

AMENDED IN ASSEMBLY MARCH 27, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 223

Introduced by Assembly Member Frommer

February 13, 2001

An act to amend Sections 2026 and 2033.5 of the Code of Civil Procedure, ~~and~~ to amend Section 915 of the Evidence Code, *to amend Sections 15202, 68085, 68502.5, 77001, 77003, 77202, and 77212, to add Section 77214 to, and to repeal Sections 26835.1, 26838, 26850.1, 26851.1, 26853.1, and 68113 of, the Government Code, and to amend Sections 4750, 4751, and 4753 of the Penal Code, relating to civil procedure courts.*

LEGISLATIVE COUNSEL'S DIGEST

AB 223, as amended, Frommer. Evidence: depositions: forms: discovery.

Existing law provides that a party may obtain discovery by taking an oral deposition in another state of the United States, or in a territory or an insular possession subject to its jurisdiction. The deposition must be conducted under the supervision of a person authorized to administer oaths by the laws of the United States or before a person appointed by the court.

This bill would authorize the clerk of the court to issue a commission authorizing the deposition in another state or place. The commission would be issued to any party in any action pending in its venue without a noticed motion or court order. The commission would contain such terms as are required by the foreign jurisdiction to initiate the process. If a court order is required by the foreign jurisdiction, an order for a

commission would be authorized to be obtained by an ex parte application.

Existing law requires the Judicial Council to develop and approve official form interrogatories and requests for admission of the genuineness of any relevant documents or of the truth of any relevant matters of fact in any civil action in a state court based on personal injury, property damage, wrongful death, unlawful detainer, breach of contract, family law, or fraud.

This bill would instead authorize the Judicial Council to develop and approve official form interrogatories and requests for admission for use in any civil action in a state court.

Existing law generally provides that attorney work product is not discoverable unless the court determines the denial of discovery will unfairly prejudice the party seeking discovery, as specified. However, existing law also provides that any writing reflecting an attorney's impressions, conclusions, opinions, or legal research or theories is not discoverable under any circumstances. Existing law relating to the assertion of privilege provides that the presiding officer may not require disclosure of information claimed to be privileged in order to rule on the claim. However, if a court is unable to rule on the validity of the assertion of certain specified privileges without requiring disclosure, the court may require the disclosure of the information in chambers out of the presence and hearing of all persons except the person authorized to claim the protection and such other persons as the person authorized to claim the protection is willing to have present.

This bill would specify that a presiding officer may not require disclosure of attorney work product coming within the absolute prohibition in order to rule on a claim of privilege and would provide that other attorney work product may be disclosed pursuant to the above procedure in order to rule on such a claim.

Existing law provides that the Judicial Council shall establish by rule the Trial Court Budget Commission and may delegate certain budgetary activities and recommending authority to the Trial Court Budget Commission. Existing law also provides specific standards for the allocation determination made by the Judicial Council. Existing law requires that each trial court send a copy of its budget request to the board of supervisors, and provides that the board of supervisors may comment on the budget to the Trial Court Budget Commission.

This bill would remove the statutory authorization for the Trial Court Budget Commission and repeal the provision requiring the sending of



a copy of a trial court budget request to the board of supervisors. This bill would also provide that the Judicial Council may seek input regarding budgetary activities as it deems appropriate, and expressly permit the consideration of other issues when making allocation determinations. This bill would repeal the statute requiring that each trial court send a copy of its budget request to the board of supervisors, and authorizing the board of supervisors to comment on the budget to the Trial Court Budget Commission.

Existing law contains a variety of provisions for coordinated courts.

This bill would eliminate provisions involving coordinated courts.

Existing law provides for the payment to the counties by the state for the costs, including court costs, for homicide trials in small counties.

This bill would amend the provisions involving homicide trials to include court-related costs to be divided between the county and the court, as specified.

Existing law provides for the payment to the counties by the state for the costs, including court costs, for trials involving inmates in state penal institutions.

This bill would amend the provisions involving inmate offenses by providing that the superior courts may be compensated directly by the state for court-related costs.

Existing law requires the payment of specified fees for document authentication, filing a motion prior to the filing of the record on appeal, filing and indexing papers for which a charge is not otherwise provided, recording, registering, or issuing any license or certificate, and taking an affidavit.

This bill would repeal the statutes requiring these fees.

Existing law establishes the Trial Court Trust Fund which is funded by fees charged by the court.

This bill would remove certain fees charged by the court from those used to fund the Trial Court Trust Fund.

This bill would authorize the Administrative Office of the Courts to offer services to the courts and, if the Judicial Council directs, require the courts to use these services.

This bill would expressly authorize the Judicial Council to restrict or prohibit a trial court from transferring money from one program to another.

This bill would also require that any specified costs, charged to the courts by the counties, be expressly stated and contain only items of court operations.



Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2026 of the Code of Civil Procedure is
2 amended to read:

3 2026. (a) Any party may obtain discovery by taking an oral
4 deposition, as described in subdivision (a) of Section 2025, in
5 another state of the United States, or in a territory or an insular
6 possession subject to its jurisdiction. Except as modified in this
7 section, the procedures for taking oral depositions in California set
8 forth in Section 2025 apply to an oral deposition taken in another
9 state of the United States, or in a territory or an insular possession
10 subject to its jurisdiction.

11 (b) (1) If a deponent is a party to the action or an officer,
12 director, managing agent, or employee of a party, the service of the
13 deposition notice is effective to compel that deponent to attend and
14 to testify, as well as to produce any document or tangible thing for
15 inspection and copying. The deposition notice shall specify a place
16 in the state, territory, or insular possession of the United States that
17 is within 75 miles of the residence or a business office of a
18 deponent.

