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CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 223

Introduced by Assembly Member Frommer

February 13, 2001

An act to amend Sections 425.10, 425.11, 489.220, 685.030, 720.160, 720.260, 877.6, 1013, 1134, 2017, 2025, 2026, and 2033.5 of the Code of Civil Procedure, to amend Section 915 of the Evidence Code, to amend Sections 68502.5, 68511.3, 72055, 77001, 77003, 77009, 77202, 77206, and 77212, and to repeal Section 68113 of, the Government Code, and to amend Sections 1463.1, 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 sets forth the required contents of a civil complaint or cross-complaint, the right of a defendant to request a statement of the nature and amount of damages sought, *and* the required amount of an undertaking to obtain a release of an attachment or a protective order,

or to protect the rights of a 3rd-party creditor, with regard to a writ of execution on a debtor's property.

This bill would make technical changes in these provisions and increase the required amount of those undertakings, as specified.

Existing law authorizes the clerk of a court to enter in the Register of Actions a writ of execution on a money judgment as wholly satisfied when no more than \$10 interest deficit exists in a limited civil case, as specified.

This bill would extend that authorization to all civil cases involving money judgments.

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. The bill would also permit a person to take, or ~~appear at~~ *attend*, a deposition by telephone or other electronic means, *would permit a nonparty deponent to appear at his or her deposition by telephone*, as specified, and would authorize the use of electronic technology in conducting discovery, as specified.

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 further 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 requires each trial court to report to the Judicial Council on progress towards achieving specified cost reduction goals.

This bill would repeal that requirement.

Existing law specifies the total fee for filing a first paper in a limited civil case, and requires the amount of the demand to be stated on the first page of that paper, as specified. Existing law authorizes the board of supervisors of each county to exclude a specified portion of the total fee relating to dispute resolution.

This bill would revise the total fee for filing a first paper in a limited civil case, as specified, and would eliminate the requirement that the amount of the demand be stated on the first page of that paper. The bill would delete the authority of a board of supervisors to exclude a portion of the total fee and instead permit the Judicial Council to authorize any trial court to exclude that portion of the fee.

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 of moneys to individual courts proposed by the commission for approval 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, make corresponding changes, and delete 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 provides generally for the state funding of trial courts. These provisions require the establishment of a decentralized system of trial court management, define court operations for funding purposes, require the board of supervisors in each county to establish a Trial Court Operations Fund in the county treasury, provide for an annual appropriation to the Judicial Council for general operations of trial courts, require the Judicial Council to adopt appropriate rules for budget submission and management and the reporting of revenues and expenditures by each trial court, and require the continuation by counties of certain services to the courts.

This bill would revise the requirements for decentralized trial court management systems, revise the procedures for the audit and review of Trial Court Operations Fund, revise the budget request procedures for the annual appropriation for trial court funding, and make corresponding changes in the definition of trial court operations.

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 provides that, with the prior approval of the county auditor, a municipal court may deposit into a bank account moneys that are deposited with the court as bail.

This bill would extend this provision to all trial courts, require prior approval of the administrative director of the courts rather than the county auditor, and provide for regulation of these accounts by the Judicial Council, as specified.

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



audit the trial courts, to establish and control separate funds, and to regulate, control, and manage all moneys collected by the trial courts.

Existing law requires the Judicial Council to prepare a form, containing specific required information disclosures, by which litigants to an action may claim financial hardship and be excused from paying certain fees.

This bill would remove from the form the disclosure of the litigant's date of birth.

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.

Existing law provides for a confession of judgment without an action, upon the payment of a specified fee and the filing of specified documents, that becomes the judgment roll.

This bill would increase the filing fee for a confession of judgment in limited civil cases, and revise the list of required documents that become the judgment roll.

Existing law provides that a settling party in certain actions may give notice of settlement to all parties and the court and that, within 25 days of the mailing of that notice, a nonsettling party may file a notice of motion to contest the good faith of the settlement.

This bill would shorten the time limitation for the nonsettling party to file a motion contesting the good faith of the settlement to 20 days, if the original notice of settlement was personally served.

Existing law provides that service by mail is completed at the time of deposit and that the period of notice and any required response to the service, or any right or duty based thereon, is extended 5 days if mailed to a destination within California, 10 days if the destination is within the United States but outside California, and 20 days if the destination is outside the United States.

This bill would specify that the applicable days for this period of notice are calendar days, and that these time extensions shall be determined based upon either the destination or the place of mailing, or both, as specified.

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 425.10 of the Code of Civil Procedure
2 is amended to read:

3 425.10. A complaint or cross-complaint shall contain both of
4 the following:

5 (a) A statement of the facts constituting the cause of action, in
6 ordinary and concise language.

7 (b) A demand for judgment for the relief to which the pleader
8 claims to be entitled. If the recovery of money or damages is
9 demanded, the amount demanded shall be stated, unless the action
10 is brought to recover actual or punitive damages for personal
11 injury or wrongful death, in which case the amount demanded
12 shall not be stated, but the caption shall comply with Section
13 422.30.

14 SEC. 2. Section 425.11 of the Code of Civil Procedure is
15 amended to read:

16 425.11. (a) As used in this section:

17 (1) "Complaint" includes a cross-complaint.

18 (2) "Plaintiff" includes a cross-complainant.

19 (3) "Defendant" includes a cross-defendant.

20 (b) When a complaint is filed in an action to recover damages
21 for personal injury or wrongful death, the defendant may at any
22 time request a statement setting forth the nature and amount of
23 damages being sought. The request shall be served upon the
24 plaintiff, who shall serve a responsive statement as to the damages
25 within 15 days. In the event that a response is not served, the
26 defendant, on notice to the plaintiff, may petition the court in
27 which the action is pending to order the plaintiff to serve a
28 responsive statement.

29 (c) If no request is made for the statement referred to in
30 subdivision (a), the plaintiff shall serve the statement on the
31 defendant before a default may be taken.

32 (d) The statement referred to in subdivision (b) shall be served
33 in the following manner:

34 (1) If a party has not appeared in the action, the statement shall
35 be served in the same manner as a summons.

36 (2) If a party has appeared in the action, the statement shall be
37 served upon the party's attorney, or upon the party if the party has
38 appeared without an attorney, in the manner provided for service



1 of a summons or in the manner provided by Chapter 5
2 (commencing with Section 1010) of Title 14 of Part 2.

3 (e) The statement referred to in subdivision (b) may be
4 combined with the statement described in Section 425.115.

5 SEC. 3. Section 489.220 of the Code of Civil Procedure is
6 amended to read:

7 489.220. (a) Except as provided in subdivision (b), the
8 amount of an undertaking filed pursuant to this article shall be ten
9 thousand dollars (\$10,000).

10 (b) If, upon objection to the undertaking, the court determines
11 that the probable recovery for wrongful attachment exceeds the
12 amount of the undertaking, it shall order the amount of the
13 undertaking increased to the amount it determines to be the
14 probable recovery for wrongful attachment if it is ultimately
15 determined that the attachment was wrongful.

16 SEC. 4. Section 685.030 of the Code of Civil Procedure is
17 amended to read:

18 685.030. (a) If a money judgment is satisfied in full pursuant
19 to a writ under this title, interest ceases to accrue on the judgment:

20 (1) If the proceeds of collection are paid in a lump sum, on the
21 date of levy.

22 (2) If the money judgment is satisfied pursuant to an earnings
23 withholding order, on the date and in the manner provided in
24 Section 706.024 or Section 706.028.

25 (3) In any other case, on the date the proceeds of sale or
26 collection are actually received by the levying officer.

27 (b) If a money judgment is satisfied in full other than pursuant
28 to a writ under this title, interest ceases to accrue on the date the
29 judgment is satisfied in full.

30 (c) If a money judgment is partially satisfied pursuant to a writ
31 under this title or is otherwise partially satisfied, interest ceases to
32 accrue as to the part satisfied on the date the part is satisfied.

33 (d) For the purposes of subdivisions (b) and (c), the date a
34 money judgment is satisfied in full or in part is the earliest of the
35 following times:

36 (1) The date satisfaction is actually received by the judgment
37 creditor.

38 (2) The date satisfaction is tendered to the judgment creditor or
39 deposited in court for the judgment creditor.



1 (3) The date of any other performance that has the effect of
2 satisfaction.

3 (e) The clerk of a court may enter in the Register of Actions a
4 writ of execution on a money judgment as returned wholly
5 satisfied when the judgment amount, as specified on the writ, is
6 fully collected and only an interest deficit of no more than ten
7 dollars (\$10) exists, due to automation of the continual daily
8 interest accrual calculation.

9 SEC. 5. Section 720.160 of the Code of Civil Procedure is
10 amended to read:

11 720.160. (a) If the creditor files with the levying officer an
12 undertaking that satisfies the requirements of this section within
13 the time allowed under subdivision (b) of Section 720.140:

14 (1) The levying officer shall execute the writ in the manner
15 provided by law unless the third person files an undertaking to
16 release the property pursuant to Chapter 6 (commencing with
17 Section 720.610).

18 (2) After sale, payment, or delivery of the property pursuant to
19 the writ, the property is free of all claims of the third person for
20 which the creditor has given the undertaking.

21 (b) Subject to Sections 720.770 and 996.010, unless the
22 creditor elects to file an undertaking in a larger amount, the amount
23 of the undertaking filed by the creditor under this section shall be
24 in the amount of ten thousand dollars (\$10,000), or twice the
25 amount of the execution lien as of the date of levy or other
26 enforcement lien as of the date it was created, whichever is the
27 lesser amount.

28 (c) An undertaking given by the creditor under this chapter
29 shall:

30 (1) Be made in favor of the third person.

31 (2) Indemnify the third person against any loss, liability,
32 damages, costs, and attorney’s fees, incurred by reason of the
33 enforcement proceedings.

34 (3) Be conditioned on a final judgment that the third person
35 owns or has the right of possession of the property.

36 (d) If the creditor is a public entity exempt from giving an
37 undertaking, the public entity shall, in lieu of filing the
38 undertaking, file with the levying officer a notice stating that the
39 public entity opposes the claim of the third person. When so filed,



1 the notice is deemed to satisfy the requirement of this section that
2 an undertaking be filed.

3 SEC. 6. Section 720.260 of the Code of Civil Procedure is
4 amended to read:

5 720.260. (a) If the creditor within the time allowed under
6 subdivision (b) of Section 720.240 either files with the levying
7 officer an undertaking that satisfies the requirements of this
8 section and a statement that satisfies the requirements of Section
9 720.280 or makes a deposit with the levying officer of the amount
10 claimed under Section 720.230:

11 (1) The levying officer shall execute the writ in the manner
12 provided by law unless, in a case where the creditor has filed an
13 undertaking, the secured party or lienholder files an undertaking
14 to release the property pursuant to Chapter 6 (commencing with
15 Section 720.610).

16 (2) After sale, payment, or delivery of the property pursuant to
17 the writ, the property is free of all claims or liens of the secured
18 party or lienholder for which the creditor has given the
19 undertaking or made the deposit.

20 (b) Subject to Sections 720.770 and 996.010, unless the
21 creditor elects to file an undertaking in a larger amount, the amount
22 of the undertaking filed by the creditor under this section shall be
23 in the amount of ten thousand dollars (\$10,000) or twice the
24 amount of the execution lien as of the date of levy or other
25 enforcement lien as of the date it was created, whichever is the
26 lesser amount.

27 (c) An undertaking given by the creditor under this chapter
28 shall:

29 (1) Be made in favor of the secured party or lienholder.

30 (2) Indemnify the secured party or lienholder against any loss,
31 liability, damages, costs, and attorney's fees, incurred by reason of
32 the enforcement proceedings.

33 (3) Be conditioned on a final judgment that the security interest
34 or lien of the third person is entitled to priority over the creditor's
35 lien.

36 (d) If the creditor is a public entity exempt from giving an
37 undertaking, the public entity shall, in lieu of filing the
38 undertaking, file with the levying officer a notice stating that the
39 public entity opposes the claim of the third person. When so filed,



1 the notice is deemed to satisfy the requirement of this section that
2 an undertaking be filed.

