

STATE OF CALIFORNIA

CALIFORNIA LAW REVISION COMMISSION

RECOMMENDATION

Statutes Made Obsolete by Trial Court Restructuring: Part 2

March 2003

California Law Revision Commission
4000 Middlefield Road, Room D-1
Palo Alto, CA 94303-4739

NOTE

This report includes an explanatory Comment to each section of the recommended legislation. The Comments are written as if the legislation were already operative, since their primary purpose is to explain the law as it will exist to those who will have occasion to use it after it is operative. The Comments are legislative history and are entitled to substantial weight in construing the statutory provisions. For a discussion of cases addressing the use of Law Revision Commission materials in ascertaining legislative intent, see the Commission's most recent *Annual Report*.

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March 7, 2003

To: The Honorable Gray Davis
Governor of California, and
The Legislature of California

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.

Respectfully submitted,

David Huebner
Chairperson

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 Protec-

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).

tion 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.

The Commission submitted its Recommendation on *Statutes Made Obsolete by Trial Court Restructuring: Part I*⁹ (hereafter the “2002 recommendation”) in response to the legislative directive. The recommendation proposed the amendment and repeal of hundreds of obsolete constitutional and statutory provisions. It was not possible, however, to deal with all statutes made obsolete by trial court restructuring. Some provisions were not addressed because stakeholders had not yet reached agreement on key issues, further research was necessary in light of the complexity of the law, or additional time was required to prepare appropriate revisions due to the large volume of material involved. Consequently, the January 1, 2002, deadline was removed from the statute to allow the Commission to continue its work in this area and

7. See Gov’t Code §§ 71600-71675.

8. Gov’t Code § 71674.

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).

recommend further cleanup of the statutes from time to time.¹⁰

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

MATTERS COVERED IN THIS RECOMMENDATION

Trial Court Sessions and Facilities

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

Section 69645 was inadvertently located in an article pertaining to superior court districts. Only Los Angeles County is divided into superior court districts.¹⁵ Therefore, the proposed

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

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

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. The proposed law would repeal the existing article pertaining to superior court districts (Gov't Code §§ 69640-69650) and replace it with a new article

law would renumber Section 69645 as Government Code Section 69740.¹⁶

The proposed law would also repeal Government Code Section 69741 and Sections 69790 through 69800 as obsolete. Section 69741 requires that regular sessions be held commencing on the first Mondays of January, April, July, and October. That statute further provides that a superior court may hold special sessions at such other times as may be prescribed by the judges of the court, except that in the City and County of San Francisco the presiding judge shall prescribe the times of holding special sessions. Sections 69790 through 69800 authorize extra sessions of the superior court. Historically, extra sessions were held when a need arose in a particular county for a judge from another county to preside over a session of the hosting court.

The distinction among regular, special, and extra 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.¹⁷ The times specified for the holding of regular sessions are anachronistic and do not reflect the current realities of the judicial system in California. In addition, Article VI, Section 6, of the California Constitution authorizes the Chief Justice of the California Supreme Court, as Chair of the Judicial Council, to assign judges to sit on courts in other counties.¹⁸

Facilities. The location of a particular session is dependent, to a large degree, on the existence and maintenance of a court facility in the area. The availability and adequacy of facilities

(Gov't Code § 69640) authorizing the Los Angeles County Superior Court to establish superior court districts by local rule. See "Proposed Legislation" *infra*.

16. See proposed addition of Gov't Code § 69740 *infra*.

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

18. See also Gov't Code § 69741.5 ("There may be as many sessions of a superior court, at the same time, as there are judges elected, appointed or assigned thereto.").

for holding a court session at a specific location is a consideration that Section 69645 requires a court to take into account.

Court facilities have historically been county structures. In 2002, however, the Legislature enacted the Trial Court Facilities Act,¹⁹ which will unite responsibility for trial court operations and facilities in the state. Under the Act, the transfer of responsibility for the funding and operation of trial court facilities will be negotiated on a building-by-building basis between the state and each county from July 1, 2003, through June 30, 2007.²⁰

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

Trial Court Coordination

Several statutes pertain to the coordination of operations of the municipal and superior courts in a county.²¹ The statutes are no longer necessary due to unification of the courts. They would be repealed.²²

Jury Commissioners

Pursuant to Code of Civil Procedure Section 195, every county has a jury commissioner who is appointed by the

19. 2002 Cal. Stat. ch. 1082, § 4 (eff. Jan. 1, 2003).

20. *Id.*

21. Gov't Code §§ 68112, 68112.5, 68114, 68114.5, 68114.6, 68114.7, 68114.9.

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

judges of the superior court. The jury commissioner is primarily responsible for managing the trial court jury system, but may also perform duties with regard to the selection of jurors for grand juries and juries of inquest.

