hold hearings
39 relating to the sale, exchange, or other disposition of any real property or any
40 personal property of the licensee regardless of the location of such property. The
41 hearings shall be held at the county seat of any county in this State or at such

1 places in the home county of such superior court at which sessions are held—as
2 provided in the Code of Civil Procedure.

3 **Comment.** Section 17647 is amended to reflect enactment of Government Code Section
4 69740(a) (number and location of trial court sessions).

5 The section is also amended to delete language referring to “the judge” of the court. Every
6 superior court has at least two judgeships as a result of trial court unification. See Gov’t Code §
7 69580 *et seq.* (number of judges). Where a court has only one judge due to a vacancy or
8 otherwise, a reference to the judges of the court means the sole judge of the court. See Gov’t
9 Code § 13 (plural includes singular).

10 **Gov’t Code § 24250.1 (amended). Offices in cities where sessions of superior court held**

11 SEC. ____ . Section 24250.1 of the Government Code is amended to read:

12 24250.1. Sheriffs and clerks shall also have offices in each city in which a
13 regular session facility of the superior court is held pursuant to law located. This
14 section does not authorize the establishment of offices in cities in which extra
15 sessions of the superior court are held.

16 **Comment.** Section 24250.1 is amended to reflect enactment of Section 69740(a) (number and
17 location of trial court sessions) and repeal of Section 69741 (regular and special sessions).

18 The section is also amended to reflect elimination of the county clerk’s role as ex officio clerk
19 of the superior court. See former Section 26800 (county clerk acting as clerk of superior court).
20 The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk
21 of the court are delegated to the court administrative or executive officer, and the county clerk is
22 relieved of those powers, duties, and responsibilities. See Sections 69840 (powers, duties, and
23 responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

24 **Notes.** Government Code Section 24250.1 falls within a chapter relating to county officers.
25 The Commission solicits comment on whether the reference to “clerks” should be deleted
26 inasmuch as the county clerk no longer serves as ex officio clerk of the superior court.

27 Does the reference to “extra sessions” of the superior court have continuing utility? See
28 proposed revisions to Government Code Sections 69790-69800 (below).

29 **Gov’t Code § 40230 (amended). Purpose of census**

30 SEC. ____ . Section 40230 of the Government Code is amended to read:

31 40230. For the purpose of determining where sessions of the superior courts
32 shall be held and county offices shall be established, a city legislative body may
33 establish the population of the city pursuant to this article.

34 **Comment.** Section 40230 is amended to reflect enactment of Section 69740(a) (number and
35 location of trial court sessions).

36 **Gov’t Code § 68108 (unchanged). Unpaid furlough days**

37 68108. (a) To the extent that a Memorandum of Understanding for trial court
38 employees designates certain days as unpaid furlough days for employees assigned
39 to regular positions in the superior court, the court shall not be in session on those
40 days except as ordered by the presiding judge upon a finding by the presiding
41 judge of a judicial emergency as defined in Chapter 1.1 (commencing with Section
42 68115). On these furlough days, although the clerk’s office shall not be open to the
43 public, each court shall permit documents to be filed at a drop box pursuant to

1 subdivision (b), and an appropriate judicial officer shall be available to conduct
2 arraignments and examinations as required pursuant to Section 825 of the Penal
3 Code, and to sign any necessary documents on an emergency basis.

4 (b) A drop box shall provide for an automated, official time and date stamping
5 mechanism or other means of determining the actual date on which a document
6 was deposited in the drop box.

7 **Note.** As originally enacted, Government Code Section 68108 authorized a county to
8 designate unpaid furlough days on which the superior court of the county would not be in session.
9 Section 68108 was amended in 2002 to reflect enactment of the Trial Court Employment
10 Protection and Governance Act. 2002 Cal. Stat. ch. 784, § 210.

11 The Commission solicits comment on the continuing usefulness of Section 68108, specifically
12 whether a memorandum of understanding for trial court employees would (or does) designate
13 certain days as unpaid furlough days.

14 **Gov't Code § 69595.5 (repealed). Sessions in San Diego County**

15 SEC. ____ . Section 69595.5 of the Government Code is repealed.

16 ~~69595.5. Notwithstanding the provisions of Article 5 (commencing with Section~~
17 ~~69740) of Chapter 5 of Title 8, in the County of San Diego, one or more judges of~~
18 ~~the superior court shall hold concurrent daily sessions in the City of Vista, two or~~
19 ~~more judges of the superior court shall hold concurrent daily sessions in the City~~
20 ~~of El Cajon, and one judge of the superior court shall hold concurrent daily~~
21 ~~sessions within the former South Bay Municipal Court District.~~

22 **Comment.** Section 69595.5 is repealed to reflect enactment of Section 69740(a) (number and
23 location of trial court sessions).

24 **Gov't Code §§ 69640-69650 (repealed). Superior court districts**

25 SEC. ____ . Article 4 (commencing with Section 69640) of Chapter 5 of Title 8
26 of the Government Code is repealed.

27 **Comment.** Sections 69640-69650 are repealed to reflect:

28 (1) Enactment of Section 69740(a) (number and location of trial court sessions). See also
29 Section 69508(a) (presiding judge shall distribute business of court); Cal. R. Ct. 6.603 (duties of
30 presiding judge). It should be noted that Section 69740 continues with revisions former Section
31 69645. See Comment to Section 69740.

32 (2) Enactment of the Trial Court Facilities Act of 2002. See Section 70301 *et seq.* The repeal of
33 Section 69647 is not intended to affect a county's responsibility under Section 70311 (formerly
34 Section 68073) (responsibility for court operations and facilities) and the Trial Court Facilities
35 Act with regard to existing superior court facilities.

36 **Notes.** Article 4 was enacted to control the proliferation of branch courts of the Los Angeles
37 County Superior Court by placing the authority to establish the location of the courts (via
38 districts) in the Board of Supervisors. In all other counties, the location of branch courts was
39 mandated by statute. Since new Government Code Section 69645 (renumbered as Section 69740
40 herein) places authority in each superior court to establish the location of sessions in its county,
41 Article 4 is proposed for repeal. The Commission solicits comment on this approach.

42 The text of the repealed article is set out below.

Article 4. Superior Court Districts

69640. As used in this article the word “district” means a superior court district, created as provided in this article.

69641. The board of supervisors of any county which has a population of not less than 4,000,000, as determined upon the basis of the last preceding census taken under the authority of the Congress or the Legislature, by ordinance may divide the county into not more than 12 superior court districts within which one or more sessions of the superior court shall be held.

69642. In the ordinance creating districts, or in a subsequent ordinance, the board of supervisors may designate one or more locations within each district at which sessions of the superior court shall be held.

69643. Whenever the board of supervisors finds that changes in population make necessary or expedient the change of boundaries of any district, the change of, addition of, or elimination of any location at which sessions of the superior court are to be held, or the creation of new districts, it may make such changes by ordinance.

69644. An ordinance creating or changing the boundaries of any district shall not result in any district having an estimated population of less than 250,000.

69645. (a) Notwithstanding any other provision of law, each trial court shall determine the number and location of sessions of the court. In making this determination, the court shall consider, among other factors, the impact of this provision on court employees pursuant to Section 71634, the availability and adequacy of facilities for holding the court session at the specific location, the efficiency and cost of holding the session at the specific location, any applicable security issues, and the convenience to the parties and the public served by the court.

(b) In appropriate circumstances, upon agreement of the presiding judges of the courts, and in the discretion of the court, the location of a session may be outside the county, except that the consent of the parties shall be necessary to the holding of a criminal jury trial outside the county. The venue of a case whose session is held outside the county pursuant to this section shall be deemed to be the home county of the court in which the matter was filed. Nothing in this section shall provide a party with the right to seek a change of venue unless otherwise provided by statute. No party shall have any right to request the court to exercise its discretion under this section.

(c) The Judicial Council may adopt rules that address an appropriate mechanism for sharing of expenses and resources between the court holding the session and the court hosting the session.

Note. Section 69645 was added by 2002 Cal. Stat. ch. 1008, § 25 (AB 3028). It was inadvertently located in Article 4. The Commission proposes to renumber it as Section 69740 with revisions (see below).

69646. The designation, addition, elimination or change of the location of sessions of the superior court shall first be approved by a majority of the judges of the superior court of the county and shall be effected by ordinance of the board of supervisors.

69647. Whenever the board of supervisors designates, adds, or changes the location for the holding of sessions of the superior court in any district it shall provide housing, personnel, and facilities for the superior court at such location as provided by Section 68073. The adequacy of the court’s quarters, including the plans for the number and design of the courtrooms, chambers and related facilities first shall be approved by a majority of the judges of the superior court of the county.

69649. When a majority of the judges of the superior court deem it necessary or advisable, by order filed with the clerk of the court and published as they may prescribe, they may direct that a session of the court be held at least once a week at any designated place in a district, not less than

1 30 miles distant from the nearest regular location of the sessions of the superior court in that
2 district, measured by air line. The majority of the judges may limit the type of judicial
3 proceedings which may be heard by the court at such place to probate, guardianship,
4 conservatorship, and domestic relations matters, including, but not limited to, orders to show
5 cause proceedings in domestic relations matters.

6 69650. At the next succeeding general session of the Legislature following division of a county
7 into districts, or following any change in the boundaries of a district, the Legislature may change
8 the boundaries of the district if it deems such action advisable.

9 **Gov't Code § 69740 (repealed). Population of city**

10 SEC. ____ . Section 69740 of the Government Code is repealed.

11 ~~69740. The determination of whether a city has the population prescribed in this~~
12 ~~article shall be made on the basis of the last preceding census taken under the~~
13 ~~authority of the Congress or the Legislature.~~

14 **Comment.** Section 69740 is repealed to reflect enactment of new Section 69740(a) (number
15 and location of trial court sessions).

16 **Gov't Code § 69740 (added). Number and location of trial court sessions**

17 SEC. ____ . Section 69740 is added to the Government Code, to read:

18 69740. (a) Notwithstanding any other provision of law, each trial court shall
19 determine the number and location of sessions of the court necessary for the
20 prompt disposition of the business before the court. In making this determination,
21 the court shall consider, among other factors, the impact of this provision on court
22 employees pursuant to Section 71634, the availability and adequacy of facilities
23 for holding the court session at the specific location, the efficiency and cost of
24 holding the session at the specific location, any applicable security issues, and the
25 convenience to the parties and the public served by the court.

26 (b) In appropriate circumstances, upon agreement of the presiding judges of the
27 courts, and in the discretion of the court, the location of a session may be outside
28 the county, except that the consent of the parties shall be necessary to the holding
29 of a criminal jury trial outside the county. The venue of a case whose session is
30 held outside the county pursuant to this section shall be deemed to be the home
31 county of the court in which the matter was filed. Nothing in this section shall
32 provide a party with the right to seek a change of venue unless otherwise provided
33 by statute. No party shall have any right to request the court to exercise its
34 discretion under this section.

35 (c) The Judicial Council may adopt rules that address an appropriate mechanism
36 for sharing of expenses and resources between the court holding the session and
37 the court hosting the session.

38 **Comment.** Section 69740 continues the substance of former Section 69645. The clause
39 "necessary for the prompt disposition of the business before the court" is added to subdivision (a).
40 See Fam. Code § 1811 (1992 Cal. Stat. ch. 162, § 10).

41 For provisions relating to restatements and continuations of existing law, see Section 2.

1 **Gov't Code § 69741 (repealed). Regular and special sessions**

2 SEC. ____ . Section 69741 of the Government Code is repealed.

3 ~~69741. Except as otherwise provided by Section 68115, each superior court shall~~
4 ~~hold its sessions:~~

5 ~~(a) At the location or locations in each superior court district specified by~~
6 ~~ordinance adopted pursuant to Article 4 (commencing at Section 69640) of this~~
7 ~~chapter.~~

8 ~~(b) In every county in which such an ordinance is not in effect, at the county seat~~
9 ~~and at such other locations, if any, as provided in this article.~~

10 ~~The superior court shall hold regular sessions commencing on the first Mondays~~
11 ~~of January, April, July, and October, and special sessions at such other times as~~
12 ~~may be prescribed by the judges of the court, except that in the City and County of~~
13 ~~San Francisco the presiding judge shall prescribe the times of holding such special~~
14 ~~sessions.~~

15 **Comment.** Section 69741 is repealed to reflect:

16 (1) Enactment of Section 69740(a) (number and location of trial court sessions).