19 (2) If the deponent is not a party to the action or an officer,
20 director, managing agent, or employee of a party, a party serving
21 a deposition notice under this section shall use any process and
22 procedures required and available under the laws of the state,
23 territory, or insular possession where the deposition is to be taken
24 to compel the deponent to attend and to testify, as well as to
25 produce any document or tangible thing for inspection, copying,
26 and any related activity.

27 (c) A deposition taken under this section shall be conducted (1)
28 under the supervision of a person who is authorized to administer
29 oaths by the laws of the United States or those of the place where
30 the examination is to be held, and who is not otherwise disqualified
31 under subdivision (k) and subparagraph (B) of paragraph (2) of
32 subdivision (l) of Section 2025, or (2) before a person appointed
33 by the court. This appointment is effective to authorize that person
34 to administer oaths and to take testimony. On request, the clerk of
35 the court shall issue a commission authorizing the deposition in



1 another state or place. The commission shall request that process
2 issue in the place where the examination is to be held, requiring
3 attendance and enforcing the obligations of the deponents to
4 produce documents and answer questions. The commission shall
5 be issued by the clerk to any party in any action pending in its
6 venue without a noticed motion or court order. The commission
7 may contain such terms as are required by the foreign jurisdiction
8 to initiate the process. If a court order is required by the foreign
9 jurisdiction, an order for a commission may be obtained by ex
10 parte application.

11 SEC. 2. Section 2033.5 of the Code of Civil Procedure is
12 amended to read:

13 2033.5. (a) The Judicial Council may develop and approve
14 official form interrogatories and requests for admission of the
15 genuineness of any relevant documents or of the truth of any
16 relevant matters of fact for use in any civil action in a state court.
17 Use of the approved form interrogatories and requests for
18 admission shall be optional.

19 (b) In developing the form interrogatories and requests for
20 admission required by this section, the Judicial Council shall
21 consult with a representative advisory committee which shall
22 include, but not be limited to, representatives of the plaintiff's bar,
23 the defense bar, the public interest bar, court administrators, and
24 the public. The form interrogatories and requests for admission
25 shall be drafted in nontechnical language and shall be made
26 available through the office of the clerk of the appropriate trial
27 court.

28 (c) The Judicial Council also shall promulgate any necessary
29 rules to govern the use of the form interrogatories and requests for
30 admission.

31 (d) The Judicial Council shall develop and approve official
32 form interrogatories for use by a victim who has not received
33 complete payment of a restitution order made pursuant to Section
34 1202.4 of the Penal Code.

35 (e) Notwithstanding whether a victim initiates or maintains an
36 action to satisfy the unpaid restitution order, a victim may
37 propound the form interrogatories approved pursuant to this
38 section once each calendar year. The defendant subject to the
39 restitution order shall, in responding to the interrogatories
40 propounded, provide current information regarding the nature,



1 extent, and location of any assets, income, and liabilities in which
2 the defendant claims a present or future interest.

3 (f) This section shall become operative on January 1, 2000.

4 SEC. 3. Section 915 of the Evidence Code is amended to read:

5 915. (a) Subject to subdivision (b), the presiding officer may
6 not require disclosure of information claimed to be privileged
7 under this division or attorney work product under subdivision (c)
8 of Section 2018 of the Code of Civil Procedure in order to rule on
9 the claim of privilege; provided, however, that in any hearing
10 conducted pursuant to subdivision (c) of Section 1524 of the Penal
11 Code in which a claim of privilege is made and the court
12 determines that there is no other feasible means to rule on the
13 validity of such claim other than to require disclosure, the court
14 shall proceed in accordance with subdivision (b).

15 (b) When a court is ruling on a claim of privilege under Article
16 9 (commencing with Section 1040) of Chapter 4 (official
17 information and identity of informer) or under Section 1060 (trade
18 secret) or under subdivision (b) of Section 2018 of the Code of
19 Civil Procedure (attorney work product) and is unable to do so
20 without requiring disclosure of the information claimed to be
21 privileged, the court may require the person from whom disclosure
22 is sought or the person authorized to claim the privilege, or both,
23 to disclose the information in chambers out of the presence and
24 hearing of all persons except the person authorized to claim the
25 privilege and such other persons as the person authorized to claim
26 the privilege is willing to have present. If the judge determines that
27 the information is privileged, neither he nor any other person may
28 ever disclose, without the consent of a person authorized to permit
29 disclosure, what was disclosed in the course of the proceedings in
30 chambers.

31 SEC. 4. *Section 15202 of the Government Code, as added by*
32 *Section 12 of Chapter 127 of the Statutes of 2000, is amended to*
33 *read:*

34 15202. (a) A county with a population of 300,000 or less, at
35 the time of the 1980 decennial census, that is responsible for the
36 cost of a trial or trials or any hearing of a person for the offense of
37 homicide may apply to the Controller for reimbursement of 90
38 percent of the costs incurred by the county for each homicide trial
39 or hearing, without regard to fiscal years, in excess of the amount
40 of money derived by the county from a tax of 0.00625 of 1 percent



1 of the full value of property assessed for purposes of taxation
2 within the county.

3 (b) (1) A county with a population of 200,000 or less, as of
4 January 1, 1990, that is responsible for the cost of two or more
5 trials or hearings within a fiscal year of a person or persons for the
6 offense of homicide may apply to the Controller for
7 reimbursement of 90 percent of the costs incurred in a fiscal year
8 by the county for the conduct of the first trial within a fiscal year,
9 and 85 percent of the costs incurred in a fiscal year by the county
10 for the conduct of any and all subsequent trials or hearings in
11 excess of the amount of money derived by the county from a tax
12 of 0.00625 of 1 percent of the full value of property assessed for
13 purposes of taxation within the county.