Jury commissioner references appear in provisions of the Code of Civil Procedure, Government Code, and Penal Code. The proposed legislation includes revisions to the jury commissioner provisions and to Penal Code statutes relating to grand jury selection.²³ The proposed revisions would lodge selection-related functions with the jury commissioner rather than with the county clerk or court clerk. Designation of the jury commissioner as the responsible officer with regard to all grand jury selection functions is consistent with other grand jury selection provisions,²⁴ the Trial Court Funding Act,²⁵ Code of Civil Procedure Section 195, and Judicial Council standards.²⁶

Other Issues

Bail schedules. Penal Code Section 1269b establishes a procedure for the preparation, adoption, and annual revision of uniform countywide bail schedules by superior and municipal court judges. The proposed law would remove the municipal court references and provide for one bail schedule for all bailable crimes (except Vehicle Code infractions). The proposal would also permit superior court judges to adopt a local rule

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

24. Penal Code §§ 903-903.4.

25. 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").

26. 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.

of court governing the procedures for the preparation, adoption, and annual revision of the bail schedule, subject to a default procedure in the event a local rule is not adopted.²⁷

Juvenile court referees. Welfare and Institutions Code Section 247 provides for the appointment of a juvenile court referee by the presiding judge of the juvenile court.²⁸ The proposed law would repeal that statute. Under the Trial Court Employment Protection and Governance Act, the trial court appoints subordinate judicial officers who serve at the pleasure of the court.²⁹ That statute also requires the Judicial Council to prescribe minimum qualifications and training requirements for subordinate judicial officers.³⁰ A conforming change would be made to Government Code Section 71622 to make clear that the court's authority to appoint and terminate a subordinate judicial officer includes the authority to delegate the appointment or termination decisions (e.g., to the presiding judge of the juvenile court).³¹

Local court rules. Code of Civil Procedure Section 575.1 governs the preparation and distribution of local rules of court. The proposed law would amend Section 575.1 to be consistent with the approach used in California Rule of Court 981, as amended effective January 1, 2003, regarding the preparation of and public access to local rules. The proposed law would also eliminate a municipal court reference to reflect trial court unification.³²

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

28. The section also provides that the referee serves at the pleasure of the presiding judge. With exceptions, the section requires that the referee have been admitted to practice law in California for at least five years.

29. Gov't Code § 71622.

30. The Judicial Council has promulgated a rule governing the qualifications of a subordinate judicial officer, which is effective January 1, 2003. See Cal. R. Ct. 6.660.

31. See proposed amendment to Gov't Code § 71622 *infra*.

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

Traffic hearing officers. References to “traffic hearing officers” in a number of statutes would be revised to reflect the redesignation of traffic hearing officers as “juvenile hearing officers.”³³

Chaptered out provisions. Some revisions that were proposed in the Commission’s 2002 recommendation and included in the implementing legislation were “chaptered out” by conflicting bills introduced in the same legislative session. Those proposed revisions are reintroduced in this recommendation.³⁴

Technical revisions. Other technical cleanup revisions would be made.³⁵

CONCLUSION

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

33. See 1997 Cal. Stat. ch. 679.

34. See proposed amendments to Gov’t Code §§ 20437, 71081, 71601 & Penal Code §§ 830.1, 3075 *infra*.

35. For example, the proposed law would continue an effort begun in the 2002 recommendation to fix references to “the judge or judges” of the superior court. As a result of unification, every superior court now has at least two judge-ships. 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

CODE OF CIVIL PROCEDURE

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.

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

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

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

Comment. Section 73d is amended to replace references to the former “Building and Loan Commissioner” with references 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Code Civ. Proc. § 431.30 (amended). Form and content of answer

SEC. ____ . Section 431.30 of the Code of Civil Procedure is amended to read:

431.30. (a) As used in this section:

- (1) “Complaint” includes a cross-complaint.
 - (2) “Defendant” includes a person filing an answer to a cross-complaint.
- (b) The answer to a complaint shall contain:

(1) The general or specific denial of the material allegations of the complaint controverted by the defendant.

(2) A statement of any new matter constituting a defense.

(c) Affirmative relief may not be claimed in the answer.

(d) If the complaint is subject to Article 2 (commencing with Section 90) of ~~Chapter 5~~ *Chapter 5.1* of Title 1 of Part 1 or is not verified, a general denial is sufficient but only puts in issue the material allegations of the complaint. If the complaint is verified, unless the complaint is subject to Article 2 (commencing with Section 90) of ~~Chapter 5~~ *Chapter 5.1* of Title 1 of Part 1, the denial of the allegations shall be made positively or according to the information and belief of the defendant. However, if the cause of action is a claim assigned to a third party for collection and the complaint is verified, the denial of the allegations shall be made positively or according to the information and belief of the defendant, even if the complaint is subject to Article 2 (commencing with Section 90) of ~~Chapter 5~~ *Chapter 5.1* of Title 1 of Part 1.

(e) If the defendant has no information or belief upon the subject sufficient to enable him or her to answer an allegation of the complaint, he or she may so state in his or her answer and place his or her denial on that ground.