17 (2) Repeal of Article 4 (commencing with former Section 69640).

18 (3) The fact that the references to regular and special sessions are obsolete. Code of Civil
19 Procedure Sections 74, 133, and 134 authorize superior courts to hold sessions at all times, unless
20 specifically prohibited by law.

21 **Gov't Code § 69742 (repealed). Sessions in cities of 35,000 and eight miles distant**

22 SEC. ____ . Section 69742 of the Government Code is repealed.

23 ~~69742. A session of the superior court shall be held at each city with a~~
24 ~~population of not less than 35,000 and in which the city hall is not less than eight~~
25 ~~miles from the site of the county courthouse. If such a city has a population of~~
26 ~~more than 125,000, at least three regular sessions of the superior court shall be~~
27 ~~held concurrently.~~

28 **Comment.** Section 69742 is repealed to reflect:

29 (1) Enactment of Section 69740(a) (number and location of trial court sessions).

30 (2) Repeal of Section 69741 (regular and special sessions).

31 **Note.** Government Code Section 69742 was originally enacted to authorize a branch court of
32 the Los Angeles County Superior Court.

33 **Gov't Code § 69743 (repealed). Additional sessions**

34 SEC. ____ . Section 69743 of the Government Code is repealed.

35 ~~69743. By an order filed with the clerk of the court and published as a majority~~
36 ~~of the judges of the superior court of the county prescribe, such a majority, when it~~
37 ~~deems it necessary or convenient, may provide for and direct the holding of~~
38 ~~additional sessions in each of the cities described in Section 69742.~~

39 **Comment.** Section 69743 is repealed to reflect enactment of Section 69740(a) (number and
40 location of trial court sessions).

1 **Gov't Code § 69744 (repealed). Sessions at other locations**

2 SEC. ____ . Section 69744 of the Government Code is repealed.

3 ~~69744. When the judges of the superior court of a county deem it necessary or~~
4 ~~advisable, by order filed with the clerk of the court and published as they~~
5 ~~prescribe, they may direct that the court be held or continued:~~

6 (a) ~~At any place in the county, not less than 120 miles distant from the county~~
7 ~~seat.~~

8 (b) ~~At any other city in the county with a population of not less than 7,000, in~~
9 ~~which the city hall is not less than 55 miles from the site of the county courthouse.~~

10 (c) ~~At any other city in the county with a population of not less than 2,200 in~~
11 ~~which the city hall is not less than 60 miles from the site of the county courthouse.~~

12 **Comment.** Section 69744 is repealed to reflect enactment of Section 69740(a) (number and
13 location of trial court sessions).

14 **Gov't Code § 69744.5 (repealed). Sessions in unincorporated territory**

15 SEC. ____ . Section 69744.5 of the Government Code is repealed.

16 ~~69744.5. When a majority of the judges of the superior court deem it necessary~~
17 ~~or advisable, by order filed with the clerk of the court and published as the judges~~
18 ~~prescribe, the judges may direct that the court be held at least once a week at any~~
19 ~~designated place in the county, not less than 45 miles distant from the county seat,~~
20 ~~measured by air line. The place designated shall be within a former judicial district~~
21 ~~composed wholly of unincorporated territory, with a population of more than~~
22 ~~40,000 as determined pursuant to Section 71043. A majority of the judges may~~
23 ~~limit the type of judicial proceedings which may be heard by the court at such~~
24 ~~place to probate matters and matters relating to domestic relations.~~

25 **Comment.** Section 69744.5 is repealed to reflect enactment of Section 69740(a) (number and
26 location of trial court sessions). See also Section 69508(a) (presiding judge shall distribute
27 business of court); Cal. R. Ct. 6.603 (duties of presiding judge).

28 **Note.** Government Code Section 69744.5 was originally enacted to authorize a branch court
29 of the Los Angeles County Superior Court.

30 **Gov't Code § 69745 (repealed). Sessions in cities of 7,000 and 55 miles distant**

31 SEC. ____ . Section 69745 of the Government Code is repealed.

32 ~~69745. A session of the superior court may be held for a period not exceeding~~
33 ~~two weeks in any one month at each city with a population of not less than 7,000~~
34 ~~in which the city hall is not less than 55 miles from the site of the county~~
35 ~~courthouse.~~

36 **Comment.** Section 69745 is repealed to reflect enactment of Section 69740(a) (number and
37 location of trial court sessions).

38 **Note.** Government Code Section 69745 was originally enacted to authorize a branch court of
39 the Santa Barbara County Superior Court.

1 **Gov't Code § 69745.5 (repealed). Sessions in unincorporated area and 55 miles distant**

2 SEC. ____ . Section 69745.5 of the Government Code is repealed.

3 ~~69745.5. A session of the superior court may be held for a period not exceeding~~
4 ~~two weeks in any month at any location within the county, not less than 55 miles~~
5 ~~from the site of the county courthouse, with the permission of the county board of~~
6 ~~supervisors and the approval of either the presiding judge or the majority of the~~
7 ~~judges of such court, except that such two-week period may be extended as~~
8 ~~necessary to complete any trial or hearing which is in progress and is not~~
9 ~~completed within the initial two-week period.~~

10 **Comment.** Section 69745.5 is repealed to reflect enactment of Section 69740(a) (number and
11 location of trial court sessions).

12 **Gov't Code § 69746 (repealed). Sessions in cities of 20,000 and 30 miles distant**

13 SEC. ____ . Section 69746 of the Government Code is repealed.

14 ~~69746. At least one session of the superior court shall be held in each city with a~~
15 ~~population of not less than 20,000 in which the city hall is not less than 30 miles~~
16 ~~from the site of the county courthouse.~~

17 **Comment.** Section 69746 is repealed to reflect enactment of Section 69740(a) (number and
18 location of trial court sessions).

19 **Note.** Government Code Section 69746 was originally enacted to authorize a branch court of
20 the Los Angeles County Superior Court.

21 **Gov't Code § 69746.5 (repealed). Sessions in judicial district in Kern County**

22 SEC. ____ . Section 69746.5 of the Government Code is repealed.

23 ~~69746.5. In a county of the 14th class, at least one session of the superior court~~
24 ~~may be held at a location designated by the board of supervisors which is not less~~
25 ~~than 40 miles, nor more than 50 miles, from the site of the county courthouse.~~
26 ~~However, at such time on or after July 1, 1990, as the board of supervisors finds~~
27 ~~that there are sufficient funds for this purpose, the board of supervisors shall~~
28 ~~designate a location therefor which is within a judicial district, or former district in~~
29 ~~a county in which there is no municipal court, with a population of more than~~
30 ~~40,000 as determined pursuant to Section 71043.~~

31 **Comment.** Section 69746.5 is repealed to reflect enactment of Section 69740(a) (number and
32 location of trial court sessions).

33 **Gov't Code § 69747 (repealed). Sessions in cities of 50,000 and six miles distant**

34 SEC. ____ . Section 69747 of the Government Code is repealed.

35 ~~69747. At least one session of the superior court shall be held in each city with a~~
36 ~~population of not less than 50,000 in which the city hall is not less than six miles~~
37 ~~from the site of the county courthouse.~~

38 **Comment.** Section 69747 is repealed to reflect enactment of Section 69740(a) (number and
39 location of trial court sessions).

1 **Note.** Government Code Section 69747 was originally enacted to authorize a branch court of
2 the Los Angeles County Superior Court.

3 **Gov't Code § 69748 (repealed). Sessions in cities of 10,000 and 18 miles distant**

4 SEC. ____ . Section 69748 of the Government Code is repealed.

5 ~~69748. At least one session of the superior court shall be held in each city to~~
6 ~~which all of the following conditions apply:~~

7 ~~(a) The city hall is not less than 18 miles from the site of the county courthouse.~~

8 ~~(b) The city has a population of not less than 10,000.~~

9 ~~(c) Within the 10-mile radius from the city hall there is a population of not less~~
10 ~~than 50,000.~~

11 ~~(d) There are residing in the county at least 18 miles from the county courthouse~~
12 ~~not less than 15,000 persons, some of whom would be required to travel 50 miles~~
13 ~~to attend court at such city and at least 10 miles farther in order to attend the~~
14 ~~superior court at the county courthouse, or any other place where sessions of the~~
15 ~~superior court have been established.~~

16 ~~(e) Other than subdivision (c) of this section, the distances provided for in this~~
17 ~~section shall be measured by following the shortest road or roads connecting the~~
18 ~~points in question.~~

19 **Comment.** Section 69748 is repealed to reflect enactment of Section 69740(a) (number and
20 location of trial court sessions).

21 **Note.** Government Code Section 69748 was originally enacted to authorize a branch court of
22 the Los Angeles County Superior Court.

23 **Gov't Code § 69748.1 (repealed). Sessions in cities of 9,700 and 70 miles distant**

24 SEC. ____ . Section 69748.1 of the Government Code is repealed.

25 ~~69748.1. At least one session of the superior court shall be held in each city to~~
26 ~~which all of the following conditions apply:~~

27 ~~(a) The city hall is not less than 70 miles from the site of the county courthouse.~~

28 ~~(b) The city has a population of not less than 9,700.~~

29 ~~(c) Within the 30-mile radius from the city hall there is a population of not less~~
30 ~~than 56,000.~~

31 ~~(d) There are residing in the county at least 40 miles from the county courthouse~~
32 ~~not less than 69,000 persons, some of whom would be required to travel 80 miles~~
33 ~~to attend court at such city and at least 70 miles farther in order to attend the~~
34 ~~superior court at the county courthouse, or any other place where sessions of the~~
35 ~~superior court have been established.~~

36 ~~At least four sessions of the superior court shall be held in each city to which all~~
37 ~~of the foregoing conditions apply, and which city in addition is located in a county~~
38 ~~in which there are at least 12 judges of the superior court.~~

39 **Comment.** Section 69748.1 is repealed to reflect enactment of Section 69740(a) (number and
40 location of trial court sessions).

1 ~~☞~~ **Note.** Government Code Section 69748.1 was originally enacted to authorize a branch court
2 of the Riverside County Superior Court.

3 **Gov't Code § 69749 (repealed). Fourteen mile limit**

4 SEC. ____ . Section 69749 of the Government Code is repealed.

5 ~~69749. Except in those cities in which sessions of the superior court are required~~
6 ~~by law to be held and in which such sessions were being held on or before July 1,~~
7 ~~1954, no sessions of the superior court shall be held in any city thereafter meeting~~
8 ~~the requirements of this article unless the city hall of that city is 14 miles or more~~
9 ~~from the city hall of the nearest city other than the county seat in which one or~~
10 ~~more sessions of the superior court are held.~~

11 ~~If after October 1, 1949, such sessions are authorized by law to be held in such~~
12 ~~city for the first time, the adequacy of the proposed court's quarters in which such~~
13 ~~sessions are to be held shall be approved in advance by a majority of the judges of~~
14 ~~the superior court.~~

15 **Comment.** Section 69749 is repealed to reflect enactment of Section 69740(a) (number and
16 location of trial court sessions).

17 **Gov't Code § 69749.2 (repealed). Sessions prior to ninety-first day after adjournment of**
18 **1959 legislative session**

19 SEC. ____ . Section 69749.2 of the Government Code is repealed.

20 ~~69749.2. Except in those cities in which sessions of the superior court are~~
21 ~~required by law to be held and in which sessions were being held on the effective~~
22 ~~date of this section, no sessions of the superior court shall be held prior to the~~
23 ~~ninety-first day after the adjournment of the 1959 Session of the Legislature in any~~
24 ~~city meeting the requirements of this article unless the board of supervisors by~~
25 ~~resolution provides an earlier date upon which such sessions may be held.~~

26 **Comment.** Section 69749.2 is repealed to reflect enactment of Section 69740(a) (number and
27 location of trial court sessions).

28 **Gov't Code § 69749.3 (repealed). Sessions in Palm Springs**

29 SEC. ____ . Section 69749.3 of the Government Code is repealed.

30 ~~69749.3. Notwithstanding the provisions of this article, sessions of the superior~~
31 ~~court in Riverside County may be held in Palm Springs at such times as may be~~
32 ~~prescribed by the judges sitting pursuant to Section 69748.1.~~

33 **Comment.** Section 69749.3 is repealed to reflect enactment of Section 69740(a) (number and
34 location of trial court sessions).

