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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~~ 2033.5, *and 2093* 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 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 provides that certified shorthand reporters have the power to administer oaths or affirmations to those being deposed.

This bill would make that power applicable when the deposition is taken by telephone or other remote electronic means, 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.

This bill would require courts and counties to establish procedures to share budgetary information, as specified.

This bill would also require the Judicial Council to provide to the Legislature, on December 1, 2001, and yearly thereafter, court budget expenditure data, as specified.

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.



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

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

5 (2) If a party has appeared in the action, the statement shall be
6 served upon the party's attorney, or upon the party if the party has
7 appeared without an attorney, in the manner provided for service
8 of a summons or in the manner provided by Chapter 5
9 (commencing with Section 1010) of Title 14 of Part 2.

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

12 SEC. 3. Section 489.220 of the Code of Civil Procedure is
13 amended to read:

14 489.220. (a) Except as provided in subdivision (b), the
15 amount of an undertaking filed pursuant to this article shall be ten
16 thousand dollars (\$10,000).

17 (b) If, upon objection to the undertaking, the court determines
18 that the probable recovery for wrongful attachment exceeds the
19 amount of the undertaking, it shall order the amount of the
20 undertaking increased to the amount it determines to be the
21 probable recovery for wrongful attachment if it is ultimately
22 determined that the attachment was wrongful.

23 SEC. 4. Section 685.030 of the Code of Civil Procedure is
24 amended to read:

25 685.030. (a) If a money judgment is satisfied in full pursuant
26 to a writ under this title, interest ceases to accrue on the judgment:

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

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

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

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

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



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

4 (1) The date satisfaction is actually received by the judgment
5 creditor.

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

8 (3) The date of any other performance that has the effect of
9 satisfaction.

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

16 SEC. 5. Section 720.160 of the Code of Civil Procedure is
17 amended to read:

18 720.160. (a) If the creditor files with the levying officer an
19 undertaking that satisfies the requirements of this section within
20 the time allowed under subdivision (b) of Section 720.140:

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

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

28 (b) Subject to Sections 720.770 and 996.010, unless the
29 creditor elects to file an undertaking in a larger amount, the amount
30 of the undertaking filed by the creditor under this section shall be
31 in the amount of ten thousand dollars (\$10,000), or twice the
32 amount of the execution lien as of the date of levy or other
33 enforcement lien as of the date it was created, whichever is the
34 lesser amount.

35 (c) An undertaking given by the creditor under this chapter
36 shall:

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

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



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

3 (d) If the creditor is a public entity exempt from giving an
4 undertaking, the public entity shall, in lieu of filing the
5 undertaking, file with the levying officer a notice stating that the
6 public entity opposes the claim of the third person. When so filed,
7 the notice is deemed to satisfy the requirement of this section that
8 an undertaking be filed.

9 SEC. 6. Section 720.260 of the Code of Civil Procedure is
10 amended to read:

11 720.260. (a) If the creditor within the time allowed under
12 subdivision (b) of Section 720.240 either files with the levying
13 officer an undertaking that satisfies the requirements of this
14 section and a statement that satisfies the requirements of Section
15 720.280 or makes a deposit with the levying officer of the amount
16 claimed under Section 720.230:

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

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

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

33 (c) An undertaking given by the creditor under this chapter
34 shall:

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

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



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

4 (d) If the creditor is a public entity exempt from giving an
5 undertaking, the public entity shall, in lieu of filing the
6 undertaking, file with the levying officer a notice stating that the
7 public entity opposes the claim of the third person. When so filed,
8 the notice is deemed to satisfy the requirement of this section that
9 an undertaking be filed.

10 SEC. 7. Section 877.6 of the Code of Civil Procedure is
11 amended to read:

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

23 (2) In the alternative, a settling party may give notice of
24 settlement to all parties and to the court, together with an
25 application for determination of good faith settlement and a
26 proposed order. The application shall indicate the settling parties,
27 and the basis, terms, and amount of the settlement. The notice,
28 application, and proposed order shall be given by certified mail,
29 return receipt requested. Proof of service shall be filed with the
30 court. Within 25 days of the mailing of the notice, application, and
31 proposed order, or within 20 days of personal service, a nonsettling
32 party may file a notice of motion to contest the good faith of the
33 settlement. If none of the nonsettling parties files a motion within
34 25 days of mailing of the notice, application, and proposed order,
35 or within 20 days of personal service, the court may approve the
36 settlement. The notice by a nonsettling party shall be given in the
37 manner provided in subdivision (b) of Section 1005. However, this
38 paragraph shall not apply to settlements in which a confidentiality
39 agreement has been entered into regarding the case or the terms of
40 the settlement.