(f) The denials of the allegations controverted may be stated by reference to specific paragraphs or parts of the complaint; or by express admission of certain allegations of the complaint with a general denial of all of the allegations not so admitted; or by denial of certain allegations upon information and belief, or for lack of sufficient information or belief, with a general denial of all allegations not so denied or expressly admitted.

(g) The defenses shall be separately stated, and the several defenses shall refer to the causes of action which they are intended to answer, in a manner by which they may be intelligibly distinguished.

Comment. Subdivision (d) of Section 431.30 is amended to correct the reference to former Chapter 5.

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

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

575.1. (a) The presiding judge of each superior and ~~municipal~~ court may prepare, with the assistance of appropriate committees of the court, proposed local rules designed to expedite and facilitate the business of the court. The rules need not be limited to those actions on the civil active list, but may provide for the supervision and judicial management of actions from the date they are filed. Rules prepared pursuant to this section shall be submitted for consideration to the judges of the court and, upon approval by a majority of the judges, the judges shall have the proposed rules published and submitted to the local bar and others, as specified by the Judicial Council, for consideration and recommendations.

(b) After a majority of the judges have officially adopted the rules, ~~61 copies or a greater number as specified by Judicial Council rule,~~ *they* shall be filed with the Judicial Council as required by Section 68071 of the Government Code *and as specified in rules adopted by the Judicial Council*. The Judicial Council shall ~~deposit a copy of each rule and amendment with each county law library or county clerk where it shall be~~ *prescribe rules to ensure that a complete current set of local rules and amendments, for each county in the state, is* made available for public examination *in each county*. The local rules shall also be published for general distribution in accordance with rules adopted by the Judicial Council. Each court shall make its local rules available for inspection and copying in every location of the court that generally accepts filing of papers. The court may impose a reasonable charge for copying the rules and may

impose a reasonable page limit on copying. The rules shall be accompanied by a notice indicating where a full set of the rules may be purchased.

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

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

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

ELECTIONS CODE

Elec. Code § 16603 (amended). Judgment

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

16603. The court shall continue in special session to hear and determine all issues arising in contested elections. After hearing the proofs and allegations of the parties and within 10 days after the submission thereof, the court shall file its findings of fact and conclusions of law, and immediately thereafter shall pronounce judgment in the premises, either

confirming or annulling and setting aside the election. The judgment shall be entered immediately thereafter.

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

FAMILY CODE

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

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

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

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

The section is also amended to reflect the fact that 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).

FINANCIAL CODE

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

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

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

be held at the county seat of any county in this State or at such places in the home county of such superior court at which sessions are held as ~~provided in the Code of Civil Procedure~~.

Comment. Section 17647 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).

FISH AND GAME CODE

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 amphibians 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.

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

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

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

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

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

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

FOOD AND AGRICULTURAL CODE

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

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

21856. (a) The judge before whom any person is tried for the wrongful taking, possessing, killing, or slaughter of cattle without the consent of the owner or the person lawfully in possession of those cattle 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 commit the offense charged, and which was used in committing the offense charged. "Device or apparatus" includes, but is not limited to, any vehicle that is used or intended for use in taking, possessing, harboring, or transporting the cattle.

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

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

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

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

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

GOVERNMENT CODE

Gov't Code § 20437 (amended). "County peace officer" as including constable, marshal, and deputy

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

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

(b) The provisions of this section do not apply to the employees of a contracting agency nor to the agency, unless and until the contracting agency elects to be subject to this section by amendment to its contract with the board, made as

provided in Section 20474, or by express provision in its contract with the board.

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

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

Gov’t Code § 24151 (amended). Amount of supervisor’s bond

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

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

Comment. Section 24151 is 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 Section 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 Section 13 (plural includes singular).

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

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

24250.1. Sheriffs ~~and clerks~~ shall also have offices in each city in which *they perform court-related services and a regular session facility* of the superior court is held pursuant to law. ~~This section does not authorize the establishment of~~

~~offices in cities in which extra sessions of the superior court are held located.~~

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

The section is also amended to reflect the fact that court-related services may not be performed by the sheriff in all counties.

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

Gov't Code § 40230 (amended). Purpose of census

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

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

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

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

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

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

Comment. Section 68079 is amended to reflect the fact that every superior court has at least two judgeships as a result of trial court unification. See Section 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 Section 13 (plural includes singular).

The section is also amended to delete an obsolete provision regarding the use of private seals.

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

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

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

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

Gov't Code § 68108 (amended). Unpaid furlough days

SEC. _____. Section 68108 of the Government Code is amended to read:

68108. (a) To the extent that a Memorandum of Understanding for trial court employees designates certain days as unpaid furlough days for employees assigned to regular positions in the superior court, the court shall not be in session on those days except as ordered by the presiding judge ~~upon a finding by the presiding judge of a judicial emergency as defined in Chapter 1.1 (commencing with Section 68115)~~. On these furlough days, ~~although if the court clerk's office shall~~ *is* not be open to the public, each court shall permit documents to be filed at a drop box pursuant to subdivision (b), ~~and~~ . *If the court is not in session on a furlough day*, an appropriate judicial officer shall be available to conduct arraignments and examinations as required pursuant to Section 825 of the Penal Code, and to sign any necessary documents on an emergency basis.