35 **Gov't Code § 69749.4 (repealed). Sessions in Indian Wells Valley area of northeast Kern**
36 **County**

37 SEC. ____ . Section 69749.4 of the Government Code is repealed.

38 ~~69749.4. Notwithstanding any other provision of this article, sessions of the~~
39 ~~superior court shall be held in the Indian Wells Valley area of northeast Kern~~
40 ~~County at such times as may be prescribed by the judges.~~

1 **Comment.** Section 69749.4 is repealed to reflect enactment of Section 69740(a) (number and
2 location of trial court sessions).

3 **Gov't Code § 69751.5 (repealed). Sessions in cities of 7,000 and 30 miles distant**

4 SEC. ____ . Section 69751.5 of the Government Code is repealed.

5 ~~69751.5. The judge or a majority of the judges of the superior court in and for~~
6 ~~any county, with the approval of the board of supervisors, may establish a session~~
7 ~~of the superior court in any city with a population in excess of seven thousand~~
8 ~~(7,000) inhabitants and in which the city hall is located more than thirty (30) miles~~
9 ~~from the county courthouse if the judge or a majority of the judges determines that~~
10 ~~such session is necessary to serve the convenience of the residents of the county~~
11 ~~and promote the ends of justice.~~

12 **Comment.** Section 69751.5 is repealed to reflect enactment of Section 69740(a) (number and
13 location of trial court sessions).

14 **Gov't Code § 69752 (repealed). Sessions in cities other than county seat**

15 SEC. ____ . Section 69752 of the Government Code is repealed.

16 ~~69752. (a) Notwithstanding any other provision of this code, no superior court~~
17 ~~will hold sessions in any city other than the county seat except with the approval~~
18 ~~of the board of supervisors.~~

19 ~~(b) The board of supervisors may terminate superior court sessions being held in~~
20 ~~any city other than the county seat.~~

21 ~~(c) The board of supervisors of counties seeking to establish or terminate branch~~
22 ~~court sessions shall request the recommendations and advice of the Judicial~~
23 ~~Council before taking action.~~

24 ~~The board of supervisors, under this section, may not terminate sessions of the~~
25 ~~superior court in any city in which sessions of the superior court were being held~~
26 ~~on or before January 1, 1957, in a county now having 1 million population or more~~
27 ~~which is contiguous to a county of 7 million population or more and sessions of~~
28 ~~the superior court existing in any such county on or about January 1, 1970 are~~
29 ~~hereby reestablished if they have been terminated during 1970 and may not be~~
30 ~~terminated by the board of supervisors.~~

31 **Comment.** Section 69752 is repealed to reflect enactment of Section 69740(a) (number and
32 location of trial court sessions).

33 **Note.** The last paragraph of Government Code Section 69752 is applicable to Orange County.

34 **Article 6. Extra Sessions**

35 **Note.** The Commission solicits comment on whether Article 6 continues to serve a useful
36 purpose inasmuch as the Chief Justice, as Chair of the Judicial Council, is authorized by the
37 Constitution to assign judges to other counties and Government Code Section 69741.5 provides
38 there may be as many sessions of a superior court as there are judges, elected, appointed, or
39 assigned thereto. Does the term "extra session" have continuing viability or is it obsolete?

1 **Gov't Code § 69790 (amended). Authority to hold**

2 SEC. ____ . Section 69790 of the Government Code is amended to read:

3 69790. Whenever in the opinion of the judge or a majority of the judges of the
4 superior court of any county the public interests so justify or require, one or more
5 extra sessions of the superior court may be held in addition to and at the same time
6 as the other sessions of the court. ~~Such sessions shall be known as extra sessions~~
7 ~~of the superior court.~~

8 **Comment.** Section 69790 is amended to reflect enactment of Section 69740(a) (number and
9 location of trial court sessions).

10 The section is also amended to delete language referring to “the judge” of the court. Every
11 superior court has at least two judgeships as a result of trial court unification. See Section 69580
12 *et seq.* (number of judges). Where a court has only one judge due to a vacancy or otherwise, a
13 reference to the judges of the court means the sole judge of the court. See Section 13 (plural
14 includes singular).

15 **Gov't Code § 69791 (amended). Appointment of time**

16 SEC. ____ . Section 69791 of the Government Code is amended to read:

17 69791. Whenever such judge or majority decide that an extra session of the court
18 shall be held, he or they shall appoint the time when it shall be held. No extra
19 session of any superior court shall continue beyond December 31st of the year in
20 which it is established.

21 **Comment.** Section 69791 is amended to delete language referring to “such judge” of the court.
22 Every superior court has at least two judgeships as a result of trial court unification. See Section
23 69580 *et seq.* (number of judges). Where a court has only one judge due to a vacancy or
24 otherwise, a reference to the judges of the court means the sole judge of the court. See Section 13
25 (plural includes singular).

26 **Gov't Code § 69792 (repealed). Appointment of place**

27 SEC. ____ . Section 69792 of the Government Code is repealed.

28 ~~69792. Such judge or majority shall also appoint a place within the county seat~~
29 ~~of the county where the extra session shall be held. Such judge or majority has the~~
30 ~~same power to provide a place for holding such extra session as a judge of a~~
31 ~~superior court has to provide a place for holding a session of a superior court.~~

32 **Comment.** Section 69792 is repealed to reflect enactment of Section 69740(a) (number and
33 location of trial court sessions).

34 **Gov't Code § 69793 (repealed). Apportionment of business in counties having one judge**

35 SEC. ____ . Section 69793 of the Government Code is repealed.

36 ~~69793. Whenever the judge of the superior court of a county with one judge of~~
37 ~~the superior court provides for an extra session of the court, at the time of so~~
38 ~~providing or from time to time during the continuance of the extra session, he shall~~
39 ~~apportion to the judge presiding over the extra session such portion of the business~~
40 ~~of the court as he may desire, and at the close of such extra session shall order~~
41 ~~such portions of the business so apportioned and not transacted to be transferred to~~
42 ~~himself.~~

1 **Comment.** Section 69793 is repealed to reflect the fact that every superior court has at least
2 two judgeships as a result of trial court unification. See Section 69580 *et seq.* (number of judges).
3 Where a court has only one judge due to a vacancy or otherwise, a reference to the judges of the
4 court means the sole judge of the court. See Section 13 (plural includes singular).

5 **Gov’t Code § 69794 (amended). Apportionment of business**

6 SEC. _____. Section 69794 of the Government Code is amended to read:

7 69794. Whenever the majority of the superior court judges ~~of any county having~~
8 ~~more than one judge of the superior court~~ provide for an extra session of the court,
9 at the time of so providing or from time to time during the continuance of the extra
10 session, such majority shall order transferred to the judge presiding over such extra
11 session from the judges to whom they have been assigned according to law or the
12 rules of the court, such portions of the business of the court as they may select. At
13 the close of the extra session such majority shall order retransferred to the judges
14 of the court such portions of the business so transferred and not transacted.

15 **Comment.** Section 69794 is amended to reflect the fact that every superior court has at least
16 two judgeships as a result of trial court unification. See Section 69580 *et seq.* (number of judges).
17 Where a court has only one judge due to a vacancy or otherwise, a reference to the judges of the
18 court means the sole judge of the court. See Section 13 (plural includes singular).

19 **Gov’t Code § 69795 (unchanged). Applicability of transfer rules**

20 69795. Except as provided in this article, any rules of any superior court relating
21 to the transfer of business from one judge of the court to another shall apply to the
22 transfer from the judge presiding over any extra session of any business duly
23 assigned to him to any judge of the court.

24 **Gov’t Code § 69796 (amended). Designation of judge**

25 SEC. _____. Section 69796 of the Government Code is amended to read:

26 69796. Upon the request of ~~the judge or~~ a majority of the judges of the superior
27 court of any county, the ~~Chairman~~ Chair of the Judicial Council shall designate
28 and authorize a judge of the superior court of some other county to hold and
29 preside over such extra session of the superior court of the county. Upon such
30 designation and authorization such judge shall so serve.

31 **Comment.** Section 69796 is amended to delete language referring to “the judge” of the court.
32 Every superior court has at least two judgeships as a result of trial court unification. See Section
33 69580 *et seq.* (number of judges). Where a court has only one judge due to a vacancy or
34 otherwise, a reference to the judges of the court means the sole judge of the court. See Section 13
35 (plural includes singular).

36 **Gov’t Code § 69797 (unchanged). Effectiveness of proceedings**

37 69797. The judgments, orders, and proceedings of any extra session held
38 pursuant to this article shall be equally effective as if any or all of the judges of
39 such court presided at the session.

1 **Gov't Code § 69798 (unchanged). Powers of judges of court in connection with assigned**
2 **business**

3 69798. One or more judges of any superior court may hold and preside over any
4 extra session of the court with or without the judges designated and authorized to
5 hold and preside over the session. Any judge of any superior court may perform in
6 connection with any business duly assigned to the judge presiding over any extra
7 session of the court any act which he could perform in connection with any
8 business assigned to any other judge of the court.

9 **Gov't Code § 69799 (unchanged). Powers of judge holding or presiding over extra session**

10 69799. Any judge holding or presiding over any extra session of a superior court
11 may perform in chambers or in court, in connection with any business duly
12 assigned to him, any act which could be performed by any judge of the court, in
13 chambers or in court, in connection with such business if duly assigned to himself.
14 No judge holding or presiding over any extra session of any superior court shall
15 perform in chambers or in court any act in connection with any business that has
16 not been duly assigned to him.

17 **Gov't Code § 69800 (unchanged). Compensation of judge holding or presiding over extra**
18 **session**

19 69800. All laws applying to the compensation of a judge of a superior court
20 holding the superior court in a county other than his home county apply to a judge
21 holding extra sessions of a superior court in any county other than his home
22 county.

23 **Gov't Code §§ 71340-71342 (repealed). Sessions of court**

24 SEC. ____ . Article 9 (commencing with Section 71340) of Chapter 6 of Title 8
25 of the Government Code is repealed.

26 **Comment.** Sections 71340-71342 are repealed to reflect:

27 (1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article
28 VI of the California Constitution. See Section 69741.5 (number of sessions permissible at same
29 time). Cf. Section 71042.5 (preservation of judicial districts for purpose of publication).

30 (2) Enactment of Section 69740(a) (number and location of trial court sessions).

31 (3) Repeal of Section 68812.

32  **Note.** The text of the repealed article is set out below.

33 **Article 9. Sessions of Court**

34 71340. There may be as many sessions of a municipal court at the same time as there are judges
35 elected, appointed, or assigned to the court. The judgments, orders, and proceedings of any
36 session of a municipal court held by any one or more of the judges sitting in the court shall be
37 equally effectual as though all the judges of the court presided at the session.

38 71341. (a) Sessions of a municipal court may be held at any place or places within the district
39 for which the court is established.

1 (b) Notwithstanding any other provision of law, the presiding or sole judge of a municipal court
2 may direct that a session of the court be held at any place in the county where any superior or
3 municipal court regularly conducts sessions, if each of the following applies:

4 (1) The judge presiding at the court session is a judge of a municipal court or a retired judge
5 assigned to serve as a municipal court judge under Section 6 of Article VI of the California
6 Constitution.

7 (2) The presiding or sole judge of the superior or municipal court has informed the presiding
8 judge of the municipal court that the court session will not interfere with the normal conduct of
9 court business.

10 (3) The session is held in furtherance of a coordination plan approved under Section 68112.
11 Any type of proceeding may be heard in these sessions.

12 71342. Where a municipal court district embraces two or more cities, municipal court sessions
13 shall be held at such places within the district as the board of supervisors by ordinance shall
14 designate from time to time as the public convenience requires.

15 **Gov't Code § 73648 (repealed). Sessions within the El Cajon Judicial District**

16 SEC. ____ . Section 73648 of the Government Code is repealed.

17 ~~73648. The municipal court shall hold sessions at such location, or locations,~~
18 ~~within the El Cajon Judicial District as the Board of Supervisors of the County of~~
19 ~~San Diego may designate.~~

20 **Comment.** Section 73648 is repealed to reflect:

21 (1) Unification of the municipal and superior courts in San Diego County pursuant to former
22 Section 5(e) of Article VI of the California Constitution, effective December 1, 1998.

23 (2) Enactment of Section 69740(a) (number and location of trial court sessions).