1 (b) The issue of the good faith of a settlement may be
2 determined by the court on the basis of affidavits served with the
3 notice of hearing, and any counteraffidavits filed in response, or
4 the court may, in its discretion, receive other evidence at the
5 hearing.

6 (c) A determination by the court that the settlement was made
7 in good faith shall bar any other joint tortfeasor or co-obligor from
8 any further claims against the settling tortfeasor or co-obligor for
9 equitable comparative contribution, or partial or comparative
10 indemnity, based on comparative negligence or comparative fault.

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

13 (e) When a determination of the good faith or lack of good faith
14 of a settlement is made, any party aggrieved by the determination
15 may petition the proper court to review the determination by writ
16 of mandate. The petition for writ of mandate shall be filed within
17 20 days after service of written notice of the determination, or
18 within any additional time not exceeding 20 days as the trial court
19 may allow.

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

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

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

32 SEC. 8. Section 1013 of the Code of Civil Procedure is
33 amended to read:

34 1013. (a) In case of service by mail, the notice or other paper
35 shall be deposited in a post office, mailbox, subpost office,
36 substation, or mail chute, or other like facility regularly
37 maintained by the United States Postal Service, in a sealed
38 envelope, with postage paid, addressed to the person on whom it
39 is to be served, at the office address as last given by that person on
40 any document filed in the cause and served on the party making



1 service by mail; otherwise at that party's place of residence. The
2 service is complete at the time of the deposit, but any period of
3 notice and any right or duty to do any act or make any response
4 within any period or on a date certain after the service of the
5 document, which time period or date is prescribed by statute or
6 rule of court, shall be extended five calendar days, upon service by
7 mail, if the place of address and the place of mailing is within the
8 State of California, 10 calendar days if either the place of mailing
9 or the place of address is outside the State of California but within
10 the United States, and 20 calendar days if either the place of
11 mailing or the place of address is outside the United States, but the
12 extension shall not apply to extend the time for filing notice of
13 intention to move for new trial, notice of intention to move to
14 vacate judgment pursuant to Section 663a, or notice of appeal.
15 This extension applies in the absence of a specific exception
16 provided for by this section or other statute or rule of court.

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

21 (c) In case of service by Express Mail, the notice or other paper
22 must be deposited in a post office, mailbox, subpost office,
23 substation, or mail chute, or other like facility regularly
24 maintained by the United States Postal Service for receipt of
25 Express Mail, in a sealed envelope, with Express Mail postage
26 paid, addressed to the person on whom it is to be served, at the
27 office address as last given by that person on any document filed
28 in the cause and served on the party making service by Express
29 Mail; otherwise at that party's place of residence. In case of service
30 by another method of delivery providing for overnight delivery,
31 the notice or other paper must be deposited in a box or other facility
32 regularly maintained by the express service carrier, or delivered to
33 an authorized courier or driver authorized by the express service
34 carrier to receive documents, in an envelope or package designated
35 by the express service carrier with delivery fees paid or provided
36 for, addressed to the person on whom it is to be served, at the office
37 address as last given by that person on any document filed in the
38 cause and served on the party making service; otherwise at that
39 party's place of residence. The service is complete at the time of
40 the deposit, but any period of notice and any right or duty to do any



1 act or make any response within any period or on a date certain
2 after the service of the document served by Express Mail or other
3 method of delivery providing for overnight delivery shall be
4 extended by two court days, but the extension shall not apply to
5 extend the time for filing notice of intention to move for new trial,
6 notice of intention to move to vacate judgment pursuant to Section
7 663a, or notice of appeal. This extension applies in the absence of
8 a specific exception provided for by this section or other statute or
9 rule of court.

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

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

36 (f) The copy of the notice or other paper served by facsimile
37 transmission pursuant to this chapter shall bear a notation of the
38 date and place of transmission and the facsimile telephone number
39 to which transmitted or be accompanied by an unsigned copy of
40 the affidavit or certificate of transmission which shall contain the



1 facsimile telephone number to which the notice or other paper was
2 transmitted.