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

Comment. Subdivision (a) of Section 68108 is amended to reflect the fact that furlough days might not affect all court employees and therefore might not require the cessation of court sessions.

Subdivision (a) is also amended to make clear that the reference to the “clerk’s office” means the court clerk’s office, not the county clerk’s office.

Gov’t Code § 68112 (repealed). Trial court coordination plans

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

~~68112. (a) On or before March 1, 1992, each superior and municipal court in each county, in consultation with the local bar, shall prepare and submit to the Judicial Council for review and approval a trial court coordination plan designed to achieve maximum utilization of judicial and other court resources and statewide cost reductions in court operations of at least 3 percent in the 1992-93 fiscal year, a further 2 percent in the 1993-94 fiscal year, and a further 2 percent in the 1994-95 fiscal year, as applicable. The cost reduction shall be based on the prior year actual expenditures, plus any amount reduced from the budget for court operations by a county as a result of any reduction in state funding made pursuant to Section 13308, increased by the percentage change in population for the prior calendar year and the Trade and Commerce Agency implicit price deflator for state and local government for the prior calendar year. The coordination plan for each court shall be reviewed and approved by the Judicial Council on or before July 1, 1992. Thereafter, commencing in 1995 and every two years thereafter, courts in each county shall prepare, in consultation with the local bar, and submit a trial court coordination plan to the Judicial Council on or before March 1, for review and~~

approval by July 1. The plans shall comply with rules promulgated by the Judicial Council and shall be designed to achieve maximum utilization of judicial and other resources to accomplish increased efficiency in court operations and increased service to the public. Any plan disapproved by the Judicial Council shall be revised and resubmitted within 60 days of notification of disapproval. The Judicial Council may by rule exempt courts from the requirement of filing a new coordination plan for any year if all courts in the county have (1) totally consolidated administrative functions under a single administrative entity, and (2) adopted and implemented a coordination plan in which all courts share each other's work so that cases in all of the county's courts are substantially assigned without regard to whether a judge is on the superior court or the municipal court, and which provides for procedures that implement that sharing of work.

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

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

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

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

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

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

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

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

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

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

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

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

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

Comment. Section 68112 is repealed to reflect:

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

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71620(a) (job classifications and

appointments), 71622 (subordinate judicial officers), 71640-71645 (employment selection and advancement).

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

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

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

Comment. Section 68112.5 is repealed to reflect:

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

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

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

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

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

~~The single presiding judge shall have all the powers and duties of the former presiding judges of each of the participating superior and municipal courts. The single~~

~~presiding judge may be empowered by the coordination plan to sit as the chair of any executive committee formed by the participating courts as part of their coordination plan.~~

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

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

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

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

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

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

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

~~68114.6. Notwithstanding any other provision of law, the superior and municipal court judges participating in a coordination plan approved pursuant to Section 68112 may appoint, if the coordination plan so provides, an executive officer to serve as the chief administrative officer of the~~

~~participating courts. The executive officer shall hold office at the pleasure of a majority vote of the judges from all of the participating courts sitting as a committee of the whole or as set forth in the coordination plan. The courts shall fix the qualifications of the executive officer. The salary of the executive officer shall be fixed by the participating courts and shall be paid by the county in which the executive officer serves. Each such position shall be exempt from civil service laws.~~

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

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

~~Any participating superior court having specific statutory authorization to appoint an executive or administrative officer~~

~~may elect to proceed under its specific authorization or under this section, but not under both.~~

Comment. Section 68114.6 is repealed to reflect:

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

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

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

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

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

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

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

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

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

Gov’t Code § 68620 (amended). Delay reduction program

SEC. _____. Section 68620 of the Government Code is amended to read:

68620. (a) Each superior court shall establish a delay reduction program for limited civil cases in consultation with

the local bar that is consistent with the provisions of this article. In its discretion, the Judicial Council may assist in the development of, or may develop and adopt, any or all procedures, standards, or policies for a delay reduction program for limited civil cases in superior courts on a statewide basis which are consistent with the provisions of the Trial Court Delay Reduction Act.

(b) Actions and proceedings subject to the provisions of Chapter 5.5 (commencing with Section 116.110) of Title 1 of Part 1 of the Code of Civil Procedure or provisions of Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure shall not be assigned to or governed by the provisions of any delay reduction program established pursuant to the section.

(c) It is the intent of the Legislature that the civil discovery in actions and proceedings subject to a program established pursuant to Article 2 (commencing with Section 90) of ~~Chapter 5~~ *Chapter 5.1* of Title 1 of Part 1 of the Code of Civil Procedure shall be governed by the times and procedures specified in that article. Civil discovery in these actions and proceedings shall not be affected by the provisions of any delay reduction program adopted pursuant to this section.

Comment. Subdivision (c) of Section 68620 is amended to correct the reference to former Chapter 5.