24 **Gov't Code § 74748 (repealed). Sessions within the South Bay Judicial District**

25 SEC. ____ . Section 74748 of the Government Code is repealed.

26 ~~74748. The municipal court shall hold sessions in the City of Chula Vista and at~~
27 ~~such other places as the board of supervisors, by ordinance, may designate.~~

28 **Comment.** Section 74748 is repealed to reflect:

29 (1) Unification of the municipal and superior courts in San Diego County pursuant to former
30 Section 5(e) of Article VI of the California Constitution, effective December 1, 1998.

31 (2) Enactment of Section 69740(a) (number and location of trial court sessions).

32 **Gov't Code §§ 74920-74920.6 (repealed). Tulare County Municipal Court District**

33 SEC. ____ . Article 36 (commencing with Section 74920) of Chapter 10 of Title 8
34 of the Government Code is repealed.

35 **Comment.** Sections 74920-74920.6 are repealed to reflect:

36 (1) Unification of the municipal and superior courts in Tulare County pursuant to former
37 Section 5(e) of Article VI of the California Constitution, effective July 27, 1998.

38 (2) Enactment of Section 69740(a) (number and location of trial court sessions).

39  **Note.** The text of the repealed article is set out below.

40 Article 36. Tulare County

41 74920. There is in the County of Tulare a single municipal court district known as the Tulare
42 County Municipal Court District.

1 74920.5. On the order of the board of supervisors, sessions of the Tulare-Pixley Division shall
2 be held within the territory embraced by the Pixley Judicial District as it existed on December 31,
3 1974.

4 74920.6. On order of the board of supervisors, sessions and services of the Central Division
5 shall be held in the City of Woodlake, the City of Lindsay, and the City of Exeter.

6 **Penal Code § 825 (amended). Appearance before magistrate**

7 SEC. ____ . Section 825 of the Penal Code is amended to read:

8 825. (a)(1) Except as provided in paragraph (2), the defendant shall in all cases
9 be taken before the magistrate without unnecessary delay, and, in any event,
10 within 48 hours after his or her arrest, excluding Sundays and holidays.

11 (2) When the 48 hours prescribed by paragraph (1) expire at a time when the
12 court in which the magistrate is sitting is not in session, that time shall be extended
13 to include the duration of the next ~~regular~~ court session on the judicial day
14 immediately following. If the 48-hour period expires at a time when the court in
15 which the magistrate is sitting is in session, the arraignment may take place at any
16 time during that session. However, when the defendant's arrest occurs on a
17 Wednesday after the conclusion of the day's ~~regular~~ court session, and provided
18 that the Wednesday is not a court holiday, the defendant shall be taken before the
19 magistrate not later than the following Friday, provided that the Friday is not a
20 court holiday.

21 (b) After the arrest, any attorney at law entitled to practice in the courts of record
22 of California, may, at the request of the prisoner or any relative of the prisoner,
23 visit the prisoner. Any officer having charge of the prisoner who willfully refuses
24 or neglects to allow that attorney to visit a prisoner is guilty of a misdemeanor.
25 Any officer having a prisoner in charge, who refuses to allow the attorney to visit
26 the prisoner when proper application is made, shall forfeit and pay to the party
27 aggrieved the sum of five hundred dollars (\$500), to be recovered by action in any
28 court of competent jurisdiction.

29 **Comment.** Subdivision (a)(2) of Section 825 is amended to reflect the repeal of Government
30 Code Section 69741 (regular and special sessions).

31 **SUBORDINATE JUDICIAL OFFICERS**

32 **Fish & Game Code § 12157 (amended). Forfeiture for violations**

33 SEC. ____ . Section 12157 of the Fish and Game Code is amended to read:

34 12157. (a) Except as provided in subdivision (b), the judge before whom any
35 person is tried for a violation of any provision of this code, or regulation adopted
36 pursuant thereto, may, upon the conviction of the person tried, order the forfeiture
37 of any device or apparatus that is designed to be, or is capable of being, used to
38 take birds, mammals, fish, reptiles, or amphibia and that was used in committing
39 the offense charged.

1 (b) The judge shall, if the offense is punishable under Section 12008 of this code
2 or under subdivision (c) of Section 597 of the Penal Code, order the forfeiture of
3 any device or apparatus that is used in committing the offense, including, but not
4 limited to, any vehicle that is used or intended for use in delivering, importing, or
5 exporting any unlawfully taken, imported, or purchased species.

6 (c)(1) The judge may, for conviction of a violation of either of the following
7 offenses, order forfeiture of any device or apparatus that is used in committing the
8 offense, including, but not limited to, any vehicle used or intended for use in
9 committing the offense:

10 (A) Section 2000 relating to deer, elk, antelope, feral pigs, European wild boars,
11 black bears, and brown or cinnamon bears.

12 (B) Any offense that involves the sale, purchase, or possession of abalone for
13 commercial purposes.

14 (2) In considering an order of forfeiture under this subdivision, the court shall
15 take into consideration the nature, circumstances, extent, and gravity of the
16 prohibited act committed, the degree of culpability of the violator, the property
17 proposed for forfeiture, and other criminal or civil penalties imposed on the
18 violator under other provisions of law for that offense. The court shall impose
19 lesser forfeiture penalties under this subdivision for those acts that have little
20 significant effect upon natural resources or the property of another and greater
21 forfeiture penalties for those acts that may cause serious injury to natural resources
22 or the property of another, as determined by the court. In determining whether or
23 not to order forfeiture of a vehicle, the court shall, in addition to any other relevant
24 factor, consider whether the defendant is the owner of the vehicle and whether the
25 owner of the vehicle had knowledge of the violation.

26 (3) It is the intent of the Legislature that forfeiture not be ordered pursuant to this
27 subdivision for minor or inadvertent violations of Section 2000, as determined by
28 the court.

29 (d) Any device or apparatus ordered forfeited shall be sold, used, or destroyed by
30 the department.

31 (e)(1) The proceeds from all sales under this section, after payment of any valid
32 liens on the forfeited property, shall be paid into the Fish and Game Preservation
33 Fund.

34 (2) A lien in which the lienholder is a conspirator is not a valid lien for purposes
35 of this subdivision.

36 (f) The provisions in this section authorizing or requiring a judge to order the
37 forfeiture of a device or apparatus also apply to the judge, referee, or traffie
38 juvenile hearing officer in a juvenile court action brought under Section 258 of the
39 Welfare and Institutions Code.

40 (g) For purposes of this section, a plea of nolo contendere or no contest, or
41 forfeiture of bail, constitutes a conviction.

42 (h) Neither the disposition of the criminal action other than by conviction nor the
43 discretionary refusal of the judge to order forfeiture upon conviction impairs the

1 right of the department to commence proceedings to order the forfeiture of fish
2 nets or traps pursuant to Section 8630.

3 **Comment.** Subdivision (f) of Section 12157 is amended to reflect the redesignation of traffic
4 hearing officers as juvenile hearing officers. See 1997 Cal. Stat. ch. 679.

5 **Food & Agric. Code § 21856 (amended). Forfeiture of device or apparatus**

6 SEC. _____. Section 21856 of the Food and Agricultural Code is amended to read:

7 21856. (a) The judge before whom any person is tried for the wrongful taking,
8 possessing, killing, or slaughter of cattle without the consent of the owner or the
9 person lawfully in possession of those cattle may, upon the conviction of the
10 person tried, order the forfeiture of any device or apparatus that is designed to be,
11 or is capable of being, used to commit the offense charged, and which was used in
12 committing the offense charged. "Device or apparatus" includes, but is not limited
13 to, any vehicle that is used or intended for use in taking, possessing, harboring, or
14 transporting the cattle.

15 (b) Any device or apparatus ordered forfeited shall be sold, used, or destroyed by
16 the department.

17 (c) The provisions in this section authorizing a judge to order the forfeiture of a
18 device or apparatus are also applicable to the judge, referee, or traffic juvenile
19 hearing officer in a juvenile court action brought under Section 258 of the Welfare
20 and Institutions Code.

21 (d) For purposes of this section, a plea of nolo contendere or no contest, or
22 forfeiture of bail, constitutes a conviction.

23 (e) Neither the disposition of the criminal action other than by conviction nor the
24 discretionary refusal of the judge to order forfeiture upon conviction impairs the
25 right of the department to commence proceedings to order the forfeiture of
26 property pursuant to any other provision of law.

27 **Comment.** Subdivision (c) of Section 21856 is amended to reflect the redesignation of traffic
28 hearing officers as juvenile hearing officers. See 1997 Cal. Stat. ch. 679.

29 **Gov't Code § 71601 (amended). Definitions**

30 SEC. _____. Section 71601 of the Government Code is amended to read:

31 71601. For purposes of this chapter, the following definitions shall apply:

32 (a) "Appointment" means the offer to and acceptance by a person of a position in
33 the trial court in accordance with this chapter and the trial court's personnel
34 policies, procedures, and plans.

35 (b) "Employee organization" means any organization that includes trial court
36 employees and has as one of its primary purposes representing those employees in
37 their relations with the trial court.

38 (c) "Hiring" means appointment as defined in subdivision (a).

39 (d) "Mediation" means effort by an impartial third party to assist in reconciling a
40 dispute regarding wages, hours, and other terms and conditions of employment
41 between representatives of the trial court and the recognized employee

1 organization or recognized employee organizations through interpretation,
2 suggestion, and advice.

3 (e) “Meet and confer in good faith” means that a trial court or representatives as
4 it may designate, and representatives of recognized employee organizations, shall
5 have the mutual obligation personally to meet and confer promptly upon request
6 by either party and continue for a reasonable period of time in order to exchange
7 freely information, opinions, and proposals, and to endeavor to reach agreement on
8 matters within the scope of representation. The process should include adequate
9 time for the resolution of impasses where specific procedures for resolution are
10 contained in this chapter or in a local rule, or when the procedures are utilized by
11 mutual consent.

12 (f) “Personnel rules,” “personnel policies, procedures, and plans,” and “rules and
13 regulations” mean policies, procedures, plans, rules, or regulations adopted by a
14 trial court or its designee pertaining to conditions of employment of trial court
15 employees, subject to meet and confer in good faith.

16 (g) “Promotion” means promotion within the trial court as defined in the trial
17 court’s personnel policies, procedures, and plans, subject to meet and confer in
18 good faith.

19 (h) “Recognized employee organization” means an employee organization that
20 has been formally acknowledged to represent trial court employees by the county
21 under Sections 3500 to 3510, inclusive, prior to the implementation date of this
22 chapter, or by the trial court under Rules 2201 to 2210, inclusive, of the California
23 Rules of Court, as those rules read on April 23, 1997, Sections 70210 to 70219,
24 inclusive, or Article 3 (commencing with Section 71630) of this chapter.

25 (i) “Subordinate judicial officer” means an officer appointed to perform
26 subordinate judicial duties as authorized by Section 22 of Article VI of the
27 California Constitution, including, but not limited to, a court commissioner,
28 probate commissioner, child support commissioner, referee, traffic trial
29 commissioner, traffic referee, juvenile court referee, juvenile hearing officer, and
30 temporary judge pro tempore.

31 (j) “Transfer” means transfer within the trial court as defined in the trial court’s
32 personnel policies, procedures, and plans, subject to meet and confer in good faith.

33 (k) “Trial court” means a superior court ~~or a municipal court~~.

34 (l) “Trial court employee” means a person who is both of the following:

35 (1) Paid from the trial court’s budget, regardless of the funding source. For the
36 purpose of this paragraph, “trial court’s budget” means funds from which the
37 presiding judge of a trial court, or his or her designee, has authority to control,
38 authorize, and direct expenditures, including, but not limited to, local revenues, all
39 grant funds, and trial court operations funds.

40 (2) Subject to the trial court’s right to control the manner and means of his or her
41 work because of the trial court’s authority to hire, supervise, discipline, and
42 terminate employment. For purposes of this paragraph only, the “trial court”

1 includes the judges of a trial court or their appointees who are vested with or
2 delegated the authority to hire, supervise, discipline, and terminate.

3 (m) A person is a “trial court employee” if and only if both paragraphs (1) and
4 (2) of subdivision (l) are true irrespective of job classification or whether the
5 functions performed by that person are identified in Rule 810 of the California
6 Rules of Court. The phrase “trial court employee” includes those subordinate
7 judicial officers who satisfy paragraphs (1) and (2) of subdivision (l). The phrase
8 “trial court employee” does not include temporary employees hired through
9 agencies, jurors, individuals hired by the trial court pursuant to an independent
10 contractor agreement, individuals for whom the county or trial court reports
11 income to the Internal Revenue Service on a Form 1099 and does not withhold
12 employment taxes, sheriffs, and judges whether elected or appointed. Any
13 temporary employee, whether hired through an agency or not, shall not be
14 employed in the trial court for a period exceeding 180 calendar days.