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

4 SEC. 9. Section 1134 of the Code of Civil Procedure is
5 amended to read:

6 1134. (a) The statement required by Section 1133 shall be
7 filed with the clerk of the court in which the judgment is to be
8 entered, who must endorse upon it, and enter a judgment of the
9 court for the amount confessed with the costs provided in
10 subdivision (b).

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

16 (c) The statement and affidavit, with the judgment endorsed
17 thereon, together with the certificate filed pursuant to Section
18 1132, becomes the judgment roll.

19 SEC. 9.4. Section 2017 of the Code of Civil Procedure is
20 amended to read:

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

34 (b) A party may obtain discovery of the existence and contents
35 of any agreement under which any insurance carrier may be liable
36 to satisfy in whole or in part a judgment that may be entered in the
37 action or to indemnify or reimburse for payments made to satisfy
38 the judgment. This discovery may include the identity of the
39 carrier and the nature and limits of the coverage. A party may also
40 obtain discovery as to whether that insurance carrier is disputing



1 the agreement’s coverage of the claim involved in the action, but
2 not as to the nature and substance of that dispute. Information
3 concerning the insurance agreement is not by reason of disclosure
4 admissible in evidence at trial.

5 (c) The court shall limit the scope of discovery if it determines
6 that the burden, expense, or intrusiveness of that discovery clearly
7 outweighs the likelihood that the information sought will lead to
8 the discovery of admissible evidence. The court may make this
9 determination pursuant to a motion for protective order by a party
10 or other affected person. This motion shall be accompanied by a
11 declaration stating facts showing a good faith attempt at an
12 informal resolution of each issue presented by the motion.

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

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

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

36 (e) (1) Pursuant to noticed motion, a court may enter orders for
37 the use of technology in conducting discovery in cases designated
38 as complex pursuant to Section 19 of the Judicial Administration
39 Standards, cases ordered to be coordinated pursuant to Chapter 3
40 (commencing with Section 404) of Title 4 of Part 2, or exceptional



1 cases exempt from case disposition time goals pursuant to Article
2 5 (commencing with Section 68600) of Chapter 2 of Title 8 of the
3 Government Code, or cases assigned to Plan 3 pursuant to
4 paragraph (3) of subdivision (b) of Section 2105 of the California
5 Rules of Court. In other cases, the parties may stipulate to the entry
6 of orders for the use of technology in conducting discovery.

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

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

13 (B) They do not impose or require undue expenditures of time
14 or money.

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

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

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

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

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

36 (5) If a service provider is to be used and compensated by the
37 parties, the court shall appoint the person or organization agreed
38 upon by the parties and approve the contract agreed upon by the
39 parties and the service provider. If the parties do not agree on the
40 selection, each party shall submit to the court up to three nominees



1 for appointment together with a contract acceptable to the nominee
2 and the court shall appoint a service provider from among the
3 nominees. The court may condition this appointment on the
4 acceptance of modifications in the terms of the contract. If no
5 nominations are received from any of the parties, the court shall
6 appoint one or more service providers. Pursuant to noticed motion
7 at any time and upon a showing of good cause, the court may order
8 the removal of the service provider or vacate any agreement
9 between the parties and the service provider, or both, effective as
10 of the date of the order. The continued service of the service
11 provider shall be subject to review periodically, as agreed by the
12 parties and the service provider, or annually if they do not agree.
13 Any disputes involving the contract or the duties, rights, and
14 obligations of the parties or service providers may be determined
15 on noticed motion in the action.

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

24 (7) Nothing in this subdivision shall be construed to modify the
25 requirement for use of a ~~nonstenographic~~ *stenographic* court
26 reporter as provided in paragraph (1) of subdivision (l) of Section
27 2025. The rules, standards, and guidelines adopted pursuant to this
28 subdivision shall be consistent with the requirement of paragraph
29 (1) of subdivision (l) of Section 2025 that deposition testimony be
30 taken stenographically unless the parties agree or the court orders
31 otherwise.

32 SEC. 9.6. Section 2025 of the Code of Civil Procedure is
33 amended to read:

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



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

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

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

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

20 Where, as defined in subdivision (a) of Section 1985.3, the party
21 giving notice of the deposition is a subpoenaing party, and the
22 deponent is a witness commanded by a deposition subpoena to
23 produce personal records of a consumer, the subpoenaing party
24 shall serve on that consumer (1) a notice of the deposition, (2) the
25 notice of privacy rights specified in subdivision (e) of Section
26 1985.3 and in Section 1985.6, and (3) a copy of the deposition
27 subpoena.