3 SEC. 7. Section 877.6 of the Code of Civil Procedure is
4 amended to read:

5 877.6. (a) (1) Any party to an action in which it is alleged
6 that two or more parties are joint tortfeasors or co-obligors on a
7 contract debt shall be entitled to a hearing on the issue of the good
8 faith of a settlement entered into by the plaintiff or other claimant
9 and one or more alleged tortfeasors or co-obligors, upon giving
10 notice in the manner provided in subdivision (b) of Section 1005.
11 Upon a showing of good cause, the court may shorten the time for
12 giving the required notice to permit the determination of the issue
13 to be made before the commencement of the trial of the action, or
14 before the verdict or judgment if settlement is made after the trial
15 has commenced.

16 (2) In the alternative, a settling party may give notice of
17 settlement to all parties and to the court, together with an
18 application for determination of good faith settlement and a
19 proposed order. The application shall indicate the settling parties,
20 and the basis, terms, and amount of the settlement. The notice,
21 application, and proposed order shall be given by certified mail,
22 return receipt requested. Proof of service shall be filed with the
23 court. Within 25 days of the mailing of the notice, application, and
24 proposed order, or within 20 days of personal service, a nonsettling
25 party may file a notice of motion to contest the good faith of the
26 settlement. If none of the nonsettling parties files a motion within
27 25 days of mailing of the notice, application, and proposed order,
28 or within 20 days of personal service, the court may approve the
29 settlement. The notice by a nonsettling party shall be given in the
30 manner provided in subdivision (b) of Section 1005. However, this
31 paragraph shall not apply to settlements in which a confidentiality
32 agreement has been entered into regarding the case or the terms of
33 the settlement.

34 (b) The issue of the good faith of a settlement may be
35 determined by the court on the basis of affidavits served with the
36 notice of hearing, and any counteraffidavits filed in response, or
37 the court may, in its discretion, receive other evidence at the
38 hearing.

39 (c) A determination by the court that the settlement was made
40 in good faith shall bar any other joint tortfeasor or co-obligor from



1 any further claims against the settling tortfeasor or co-obligor for
2 equitable comparative contribution, or partial or comparative
3 indemnity, based on comparative negligence or comparative fault.

4 (d) The party asserting the lack of good faith shall have the
5 burden of proof on that issue.

6 (e) When a determination of the good faith or lack of good faith
7 of a settlement is made, any party aggrieved by the determination
8 may petition the proper court to review the determination by writ
9 of mandate. The petition for writ of mandate shall be filed within
10 20 days after service of written notice of the determination, or
11 within any additional time not exceeding 20 days as the trial court
12 may allow.

13 (1) The court shall, within 30 days of the receipt of all materials
14 to be filed by the parties, determine whether or not the court will
15 hear the writ and notify the parties of its determination.

16 (2) If the court grants a hearing on the writ, the hearing shall be
17 given special precedence over all other civil matters on the
18 calendar of the court except those matters to which equal or greater
19 precedence on the calendar is granted by law.

20 (3) The running of any period of time after which an action
21 would be subject to dismissal pursuant to the applicable provisions
22 of Chapter 1.5 (commencing with Section 583.110) of Title 8 of
23 Part 2 shall be tolled during the period of review of a determination
24 pursuant to this subdivision.

25 SEC. 8. Section 1013 of the Code of Civil Procedure is
26 amended to read:

27 1013. (a) In case of service by mail, the notice or other paper
28 shall be deposited in a post office, mailbox, subpost office,
29 substation, or mail chute, or other like facility regularly
30 maintained by the United States Postal Service, in a sealed
31 envelope, with postage paid, addressed to the person on whom it
32 is to be served, at the office address as last given by that person on
33 any document filed in the cause and served on the party making
34 service by mail; otherwise at that party's place of residence. The
35 service is complete at the time of the deposit, but any period of
36 notice and any right or duty to do any act or make any response
37 within any period or on a date certain after the service of the
38 document, which time period or date is prescribed by statute or
39 rule of court, shall be extended five calendar days, upon service by
40 mail, if the place of address and the place of mailing is within the



1 State of California, 10 calendar days if either the place of mailing
2 or the place of address is outside the State of California but within
3 the United States, and 20 calendar days if either the place of
4 mailing or the place of address is outside the United States, but the
5 extension shall not apply to extend the time for filing notice of
6 intention to move for new trial, notice of intention to move to
7 vacate judgment pursuant to Section 663a, or notice of appeal.
8 This extension applies in the absence of a specific exception
9 provided for by this section or other statute or rule of court.

10 (b) The copy of the notice or other paper served by mail
11 pursuant to this chapter shall bear a notation of the date and place
12 of mailing or be accompanied by an unsigned copy of the affidavit
13 or certificate of mailing.

14 (c) In case of service by Express Mail, the notice or other paper
15 must be deposited in a post office, mailbox, subpost office,
16 substation, or mail chute, or other like facility regularly
17 maintained by the United States Postal Service for receipt of
18 Express Mail, in a sealed envelope, with Express Mail postage
19 paid, addressed to the person on whom it is to be served, at the
20 office address as last given by that person on any document filed
21 in the cause and served on the party making service by Express
22 Mail; otherwise at that party's place of residence. In case of service
23 by another method of delivery providing for overnight delivery,
24 the notice or other paper must be deposited in a box or other facility
25 regularly maintained by the express service carrier, or delivered to
26 an authorized courier or driver authorized by the express service
27 carrier to receive documents, in an envelope or package designated
28 by the express service carrier with delivery fees paid or provided
29 for, addressed to the person on whom it is to be served, at the office
30 address as last given by that person on any document filed in the
31 cause and served on the party making service; otherwise at that
32 party's place of residence. The service is complete at the time of
33 the deposit, but any period of notice and any right or duty to do any
34 act or make any response within any period or on a date certain
35 after the service of the document served by Express Mail or other
36 method of delivery providing for overnight delivery shall be
37 extended by two court days, but the extension shall not apply to
38 extend the time for filing notice of intention to move for new trial,
39 notice of intention to move to vacate judgment pursuant to Section
40 663a, or notice of appeal. This extension applies in the absence of



1 a specific exception provided for by this section or other statute or
2 rule of court.

3 (d) The copy of the notice or other paper served by Express
4 Mail or another means of delivery providing for overnight delivery
5 pursuant to this chapter shall bear a notation of the date and place
6 of deposit or be accompanied by an unsigned copy of the affidavit
7 or certificate of deposit.

8 (e) Service by facsimile transmission shall be permitted only
9 where the parties agree and a written confirmation of that
10 agreement is made. The Judicial Council may adopt rules
11 implementing the service of documents by facsimile transmission
12 and may provide a form for the confirmation of the agreement
13 required by this subdivision. In case of service by facsimile
14 transmission, the notice or other paper must be transmitted to a
15 facsimile machine maintained by the person on whom it is served
16 at the facsimile machine telephone number as last given by that
17 person on any document which he or she has filed in the cause and
18 served on the party making the service. The service is complete at
19 the time of transmission, but any period of notice and any right or
20 duty to do any act or make any response within any period or on
21 a date certain after the service of the document, which time period
22 or date is prescribed by statute or rule of court, shall be extended,
23 after service by facsimile transmission, by two court days, but the
24 extension shall not apply to extend the time for filing notice of
25 intention to move for new trial, notice of intention to move to
26 vacate judgment pursuant to Section 663a, or notice of appeal.
27 This extension applies in the absence of a specific exception
28 provided for by this section or other statute or rule of court.

29 (f) The copy of the notice or other paper served by facsimile
30 transmission pursuant to this chapter shall bear a notation of the
31 date and place of transmission and the facsimile telephone number
32 to which transmitted or be accompanied by an unsigned copy of
33 the affidavit or certificate of transmission which shall contain the
34 facsimile telephone number to which the notice or other paper was
35 transmitted.

36 (g) Subdivisions (b), (d), and (f) are directory.

37 SEC. 9. Section 1134 of the Code of Civil Procedure is
38 amended to read:

39 1134. (a) The statement required by Section 1133 shall be
40 filed with the clerk of the court in which the judgment is to be



1 entered, who must endorse upon it, and enter a judgment of the
2 court for the amount confessed with the costs provided in
3 subdivision (b).

4 (b) At the time of filing, the plaintiff shall pay as court costs that
5 shall become a part of the judgment a fee of fifteen dollars (\$15).
6 No fee shall be collected from the defendant. No fee shall be paid
7 by the clerk of the court in which a confession of judgment is filed
8 for the law library fund nor for services of any court reporter.

9 (c) The statement and affidavit, with the judgment endorsed
10 thereon, together with the certificate filed pursuant to Section
11 1132, becomes the judgment roll.

12 SEC. 9.4. Section 2017 of the Code of Civil Procedure is
13 amended to read:

14 2017. (a) Unless otherwise limited by order of the court in
15 accordance with this article, any party may obtain discovery
16 regarding any matter, not privileged, that is relevant to the subject
17 matter involved in the pending action or to the determination of
18 any motion made in that action, if the matter either is itself
19 admissible in evidence or appears reasonably calculated to lead to
20 the discovery of admissible evidence. Discovery may relate to the
21 claim or defense of the party seeking discovery or of any other
22 party to the action. Discovery may be obtained of the identity and
23 location of persons having knowledge of any discoverable matter,
24 as well as of the existence, description, nature, custody, condition,
25 and location of any document, tangible thing, or land or other
26 property.

27 (b) A party may obtain discovery of the existence and contents
28 of any agreement under which any insurance carrier may be liable
29 to satisfy in whole or in part a judgment that may be entered in the
30 action or to indemnify or reimburse for payments made to satisfy
31 the judgment. This discovery may include the identity of the
32 carrier and the nature and limits of the coverage. A party may also
33 obtain discovery as to whether that insurance carrier is disputing
34 the agreement’s coverage of the claim involved in the action, but
35 not as to the nature and substance of that dispute. Information
36 concerning the insurance agreement is not by reason of disclosure
37 admissible in evidence at trial.

38 (c) The court shall limit the scope of discovery if it determines
39 that the burden, expense, or intrusiveness of that discovery clearly
40 outweighs the likelihood that the information sought will lead to



1 the discovery of admissible evidence. The court may make this
2 determination pursuant to a motion for protective order by a party
3 or other affected person. This motion shall be accompanied by a
4 declaration stating facts showing a good faith attempt at an
5 informal resolution of each issue presented by the motion.

6 The court shall impose a monetary sanction under Section 2023
7 against any party, person, or attorney who unsuccessfully makes
8 or opposes a motion for a protective order, unless it finds that the
9 one subject to the sanction acted with substantial justification or
10 that other circumstances make the imposition of the sanction
11 unjust.

12 (d) In any civil action alleging conduct that constitutes sexual
13 harassment, sexual assault, or sexual battery, any party seeking
14 discovery concerning the plaintiff's sexual conduct with
15 individuals other than the alleged perpetrator is required to
16 establish specific facts showing good cause for that discovery, and
17 that the matter sought to be discovered is relevant to the subject
18 matter of the action and reasonably calculated to lead to the
19 discovery of admissible evidence. This showing shall be made by
20 noticed motion and shall not be made or considered by the court
21 at an ex parte hearing. This motion shall be accompanied by a
22 declaration stating facts showing a good faith attempt at an
23 informal resolution of each issue presented by the motion.

24 The court shall impose a monetary sanction under Section 2023
25 against any party, person, or attorney who unsuccessfully makes
26 or opposes a motion for discovery, unless it finds that the one
27 subject to the sanction acted with substantial justification or that
28 other circumstances make the imposition of the sanction unjust.

29 (e) (1) Pursuant to noticed motion, a court may enter orders for
30 the use of technology in conducting discovery in cases designated
31 as complex pursuant to Section 19 of the Judicial Administration
32 Standards, cases ordered to be coordinated pursuant to Chapter 3
33 (commencing with Section 404) of Title 4 of Part 2, or exceptional
34 cases exempt from case disposition time goals pursuant to Article
35 5 (commencing with Section 68600) of Chapter 2 of Title 8 of the
36 Government Code, or cases assigned to Plan 3 pursuant to
37 paragraph (3) of subdivision (b) of Section 2105 of the California
38 Rules of Court. In other cases, the parties may stipulate to the entry
39 of orders for the use of technology in conducting discovery.



1 (2) An order authorizing that discovery may be made only upon
2 the express findings of the court or stipulation of the parties that
3 the procedures adopted in the order meet all of the following
4 criteria:

5 (A) They promote cost-effective and efficient discovery or
6 motions relating thereto.

7 (B) They do not impose or require undue expenditures of time
8 or money.

9 (C) They do not create an undue economic burden or hardship
10 on any person.

