

CALIFORNIA LAW REVISION COMMISSION

TENTATIVE RECOMMENDATION

Statutes Made Obsolete by Trial Court Restructuring: Part 2

December 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 February 21, 2003.

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.

STATUTES MADE OBSOLETE BY TRIAL COURT
RESTRUCTURING: PART 2

BACKGROUND

Trial Court Restructuring¹

The trial court system in California was significantly restructured during the late 1990's. The first major trial court restructuring event occurred in 1997 with the passage of the Lockyer-Isenberg Trial Court Funding Act.² That legislation consolidated funding of trial court operations at the state level and established a decentralized system of trial court management.³

The next major event occurred on June 2, 1998, when the voters of California approved Proposition 220,⁴ providing for the unification of municipal and superior courts in a county.⁵ As of February 8, 2001, the courts in all of California's 58 counties have unified.⁶

Effective January 1, 2001, a statewide employment structure for trial court employees, officers and other personnel was implemented. Under the Trial Court Employment Protection and Governance Act,⁷ trial court employees are employees of the court (not of the state or county) and each trial court has control over personnel matters.

Role of Law Revision Commission

As part of the Trial Court Employment Protection and Governance Act, the Legislature directed the California Law Revision Commission to recommend the repeal of statutes made obsolete by trial court funding reform, trial court unification, and trial court employment reform.⁸ The recommendation was due by January 1, 2002.

1. For a more detailed review of the major trial court restructuring events, see *Statutes Made Obsolete by Trial Court Restructuring: Part 1*, 32 Cal. L. Revision Comm'n Reports 1 (2002).

2. 1997 Cal. Stat. ch. 850.

3. See generally Gov't Code §§ 77000-77655.

4. Proposition 220 became operative the day after the election. Cal. Const. art. XVIII, § 4.

5. Former Cal. Const. art. VI, § 5(e).

6. On November 5, 2002, the voters approved Proposition 48 (operative Nov. 6, 2002), amending the California Constitution to reflect unification of the trial courts. See Cal. Const. art. VI, §§ 1 (judicial power), 6 (Judicial Council), 8 (Commission on Judicial Performance), 10 (original jurisdiction), 15 (qualifications of judges), 16 (election of judges), and 23 (transitional provision); see also former Cal. Const. art. VI, § 5 (municipal court).

7. See Gov't Code §§ 71600-71675.

8. Gov't Code § 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 proposed addition of 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 **Jury Commissioners**

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

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

16 **Other Issues**

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

25 *Juvenile court referees.* Welfare and Institutions Code Section 247 provides for
26 the appointment of a juvenile court referee by the presiding judge of the juvenile
27 court.²⁶ The proposed law would repeal that statute. Under the Trial Court
28 Employment Protection and Governance Act, the trial court appoints subordinate
29 judicial officers who serve at the pleasure of the court.²⁷ That statute also requires
30 the Judicial Council to prescribe minimum qualifications and training

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. See proposed amendment to Penal Code § 1269b, *infra*.

26. 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.

27. Gov't Code § 71622.

1 requirements for subordinate judicial officers.²⁸ A conforming change would be
2 made to Government Code Section 71622 to make clear that the court’s authority
3 to appoint and terminate a subordinate judicial officer includes the authority to
4 delegate the appointment or termination decisions (e.g., to the presiding judge of
5 the juvenile court).²⁹

6 *Local court rules.* Code of Civil Procedure Section 575.1 governs the
7 preparation and distribution of local rules of court. The proposed law would
8 amend Section 575.1 to be consistent with the approach used in California Rule of
9 Court 981, as amended effective January 1, 2003, regarding the preparation of and
10 public access to local rules. It would also eliminate a municipal court reference to
11 reflect trial court unification.³⁰

12 *Traffic hearing officers.* References to “traffic hearing officers” in a number of
13 statutes would be revised to reflect the redesignation of traffic hearing officers as
14 “juvenile hearing officers.”³¹

15 *Chaptered out provisions.* Some revisions that were proposed in the
16 Commission’s 2002 recommendation and included in the implementing legislation
17 were “chaptered out” by conflicting bills introduced in the same legislative
18 session. Those proposed revisions are reintroduced in this recommendation.³²

19 *Technical revisions.* Other technical cleanup revisions would be made.³³

20 CONCLUSION

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

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

29. See proposed amendment to Gov’t Code § 71622, *infra*.

30. See proposed amendment to Code Civ. Proc. § 575.1, *infra*.

31. See 1997 Cal. Stat. ch. 679.

32. See proposed amendments to Gov’t Code §§ 20437, 71081, 71601 and Penal Code §§ 830.1, 3075.

33. 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

BAIL

1
2 **Penal Code § 1269b (amended). Bail**

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

4 1269b. (a) The officer in charge of a jail where an arrested person is held in
5 custody, an officer of a sheriff's department or police department of a city who is
6 in charge of a jail or is employed at a fixed police or sheriff's facility and is acting
7 under an agreement with the agency that keeps the jail wherein an arrested person
8 is held in custody, an employee of a sheriff's department or police department of a
9 city who is assigned by the department to collect bail, the clerk of the ~~municipal~~
10 superior court of the ~~judicial district~~ county in which the offense was alleged to
11 have been committed, and the clerk of the superior court in which the case against
12 the defendant is pending may approve and accept bail in the amount fixed by the
13 warrant of arrest, schedule of bail, or order admitting to bail in cash or surety bond
14 executed by a certified, admitted surety insurer as provided in the Insurance Code,
15 to issue and sign an order for the release of the arrested person, and to set a time
16 and place for the appearance of the arrested person before the appropriate court
17 and give notice thereof.

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

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

33 (d) A court may by local rule prescribe the procedure by which the uniform
34 countywide schedule of bail is prepared, adopted, and annually revised by the
35 judges. If a court does not adopt a local rule, the uniform countywide schedule of
36 bail shall be prepared, adopted, and annually revised in the same manner as
37 provided for adoption of local rules.

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

8 Section 667.5, 667.51, 667.6, 667.8, 667.85, 667.9, 667.10, 12022, 12022.1,
9 12022.2, 12022.3, 12022.4, 12022.5, 12022.53, 12022.6, 12022.7, 12022.8, or
10 12022.9, or Section 11356.5, 11370.2, or 11370.4 of the Health and Safety Code.

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

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

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

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

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

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

42 **Comment.** Section 1269b is amended to reflect unification of the municipal and superior courts
43 pursuant to former Section 5(e) of Article VI of the California Constitution. *Cf.* Code Civ. Proc. §

1 38 (judicial districts). Under subdivision (c), a single uniform countywide schedule of bail for
2 bailable felonies, misdemeanors, and infractions (except Vehicle Code infractions) is required.

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

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

14 JUDGES

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

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

17 24151. Prior to the primary election immediately preceding the election of
18 county officers the judge ~~or~~ judges of the superior court shall prescribe the amount
19 in which each member of the board of supervisors shall execute an official bond,
20 before entering upon the discharge of the duties of his the office.

21 **Comment.** Section 24151 is amended to delete language referring to "the 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 § 68079 (amended). Provision of superior court seal**

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

28 68079. A court for which the necessary seal has not been provided, or the judge
29 ~~or~~ judges of that court, shall provide it. The expense shall be an item of court
30 operations. Until the seal is provided the clerk or a judge of each the court may use
31 his or her private seal whenever a seal is required.

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

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

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

40 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 **Gov’t Code § 71081 (repealed). Eligibility of municipal court judge to multiple courts**

10 SEC. _____. Section 71081 of the Government Code is repealed.

11 ~~71081. Whenever the judge of an existing court would be entitled pursuant to~~
12 ~~this article to become the judge of more than one court, he or she shall file a~~
13 ~~written statement with the county elections official electing the judicial office to~~
14 ~~which he or she will assert his or her claim of eligibility. Failure to file a statement~~
15 ~~is deemed an election by the judge to assert his or her claim of eligibility to office~~
16 ~~in the court of the district in which the existing court is located.~~

17 **Comment.** Section 71081 is repealed to reflect unification of the municipal and superior courts
18 pursuant to former Section 5(e) of Article VI of the California Constitution.

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

20 SEC. _____. Section 4042 of the Harbors and Navigation Code is amended to read:

21 4042. (a) Each commissioner shall, within 20 days after receiving notice of
22 appointment, qualify by taking and subscribing the constitutional oath of office,
23 and by executing and filing with the clerk of the county wherein the commissioner
24 is appointed, a bond in a sum to be fixed by the board of supervisors which bond,
25 when approved by the judge or judges of the superior court of the county, shall be
26 recorded in the office of the county recorder, as other official bonds are recorded,
27 at any time subsequent to 20 days after the appointment.

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

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

35 **Penal Code § 3075 (amended). Board of parole commissioners**

36 SEC. _____. Section 3075 of the Penal Code is amended to read:

37 3075. (a) There is in each county a board of parole commissioners, consisting of
38 each of the following:

39 (1) The sheriff, or his or her designee, or, in a county with a department of
40 corrections, the director of that department.

41 (2) The probation officer, or his or her designee.

