

AMENDED IN ASSEMBLY APRIL 16, 2001

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, 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 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~~ *require* the Judicial Council to develop and approve official form interrogatories and requests for admission for use in any *other* civil action in a state court *as the Judicial Council deems appropriate*.

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



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

14 SEC. 2. Section 2033.5 of the Code of Civil Procedure is
15 amended to read:

16 2033.5. (a) The Judicial Council ~~may~~ shall develop and
17 approve official form interrogatories and requests for admission of
18 the genuineness of any relevant documents or of the truth of any
19 ~~relevant matters of fact for use in any civil action in a state court.~~
20 *relevant matters of fact for use in any civil action in a state court*
21 *based on personal injury, property damage, wrongful death,*
22 *unlawful detainer, breach of contract, family law, or fraud and for*
23 *any other civil actions the Judicial Council deems appropriate.*
24 Use of the approved form interrogatories and requests for
25 admission shall be optional.

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

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

38 (d) The Judicial Council shall develop and approve official
39 form interrogatories for use by a victim who has not received



1 complete payment of a restitution order made pursuant to Section
2 1202.4 of the Penal Code.

3 (e) Notwithstanding whether a victim initiates or maintains an
4 action to satisfy the unpaid restitution order, a victim may
5 propound the form interrogatories approved pursuant to this
6 section once each calendar year. The defendant subject to the
7 restitution order shall, in responding to the interrogatories
8 propounded, provide current information regarding the nature,
9 extent, and location of any assets, income, and liabilities in which
10 the defendant claims a present or future interest.

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

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

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

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



1 SEC. 4. Section 15202 of the Government Code, as added by
2 Section 12 of Chapter 127 of the Statutes of 2000, is amended to
3 read:

4 15202. (a) A county with a population of 300,000 or less, at
5 the time of the 1980 decennial census, that is responsible for the
6 cost of a trial or trials or any hearing of a person for the offense of
7 homicide may apply to the Controller for reimbursement of 90
8 percent of the costs incurred by the county for each homicide trial
9 or hearing, without regard to fiscal years, in excess of the amount
10 of money derived by the county from a tax of 0.00625 of 1 percent
11 of the full value of property assessed for purposes of taxation
12 within the county.

13 (b) (1) A county with a population of 200,000 or less, as of
14 January 1, 1990, that is responsible for the cost of two or more
15 trials or hearings within a fiscal year of a person or persons for the
16 offense of homicide may apply to the Controller for
17 reimbursement of 90 percent of the costs incurred in a fiscal year
18 by the county for the conduct of the first trial within a fiscal year,
19 and 85 percent of the costs incurred in a fiscal year by the county
20 for the conduct of any and all subsequent trials or hearings in
21 excess of the amount of money derived by the county from a tax
22 of 0.00625 of 1 percent of the full value of property assessed for
23 purposes of taxation within the county.

24 (2) A county with a population of 200,000 or less, as of January
25 1, 1990, that, within a fiscal year, is reimbursed for costs incurred
26 by the county for the conduct of only one trial or hearing pursuant
27 to subdivision (a) shall be reimbursed for that one trial or hearing
28 in subsequent fiscal years for costs incurred in those subsequent
29 fiscal years without again being required to expend county funds
30 equal to 0.00625 of 1 percent of the full value of property assessed
31 for purposes of taxation within the county, so long as all
32 reimbursements to the county under this paragraph are for only
33 that one trial or hearing.

34 For purposes of this subdivision, in determining the costs of a
35 homicide trial, trials, hearing, or hearings, the costs shall include,
36 all pretrial, trial, and posttrial costs incurred in connection with the
37 investigation, prosecution, and defense of a homicide case or cases
38 within a fiscal year, including, but not limited to, the costs incurred
39 by the district attorney, sheriff, public defender, and witnesses, that
40 were reasonably required by the court and participants in the case



1 or cases, and other extraordinary costs associated with the
2 investigation in homicide cases.