11 (D) They promote open competition among vendors and
12 providers of services in order to facilitate the highest quality
13 service at the lowest reasonable cost to the litigants.

14 (E) They do not require parties or counsel to purchase
15 exceptional or unnecessary services, hardware, or software.

16 (3) Pursuant to these orders, discovery may be conducted and
17 maintained in electronic media and by electronic communication.
18 The court may enter orders prescribing procedures relating to the
19 use of electronic technology in conducting discovery, including
20 orders for the service of requests for discovery and responses,
21 service and presentation of motions, production, storage, and
22 access to information in electronic form, and the conduct of
23 discovery in electronic media. The Judicial Council may
24 promulgate rules, standards, and guidelines relating to electronic
25 discovery and the use of such discovery data and documents in
26 court proceedings.

27 (4) Nothing in this subdivision shall diminish the rights and
28 duties of the parties regarding discovery, privileges, procedural
29 rights, or substantive law.

30 (5) If a service provider is to be used and compensated by the
31 parties, the court shall appoint the person or organization agreed
32 upon by the parties and approve the contract agreed upon by the
33 parties and the service provider. If the parties do not agree on the
34 selection, each party shall submit to the court up to three nominees
35 for appointment together with a contract acceptable to the nominee
36 and the court shall appoint a service provider from among the
37 nominees. The court may condition this appointment on the
38 acceptance of modifications in the terms of the contract. If no
39 nominations are received from any of the parties, the court shall
40 appoint one or more service providers. Pursuant to noticed motion



1 at any time and upon a showing of good cause, the court may order
2 the removal of the service provider or vacate any agreement
3 between the parties and the service provider, or both, effective as
4 of the date of the order. The continued service of the service
5 provider shall be subject to review periodically, as agreed by the
6 parties and the service provider, or annually if they do not agree.
7 Any disputes involving the contract or the duties, rights, and
8 obligations of the parties or service providers may be determined
9 on noticed motion in the action.

10 (6) Subject to these findings and the purpose of permitting and
11 encouraging cost-effective and efficient discovery, “technology,”
12 as used in this section, includes, but is not limited to, telephone,
13 e-mail, CD-ROM, Internet web sites, electronic documents,
14 electronic document depositories, Internet depositions and
15 storage, videoconferencing, and other electronic technology that
16 may be used to improve communication and the discovery
17 process.

18 (7) *Nothing in this subdivision shall be construed to modify the*
19 *requirement for use of a nonstenographic court reporter as*
20 *provided in paragraph (1) of subdivision (1) of Section 2025. The*
21 *rules, standards, and guidelines adopted pursuant to this*
22 *subdivision shall be consistent with the requirement of paragraph*
23 *(1) of subdivision (1) of Section 2025 that deposition testimony be*
24 *taken stenographically unless the parties agree or the court orders*
25 *otherwise.*

26 SEC. 9.6. Section 2025 of the Code of Civil Procedure is
27 amended to read:

28 2025. (a) Any party may obtain discovery within the scope
29 delimited by Section 2017, and subject to the restrictions set forth
30 in Section 2019, by taking in California the oral deposition of any
31 person, including any party to the action. The person deposed may
32 be a natural person, an organization such as a public or private
33 corporation, a partnership, an association, or a governmental
34 agency.

35 (b) Subject to subdivisions (f) and (t), an oral deposition may
36 be taken as follows:

37 (1) The defendant may serve a deposition notice without leave
38 of court at any time after that defendant has been served or has
39 appeared in the action, whichever occurs first.



1 (2) The plaintiff may serve a deposition notice without leave of
2 court on any date that is 20 days after the service of the summons
3 on, or appearance by, any defendant. However, on motion with or
4 without notice, the court, for good cause shown, may grant to a
5 plaintiff leave to serve a deposition notice on an earlier date.

6 (c) A party desiring to take the oral deposition of any person
7 shall give notice in writing in the manner set forth in subdivision
8 (d). However, where under subdivision (d) of Section 2020 only
9 the production by a nonparty of business records for copying is
10 desired, a copy of the deposition subpoena shall serve as the notice
11 of deposition. The notice of deposition shall be given to every
12 other party who has appeared in the action. The deposition notice,
13 or the accompanying proof of service, shall list all the parties or
14 attorneys for parties on whom it is served.

15 Where, as defined in subdivision (a) of Section 1985.3, the party
16 giving notice of the deposition is a subpoenaing party, and the
17 deponent is a witness commanded by a deposition subpoena to
18 produce personal records of a consumer, the subpoenaing party
19 shall serve on that consumer (1) a notice of the deposition, (2) the
20 notice of privacy rights specified in subdivision (e) of Section
21 1985.3 and in Section 1985.6, and (3) a copy of the deposition
22 subpoena.

23 (d) The deposition notice shall state all of the following:

24 (1) The address where the deposition will be taken.

25 (2) The date of the deposition, selected under subdivision (f),
26 and the time it will commence.

27 (3) The name of each deponent, and the address and telephone
28 number, if known, of any deponent who is not a party to the action.
29 If the name of the deponent is not known, the deposition notice
30 shall set forth instead a general description sufficient to identify
31 the person or particular class to which the person belongs.

32 (4) The specification with reasonable particularity of any
33 materials or category of materials to be produced by the deponent.

34 (5) Any intention to record the testimony by audiotape or
35 videotape, in addition to recording the testimony by the
36 stenographic method as required by paragraph (1) of subdivision
37 (l) and any intention to record the testimony by stenographic
38 method, through the instant visual display of the testimony. In the
39 latter event, a copy of the deposition notice shall also be given to
40 the deposition officer. Any offer to provide the instant visual



1 display of the testimony or to provide rough draft transcripts to any
2 party which is accepted prior to, or offered at, the deposition shall
3 also be made by the deposition officer at the deposition to all
4 parties in attendance.

5 (6) Any intention to reserve the right to use at trial a videotape
6 deposition of a treating or consulting physician or of any expert
7 witness under paragraph (4) of subdivision (u). In this event, the
8 operator of the videotape camera shall be a person who is
9 authorized to administer an oath, and shall not be financially
10 interested in the action or be a relative or employee of any attorney
11 of any of the parties.

12 If the deponent named is not a natural person, the deposition
13 notice shall describe with reasonable particularity the matters on
14 which examination is requested. In that event, the deponent shall
15 designate and produce at the deposition those of its officers,
16 directors, managing agents, employees, or agents who are most
17 qualified to testify on its behalf as to those matters to the extent of
18 any information known or reasonably available to the deponent.
19 A deposition subpoena shall advise a nonparty deponent of its duty
20 to make this designation, and shall describe with reasonable
21 particularity the matters on which examination is requested.

22 If the attendance of the deponent is to be compelled by service
23 of a deposition subpoena under Section 2020, an identical copy of
24 that subpoena shall be served with the deposition notice.

25 (e) (1) The deposition of a natural person, whether or not a
26 party to the action, shall be taken at a place that is, at the option of
27 the party giving notice of the deposition, either within 75 miles of
28 the deponent's residence, or within the county where the action is
29 pending and within 150 miles of the deponent's residence, unless
30 the court orders otherwise under paragraph (3).

31 (2) The deposition of an organization that is a party to the action
32 shall be taken at a place that is, at the option of the party giving
33 notice of the deposition, either within 75 miles of the
34 organization's principal executive or business office in California,
35 or within the county where the action is pending and within 150
36 miles of that office. The deposition of any other organization shall
37 be taken within 75 miles of the organization's principal executive
38 or business office in California, unless the organization consents
39 to a more distant place. If the organization has not designated a
40 principal executive or business office in California, the deposition



1 shall be taken at a place that is, at the option of the party giving
2 notice of the deposition, either within the county where the action
3 is pending, or within 75 miles of any executive or business office
4 in California of the organization.

5 (3) A party desiring to take the deposition of a natural person
6 who is a party to the action or an officer, director, managing agent,
7 or employee of a party may make a motion for an order that the
8 deponent attend for deposition at a place that is more distant than
9 that permitted under paragraph (1). This motion shall be
10 accompanied by a declaration stating facts showing a reasonable
11 and good faith attempt at an informal resolution of any issue
12 presented by the motion.

13 In exercising its discretion to grant or deny this motion, the court
14 shall take into consideration any factor tending to show whether
15 the interests of justice will be served by requiring the deponent's
16 attendance at that more distant place, including, but not limited to,
17 the following:

- 18 (A) Whether the moving party selected the forum.
- 19 (B) Whether the deponent will be present to testify at the trial
20 of the action.
- 21 (C) The convenience of the deponent.
- 22 (D) The feasibility of conducting the deposition by written
23 questions under Section 2028, or of using a discovery method
24 other than a deposition.
- 25 (E) The number of depositions sought to be taken at a place
26 more distant than that permitted under paragraph (1).
- 27 (F) The expense to the parties of requiring the deposition to be
28 taken within the distance permitted under paragraph (1).
- 29 (G) The whereabouts of the deponent at the time for which the
30 deposition is scheduled.

31 The order may be conditioned on the advancement by the
32 moving party of the reasonable expenses and costs to the deponent
33 for travel to the place of deposition.

34 The court shall impose a monetary sanction under Section 2023
35 against any party, person, or attorney who unsuccessfully makes
36 or opposes a motion to increase travel limits for party deponent,
37 unless it finds that the one subject to the sanction acted with
38 substantial justification or that other circumstances make the
39 imposition of the sanction unjust.



1 (f) An oral deposition shall be scheduled for a date at least 10
2 days after service of the deposition notice. If, as defined in
3 subdivision (a) of Section 1985.3, the party giving notice of the
4 deposition is a subpoenaing party, and the deponent is a witness
5 commanded by a deposition subpoena to produce personal records
6 of a consumer, the deposition shall be scheduled for a date at least
7 20 days after issuance of that subpoena. However, in unlawful
8 detainer actions, an oral deposition shall be scheduled for a date at
9 least five days after service of the deposition notice, but not later
10 than five days before trial.

11 On motion or ex parte application of any party or deponent, for
12 good cause shown, the court may shorten or extend the time for
13 scheduling a deposition, or may stay its taking until the
14 determination of a motion for a protective order under subdivision
15 (i).

16 (g) Any party served with a deposition notice that does not
17 comply with subdivisions (b) to (f), inclusive, waives any error or
18 irregularity unless that party promptly serves a written objection
19 specifying that error or irregularity at least three calendar days
20 prior to the date for which the deposition is scheduled, on the party
21 seeking to take the deposition and any other attorney or party on
22 whom the deposition notice was served. If an objection is made
23 three calendar days before the deposition date, the objecting party
24 shall make personal service of that objection pursuant to Section
25 1011 on the party who gave notice of the deposition. Any
26 deposition taken after the service of a written objection shall not
27 be used against the objecting party under subdivision (u) if the
28 party did not attend the deposition and if the court determines that
29 the objection was a valid one.

30 In addition to serving this written objection, a party may also
31 move for an order staying the taking of the deposition and
32 quashing the deposition notice. This motion shall be accompanied
33 by a declaration stating facts showing a reasonable and good faith
34 attempt at an informal resolution of any issue presented by the
35 motion. The taking of the deposition is stayed pending the
36 determination of this motion.

37 The court shall impose a monetary sanction under Section 2023
38 against any party, person, or attorney who unsuccessfully makes
39 or opposes a motion to quash a deposition notice, unless it finds
40 that the one subject to the sanction acted with substantial



1 justification or that other circumstances make the imposition of the
2 sanction unjust.

3 (h) (1) The service of a deposition notice under subdivision (c)
4 is effective to require any deponent who is a party to the action or
5 an officer, director, managing agent, or employee of a party to
6 attend and to testify, as well as to produce any document or
7 tangible thing for inspection and copying.

8 (2) The attendance and testimony of any other deponent, as
9 well as the production by the deponent of any document or tangible
10 thing for inspection and copying, requires the service on the
11 deponent of a deposition subpoena under Section 2020.