14 (2) A county with a population of 200,000 or less, as of January
15 1, 1990, that, within a fiscal year, is reimbursed for costs incurred
16 by the county for the conduct of only one trial or hearing pursuant
17 to subdivision (a) shall be reimbursed for that one trial or hearing
18 in subsequent fiscal years for costs incurred in those subsequent
19 fiscal years without again being required to expend county funds
20 equal to 0.00625 of 1 percent of the full value of property assessed
21 for purposes of taxation within the county, so long as all
22 reimbursements to the county under this paragraph are for only
23 that one trial or hearing.

24 For purposes of this subdivision, in determining the costs of a
25 homicide trial, trials, hearing, or hearings, the costs shall include,
26 all pretrial, trial, and posttrial costs incurred in connection with the
27 investigation, prosecution, and defense of a homicide case or cases
28 within a fiscal year, including, but not limited to, the costs incurred
29 by the district attorney, sheriff, public defender, and witnesses, that
30 were reasonably required by the court and participants in the case
31 or cases, and other extraordinary costs associated with the
32 investigation in homicide cases.

33 (c) A county with a population exceeding 300,000 at the time
34 of the 1980 decennial census that is responsible for the cost of a
35 trial or trials or any hearing of a person for the offense of homicide
36 may apply to the Controller for reimbursement of 80 percent of the
37 costs incurred by the county in excess of the amount of money
38 derived by the county from a tax of 0.00625 of 1 percent, and not
39 in excess of the amount of money derived from a tax of 0.0125 of
40 1 percent, and for reimbursement of 100 percent of the costs



1 incurred in excess of the amount of money derived from a tax of
2 0.0125 percent, of the full value of property assessed for purposes
3 of taxation within the county.

4 (d) A county that is eligible for reimbursement under
5 subdivision (a), (b), or (c) shall be reimbursed for the total actual
6 costs incurred for a homicide trial in excess of the amount of
7 money derived by the county from a tax of 0.0125 of 1 percent of
8 the full value of property assessed for purposes of taxation within
9 the county, when the cost of a trial, as defined in subdivision (a),
10 (b), or (c), exceeds 0.0125 of 1 percent of the full value of property
11 assessed for purposes of taxation within the county.

12 (e) The Controller shall not reimburse any county for costs that
13 exceed the standards for travel and per diem expenses set forth in
14 Sections 700 to 715, inclusive, and Section 718 of Title 2 of the
15 California Code of Regulations. The Controller may reimburse
16 extraordinary costs in unusual cases if the county provides
17 sufficient justification of the need for these expenditures. Nothing
18 in this section shall permit the reimbursement of costs for travel in
19 excess of 1,000 miles on any single round trip, without the prior
20 approval of the Attorney General.

21 (f) The Legislature recognizes that the conduct of trials for
22 persons accused of homicide should not be hampered or delayed
23 because of a lack of funds available to the counties for that
24 purpose. While this section is intended to provide an equitable
25 basis for determining the allocation to the state of the costs of
26 homicide trials in any particular county, the rising costs of those
27 trials necessitate an objective study to assure reasonable financial
28 restraints and incentives for cost effectiveness that do not place an
29 unreasonable burden on the treasury of the smaller counties.

30 (g) *For purposes of this section, county costs include any*
31 *court-related costs. The county shall ask the superior court how*
32 *much court-related costs were incurred by the court and shall*
33 *include these costs in its application. The amount of any*
34 *reimbursement shall be divided between the court and the county*
35 *in the proportion in which the total costs in the application are*
36 *divided between the court and the county.*

37 (h) This section shall remain operative only until January 1,
38 2005, and as of that date is repealed.



1 SEC. 5. Section 15202 of the Government Code, as added by
2 Section 11 of Chapter 127 of the Statutes of 2000, is amended to
3 read:

4 15202. A county which is responsible for the cost of a trial or
5 trials or any hearing of a person for the offense of homicide may
6 apply to the Controller for reimbursement of the costs incurred by
7 the county in excess of the amount of money derived by the county
8 from a tax of 0.0125 of 1 percent of the full value of property
9 assessed for purposes of taxation within the county.

10 The Controller shall not reimburse any county for costs that
11 exceed the State Board of Control’s standards for travel and per
12 diem expenses. The Controller may reimburse extraordinary costs
13 in unusual cases if the county provides sufficient justification of
14 the need for these expenditures. Nothing in this section shall
15 permit the reimbursement of costs for travel in excess of 1,000
16 miles on any single round trip, without the prior approval of the
17 Attorney General.

18 *For purposes of this section, county costs include any*
19 *court-related costs. The county shall ask the superior court how*
20 *much court-related costs were incurred by the court and shall*
21 *include these costs in its application. The amount of any*
22 *reimbursement shall be divided between the court and the county*
23 *in the proportion in which the total costs in the application are*
24 *divided between the court and the county.*

25 This section shall become operative on January 1, 2005.

26 SEC. 6. Section 26835.1 of the Government Code is repealed.

27 ~~26835.1. (a) The clerk of the court shall collect a fee of six~~
28 ~~dollars (\$6) per signature for any document that is required to be~~
29 ~~authenticated pursuant to court order.~~

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

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

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

39 SEC. 7. Section 26838 of the Government Code is repealed.



1 ~~26838. The fee for a certificate required by courts of appeal~~
 2 ~~or the Supreme Court on filing a notice of motion prior to the filing~~
 3 ~~of the record on appeal in the reviewing court is twenty-three~~
 4 ~~dollars (\$23). Notwithstanding Section 68085, fourteen dollars~~
 5 ~~(\$14) of the fee authorized in this section shall be deposited in the~~
 6 ~~county general fund for use as county general fund revenue.~~