3 (c) A county with a population exceeding 300,000 at the time
4 of the 1980 decennial census that is responsible for the cost of a
5 trial or trials or any hearing of a person for the offense of homicide
6 may apply to the Controller for reimbursement of 80 percent of the
7 costs incurred by the county in excess of the amount of money
8 derived by the county from a tax of 0.00625 of 1 percent, and not
9 in excess of the amount of money derived from a tax of 0.0125 of
10 1 percent, and for reimbursement of 100 percent of the costs
11 incurred in excess of the amount of money derived from a tax of
12 0.0125 percent, of the full value of property assessed for purposes
13 of taxation within the county.

14 (d) A county that is eligible for reimbursement under
15 subdivision (a), (b), or (c) shall be reimbursed for the total actual
16 costs incurred for a homicide trial in excess of the amount of
17 money derived by the county from a tax of 0.0125 of 1 percent of
18 the full value of property assessed for purposes of taxation within
19 the county, when the cost of a trial, as defined in subdivision (a),
20 (b), or (c), exceeds 0.0125 of 1 percent of the full value of property
21 assessed for purposes of taxation within the county.

22 (e) The Controller shall not reimburse any county for costs that
23 exceed the standards for travel and per diem expenses set forth in
24 Sections 700 to 715, inclusive, and Section 718 of Title 2 of the
25 California Code of Regulations. The Controller may reimburse
26 extraordinary costs in unusual cases if the county provides
27 sufficient justification of the need for these expenditures. Nothing
28 in this section shall permit the reimbursement of costs for travel in
29 excess of 1,000 miles on any single round trip, without the prior
30 approval of the Attorney General.

31 (f) The Legislature recognizes that the conduct of trials for
32 persons accused of homicide should not be hampered or delayed
33 because of a lack of funds available to the counties for that
34 purpose. While this section is intended to provide an equitable
35 basis for determining the allocation to the state of the costs of
36 homicide trials in any particular county, the rising costs of those
37 trials necessitate an objective study to assure reasonable financial
38 restraints and incentives for cost effectiveness that do not place an
39 unreasonable burden on the treasury of the smaller counties.



1 (g) For purposes of this section, county costs include any
2 court-related costs. The county shall ask the superior court how
3 much court-related costs were incurred by the court and shall
4 include these costs in its application. The amount of any
5 reimbursement shall be divided between the court and the county
6 in the proportion in which the total costs in the application are
7 divided between the court and the county.

8 (h) This section shall remain operative only until January 1,
9 2005, and as of that date is repealed.

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

13 15202. A county which is responsible for the cost of a trial or
14 trials or any hearing of a person for the offense of homicide may
15 apply to the Controller for reimbursement of the costs incurred by
16 the county in excess of the amount of money derived by the county
17 from a tax of 0.0125 of 1 percent of the full value of property
18 assessed for purposes of taxation within the county.

19 The Controller shall not reimburse any county for costs that
20 exceed the State Board of Control's standards for travel and per
21 diem expenses. The Controller may reimburse extraordinary costs
22 in unusual cases if the county provides sufficient justification of
23 the need for these expenditures. Nothing in this section shall
24 permit the reimbursement of costs for travel in excess of 1,000
25 miles on any single round trip, without the prior approval of the
26 Attorney General.

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

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

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

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

37 SEC. 8. Section 26850.1 of the Government Code is repealed.

38 SEC. 9. Section 26851.1 of the Government Code is repealed.

39 SEC. 10. Section 26853.1 of the Government Code is
40 repealed.



1 SEC. 11. Section 68085 of the Government Code is amended
2 to read:

3 68085. (a) (1) There is hereby established the Trial Court
4 Trust Fund, the proceeds of which shall be apportioned at least
5 quarterly for the purpose of funding trial court operations, as
6 defined in Section 77003. In no event shall apportionment
7 payments exceed 30 percent of the total annual apportionment to
8 the Trial Court Trust Fund for state trial court funding in any
9 90-day period.

10 (2) The apportionment payments shall be made by the
11 Controller. For fiscal year 1997–98, the Controller shall make the
12 first apportionment payment within 10 days of the operative date
13 of this section. The final payment from the Trial Court Trust Fund
14 for each fiscal year shall be made on or before August 31 of the
15 subsequent fiscal year.