12 ~~(3) A person may take, and any person may appear at, a~~
13 ~~deposition by telephone or other remote electronic means,~~
14 ~~provided the deponent is present in person at the deposition. The~~
15 ~~court may expressly provide that a nonparty deponent may appear~~
16 ~~at the deposition by telephone if it finds there is good cause and no~~
17 ~~prejudice to any party. The procedures to implement this~~
18 ~~paragraph shall be established by court order in the specific action~~
19 ~~or proceeding or by the California Rules of Court.~~

20 *(3) A person may take, and any person other than the deponent*
21 *may attend, a deposition by telephone or other remote electronic*
22 *means. The court may expressly provide that a nonparty deponent*
23 *may appear at his or her deposition by telephone if it finds there*
24 *is good cause and no prejudice to any party. A party deponent must*
25 *appear at his or her deposition in person and be in the presence of*
26 *the deposition officer. The procedures to implement this section*
27 *shall be established by court order in the specific action*
28 *proceeding or by the California Rules of Court.*

29 (i) Before, during, or after a deposition, any party, any
30 deponent, or any other affected natural person or organization may
31 promptly move for a protective order. The motion shall be
32 accompanied by a declaration stating facts showing a reasonable
33 and good faith attempt at an informal resolution of each issue
34 presented by the motion.

35 The court, for good cause shown, may make any order that
36 justice requires to protect any party, deponent, or other natural
37 person or organization from unwarranted annoyance,
38 embarrassment, or oppression, or undue burden and expense. This
39 protective order may include, but is not limited to, one or more of
40 the following directions:



- 1 (1) That the deposition not be taken at all.
- 2 (2) That the deposition be taken at a different time.
- 3 (3) That a videotape deposition of a treating or consulting
4 physician or of any expert witness, intended for possible use at trial
5 under paragraph (4) of subdivision (u), be postponed until the
6 moving party has had an adequate opportunity to prepare, by
7 discovery deposition of the deponent, or other means, for
8 cross-examination.
- 9 (4) That the deposition be taken at a place other than that
10 specified in the deposition notice, if it is within a distance
11 permitted by subdivision (e).
- 12 (5) That the deposition be taken only on certain specified terms
13 and conditions.
- 14 (6) That the deponent's testimony be taken by written, instead
15 of oral, examination.
- 16 (7) That the method of discovery be interrogatories to a party
17 instead of an oral deposition.
- 18 (8) That the testimony be recorded in a manner different from
19 that specified in the deposition notice.
- 20 (9) That certain matters not be inquired into.
- 21 (10) That the scope of the examination be limited to certain
22 matters.
- 23 (11) That all or certain of the writings or tangible things
24 designated in the deposition notice not be produced, inspected, or
25 copied.
- 26 (12) That designated persons, other than the parties to the
27 action and their officers and counsel, be excluded from attending
28 the deposition.
- 29 (13) That a trade secret or other confidential research,
30 development, or commercial information not be disclosed or be
31 disclosed only to specified persons or only in a specified way.
- 32 (14) That the parties simultaneously file specified documents
33 enclosed in sealed envelopes to be opened as directed by the court.
- 34 (15) That the deposition be sealed and thereafter opened only
35 on order of the court.
- 36 If the motion for a protective order is denied in whole or in part,
37 the court may order that the deponent provide or permit the
38 discovery against which protection was sought on those terms and
39 conditions that are just.



1 The court shall impose a monetary sanction under Section 2023
2 against any party, person, or attorney who unsuccessfully makes
3 or opposes a motion for a protective order, unless it finds that the
4 one subject to the sanction acted with substantial justification or
5 that other circumstances make the imposition of the sanction
6 unjust.

7 (j) (1) If the party giving notice of a deposition fails to attend
8 or proceed with it, the court shall impose a monetary sanction
9 under Section 2023 against that party, or the attorney for that party,
10 or both, and in favor of any party attending in person or by
11 attorney, unless it finds that the one subject to the sanction acted
12 with substantial justification or that other circumstances make the
13 imposition of the sanction unjust.

14 (2) If a deponent does not appear for a deposition because the
15 party giving notice of the deposition failed to serve a required
16 deposition subpoena, the court shall impose a monetary sanction
17 under Section 2023 against that party, or the attorney for that party,
18 or both, in favor of any other party who, in person or by attorney,
19 attended at the time and place specified in the deposition notice in
20 the expectation that the deponent's testimony would be taken,
21 unless the court finds that the one subject to the sanction acted with
22 substantial justification or that other circumstances make the
23 imposition of the sanction unjust.

24 If a deponent on whom a deposition subpoena has been served
25 fails to attend a deposition or refuses to be sworn as a witness, the
26 court may impose on the deponent the sanctions described in
27 subdivision (h) of Section 2020.

28 (3) If, after service of a deposition notice, a party to the action
29 or an officer, director, managing agent, or employee of a party, or
30 a person designated by an organization that is a party under
31 subdivision (d), without having served a valid objection under
32 subdivision (g), fails to appear for examination, or to proceed with
33 it, or to produce for inspection any document or tangible thing
34 described in the deposition notice, the party giving the notice may
35 move for an order compelling the deponent's attendance and
36 testimony, and the production for inspection of any document or
37 tangible thing described in the deposition notice. This motion (A)
38 shall set forth specific facts showing good cause justifying the
39 production for inspection of any document or tangible thing
40 described in the deposition notice, and (B) shall be accompanied



1 by a declaration stating facts showing a reasonable and good faith
2 attempt at an informal resolution of each issue presented by it or,
3 when the deponent fails to attend the deposition and produce the
4 documents or things described in the deposition notice, by a
5 declaration stating that the petitioner has contacted the deponent
6 to inquire about the nonappearance. If this motion is granted, the
7 court shall also impose a monetary sanction under Section 2023
8 against the deponent or the party with whom the deponent is
9 affiliated, unless it finds that the one subject to the sanction acted
10 with substantial justification or that other circumstances make the
11 imposition of the sanction unjust. On motion of any other party
12 who, in person or by attorney, attended at the time and place
13 specified in the deposition notice in the expectation that the
14 deponent's testimony would be taken, the court shall also impose
15 a monetary sanction under Section 2023, unless it finds that the one
16 subject to the sanction acted with substantial justification or that
17 other circumstances make the imposition of the sanction unjust.

18 If that party or party-affiliated deponent then fails to obey an
19 order compelling attendance, testimony, and production, the court
20 may make those orders that are just, including the imposition of an
21 issue sanction, an evidence sanction, or a terminating sanction
22 under Section 2023 against that party deponent or against the party
23 with whom the deponent is affiliated. In lieu of, or in addition to,
24 this sanction, the court may impose a monetary sanction under
25 Section 2023 against that deponent or against the party with whom
26 that party deponent is affiliated, and in favor of any party who, in
27 person or by attorney, attended in the expectation that the
28 deponent's testimony would be taken pursuant to that order.

29 (k) Except as provided in paragraph (3) of subdivision (d) of
30 Section 2020, the deposition shall be conducted under the
31 supervision of an officer who is authorized to administer an oath
32 and is subject to all of the following requirements:

33 (1) The officer shall not be financially interested in the action
34 and shall not be a relative or employee of any attorney of the
35 parties, or of any of the parties.

36 (2) Services and products offered or provided by the deposition
37 officer or the entity providing the services of the deposition officer
38 to any party or to any party's attorney or third party who is
39 financing all or part of the action shall be offered to all parties or
40 their attorneys attending the deposition. No service or product may



1 be offered or provided by the deposition officer or by the entity
2 providing the services of the deposition officer to any party or any
3 party's attorney or third party who is financing all or part of the
4 action unless the service or product is offered or provided to all
5 parties or their attorneys attending the deposition. All services and
6 products offered or provided shall be made available at the same
7 time to all parties or their attorneys.

8 (3) The deposition officer or the entity providing the services
9 of the deposition officer shall not provide to any party or any
10 party's attorney or third party who is financing all or part of the
11 action any service or product consisting of the deposition officer's
12 notations or comments regarding the demeanor of any witness,
13 attorney, or party present at the deposition. The deposition officer
14 or entity providing the services of the deposition officer shall not
15 collect any personal identifying information about the witness as
16 a service or product to be provided to any party or third party who
17 is financing all or part of the action.

18 (4) Upon the request of any party or any party's attorney
19 attending a deposition, any party or any party's attorney attending
20 the deposition shall enter in the record of the deposition all services
21 and products made available to that party or party's attorney or
22 third party who is financing all or part of the action by the
23 deposition officer or by the entity providing the services of the
24 deposition officer. A party in the action who is not represented by
25 an attorney shall be informed by the noticing party or the party's
26 attorney that the unrepresented party may request this statement.

27 (5) Any objection to the qualifications of the deposition officer
28 shall be waived unless made before the deposition begins or as
29 soon thereafter as the ground for that objection becomes known or
30 could be discovered by reasonable diligence.

31 (l) (1) The deposition officer shall put the deponent under
32 oath. Unless the parties agree or the court orders otherwise, the
33 testimony, as well as any stated objections, shall be taken
34 stenographically. The party noticing the deposition may also
35 record the testimony by audiotape or videotape if the notice of
36 deposition stated an intention also to record the testimony by either
37 of those methods, or if all the parties agree that the testimony may
38 also be recorded by either of those methods. Any other party, at
39 that party's expense, may make a simultaneous audiotape or
40 videotape record of the deposition, provided that other party



1 promptly, and in no event less than three calendar days before the
2 date for which the deposition is scheduled, serves a written notice
3 of this intention to audiotape or videotape the deposition testimony
4 on the party or attorney who noticed the deposition, on all other
5 parties or attorneys on whom the deposition notice was served
6 under subdivision (c), and on any deponent whose attendance is
7 being compelled by a deposition subpoena under Section 2020. If
8 this notice is given three calendar days before the deposition date,
9 it shall be made by personal service under Section 1011.
10 Examination and cross-examination of the deponent shall proceed
11 as permitted at trial under the provisions of the Evidence Code.

12 (2) If the deposition is being recorded by means of audiotape
13 or videotape, the following procedure shall be observed:

14 (A) The area used for recording the deponent's oral testimony
15 shall be suitably large, adequately lighted, and reasonably quiet.

16 (B) The operator of the recording equipment shall be
17 competent to set up, operate, and monitor the equipment in the
18 manner prescribed in this subdivision. The operator may be an
19 employee of the attorney taking the deposition unless the operator
20 is also the deposition officer. However, if a videotape of deposition
21 testimony is to be used under paragraph (4) of subdivision (u), the
22 operator of the recording equipment shall be a person who is
23 authorized to administer an oath, and shall not be financially
24 interested in the action or be a relative or employee of any attorney
25 of any of the parties, unless all parties attending the deposition
26 agree on the record to waive these qualifications and restrictions.
27 Services and products offered or provided by the deposition officer
28 or the entity providing the services of the deposition officer to any
29 party or to any party's attorney or third party who is financing all
30 or part of the action shall be offered or provided to all parties or
31 their attorneys attending the deposition. No service or product may
32 be offered or provided by the deposition officer or by the entity
33 providing the services of the deposition officer to any party or any
34 party's attorney or third party who is financing all or part of the
35 action unless the service or product is offered or provided to all
36 parties or their attorneys attending the deposition. All services and
37 products offered or provided shall be made available at the same
38 time to all parties or their attorneys. The deposition officer or the
39 entity providing the services of the deposition officer shall not
40 provide to any party or any other person or entity any service or



1 product consisting of the deposition officer's notations or
2 comments regarding the demeanor of any witness, attorney, or
3 party present at the deposition. The deposition officer or the entity
4 providing the services of the deposition officer shall not collect
5 any personal identifying information about the witness as a service
6 or product to be provided to any party or third party who is
7 financing all or part of the action. Upon the request of any party
8 or any party's attorney attending a deposition, any party or any
9 party's attorney attending the deposition shall enter in the record
10 of the deposition all services and products made available to that
11 party or party's attorney or third party who is financing all or part
12 of the action by the deposition officer or by the entity providing the
13 services of the deposition officer. A party in the action who is not
14 represented by an attorney shall be informed by the noticing party
15 that the unrepresented party may request this statement.

16 (C) The operator shall not distort the appearance or the
17 demeanor of participants in the deposition by the use of camera or
18 sound recording techniques.

19 (D) The deposition shall begin with an oral or written statement
20 on camera or on the audiotape that includes the operator's name
21 and business address, the name and business address of the
22 operator's employer, the date, time, and place of the deposition,
23 the caption of the case, the name of the deponent, a specification
24 of the party on whose behalf the deposition is being taken, and any
25 stipulations by the parties.

26 (E) Counsel for the parties shall identify themselves on camera
27 or on the audiotape.

28 (F) The oath shall be administered to the deponent on camera
29 or on the audiotape.

30 (G) If the length of a deposition requires the use of more than
31 one unit of tape, the end of each unit and the beginning of each
32 succeeding unit shall be announced on camera or on the audiotape.