7 *SEC. 8. Section 26850.1 of the Government Code is repealed.*

8 ~~26850.1. For filing and indexing all papers for which a charge~~
 9 ~~is not elsewhere provided, other than papers filed in actions or~~
 10 ~~special proceedings, official bonds, or certificates of appointment,~~
 11 ~~the fee is six dollars (\$6). Notwithstanding Section 68085, two~~
 12 ~~dollars and twenty-five cents (\$2.25) of the fee authorized in this~~
 13 ~~section shall be deposited in the county general fund for use as~~
 14 ~~county general fund revenue.~~

15 *SEC. 9. Section 26851.1 of the Government Code is repealed.*

16 ~~26851.1. For either recording or registering any license or~~
 17 ~~certificate or issuing any certificate, or both, in connection with a~~
 18 ~~license, required by law for which a charge is not otherwise~~
 19 ~~prescribed, the fee is six dollars (\$6). Notwithstanding Section~~
 20 ~~68085, two dollars and twenty-five cents (\$2.25) of the fee~~
 21 ~~authorized in this section shall be deposited in the county general~~
 22 ~~fund for use as county general fund revenue.~~

23 *SEC. 10. Section 26853.1 of the Government Code is*
 24 *repealed.*

25 ~~26853.1. The fee for taking an affidavit, except in criminal~~
 26 ~~cases or adoption proceedings, is six dollars (\$6). Notwithstanding~~
 27 ~~Section 68085, two dollars and twenty-five cents (\$2.25) of the fee~~
 28 ~~authorized in this section shall be deposited in the county general~~
 29 ~~fund for use as county general fund revenue.~~

30 *SEC. 11. Section 68085 of the Government Code is amended*
 31 *to read:*

32 68085. (a) (1) There is hereby established the Trial Court
 33 Trust Fund, the proceeds of which shall be apportioned at least
 34 quarterly for the purpose of funding trial court operations, as
 35 defined in Section 77003. In no event shall apportionment
 36 payments exceed 30 percent of the total annual apportionment to
 37 the Trial Court Trust Fund for state trial court funding in any
 38 90-day period.

39 (2) The apportionment payments shall be made by the
 40 Controller. For fiscal year 1997-98, the Controller shall make the



1 first apportionment payment within 10 days of the operative date
2 of this section. The final payment from the Trial Court Trust Fund
3 for each fiscal year shall be made on or before August 31 of the
4 subsequent fiscal year.

5 (3) If apportionment payments are made on a quarterly basis,
6 the payments shall be on July 15, October 15, January 15, and
7 April 15. In addition to quarterly payments, a final payment from
8 the Trial Court Trust Fund for each fiscal year may be made on or
9 before August 31 of the subsequent fiscal year.

10 (b) Notwithstanding any other provision of law, the fees listed
11 in subdivision (c) shall all be deposited upon collection in a special
12 account in the county treasury, and transmitted herefrom monthly
13 to the Controller for deposit in the Trial Court Trust Fund.

14 (c) (1) Except as specified in subdivision (d), this section
15 applies to all fees collected pursuant to Sections 631.3 and 116.230
16 of the Code of Civil Procedure and Sections 26820.4, 26823,
17 26826, 26826.01, 26827, 26827.4, 26830, 26832.1, 26833.1,
18 ~~26835.1~~, 26836.1, 26837.1, ~~26838~~, ~~26850.1~~, ~~26851.1~~, 26852.1,
19 ~~26853.1~~, 26855.4, 26862, 27081.5, 68086, 72055, 72056,
20 72056.01, and 72060.

21 (2) If any of the fees provided for in this subdivision are
22 partially waived by court order, and the fee is to be divided
23 between the Trial Court Trust Fund and any other fund, the amount
24 of the partial waiver shall be deducted from the amount to be
25 distributed to each fund in the same proportion as the amount of
26 each distribution bears to the total amount of the fee.

27 (3) Any amounts transmitted by a county to the Controller for
28 deposit into the Trial Court Trust Fund from fees collected
29 pursuant to Section 27361 between January 1, 1998, and the
30 effective date of this paragraph shall be credited against the total
31 amount the county is required to pay to the state pursuant to
32 paragraph (2) of subdivision (b) of Section 77201 for the 1997–98
33 fiscal year.

34 (d) This section does not apply to that portion of a filing fee
35 collected pursuant to Section 26820.4, 26826, 26827, 72055, or
36 72056 which is allocated for dispute resolution pursuant to Section
37 470.3 of the Business and Professions Code, the county law library
38 pursuant to Section 6320 of the Business and Professions Code, the
39 Judges' Retirement Fund pursuant to Section 26822.3, automated
40 recordkeeping or conversion to micrographics pursuant to



1 Sections 26863 and 68090.7, and courthouse financing pursuant
2 to Section 76238. This section also does not apply to fees collected
3 pursuant to subdivisions (a) and (c) of Section 27361.

4 (e) This section applies to all payments required to be made to
5 the State Treasury by any county or city and county pursuant to
6 Section 77201, 77201.1, or 77205.

7 (f) Notwithstanding any other provision of law, no agency shall
8 take action to change the amounts allocated to any of the above
9 funds.

10 (g) Before making any apportionments under this section, the
11 Controller shall deduct, from the annual appropriation for that
12 purpose, the actual administrative costs that will be incurred under
13 this section. Costs reimbursed under this section shall be
14 determined on an annual basis in consultation with the Judicial
15 Council.

16 (h) Any amounts required to be transmitted by a county or city
17 and county to the state pursuant to this section shall be remitted to
18 the Controller no later than 45 days after the end of the month in
19 which the fees were collected. This remittance shall be
20 accompanied by a remittance advice identifying the collection
21 month and the appropriate account in the Trial Court Trust Fund
22 to which it is to be deposited. Any remittance which is not made
23 by the county or city and county in accordance with this section
24 shall be considered delinquent, and subject to the penalties
25 specified in this section.