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

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

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

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

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

39 (5) Any intention to record the testimony by audiotape or
40 videotape, in addition to recording the testimony by the



1 stenographic method as required by paragraph (1) of subdivision
2 (l) and any intention to record the testimony by stenographic
3 method, through the instant visual display of the testimony. In the
4 latter event, a copy of the deposition notice shall also be given to
5 the deposition officer. Any offer to provide the instant visual
6 display of the testimony or to provide rough draft transcripts to any
7 party which is accepted prior to, or offered at, the deposition shall
8 also be made by the deposition officer at the deposition to all
9 parties in attendance.

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

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

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

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

36 (2) The deposition of an organization that is a party to the action
37 shall be taken at a place that is, at the option of the party giving
38 notice of the deposition, either within 75 miles of the
39 organization's principal executive or business office in California,
40 or within the county where the action is pending and within 150



1 miles of that office. The deposition of any other organization shall
2 be taken within 75 miles of the organization's principal executive
3 or business office in California, unless the organization consents
4 to a more distant place. If the organization has not designated a
5 principal executive or business office in California, the deposition
6 shall be taken at a place that is, at the option of the party giving
7 notice of the deposition, either within the county where the action
8 is pending, or within 75 miles of any executive or business office
9 in California of the organization.

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

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

23 (A) Whether the moving party selected the forum.

24 (B) Whether the deponent will be present to testify at the trial
25 of the action.

26 (C) The convenience of the deponent.

27 (D) The feasibility of conducting the deposition by written
28 questions under Section 2028, or of using a discovery method
29 other than a deposition.

30 (E) The number of depositions sought to be taken at a place
31 more distant than that permitted under paragraph (1).

32 (F) The expense to the parties of requiring the deposition to be
33 taken within the distance permitted under paragraph (1).

34 (G) The whereabouts of the deponent at the time for which the
35 deposition is scheduled.

36 The order may be conditioned on the advancement by the
37 moving party of the reasonable expenses and costs to the deponent
38 for travel to the place of deposition.

39 The court shall impose a monetary sanction under Section 2023
40 against any party, person, or attorney who unsuccessfully makes



1 or opposes a motion to increase travel limits for party deponent,
2 unless it finds that the one subject to the sanction acted with
3 substantial justification or that other circumstances make the
4 imposition of the sanction unjust.

5 (f) An oral deposition shall be scheduled for a date at least 10
6 days after service of the deposition notice. If, as defined in
7 subdivision (a) of Section 1985.3, the party giving notice of the
8 deposition is a subpoenaing party, and the deponent is a witness
9 commanded by a deposition subpoena to produce personal records
10 of a consumer, the deposition shall be scheduled for a date at least
11 20 days after issuance of that subpoena. However, in unlawful
12 detainer actions, an oral deposition shall be scheduled for a date at
13 least five days after service of the deposition notice, but not later
14 than five days before trial.

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

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

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



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 to quash a deposition notice, unless it finds
4 that the one subject to the sanction acted with substantial
5 justification or that other circumstances make the imposition of the
6 sanction unjust.

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

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

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

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

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

37 (1) That the deposition not be taken at all.

38 (2) That the deposition be taken at a different time.

39 (3) That a videotape deposition of a treating or consulting
40 physician or of any expert witness, intended for possible use at trial



1 under paragraph (4) of subdivision (u), be postponed until the
2 moving party has had an adequate opportunity to prepare, by
3 discovery deposition of the deponent, or other means, for
4 cross-examination.

5 (4) That the deposition be taken at a place other than that
6 specified in the deposition notice, if it is within a distance
7 permitted by subdivision (e).

8 (5) That the deposition be taken only on certain specified terms
9 and conditions.

10 (6) That the deponent's testimony be taken by written, instead
11 of oral, examination.

12 (7) That the method of discovery be interrogatories to a party
13 instead of an oral deposition.

14 (8) That the testimony be recorded in a manner different from
15 that specified in the deposition notice.

16 (9) That certain matters not be inquired into.

17 (10) That the scope of the examination be limited to certain
18 matters.