15 **Comment.** Subdivision (i) of Section 71601 is amended to refer to types of subordinate judicial
16 officers. See former Section 72450 (traffic trial commissioners); Fam. Code §§ 4250-4253 (child
17 support commissioners); Welf. & Inst. Code § 255 (juvenile hearing officers). Subdivision (i) is
18 also amended for consistency of terminology. See Cal. Const. art. VI, § 21 (temporary judge).

19 Subdivision (k) is amended to reflect unification of the municipal and superior courts pursuant
20 to former Section 5(e) of Article VI of the California Constitution.

21 **Staff Note.** The proposed revisions to Government Code Section 71601 are identical to those
22 contained in SB 1316 with one exception. SB 1316 would have added a reference to “traffic
23 hearing officer” in subdivision (i). Traffic hearing officers have been redesignated as juvenile
24 hearing officers (see 1997 Cal. Stat. ch. 679) and therefore the reference is omitted from the
25 proposed revisions. The revisions to Section 71601 included in SB 1316 were chaptered out by
26 SB 2011 (2002 Cal. Stat. ch. 905, § 2), which amended the same section.

27 **Penal Code § 853.6a (amended). Appearance before juvenile court**

28 SEC. ____ . Section 853.6a of the Penal Code is amended to read:

29 853.6a. (a) Except as provided in subdivision (b), if the person arrested appears
30 to be under the age of 18 years, and the arrest is for a violation listed in Section
31 256 of the Welfare and Institutions Code, other than an offense involving a
32 firearm, the notice under Section 853.6 shall instead provide that the person shall
33 appear before the juvenile court, a juvenile court referee, or a juvenile traffic
34 hearing officer within the county in which the offense charged is alleged to have
35 been committed, and the officer shall instead, as soon as practicable, file the
36 duplicate notice with the prosecuting attorney unless the prosecuting attorney
37 directs the officer to file the duplicate notice with the clerk of the juvenile court,
38 the juvenile court referee, or the juvenile traffic hearing officer. If the notice is
39 filed with the prosecuting attorney, within 48 hours before the date specified on
40 the notice to appear, the prosecutor, within his or her discretion, may initiate
41 proceedings by filing the notice or a formal petition with the clerk of the juvenile
42 court, or the juvenile court referee or juvenile traffic hearing officer, before whom
43 the person is required to appear by the notice.

1 (b) A juvenile court may exercise the option of not requiring a mandatory
2 appearance of the juvenile before the court for infractions contained in the Vehicle
3 Code, except those related to drivers' licenses as specified in Division 6
4 (commencing with Section 12500), those related to financial responsibility as
5 specified in Division 7 (commencing with Section 16000), speeding violations as
6 specified in Division 11 (commencing with Section 21000) where the speed limit
7 was violated by 15 or more miles per hour, and those involving the use or
8 possession of alcoholic beverages as specified in Division 11 (commencing with
9 Section 12500).

10 (c) In counties where an Expedited Youth Accountability Program is operative,
11 as established under Section 660.5 of the Welfare and Institutions Code, a peace
12 officer may issue a citation and written promise to appear in juvenile court or
13 record the minor's refusal to sign the promise to appear and serve notice to appear
14 in juvenile court, according to the requirements and procedures provided in that
15 section.

16 (d) Nothing in this section shall be construed to limit the discretion of a peace
17 officer or other person with the authority to enforce laws pertaining to juveniles to
18 take the minor into custody pursuant to Article 15 (commencing with Section 625)
19 of the Welfare and Institutions Code.

20 **Comment.** Subdivision (a) of Section 853.6a is amended to reflect the redesignation of traffic
21 hearing officers as juvenile hearing officers. See 1997 Cal. Stat. ch. 679.

22 **Veh. Code § 1816 (amended). Report of offenses**

23 SEC. ____. Section 1816 of the Vehicle Code is amended to read:

24 1816. Every judge of the juvenile court, juvenile traffic hearing officer, duly
25 constituted referee of a juvenile court, or other person responsible for the
26 disposition of cases involving traffic offenses required to be reported under
27 Section 1803 committed by persons under 18 years of age shall keep a full record
28 of every case in which a person is charged with such a violation, and shall report
29 the offense to the department at its office in Sacramento not more than 30 days
30 after the date on which it was committed, and in no case less than 10 days after
31 adjudication. The report required by this section shall be required for any
32 determination that a minor committed the violation, including any determination
33 that because of the act the minor is a person described in Section 601 or 602 of the
34 Welfare and Institutions Code or that a program of supervision should be instituted
35 for the minor. No report shall be made if it is found that the alleged offense was
36 not committed.

37 The report required by this section shall be made upon a form furnished by the
38 department and shall contain all necessary information as to the identity of the
39 offender, the arresting agency, the date and nature of the offense, and the date the
40 finding was made.

41 **Comment.** Section 1816 is amended to reflect the redesignation of traffic hearing officers as
42 juvenile hearing officers. See 1997 Cal. Stat. ch. 679.

1 **Veh. Code § 13105 (amended). Definitions**

2 SEC. _____. Section 13105 of the Vehicle Code is amended to read:

3 13105. For the purposes of this chapter, “convicted” or “conviction” includes a
4 finding by a judge of a juvenile court, a juvenile traffic hearing officer, or referee
5 of a juvenile court that a person has committed an offense, and “court” includes a
6 juvenile court except as otherwise specifically provided.

7 **Comment.** Section 13105 is amended to reflect the redesignation of traffic hearing officers as
8 juvenile hearing officers. See 1997 Cal. Stat. ch. 679.

9 **Veh. Code § 13352 (amended). Suspension or revocation of driving privilege**

10 SEC. _____. Section 13352 of the Vehicle Code is amended to read:

11 13352. (a) The department shall immediately suspend or revoke, or record the
12 court-administered suspension or revocation of, the privilege of any person to
13 operate a motor vehicle upon receipt of an abstract of the record of any court
14 showing that the person has been convicted of a violation of Section 23152 or
15 23153 or subdivision (a) of Section 23109, or upon receipt of a report of a judge of
16 the juvenile court, a juvenile traffic hearing officer, or a referee of a juvenile court
17 showing that the person has been found to have committed a violation of Section
18 23152 or 23153 or subdivision (a) of Section 23109. If any offense specified in
19 this section occurs in a vehicle defined in Section 15210, the suspension or
20 revocation specified below shall apply to the noncommercial driving privilege.
21 The commercial driving privilege shall be disqualified as specified in Sections
22 15300 to 15302, inclusive. For the purposes of this section, suspension or
23 revocation shall be as follows:

24 (1) Upon a conviction or finding of a violation of Section 23152 punishable
25 under Section 23536, the privilege shall be suspended for a period of six months.
26 The privilege shall not be reinstated until the person gives proof of financial
27 responsibility and gives proof satisfactory to the department of successful
28 completion of a driving-under-the-influence program licensed pursuant to Section
29 11836 of the Health and Safety Code described in subdivision (b) of Section
30 23538.

31 Instead of suspending the person’s driving privilege, the department shall issue a
32 restricted license upon receipt of an abstract of record from the court certifying the
33 court has granted probation to the person based on the conditions specified in
34 paragraph (2) of subdivision (a) of, and subdivision (b) of, Section 23538.

35 (2) Upon a conviction or finding of a violation of Section 23153 punishable
36 under Section 23554, the privilege shall be suspended for a period of one year. The
37 privilege shall not be reinstated until the person gives proof of financial
38 responsibility and gives proof satisfactory to the department of successful
39 completion of a driving-under-the-influence program licensed pursuant to Section
40 11836 of the Health and Safety Code as described in Section 23556.

41 (3) Except as provided in Section 13352.5, upon a conviction or finding of a
42 violation of Section 23152 punishable under Section 23540, the privilege shall be

1 suspended for two years. The privilege shall not be reinstated until the person
2 gives proof of financial responsibility and gives proof satisfactory to the
3 department of successful completion of a driving-under-the-influence program
4 licensed pursuant to Section 11836 of the Health and Safety Code as described in
5 Section 23542. For the purposes of this paragraph, enrollment, participation, and
6 completion of an approved program shall be subsequent to the date of the current
7 violation. No credit shall be given to any program activities completed prior to the
8 date of the current violation. The department shall advise the person that after
9 completion of 12 months of the suspension period, the person may apply to the
10 department for a restricted driver's license, subject to the following conditions:

11 (A) The person has satisfactorily provided, subsequent to the current underlying
12 conviction, either of the following:

13 (i) Proof of enrollment in an 18-month driving-under-the-influence program
14 licensed pursuant to Section 11836 of the Health and Safety Code.

15 (ii) Proof of enrollment in a 30-month driving-under-the-influence program
16 licensed pursuant to Section 11836 of the Health and Safety Code, if available in
17 the county of the person's residence or employment.

18 (B) The person agrees, as a condition of the restriction, to continue satisfactory
19 participation in the program described in subparagraph (A).

20 (C) The person submits the "Verification of Installation" form described in
21 paragraph (2) of subdivision (e) of Section 13386.

22 (D) The person agrees to maintain the ignition interlock device as required under
23 subdivision (g) of Section 23575.

24 (E) The person provides proof of financial responsibility, as defined in Section
25 16430.

26 (F) The person pays all administrative fees or reissue fees and any restriction fee
27 required by the department.

28 (G) The restriction shall remain in effect for the period required in subdivision
29 (f) of Section 23575.

30 (4) Except as provided in this paragraph, upon a conviction or finding of a
31 violation of Section 23153 punishable under Section 23560, the privilege shall be
32 revoked for a period of three years. The privilege shall not be reinstated until the
33 person gives proof of financial responsibility, and the person gives proof
34 satisfactory to the department of successful completion of a driving-under-the-
35 influence program licensed pursuant to Section 11836 of the Health and Safety
36 Code as described in Section 23562. For the purposes of this paragraph,
37 enrollment, participation, and completion of an approved program shall be
38 subsequent to the date of the current violation. No credit shall be given to any
39 program activities completed prior to the date of the current violation. The
40 department shall advise the person that after the completion of 18 months of the
41 revocation period, the person may apply to the department for a restricted driver's
42 license, subject to the following conditions:

1 (A) The person has satisfactorily completed, subsequent to the current
2 underlying conviction, either of the following:

3 (i) An 18-month driving-under-the-influence program licensed pursuant to
4 Section 11836 of the Health and Safety Code.

5 (ii) The initial 18 months of a 30-month driving-under-the-influence program
6 licensed pursuant to Section 11836 of the Health and Safety Code, if available in
7 the county of the person's residence or employment, and the person agrees, as a
8 condition of the restriction, to continue satisfactory participation in that 30-month
9 program.

10 (B) The person submits the "Verification of Installation" form described in
11 paragraph (2) of subdivision (e) of Section 13386.

12 (C) The person agrees to maintain the ignition interlock device as required under
13 subdivision (g) of Section 23575.

14 (D) The person provides proof of financial responsibility, as defined in Section
15 16430.

16 (E) The person pays all applicable reinstatement or reissue fees and any
17 restriction fee required by the department.

18 (F) The restriction shall remain in effect for the period required in subdivision (f)
19 of Section 23575.

20 (5) Except as provided in this paragraph, upon a conviction or finding of a
21 violation of Section 23152 punishable under Section 23546, the privilege shall be
22 revoked for a period of three years. The privilege shall not be reinstated until the
23 person files proof of financial responsibility and gives proof satisfactory to the
24 department of successful completion of one of the following programs: an 18-
25 month driving-under-the-influence program licensed pursuant to Section 11836 of
26 the Health and Safety Code or, if available in the county of the person's residence
27 or employment, a 30-month driving-under-the-influence program licensed
28 pursuant to Section 11836 of the Health and Safety Code, or a program specified
29 in Section 8001 of the Penal Code. For the purposes of this paragraph, enrollment,
30 participation, and completion of an approved program shall be subsequent to the
31 date of the current violation. No credit shall be given to any program activities
32 completed prior to the date of the current violation. The department shall advise
33 the person that after completion of 18 months of the revocation period, the person
34 may apply to the department for a restricted driver's license, subject to the
35 following conditions:

36 (A) The person has satisfactorily completed, subsequent to the current
37 underlying conviction, either of the following:

38 (i) An 18-month driving-under-the-influence program licensed pursuant to
39 Section 11836 of the Health and Safety Code.