1 (3) A member, not a public official, to be selected from the public by the
2 presiding judge, ~~if any, or, if none, by the senior judge in point of service,~~ of the
3 superior court.

4 (b) The public member of the county board of parole commissioners or his or her
5 alternate shall be entitled to his or her actual traveling and other necessary
6 expenses incurred in the discharge of his or her duties. In addition, the public
7 member or his or her alternate shall be entitled to per diem at any rate that may be
8 provided by the board of supervisors. The public member or his or her alternate
9 shall hold office for a term of one year and in no event for a period exceeding
10 three consecutive years. The term shall commence on the date of appointment.

11 **Comment.** Subdivision (a)(3) of Section 3075 is amended to delete language referring to the
12 senior judge. Every superior court has a presiding judge. See Gov't Code §§ 69508, 69508.5.

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

14 SEC. _____. Section 30865 of the Streets and Highways Code is amended to read:
15 30865. If the estimate of the board is not agreed to by the owner or keeper of the
16 bridge or ferry, it shall be fixed by three commissioners, one to be appointed by
17 the board, one by the owner and keeper, and the third by the presiding judge of the
18 superior court, who shall hear testimony and fix the value and cost according to
19 the facts, and report it to the board of supervisors under oath. In all estimates of the
20 fair cash value of the bridge or ferry the value of the franchise shall not be taken
21 into consideration.

22 **Comment.** Section 30865 is amended to replace language referring to “the judge” with a
23 reference to the presiding judge. Every superior court has a presiding judge. See Gov't Code §§
24 69508, 69508.5. Where a court has only one judge due to a vacancy or otherwise, the reference to
25 the “presiding judge” means the sole judge of the court. See Gov't Code § 69508.5 (presiding
26 judge).

27 **JURY COMMISSIONERS**

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

29 SEC. _____. Section 196 of the Code of Civil Procedure is amended to read:
30 196. (a) The jury commissioner or the court shall inquire as to the qualifications
31 of persons on the master list or source list who are or may be summoned for jury
32 service. The commissioner or the court may require any person to answer, under
33 oath, orally or in written form, all questions as may be addressed to that person,
34 regarding the person's qualifications and ability to serve as a prospective trial
35 juror. The commissioner and his or her assistants, shall have power to administer
36 oaths and shall be allowed actual traveling expenses incurred in the performance
37 of their duties. ~~Such traveling expenses shall be audited, allowed, and paid out of~~
38 ~~the general fund of the county.~~

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

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

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

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

15 SEC. _____. Section 208 of the Code of Civil Procedure is amended to read:

16 208. The jury commissioner shall estimate the number of prospective jurors that
17 may be required to serve the needs of the trial courts court, and shall summon such
18 prospective jurors for service. Prospective jurors shall be summoned by mailing a
19 summons by first-class mail or by personal service or, in urgency situations, as
20 elsewhere provided by law. The summons, when served by mail, shall be mailed at
21 least 10 days prior to the date of required appearance. Once a prospective juror has
22 been summoned, the date, time, or place of appearance may be modified or further
23 specified by the jury commissioner, by means of written, telegraphic, telephonic,
24 or direct oral communication with the prospective juror.

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

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

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

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

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

37 SEC. _____. Section 69891 of the Government Code is repealed.

38 ~~69891. In each county with a population of 65,500 or over where there is no jury~~
39 ~~commissioner provided, and with not more than three departments of the superior~~
40 ~~court in the county, to assist the court in the transaction of its judicial business, the~~
41 ~~judges of the court may appoint one competent stenographer or secretary skilled in~~

1 such work for each judge of the superior court of the county, who shall render such
2 service as the judge may require each day. The monthly salary of each such
3 stenographer or secretary shall be three hundred dollars (\$300).

4 The salary shall be paid out of the salary fund of the county, or if there is none,
5 out of such fund as other salary demands against the county are paid. The salary
6 shall be allowed and audited in the same manner as the law requires for other
7 salary demands against the county.

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

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

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

16 SEC. _____. Section 69893 of the Government Code is repealed.

17 ~~69893. In any county where there is a secretary of the judges of the superior~~
18 ~~court, a majority of the judges may require the secretary to perform the duties of~~
19 ~~jury commissioner in addition to his regular duties as secretary.~~

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

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

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

25 SEC. _____. Section 69902.5 of the Government Code is repealed.

26 ~~69902.5. Any county having a retirement system for its employees may include~~
27 ~~in it the jury commissioner, deputy jury commissioners, and other assistants,~~
28 ~~attaches and employees of the office of the jury commissioner of that county~~
29 ~~whose salaries are paid by the county. Where such action is taken by any county,~~
30 ~~the included jury commissioner, deputy jury commissioners, and other assistants,~~
31 ~~attaches and employees of the office of the jury commissioner shall be subject to~~
32 ~~all of the provisions of the local retirement system.~~

33 **Comment.** Section 69902.5 is repealed to reflect enactment of the Trial Court Employment
34 Protection and Governance Act. See Sections 71620 (trial court personnel), 71623 (salaries),
35 71624 (retirement plans), 71629 (trial court employment benefits not affected), 71673 (authority
36 of court). See also Code Civ. Proc. § 195 (jury commissioner).

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

38 SEC. _____. Section 896 of the Penal Code is amended to read:

39 896. (a) Immediately after such order is made, the court shall select the grand
40 jurors required by personal interview for the purpose of ascertaining whether they
41 possess the qualifications prescribed by subdivision (a) of Section 893. If a person
42 so interviewed, in the opinion of the court, possesses such qualifications, in order

1 for his name to be listed he the person shall sign a statement declaring that he the
2 person will be available for jury service for the number of hours usually required
3 of a member of the grand jury in that county.

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

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

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

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

24 SEC. _____. Section 900 of the Penal Code is amended to read:

25 900. On receiving the list of persons selected by the court, the ~~county clerk~~ jury
26 commissioner shall file it in his the jury commissioner's office and have such list,
27 which shall include the name of the judge who selected each person on the list,
28 published one time in a newspaper of general circulation, as defined in Section
29 6000 of the Government Code, in the county. The ~~county clerk~~ jury commissioner
30 shall thereupon do either of the following:

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

34 (b) Assign a number to each name on the list and place, in a box to be called the
35 "grand jury box," markers of the same size, shape, and color, each containing a
36 number which corresponds with a number on the list.

37 **Comment.** Section 900 is amended to reflect elimination of the county clerk's role as ex officio
38 clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of
39 superior court).

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

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

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

7 SEC. _____. Section 903 of the Penal Code is repealed.

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

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

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

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

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

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

22 SEC. _____. Section 903.2 of the Penal Code is amended to read:

23 903.2. The jury commissioner shall diligently inquire ~~and inform himself in~~
24 ~~respect as~~ to the qualifications of persons resident in his the county who may be
25 liable to be summoned for grand jury duty. ~~He~~ The jury commissioner may require
26 any person to answer, under oath to be administered by him the jury
27 commissioner, all such questions as ~~he~~ the jury commissioner may address to such
28 person, touching his the person’s name, age, residence, occupation, and
29 qualifications as a grand juror, and also all questions as to similar matters
30 concerning other persons of whose qualifications for grand jury duty he the person
31 has knowledge.

32 The commissioner and his the commissioner’s assistants, ~~referred to in Sections~~
33 ~~69895 and 69896 of the Government Code,~~ shall have power to administer oaths
34 and shall be allowed actual traveling expenses incurred in the performance of their
35 duties. ~~Such traveling expenses shall be audited, allowed, and paid out of the~~
36 ~~general fund of the county.~~

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

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

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

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

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

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

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

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

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

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

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

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

27 908. If the required number of the persons summoned as grand jurors are present
28 and not excused, such required number shall constitute the grand jury. If more than
29 the required number of such persons are present, the ~~clerk~~ jury commissioner shall
30 write their names on separate ballots, which ~~he~~ the jury commissioner shall fold so
31 that the names cannot be seen, place them in a box, and draw out the required
32 number of them. The persons whose names are on the ballots so drawn shall
33 constitute the grand jury. If less than the required number of such persons are
34 present, the panel may be filled as provided in Section ~~226~~ 211 of the Code of
35 Civil Procedure. If more of the persons summoned to complete a grand jury attend
36 than are required, the requisite number shall be obtained by writing the names of
37 those summoned and not excused on ballots, depositing them in a box, and
38 drawing as above provided.

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

1 The section is also amended to correct a reference to former Code of Civil Procedure Section
2 226.

3 **Note.** The proposed amendment of Penal Code Section 908 would: (1) Substitute “the jury
4 commissioner” for “the clerk” with regard to grand jury selection functions; see Cal. R. Ct.
5 810(d), Function 2 (salaries, wages, and benefits of jury commissioner and jury services staff,
6 including grand jury selection, allowable court operations costs); and (2) replace an obsolete
7 reference to former Code of Civil Procedure Section 226 with a reference to Section 211 of that
8 code. The Commission solicits comment regarding the appropriateness of the proposed revisions.