26 (i) Upon receipt of any delinquent payment required pursuant
27 to this section, the Controller shall calculate a penalty on any
28 delinquent payment by multiplying the amount of the delinquent
29 payment at a daily rate equivalent to $1\frac{1}{2}$ percent per month for the
30 number of days the payment is delinquent. Notwithstanding
31 Section 77009, any penalty on a delinquent payment that a court
32 is required to reimburse to a county's general fund pursuant to this
33 section and Section 24353 shall be paid from the Trial Court
34 Operations Fund for that court.

35 (j) Penalty amounts calculated pursuant to subdivision (i) shall
36 be paid by the county to the Trial Court Trust Fund no later than
37 45 days after the end of the month in which the penalty was
38 calculated.

39 (k) The Trial Court Trust Fund shall be invested in the Surplus
40 Money Investment Fund and all interest earned shall be allocated



1 to the Trial Court Trust Fund semiannually and shall be allocated
2 among the courts in accordance with the requirements of
3 subdivision (a). The specific allocations shall be specified by the
4 Judicial Council, based upon recommendations from the Trial
5 Court Budget Commission.

6 (l) It is the intent of the Legislature that the revenues required
7 to be deposited into the Trial Court Trust Fund be remitted as soon
8 after collection by the courts as possible. Not later than February
9 1, 2001, the Judicial Council, in consultation with the California
10 State Association of Counties and the California County Auditors
11 Association, shall study and make recommendations to the
12 Legislature on alternative procedures that would improve the
13 collection and remittance of revenues to the Trial Court Trust
14 Fund.

15 *SEC. 12. Section 68113 of the Government Code is repealed.*

16 ~~68113. (a) The superior and municipal courts in each county~~
17 ~~shall submit a report to the Judicial Council on progress towards~~
18 ~~achieving the cost reduction goals associated with the coordination~~
19 ~~plans and factors impacting the cost of court operations and the~~
20 ~~collection of revenues. The reports shall be submitted quarterly on~~
21 ~~or before the first day of the third month following the end of the~~
22 ~~quarter, except the fourth-quarter report shall be submitted on the~~
23 ~~first day of the fourth month following the end of the fourth~~
24 ~~quarter.~~

25 ~~(b) For purposes of the reporting requirements of this section,~~
26 ~~a court or courts in a county may petition the Judicial Council to~~
27 ~~permit division of the court or courts into smaller administrative~~
28 ~~units corresponding to the organization of the court or courts under~~
29 ~~a coordination plan where reporting courtwide would impose an~~
30 ~~undue burden because of the number of judges or the physical~~
31 ~~location of the divisions of the court or courts.~~

32 ~~(c) On or before March 1 of each year, the Judicial Council~~
33 ~~shall provide an annual report to the Legislature regarding those~~
34 ~~counties which have both municipal and superior courts, on their~~
35 ~~progress in achieving effective and efficient trial court operations,~~
36 ~~including implementation of coordination as required by law,~~
37 ~~regarding court revenues and expenditures, and regarding any~~
38 ~~factors impacting the cost of court operations or the collection of~~
39 ~~court revenues.~~



1 ~~(d) The Judicial Council shall establish a process to assess the~~
2 ~~effectiveness and efficiency of those trial court systems that have~~
3 ~~unified pursuant to subdivision (e) of Section 5 of Article VI of the~~
4 ~~California Constitution.~~

5 *SEC. 13. Section 68502.5 of the Government Code is*
6 *amended to read:*

7 68502.5. (a) The Judicial Council ~~shall provide by rule for~~
8 ~~the appointment of a standing Trial Court Budget Commission and~~
9 ~~the deadlines for meeting its various responsibilities. The~~
10 ~~commission's duties and responsibilities shall be limited to those~~
11 ~~specified in rules of court adopted by the Judicial Council,~~
12 ~~including, but may, as part of its trial court budget process, seek~~
13 ~~input from groups and individuals as it deems appropriate~~
14 ~~including, but not limited to, advisory committees and the~~
15 ~~Administrative Director of the Courts. The trial court budget~~
16 ~~process may include, but is not limited to, the following:~~

17 (1) ~~Receive~~ *The receipt of* budget requests from the trial courts.
18 ~~Trial courts shall send to the county board of supervisors a copy~~
19 ~~of their proposed budgets and any revisions or appeals at the time~~
20 ~~their budget requests are submitted to the Trial Court Budget~~
21 ~~Commission, pursuant to this section. The counties may submit~~
22 ~~timely comments to the commission regarding the contents of the~~
23 ~~proposed budgets of their respective trial courts. The commission~~
24 ~~shall consider the counties' comments when determining~~
25 ~~appropriate budgets for the courts.~~

26 (2) ~~Review~~ *The review of* the trial courts' budget requests and
27 evaluate them against performance criteria established by the
28 Judicial Council by which a court's performance, level of
29 coordination, and efficiency can be measured.

30 (3) ~~Annually recommend to the Judicial Council for its~~
31 ~~approval~~ *The annual adoption of* the projected cost in the
32 subsequent fiscal year of court operations as defined in Section
33 77003 for each trial court. This estimation shall serve as ~~the a~~ basis
34 for recommended court budgets, which shall be developed
35 ~~programmatically by court function, as approved by the Judicial~~
36 ~~Council, for comparison purposes and to delineate the funding~~
37 ~~responsibilities.~~

38 (4) ~~Annually prepare~~ *The annual approval of a recommended*
39 ~~schedule for the allocation of moneys to individual courts and a~~
40 ~~recommended an overall trial court budget for approval by the~~



1 ~~Judicial Council and~~ forwarding to the Governor for inclusion in
2 the Governor's proposed State Budget. The ~~recommended~~
3 schedule shall be based on the performance criteria established
4 pursuant to paragraph (2) ~~and~~, on a minimum standard established
5 by the Judicial Council for the operation and staffing of all trial
6 court operations, *and on such other factors as determined by the*
7 *Judicial Council*. This minimum standard shall be modeled on
8 court operations using all reasonable and available measures to
9 increase court efficiency ~~and coordination~~. The schedule of
10 allocations shall assure that all trial courts receive funding for the
11 minimum operating and staffing standards before funding
12 operating and staffing requests above the minimum standards, and
13 shall include incentives and rewards for any trial court's
14 implementation of efficiencies and cost saving measures.