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

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

~~69595.5. Notwithstanding the provisions of Article 5 (commencing with Section 69740) of Chapter 5 of Title 8, in the County of San Diego, one or more judges of the superior court shall hold concurrent daily sessions in the City of Vista, two or more judges of the superior court shall hold concurrent daily sessions in the City of El Cajon, and one judge of the~~

~~superior court shall hold concurrent daily sessions within the former South Bay Municipal Court District.~~

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

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

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

Comment. Sections 69640-69650 are repealed to reflect:

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

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

Gov't Code § 69640 (added). Superior court districts in Los Angeles County

SEC. ____ . Article 4 (commencing with Section 69640) is added to Chapter 5 of Title 8 of the Government Code, to read:

Article 4. Superior Court Districts in Los Angeles County

69640. (a) The superior court in Los Angeles County may by local rule establish superior court districts within which one or more sessions of the court shall be held.

(b) The superior court districts established by county ordinance and in effect as of January 1, 2003, shall continue to be recognized as the superior court districts until the court enacts a local rule as provided in subdivision (a).

Comment. Section 69640 supersedes former Section 69641. It reflects enactment of the Trial Court Funding Act. See Section 77001 (local trial

court management). See also Section 69740(a) (number and location of trial court sessions).

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

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

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

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

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

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

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

(b) In appropriate circumstances, upon agreement of the presiding judges of the courts, and in the discretion of the court, the location of a session may be outside the county, except that the consent of the parties shall be necessary to the holding of a criminal jury trial outside the county. The venue of a case whose session is held outside the county pursuant to

this section shall be deemed to be the home county of the court in which the matter was filed. Nothing in this section shall provide a party with the right to seek a change of venue unless otherwise provided by statute. No party shall have any right to request the court to exercise its discretion under this section.

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

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

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

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

SEC. _____. Section 69741 of the Government Code is repealed.

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

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

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

~~The superior court shall hold regular sessions commencing on the first Mondays of January, April, July, and October, and special sessions at such other times as may be prescribed by the judges of the court, except that in the City and County of~~

~~San Francisco the presiding judge shall prescribe the times of holding such special sessions.~~

Comment. Section 69741 is repealed to reflect:

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

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

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

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

SEC. _____. Section 69742 of the Government Code is repealed.

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

Comment. Section 69742 is repealed to reflect:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. _____. Section 69747 of the Government Code is repealed.

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

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

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

SEC. _____. Section 69748 of the Government Code is repealed.

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

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

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

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

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

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

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

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

SEC. _____. Section 69748.1 of the Government Code is repealed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~The board of supervisors, under this section, may not terminate sessions of the superior court in any city in which sessions of the superior court were being held on or before January 1, 1957, in a county now having 1 million population or more which is contiguous to a county of 7 million~~

~~population or more and sessions of the superior court existing in any such county on or about January 1, 1970 are hereby reestablished if they have been terminated during 1970 and may not be terminated by the board of supervisors.~~

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

Gov't Code §§ 69790-69800 (repealed). Extra sessions

SEC. _____. Article 6 (commencing with Section 69790) of Chapter 5 of Title 8 of the Government Code is repealed.

Comment. Sections 69790-69800 are repealed to reflect:

(1) The fact that provisions regarding extra sessions are obsolete. Code of Civil Procedure Sections 74, 133, and 134 authorize superior courts to hold sessions at all times, unless specifically prohibited by law. See also Cal. Const. art. VI, § 6 (Chief Justice may assign judge to another court); Sections 68540.7 (compensation of assigned judge), 69508 (duties of presiding judge), 69741.5 (number of sessions equal to number of judges elected, appointed, or assigned); Code Civ. Proc. § 166 (authority of superior court judge); Cal. R. Ct. 6.603 (authority and duties of presiding judge).

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

(3) The fact that every superior court has at least two judgeships as a result of trial court unification. See Section 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 Section 13 (plural includes singular).

Gov't Code § 69841 (amended). Court clerk's attendance

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

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

Comment. Section 69841 is 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 Section 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 Section 13 (plural includes singular).

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

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

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

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

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

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

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

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

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

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

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

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

SEC. ____ . Section 69894.2 of the Government Code is repealed.

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

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

Comment. Section 69894.2 is repealed to reflect:

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

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

Gov’t Code § 69902.5 (repealed). Inclusion in retirement system

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

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

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

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

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

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

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

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

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

Comment. Sections 71340-71342 are repealed to reflect:

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

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

(3) Repeal of Section 68812.

Gov't Code § 71601 (amended). Definitions

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

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

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

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

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

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

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

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

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

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

(i) “Subordinate judicial officer” means an officer appointed to perform subordinate judicial duties as authorized by Section 22 of Article VI of the California Constitution, including, but not limited to, a court commissioner, probate commissioner, *child support commissioner*, referee, *traffic*

trial commissioner, traffic referee, juvenile *court* referee, *juvenile hearing officer*, and *temporary judge pro tempore*.

