

TEXT OF COMMENTS TO SECTIONS AFFECTED BY  
2003 COMMISSION RECOMMENDATIONS: PART 1

**CLRC Staff Note.** This document, the first of two parts, sets out the text of Official Comments to three Commission-sponsored bills enacted in the 2003 legislative session — 2003 Cal. Stat. chs. 22, 32, and 149. The source for each Comment is given in the accompanying Table of Sections Affected by 2003 Commission Legislation: Part 1.

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## CODE OF CIVIL PROCEDURE

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

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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.

**Code Civ. Proc. § 1281.5 (amended). Application to stay pending arbitration**

**Comment.** Subdivision (a) of Section 1281.5 is amended to add an alternative to the requirement that an application for a stay be made when the action is filed. In lieu of preparing a separate application for a stay, the lien claimant may include appropriate allegations in the complaint.

Subdivision (b) is added to require the lien claimant to file a motion for a stay order within 30 days after service of the summons and complaint. This is generally consistent with case law, but provides concrete guidance implementing the “reasonable time” requirement recognized by the courts. See *Kaneko Ford Design v. Citipark, Inc.*, 202 Cal. App. 3d 1220, 1227, 249 Cal. Rptr. 544 (1988).

Subdivision (c) (former subdivision (b)) is amended to make technical changes.

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ELECTIONS CODE

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

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

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FAMILY CODE

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

**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).

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FINANCIAL CODE

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

**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 & GAME CODE

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

**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 & AGRICULTURAL CODE

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

**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

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

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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).

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**HARBORS & NAVIGATION CODE**

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

**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 judgeships).

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**PENAL CODE**

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

**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**

**Comment.** The reference to “superior or county court” in subdivision (a) of Section 830.1 is replaced by a reference to “superior court or county” 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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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**

**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 for bailable 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**

**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.

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PROBATE CODE

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**Prob. Code § 1004 (amended). Lis pendens**

**Comment.** Section 1004 is amended to reflect relocation of the lis pendens statutes from former Code of Civil Procedure Section 409 to Code of Civil Procedure Section 405 *et seq.* See 1992 Cal. Stat. ch. 883, §§ 1, 2.

**Prob. Code § 2356.5 (amended). Conservatee with dementia**

**Comment.** Section 2356.5 is amended to correct incorrect section references.

**Prob. Code § 3121 (amended). Petition**

**Comment.** Section 3121 is amended to implement Section 3100(b) (transaction involving separate property interest).

**Prob. Code § 3144 (amended). Court order**

**Comment.** Section 3144 is amended to implement Section 3100(b) (transaction involving separate property interest).

**Prob. Code § 6327 (amended). Appealable orders**

**Comment.** Subdivision (a) of Section 6327 is amended to reflect relocation of the estate administration appeals statutes from former Section 7240 to Section 1300 *et seq.* See 1997 Cal. Stat. ch. 724, §§ 11, 18.

Subdivision (c) is amended to reflect relocation of the trust appeals statute from former Section 17207 to Section 1304. See 1997 Cal. Stat. ch. 724, §§ 11, 29.

**Prob. Code § 8852 (amended). Inventory oath**

**Comment.** Section 8852 is amended to reflect relocation (from former Section 9860 *et seq.* to Section 850 *et seq.*) of the statutes relating to conveyance or transfer of property claimed to belong to the decedent or another person. See 2001 Cal. Stat. ch. 49, §§ 1, 4.

**Prob. Code § 9761 (amended). Partnership account**

**Comment.** Section 9761 is amended to reflect the repeal of former Corporations Code Section 15043 and its replacement by provisions of the Uniform Partnership Act of 1994 relating to winding up partnership business. See 1996 Cal. Stat. ch. 1003, §§ 1.2, 2.

**Prob. Code § 9884 (amended). Purchase of estate property**

**Comment.** Section 9884 is amended to reflect relocation (from former Section 9860 *et seq.* to Section 850 *et seq.*) of the statutes relating to conveyance or transfer of property claimed to belong to the decedent or another person. See 2001 Cal. Stat. ch. 49, §§ 1, 4.