15 (5) ~~Recommend reallocation of~~ *The reallocation of funds in*
16 ~~accordance with Judicial Council rules~~ during the course of the
17 fiscal year to ensure equal access to the trial courts by the public,
18 to improve trial court operations, and to meet trial court
19 emergencies. ~~Recommended reallocations shall be limited to 15~~
20 ~~percent of that portion of any court's annual budget amount funded~~
21 ~~by the state.~~ Neither the state nor the counties shall have any
22 obligation to replace moneys appropriated for trial courts and
23 reallocated pursuant to this paragraph.

24 (6) ~~Recommend allocation~~ *The allocation of funds in the Trial*
25 *Court Improvement Fund in accordance with Judicial Council*
26 ~~rules~~ to ensure equal access to trial courts by the public, to improve
27 trial court operations, and to meet trial court emergencies.

28 (7) Upon approval of the trial courts' budget by the Legislature,
29 ~~prepare the preparation~~ during the course of the fiscal year
30 ~~recommended~~ of allocation schedules for payments to the trial
31 courts, consistent with Section 68085, which, ~~upon approval or~~
32 ~~modification by the Judicial Council~~, shall be submitted to the
33 Controller's office by the 10th day of the month in which payments
34 are to be made.

35 (8) ~~Establish~~ *The establishment of rules, pursuant to the*
36 ~~authority of the Judicial Council~~, regarding a court's authority to
37 transfer trial court funding moneys from one functional category
38 to another in order to address needs in any functional category.

39 (9) At the request of the presiding judge of a trial court, ~~conduct~~
40 an independent review of the funding level of the court to



1 determine whether it is adequate to enable the court to discharge
2 its statutory and constitutional responsibilities.

3 (10) From time to time, *a review of the level of fees charged by*
4 *the courts for various services and prepare recommended*
5 *adjustments for approval and forwarding to the Legislature by the*
6 ~~Judicial Council.~~

7 ~~(11) Perform other activities as requested by the Judicial~~
8 ~~Council. Provisions set forth in rules adopted pursuant to Section~~
9 ~~77206 of the Government Code.~~

10 (b) ~~The Judicial Council may take action on any matter~~
11 ~~specified in subdivision (a) whether or not the commission has~~
12 ~~taken any action on that matter.~~ The Judicial Council shall retain
13 the ultimate responsibility to adopt a budget and allocate funding
14 for the trial courts *and perform the other activities listed in*
15 *subdivision (a) that best assures assure* their ability to carry out
16 their functions, ~~promotes~~ *promote* implementation of statewide
17 policies, and ~~promotes~~ *promote* the immediate implementation of
18 efficiencies and cost savings measures in court operations, in order
19 to guarantee equal access to the courts.

20 ~~(c) Members of the commission shall receive no compensation~~
21 ~~from the state for their services. When called into session, they~~
22 ~~shall receive their actual and necessary expenses for travel, board,~~
23 ~~and lodging, which shall be paid from the funds appropriated for~~
24 ~~this use. These expenses shall be appropriated in the manner as the~~
25 ~~Judicial Council directs, and shall be audited by the Controller in~~
26 ~~accordance with the rules of the State Board of Control.~~

27 *SEC. 14. Section 77001 of the Government Code is amended*
28 *to read:*

29 *77001. On or before July 1, 1998, the The Judicial Council*
30 *shall promulgate adopt rules which establish a decentralized*
31 *system of trial court management. These rules shall ensure:*

32 (a) Local authority and responsibility of trial courts to manage
33 day-to-day operations.

34 (b) Countywide administration of the trial courts.

35 (c) The authority and responsibility of trial courts to manage all
36 of the following, consistent with statute, rules of court, and
37 standards of judicial administration:

38 (1) Annual allocation of funding, including ~~the authority to~~
39 ~~move policies and procedures about moving~~ funding between
40 functions or line items *or programs.*



1 (2) Local personnel systems, including the promulgation of
2 personnel policies.

3 (3) Processes and procedures to improve court operations and
4 responsiveness to the public.

5 (4) The trial courts of each county shall establish the means of
6 selecting presiding judges, assistant presiding judges, executive
7 officers or court administrators, clerks of court, and jury
8 commissioners.

9 (d) Trial court input into the Judicial Council budget process.

10 (e) Equal access to justice throughout California utilizing
11 standard practices and procedures whenever feasible.

12 *SEC. 15. Section 77003 of the Government Code is amended*
13 *to read:*

14 77003. (a) As used in this chapter, “court operations” means
15 all of the following:

16 (1) Salaries, benefits, and public agency retirement
17 contributions for superior and municipal court judges and for
18 subordinate judicial officers. For purposes of this paragraph,
19 “subordinate judicial officers” includes all commissioner or
20 referee positions created prior to July 1, 1997, including positions
21 created in the municipal court prior to July 1, 1997, which
22 thereafter became positions in the superior court as a result of
23 unification of the municipal and superior courts in a county, and
24 including those commissioner positions created pursuant to
25 Sections 69904, 70141, 70141.9, 70142.11, 72607, 73794,
26 74841.5, and 74908; and includes any staff who provide direct
27 support to commissioners; but does not include commissioners or
28 staff who provide direct support to the commissioners whose
29 positions were created after July 1, 1997, unless approved by the
30 Judicial Council, subject to availability of funding.