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

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

11 908.1. When, after the grand jury consisting of the required number of persons
12 has been impaneled pursuant to law, the membership is reduced for any reason,
13 such vacancies within an existing grand jury may be filled, so as to maintain the
14 full membership at the required number of persons, by the ~~clerk of the superior~~
15 ~~court~~ jury commissioner, in the presence of the court, drawing out sufficient names
16 to fill the vacancies from the grand jury box, pursuant to law, or from a special
17 venire as provided in Section ~~226~~ 211 of the Code of Civil Procedure. No person
18 selected as a grand juror to fill a vacancy pursuant to this section shall vote as a
19 grand juror on any matter upon which evidence has been taken by the grand jury
20 prior to the time of ~~his~~ the person’s selection.

21 **Comment.** Section 908.1 is amended to replace “clerk of the superior court” 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 The section is also amended to correct a reference to former Code of Civil Procedure Section
27 226.

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

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

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

37 908.2. (a) Upon the decision of the superior court pursuant to Section 901 to
38 adopt this method of selecting grand jurors, when the required number of persons
39 have been impaneled as the grand jury pursuant to law, the ~~clerk~~ jury
40 commissioner shall write the names of each such person on separate ballots. The
41 ~~clerk~~ jury commissioner shall fold the ballots so that the names cannot be seen,
42 place them in a box, and draw out half of such ballots, or in a county where the
43 number of grand jurors is uneven, one more than half. The persons whose names

1 are on the ballots so drawn shall serve for 12 months until July 1 of the following
2 year. The persons whose names are not on the ballots so drawn shall serve for six
3 months until January 1 of the following year.

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

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

12 **Comment.** Subdivision (a) of Section 908.2 is amended to replace “clerk” with “jury
13 commissioner” for consistency with trial court funding principles. See Cal. R. Ct. 810(d),
14 Function 2 (salaries, wages, and benefits of jury commissioner and jury services staff, including
15 grand jury selection, allowable court operations costs). See also Cal. Standards Jud. Admin. §
16 17(b) (list of qualified grand jury candidates prepared by jury commissioner).

17 Subdivision (c) is amended to reflect the repeal of Sections 904.5, 904.7, 904.8, and 904.9.

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

23 JUSTICE’S COURT

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

25 SEC. _____. Section 7814 of the Public Utilities Code is amended to read:

26 7814. Any corporation, or agent or employee thereof, demanding or charging a
27 greater sum of money for fare on the cars of a street railroad than that fixed as
28 provided by law forfeits to the person from whom the sum is received, or who is
29 thus overcharged, the sum of two hundred dollars (\$200), to be recovered in a civil
30 action, ~~in any justice’s court having jurisdiction thereof,~~ against the corporation.

31 **Comment.** Section 7814 is amended to eliminate an obsolete reference to the former justice’s
32 court (justice of the peace court). Cal. Const. art. VI, § 1. For small claims jurisdiction, see Code
33 Civ. Proc. § 116.220. For limited civil cases, see Code Civ. Proc. § 85. For unlimited civil cases,
34 see Code Civ. Proc. § 88.

35 LOCAL RULES

36 **Code Civ. Proc. § 575.1 (amended). Local court rules**

37 SEC. _____. Section 575.1 of the Code of Civil Procedure is amended to read:

38 575.1. (a) The presiding judge of each superior ~~and municipal~~ court may
39 prepare, with the assistance of appropriate committees of the court, proposed local

1 rules designed to expedite and facilitate the business of the court. The rules need
2 not be limited to those actions on the civil active list, but may provide for the
3 supervision and judicial management of actions from the date they are filed. Rules
4 prepared pursuant to this section shall be submitted for consideration to the judges
5 of the court and, upon approval by a majority of the judges, the judges shall have
6 the proposed rules published and submitted to the local bar and others, as specified
7 by the Judicial Council, for consideration and recommendations.

8 (b) After a majority of the judges have officially adopted the rules, ~~61 copies or a~~
9 ~~greater number as specified by Judicial Council rule, they~~ shall be filed with the
10 Judicial Council as required by Section 68071 of the Government Code and as
11 specified in rules adopted by the Judicial Council. The Judicial Council shall
12 ~~deposit a copy of each rule and amendment with each county law library or county~~
13 ~~clerk where it shall be~~ prescribe rules to ensure that a complete current set of local
14 rules and amendments, for each county in the state, is made available for public
15 examination in each county. The local rules shall also be published for general
16 distribution in accordance with rules adopted by the Judicial Council. Each court
17 shall make its local rules available for inspection and copying in every location of
18 the court that generally accepts filing of papers. The court may impose a
19 reasonable charge for copying the rules and may impose a reasonable page limit
20 on copying. The rules shall be accompanied by a notice indicating where a full set
21 of the rules may be purchased.

22 (c) If a judge of a court adopts a rule that applies solely to cases in that judge's
23 courtroom, or a particular branch or district of a court adopts a rule that applies
24 solely to cases in that particular branch or district of a court, the court shall publish
25 these rules as part of the general publication of rules required by the California
26 Rules of Court. The court shall organize the rules so that rules on a common
27 subject, whether individual, branch, district, or courtwide appear sequentially.
28 Individual judges' rules and branch and district rules are local rules of court for
29 purposes of this section and for purposes of the adoption, publication, comment,
30 and filing requirements set forth in the Judicial Council rules applicable to local
31 court rules.

32 **Comment.** Subdivision (a) of Section 575.1 is amended to reflect unification of the municipal
33 and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution.

34 Subdivision (b) is amended to be consistent with the approach used in California Rule of Court
35 981, as amended effective January 1, 2003, regarding preparation of and public access to local
36 rules. Rules of Court adopted by the Judicial Council pursuant to this section cannot be
37 inconsistent with statute. See Cal. Const. art. VI, § 6.

38 MARSHALS

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

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

1 20437. (a) "County peace officer" shall also include the constable and each
2 regularly employed deputy constable and the marshal and each regularly employed
3 deputy marshal ~~of any judicial district~~ who serves the superior court. He or she
4 shall receive credit for service as a peace officer for any time he or she served as
5 constable or deputy constable of a township or justice court or marshal or deputy
6 marshal of a municipal court in the same county.

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

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

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

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

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

19 830.1. (a) Any sheriff, undersheriff, or deputy sheriff, employed in that capacity,
20 of a county, any chief of police of a city or chief, director, or chief executive
21 officer of a consolidated municipal public safety agency that performs police
22 functions, any police officer, employed in that capacity and appointed by the chief
23 of police or chief, director, or chief executive of a public safety agency, of a city,
24 any chief of police, or police officer of a district, including police officers of the
25 San Diego Unified Port District Harbor Police, authorized by statute to maintain a
26 police department, any marshal or deputy marshal of a superior court or county
27 ~~court~~, any port warden or special officer of the Harbor Department of the City of
28 Los Angeles, or any inspector or investigator employed in that capacity in the
29 office of a district attorney, is a peace officer. The authority of these peace officers
30 extends to any place in the state, as follows:

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

34 (2) Where the peace officer has the prior consent of the chief of police or chief,
35 director, or chief executive officer of a consolidated municipal public safety
36 agency, or person authorized by him or her to give consent, if the place is within a
37 city or of the sheriff, or person authorized by him or her to give consent, if the
38 place is within a county.

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

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

7 (c) Any deputy sheriff of the County of Los Angeles, and any deputy sheriff of
8 the Counties of Kern, Humboldt, Imperial, Mendocino, Plumas, Riverside, San
9 Diego, Santa Barbara, Siskiyou, Sonoma, Sutter, and Tehama who is employed to
10 perform duties exclusively or initially relating to custodial assignments with
11 responsibilities for maintaining the operations of county custodial facilities,
12 including the custody, care, supervision, security, movement, and transportation of
13 inmates, is a peace officer whose authority extends to any place in the state only
14 while engaged in the performance of the duties of his or her respective
15 employment and for the purpose of carrying out the primary function of
16 employment relating to his or her custodial assignments, or when performing other
17 law enforcement duties directed by his or her employing agency during a local
18 state of emergency.

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

24 MISCELLANEOUS TECHNICAL CORRECTIONS

25 **Code Civ. Proc. § 90 (amended). Limitation of general law by economic litigation** 26 **procedures**

27 SEC. _____. Section 90 of the Code of Civil Procedure is amended to read:

28 90. Except where changed by the provisions of this ~~Article and Part 3.5~~
29 ~~(commencing with Section 1823)~~ article, all provisions of law applicable to civil
30 actions generally apply to actions subject to this article.

31 **Comment.** Section 90 is amended to reflect the repeal of former Part 3.5 (commencing with
32 Section 1823) of the Code of Civil Procedure, relating to pilot projects. See 1994 Cal. Stat. ch.
33 146, § 26; 1996 Cal. Stat. ch. 124, § 15.

34 **Code Civ. Proc. § 116.310 (amended). Pleadings and pretrial discovery in small claims case**

35 SEC. _____. Section 116.310 of the Code of Civil Procedure is amended to read:

36 116.310. (a) No formal pleading other than the claim described in Section
37 116.320 or ~~116.380~~ 116.360, is necessary to initiate a small claims action.

38 (b) The pretrial discovery procedures described in subdivision (a) of Section
39 2019 are not permitted in small claims actions.