33 (H) At the conclusion of a deposition, a statement shall be made
34 on camera or on the audiotape that the deposition is ended and shall
35 set forth any stipulations made by counsel concerning the custody
36 of the audiotape or videotape recording and the exhibits, or
37 concerning other pertinent matters.

38 (I) A party intending to offer an audiotaped or videotaped
39 recording of a deposition in evidence under subdivision (u) shall
40 notify the court and all parties in writing of that intent and of the



1 parts of the deposition to be offered within sufficient time for
2 objections to be made and ruled on by the judge to whom the case
3 is assigned for trial or hearing, and for any editing of the tape.
4 Objections to all or part of the deposition shall be made in writing.
5 The court may permit further designations of testimony and
6 objections as justice may require. With respect to those portions of
7 an audiotaped or videotaped deposition that are not designated by
8 any party or that are ruled to be objectionable, the court may order
9 that the party offering the recording of the deposition at the trial
10 or hearing suppress those portions, or that an edited version of the
11 deposition tape be prepared for use at the trial or hearing. The
12 original audiotape or videotape of the deposition shall be
13 preserved unaltered. If no stenographic record of the deposition
14 testimony has previously been made, the party offering a
15 videotape or an audiotape recording of that testimony under
16 subdivision (u) shall accompany that offer with a stenographic
17 transcript prepared from that recording.

18 (3) In lieu of participating in the oral examination, parties may
19 transmit written questions in a sealed envelope to the party taking
20 the deposition for delivery to the deposition officer, who shall
21 unseal the envelope and propound them to the deponent after the
22 oral examination has been completed.

23 (m) (1) The protection of information from discovery on the
24 ground that it is privileged or that it is a protected work product
25 under Section 2018 is waived unless a specific objection to its
26 disclosure is timely made during the deposition.

27 (2) Errors and irregularities of any kind occurring at the oral
28 examination that might be cured if promptly presented are waived
29 unless a specific objection to them is timely made during the
30 deposition. These errors and irregularities include, but are not
31 limited to, those relating to the manner of taking the deposition, to
32 the oath or affirmation administered, to the conduct of a party,
33 attorney, deponent, or deposition officer, or to the form of any
34 question or answer. Unless the objecting party demands that the
35 taking of the deposition be suspended to permit a motion for a
36 protective order under subdivision (n), the deposition shall
37 proceed subject to the objection.

38 (3) Objections to the competency of the deponent, or to the
39 relevancy, materiality, or admissibility at trial of the testimony or



1 of the materials produced are unnecessary and are not waived by
2 failure to make them before or during the deposition.

3 (4) If a deponent fails to answer any question or to produce any
4 document or tangible thing under the deponent's control that is
5 specified in the deposition notice or a deposition subpoena, the
6 party seeking that answer or production may adjourn the
7 deposition or complete the examination on other matters without
8 waiving the right at a later time to move for an order compelling
9 that answer or production under subdivision (o).

10 (n) The deposition officer shall not suspend the taking of
11 testimony without stipulation of the party conducting the
12 deposition and the deponent unless any party attending the
13 deposition or the deponent demands the taking of testimony be
14 suspended to enable that party or deponent to move for a protective
15 order on the ground that the examination is being conducted in bad
16 faith or in a manner that unreasonably annoys, embarrasses, or
17 oppresses that deponent or party. This motion shall be
18 accompanied by a declaration stating facts showing a reasonable
19 and good faith attempt at an informal resolution of each issue
20 presented by the motion. The court, for good cause shown, may
21 terminate the examination or may limit the scope and manner of
22 taking the deposition as provided in subdivision (i). If the order
23 terminates the examination, the deposition shall not thereafter be
24 resumed, except on order of the court.

25 The court shall impose a monetary sanction under Section 2023
26 against any party, person, or attorney who unsuccessfully makes
27 or opposes a motion for this protective order, unless it finds that
28 the one subject to the sanction acted with substantial justification
29 or that other circumstances make the imposition of the sanction
30 unjust.

31 (o) If a deponent fails to answer any question or to produce any
32 document or tangible thing under the deponent's control that is
33 specified in the deposition notice or a deposition subpoena, the
34 party seeking discovery may move the court for an order
35 compelling that answer or production. This motion shall be made
36 no later than 60 days after the completion of the record of the
37 deposition, and shall be accompanied by a declaration stating facts
38 showing a reasonable and good faith attempt at an informal
39 resolution of each issue presented by the motion. Notice of this
40 motion shall be given to all parties, and to the deponent either



1 orally at the examination, or by subsequent service in writing. If
2 the notice of the motion is given orally, the deposition officer shall
3 direct the deponent to attend a session of the court at the time
4 specified in the notice. Not less than five days prior to the hearing
5 on this motion, the moving party shall lodge with the court a
6 certified copy of any parts of the stenographic transcript of the
7 deposition that are relevant to the motion. If a deposition is
8 recorded by audiotape or videotape, the moving party is required
9 to lodge a certified copy of a transcript of any parts of the
10 deposition that are relevant to the motion. If the court determines
11 that the answer or production sought is subject to discovery, it shall
12 order that the answer be given or the production be made on the
13 resumption of the deposition.

14 The court shall impose a monetary sanction under Section 2023
15 against any party, person, or attorney who unsuccessfully makes
16 or opposes a motion to compel answer or production, unless it
17 finds that the one subject to the sanction acted with substantial
18 justification or that other circumstances make the imposition of the
19 sanction unjust.

20 If a deponent fails to obey an order entered under this
21 subdivision, the failure may be considered a contempt of court. In
22 addition, if the disobedient deponent is a party to the action or an
23 officer, director, managing agent, or employee of a party, the court
24 may make those orders that are just against the disobedient party,
25 or against the party with whom the disobedient deponent is
26 affiliated, including the imposition of an issue sanction, an
27 evidence sanction, or a terminating sanction under Section 2023.
28 In lieu of, or in addition to, this sanction, the court may impose a
29 monetary sanction under Section 2023 against that party deponent
30 or against any party with whom the deponent is affiliated.

31 (p) Unless the parties agree otherwise, the testimony at any
32 deposition recorded by stenographic means shall be transcribed.
33 The party noticing the deposition shall bear the cost of that
34 transcription, unless the court, on motion and for good cause
35 shown, orders that the cost be borne or shared by another party.
36 Notwithstanding paragraph (2) of subdivision (k), any other party,
37 at that party's expense, may obtain a copy of the transcript. If the
38 deposition officer receives a request from a party for an original
39 or a copy of the deposition transcript, or any portion thereof, and
40 the document will be available to that party prior to the time the



1 original or copy would be available to any other party, the
2 deposition officer shall immediately notify all other parties
3 attending the deposition of the request, and shall, upon request by
4 any party other than the party making the original request, make
5 that copy of the full or partial deposition transcript available to all
6 parties at the same time. Stenographic notes of depositions shall
7 be retained by the reporter for a period of not less than eight years
8 from the date of the deposition, where no transcript is produced,
9 and not less than one year from the date on which the transcript is
10 produced. Those notes may be either on paper or electronic media,
11 as long as it allows for satisfactory production of a transcript at any
12 time during the periods specified. At the request of any other party
13 to the action, including a party who did not attend the taking of the
14 deposition testimony, any party who records or causes the
15 recording of that testimony by means of audiotape or videotape
16 shall promptly (1) permit that other party to hear the audiotape or
17 to view the videotape, and (2) furnish a copy of the audiotape or
18 videotape to that other party on receipt of payment of the
19 reasonable cost of making that copy of the tape.

20 If the testimony at the deposition is recorded both
21 stenographically, and by audiotape or videotape, the stenographic
22 transcript is the official record of that testimony for the purpose of
23 the trial and any subsequent hearing or appeal.

24 (q) (1) If the deposition testimony is stenographically
25 recorded, the deposition officer shall send written notice to the
26 deponent and to all parties attending the deposition when the
27 original transcript of the testimony for each session of the
28 deposition is available for reading, correcting, and signing, unless
29 the deponent and the attending parties agree on the record that the
30 reading, correcting, and signing of the transcript of the testimony
31 will be waived or that the reading, correcting, and signing of a
32 transcript of the testimony will take place after the entire
33 deposition has been concluded or at some other specific time. For
34 30 days following each notice, unless the attending parties and the
35 deponent agree on the record or otherwise in writing to a longer or
36 shorter time period, the deponent may change the form or the
37 substance of the answer to a question, and may either approve the
38 transcript of the deposition by signing it, or refuse to approve the
39 transcript by not signing it.



1 Alternatively, within this same period, the deponent may
2 change the form or the substance of the answer to any question and
3 may approve or refuse to approve the transcript by means of a letter
4 to the deposition officer signed by the deponent which is mailed
5 by certified or registered mail with return receipt requested. A
6 copy of that letter shall be sent by first-class mail to all parties
7 attending the deposition. For good cause shown, the court may
8 shorten the 30-day period for making changes, approving, or
9 refusing to approve the transcript.

10 The deposition officer shall indicate on the original of the
11 transcript, if the deponent has not already done so at the office of
12 the deposition officer, any action taken by the deponent and
13 indicate on the original of the transcript, the deponent's approval
14 of, or failure or refusal to approve, the transcript. The deposition
15 officer shall also notify in writing the parties attending the
16 deposition of any changes which the deponent timely made in
17 person. If the deponent fails or refuses to approve the transcript
18 within the allotted period, the deposition shall be given the same
19 effect as though it had been approved, subject to any changes
20 timely made by the deponent. However, on a seasonable motion
21 to suppress the deposition, accompanied by a declaration stating
22 facts showing a reasonable and good faith attempt at an informal
23 resolution of each issue presented by the motion, the court may
24 determine that the reasons given for the failure or refusal to
25 approve the transcript require rejection of the deposition in whole
26 or in part.

27 The court shall impose a monetary sanction under Section 2023
28 against any party, person, or attorney who unsuccessfully makes
29 or opposes a motion to suppress a deposition, unless it finds that
30 the one subject to the sanction acted with substantial justification
31 or that other circumstances make the imposition of the sanction
32 unjust.

33 (2) If there is no stenographic transcription of the deposition,
34 the deposition officer shall send written notice to the deponent and
35 to all parties attending the deposition that the recording is available
36 for review, unless the deponent and all these parties agree on the
37 record to waive the hearing or viewing of an audiotape or
38 videotape recording of the testimony. For 30 days following this
39 notice the deponent, either in person or by signed letter to the



1 deposition officer, may change the substance of the answer to any
2 question.

3 The deposition officer shall set forth in a writing to accompany
4 the recording any changes made by the deponent, as well as either
5 the deponent's signature identifying the deposition as his or her
6 own, or a statement of the deponent's failure to supply the
7 signature, or to contact the officer within the allotted period. When
8 a deponent fails to contact the officer within the allotted period, or
9 expressly refuses by a signature to identify the deposition as his or
10 her own, the deposition shall be given the same effect as though
11 signed. However, on a reasonable motion to suppress the
12 deposition, accompanied by a declaration stating facts showing a
13 reasonable and good faith attempt at an informal resolution of each
14 issue presented by the motion, the court may determine that the
15 reasons given for the refusal to sign require rejection of the
16 deposition in whole or in part.

17 The court shall impose a monetary sanction under Section 2023
18 against any party, person, or attorney who unsuccessfully makes
19 or opposes a motion to suppress a deposition, unless it finds that
20 the one subject to the sanction acted with substantial justification
21 or that other circumstances make the imposition of the sanction
22 unjust.

23 (r) (1) The deposition officer shall certify on the transcript of
24 the deposition, or in a writing accompanying an audiotaped or
25 videotaped deposition as described in paragraph (2) of subdivision
26 (q), that the deponent was duly sworn and that the transcript or
27 recording is a true record of the testimony given.

28 (2) When prepared as a rough draft transcript, the transcript of
29 the deposition may not be certified and may not be used, cited, or
30 transcribed as the certified transcript of the deposition
31 proceedings. The rough draft transcript may not be cited or used
32 in any way or at any time to rebut or contradict the certified
33 transcript of deposition proceedings as provided by the deposition
34 officer.

35 (s) (1) The certified transcript of a deposition shall not be filed
36 with the court. Instead, the deposition officer shall securely seal
37 that transcript in an envelope or package endorsed with the title of
38 the action and marked: "Deposition of (here insert name of
39 deponent)," and shall promptly transmit it to the attorney for the
40 party who noticed the deposition. This attorney shall store it under



1 conditions that will protect it against loss, destruction, or
2 tampering.