31 (2) The salary, benefits, and public agency retirement
32 contributions for other court staff including all municipal court
33 staff positions specifically prescribed by statute.

34 (3) Those marshals and sheriffs as the court deems necessary
35 for court operations.

36 (4) Court-appointed counsel in juvenile court dependency
37 proceedings and counsel appointed by the court to represent a
38 minor pursuant to Chapter 10 (commencing with Section 3150) of
39 Part 2 of Division 8 of the Family Code.

40 (5) Services and supplies relating to court operations.



1 (6) Collective bargaining under the Meyers-Milias-Brown Act
 2 or Sections 2201 to 2210, inclusive, of the California Rules of
 3 Court with respect to court employees specified in Section 3501.5.

4 (7) ~~Actual~~ Subject to paragraph (1) of subdivision (d) of
 5 Section 77212, actual indirect costs for county and city and county
 6 general services attributable to court operations, but specifically
 7 excluding, but not limited to, law library operations conducted by
 8 a trust pursuant to statute; courthouse construction; district
 9 attorney services; probation services; indigent criminal defense;
 10 grand jury expenses and operations; and pretrial release services.

11 (b) However, “court operations” does not include collection
 12 enhancements as defined in Rule 810 of the California Rules of
 13 Court as it read on July 1, 1996.

14 SEC. 16. Section 77202 of the Government Code is amended
 15 to read:

16 77202. (a) The Legislature shall make an annual
 17 appropriation to the Judicial Council for the general operations of
 18 the trial courts based on the ~~recommendations~~ request of the ~~Trial~~
 19 ~~Court Budget Commission, as approved by the~~ Judicial Council,
 20 as specified in paragraph (4) of subdivision (a) of Section ~~68502.5.~~

21 The Judicial Council’s trial court budget request shall meet the
 22 needs of all trial courts in a manner which promotes equal access
 23 to the courts statewide. The Judicial Council shall allocate the
 24 appropriation to the trial courts in a manner that best ensures the
 25 ability of the courts to carry out their functions, promotes
 26 implementation of statewide policies, and promotes the immediate
 27 implementation of efficiencies and cost saving measures in court
 28 operations, in order to guarantee access to justice to citizens of the
 29 state.

30 The Judicial Council shall ensure that ~~the recommendations of~~
 31 ~~the commission~~ its trial court budget request and the allocations
 32 made by ~~the council~~ it reward each trial court’s implementation of
 33 efficiencies and cost saving measures.

34 These efficiencies and cost saving measures shall include, *but*
 35 *not be limited to*, the following:

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

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



1 ~~(3) The coordinated or joint use, sharing, or merger of court~~
2 ~~support staff among trial courts within a county or across counties.~~

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

6 ~~(5)~~

7 (2) The assignment of any type of case to a judge for all
8 purposes commencing with the filing of the case and regardless of
9 jurisdictional boundaries.

10 ~~(6)~~

11 (3) The establishment of a separate calendar or division to hear
12 a particular type of case.

13 ~~(7)~~

14 (4) In rural counties, the use of all court facilities for hearings
15 and trials of all types of cases and the acceptance of filing
16 documents in any case before any court in the county participating
17 in the coordination plan.

18 ~~(8)~~

19 (5) The coordinated or joint use of alternative dispute
20 resolution programs, such as arbitration.

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

23 ~~(10)~~

24 (6) The development and use of joint automated accounting
25 and case-processing systems.

26 (b) The Judicial Council shall ~~promulgate rules~~ *adopt policies*
27 *and procedures* governing practices and procedures for budgeting
28 in the trial courts in a manner that best ensures the ability of the
29 courts to carry out their functions *and may delegate such adoption*
30 *to the Administrative Director of the Courts*. The Administrative
31 ~~Office~~ *Director* of the Courts, ~~after consultation with the~~
32 ~~Department of Finance~~, shall establish budget procedures and an
33 annual schedule of budget development and management
34 consistent with these rules.

35 *SEC. 17. Section 77212 of the Government Code is amended*
36 *to read:*

37 77212. (a) The State of California, the counties of California,
38 and the trial courts of California, recognize that a unique and
39 interdependent relationship has evolved between the courts and
40 the counties over a sustained period of time. While it is the intent



1 of this act to transfer all fiscal responsibility for the support of the
2 trial courts from the counties to the State of California, it is
3 imperative that the activities of the state, the counties, and the trial
4 courts be maintained in a manner that ensures that services to the
5 people of California not be disrupted. Therefore, to this end,
6 during the 1997–98 fiscal year, commencing on July 1, 1997,
7 counties shall continue to provide and courts shall continue to use,
8 county services provided to the trial courts on July 1, 1997,
9 including, but not limited to: auditor/controller services,
10 coordination of telephone services, data-processing and
11 information technology services, procurement, human resources
12 services, affirmative action services, treasurer/tax collector
13 services, county counsel services, facilities management, and legal
14 representation. These services shall be provided to the court at a
15 rate that shall not exceed the costs of providing similar services to
16 county departments or special districts. If the cost was not included
17 in the county base pursuant to paragraph (1) of subdivision (b) of
18 Section 77201 or was not otherwise charged to the court prior to
19 July 1, 1997, and were court operation costs as defined in Section
20 77003 in fiscal year 1994–95, the court may seek adjustment of the
21 amount the county is required to submit to the state pursuant
22 Section 77201.

23 (b) In fiscal year 1998–99 commencing on July 1, 1998, and
24 thereafter the county may give notice to the court that the county
25 will no longer provide a specific service except that the county
26 shall cooperate with the court to ensure that a vital service for the
27 court shall be available from the county or other entities that
28 provide such services. The notice must be given at least 90 days
29 prior to the end of the fiscal year and shall be effective only upon
30 the first day of the succeeding fiscal year.