40 (ii) The initial 18 months of a 30-month driving-under-the-influence program
41 licensed pursuant to Section 11836 of the Health and Safety Code, if available in
42 the county of the person's residence or employment, and the person agrees, as a

1 condition of the restriction, to continue satisfactory participation in the 30-month
2 driving-under-the-influence program.

3 (B) The person submits the “Verification of Installation” form described in
4 paragraph (2) of subdivision (e) of Section 13386.

5 (C) The person agrees to maintain the ignition interlock device as required under
6 subdivision (g) of Section 23575.

7 (D) The person provides proof of financial responsibility, as defined in Section
8 16430.

9 (E) Any individual convicted of a violation of Section 23152 punishable under
10 Section 23546 may also, at any time after sentencing, petition the court for referral
11 to an 18-month driving-under-the-influence program licensed pursuant to Section
12 11836 of the Health and Safety Code, or, if available in the county of the person’s
13 residence or employment, a 30-month driving-under-the-influence program
14 licensed pursuant to Section 11836 of the Health and Safety Code. Unless good
15 cause is shown, the court shall order the referral.

16 (F) The person pays all applicable reinstatement or reissue fees and any
17 restriction fee required by the department.

18 (G) The restriction shall remain in effect for the period required in subdivision
19 (f) of Section 23575.

20 (6) Except as provided in this paragraph, upon a conviction or finding of a
21 violation of Section 23153 punishable under Section 23566, the privilege shall be
22 revoked for a period of five years. The privilege shall not be reinstated until the
23 person gives proof of financial responsibility and proof satisfactory to the
24 department of successful completion of one of the following programs: an 18-
25 month driving-under-the-influence program licensed pursuant to Section 11836 of
26 the Health and Safety Code, or, if available in the county of the person’s residence
27 or employment, a 30-month driving-under-the-influence program licensed
28 pursuant to Section 11836 of the Health and Safety Code, or a program specified
29 in Section 8001 of the Penal Code. For the purposes of this paragraph, enrollment,
30 participation, and completion of an approved program shall be subsequent to the
31 date of the current violation. No credit shall be given to any program activities
32 completed prior to the date of the current violation. The department shall advise
33 the person that after the completion of 30 months of the revocation period, the
34 person may apply to the department for a restricted driver’s license, subject to the
35 following conditions:

36 (A) The person has satisfactorily completed, subsequent to the current
37 underlying conviction, either of the following:

38 (i) The initial 18 months of a 30-month driving-under-the-influence program
39 licensed pursuant to Section 11836 of the Health and Safety Code, if available in
40 the county of the person’s residence or employment, and the person agrees, as a
41 condition of the restriction, to continue satisfactory participation in the 30-month
42 driving-under-the-influence program.

1 (ii) An 18-month driving-under-the-influence program licensed pursuant to
2 Section 11836 of the Health and Safety Code, if a 30-month program is
3 unavailable in the person’s county of residence or employment.

4 (B) The person submits the “Verification of Installation” form described in
5 paragraph (2) of subdivision (e) of Section 13386.

6 (C) The person agrees to maintain the ignition interlock device as required under
7 subdivision (g) of Section 23575.

8 (D) The person provides proof of financial responsibility, as defined in Section
9 16430.

10 (E) Any individual convicted of a violation of Section 23153 punishable under
11 Section 23566 may also, at any time after sentencing, petition the court for referral
12 to an 18-month driving-under-the-influence program or, if available in the county
13 of the person’s residence or employment, a 30-month program licensed pursuant to
14 Section 11836 of the Health and Safety Code. Unless good cause is shown, the
15 court shall order the referral.

16 (F) The person pays all applicable reinstatement or reissue fees and any
17 restriction fee required by the department.

18 (G) The restriction shall remain in effect for the period required in subdivision
19 (f) of Section 23575.

20 (7) Except as provided in this paragraph, upon a conviction or finding of a
21 violation of Section 23152 punishable under Section 23550 or 23550.5, or Section
22 23153 punishable under Section 23550.5 the privilege shall be revoked for a
23 period of four years. The privilege shall not be reinstated until the person gives
24 proof of financial responsibility and proof satisfactory to the department of
25 successful completion of one of the following programs: an 18-month driving-
26 under-the-influence program licensed pursuant to Section 11836 of the Health and
27 Safety Code, or, if available in the county of the person’s residence or
28 employment, a 30-month driving-under-the-influence program licensed pursuant
29 to Section 11836 of the Health and Safety Code, or a program specified in Section
30 8001 of the Penal Code. For the purposes of this paragraph, enrollment,
31 participation, and completion of an approved program shall be subsequent to the
32 date of the current violation. No credit shall be given to any program activities
33 completed prior to the date of the current violation. The department shall advise
34 the person that after the completion of 24 months of the revocation period, the
35 person may apply to the department for a restricted driver’s license, subject to the
36 following conditions:

37 (A) The person has satisfactorily completed, subsequent to the current
38 underlying conviction, either of the following:

39 (i) An 18-month driving-under-the-influence program licensed pursuant to
40 Section 11836 of the Health and Safety Code.

41 (ii) The initial 18 months of a 30-month driving-under-the-influence program
42 licensed pursuant to Section 11836 of the Health and Safety Code, if available in
43 the county of the person’s residence or employment, and the person agrees, as a

1 condition of the restriction, to continue satisfactory participation in the 30-month
2 driving-under-the-influence program.

3 (B) The person submits the “Verification of Installation” form described in
4 paragraph (2) of subdivision (e) of Section 13386.

5 (C) The person agrees to maintain the ignition interlock device as required under
6 subdivision (g) of Section 23575.

7 (D) The person provides proof of financial responsibility, as defined in Section
8 16430.

9 (E) Any individual convicted of a violation of Section 23152 punishable under
10 Section 23550 may also, at any time after sentencing, petition the court for referral
11 to an 18-month driving-under-the-influence program or, if available in the county
12 of the person’s residence or employment, a 30-month driving-under-the-influence
13 program licensed pursuant to Section 11836 of the Health and Safety Code. Unless
14 good cause is shown, the court shall order the referral.

15 (F) The person pays all applicable reinstatement or reissue fees and any
16 restriction fee required by the department.

17 (G) The restriction shall remain in effect for the period required in subdivision
18 (f) of Section 23575.

19 (8) Upon a conviction or finding of a violation of subdivision (a) of Section
20 23109 punishable under subdivision (e) of that section, the privilege shall be
21 suspended for a period of 90 days to six months, if and as ordered by the court.

22 (9) Upon a conviction or finding of a violation of subdivision (a) of Section
23 23109 punishable under subdivision (f) of that section, the privilege shall be
24 suspended for a period of six months, if the court orders the department to suspend
25 the privilege. The privilege shall not be reinstated until the person gives proof of
26 financial responsibility.

27 (b) For the purpose of paragraphs (2) to (9), inclusive, of subdivision (a), the
28 finding of the juvenile court judge, the juvenile traffic hearing officer, or the
29 referee of a juvenile court of a commission of a violation of Section 23152 or
30 23153 or subdivision (a) of Section 23109, as specified in subdivision (a) of this
31 section, is a conviction.

32 (c) Each judge of a juvenile court, juvenile traffic hearing officer, or referee of a
33 juvenile court shall immediately report the findings specified in subdivision (a) to
34 the department.

35 (d) A conviction of an offense in any state, territory, or possession of the United
36 States, the District of Columbia, the Commonwealth of Puerto Rico, or Canada
37 that, if committed in this state, would be a violation of Section 23152, is a
38 conviction of Section 23152 for purposes of this section, and a conviction of an
39 offense that, if committed in this state, would be a violation of Section 23153, is a
40 conviction of Section 23153 for purposes of this section. The department shall
41 suspend or revoke the privilege to operate a motor vehicle pursuant to this section
42 upon receiving notice of that conviction.

1 (e) For the purposes of the restriction conditions specified in paragraphs (3) to
2 (7), inclusive, of subdivision (a), the department shall terminate the restriction
3 imposed pursuant to this section and shall suspend or revoke the person's driving
4 privilege upon receipt of notification from the program that the person has failed
5 to comply with the program requirements. The person's driving privilege shall
6 remain suspended or revoked for the remaining period of the originating
7 suspension or revocation and until all reinstatement requirements described in this
8 section are met.

9 (f) For purposes of this section, completion of a program is the following:

10 (1) Satisfactory completion of all program requirements approved pursuant to
11 program licensure, as evidenced by a certificate of completion issued, under
12 penalty of perjury, by the licensed program.

13 (2) Certification, under penalty of perjury, by the director of a program specified
14 in Section 8001 of the Penal Code, that the person has completed a program
15 specified in Section 8001 of the Penal Code.

16 **Comment.** Subdivisions (a), (b), and (c) of Section 13352 are amended to reflect the
17 redesignation of traffic hearing officers as juvenile hearing officers. See 1997 Cal. Stat. ch. 679.

18 **Veh. Code § 13352.3 (amended). Juvenile offender**

19 SEC. _____. Section 13352.3 of the Vehicle Code is amended to read:

20 13352.3. (a) Notwithstanding any other provision of law, except subdivisions
21 (b), (c), and (d) of Section 13352 and Sections 13367 and 23521, the department
22 immediately shall revoke the privilege of any person to operate a motor vehicle
23 upon receipt of a duly certified abstract of the record of any court showing that the
24 person was convicted of a violation of Section 23152 or 23153 while under 18
25 years of age, or upon receipt of a report of a judge of the juvenile court, a juvenile
26 traffic hearing officer, or a referee of a juvenile court showing that the person has
27 been found to have committed a violation of Section 23152 or 23153.

28 (b) The term of the revocation shall be until the person reaches 18 years of age,
29 for one year, or for the period prescribed for restriction, suspension, or revocation
30 specified in subdivision (a) of Section 13352, whichever is longer. The privilege
31 shall not be reinstated until the person gives proof of financial responsibility as
32 defined in Section 16430.

33 **Comment.** Subdivision (a) of Section 13352.3 is amended to reflect the redesignation of traffic
34 hearing officers as juvenile hearing officers. See 1997 Cal. Stat. ch. 679.

35 **Veh. Code § 13355 (amended). Suspension for violation of Section 22348(b)**

36 SEC. _____. Section 13355 of the Vehicle Code is amended to read:

37 13355. The department shall immediately suspend the privilege of any person to
38 operate a motor vehicle upon receipt of a duly certified abstract of the record of
39 any court showing that the person has been convicted of a violation of subdivision
40 (b) of Section 22348, or upon a receipt of a report of a judge of a juvenile court, a
41 juvenile traffic hearing officer, or a referee of a juvenile court showing that the

1 person has been found to have committed a violation of subdivision (b) of Section
2 22348 under the following conditions and for the periods, as follows:

3 (a) Upon a conviction or finding of an offense under subdivision (b) of Section
4 22348 which occurred within three years of a prior offense resulting in a
5 conviction of an offense under subdivision (b) of Section 22348, the privilege shall
6 be suspended for a period of six months, or the privilege shall be restricted for six
7 months to necessary travel to and from the person's place of employment and, if
8 driving a motor vehicle is necessary to perform the duties of the person's
9 employment, restricted to driving within the person's scope of employment.

10 (b) Upon a conviction or finding of an offense under subdivision (b) of Section
11 22348 which occurred within five years of two or more prior offenses resulting in
12 convictions of offenses under subdivision (b) of Section 22348, the privilege shall
13 be suspended for a period of one year, or the privilege shall be restricted for one
14 year to necessary travel to and from the person's place of employment and, if
15 driving a motor vehicle is necessary to perform the duties of the person's
16 employment, restricted to driving within the person's scope of employment.

17 **Comment.** Section 13355 is amended to reflect the redesignation of traffic hearing officers as
18 juvenile hearing officers. See 1997 Cal. Stat. ch. 679.