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

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

25 (c) (1) Except as specified in subdivision (d), this section
26 applies to all fees collected pursuant to Sections 631.3 and 116.230
27 of the Code of Civil Procedure and Sections 26820.4, 26823,
28 26826, 26826.01, 26827, 26827.4, 26830, 26832.1, 26833.1,
29 26836.1, 26837.1, 26852.1, 26855.4, 26862, 27081.5, 68086,
30 72055, 72056, 72056.01, and 72060.

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

37 (3) Any amounts transmitted by a county to the Controller for
38 deposit into the Trial Court Trust Fund from fees collected
39 pursuant to Section 27361 between January 1, 1998, and the
40 effective date of this paragraph shall be credited against the total



1 amount the county is required to pay to the state pursuant to
2 paragraph (2) of subdivision (b) of Section 77201 for the 1997–98
3 fiscal year.

4 (d) This section does not apply to that portion of a filing fee
5 collected pursuant to Section 26820.4, 26826, 26827, 72055, or
6 72056 which is allocated for dispute resolution pursuant to Section
7 470.3 of the Business and Professions Code, the county law library
8 pursuant to Section 6320 of the Business and Professions Code, the
9 Judges’ Retirement Fund pursuant to Section 26822.3, automated
10 recordkeeping or conversion to micrographics pursuant to
11 Sections 26863 and 68090.7, and courthouse financing pursuant
12 to Section 76238. This section also does not apply to fees collected
13 pursuant to subdivisions (a) and (c) of Section 27361.

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

17 (f) Notwithstanding any other provision of law, no agency shall
18 take action to change the amounts allocated to any of the above
19 funds.

20 (g) Before making any apportionments under this section, the
21 Controller shall deduct, from the annual appropriation for that
22 purpose, the actual administrative costs that will be incurred under
23 this section. Costs reimbursed under this section shall be
24 determined on an annual basis in consultation with the Judicial
25 Council.

26 (h) Any amounts required to be transmitted by a county or city
27 and county to the state pursuant to this section shall be remitted to
28 the Controller no later than 45 days after the end of the month in
29 which the fees were collected. This remittance shall be
30 accompanied by a remittance advice identifying the collection
31 month and the appropriate account in the Trial Court Trust Fund
32 to which it is to be deposited. Any remittance which is not made
33 by the county or city and county in accordance with this section
34 shall be considered delinquent, and subject to the penalties
35 specified in this section.

36 (i) Upon receipt of any delinquent payment required pursuant
37 to this section, the Controller shall calculate a penalty on any
38 delinquent payment by multiplying the amount of the delinquent
39 payment at a daily rate equivalent to 1½ percent per month for the
40 number of days the payment is delinquent. Notwithstanding



1 Section 77009, any penalty on a delinquent payment that a court
2 is required to reimburse to a county's general fund pursuant to this
3 section and Section 24353 shall be paid from the Trial Court
4 Operations Fund for that court.

5 (j) Penalty amounts calculated pursuant to subdivision (i) shall
6 be paid by the county to the Trial Court Trust Fund no later than
7 45 days after the end of the month in which the penalty was
8 calculated.

9 (k) The Trial Court Trust Fund shall be invested in the Surplus
10 Money Investment Fund and all interest earned shall be allocated
11 to the Trial Court Trust Fund semiannually and shall be allocated
12 among the courts in accordance with the requirements of
13 subdivision (a). The specific allocations shall be specified by the
14 Judicial Council, based upon recommendations from the Trial
15 Court Budget Commission.

16 (l) It is the intent of the Legislature that the revenues required
17 to be deposited into the Trial Court Trust Fund be remitted as soon
18 after collection by the courts as possible. Not later than February
19 1, 2001, the Judicial Council, in consultation with the California
20 State Association of Counties and the California County Auditors
21 Association, shall study and make recommendations to the
22 Legislature on alternative procedures that would improve the
23 collection and remittance of revenues to the Trial Court Trust
24 Fund.