40 **Comment.** Subdivision (a) of Section 116.310 is amended to correct the cross-reference. See
41 1991 Cal. Stat. ch. 915, § 11.

SESSIONS

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.

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.

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.

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.** The last sentence of subdivision (a) of Code of Civil Procedure Section 116.250 is
9 continued and generalized in Section 69740(a) to permit superior courts to hold sessions,
10 including small claims court sessions, outside of the courthouse in private or public buildings.
11 The Commission solicits comment on whether the last sentence of subdivision (a) is an implied
12 limitation on the type of space in which the court may hold sessions of the small claims court
13 (i.e., only in a public building)?

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

15 SEC. _____. Section 16603 of the Elections Code is amended to read:

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

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

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

25 SEC. _____. Section 1811 of the Family Code is amended to read:

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

31 **Comment.** Section 1811 is amended to reflect enactment of Government Code Section
32 69740(a) (number and location of trial court sessions).

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

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

37 SEC. _____. Section 17647 of the Financial Code is amended to read:

38 17647. Regardless of any law of this State, the ~~judge~~ judges of the superior court
39 of the county in this State in which the principal office of the licensee is located,
40 may whenever ~~he deems~~ the judges deem it necessary or advisable, hold hearings
41 relating to the sale, exchange, or other disposition of any real property or any

1 personal property of the licensee regardless of the location of such property. The
2 hearings shall be held at the county seat of any county in this State or at such
3 places in the home county of such superior court at which sessions are held—as
4 provided in the Code of Civil Procedure.

5 **Comment.** Section 17647 is amended to reflect enactment of Government Code Section
6 69740(a) (number and location of trial court sessions).

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

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

13 SEC. _____. Section 24250.1 of the Government Code is amended to read:

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

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

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

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

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

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

32 SEC. _____. Section 40230 of the Government Code is amended to read:

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

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

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

39 68108. (a) To the extent that a Memorandum of Understanding for trial court
40 employees designates certain days as unpaid furlough days for employees assigned
41 to regular positions in the superior court, the court shall not be in session on those
42 days except as ordered by the presiding judge upon a finding by the presiding
43 judge of a judicial emergency as defined in Chapter 1.1 (commencing with Section

1 68115). On these furlough days, although the clerk's office shall not be open to the
2 public, each court shall permit documents to be filed at a drop box pursuant to
3 subdivision (b), and an appropriate judicial officer shall be available to conduct
4 arraignments and examinations as required pursuant to Section 825 of the Penal
5 Code, and to sign any necessary documents on an emergency basis.

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

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

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

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

17 SEC. _____. Section 69595.5 of the Government Code is repealed.

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

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

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

27 SEC. _____. Article 4 (commencing with Section 69640) of Chapter 5 of Title 8 of
28 the Government Code is repealed.

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

30 (1) Enactment of Section 69740(a) (number and location of trial court sessions). See also
31 Section 69508(a) (presiding judge shall distribute business of court); Cal. R. Ct. 6.603 (duties of
32 presiding judge). It should be noted that Section 69740 continues with revisions former Section
33 69645. See Comment to Section 69740.

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

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

1 The Commission also solicits comment on whether new Government Code Section 69740 is
2 sufficient statutory authority for a superior court to establish branches, divisions, or districts of
3 the court. Should Article 4 be amended to authorize such branches, divisions, or districts? How
4 do most superior courts currently establish branches, divisions, or districts of the court?

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

6 Article 4. Superior Court Districts

7 69640. As used in this article the word “district” means a superior court district, created as
8 provided in this article.

9 69641. The board of supervisors of any county which has a population of not less than
10 4,000,000, as determined upon the basis of the last preceding census taken under the authority of
11 the Congress or the Legislature, by ordinance may divide the county into not more than 12
12 superior court districts within which one or more sessions of the superior court shall be held.

13 69642. In the ordinance creating districts, or in a subsequent ordinance, the board of
14 supervisors may designate one or more locations within each district at which sessions of the
15 superior court shall be held.

16 69643. Whenever the board of supervisors finds that changes in population make necessary or
17 expedient the change of boundaries of any district, the change of, addition of, or elimination of
18 any location at which sessions of the superior court are to be held, or the creation of new districts,
19 it may make such changes by ordinance.

20 69644. An ordinance creating or changing the boundaries of any district shall not result in any
21 district having an estimated population of less than 250,000.

22 69645. (a) Notwithstanding any other provision of law, each trial court shall determine the
23 number and location of sessions of the court. In making this determination, the court shall
24 consider, among other factors, the impact of this provision on court employees pursuant to
25 Section 71634, the availability and adequacy of facilities for holding the court session at the
26 specific location, the efficiency and cost of holding the session at the specific location, any
27 applicable security issues, and the convenience to the parties and the public served by the court.

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

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

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

41 69646. The designation, addition, elimination or change of the location of sessions of the
42 superior court shall first be approved by a majority of the judges of the superior court of the
43 county and shall be effected by ordinance of the board of supervisors.

44 69647. Whenever the board of supervisors designates, adds, or changes the location for the
45 holding of sessions of the superior court in any district it shall provide housing, personnel, and
46 facilities for the superior court at such location as provided by Section 68073. The adequacy of

1 the court's quarters, including the plans for the number and design of the courtrooms, chambers
2 and related facilities first shall be approved by a majority of the judges of the superior court of the
3 county.

4 69649. When a majority of the judges of the superior court deem it necessary or advisable, by
5 order filed with the clerk of the court and published as they may prescribe, they may direct that a
6 session of the court be held at least once a week at any designated place in a district, not less than
7 30 miles distant from the nearest regular location of the sessions of the superior court in that
8 district, measured by air line. The majority of the judges may limit the type of judicial
9 proceedings which may be heard by the court at such place to probate, guardianship,
10 conservatorship, and domestic relations matters, including, but not limited to, orders to show
11 cause proceedings in domestic relations matters.

12 69650. At the next succeeding general session of the Legislature following division of a county
13 into districts, or following any change in the boundaries of a district, the Legislature may change
14 the boundaries of the district if it deems such action advisable.

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

16 SEC. _____. Section 69740 of the Government Code is repealed.

17 ~~69740. The determination of whether a city has the population prescribed in this~~
18 ~~article shall be made on the basis of the last preceding census taken under the~~
19 ~~authority of the Congress or the Legislature.~~

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

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

23 SEC. _____. Section 69740 is added to the Government Code, to read:

24 69740. (a) Notwithstanding any other provision of law, each trial court shall
25 determine the number and location of sessions of the court necessary for the
26 prompt disposition of the business before the court. In making this determination,
27 the court shall consider, among other factors, the impact of this provision on court
28 employees pursuant to Section 71634, the availability and adequacy of facilities
29 for holding the court session at the specific location, the efficiency and cost of
30 holding the session at the specific location, any applicable security issues, and the
31 convenience to the parties and the public served by the court. Nothing in this
32 section precludes a session from being held in a building other than a courthouse.

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

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

4 **Comment.** Section 69740 continues the substance of former Section 69645 and adds language
5 to subdivision (a) to make clear that a session may be held outside of the courthouse in a private
6 or public building. See former Code Civ. Proc. § 116.250 (small claims court sessions) (1998 Cal.
7 Stat. ch. 931, § 40). The clause “necessary for the prompt disposition of the business before the
8 court” is also added to subdivision (a). It is drawn from former Family Code Section 1811
9 (assignment of judges) (1992 Cal. Stat. ch. 162, § 10).

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

11 **Gov’t Code § 69741 (repealed). Regular and special sessions**

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

13 ~~69741. Except as otherwise provided by Section 68115, each superior court shall~~
14 ~~hold its sessions:~~

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

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

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

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

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

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

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

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

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

33 ~~69742. A session of the superior court shall be held at each city with a~~
34 ~~population of not less than 35,000 and in which the city hall is not less than eight~~
35 ~~miles from the site of the county courthouse. If such a city has a population of~~
36 ~~more than 125,000, at least three regular sessions of the superior court shall be~~
37 ~~held concurrently.~~

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

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

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

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

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

2 SEC. _____. Section 69743 of the Government Code is repealed.

3 ~~69743. By an order filed with the clerk of the court and published as a majority~~
4 ~~of the judges of the superior court of the county prescribe, such a majority, when it~~
5 ~~deems it necessary or convenient, may provide for and direct the holding of~~
6 ~~additional sessions in each of the cities described in Section 69742.~~

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

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

10 SEC. _____. Section 69744 of the Government Code is repealed.

11 ~~69744. When the judges of the superior court of a county deem it necessary or~~
12 ~~advisable, by order filed with the clerk of the court and published as they~~
13 ~~prescribe, they may direct that the court be held or continued:~~