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

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

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

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

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

(m) A person is a “trial court employee” if and only if both paragraphs (1) and (2) of subdivision (l) are true irrespective of job classification or whether the functions performed by that person are identified in Rule 810 of the California Rules of Court. The phrase “trial court employee” includes those subordinate judicial officers who satisfy paragraphs (1) and (2) of subdivision (l). The phrase “trial court employee” does not include temporary employees hired through agencies, jurors, individuals hired by the trial court pursuant to an independent contractor agreement, individuals for whom the county or trial court reports income to the Internal Revenue

Service on a Form 1099 and does not withhold employment taxes, sheriffs, and judges whether elected or appointed. Any temporary employee, whether hired through an agency or not, shall not be employed in the trial court for a period exceeding 180 calendar days.

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

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

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

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

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

(b) The appointment *or termination* of a subordinate judicial officer shall be made by order *of the presiding judge or another judge or a committee to whom appointment or termination authority is delegated by the court*, entered in the minutes of the court.

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

(d) The presiding judge of a superior court may cross-assign one type of subordinate judicial officer to exercise all the

powers and perform all the duties authorized by law to be performed by another type of subordinate judicial officer, but only if the person cross-assigned satisfies the minimum qualifications and training requirements for the new assignment established by the Judicial Council pursuant to subdivision (c).

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

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

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

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

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

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

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

Comment. Section 73648 is repealed to reflect:

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

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

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

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

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

Comment. Section 74748 is repealed to reflect:

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

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

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

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

Comment. Sections 74920-74920.6 are repealed to reflect:

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

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

HARBORS AND NAVIGATION CODE

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

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

4042. (a) Each commissioner shall, within 20 days after receiving notice of appointment, qualify by taking and

subscribing the constitutional oath of office, and by executing and filing with the clerk of the county wherein the commissioner is appointed, a bond in a sum to be fixed by the board of supervisors which bond, when approved by the judge or judges of the superior court of the county, shall be recorded in the office of the county recorder, as other official bonds are recorded, at any time subsequent to 20 days after the appointment.

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

Comment. Subdivision (a) of Section 4042 is amended for consistency of terminology. See Code Civ. Proc. §§ 995.020 (applicability of chapter), 995.410 (approval of bond by court). The reference to “the judge” is also obsolete since 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).

PENAL CODE

Penal Code § 825 (amended). Appearance before magistrate

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

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

(2) When the 48 hours prescribed by paragraph (1) expire at a time when the court in which the magistrate is sitting is not in session, that time shall be extended to include the duration of the next regular court session on the judicial day immediately following. If the 48-hour period expires at a time when the court in which the magistrate is sitting is in session, the arraignment may take place at any time during that session. However, when the defendant’s arrest occurs on a Wednesday after the conclusion of the day’s regular court

session, and provided that the Wednesday is not a court holiday, the defendant shall be taken before the magistrate not later than the following Friday, provided that the Friday is not a court holiday.

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

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

Penal Code § 830.1 (amended). Peace officers

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

830.1. (a) Any sheriff, undersheriff, or deputy sheriff, employed in that capacity, of a county, any chief of police of a city or chief, director, or chief executive officer of a consolidated municipal public safety agency that performs police functions, any police officer, employed in that capacity and appointed by the chief of police or chief, director, or chief executive of a public safety agency, of a city, any chief of police, or police officer of a district, including police officers of the San Diego Unified Port District Harbor Police, authorized by statute to maintain a police department, any marshal or deputy marshal of a superior *court* or county ~~court~~, any port warden or special officer of the Harbor Department of the City of Los Angeles, or any inspector or investigator employed in that capacity in the office of a district attorney, is

a peace officer. The authority of these peace officers extends to any place in the state, as follows:

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

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

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

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

(c) Any deputy sheriff of the County of Los Angeles, and any deputy sheriff of the Counties of Kern, Humboldt, Imperial, Mendocino, Plumas, Riverside, San Diego, Santa Barbara, Siskiyou, Sonoma, Sutter, and Tehama who is employed to perform duties exclusively or initially relating to custodial assignments with responsibilities for maintaining the operations of county custodial facilities, including the custody, care, supervision, security, movement, and transportation of inmates, is a peace officer whose authority

extends to any place in the state only while engaged in the performance of the duties of his or her respective employment and for the purpose of carrying out the primary function of employment relating to his or her custodial assignments, or when performing other law enforcement duties directed by his or her employing agency during a local state of emergency.

Comment. Subdivision (a) of Section 830.1 is amended to make clear that a marshal or deputy marshal may be employed by a superior court or by a county. Marshals and deputy marshals who are court employees are subject to the provisions of the Trial Court Employment Protection and Governance Act. See, e.g., Gov't Code §§ 71601(*l*) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial court employees), 71620 (trial court personnel).

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

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

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

juvenile court referee or juvenile traffic hearing officer, before whom the person is required to appear by the notice.