25 SEC. 12. Section 68113 of the Government Code is repealed.

26 SEC. 13. Section 68502.5 of the Government Code is
27 amended to read:

28 68502.5. (a) The Judicial Council may, as part of its trial
29 court budget process, seek input from groups and individuals as it
30 deems appropriate including, but not limited to, advisory
31 committees and the Administrative Director of the Courts. The
32 trial court budget process may include, but is not limited to, the
33 following:

- 34 (1) The receipt of budget requests from the trial courts.
- 35 (2) The review of the trial courts' budget requests and evaluate
36 them against performance criteria established by the Judicial
37 Council by which a court's performance, level of coordination,
38 and efficiency can be measured.
- 39 (3) The annual adoption of the projected cost in the subsequent
40 fiscal year of court operations as defined in Section 77003 for each



1 trial court. This estimation shall serve as a basis for recommended
2 court budgets, which shall be developed for comparison purposes
3 and to delineate funding responsibilities.

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

19 (5) The reallocation of funds during the course of the fiscal year
20 to ensure equal access to the trial courts by the public, to improve
21 trial court operations, and to meet trial court emergencies. Neither
22 the state nor the counties shall have any obligation to replace
23 moneys appropriated for trial courts and reallocated pursuant to
24 this paragraph.

25 (6) The allocation of funds in the Trial Court Improvement
26 Fund 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 the preparation during the course of the fiscal year of allocation
30 schedules for payments to the trial courts, consistent with Section
31 68085, which shall be submitted to the Controller's office by the
32 10th day of the month in which payments are to be made.

33 (8) The establishment of rules regarding a court's authority to
34 transfer trial court funding moneys from one functional category
35 to another in order to address needs in any functional category.

36 (9) At the request of the presiding judge of a trial court, an
37 independent review of the funding level of the court to determine
38 whether it is adequate to enable the court to discharge its statutory
39 and constitutional responsibilities.



1 (10) From time to time, a review of the level of fees charged by
2 the courts for various services and prepare recommended
3 adjustments for forwarding to the Legislature.

4 (11) Provisions set forth in rules adopted pursuant to Section
5 77206 of the Government Code.

6 (b) The Judicial Council shall retain the ultimate responsibility
7 to adopt a budget and allocate funding for the trial courts and
8 perform the other activities listed in subdivision (a) that best assure
9 their ability to carry out their functions, promote implementation
10 of statewide policies, and promote the immediate implementation
11 of efficiencies and cost savings measures in court operations, in
12 order to guarantee equal access to the courts.

13 SEC. 14. Section 77001 of the Government Code is amended
14 to read:

15 77001. The Judicial Council shall adopt rules which establish
16 a decentralized system of trial court management. These rules
17 shall ensure:

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

20 (b) Countywide administration of the trial courts.

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

24 (1) Annual allocation of funding, including policies and
25 procedures about moving funding between functions or line items
26 or programs.

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

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

31 (4) The trial courts of each county shall establish the means of
32 selecting presiding judges, assistant presiding judges, executive
33 officers or court administrators, clerks of court, and jury
34 commissioners.

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

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

38 SEC. 15. Section 77003 of the Government Code is amended
39 to read:



1 77003. (a) As used in this chapter, “court operations” means
2 all of the following:

3 (1) Salaries, benefits, and public agency retirement
4 contributions for superior and municipal court judges and for
5 subordinate judicial officers. For purposes of this paragraph,
6 “subordinate judicial officers” includes all commissioner or
7 referee positions created prior to July 1, 1997, including positions
8 created in the municipal court prior to July 1, 1997, which
9 thereafter became positions in the superior court as a result of
10 unification of the municipal and superior courts in a county, and
11 including those commissioner positions created pursuant to
12 Sections 69904, 70141, 70141.9, 70142.11, 72607, 73794,
13 74841.5, and 74908; and includes any staff who provide direct
14 support to commissioners; but does not include commissioners or
15 staff who provide direct support to the commissioners whose
16 positions were created after July 1, 1997, unless approved by the
17 Judicial Council, subject to availability of funding.