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

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

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

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

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

23 SEC. _____. Section 69744.5 of the Government Code is repealed.

24 ~~69744.5. When a majority of the judges of the superior court deem it necessary~~
25 ~~or advisable, by order filed with the clerk of the court and published as the judges~~
26 ~~prescribe, the judges may direct that the court be held at least once a week at any~~
27 ~~designated place in the county, not less than 45 miles distant from the county seat,~~
28 ~~measured by air line. The place designated shall be within a former judicial district~~
29 ~~composed wholly of unincorporated territory, with a population of more than~~
30 ~~40,000 as determined pursuant to Section 71043. A majority of the judges may~~
31 ~~limit the type of judicial proceedings which may be heard by the court at such~~
32 ~~place to probate matters and matters relating to domestic relations.~~

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

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

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

39 SEC. _____. Section 69745 of the Government Code is repealed.

1 ~~69745. A session of the superior court may be held for a period not exceeding~~
2 ~~two weeks in any one month at each city with a population of not less than 7,000~~
3 ~~in which the city hall is not less than 55 miles from the site of the county~~
4 ~~courthouse.~~

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

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

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

10 SEC. _____. Section 69745.5 of the Government Code is repealed.

11 ~~69745.5. A session of the superior court may be held for a period not exceeding~~
12 ~~two weeks in any month at any location within the county, not less than 55 miles~~
13 ~~from the site of the county courthouse, with the permission of the county board of~~
14 ~~supervisors and the approval of either the presiding judge or the majority of the~~
15 ~~judges of such court, except that such two-week period may be extended as~~
16 ~~necessary to complete any trial or hearing which is in progress and is not~~
17 ~~completed within the initial two-week period.~~

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

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

21 SEC. _____. Section 69746 of the Government Code is repealed.

22 ~~69746. At least one session of the superior court shall be held in each city with a~~
23 ~~population of not less than 20,000 in which the city hall is not less than 30 miles~~
24 ~~from the site of the county courthouse.~~

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

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

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

30 SEC. _____. Section 69746.5 of the Government Code is repealed.

31 ~~69746.5. In a county of the 14th class, at least one session of the superior court~~
32 ~~may be held at a location designated by the board of supervisors which is not less~~
33 ~~than 40 miles, nor more than 50 miles, from the site of the county courthouse.~~
34 ~~However, at such time on or after July 1, 1990, as the board of supervisors finds~~
35 ~~that there are sufficient funds for this purpose, the board of supervisors shall~~
36 ~~designate a location therefor which is within a judicial district, or former district in~~
37 ~~a county in which there is no municipal court, with a population of more than~~
38 ~~40,000 as determined pursuant to Section 71043.~~

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

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

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

3 69747. At least one session of the superior court shall be held in each city with a
4 population of not less than 50,000 in which the city hall is not less than six miles
5 from the site of the county courthouse.

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

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

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

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

12 69748. At least one session of the superior court shall be held in each city to
13 which all of the following conditions apply:

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

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

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

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

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

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

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

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

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

32 69748.1. At least one session of the superior court shall be held in each city to
33 which all of the following conditions apply:

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

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

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

38 (d) There are residing in the county at least 40 miles from the county courthouse
39 not less than 69,000 persons, some of whom would be required to travel 80 miles
40 to attend court at such city and at least 70 miles farther in order to attend the

1 superior court at the county courthouse, or any other place where sessions of the
2 superior court have been established.

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

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

8 **Note.** Government Code Section 69748.1 was originally enacted to authorize a branch court
9 of the Riverside County Superior Court.

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

11 SEC. _____. Section 69749 of the Government Code is repealed.

12 ~~69749. Except in those cities in which sessions of the superior court are required~~
13 ~~by law to be held and in which such sessions were being held on or before July 1,~~
14 ~~1954, no sessions of the superior court shall be held in any city thereafter meeting~~
15 ~~the requirements of this article unless the city hall of that city is 14 miles or more~~
16 ~~from the city hall of the nearest city other than the county seat in which one or~~
17 ~~more sessions of the superior court are held.~~

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

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

24 **Gov't Code § 69749.2 (repealed). Sessions prior to ninety-first day after adjournment of**
25 **1959 legislative session**

26 SEC. _____. Section 69749.2 of the Government Code is repealed.

27 ~~69749.2. Except in those cities in which sessions of the superior court are~~
28 ~~required by law to be held and in which sessions were being held on the effective~~
29 ~~date of this section, no sessions of the superior court shall be held prior to the~~
30 ~~ninety-first day after the adjournment of the 1959 Session of the Legislature in any~~
31 ~~city meeting the requirements of this article unless the board of supervisors by~~
32 ~~resolution provides an earlier date upon which such sessions may be held.~~

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

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

36 SEC. _____. Section 69749.3 of the Government Code is repealed.

37 ~~69749.3. Notwithstanding the provisions of this article, sessions of the superior~~
38 ~~court in Riverside County may be held in Palm Springs at such times as may be~~
39 ~~prescribed by the judges sitting pursuant to Section 69748.1.~~

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

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

5 SEC. _____. Section 69749.4 of the Government Code is repealed.

6 ~~69749.4. Notwithstanding any other provision of this article, sessions of the~~
7 ~~superior court shall be held in the Indian Wells Valley area of northeast Kern~~
8 ~~County at such times as may be prescribed by the judges.~~

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

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

12 SEC. _____. Section 69751.5 of the Government Code is repealed.

13 ~~69751.5. The judge or a majority of the judges of the superior court in and for~~
14 ~~any county, with the approval of the board of supervisors, may establish a session~~
15 ~~of the superior court in any city with a population in excess of seven thousand~~
16 ~~(7,000) inhabitants and in which the city hall is located more than thirty (30) miles~~
17 ~~from the county courthouse if the judge or a majority of the judges determines that~~
18 ~~such session is necessary to serve the convenience of the residents of the county~~
19 ~~and promote the ends of justice.~~

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

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

23 SEC. _____. Section 69752 of the Government Code is repealed.

24 ~~69752. (a) Notwithstanding any other provision of this code, no superior court~~
25 ~~will hold sessions in any city other than the county seat except with the approval~~
26 ~~of the board of supervisors.~~

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

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

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

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

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

2 Article 6. Extra Sessions

3 **Note.** The Commission solicits comment on whether Article 6 set out below (Gov't Code §§
4 69790-69800) continues to serve a useful purpose inasmuch as the Chief Justice, as Chair of the
5 Judicial Council, is authorized by the Constitution to assign judges to other counties and
6 Government Code Section 69741.5 provides there may be as many sessions of a superior court as
7 there are judges, elected, appointed, or assigned thereto. Does the term "extra session" have
8 continuing viability or is it obsolete?

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

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

11 69790. Whenever in the opinion of ~~the judge or~~ a majority of the judges of the
12 superior court of any county the public interests so justify or require, ~~one or more~~
13 extra sessions of the superior court may be held in addition to and at the same time
14 as the other sessions of the court. ~~Such sessions shall be known as extra sessions~~
15 ~~of the superior court.~~

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

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

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

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

25 69791. Whenever such ~~judge or~~ majority decide that an extra session of the court
26 shall be held, ~~he or~~ they shall appoint the time when it shall be held. No extra
27 session of any superior court shall continue beyond December 31st of the year in
28 which it is established.

29 **Comment.** Section 69791 is amended to delete language referring to "such judge" of the court.
30 Every superior court has at least two judgeships as a result of trial court unification. See Section
31 69580 *et seq.* (number of judges). Where a court has only one judge due to a vacancy or
32 otherwise, a reference to the judges of the court means the sole judge of the court. See Section 13
33 (plural includes singular).

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

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

36 ~~69792. Such judge or majority shall also appoint a place within the county seat~~
37 ~~of the county where the extra session shall be held. Such judge or majority has the~~
38 ~~same power to provide a place for holding such extra session as a judge of a~~
39 ~~superior court has to provide a place for holding a session of a superior court.~~

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

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

2 SEC. _____. Section 69793 of the Government Code is repealed.

3 ~~69793. Whenever the judge of the superior court of a county with one judge of~~
4 ~~the superior court provides for an extra session of the court, at the time of so~~
5 ~~providing or from time to time during the continuance of the extra session, he shall~~
6 ~~apportion to the judge presiding over the extra session such portion of the business~~
7 ~~of the court as he may desire, and at the close of such extra session shall order~~
8 ~~such portions of the business so apportioned and not transacted to be transferred to~~
9 ~~himself.~~

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

14 **Gov't Code § 69794 (amended). Apportionment of business**

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

16 69794. Whenever the majority of the superior court judges of any county having
17 more than one judge of the superior court provide for an extra session of the court,
18 at the time of so providing or from time to time during the continuance of the extra
19 session, such majority shall order transferred to the judge presiding over such extra
20 session from the judges to whom they have been assigned according to law or the
21 rules of the court, such portions of the business of the court as they may select. At
22 the close of the extra session such majority shall order retransferred to the judges
23 of the court such portions of the business so transferred and not transacted.

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

28 **Gov't Code § 69795 (unchanged). Applicability of transfer rules**

29 69795. Except as provided in this article, any rules of any superior court relating
30 to the transfer of business from one judge of the court to another shall apply to the
31 transfer from the judge presiding over any extra session of any business duly
32 assigned to him to any judge of the court.