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

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

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

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

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

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

896. (a) Immediately after such an order pursuant to Section 895 is made, the court shall select the grand jurors required by personal interview for the purpose of ascertaining

whether they possess the qualifications prescribed by subdivision (a) of Section 893. If a person so interviewed, in the opinion of the court, possesses such qualifications, in order ~~for his name~~ to be listed ~~he~~ *the person* shall sign a statement declaring that ~~he~~ *the person* will be available for jury service for the number of hours usually required of a member of the grand jury in that county.

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

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

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

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

900. On receiving the list of persons selected by the court, the ~~county clerk~~ *jury commissioner* shall file it in ~~his~~ *the jury commissioner's* office and have such list, which shall include the name of the judge who selected each person on the list, published one time in a newspaper of general circulation, as defined in Section 6000 of the Government Code, in the

county. The ~~county clerk~~ *jury commissioner* shall thereupon do either of the following:

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

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

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

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

Penal Code § 903 (repealed). Applicability of article

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

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

Comment. Section 903 is repealed to reflect:

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

(2) The repeal of Government Code Section 69893.

It should be noted that application of the article is not mandatory. See Sections 903.1 (judges may adopt written rules or instructions to guide jury commissioner), 903.4 (judges may select grand jurors without regard to list returned by jury commissioner); *People v. Goodspeed*, 22 Cal.

App. 3d 690, 701, 99 Cal. Rptr. 696 (1972) (provisions of Penal Code § 903 *et seq.* not mandatory).

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

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

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

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

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

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

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

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

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

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

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

Penal Code § 908.1 (amended). Filling of vacancies

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

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

Comment. Section 908.1 is amended to replace “clerk of the superior court” with “jury commissioner” for consistency with trial court funding principles. See Cal. R. Ct. 810(d), Function 2 (salaries, wages, and benefits of jury commissioner and jury services staff, including grand jury selection, allowable court operations costs). See also Cal. Standards

Jud. Admin. § 17(b) (list of qualified grand jury candidates prepared by jury commissioner).

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

Penal Code § 908.2 (amended). Staggered selection procedure

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

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

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

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

Comment. Subdivision (a) of Section 908.2 is amended to replace “clerk” with “jury commissioner” for consistency with trial court funding principles. See Cal. R. Ct. 810(d), Function 2 (salaries, wages, and benefits of jury commissioner and jury services staff, including grand

jury selection, allowable court operations costs). See also Cal. Standards Jud. Admin. § 17(b) (list of qualified grand jury candidates prepared by jury commissioner).

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

Penal Code § 1269b (amended). Bail

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

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

(b) If a defendant has appeared before a judge of the court on the charge contained in the complaint, indictment, or information, the bail shall be in the amount fixed by the judge at the time of the appearance; if that appearance has not been made, the bail shall be in the amount fixed in the warrant of arrest or, if no warrant of arrest has been issued, the amount of bail shall be pursuant to the uniform countywide schedule

of bail for the county in which the defendant is required to appear, previously fixed and approved as provided in subdivisions (c) and (d).

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

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

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

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

In considering offenses wherein a violation of Chapter 6 (commencing with Section 11350) of Division 10 of the Health and Safety Code is alleged, the judge shall assign an

additional amount of required bail for offenses involving large quantities of controlled substances.

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

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

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

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

shall transmit all of the money and surety bonds to the clerk of the court.

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

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

Subdivision (d) is added to permit each superior court to provide its own procedure for the preparation, adoption, and annual revision of a countywide schedule of bail by the judges. Where a court does not provide its own procedure, the schedule of bail is to be prepared, adopted, and annually revised by a majority of the judges of the court.

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

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

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

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

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

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

(b) The public member of the county board of parole commissioners or his or her alternate shall be entitled to his or her actual traveling and other necessary expenses incurred in the discharge of his or her duties. In addition, the public member or his or her alternate shall be entitled to per diem at any rate that may be provided by the board of supervisors. The public member or his or her alternate shall hold office for a term of one year and in no event for a period exceeding

three consecutive years. The term shall commence on the date of appointment.

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

PUBLIC UTILITIES CODE

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

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

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

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

STREETS AND HIGHWAYS CODE

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

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

30865. If the estimate of the board is not agreed to by the owner or keeper of the bridge or ferry, it shall be fixed by three commissioners, one to be appointed by the board, one by the owner and keeper, and the third by the *presiding* judge of the superior court, who shall hear testimony and fix the value and cost according to the facts, and report it to the board of supervisors under oath. In all estimates of the fair

cash value of the bridge or ferry the value of the franchise shall not be taken into consideration.