19 (11) That all or certain of the writings or tangible things
20 designated in the deposition notice not be produced, inspected, or
21 copied.

22 (12) That designated persons, other than the parties to the
23 action and their officers and counsel, be excluded from attending
24 the deposition.

25 (13) That a trade secret or other confidential research,
26 development, or commercial information not be disclosed or be
27 disclosed only to specified persons or only in a specified way.

28 (14) That the parties simultaneously file specified documents
29 enclosed in sealed envelopes to be opened as directed by the court.

30 (15) That the deposition be sealed and thereafter opened only
31 on order of the court.

32 If the motion for a protective order is denied in whole or in part,
33 the court may order that the deponent provide or permit the
34 discovery against which protection was sought on those terms and
35 conditions that are just.

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



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

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

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

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

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



1 declaration stating that the petitioner has contacted the deponent
2 to inquire about the nonappearance. If this motion is granted, the
3 court shall also impose a monetary sanction under Section 2023
4 against the deponent or the party with whom the deponent is
5 affiliated, unless it finds that the one subject to the sanction acted
6 with substantial justification or that other circumstances make the
7 imposition of the sanction unjust. On motion of any other party
8 who, in person or by attorney, attended at the time and place
9 specified in the deposition notice in the expectation that the
10 deponent's testimony would be taken, the court shall also impose
11 a monetary sanction under Section 2023, unless it finds that the one
12 subject to the sanction acted with substantial justification or that
13 other circumstances make the imposition of the sanction unjust.

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

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

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

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



1 parties or their attorneys attending the deposition. All services and
2 products offered or provided shall be made available at the same
3 time to all parties or their attorneys.

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

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

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

27 (l) (1) The deposition officer shall put the deponent under
28 oath. Unless the parties agree or the court orders otherwise, the
29 testimony, as well as any stated objections, shall be taken
30 stenographically. The party noticing the deposition may also
31 record the testimony by audiotape or videotape if the notice of
32 deposition stated an intention also to record the testimony by either
33 of those methods, or if all the parties agree that the testimony may
34 also be recorded by either of those methods. Any other party, at
35 that party's expense, may make a simultaneous audiotape or
36 videotape record of the deposition, provided that other party
37 promptly, and in no event less than three calendar days before the
38 date for which the deposition is scheduled, serves a written notice
39 of this intention to audiotape or videotape the deposition testimony
40 on the party or attorney who noticed the deposition, on all other



1 parties or attorneys on whom the deposition notice was served
2 under subdivision (c), and on any deponent whose attendance is
3 being compelled by a deposition subpoena under Section 2020. If
4 this notice is given three calendar days before the deposition date,
5 it shall be made by personal service under Section 1011.
6 Examination and cross-examination of the deponent shall proceed
7 as permitted at trial under the provisions of the Evidence Code.

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

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

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



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

12 (C) The operator shall not distort the appearance or the
13 demeanor of participants in the deposition by the use of camera or
14 sound recording techniques.

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

22 (E) Counsel for the parties shall identify themselves on camera
23 or on the audiotape.

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

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

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

34 (I) A party intending to offer an audiotaped or videotaped
35 recording of a deposition in evidence under subdivision (u) shall
36 notify the court and all parties in writing of that intent and of the
37 parts of the deposition to be offered within sufficient time for
38 objections to be made and ruled on by the judge to whom the case
39 is assigned for trial or hearing, and for any editing of the tape.
40 Objections to all or part of the deposition shall be made in writing.



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

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

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

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

34 (3) Objections to the competency of the deponent, or to the
35 relevancy, materiality, or admissibility at trial of the testimony or
36 of the materials produced are unnecessary and are not waived by
37 failure to make them before or during the deposition.

38 (4) If a deponent fails to answer any question or to produce any
39 document or tangible thing under the deponent's control that is
40 specified in the deposition notice or a deposition subpoena, the



1 party seeking that answer or production may adjourn the
2 deposition or complete the examination on other matters without
3 waiving the right at a later time to move for an order compelling
4 that answer or production under subdivision (o).