19 **Veh. Code § 23520 (amended). Alcohol or drug education program**

20 SEC. ____ . Section 23520 of the Vehicle Code is amended to read:

21 23520. (a) Whenever, in any county specified in subdivision (b), a judge of a
22 juvenile court, a juvenile traffic hearing officer, or referee of a juvenile court finds
23 that a person has committed a first violation of Section 23152 or 23153, the person
24 shall be required to participate in and successfully complete an alcohol or drug
25 education program, or both of those programs, as designated by the court. The
26 expense of the person's attendance in the program shall be paid by the person's
27 parents or guardian so long as the person is under the age of 18 years, and shall be
28 paid by the person thereafter. However, in approving the program, each county
29 shall require the program to provide for the payment of the fee for the program in
30 installments by any person who cannot afford to pay the full fee at the
31 commencement of the program and shall require the program to provide for the
32 waiver of the fee for any person who is indigent, as determined by criteria for
33 indigency established by the board of supervisors. Whenever it can be done
34 without substantial additional cost, each county shall require that the program be
35 provided for juveniles at a separate location from, or at a different time of day
36 than, alcohol and drug education programs for adults.

37 (b) This section applies only in those counties that have one or more alcohol or
38 drug education programs certified by the county alcohol program administrator
39 and approved by the board of supervisors.

40 **Comment.** Subdivision (a) of Section 23520 is amended to reflect the redesignation of traffic
41 hearing officers as juvenile hearing officers. See 1997 Cal. Stat. ch. 679.

1 **Veh. Code § 23521 (amended). Deemed conviction of a violation of Section 23153**

2 SEC. _____. Section 23521 of the Vehicle Code is amended to read:

3 23521. Any finding of a juvenile court judge, juvenile traffic hearing officer, or
4 referee of a juvenile court of a commission of an offense in any state, territory,
5 possession of the United States, the District of Columbia, the Commonwealth of
6 Puerto Rico, or the Dominion of Canada which, if committed in this state, would
7 be a violation of Section 23152, is a conviction of a violation of Section 23152 for
8 the purposes of Sections 13352, 13352.3, and 13352.5, and the finding of a
9 juvenile court judge, juvenile traffic hearing officer, or referee of a juvenile court
10 of a commission of an offense which, if committed in this state, would be a
11 violation of Section 23153 is a conviction of a violation of Section 23153 for the
12 purposes of Sections 13352 and 13352.3.

13 **Comment.** Section 23521 is amended to reflect the redesignation of traffic hearing officers as
14 juvenile hearing officers. See 1997 Cal. Stat. ch. 679.

15 **Veh. Code § 40502 (amended). Place specified in notice to appear**

16 SEC. _____. Section 40502 of the Vehicle Code is amended to read:

17 40502. The place specified in the notice to appear shall be any of the following:

18 (a) Before a magistrate within the county in which the offense charged is alleged
19 to have been committed and who has jurisdiction of the offense and is nearest or
20 most accessible with reference to the place where the arrest is made.

21 (b) Upon demand of the person arrested, before a judge or other magistrate
22 having jurisdiction of the offense at the county seat of the county in which the
23 offense is alleged to have been committed. This subdivision applies only if the
24 person arrested resides, or the person's principal place of employment is located,
25 closer to the county seat than to the court or other magistrate nearest or most
26 accessible to the place where the arrest is made.

27 (c) Before a person authorized to receive a deposit of bail.

28 The clerk and deputy clerks of the superior court are persons authorized to
29 receive bail in accordance with a schedule of bail approved by the judges of that
30 court.

31 (d) Before the juvenile court, a juvenile court referee, or a juvenile traffic
32 hearing officer within the county in which the offense charged is alleged to have
33 been committed, if the person arrested appears to be under the age of 18 years. The
34 juvenile court shall by order designate the proper person before whom the
35 appearance is to be made.

36 In a county that has implemented the provisions of Section 603.5 of the Welfare
37 and Institutions Code, if the offense alleged to have been committed by a minor is
38 classified as an infraction under this code, or is a violation of a local ordinance
39 involving the driving, parking, or operation of a motor vehicle, the citation shall be
40 issued as provided in subdivision (a), (b), or (c); provided, however, that if the
41 citation combines an infraction and a misdemeanor, the place specified shall be as
42 provided in subdivision (d).

1 If the place specified in the notice to appear is within a county where a
2 department of the superior court is to hold a night session within a period of not
3 more than 10 days after the arrest, the notice to appear shall contain, in addition to
4 the above, a statement notifying the person arrested that the person may appear
5 before such a night session of the court.

6 **Comment.** Subdivision (b) of Section 40502 is amended to reflect unification of the municipal
7 and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution.

8 Subdivision (d) is amended to reflect the redesignation of traffic hearing officers as juvenile
9 hearing officers. See 1997 Cal. Stat. ch. 679.

10 **Welf. & Inst. Code § 258 (amended). Sanctions for violation**

11 SEC. ____ . Section 258 of the Welfare and Institutions Code is amended to read:

12 258. (a) Upon a hearing conducted in accordance with Section 257, and upon
13 either an admission by the minor of the commission of a violation charged, or a
14 finding that the minor did in fact commit the violation, the judge, referee, or
15 juvenile hearing officer may do any of the following:

16 (1) Reprimand the minor and take no further action.

17 (2) Direct that the probation officer undertake a program of supervision of the
18 minor for a period not to exceed six months, in addition to or in place of the
19 following orders.

20 (3) Order that the minor pay a fine up to the amount that an adult would pay for
21 the same violation, unless the violation is otherwise specified within this section,
22 in which case the fine shall not exceed two hundred fifty dollars (\$250). This fine
23 may be levied in addition to or in place of the following orders and the court may
24 waive any or all of this fine, if the minor is unable to pay. In determining the
25 minor's ability to pay, the court shall not consider the ability of the minor's family
26 to pay.

27 (4) Subject to the minor's right to a restitution hearing, order that the minor pay
28 restitution to the victim, in lieu of all or a portion of the fine specified in paragraph
29 (3). The total dollar amount of the fine, restitution, and any program fees ordered
30 pursuant to paragraph (9) shall not exceed the maximum amount which may be
31 ordered pursuant to paragraph (3). Nothing in this paragraph shall be construed to
32 limit the right to recover damages, less any amount actually paid in restitution, in a
33 civil action.

34 (5) Order that the driving privileges of the minor be suspended or restricted as
35 provided in the Vehicle Code or, notwithstanding Section 13203 of the Vehicle
36 Code or any other provision of law, when the Vehicle Code does not provide for
37 the suspension or restriction of driving privileges, that, in addition to any other
38 order, the driving privileges of the minor be suspended or restricted for a period of
39 not to exceed 30 days.

40 (6) In the case of a traffic related offense, order the minor to attend a licensed
41 traffic school, or other court approved program of traffic school instruction

1 pursuant to Chapter 1.5 (commencing with Section 11200) of Division 5 of the
2 Vehicle Code, to be completed by the juvenile within 60 days of the court order.

3 (7) Order that the minor produce satisfactory evidence that the vehicle or its
4 equipment has been made to conform with the requirements of the Vehicle Code
5 pursuant to Section 40150 of the Vehicle Code if the violation involved an
6 equipment violation.

7 (8) Order that the minor perform community service work in a public entity or
8 any private nonprofit entity, for not more than 50 hours over a period of 60 days,
9 during times other than his or her hours of school attendance or employment.
10 Work performed pursuant to this subparagraph shall not exceed 30 hours during
11 any 30-day period. The timeframes established by this subparagraph shall not be
12 modified except in unusual cases where the interests of justice would best be
13 served. When the order to work is made by a referee or a traffic juvenile hearing
14 officer, it shall be approved by a judge of the juvenile court.

15 For the purposes of this subparagraph, a judge, referee, or juvenile hearing
16 officer shall not, without the consent of the minor, order the minor to perform
17 work with a private nonprofit entity that is affiliated with any religion.

18 (9) In the case of a misdemeanor, order that the minor participate in and
19 complete a counseling or educational program, or, if the offense involved a
20 violation of a controlled substance law, a drug treatment program, if those
21 programs are available. Any fees for participation shall be subject to the right to a
22 hearing as the minor's ability to pay and shall not, together with any fine or
23 restitution order, exceed the maximum amount that may be ordered pursuant to
24 paragraph (3).

25 (10) Require that the minor attend a school program without unexcused absence.

26 (11) If the offense is a misdemeanor committed between 10 p.m. and 6 a.m.,
27 require that the minor be at his or her legal residence at hours to be specified by
28 the juvenile hearing officer between the hours of 10 p.m. and 6 a.m., except for a
29 medical or other emergency, unless the minor is accompanied by his or her parent,
30 guardian, or other person in charge of the minor. The maximum length of an order
31 made pursuant to this paragraph shall be six months from the effective date of the
32 order.

33 (12) Make any or all of the following orders with respect to a violation of the
34 Fish and Game Code which is not charged as a felony:

35 (A) That the fishing or hunting license involved be suspended or restricted.

36 (B) That the minor work in a park or conservation area for a total of not to
37 exceed 20 hours over a period not to exceed 30 days, during times other than his or
38 her hours of school attendance or employment.

39 (C) That the minor forfeit, pursuant to Section 12157 of the Fish and Game
40 Code, any device or apparatus designed to be, and capable of being, used to take
41 birds, mammals, fish, reptiles, or amphibia and which was used in committing the
42 violation charged. The judge, referee, or juvenile hearing officer shall, if the minor
43 committed an offense which is punishable under Section 12008 of the Fish and

1 Game Code, order the device or apparatus forfeited pursuant to Section 12157 of
2 the Fish and Game Code.

3 (13) If the violation charged is of an ordinance of a city, county, or local agency
4 relating to loitering, curfew, or fare evasion on a public transportation system, as
5 defined by Section 99211 of the Public Utilities Code, or is a violation of Section
6 640 or 640a of the Penal Code, make the order that the minor shall perform
7 community service for a total time not to exceed 20 hours over a period not to
8 exceed 30 days, during times other than his or her hours of school attendance or
9 employment.

10 (b) The judge, referee, or juvenile hearing officer shall retain jurisdiction of the
11 case until all orders made under this section have been fully complied with.

12 **Comment.** Subdivision (a)(8) of Section 258 is amended to reflect the redesignation of traffic
13 hearing officers as juvenile hearing officers. See 1997 Cal. Stat. ch. 679.

14 **Welf. & Inst. Code § 654.1 (amended). Program of supervision**

15 SEC. _____. Section 654.1 of the Welfare and Institutions Code is amended to
16 read:

17 654.1. (a) Notwithstanding Section 654 or any other provision of law, in any
18 case in which a minor has been charged with a violation of Section 23140 or
19 23152 of the Vehicle Code, the probation officer may, in lieu of requesting that a
20 petition be filed by the prosecuting attorney to declare the minor a ward of the
21 court under Section 602, proceed in accordance with Section 654 and delineate a
22 program of supervision for the minor. However, the probation officer shall cause
23 the citation for a violation of Section 23140 or 23152 of the Vehicle Code to be
24 heard and disposed of by the judge, referee, or traffic juvenile hearing officer
25 pursuant to Sections 257 and 258 as a condition of any program of supervision.

26 (b) Nothing in this section shall be construed to prevent the probation officer
27 from requesting the prosecuting attorney to file a petition to declare the minor a
28 ward of the court under Section 602 for a violation of Section 23140 or 23152 of
29 the Vehicle Code. However, when in the judgment of the probation officer, the
30 interest of the minor and the community can be protected by adjudication of a
31 violation of Section 23140 or 23152 of the Vehicle Code in accordance with
32 subdivision (a), the probation officer shall proceed under subdivision (a).

33 **Comment.** Subdivision (a) of Section 654.1 is amended to reflect the redesignation of traffic
34 hearing officers as juvenile hearing officers. See 1997 Cal. Stat. ch. 679.

35 TRIAL COURT COORDINATION

36 **Gov't Code § 68112 (repealed). Trial court coordination plans**

37 SEC. _____. Section 68112 of the Government Code is repealed.

38 ~~68112. (a) On or before March 1, 1992, each superior and municipal court in~~
39 ~~each county, in consultation with the local bar, shall prepare and submit to the~~
40 ~~Judicial Council for review and approval a trial court coordination plan designed~~

1 to achieve maximum utilization of judicial and other court resources and statewide
2 cost reductions in court operations of at least 3 percent in the 1992-93 fiscal year, a
3 further 2 percent in the 1993-94 fiscal year, and a further 2 percent in the 1994-95
4 fiscal year, as applicable. The cost reduction shall be based on the prior year actual
5 expenditures, plus any amount reduced from the budget for court operations by a
6 county as a result of any reduction in state funding made pursuant to Section
7 13308, increased by the percentage change in population for the prior calendar
8 year and the Trade and Commerce Agency implicit price deflator for state and
9 local government for the prior calendar year. The coordination plan for each court
10 shall be reviewed and approved by the Judicial Council on or before July 1, 1992.
11 Thereafter, commencing in 1995 and every two years thereafter, courts in each
12 county shall prepare, in consultation with the local bar, and submit a trial court
13 coordination plan to the Judicial Council on or before March 1, for review and
14 approval by July 1. The plans shall comply with rules promulgated by the Judicial
15 Council and shall be designed to achieve maximum utilization of judicial and other
16 resources to accomplish increased efficiency in court operations and increased
17 service to the public. Any plan disapproved by the Judicial Council shall be
18 revised and resubmitted within 60 days of notification of disapproval. The Judicial
19 Council may by rule exempt courts from the requirement of filing a new
20 coordination plan for any year if all courts in the county have (1) totally
21 consolidated administrative functions under a single administrative entity, and (2)
22 adopted and implemented a coordination plan in which all courts share each
23 other's work so that cases in all of the county's courts are substantially assigned
24 without regard to whether a judge is on the superior court or the municipal court,
25 and which provides for procedures that implement that sharing of work.