**Prob. Code § 10151 (amended). Public auction sale contract**

**Comment.** Section 10151 is amended to reflect repeal of the Auctioneer and Auction Licensing Act (Bus. & Prof. Code § 5700 *et seq.*) and its replacement by the Auctioneer and Auction Companies law (Civ. Code § 1812.600 *et seq.*). See 1993 Cal. Stat. ch. 1170, §§ 1, 2.

**Prob. Code § 10534 (amended). Continuation of partnerships and businesses**

**Comment.** Section 10534 is amended to reflect repeal of the Uniform Partnership Act and its replacement by the Uniform Partnership Act of 1994. See 1996 Cal. Stat. ch. 1003, §§ 1.2, 2.

**Prob. Code § 11952 (amended). Hearing on petition**

**Comment.** Section 11952 is amended to reflect relocation (from former Section 9860 *et seq.* to Section 850 *et seq.*) of the statutes relating to conveyance or transfer of property claimed to belong to the decedent or another person. See 2001 Cal. Stat. ch. 49, §§ 1, 4.

**Prob. Code § 13601 (amended). Collection of salary or other compensation**

**Comment.** Section 13601 is amended to correct subdivision enumeration. It was incorrectly enumerated on enactment. See 1990 Cal. Stat. ch. 79, § 14.

**Prob. Code § 19054 (amended). When notice is excused**

**Comment.** Section 19054 is amended to correct an incorrect cross-reference. See Section 19154 (election to treat demand as claim).

**Prob. Code § 21401 (amended). Abatement**

**Comment.** Section 21401 is amended to reflect relocation of former Section 6562 to Section 21612 (via former Section 26112) (share of omitted spouse) and of former Section 6573 to Section 21623 (share of omitted child). See 1997 Cal. Stat. ch. 724, §§ 17, 34.

**Prob. Code § 21623 (amended). Share of omitted child**

**Comment.** Subdivision (a)(2) of Section 21623 is amended to make clear that it is the proportionate obligation of each beneficiary, rather than the total amount of the obligation, that is determined based on the date of death valuation. Thus for example if there are two beneficiaries entitled to receive property valued equally as of the date of death, the proportionate amount that will be taken from each is one-half the value of property distributed to each, regardless of the relative value of the property on the date of the distribution.

In a case where the share of the omitted child is partially satisfied pursuant to subdivision (a)(1), the obligation of the beneficiaries for the remainder abates proportionately. Thus if half the share of the omitted child is satisfied pursuant to subdivision (a)(1), the amount for which each of the beneficiaries is otherwise responsible pursuant to subdivision (a)(2) is reduced by half.

**Prob. Code § 26112 (renumbered and amended). Share of omitted spouse**

**Comment.** Former Section 26112 is renumbered as 21612. It was incorrectly numbered on enactment. See 1997 Cal. Stat. ch. 724, § 34.

Subdivision (a)(2) of Section 21612 is amended to make clear that it is the proportionate obligation of each beneficiary, rather than the total amount of the obligation, that is determined based on the date of death valuation. Thus for example if there are two beneficiaries entitled to receive property valued equally as of the date of death, the proportionate amount that will be taken from each is one-half the value of property distributed to each, regardless of the relative value of the property on the date of the distribution.

In a case where the share of the omitted spouse is partially satisfied pursuant to subdivision (a)(1), the obligation of the beneficiaries for the remainder abates proportionately. Thus if half the share of the omitted spouse is satisfied pursuant to subdivision (a)(1), the amount for which each of the beneficiaries is otherwise responsible pursuant to subdivision (a)(2) is reduced by half.

## PUBLIC UTILITIES CODE

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

**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 & HIGHWAYS CODE

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

**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

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

**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**

**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**

**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**

**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)**

**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**

**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**

**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**

**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.

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**WELFARE AND INSTITUTIONS CODE**

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

**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**

**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**

**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.