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

21 (3) Those marshals and sheriffs as the court deems necessary
22 for court operations.

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

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

28 (6) Collective bargaining under the Meyers-Miliias-Brown Act
29 or Sections 2201 to 2210, inclusive, of the California Rules of
30 Court with respect to court employees specified in Section 3501.5.

31 (7) Subject to paragraph (1) of subdivision (d) of Section
32 77212, actual indirect costs for county and city and county general
33 services attributable to court operations, but specifically
34 excluding, but not limited to, law library operations conducted by
35 a trust pursuant to statute; courthouse construction; district
36 attorney services; probation services; indigent criminal defense;
37 grand jury expenses and operations; and pretrial release services.

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



1 SEC. 16. Section 77202 of the Government Code is amended
2 to read:

3 77202. (a) The Legislature shall make an annual
4 appropriation to the Judicial Council for the general operations of
5 the trial courts based on the request of the Judicial Council. The
6 Judicial Council's trial court budget request shall meet the needs
7 of all trial courts in a manner which promotes equal access to the
8 courts statewide. The Judicial Council shall allocate the
9 appropriation to the trial courts in a manner that best ensures the
10 ability of the courts to carry out their functions, promotes
11 implementation of statewide policies, and promotes the immediate
12 implementation of efficiencies and cost saving measures in court
13 operations, in order to guarantee access to justice to citizens of the
14 state.

15 The Judicial Council shall ensure that its trial court budget
16 request and the allocations made by it reward each trial court's
17 implementation of efficiencies and cost saving measures.

18 These efficiencies and cost saving measures shall include, but
19 not be limited to, the following:

20 (1) The sharing or merger of court support staff among trial
21 courts across counties.

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

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

27 (4) In rural counties, the use of all court facilities for hearings
28 and trials of all types of cases and the acceptance of filing
29 documents in any case.

30 (5) The use of alternative dispute resolution programs, such as
31 arbitration.

32 (6) The development and use of automated accounting and
33 case-processing systems.

34 (b) The Judicial Council shall adopt policies and procedures
35 governing practices and procedures for budgeting in the trial
36 courts in a manner that best ensures the ability of the courts to carry
37 out their functions and may delegate such adoption to the
38 Administrative Director of the Courts. The Administrative
39 Director of the Courts shall establish budget procedures and an



1 annual schedule of budget development and management
2 consistent with these rules.

3 SEC. 17. Section 77212 of the Government Code is amended
4 to read:

5 77212. (a) The State of California, the counties of California,
6 and the trial courts of California, recognize that a unique and
7 interdependent relationship has evolved between the courts and
8 the counties over a sustained period of time. While it is the intent
9 of this act to transfer all fiscal responsibility for the support of the
10 trial courts from the counties to the State of California, it is
11 imperative that the activities of the state, the counties, and the trial
12 courts be maintained in a manner that ensures that services to the
13 people of California not be disrupted. Therefore, to this end,
14 during the 1997–98 fiscal year, commencing on July 1, 1997,
15 counties shall continue to provide and courts shall continue to use,
16 county services provided to the trial courts on July 1, 1997,
17 including, but not limited to: auditor/controller services,
18 coordination of telephone services, data-processing and
19 information technology services, procurement, human resources
20 services, affirmative action services, treasurer/tax collector
21 services, county counsel services, facilities management, and legal
22 representation. These services shall be provided to the court at a
23 rate that shall not exceed the costs of providing similar services to
24 county departments or special districts. If the cost was not included
25 in the county base pursuant to paragraph (1) of subdivision (b) of
26 Section 77201 or was not otherwise charged to the court prior to
27 July 1, 1997, and were court operation costs as defined in Section
28 77003 in fiscal year 1994–95, the court may seek adjustment of the
29 amount the county is required to submit to the state pursuant
30 Section 77201.

31 (b) In fiscal year 1998–99 commencing on July 1, 1998, and
32 thereafter the county may give notice to the court that the county
33 will no longer provide a specific service except that the county
34 shall cooperate with the court to ensure that a vital service for the
35 court shall be available from the county or other entities that
36 provide ~~such~~ those services. The notice must be given at least 90
37 days prior to the end of the fiscal year and shall be effective only
38 upon the first day of the succeeding fiscal year.