26 (b) The coordination plan shall take into consideration the elements specified in
27 standards and rules adopted by the Judicial Council and applicable case processing
28 time standards adopted by the Judicial Council. The standards adopted by the
29 Judicial Council shall include, but not be limited to, the following:

30 (1) The use of blanket cross-assignments allowing judges to hear civil, criminal,
31 or other types of cases within the jurisdiction of another court.

32 (2) The coordinated or joint use of subordinate judicial officers to hear or try
33 matters.

34 (3) The coordinated, joint use, sharing or merger of court support staff among
35 trial courts within a county or across counties. In a county with a population of
36 less than 100,000 the coordination plan need not involve merger of superior and
37 justice court staffs if the court can reasonably demonstrate that the maintenance of
38 separate administrative staffs would be more cost-effective and provide better
39 service.

40 (4) The assignment of civil, criminal, or other types of cases for hearing or trial,
41 regardless of jurisdictional boundaries, to any available judicial officer.

42 (5) The assignment of any type of case to a judge for all purposes commencing
43 with the filing of the case and regardless of jurisdictional boundaries.

1 (6) The establishment of separate calendars or divisions to hear a particular type
2 of case.

3 (7) In rural counties, the use of all court facilities for hearings and trials of all
4 types of cases and to accept for filing documents in any case before any court in
5 the county participating in the coordination plan.

6 (8) The coordinated or joint use of alternative dispute resolution programs such
7 as arbitration.

8 (9) The unification of the trial courts within a county to the maximum extent
9 permitted by the California Constitution.

10 (10) The joint development of automated accounting and case-processing
11 systems, including joint use of moneys available under Section 68090.8.

12 (c) In preparing coordination plans a court or courts in a county may petition the
13 Judicial Council to permit division of the court or courts into smaller
14 administrative units where a courtwide plan would impose an undue burden
15 because of the number of judges or the physical location of the divisions of the
16 court or courts.

17 (d) In preparing coordination plans, the courts are strongly encouraged to
18 develop a plan that includes all superior and municipal courts in the county.

19 **Comment.** Section 68112 is repealed to reflect:

20 (1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article
21 VI of the California Constitution. See Sections 70210 (adoption of rules), 70211 (judges), 70212
22 (officers and employees), 70214 (commissioners and referees), 70215 (construction with other
23 laws).

24 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
25 71620(a) (job classifications and appointments), 71622 (subordinate judicial officers), 71640-
26 71645 (employment selection and advancement).

27 **Note.** The exception in Government Code Section 68112(b)(3) for counties with a population
28 less than 100,000 could potentially apply to any of the following counties: Alpine, Amador,
29 Calaveras, Colusa, Del Norte, Glenn, Inyo, Lake, Lassen, Madera, Mariposa, Mendocino, Modoc,
30 Mono, Nevada, Plumas, San Benito, Sierra, Siskiyou, Sutter, Tehama, Trinity, Tuolumne, and
31 Yuba.

32 **Gov't Code § 68112.5 (repealed). Cross-assignment of subordinate judicial officers**

33 SEC. ____ . Section 68112.5 of the Government Code is repealed.

34 68112.5. Notwithstanding any other provision of law, in those counties with
35 approved coordination plans pursuant to Section 68112 that so provide, the
36 subordinate judicial officers of a trial court, by agreement between trial courts
37 within the same county, may be cross-assigned to any other trial court within the
38 same county and, when so assigned, shall exercise all of the powers and perform
39 all of the duties authorized by law to be performed by any subordinate judicial
40 officer of that court.

41 **Comment.** Section 68112.5 is repealed to reflect:

42 (1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article
43 VI of the California Constitution.

1 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Section
2 71622 (subordinate judicial officers).

3 **Gov't Code § 68114 (repealed). Single presiding judge**

4 SEC. _____. Section 68114 of the Government Code is repealed.

5 ~~68114. Notwithstanding any other provision of law, the superior and municipal~~
6 ~~court judges participating in a coordination plan approved pursuant to Section~~
7 ~~68112 may select, if the coordination plan so provides, any one of their number to~~
8 ~~serve as the single presiding judge of all the participating courts by a majority vote~~
9 ~~of the judges from all courts sitting as a committee of the whole or in some other~~
10 ~~manner as set forth in the coordination plan.~~

11 ~~The single presiding judge shall have all the powers and duties of the former~~
12 ~~presiding judges of each of the participating superior and municipal courts. The~~
13 ~~single presiding judge may be empowered by the coordination plan to sit as the~~
14 ~~chair of any executive committee formed by the participating courts as part of their~~
15 ~~coordination plan.~~

16 **Comment.** Section 68114 is repealed to reflect unification of the municipal and superior courts
17 pursuant to former Section 5(e) of Article VI of the California Constitution. See Section 70215
18 (construction with other laws).

19 **Gov't Code § 68114.5 (repealed). Single executive committee**

20 SEC. _____. Section 68114.5 of the Government Code is repealed.

21 ~~68114.5. Notwithstanding any other provision of law, the superior and municipal~~
22 ~~court judges participating in a coordination plan approved pursuant to Section~~
23 ~~68112 may establish a single executive committee of judicial officers to oversee, if~~
24 ~~the coordination plan so provides, the activities of the participating courts. The~~
25 ~~committee shall include representatives of all participating courts in a manner~~
26 ~~specified in the coordination plan. The committee shall have such powers and~~
27 ~~duties as are delegated to it by each participating court in the coordination plan,~~
28 ~~which may include oversight of the administration of the courts and judicial~~
29 ~~activities.~~

30 **Comment.** Section 68114.5 is repealed to reflect unification of the municipal and superior
31 courts pursuant to former Section 5(e) of Article VI of the California Constitution.

32 **Gov't Code § 68114.6 (repealed). Powers and duties of court executive officer**

33 SEC. _____. Section 68114.6 of the Government Code is repealed.

34 ~~68114.6. Notwithstanding any other provision of law, the superior and municipal~~
35 ~~court judges participating in a coordination plan approved pursuant to Section~~
36 ~~68112 may appoint, if the coordination plan so provides, an executive officer to~~
37 ~~serve as the chief administrative officer of the participating courts. The executive~~
38 ~~officer shall hold office at the pleasure of a majority vote of the judges from all of~~
39 ~~the participating courts sitting as a committee of the whole or as set forth in the~~
40 ~~coordination plan. The courts shall fix the qualifications of the executive officer.~~
41 ~~The salary of the executive officer shall be fixed by the participating courts and~~

1 shall be paid by the county in which the executive officer serves. Each such
2 position shall be exempt from civil service laws.

3 The participating courts may delegate to the executive officer any administrative
4 powers and duties required to be exercised by the participating courts. The
5 executive officer shall exercise such administrative powers and perform such other
6 duties as may be required of him or her by the participating courts. Any executive
7 officer appointed under this section has the authority of a clerk of any participating
8 superior or municipal court. The executive officer shall perform, or supervise the
9 performance of, the duties of a jury commissioner in the county of any
10 participating superior court. The executive officer shall supervise the secretaries of
11 the judges of the participating courts.

12 Notwithstanding any other provision of law, any participating superior court
13 may, by local rule, specify which of the powers, duties, and responsibilities
14 required or permitted to be exercised or performed by the county clerk in
15 connection with judicial actions, proceedings, and records shall be exercised or
16 performed by the executive officer appointed under this section. The county clerk
17 shall be relieved of any obligation imposed on him or her by law with respect to
18 these specified powers, duties, and responsibilities, to the extent the local rule
19 imposes on the executive officer the same powers, duties, and responsibilities.

20 Any participating superior court having specific statutory authorization to
21 appoint an executive or administrative officer may elect to proceed under its
22 specific authorization or under this section, but not under both.

23 **Comment.** Section 68114.6 is repealed to reflect:

24 (1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article
25 VI of the California Constitution. See Section 70215 (construction with other laws).

26 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Section
27 71620 (trial court personnel). See also Code Civ. Proc. § 195 (jury commissioner).

28 (3) Enactment of the Trial Court Funding Act. See Sections 77003 (“court operations” defined),
29 77200 (state funding of trial court operations).

30 **Gov’t Code § 68114.7 (unchanged). Effect on employee benefit programs**

31 68114.7. The coordination, consolidation, merger, or conversion of any court
32 pursuant to this chapter or otherwise shall not of itself cause any reduction in
33 judicial or nonjudicial court employee benefit programs provided or administered
34 by the county pursuant to Chapter 2 (commencing with Section 53200) of Part 1 of
35 Division 2 of Title 5, or pursuant to a memorandum or agreement in effect prior to
36 the effective date of this section. This section does not constitute a change in, but
37 is declaratory of, the existing law. Any reduction or cessation of benefits contrary
38 to this section made between June 30, 1992, and the effective date of this section
39 shall be restored.

40  **Note.** Issues involving judicial benefits are still unsettled. The Commission proposes to defer
41 work on Government Code Section 68114.7 pending further study and review by interested
42 parties, including the Judicial Council’s Task Force on Judicial Service.

1 **Gov't Code § 68114.9 (repealed). Cross-deputization**

2 SEC. _____. Section 68114.9 of the Government Code is repealed.

3 ~~68114.9. To facilitate implementation of a coordination plan approved pursuant~~
4 ~~to Section 68112:~~

5 ~~(a) The clerk of the municipal court may authorize personnel of the municipal~~
6 ~~court to be cross-deputized by the clerk of the superior court to perform~~
7 ~~comparable court duties. Personnel deputized pursuant to this section shall serve~~
8 ~~without additional compensation.~~

9 ~~(b) The clerk of the superior court may authorize personnel of the clerk of the~~
10 ~~superior court to be cross-deputized by the clerk of the municipal court to perform~~
11 ~~comparable court duties. Personnel deputized pursuant to this section shall serve~~
12 ~~without additional compensation.~~

13 **Comment.** Section 68114.9 is repealed to reflect unification of the municipal and superior
14 courts pursuant to former Section 5(e) of Article VI of the California Constitution.

15 TRIAL COURT PERSONNEL (GENERAL)

16 **Gov't Code § 69894.2 (repealed). Additional commissioners, officers, and employees**

17 SEC. _____. Section 69894.2 of the Government Code is repealed.

18 ~~69894.2. With the approval of the board of supervisors the court may establish~~
19 ~~such additional titles and pay rates as are required and with the approval of the~~
20 ~~board of supervisors may appoint and employ such additional commissioners,~~
21 ~~officers, assistants and other employees as it deems necessary for the performance~~
22 ~~of the duties and exercise of the powers conferred by law upon it and its members.~~
23 ~~Rates of compensation of all officers, assistants and other employees may be~~
24 ~~adjusted by joint action and approval of the board of supervisors and a majority of~~
25 ~~the judges of the court.~~

26 ~~Such appointments or changes in compensation made pursuant to this section~~
27 ~~shall be on an interim basis and shall expire 90 days after the adjournment of the~~
28 ~~next regular session of the Legislature unless ratified at such session.~~

29 **Comment.** Section 69894.2 is repealed to reflect:

30 (1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article
31 VI of the California Constitution.

32 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
33 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622
34 (subordinate judicial officers), 71623 (salaries), 71640-71645 (employment selection and
35 advancement), 71673 (authority of court). See also Section 69941 (appointment of official
36 reporters).

37 (3) Enactment of the Trial Court Funding Act. See Sections 77001 (local trial court
38 management), 77003 ("court operations" defined), 77200 (state funding of trial court operations).