3 The attorney to whom the transcript of a deposition is
4 transmitted shall retain custody of it until six months after final
5 disposition of the action. At that time, the transcript may be
6 destroyed, unless the court, on motion of any party and for good
7 cause shown, orders that the transcript be preserved for a longer
8 period.

9 (2) An audiotape or videotape record of deposition testimony,
10 including a certified tape made by an operator qualified under
11 subparagraph (B) of paragraph (2) of subdivision (I), shall not be
12 filed with the court. Instead, the operator shall retain custody of
13 that record and shall store it under conditions that will protect it
14 against loss, destruction, or tampering, and preserve as far as
15 practicable the quality of the tape and the integrity of the testimony
16 and images it contains.

17 At the request of any party to the action, including a party who
18 did not attend the taking of the deposition testimony, or at the
19 request of the deponent, that operator shall promptly (A) permit
20 the one making the request to hear or to view the tape on receipt
21 of payment of a reasonable charge for providing the facilities for
22 hearing or viewing the tape, and (B) furnish a copy of the audiotape
23 or the videotape recording to the one making the request on receipt
24 of payment of the reasonable cost of making that copy of the tape.

25 The attorney or operator who has custody of an audiotape or
26 videotape record of deposition testimony shall retain custody of it
27 until six months after final disposition of the action. At that time,
28 the audiotape or videotape may be destroyed or erased, unless the
29 court, on motion of any party and for good cause shown, orders
30 that the tape be preserved for a longer period.

31 (t) Once any party has taken the deposition of any natural
32 person, including that of a party to the action, neither the party who
33 gave, nor any other party who has been served with a deposition
34 notice pursuant to subdivision (c) may take a subsequent
35 deposition of that deponent. However, for good cause shown, the
36 court may grant leave to take a subsequent deposition, and the
37 parties, with the consent of any deponent who is not a party, may
38 stipulate that a subsequent deposition be taken. This subdivision
39 does not preclude taking one subsequent deposition of a natural
40 person who has previously been examined (1) as a result of that



1 person's designation to testify on behalf of an organization under
2 subdivision (d), or (2), pursuant to a court order under Section
3 485.230, for the limited purpose of discovering pursuant to
4 Section 485.230 the identity, location, and value of property in
5 which the deponent has an interest. This subdivision does not
6 authorize the taking of more than one subsequent deposition for
7 the limited purpose of Section 485.230.

8 (u) At the trial or any other hearing in the action, any part or all
9 of a deposition may be used against any party who was present or
10 represented at the taking of the deposition, or who had due notice
11 of the deposition and did not serve a valid objection under
12 subdivision (g), so far as admissible under the rules of evidence
13 applied as though the deponent were then present and testifying as
14 a witness, in accordance with the following provisions:

15 (1) Any party may use a deposition for the purpose of
16 contradicting or impeaching the testimony of the deponent as a
17 witness, or for any other purpose permitted by the Evidence Code.

18 (2) An adverse party may use for any purpose, a deposition of
19 a party to the action, or of anyone who at the time of taking the
20 deposition was an officer, director, managing agent, employee,
21 agent, or designee under subdivision (d) of a party. It is not ground
22 for objection to the use of a deposition of a party under this
23 paragraph by an adverse party that the deponent is available to
24 testify, has testified, or will testify at the trial or other hearing.

25 (3) Any party may use for any purpose the deposition of any
26 person or organization, including that of any party to the action,
27 if the court finds any of the following:

28 (A) The deponent resides more than 150 miles from the place
29 of the trial or other hearing.

30 (B) The deponent, without the procurement or wrongdoing of
31 the proponent of the deposition for the purpose of preventing
32 testimony in open court, is (i) exempted or precluded on the
33 ground of privilege from testifying concerning the matter to which
34 the deponent's testimony is relevant, (ii) disqualified from
35 testifying, (iii) dead or unable to attend or testify because of
36 existing physical or mental illness or infirmity, (iv) absent from the
37 trial or other hearing and the court is unable to compel the
38 deponent's attendance by its process, or (v) absent from the trial
39 or other hearing and the proponent of the deposition has exercised



1 reasonable diligence but has been unable to procure the deponent's
2 attendance by the court's process.

3 (C) Exceptional circumstances exist that make it desirable to
4 allow the use of any deposition in the interests of justice and with
5 due regard to the importance of presenting the testimony of
6 witnesses orally in open court.

7 (4) Any party may use a videotape deposition of a treating or
8 consulting physician or of any expert witness even though the
9 deponent is available to testify if the deposition notice under
10 subdivision (d) reserved the right to use the deposition at trial, and
11 if that party has complied with subparagraph (I) of paragraph (2)
12 of subdivision (l).

13 (5) Subject to the requirements of this section, a party may offer
14 in evidence all or any part of a deposition, and if the party
15 introduces only part of the deposition, any other party may
16 introduce any other parts that are relevant to the parts introduced.

17 (6) Substitution of parties does not affect the right to use
18 depositions previously taken.

19 (7) When an action has been brought in any court of the United
20 States or of any state, and another action involving the same
21 subject matter is subsequently brought between the same parties
22 or their representatives or successors in interest, all depositions
23 lawfully taken and duly filed in the initial action may be used in
24 the subsequent action as if originally taken in that subsequent
25 action. A deposition previously taken may also be used as
26 permitted by the Evidence Code.

27 (v) Violation of subdivision (k) by any person may result in a
28 civil penalty of up to five thousand dollars (\$5,000) imposed by a
29 court of competent jurisdiction.

30 SEC. 10. Section 2026 of the Code of Civil Procedure is
31 amended to read:

32 2026. (a) Any party may obtain discovery by taking an oral
33 deposition, as described in subdivision (a) of Section 2025, in
34 another state of the United States, or in a territory or an insular
35 possession subject to its jurisdiction. Except as modified in this
36 section, the procedures for taking oral depositions in California set
37 forth in Section 2025 apply to an oral deposition taken in another
38 state of the United States, or in a territory or an insular possession
39 subject to its jurisdiction.



1 (b) (1) If a deponent is a party to the action or an officer,
 2 director, managing agent, or employee of a party, the service of the
 3 deposition notice is effective to compel that deponent to attend and
 4 to testify, as well as to produce any document or tangible thing for
 5 inspection and copying. The deposition notice shall specify a place
 6 in the state, territory, or insular possession of the United States that
 7 is within 75 miles of the residence or a business office of a
 8 deponent.

9 (2) If the deponent is not a party to the action or an officer,
 10 director, managing agent, or employee of a party, a party serving
 11 a deposition notice under this section shall use any process and
 12 procedures required and available under the laws of the state,
 13 territory, or insular possession where the deposition is to be taken
 14 to compel the deponent to attend and to testify, as well as to
 15 produce any document or tangible thing for inspection, copying,
 16 and any related activity.

17 (c) A deposition taken under this section shall be conducted (1)
 18 under the supervision of a person who is authorized to administer
 19 oaths by the laws of the United States or those of the place where
 20 the examination is to be held, and who is not otherwise disqualified
 21 under subdivision (k) and subparagraph (B) of paragraph (2) of
 22 subdivision (l) of Section 2025, or (2) before a person appointed
 23 by the court. This appointment is effective to authorize that person
 24 to administer oaths and to take testimony. On request, the clerk of
 25 the court shall issue a commission authorizing the deposition in
 26 another state or place. The commission shall request that process
 27 issue in the place where the examination is to be held, requiring
 28 attendance and enforcing the obligations of the deponents to
 29 produce documents and answer questions. The commission shall
 30 be issued by the clerk to any party in any action pending in its
 31 venue without a noticed motion or court order. The commission
 32 may contain such terms as are required by the foreign jurisdiction
 33 to initiate the process. If a court order is required by the foreign
 34 jurisdiction, an order for a commission may be obtained by ex
 35 parte application.

36 SEC. 11. Section 2033.5 of the Code of Civil Procedure is
 37 amended to read:

38 2033.5. (a) The Judicial Council shall develop and approve
 39 official form interrogatories and requests for admission of the
 40 genuineness of any relevant documents or of the truth of any



1 relevant matters of fact for use in any civil action in a state court
2 based on personal injury, property damage, wrongful death,
3 unlawful detainer, breach of contract, family law, or fraud and for
4 any other civil actions the Judicial Council deems appropriate. Use
5 of the approved form interrogatories and requests for admission
6 shall be optional.

7 (b) In developing the form interrogatories and requests for
8 admission required by this section, the Judicial Council shall
9 consult with a representative advisory committee which shall
10 include, but not be limited to, representatives of the plaintiff's bar,
11 the defense bar, the public interest bar, court administrators, and
12 the public. The form interrogatories and requests for admission
13 shall be drafted in nontechnical language and shall be made
14 available through the office of the clerk of the appropriate trial
15 court.

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

19 (d) The Judicial Council shall develop and approve official
20 form interrogatories for use by a victim who has not received
21 complete payment of a restitution order made pursuant to Section
22 1202.4 of the Penal Code.

23 (e) Notwithstanding whether a victim initiates or maintains an
24 action to satisfy the unpaid restitution order, a victim may
25 propound the form interrogatories approved pursuant to this
26 section once each calendar year. The defendant subject to the
27 restitution order shall, in responding to the interrogatories
28 propounded, provide current information regarding the nature,
29 extent, and location of any assets, income, and liabilities in which
30 the defendant claims a present or future interest.

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

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

34 915. (a) Subject to subdivision (b), the presiding officer may
35 not require disclosure of information claimed to be privileged
36 under this division or attorney work product under subdivision (c)
37 of Section 2018 of the Code of Civil Procedure in order to rule on
38 the claim of privilege; provided, however, that in any hearing
39 conducted pursuant to subdivision (c) of Section 1524 of the Penal
40 Code in which a claim of privilege is made and the court



1 determines that there is no other feasible means to rule on the
2 validity of ~~such~~ *the* claim other than to require disclosure, the court
3 shall proceed in accordance with subdivision (b).

4 (b) When a court is ruling on a claim of privilege under Article
5 9 (commencing with Section 1040) of Chapter 4 (official
6 information and identity of informer) or under Section 1060 (trade
7 secret) or under subdivision (b) of Section 2018 of the Code of
8 Civil Procedure (attorney work product) and is unable to do so
9 without requiring disclosure of the information claimed to be
10 privileged, the court may require the person from whom disclosure
11 is sought or the person authorized to claim the privilege, or both,
12 to disclose the information in chambers out of the presence and
13 hearing of all persons except the person authorized to claim the
14 privilege and ~~such~~ *any* other persons as the person authorized to
15 claim the privilege is willing to have present. If the judge
16 determines that the information is privileged, neither ~~he~~ *the judge*
17 nor any other person may ever disclose, without the consent of a
18 person authorized to permit disclosure, what was disclosed in the
19 course of the proceedings in chambers.

20 SEC. 13. Section 68113 of the Government Code is repealed.

21 SEC. 14. Section 68502.5 of the Government Code is
22 amended to read:

23 68502.5. (a) The Judicial Council may, as part of its trial
24 court budget process, seek input from groups and individuals as it
25 deems appropriate including, but not limited to, advisory
26 committees and the Administrative Director of the Courts. The
27 trial court budget process may include, but is not limited to, the
28 following:

29 (1) The receipt of budget requests from the trial courts.

30 (2) The review of the trial courts' budget requests and evaluate
31 them against performance criteria established by the Judicial
32 Council by which a court's performance, level of coordination,
33 and efficiency can be measured.

34 (3) The annual adoption of the projected cost in the subsequent
35 fiscal year of court operations as defined in Section 77003 for each
36 trial court. This estimation shall serve as a basis for recommended
37 court budgets, which shall be developed for comparison purposes
38 and to delineate funding responsibilities.

39 (4) The annual approval of a schedule for the allocation of
40 moneys to individual courts and an overall trial court budget for



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

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

20 (6) The allocation of funds in the Trial Court Improvement
21 Fund to ensure equal access to trial courts by the public, to improve
22 trial court operations, and to meet trial court emergencies.

23 (7) Upon approval of the trial courts' budget by the Legislature,
24 the preparation during the course of the fiscal year of allocation
25 schedules for payments to the trial courts, consistent with Section
26 68085, which shall be submitted to the Controller's office by the
27 10th day of the month in which payments are to be made.