39 (c) In fiscal year 1998–99, commencing on July 1, 1998, and
40 thereafter, the court may give notice to the county that the court



1 will no longer use a specific county service. The notice shall be
2 given at least 90 days prior to the end of the fiscal year and shall
3 be effective only upon the first day of the succeeding fiscal year.
4 However, for three years from the effective date of this section, a
5 court shall not terminate a service that involved the acquisition of
6 equipment, including, but not limited to, computer and data
7 processing systems, financed by a long-term financing plan
8 whereby the county is dependent upon the court's continued
9 financial support for a portion of the cost of the acquisition.

10 (d) (1) If a trial court desires to receive or continue to receive
11 a specific service from a county or city and county as provided in
12 subdivision (c), and the county or city and county desires to
13 provide or continue to provide that service as provided in
14 subdivision (b), the presiding judge of that court and the county or
15 city and county shall enter into a contract for that service. The
16 contract shall identify the scope of service, method of service
17 delivery, term of agreement, anticipated service outcomes, and the
18 cost of the service. The court and the county or city and county
19 shall cooperate in developing and implementing the contract.

20 The amount of any indirect or overhead costs shall be
21 individually stated in any contract together with the method of
22 calculation of the indirect or overhead costs. In the absence of any
23 statement, indirect or overhead costs may not be charged. This
24 amount shall not contain items that are not otherwise allowable
25 court operations. The Judicial Council may audit the county
26 figures to ensure compliance with this section and to determine the
27 reasonableness of the figures.

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

30 SEC. 18. Section 77214 is added to the Government Code, to
31 read:

32 77214. The Administrative Director of the Courts may offer
33 services to the trial courts. If the Judicial Council requires that
34 certain services be utilized for enhancing the efficiency or
35 effectiveness of the courts, or upon the court's request, the
36 Administrative Director of the Courts shall ensure that these
37 services are available.

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

39 4750. A city or county and the superior court in the county
40 shall be entitled to reimbursement for reasonable and necessary



1 costs connected with state prisons or prisoners in connection with
2 any of the following:

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

5 With respect to a prisoner, “crime committed at a state prison”
6 as used in this subdivision, includes, but is not limited to, crimes
7 committed by the prisoner while detained in local facilities as a
8 result of a transfer pursuant to Section 2910 or 6253, or in
9 conjunction with any hearing, proceeding, or other activity for
10 which reimbursement is otherwise provided by this section.

11 (b) Any crime committed by a prisoner in furtherance of an
12 escape. Any crime committed by an escaped prisoner within 10
13 days after the escape and within 100 miles of the facility from
14 which the escape occurred shall be presumed to have been a crime
15 committed in furtherance of an escape.

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

18 (d) Any trial or hearing on the question of the sanity of a
19 prisoner.

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

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

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

28 SEC. 20. Section 4751 of the Penal Code is amended to read:
29 4751. Costs incurred include all of the following:

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

34 (b) Costs of any trial or hearing of any matter set forth in
35 Section 4750, including costs for the preparation of the trial,
36 pretrial hearing, actual trial or hearing, expert witness fees, the
37 costs of guarding or keeping the prisoner, the transportation of the
38 prisoner, the costs of appeal, and the execution of the sentence. The
39 cost of detention in a city or county correctional facility shall
40 include the same cost factors as are utilized by the Department of



1 Corrections in determining the cost of prisoner care in state
2 correctional facilities.

3 (c) The costs of the prosecuting attorney in investigating,
4 evaluating, or prosecuting cases related to any matter set forth in
5 Section 4750, whether or not the prosecuting attorney decides to
6 commence legal action.

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

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

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

12 4753. A city or county shall designate an officer or agency to
13 prepare a statement of costs of the city or county that shall be
14 reimbursed under this chapter. A superior court shall designate an
15 officer or employee to prepare a statement of costs of the court that
16 shall be reimbursed under this chapter.

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