31 (c) In fiscal year 1998–99, commencing on July 1, 1998, and
32 thereafter, the court may give notice to the county that the court
33 will no longer use a specific county service. The notice shall be
34 given at least 90 days prior to the end of the fiscal year and shall
35 be effective only upon the first day of the succeeding fiscal year.
36 However, for three years from the effective date of this section, a
37 court shall not terminate a service that involved the acquisition of
38 equipment, including, but not limited to, computer and data
39 processing systems, financed by a long-term financing plan



1 whereby the county is dependent upon the court's continued
2 financial support for a portion of the cost of the acquisition.

3 (d) (1) If a trial court desires to receive or continue to receive
4 a specific service from a county or city and county as provided in
5 subdivision (c), and the county or city and county desires to
6 provide or continue to provide that service as provided in
7 subdivision (b), the presiding judge of that court and the county or
8 city and county shall enter into a contract for that service. The
9 contract shall identify the scope of service, method of service
10 delivery, term of agreement, anticipated service outcomes, and the
11 cost of the service. The court and the county or city and county
12 shall cooperate in developing and implementing the contract.

13 *The amount of any indirect or overhead costs shall be*
14 *individually stated in any contract together with the method of*
15 *calculation of the indirect or overhead costs. In the absence of any*
16 *statement, indirect or overhead costs may not be charged. This*
17 *amount shall not contain items that are not otherwise allowable*
18 *court operations. The Judicial Council may audit the county*
19 *figures to ensure compliance with this section and to determine the*
20 *reasonableness of the figures.*

21 (2) This subdivision applies to services to be provided in fiscal
22 year 1999–2000 and thereafter.

23 *SEC. 18. Section 77214 is added to the Government Code, to*
24 *read:*

25 *77214. The Administrative Director of the Courts may offer*
26 *services to the trial courts. If the Judicial Council requires that*
27 *certain services be utilized for enhancing the efficiency or*
28 *effectiveness of the courts, or upon the court's request, the*
29 *Administrative Director of the Courts shall ensure that these*
30 *services are available.*

31 *SEC. 19. Section 4750 of the Penal Code is amended to read:*

32 *4750. A city or county and the superior court in the county*
33 *shall be entitled to reimbursement for reasonable and necessary*
34 *costs connected with state prisons or prisoners in connection with*
35 *any of the following:*

36 (a) Any crime committed at a state prison, whether by a
37 prisoner, employee, or other person.

38 With respect to a prisoner, "crime committed at a state prison"
39 as used in this subdivision, includes, but is not limited to, crimes
40 committed by the prisoner while detained in local facilities as a



1 result of a transfer pursuant to Section 2910 or 6253, or in
2 conjunction with any hearing, proceeding, or other activity for
3 which reimbursement is otherwise provided by this section.

4 (b) Any crime committed by a prisoner in furtherance of an
5 escape. Any crime committed by an escaped prisoner within 10
6 days after the escape and within 100 miles of the facility from
7 which the escape occurred shall be presumed to have been a crime
8 committed in furtherance of an escape.

9 (c) Any hearing on any return of a writ of habeas corpus
10 prosecuted by or on behalf of a prisoner.

11 (d) Any trial or hearing on the question of the sanity of a
12 prisoner.

13 (e) Any costs not otherwise reimbursable under Section 1557
14 or any other related provision in connection with any extradition
15 proceeding for any prisoner released to hold.

16 (f) Any costs incurred by a coroner in connection with the death
17 of a prisoner.

18 (g) Any costs incurred in transporting a prisoner within the host
19 county or as requested by the prison facility or incurred for
20 increased security while a prisoner is outside a state prison.

21 *SEC. 20. Section 4751 of the Penal Code is amended to read:*

22 4751. Costs incurred include all of the following:

23 (a) Costs of law enforcement agencies in connection with any
24 matter set forth in Section 4750, including the investigation or
25 evaluation of any of those matters regardless of whether a crime
26 has in fact occurred, a hearing held, or an offense prosecuted.

27 (b) Costs of any trial or hearing of any matter set forth in
28 Section 4750, including costs for the preparation of the trial,
29 pretrial hearing, actual trial or hearing, expert witness fees, the
30 costs of guarding or keeping the prisoner, the transportation of the
31 prisoner, the costs of appeal, and the execution of the sentence. The
32 cost of detention in a city or county correctional facility shall
33 include the same cost factors as are utilized by the Department of
34 Corrections in determining the cost of prisoner care in state
35 correctional facilities.

36 (c) The costs of the prosecuting attorney in investigating,
37 evaluating, or prosecuting cases related to any matter set forth in
38 Section 4750, whether or not the prosecuting attorney decides to
39 commence legal action.



1 (d) Costs incurred by the public defender or court appointed
2 attorney with respect to any matter set forth in Section 4750.

3 (e) Any other costs reasonably incurred by a county *or superior*
4 *court* in connection with any matter set forth in Section 4750.

5 *SEC. 21. Section 4753 of the Penal Code is amended to read:*

6 4753. A city or county shall designate an officer or agency to
7 prepare a statement of costs *of the city or county* that shall be
8 reimbursed under this chapter. *A superior court shall designate an*
9 *officer or employee to prepare a statement of costs of the court that*
10 *shall be reimbursed under this chapter.*

11 The ~~statement~~ *statements of the city or county and of the*
12 *superior court* shall be sent *together* to the Controller for approval.
13 The Controller shall reimburse the city or county *and the superior*
14 *court* within 60 days after receipt of the statement or provide a
15 written statement as to the reason for not making reimbursement
16 at that time. *The reimbursement to the superior court shall be made*
17 *directly to the court.* If sufficient funds are not available, the
18 Controller shall request the Director of Finance to include any
19 amounts necessary to satisfy the claims in a request for a
20 deficiency appropriation.