33 **Gov't Code § 69796 (amended). Designation of judge**

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

35 69796. Upon the request of the judge or a majority of the judges of the superior
36 court of any county, the ~~Chairman~~ Chair of the Judicial Council shall designate
37 and authorize a judge of the superior court of some other county to hold and
38 preside over such extra session of the superior court of the county. Upon such
39 designation and authorization such judge shall so serve.

40 **Comment.** Section 69796 is amended to delete language referring to “the judge” of the court.
41 Every superior court has at least two judgeships as a result of trial court unification. See Section

1 69580 *et seq.* (number of judges). Where a court has only one judge due to a vacancy or
2 otherwise, a reference to the judges of the court means the sole judge of the court. See Section 13
3 (plural includes singular).

4 **Gov't Code § 69797 (unchanged). Effectiveness of proceedings**

5 69797. The judgments, orders, and proceedings of any extra session held
6 pursuant to this article shall be equally effective as if any or all of the judges of
7 such court presided at the session.

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

10 69798. One or more judges of any superior court may hold and preside over any
11 extra session of the court with or without the judges designated and authorized to
12 hold and preside over the session. Any judge of any superior court may perform in
13 connection with any business duly assigned to the judge presiding over any extra
14 session of the court any act which he could perform in connection with any
15 business assigned to any other judge of the court.

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

17 69799. Any judge holding or presiding over any extra session of a superior court
18 may perform in chambers or in court, in connection with any business duly
19 assigned to him, any act which could be performed by any judge of the court, in
20 chambers or in court, in connection with such business if duly assigned to himself.
21 No judge holding or presiding over any extra session of any superior court shall
22 perform in chambers or in court any act in connection with any business that has
23 not been duly assigned to him.

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

26 69800. All laws applying to the compensation of a judge of a superior court
27 holding the superior court in a county other than his home county apply to a judge
28 holding extra sessions of a superior court in any county other than his home
29 county.

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

31 SEC. _____. Article 9 (commencing with Section 71340) of Chapter 6 of Title 8 of
32 the Government Code is repealed.

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

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

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

38 (3) Repeal of Section 68812.

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

1 Article 9. Sessions of Court

2 71340. There may be as many sessions of a municipal court at the same time as there are judges
3 elected, appointed, or assigned to the court. The judgments, orders, and proceedings of any
4 session of a municipal court held by any one or more of the judges sitting in the court shall be
5 equally effectual as though all the judges of the court presided at the session.

6 71341. (a) Sessions of a municipal court may be held at any place or places within the district
7 for which the court is established.

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

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

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

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

19 71342. Where a municipal court district embraces two or more cities, municipal court sessions
20 shall be held at such places within the district as the board of supervisors by ordinance shall
21 designate from time to time as the public convenience requires.

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

23 SEC. _____. Section 73648 of the Government Code is repealed.

24 ~~73648. The municipal court shall hold sessions at such location, or locations,~~
25 ~~within the El Cajon Judicial District as the Board of Supervisors of the County of~~
26 ~~San Diego may designate.~~

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

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

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

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

32 SEC. _____. Section 74748 of the Government Code is repealed.

33 ~~74748. The municipal court shall hold sessions in the City of Chula Vista and at~~
34 ~~such other places as the board of supervisors, by ordinance, may designate.~~

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

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

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

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

40 SEC. _____. Article 36 (commencing with Section 74920) of Chapter 10 of Title 8
41 of the Government Code is repealed.

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

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

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

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

5 Article 36. Tulare County

6 74920. There is in the County of Tulare a single municipal court district known as the Tulare
7 County Municipal Court District.

8 74920.5. On the order of the board of supervisors, sessions of the Tulare-Pixley Division shall
9 be held within the territory embraced by the Pixley Judicial District as it existed on December 31,
10 1974.

11 74920.6. On order of the board of supervisors, sessions and services of the Central Division
12 shall be held in the City of Woodlake, the City of Lindsay, and the City of Exeter.

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

14 SEC. _____. Section 825 of the Penal Code is amended to read:

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

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

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

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

SUBORDINATE JUDICIAL OFFICERS

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

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

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

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

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

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

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

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

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

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

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

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

6 (f) The provisions in this section authorizing or requiring a judge to order the
7 forfeiture of a device or apparatus also apply to the judge, referee, or traffic
8 juvenile hearing officer in a juvenile court action brought under Section 258 of the
9 Welfare and Institutions Code.

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

12 (h) Neither the disposition of the criminal action other than by conviction nor the
13 discretionary refusal of the judge to order forfeiture upon conviction impairs the
14 right of the department to commence proceedings to order the forfeiture of fish
15 nets or traps pursuant to Section 8630.

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

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

19 SEC. ____ . Section 21856 of the Food and Agricultural Code is amended to read:

20 21856. (a) The judge before whom any person is tried for the wrongful taking,
21 possessing, killing, or slaughter of cattle without the consent of the owner or the
22 person lawfully in possession of those cattle may, upon the conviction of the
23 person tried, order the forfeiture of any device or apparatus that is designed to be,
24 or is capable of being, used to commit the offense charged, and which was used in
25 committing the offense charged. "Device or apparatus" includes, but is not limited
26 to, any vehicle that is used or intended for use in taking, possessing, harboring, or
27 transporting the cattle.

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

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

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

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

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

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

2 SEC. ____ . Section 71601 of the Government Code is amended to read:

3 71601. For purposes of this chapter, the following definitions shall apply:

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

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

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

11 (d) "Mediation" means effort by an impartial third party to assist in reconciling a
12 dispute regarding wages, hours, and other terms and conditions of employment
13 between representatives of the trial court and the recognized employee
14 organization or recognized employee organizations through interpretation,
15 suggestion, and advice.

16 (e) "Meet and confer in good faith" means that a trial court or representatives as
17 it may designate, and representatives of recognized employee organizations, shall
18 have the mutual obligation personally to meet and confer promptly upon request
19 by either party and continue for a reasonable period of time in order to exchange
20 freely information, opinions, and proposals, and to endeavor to reach agreement on
21 matters within the scope of representation. The process should include adequate
22 time for the resolution of impasses where specific procedures for resolution are
23 contained in this chapter or in a local rule, or when the procedures are utilized by
24 mutual consent.

25 (f) "Personnel rules," "personnel policies, procedures, and plans," and "rules and
26 regulations" mean policies, procedures, plans, rules, or regulations adopted by a
27 trial court or its designee pertaining to conditions of employment of trial court
28 employees, subject to meet and confer in good faith.

29 (g) "Promotion" means promotion within the trial court as defined in the trial
30 court's personnel policies, procedures, and plans, subject to meet and confer in
31 good faith.

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

38 (i) "Subordinate judicial officer" means an officer appointed to perform
39 subordinate judicial duties as authorized by Section 22 of Article VI of the
40 California Constitution, including, but not limited to, a court commissioner,
41 probate commissioner, child support commissioner, referee, traffic trial
42 commissioner, traffic referee, juvenile court referee, juvenile hearing officer, and
43 temporary judge pro tempore.

1 (j) "Transfer" means transfer within the trial court as defined in the trial court's
2 personnel policies, procedures, and plans, subject to meet and confer in good faith.

3 (k) "Trial court" means a superior court ~~or a municipal court~~.

4 (l) "Trial court employee" means a person who is both of the following:

5 (1) Paid from the trial court's budget, regardless of the funding source. For the
6 purpose of this paragraph, "trial court's budget" means funds from which the
7 presiding judge of a trial court, or his or her designee, has authority to control,
8 authorize, and direct expenditures, including, but not limited to, local revenues, all
9 grant funds, and trial court operations funds.

10 (2) Subject to the trial court's right to control the manner and means of his or her
11 work because of the trial court's authority to hire, supervise, discipline, and
12 terminate employment. For purposes of this paragraph only, the "trial court"
13 includes the judges of a trial court or their appointees who are vested with or
14 delegated the authority to hire, supervise, discipline, and terminate.

15 (m) A person is a "trial court employee" if and only if both paragraphs (1) and
16 (2) of subdivision (l) are true irrespective of job classification or whether the
17 functions performed by that person are identified in Rule 810 of the California
18 Rules of Court. The phrase "trial court employee" includes those subordinate
19 judicial officers who satisfy paragraphs (1) and (2) of subdivision (l). The phrase
20 "trial court employee" does not include temporary employees hired through
21 agencies, jurors, individuals hired by the trial court pursuant to an independent
22 contractor agreement, individuals for whom the county or trial court reports
23 income to the Internal Revenue Service on a Form 1099 and does not withhold
24 employment taxes, sheriffs, and judges whether elected or appointed. Any
25 temporary employee, whether hired through an agency or not, shall not be
26 employed in the trial court for a period exceeding 180 calendar days.

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

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

33 **Gov't Code § 71622 (amended). Subordinate judicial officers**

34 SEC. ____ . Section 71622 of the Government Code is amended to read:

35 71622. (a) Each trial court may establish and may appoint such subordinate
36 judicial officers as are deemed necessary for the performance of subordinate
37 judicial duties as are authorized by law to be performed by subordinate judicial
38 officers. However, the number and type of subordinate judicial officers in a trial
39 court shall be subject to approval by the Judicial Council. Subordinate judicial
40 officers shall serve at the pleasure of the trial court.