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

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

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

38 (11) Provisions set forth in rules adopted pursuant to Section
39 77206 of the Government Code.



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

8 SEC. 15. Section 68511.3 of the Government Code is
 9 amended to read:

10 68511.3. (a) The Judicial Council shall formulate and adopt
 11 uniform forms and rules of court for litigants proceeding in forma
 12 pauperis. These rules shall provide for all of the following:

13 (1) Standard procedures for considering and determining
 14 applications for permission to proceed in forma pauperis,
 15 including, in the event of a denial of ~~such~~ permission, a written
 16 statement detailing the reasons for denial and an evidentiary
 17 hearing where there is a substantial evidentiary conflict.

18 (2) Standard procedures to toll relevant time limitations when
 19 a pleading or other paper accompanied by ~~such an~~ *the* application
 20 is timely lodged with the court and delay is caused due to the
 21 processing of the application to proceed in forma pauperis.

22 (3) Proceeding in forma pauperis at every stage of the
 23 proceedings at both the appellate and trial levels of the court
 24 system.

25 (4) The confidentiality of the financial information provided to
 26 the court by these litigants.

27 (5) That the court may authorize the clerk of the court, county
 28 financial officer, or other appropriate county officer to make
 29 reasonable efforts to verify the litigant's financial condition
 30 without compromising the confidentiality of the application.

31 (6) That permission to proceed in forma pauperis be granted to
 32 all of the following:

33 (A) Litigants who are receiving benefits pursuant to the
 34 Supplemental Security Income (SSI) and State Supplemental
 35 Payments (SSP) programs (Sections 12200 to 12205, inclusive, of
 36 the Welfare and Institutions Code), the California Work
 37 Opportunity and Responsibility to Kids Act (CalWORKs)
 38 program (Chapter 2 (commencing with Section 11200) of Part 3
 39 of Division 9 of the Welfare and Institutions Code), the Food



1 Stamp program (7 U.S.C. Sec. 2011 et seq.), or Section 17000 of
2 the Welfare and Institutions Code.

3 (B) Litigants whose monthly income is 125 percent or less of
4 the current monthly poverty line annually established by the
5 Secretary of Health and Human Services pursuant to the Omnibus
6 Budget Reconciliation Act of 1981, as amended.

7 (C) Other persons when in the court's discretion, this
8 permission is appropriate because the litigant is unable to proceed
9 without using money which is necessary for the use of the litigant
10 or the litigant's family to provide for the common necessities of
11 life.

12 (b) (1) Litigants who apply for permission to proceed in forma
13 pauperis pursuant to subparagraph (A) of paragraph (6) of
14 subdivision (a) shall declare under penalty of perjury that they are
15 receiving ~~such~~ *the* benefits and may voluntarily provide the court
16 with their date of birth and social security number or their
17 Medi-Cal identification number to permit the court to verify the
18 applicant's receipt of public assistance. The court may require any
19 applicant, except a defendant in an unlawful detainer action, who
20 chooses not to disclose his or her social security number for
21 verification purposes to attach to the application documentation of
22 benefits to support the claim and all other financial information on
23 a form promulgated by the Judicial Council for this purpose.

24 (2) Litigants who apply for permission to proceed in forma
25 pauperis pursuant to subparagraph (B) or (C) of paragraph (6) of
26 subdivision (a) shall file a financial statement under oath on a form
27 promulgated by, and pursuant to rules adopted by, the Judicial
28 Council.

29 (c) The forms and rules adopted by the Judicial Council shall
30 provide for the disclosure of the following information about the
31 litigant:

32 (1) Current street address.

33 (2) Occupation and employer.

34 (3) Monthly income and expenses.

35 (4) Address and value of any real property owned directly or
36 beneficially.

37 (5) Personal property with a value that exceeds five hundred
38 dollars (\$500).



1 The information furnished by the litigant shall be used by the
2 court in determining his or her ability to pay all or a portion of the
3 fees and costs.

4 (d) At any time after the court has granted a litigant permission
5 to proceed in forma pauperis and prior to final disposition of the
6 case, the clerk of the court, county financial officer, or other
7 appropriate county officer may notify the court of any changed
8 financial circumstances which may enable the litigant to pay all or
9 a portion of the fees and costs which had been waived. The court
10 may authorize the clerk of the court, county financial officer, or
11 other appropriate county officer to require the litigant to appear
12 before and be examined by the person authorized to ascertain the
13 validity of their indigent status. However, no litigant shall be
14 required to appear more than once in any four-month period. A
15 litigant proceeding in forma pauperis shall notify the court within
16 five days of any settlement or monetary consideration received in
17 settlement of this litigation and of any other change in financial
18 circumstances that affects the litigant's ability to pay court fees and
19 costs. After the litigant either (1) appears before and is examined
20 by the person authorized to ascertain the validity of his or her
21 indigent status or (2) notifies the court of a change in financial
22 circumstances, the court may then order the litigant to pay to the
23 county ~~such~~ *the* sum and in ~~such~~ *any* manner ~~as~~ the court believes
24 is compatible with the litigant's financial ability.

25 In any action or proceeding in which the litigant whose fees and
26 costs have been waived would have been entitled to recover those
27 fees and costs from another party to the action or proceeding had
28 they been paid, the court may assess the amount of the waived fees
29 and costs against the other party and order the other party to pay
30 that sum to the county or to the clerk and serving and levying
31 officers respectively, or the court may order the amount of the
32 waived fees and costs added to the judgment and so identified by
33 the clerk.

34 Execution may be issued on any order provided for in this
35 subdivision in the same manner as on a judgment in a civil action.
36 When an amount equal to the sum due and payable to the clerk has
37 been collected upon the judgment, these amounts shall be remitted
38 to the clerk within 30 days. Thereafter, when an amount equal to
39 the sum due to the serving and levying officers has been collected
40 upon the judgment, these amounts shall be due and payable to



1 those officers and shall be remitted within 30 days. If the
2 remittance is not received by the clerk within 30 days or there is
3 a filing of a partial satisfaction of judgment in an amount at least
4 equal to the fees and costs payable to the clerk or a satisfaction of
5 judgment has been filed, notwithstanding any other provision of
6 law, the court may issue an abstract of judgment, writ of execution,
7 or both for recovery of those sums, plus the fees for issuance and
8 execution and an additional fee for administering this section. The
9 county board of supervisors shall establish a fee, not to exceed
10 actual costs of administering this subdivision and in no case
11 exceeding twenty-five dollars (\$25), which shall be added to the
12 writ of execution.

13 (e) Notwithstanding subdivision (a), a person who is sentenced
14 to imprisonment in a state prison or confined in a county jail and,
15 during the period of imprisonment or confinement, files a civil
16 action or notice of appeal of a civil action in forma pauperis shall
17 be required to pay the full amount of the filing fee to the extent
18 provided in this subdivision.

19 (1) In addition to the form required by this section for filing in
20 forma pauperis, an inmate shall file a copy of a statement of
21 account for any sums due to the inmate for the six-month period
22 immediately preceding the filing of the civil action or notice of
23 appeal of a civil action. This copy shall be certified by the
24 appropriate official of the Department of Corrections or a county
25 jail.

26 (2) Upon filing the civil action or notice of appeal of a civil
27 action, the court shall assess, and when funds exist, collect, as a
28 partial payment of any required court fees, an initial partial filing
29 fee of 20 percent of the greater of one of the following:

30 (A) The average monthly deposits to the inmate's account.

31 (B) The average monthly balance in the inmate's account for
32 the six-month period immediately preceding the filing of the civil
33 action or notice of appeal.

34 (3) After payment of the initial partial filing fee, the inmate
35 shall be required to make monthly payments of 20 percent of the
36 preceding month's income credited to the inmate's account. The
37 Department of Corrections shall forward payments from this
38 account to the clerk of the court each time the amount in the
39 account exceeds ten dollars (\$10) until the filing fees are paid.



1 (4) In no event shall the filing fee collected pursuant to this
2 subdivision exceed the amount of fees permitted by law for the
3 commencement of a civil action or an appeal of a civil action.

4 (5) In no event shall an inmate be prohibited from bringing a
5 civil action or appeal of a civil action solely because the inmate has
6 no assets and no means to pay the initial partial filing fee.

7 SEC. 16. Section 72055 of the Government Code is amended
8 to read:

9 72055. (a) The total fee for filing of the first paper in a limited
10 civil case shall be eighty-seven dollars (\$87).

11 (b) This section applies to the initial complaint, petition, or
12 application, and any papers transmitted from another court on the
13 transfer of a civil action or proceeding, but does not include
14 documents filed pursuant to Section 491.150, 704.750, or 708.160
15 of the Code of Civil Procedure.

16 (c) The term “total fee” as used in this section and Section
17 72056 includes any amount allocated to the Judges’ Retirement
18 Fund pursuant to Section 72056.1, any automation fee imposed
19 pursuant to Section 68090.7, any construction fee imposed
20 pursuant to Section 76238, and the law library fee established
21 pursuant to Article 2 (commencing with Section 6320) of Chapter
22 5 of Division 3 of the Business and Professions Code. The term
23 “total fee” as used in this section and Section 72056 also includes
24 any dispute resolution fee imposed pursuant to Section 470.3 of
25 the Business and Professions Code, but the Judicial Council may
26 authorize any trial court to exclude any portion of this dispute
27 resolution fee from the term “total fee.”

28 (d) The fee shall be waived in any action for damages against
29 a defendant, based upon the defendant’s commission of a felony
30 offense, upon presentation to the clerk of the court of a certified
31 copy of the abstract of judgment of conviction of the defendant of
32 the felony giving rise to the claim for damages. If the plaintiff
33 would have been entitled to recover those fees from the defendant
34 had they been paid, the court may assess the amount of the waived
35 fees against the defendant and order the defendant to pay that sum
36 to the county.

37 SEC. 17. Section 77001 of the Government Code is amended
38 to read:



1 77001. The Judicial Council shall adopt rules which establish
2 a decentralized system of trial court management. These rules
3 shall ensure:

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

6 (b) Countywide administration of the trial courts.

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

10 (1) Annual allocation of funding, including policies and
11 procedures about moving funding between functions or line items
12 or programs.

13 (2) Local personnel plans, including the promulgation of
14 personnel policies.

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

17 (4) The trial courts of each county shall establish the means of
18 selecting presiding judges, assistant presiding judges, executive
19 officers or court administrators, clerks of court, and jury
20 commissioners.

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

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

24 SEC. 18. Section 77003 of the Government Code is amended
25 to read:

26 77003. (a) As used in this chapter, “court operations” means
27 all of the following:

28 (1) Salaries, benefits, and public agency retirement
29 contributions for superior and municipal court judges and for
30 subordinate judicial officers. For purposes of this paragraph,
31 “subordinate judicial officers” includes all commissioner or
32 referee positions created prior to July 1, 1997, including positions
33 created in the municipal court prior to July 1, 1997, which
34 thereafter became positions in the superior court as a result of
35 unification of the municipal and superior courts in a county, and
36 including those commissioner positions created pursuant to
37 Sections 69904, 70141, 70141.9, 70142.11, 72607, 73794,
38 74841.5, and 74908; and includes any staff who provide direct
39 support to commissioners; but does not include commissioners or
40 staff who provide direct support to the commissioners whose



1 positions were created after July 1, 1997, unless approved by the
2 Judicial Council, subject to availability of funding.

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

6 (3) Those marshals and sheriffs as the court deems necessary
7 for court operations.

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

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

13 (6) Collective bargaining under Sections 71630 and 71639.3
14 with respect to court employees.

15 (7) Subject to paragraph (1) of subdivision (d) of Section
16 77212, actual indirect costs for county and city and county general
17 services attributable to court operations, but specifically
18 excluding, but not limited to, law library operations conducted by
19 a trust pursuant to statute; courthouse construction; district
20 attorney services; probation services; indigent criminal defense;
21 grand jury expenses and operations; and pretrial release services.

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

25 SEC. 19. Section 77009 of the Government Code is amended
26 to read:

27 77009. (a) For the purposes of funding trial court operations,
28 each board of supervisors shall establish in the county treasury a
29 Trial Court Operations Fund, which will operate as an agency
30 fund. All funds appropriated in the Budget Act and allocated and
31 reallocated to each court in the county by the Judicial Council shall
32 be deposited into the fund. Accounts shall be established in the
33 Trial Court Operations Fund for each trial court in the county,
34 except that one account may be established for courts which have
35 a unified budget. In a county where court budgets include
36 appropriations for expenditures administered on a countywide
37 basis, including, but not limited to, court security, centralized
38 data-processing and planning and research services, an account for
39 each centralized service shall be established and funded from those
40 appropriations.