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

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

26 (o) If a deponent fails to answer any question or to produce any
27 document or tangible thing under the deponent's control that is
28 specified in the deposition notice or a deposition subpoena, the
29 party seeking discovery may move the court for an order
30 compelling that answer or production. This motion shall be made
31 no later than 60 days after the completion of the record of the
32 deposition, and shall be accompanied by a declaration stating facts
33 showing a reasonable and good faith attempt at an informal
34 resolution of each issue presented by the motion. Notice of this
35 motion shall be given to all parties, and to the deponent either
36 orally at the examination, or by subsequent service in writing. If
37 the notice of the motion is given orally, the deposition officer shall
38 direct the deponent to attend a session of the court at the time
39 specified in the notice. Not less than five days prior to the hearing
40 on this motion, the moving party shall lodge with the court a



1 certified copy of any parts of the stenographic transcript of the
2 deposition that are relevant to the motion. If a deposition is
3 recorded by audiotape or videotape, the moving party is required
4 to lodge a certified copy of a transcript of any parts of the
5 deposition that are relevant to the motion. If the court determines
6 that the answer or production sought is subject to discovery, it shall
7 order that the answer be given or the production be made on the
8 resumption of the deposition.

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

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

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



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

15 If the testimony at the deposition is recorded both
16 stenographically, and by audiotape or videotape, the stenographic
17 transcript is the official record of that testimony for the purpose of
18 the trial and any subsequent hearing or appeal.

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

35 Alternatively, within this same period, the deponent may
36 change the form or the substance of the answer to any question and
37 may approve or refuse to approve the transcript by means of a letter
38 to the deposition officer signed by the deponent which is mailed
39 by certified or registered mail with return receipt requested. A
40 copy of that letter shall be sent by first-class mail to all parties



1 attending the deposition. For good cause shown, the court may
2 shorten the 30-day period for making changes, approving, or
3 refusing to approve the transcript.

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

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

27 (2) If there is no stenographic transcription of the deposition,
28 the deposition officer shall send written notice to the deponent and
29 to all parties attending the deposition that the recording is available
30 for review, unless the deponent and all these parties agree on the
31 record to waive the hearing or viewing of an audiotape or
32 videotape recording of the testimony. For 30 days following this
33 notice the deponent, either in person or by signed letter to the
34 deposition officer, may change the substance of the answer to any
35 question.

36 The deposition officer shall set forth in a writing to accompany
37 the recording any changes made by the deponent, as well as either
38 the deponent's signature identifying the deposition as his or her
39 own, or a statement of the deponent's failure to supply the
40 signature, or to contact the officer within the allotted period. When



1 a deponent fails to contact the officer within the allotted period, or
2 expressly refuses by a signature to identify the deposition as his or
3 her own, the deposition shall be given the same effect as though
4 signed. However, on a reasonable motion to suppress the
5 deposition, accompanied by a declaration stating facts showing a
6 reasonable and good faith attempt at an informal resolution of each
7 issue presented by the motion, the court may determine that the
8 reasons given for the refusal to sign require rejection of the
9 deposition in whole or in part.

10 The court shall impose a monetary sanction under Section 2023
11 against any party, person, or attorney who unsuccessfully makes
12 or opposes a motion to suppress a deposition, unless it finds that
13 the one subject to the sanction acted with substantial justification
14 or that other circumstances make the imposition of the sanction
15 unjust.

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

21 (2) When prepared as a rough draft transcript, the transcript of
22 the deposition may not be certified and may not be used, cited, or
23 transcribed as the certified transcript of the deposition
24 proceedings. The rough draft transcript may not be cited or used
25 in any way or at any time to rebut or contradict the certified
26 transcript of deposition proceedings as provided by the deposition
27 officer.

28 (s) (1) The certified transcript of a deposition shall not be filed
29 with the court. Instead, the deposition officer shall securely seal
30 that transcript in an envelope or package endorsed with the title of
31 the action and marked: “Deposition of (here insert name of
32 deponent),” and shall promptly transmit it to the attorney for the
33 party who noticed the deposition. This attorney shall store it under
34 conditions that will protect it against loss, destruction, or
35 tampering.

36 The attorney to whom the transcript of a deposition is
37 transmitted shall retain custody of it until six months after final
38 disposition of the action. At that time, the transcript may be
39 destroyed, unless the court, on motion of any party and for good



1 cause shown, orders that the transcript be preserved for a longer
2 period.