41 (b) The appointment or termination of a subordinate judicial officer shall be
42 made by order of the presiding judge or another judge or a committee to whom

1 appointment or termination authority is delegated by the court, entered in the
2 minutes of the court.

3 (c) The Judicial Council shall promulgate rules establishing the minimum
4 qualifications and training requirements for subordinate judicial officers.

5 (d) The presiding judge of a superior court may cross-assign one type of
6 subordinate judicial officer to exercise all the powers and perform all the duties
7 authorized by law to be performed by another type of subordinate judicial officer,
8 but only if the person cross-assigned satisfies the minimum qualifications and
9 training requirements for the new assignment established by the Judicial Council
10 pursuant to subdivision (c).

11 (e) The superior courts of two or more counties may appoint the same person as
12 court commissioner.

13 (f) As of the implementation date of this chapter, all persons who were
14 authorized to serve as subordinate judicial officers pursuant to other provisions of
15 law shall be authorized by this section to serve as subordinate judicial officers at
16 their existing salary rate, which may be a percentage of the salary of a judicial
17 officer.

18 **Comment.** Subdivision (b) of Section 71622 is amended to make clear that the court's
19 authority to appoint and terminate a subordinate judicial officer includes authority to delegate the
20 appointment or termination decision. For example, the court may delegate to the presiding judge
21 of the juvenile court authority to appoint or terminate a juvenile court referee. *Cf.* former Welf. &
22 Inst. Code § 247 (juvenile court referee).

23 The authority to delegate a subordinate judicial officer appointment or termination decision is a
24 specific instance of the general authority of a trial court to manage its affairs in a manner
25 appropriate for its circumstances. *Cf.* Section 77001; Cal. R. Ct. 6.601 *et seq.* (trial court
26 management).

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 § 247 (repealed). Juvenile court referees**

11 SEC. _____. Section 247 of the Welfare and Institutions Code is repealed.

12 ~~247. The judge of the juvenile court, or in counties having more than one judge
13 of the juvenile court, the presiding judge of the juvenile court or the senior judge if
14 there is no presiding judge, may appoint one or more referees to serve on a full-
15 time or part-time basis. A referee shall serve at the pleasure of the appointing
16 judge, and unless the appointing judge makes his order terminating the
17 appointment of a referee, such referee shall continue to serve as such until the
18 appointment of his successor. Except as otherwise provided by law, the amount
19 and rate of compensation to be paid referees shall be fixed by the board of
20 supervisors. Every referee first appointed on or after January 1, 1977, shall have
21 been admitted to practice law in this state and, in addition, shall have been
22 admitted to practice law in this state for a period of not less than five years or in
23 any other state and this state for a combined period of not less than 10 years.
24 Nothing in this section shall be construed to apply to the qualifications of any
25 referee first appointed prior to January 1, 1977.~~

26 **Comment.** Section 247 is repealed to reflect enactment of the Trial Court Employment
27 Protection and Governance Act. See Gov't Code §§ 71622 (subordinate judicial officers), 71623
28 (salaries). Under that Act, the court may delegate to the presiding judge of the juvenile court
29 authority to appoint or terminate a juvenile court referee.

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

31 SEC. _____. Section 258 of the Welfare and Institutions Code is amended to read:

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

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

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

40 (3) Order that the minor pay a fine up to the amount that an adult would pay for
41 the same violation, unless the violation is otherwise specified within this section,
42 in which case the fine shall not exceed two hundred fifty dollars (\$250). This fine

1 may be levied in addition to or in place of the following orders and the court may
2 waive any or all of this fine, if the minor is unable to pay. In determining the
3 minor's ability to pay, the court shall not consider the ability of the minor's family
4 to pay.

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

12 (5) Order that the driving privileges of the minor be suspended or restricted as
13 provided in the Vehicle Code or, notwithstanding Section 13203 of the Vehicle
14 Code or any other provision of law, when the Vehicle Code does not provide for
15 the suspension or restriction of driving privileges, that, in addition to any other
16 order, the driving privileges of the minor be suspended or restricted for a period of
17 not to exceed 30 days.

18 (6) In the case of a traffic related offense, order the minor to attend a licensed
19 traffic school, or other court approved program of traffic school instruction
20 pursuant to Chapter 1.5 (commencing with Section 11200) of Division 5 of the
21 Vehicle Code, to be completed by the juvenile within 60 days of the court order.

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

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

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

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

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

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

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

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

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

15 (C) That the minor forfeit, pursuant to Section 12157 of the Fish and Game
16 Code, any device or apparatus designed to be, and capable of being, used to take
17 birds, mammals, fish, reptiles, or amphibia and which was used in committing the
18 violation charged. The judge, referee, or juvenile hearing officer shall, if the minor
19 committed an offense which is punishable under Section 12008 of the Fish and
20 Game Code, order the device or apparatus forfeited pursuant to Section 12157 of
21 the Fish and Game Code.

22 (13) If the violation charged is of an ordinance of a city, county, or local agency
23 relating to loitering, curfew, or fare evasion on a public transportation system, as
24 defined by Section 99211 of the Public Utilities Code, or is a violation of Section
25 640 or 640a of the Penal Code, make the order that the minor shall perform
26 community service for a total time not to exceed 20 hours over a period not to
27 exceed 30 days, during times other than his or her hours of school attendance or
28 employment.

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

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

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

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

36 654.1. (a) Notwithstanding Section 654 or any other provision of law, in any
37 case in which a minor has been charged with a violation of Section 23140 or
38 23152 of the Vehicle Code, the probation officer may, in lieu of requesting that a
39 petition be filed by the prosecuting attorney to declare the minor a ward of the
40 court under Section 602, proceed in accordance with Section 654 and delineate a
41 program of supervision for the minor. However, the probation officer shall cause
42 the citation for a violation of Section 23140 or 23152 of the Vehicle Code to be

1 heard and disposed of by the judge, referee, or traffic juvenile hearing officer
2 pursuant to Sections 257 and 258 as a condition of any program of supervision.

3 (b) Nothing in this section shall be construed to prevent the probation officer
4 from requesting the prosecuting attorney to file a petition to declare the minor a
5 ward of the court under Section 602 for a violation of Section 23140 or 23152 of
6 the Vehicle Code. However, when in the judgment of the probation officer, the
7 interest of the minor and the community can be protected by adjudication of a
8 violation of Section 23140 or 23152 of the Vehicle Code in accordance with
9 subdivision (a), the probation officer shall proceed under subdivision (a).

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

12 TRIAL COURT COORDINATION

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

14 SEC. ____ . Section 68112 of the Government Code is repealed.

15 ~~68112. (a) On or before March 1, 1992, each superior and municipal court in~~
16 ~~each county, in consultation with the local bar, shall prepare and submit to the~~
17 ~~Judicial Council for review and approval a trial court coordination plan designed~~
18 ~~to achieve maximum utilization of judicial and other court resources and statewide~~
19 ~~cost reductions in court operations of at least 3 percent in the 1992-93 fiscal year, a~~
20 ~~further 2 percent in the 1993-94 fiscal year, and a further 2 percent in the 1994-95~~
21 ~~fiscal year, as applicable. The cost reduction shall be based on the prior year actual~~
22 ~~expenditures, plus any amount reduced from the budget for court operations by a~~
23 ~~county as a result of any reduction in state funding made pursuant to Section~~
24 ~~13308, increased by the percentage change in population for the prior calendar~~
25 ~~year and the Trade and Commerce Agency implicit price deflator for state and~~
26 ~~local government for the prior calendar year. The coordination plan for each court~~
27 ~~shall be reviewed and approved by the Judicial Council on or before July 1, 1992.~~
28 ~~Thereafter, commencing in 1995 and every two years thereafter, courts in each~~
29 ~~county shall prepare, in consultation with the local bar, and submit a trial court~~
30 ~~coordination plan to the Judicial Council on or before March 1, for review and~~
31 ~~approval by July 1. The plans shall comply with rules promulgated by the Judicial~~
32 ~~Council and shall be designed to achieve maximum utilization of judicial and other~~
33 ~~resources to accomplish increased efficiency in court operations and increased~~
34 ~~service to the public. Any plan disapproved by the Judicial Council shall be~~
35 ~~revised and resubmitted within 60 days of notification of disapproval. The Judicial~~
36 ~~Council may by rule exempt courts from the requirement of filing a new~~
37 ~~coordination plan for any year if all courts in the county have (1) totally~~
38 ~~consolidated administrative functions under a single administrative entity, and (2)~~
39 ~~adopted and implemented a coordination plan in which all courts share each~~
40 ~~other's work so that cases in all of the county's courts are substantially assigned~~

1 without regard to whether a judge is on the superior court or the municipal court,
2 and which provides for procedures that implement that sharing of work.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
2 71620(a) (job classifications and appointments), 71622 (subordinate judicial officers), 71640-
3 71645 (employment selection and advancement).