1 (b) The moneys of the Trial Court Operations Fund arising
2 from deposits of funds appropriated in the Budget Act and
3 allocated or reallocated to each court in the county by the Judicial
4 Council shall be payable only for the purposes set forth in Sections
5 77003 and 77006.5, and for services purchased by the court
6 pursuant to subdivisions (b) and (c) of Section 77212. The
7 presiding judge of each court in a county, or his or her designee,
8 shall authorize and direct expenditures from the fund and the
9 county auditor-controller shall make payments from the funds as
10 directed. Approval of the board of supervisors is not required for
11 expenditure from this fund.

12 (c) All funds received by a trial court from any source shall be
13 deposited in the trial court operations fund, except as provided in
14 this section. Funds that are received to fulfill the requirements of
15 Article 4 (commencing with Section 4250) of Chapter 2 of Part 2
16 of Division 9 and Division 14 (commencing with Section 10000)
17 of the Family Code shall be identified and maintained in a separate
18 account established in the fund for this purpose. All other funds
19 that are received for purposes other than court operations, as
20 defined in Section 77003 and Rule 810 of the California Rules of
21 Court, shall be identified and maintained in one or more separate
22 accounts established in the fund pursuant to procedures adopted by
23 the Judicial Council. This subdivision shall only apply to funds
24 received by the courts for operating and program purposes. This
25 subdivision shall not apply to either of the following:

26 (1) Funds received by the courts pursuant to Section 68084, if
27 those funds are not for operating or program use.

28 (2) Payments from a party or a defendant received by a trial
29 court or the county for any fees, fines, or forfeitures.

30 (d) Interest received by a county which is attributable to
31 investment of money required by this section to be deposited in its
32 Trial Court Operations Fund shall be deposited in the fund and
33 shall be used for trial court operations purposes.

34 (e) In no event shall interest be charged to the Trial Court
35 Operations Fund, except as provided in Section 77009.1.

36 (f) Reasonable administrative expenses incurred by the county
37 associated with the operation of this fund shall be charged to each
38 court on a pro rata basis in proportion to the total amount allocated
39 to each court in this fund.



1 (g) A county, or city and county, may bill trial courts within its
2 jurisdiction for costs for services provided by the county, or city
3 and county, as described in Sections 77003 and 77212, including
4 indirect costs as described in paragraph (7) of subdivision (a) of
5 Section 77003 and Section 77212. The costs billed by the county,
6 or the city and the county, pursuant to this subdivision shall not
7 exceed the costs incurred by the county, or the city and the county,
8 of providing similar services to county departments or special
9 districts.

10 (h) Pursuant to Section 77206, the Controller, at the request of
11 the Legislature, may perform financial and fiscal compliance
12 audits of this fund. The Judicial Council or its representatives may
13 perform audits and reviews of this fund wherever the records may
14 be located.

15 (i) The Judicial Council, in consultation with the Controller's
16 office, shall establish procedures to implement the provisions of
17 this section and to provide for payment of trial court operations
18 expenses, as described in Sections 77003 and 77006.5, incurred on
19 July 1, 1997, and thereafter.

20 (j) Notwithstanding any other provision of law, including, but
21 not limited to, this section, the Judicial Council may establish trial
22 court operations funds separate from the county treasury. The
23 operations funds may supersede those provided for under this
24 section and may require the courts to include any or all money
25 under the control of the court in the funds.

26 SEC. 20. Section 77202 of the Government Code is amended
27 to read:

28 77202. (a) The Legislature shall make an annual
29 appropriation to the Judicial Council for the general operations of
30 the trial courts based on the request of the Judicial Council. The
31 Judicial Council's trial court budget request shall meet the needs
32 of all trial courts in a manner which promotes equal access to the
33 courts statewide. The Judicial Council shall allocate the
34 appropriation to the trial courts in a manner that best ensures the
35 ability of the courts to carry out their functions, promotes
36 implementation of statewide policies, and promotes the immediate
37 implementation of efficiencies and cost saving measures in court
38 operations, in order to guarantee access to justice to citizens of the
39 state.



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

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

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

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

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

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

16 (5) The use of alternative dispute resolution programs, such as
17 arbitration.

18 (6) The development and use of automated accounting and
19 case-processing systems.

20 (b) The Judicial Council shall adopt policies and procedures
21 governing practices and procedures for budgeting in the trial
22 courts in a manner that best ensures the ability of the courts to carry
23 out their functions and may delegate ~~such~~ *the* adoption to the
24 Administrative Director of the Courts. The Administrative
25 Director of the Courts shall establish budget procedures and an
26 annual schedule of budget development and management
27 consistent with these rules.

28 SEC. 21. Section 77206 of the Government Code is amended
29 to read:

30 77206. (a) Notwithstanding any other provision of law, the
31 Judicial Council may regulate the budget and fiscal management
32 of the trial courts. The Judicial Council, in consultation with the
33 Controller, shall maintain appropriate regulations for
34 recordkeeping and accounting by the courts. The Judicial Council
35 shall seek to ensure, by these provisions, that (1) the fiscal affairs
36 of the trial courts are managed efficiently, effectively, and
37 responsibly, and (2) all moneys collected by the courts, including
38 filing fees, fines, forfeitures, and penalties, and all revenues and
39 expenditures relating to court operations are known. The Judicial



1 Council may delegate their authority under this section, when
2 appropriate, to the Administrative Director of the Courts.

3 (b) Regulations, rules, and reporting requirements adopted
4 pursuant to this chapter shall be exempt from review and approval
5 or other processing by the Office of Administrative Law as
6 provided for in Chapter 3.5 (commencing with Section 11340) of
7 Part 1 of Division 3 of Title 2.

8 (c) The Controller, at the request of the Legislature, may
9 perform and publish financial and fiscal compliance audits of the
10 reports of court revenues and expenditures. The Controller shall
11 report the results of these audits to the Legislature and the Judicial
12 Council. The Judicial Council or its representative may perform
13 audits and reviews of all court financial records wherever they may
14 be located.

15 (d) The Judicial Council shall provide for the transmission of
16 summary information concerning court revenues and
17 expenditures to the Controller.

18 (e) The Judicial Council shall adopt rules to provide for
19 reasonable public access to budget allocation and expenditure
20 information at the state and local level.

21 (f) The Judicial Council shall adopt rules ensuring that, upon
22 written request, the trial courts provide, in a timely manner,
23 information relating to the administration of the courts, including
24 financial information and other information that affects the wages,
25 hours, and working conditions of trial court employees.

26 SEC. 22. Section 77212 of the Government Code is amended
27 to read:

28 77212. (a) The State of California, the counties of California,
29 and the trial courts of California, recognize that a unique and
30 interdependent relationship has evolved between the courts and
31 the counties over a sustained period of time. While it is the intent
32 of this act to transfer all fiscal responsibility for the support of the
33 trial courts from the counties to the State of California, it is
34 imperative that the activities of the state, the counties, and the trial
35 courts be maintained in a manner that ensures that services to the
36 people of California not be disrupted. Therefore, to this end,
37 during the 1997–98 fiscal year, commencing on July 1, 1997,
38 counties shall continue to provide and courts shall continue to use,
39 county services provided to the trial courts on July 1, 1997,
40 including, but not limited to: auditor/controller services,



1 coordination of telephone services, data-processing and
2 information technology services, procurement, human resources
3 services, affirmative action services, treasurer/tax collector
4 services, county counsel services, facilities management, and legal
5 representation. These services shall be provided to the court at a
6 rate that shall not exceed the costs of providing similar services to
7 county departments or special districts. If the cost was not included
8 in the county base pursuant to paragraph (1) of subdivision (b) of
9 Section 77201 or was not otherwise charged to the court prior to
10 July 1, 1997, and were court operation costs as defined in Section
11 77003 in fiscal year 1994–95, the court may seek adjustment of the
12 amount the county is required to submit to the state pursuant
13 Section 77201.

14 (b) In fiscal year 1998–99 commencing on July 1, 1998, and
15 thereafter the county may give notice to the court that the county
16 will no longer provide a specific service except that the county
17 shall cooperate with the court to ensure that a vital service for the
18 court shall be available from the county or other entities that
19 provide ~~those services~~ *the service*. The notice must be given at least
20 90 days prior to the end of the fiscal year and shall be effective only
21 upon the first day of the succeeding fiscal year.

22 (c) In fiscal year 1998–99, commencing on July 1, 1998, and
23 thereafter, the court may give notice to the county that the court
24 will no longer use a specific county service. The notice shall be
25 given at least 90 days prior to the end of the fiscal year and shall
26 be effective only upon the first day of the succeeding fiscal year.
27 However, for three years from the effective date of this section, a
28 court shall not terminate a service that involved the acquisition of
29 equipment, including, but not limited to, computer and data
30 processing systems, financed by a long-term financing plan
31 whereby the county is dependent upon the court's continued
32 financial support for a portion of the cost of the acquisition.

33 (d) (1) If a trial court desires to receive or continue to receive
34 a specific service from a county or city and county as provided in
35 subdivision (c), and the county or city and county desires to
36 provide or continue to provide that service as provided in
37 subdivision (b), the presiding judge of that court and the county or
38 city and county shall enter into a contract for that service. The
39 contract shall identify the scope of service, method of service
40 delivery, term of agreement, anticipated service outcomes, and the



1 cost of the service. The court and the county or city and county
2 shall cooperate in developing and implementing the contract.

3 For any contract entered into after January 1, 2002, the amount
4 of any indirect or overhead costs shall be individually stated in any
5 contract together with the method of calculation of the indirect or
6 overhead costs. This amount shall not contain items that are not
7 otherwise allowable court operations. The Judicial Council may
8 audit the county figures to ensure compliance with this section and
9 to determine the reasonableness of the figures.

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

12 SEC. 23. Section 1463.1 of the Penal Code is amended to
13 read:

14 1463.1. Notwithstanding any other provisions of law except
15 Section 77009 of the Government Code, any trial court may elect,
16 with prior approval of the Administrative Director of the Courts,
17 to deposit in a bank account pursuant to Section 53679 of the
18 Government Code, all moneys deposited as bail with ~~such~~ *the*
19 court, or with the clerk thereof.

20 All moneys received and disbursed through ~~such a~~ *the* bank
21 account shall be properly and uniformly accounted for under ~~such~~
22 *any* procedures as the Controller may deem necessary. The Judicial
23 Council may regulate the bank accounts, provided that its
24 regulations are not inconsistent with those of the Controller.

25 SEC. 24. Section 4750 of the Penal Code is amended to read:

26 4750. A city or county and the superior court in the county
27 shall be entitled to reimbursement for reasonable and necessary
28 costs connected with state prisons or prisoners in connection with
29 any of the following:

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

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

38 (b) Any crime committed by a prisoner in furtherance of an
39 escape. Any crime committed by an escaped prisoner within 10
40 days after the escape and within 100 miles of the facility from



1 which the escape occurred shall be presumed to have been a crime
2 committed in furtherance of an escape.

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

5 (d) Any trial or hearing on the question of the sanity of a
6 prisoner.

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

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

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

15 SEC. 25. Section 4751 of the Penal Code is amended to read:
16 4751. Costs incurred include all of the following:

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

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

30 (c) The costs of the prosecuting attorney in investigating,
31 evaluating, or prosecuting cases related to any matter set forth in
32 Section 4750, whether or not the prosecuting attorney decides to
33 commence legal action.

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

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

38 SEC. 26. Section 4753 of the Penal Code is amended to read:
39 4753. A city or county shall designate an officer or agency to
40 prepare a statement of costs of the city or county that shall be



1 reimbursed under this chapter. A superior court shall designate an
2 officer or employee to prepare a statement of costs of the court that
3 shall be reimbursed under this chapter.

4 The statements of the city or county and of the superior court
5 shall be sent together to the Controller for approval. The Controller
6 shall reimburse the city or county and the superior court within 60
7 days after receipt of the statement or provide a written statement
8 as to the reason for not making reimbursement at that time. The
9 reimbursement to the superior court shall be made directly to the
10 court. If sufficient funds are not available, the Controller shall
11 request the Director of Finance to include any amounts necessary
12 to satisfy the claims in a request for a deficiency appropriation.