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

VEHICLE CODE

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

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

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

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

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

Veh. Code § 13105 (amended). Definitions

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

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

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

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

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

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

inclusive. For the purposes of this section, suspension or revocation shall be as follows:

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

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

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

(3) Except as provided in Section 13352.5, upon a conviction or finding of a violation of Section 23152 punishable under Section 23540, the privilege shall be suspended for two years. The privilege shall not be reinstated until the person gives proof of financial responsibility and gives proof satisfactory to the department of successful completion of a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code as described in Section 23542. For the purposes of this paragraph, enrollment, participation, and completion of an

approved program shall be subsequent to the date of the current violation. No credit shall be given to any program activities completed prior to the date of the current violation. The department shall advise the person that after completion of 12 months of the suspension period, the person may apply to the department for a restricted driver's license, subject to the following conditions:

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

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

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

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

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

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

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

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

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

(4) Except as provided in this paragraph, upon a conviction or finding of a violation of Section 23153 punishable under Section 23560, the privilege shall be revoked for a period of three years. The privilege shall not be reinstated until the

person gives proof of financial responsibility, and the person gives proof satisfactory to the department of successful completion of a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code as described in Section 23562. For the purposes of this paragraph, enrollment, participation, and completion of an approved program shall be subsequent to the date of the current violation. No credit shall be given to any program activities completed prior to the date of the current violation. The department shall advise the person that after the completion of 18 months of the revocation period, the person may apply to the department for a restricted driver's license, subject to the following conditions:

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

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

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

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

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

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

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

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

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

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

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

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

participation in the 30-month driving-under-the-influence program.

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

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

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

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

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

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

(6) Except as provided in this paragraph, upon a conviction or finding of a violation of Section 23153 punishable under Section 23566, the privilege shall be revoked for a period of five years. The privilege shall not be reinstated until the person gives proof of financial responsibility and proof satisfactory to the department of successful completion of one of the following programs: an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, or, if available in the county of the person’s residence or employment, a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, or a program specified in Section

8001 of the Penal Code. For the purposes of this paragraph, enrollment, participation, and completion of an approved program shall be subsequent to the date of the current violation. No credit shall be given to any program activities completed prior to the date of the current violation. The department shall advise the person that after the completion of 30 months of the revocation period, the person may apply to the department for a restricted driver's license, subject to the following conditions:

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

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

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

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

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

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

(E) Any individual convicted of a violation of Section 23153 punishable under Section 23566 may also, at any time after sentencing, petition the court for referral to an 18-month driving-under-the-influence program or, if available in the county of the person's residence or employment, a 30-month

program licensed pursuant to Section 11836 of the Health and Safety Code. Unless good cause is shown, the court shall order the referral.

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

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

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

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

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

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

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

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

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

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

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

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

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

(9) Upon a conviction or finding of a violation of subdivision (a) of Section 23109 punishable under subdivision (f) of that section, the privilege shall be

suspended for a period of six months, if the court orders the department to suspend the privilege. The privilege shall not be reinstated until the person gives proof of financial responsibility.

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

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

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

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

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

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

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

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

Veh. Code § 13352.3 (amended). Juvenile offender

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

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

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

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

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

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

13355. The department shall immediately suspend the privilege of any person to operate a motor vehicle upon receipt of a duly certified abstract of the record of any court showing that the person has been convicted of a violation of subdivision (b) of Section 22348, or upon a receipt of a report of a judge of a juvenile court, a juvenile traffic hearing officer, or a referee of a juvenile court showing that the person has been found to have committed a violation of subdivision (b) of Section 22348 under the following conditions and for the periods, as follows:

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

(b) Upon a conviction or finding of an offense under subdivision (b) of Section 22348 which occurred within five years of two or more prior offenses resulting in convictions of offenses under subdivision (b) of Section 22348, the privilege shall be suspended for a period of one year, or the privilege shall be restricted for one year to necessary travel to and from the person's place of employment and, if driving a motor

vehicle is necessary to perform the duties of the person's employment, restricted to driving within the person's scope of employment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

WELFARE AND INSTITUTIONS CODE

Welf. & Inst. Code § 247 (repealed). Juvenile court referees

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

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

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

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

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

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

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

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

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

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

(5) Order that the driving privileges of the minor be suspended or restricted as provided in the Vehicle Code or, notwithstanding Section 13203 of the Vehicle Code or any other provision of law, when the Vehicle Code does not

provide for the suspension or restriction of driving privileges, that, in addition to any other order, the driving privileges of the minor be suspended or restricted for a period of not to exceed 30 days.

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

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

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

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

(9) In the case of a misdemeanor, order that the minor participate in and complete a counseling or educational program, or, if the offense involved a violation of a controlled substance law, a drug treatment program, if those programs

are available. Any fees for participation shall be subject to the right to a hearing as the minor's ability to pay and shall not, together with any fine or restitution order, exceed the maximum amount that may be ordered pursuant to paragraph (3).

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

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

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

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

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

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

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

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

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

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

SEC. ____ . Section 654.1 of the Welfare and Institutions Code is amended to read:

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

(b) Nothing in this section shall be construed to prevent the probation officer from requesting the prosecuting attorney to file a petition to declare the minor a ward of the court under

Section 602 for a violation of Section 23140 or 23152 of the Vehicle Code. However, when in the judgment of the probation officer, the interest of the minor and the community can be protected by adjudication of a violation of Section 23140 or 23152 of the Vehicle Code in accordance with subdivision (a), the probation officer shall proceed under subdivision (a).

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