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

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

10 SEC. _____. Section 68112.5 of the Government Code is repealed.

11 ~~68112.5. Notwithstanding any other provision of law, in those counties with~~
12 ~~approved coordination plans pursuant to Section 68112 that so provide, the~~
13 ~~subordinate judicial officers of a trial court, by agreement between trial courts~~
14 ~~within the same county, may be cross-assigned to any other trial court within the~~
15 ~~same county and, when so assigned, shall exercise all of the powers and perform~~
16 ~~all of the duties authorized by law to be performed by any subordinate judicial~~
17 ~~officer of that court.~~

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

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

21 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Section
22 71622 (subordinate judicial officers).

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

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

25 ~~68114. Notwithstanding any other provision of law, the superior and municipal~~
26 ~~court judges participating in a coordination plan approved pursuant to Section~~
27 ~~68112 may select, if the coordination plan so provides, any one of their number to~~
28 ~~serve as the single presiding judge of all the participating courts by a majority vote~~
29 ~~of the judges from all courts sitting as a committee of the whole or in some other~~
30 ~~manner as set forth in the coordination plan.~~

31 ~~The single presiding judge shall have all the powers and duties of the former~~
32 ~~presiding judges of each of the participating superior and municipal courts. The~~
33 ~~single presiding judge may be empowered by the coordination plan to sit as the~~
34 ~~chair of any executive committee formed by the participating courts as part of their~~
35 ~~coordination plan.~~

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

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

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

41 ~~68114.5. Notwithstanding any other provision of law, the superior and municipal~~
42 ~~court judges participating in a coordination plan approved pursuant to Section~~

1 ~~68112 may establish a single executive committee of judicial officers to oversee, if~~
2 ~~the coordination plan so provides, the activities of the participating courts. The~~
3 ~~committee shall include representatives of all participating courts in a manner~~
4 ~~specified in the coordination plan. The committee shall have such powers and~~
5 ~~duties as are delegated to it by each participating court in the coordination plan,~~
6 ~~which may include oversight of the administration of the courts and judicial~~
7 ~~activities.~~

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

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

11 SEC. ____ . Section 68114.6 of the Government Code is repealed.

12 ~~68114.6. Notwithstanding any other provision of law, the superior and municipal~~
13 ~~court judges participating in a coordination plan approved pursuant to Section~~
14 ~~68112 may appoint, if the coordination plan so provides, an executive officer to~~
15 ~~serve as the chief administrative officer of the participating courts. The executive~~
16 ~~officer shall hold office at the pleasure of a majority vote of the judges from all of~~
17 ~~the participating courts sitting as a committee of the whole or as set forth in the~~
18 ~~coordination plan. The courts shall fix the qualifications of the executive officer.~~
19 ~~The salary of the executive officer shall be fixed by the participating courts and~~
20 ~~shall be paid by the county in which the executive officer serves. Each such~~
21 ~~position shall be exempt from civil service laws.~~

22 ~~The participating courts may delegate to the executive officer any administrative~~
23 ~~powers and duties required to be exercised by the participating courts. The~~
24 ~~executive officer shall exercise such administrative powers and perform such other~~
25 ~~duties as may be required of him or her by the participating courts. Any executive~~
26 ~~officer appointed under this section has the authority of a clerk of any participating~~
27 ~~superior or municipal court. The executive officer shall perform, or supervise the~~
28 ~~performance of, the duties of a jury commissioner in the county of any~~
29 ~~participating superior court. The executive officer shall supervise the secretaries of~~
30 ~~the judges of the participating courts.~~

31 ~~Notwithstanding any other provision of law, any participating superior court~~
32 ~~may, by local rule, specify which of the powers, duties, and responsibilities~~
33 ~~required or permitted to be exercised or performed by the county clerk in~~
34 ~~connection with judicial actions, proceedings, and records shall be exercised or~~
35 ~~performed by the executive officer appointed under this section. The county clerk~~
36 ~~shall be relieved of any obligation imposed on him or her by law with respect to~~
37 ~~these specified powers, duties, and responsibilities, to the extent the local rule~~
38 ~~imposes on the executive officer the same powers, duties, and responsibilities.~~

39 ~~Any participating superior court having specific statutory authorization to~~
40 ~~appoint an executive or administrative officer may elect to proceed under its~~
41 ~~specific authorization or under this section, but not under both.~~

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

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

3 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Section
4 71620 (trial court personnel). See also Code Civ. Proc. § 195 (jury commissioner).

5 (3) Enactment of the Trial Court Funding Act. See Sections 77003 (“court operations” defined),
6 77200 (state funding of trial court operations).

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

8 68114.7. The coordination, consolidation, merger, or conversion of any court
9 pursuant to this chapter or otherwise shall not of itself cause any reduction in
10 judicial or nonjudicial court employee benefit programs provided or administered
11 by the county pursuant to Chapter 2 (commencing with Section 53200) of Part 1 of
12 Division 2 of Title 5, or pursuant to a memorandum or agreement in effect prior to
13 the effective date of this section. This section does not constitute a change in, but
14 is declaratory of, the existing law. Any reduction or cessation of benefits contrary
15 to this section made between June 30, 1992, and the effective date of this section
16 shall be restored.

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

20 **Gov’t Code § 68114.9 (repealed). Cross-deputization**

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

22 ~~68114.9. To facilitate implementation of a coordination plan approved pursuant~~
23 ~~to Section 68112:~~

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

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

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

34 TRIAL COURT PERSONNEL (GENERAL)

35 **Gov’t Code § 69894.2 (repealed). Additional superior court commissioners, officers, and**
36 **employees**

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

38 ~~69894.2. With the approval of the board of supervisors the court may establish~~
39 ~~such additional titles and pay rates as are required and with the approval of the~~
40 ~~board of supervisors may appoint and employ such additional commissioners,~~

1 officers, assistants and other employees as it deems necessary for the performance
2 of the duties and exercise of the powers conferred by law upon it and its members.
3 Rates of compensation of all officers, assistants and other employees may be
4 adjusted by joint action and approval of the board of supervisors and a majority of
5 the judges of the court.

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

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

10 (1) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
11 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622
12 (subordinate judicial officers), 71623 (salaries), 71640-71645 (employment selection and
13 advancement), 71673 (authority of court). See also Section 69941 (appointment of official
14 reporters).

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

17 CONFORMING REVISIONS

18 **Gov't Code § 68100 (amended). Appearances at appointed location of superior court**

19 SEC. _____. Section 68100 of the Government Code is amended to read:

20 68100. When the court is held at a place appointed, pursuant to Sections 68099
21 Section 68115, 69742, and 69744 every person held to appear at the court shall
22 appear at the place so appointed.

23 **Comment.** Section 68100 is amended to correct the reference to former Section 68099 and to
24 reflect the repeal of Sections 69742 and 69744, relating to court sessions away from the
25 courthouse in specified circumstances.

26 **Penal Code § 1463.28 (amended). Revenue from increase in bail schedules**

27 SEC. _____. Section 1463.28 of the Penal Code is amended to read:

28 1463.28.(a) Notwithstanding any other provision of law, for each option county,
29 as defined by Section 77004 of the Government Code, which has adopted the
30 resolution specified in subdivision (b), that portion of fines and forfeitures,
31 whether collected by the courts or by other processing agencies, which are
32 attributable to an increase in the bail amounts adopted subsequent to the resolution
33 pursuant to subdivision (c) or (d) of Section 1269b which would otherwise be
34 divided between the county and cities within the county shall be deposited into the
35 county general fund up to the annual limit listed in subdivision (b) for that county.

36 Fine and forfeiture increments which exceed the specified annual limit shall be
37 divided between the county and the cities within the county as otherwise provided
38 by law.

39 The scheduled bail amounts in such a county may exceed any limit established
40 pursuant to subdivision (d) of Section 1269b.

(b) The counties which may adopt a resolution directing that future increments in fines and forfeitures as specified in subdivision (a) be deposited in the county general fund and the annual limit applicable to those counties is as follows:

County	Annual Limit
Alpine	\$ 300,000
Amador	200,000
Butte	900,000
Calaveras	300,000
Contra Costa	100,000
Del Norte	200,000
Fresno	700,000
Humboldt	200,000
Kings	300,000
Lake	400,000
Lassen	200,000
Los Angeles.....	15,000,000
Madera	600,000
Mariposa	200,000
Mendocino	600,000
Modoc	200,000
Mono	200,000
Plumas	200,000
San Benito	300,000
San Diego	5,200,000
San Joaquin	1,000,000
Santa Clara	3,200,000
Sierra	300,000
Stanislaus	1,900,000
Sutter	800,000
Trinity	200,000
Tulare	2,000,000
Tuolumne	400,000
Yolo	700,000
Yuba	900,000

(c) Except as provided in Sections 40200.3 and 40200.4 of the Vehicle Code, this section does not apply to the collection of parking penalties.

Comment. Subdivision (a) of Section 1463.28 is amended to correct the reference to former subdivision (d) of Section 1269b, relating to a countywide schedule of bail for misdemeanors and infractions. Bail amounts for misdemeanors and infractions, except Vehicle Code infractions, are included in the single countywide schedule of bail provided for in subdivision (c) of Section 1269b.

The last sentence of subdivision (a) is deleted as obsolete. See 1988 Cal. Stat. ch. 988.