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

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

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

25 (t) Once any party has taken the deposition of any natural
26 person, including that of a party to the action, neither the party who
27 gave, nor any other party who has been served with a deposition
28 notice pursuant to subdivision (c) may take a subsequent
29 deposition of that deponent. However, for good cause shown, the
30 court may grant leave to take a subsequent deposition, and the
31 parties, with the consent of any deponent who is not a party, may
32 stipulate that a subsequent deposition be taken. This subdivision
33 does not preclude taking one subsequent deposition of a natural
34 person who has previously been examined (1) as a result of that
35 person's designation to testify on behalf of an organization under
36 subdivision (d), or (2), pursuant to a court order under Section
37 485.230, for the limited purpose of discovering pursuant to
38 Section 485.230 the identity, location, and value of property in
39 which the deponent has an interest. This subdivision does not



1 authorize the taking of more than one subsequent deposition for
2 the limited purpose of Section 485.230.

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

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

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

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

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

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

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



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

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

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

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

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

24 SEC. 10. Section 2026 of the Code of Civil Procedure is
25 amended to read:

26 2026. (a) Any party may obtain discovery by taking an oral
27 deposition, as described in subdivision (a) of Section 2025, in
28 another state of the United States, or in a territory or an insular
29 possession subject to its jurisdiction. Except as modified in this
30 section, the procedures for taking oral depositions in California set
31 forth in Section 2025 apply to an oral deposition taken in another
32 state of the United States, or in a territory or an insular possession
33 subject to its jurisdiction.

34 (b) (1) If a deponent is a party to the action or an officer,
35 director, managing agent, or employee of a party, the service of the
36 deposition notice is effective to compel that deponent to attend and
37 to testify, as well as to produce any document or tangible thing for
38 inspection and copying. The deposition notice shall specify a place
39 in the state, territory, or insular possession of the United States that



1 is within 75 miles of the residence or a business office of a
2 deponent.

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

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

30 SEC. 11. Section 2033.5 of the Code of Civil Procedure is
31 amended to read:

32 2033.5. (a) The Judicial Council shall develop and approve
33 official form interrogatories and requests for admission of the
34 genuineness of any relevant documents or of the truth of any
35 relevant matters of fact for use in any civil action in a state court
36 based on personal injury, property damage, wrongful death,
37 unlawful detainer, breach of contract, family law, or fraud and for
38 any other civil actions the Judicial Council deems appropriate. Use
39 of the approved form interrogatories and requests for admission
40 shall be optional.



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

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

13 (d) The Judicial Council shall develop and approve official
14 form interrogatories for use by a victim who has not received
15 complete payment of a restitution order made pursuant to Section
16 1202.4 of the Penal Code.

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

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

26 SEC. 12. *Section 2093 of the Code of Civil Procedure is*
27 *amended to read:*

28 2093. (a) Every court, every judge, or clerk of any court,
29 every justice, and every notary public, and every officer or person
30 authorized to take testimony in any action or proceeding, or to
31 decide upon evidence, has the power to administer oaths or
32 affirmations.

33 (b) (1) Every shorthand reporter certified pursuant to Article
34 3 (commencing with Section 8020) of Chapter 13 of Division 3 of
35 the Business and Professions Code has the power to administer
36 oaths or affirmations and may perform the duties of the deposition
37 officer pursuant to Section 2025. The certified shorthand reporter
38 shall be entitled to receive fees for services rendered during a
39 deposition, including fees for deposition services, as specified in
40 subdivision (c) of Section 8211 of the Government Code.



1 (2) *This subdivision shall also apply to depositions taken by*
2 *telephone or other remote electronic means as specified in Sections*
3 *2017 and 2025.*

4 (c) A former judge or justice of a court of record in this state
5 who retired or resigned from office, other than a judge or justice
6 who was retired by the Supreme Court for disability, shall have the
7 power to administer oaths or affirmations, if the former judge or
8 justice requests and receives a certification from the Commission
9 on Judicial Performance that there was no formal disciplinary
10 proceeding pending at the time of retirement or resignation. Where
11 no formal disciplinary proceeding was pending at the time of
12 retirement or resignation, the Commission on Judicial
13 Performance shall issue the certification.

14 No law, rule, or regulation regarding the confidentiality of
15 proceedings of the Commission on Judicial Performance shall be
16 construed to prohibit the Commission on Judicial Performance
17 from issuing a certificate as provided for in this section.

18 *SEC. 13.* Section 915 of the Evidence Code is amended to
19 read:

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

30 (b) When a court is ruling on a claim of privilege under Article
31 9 (commencing with Section 1040) of Chapter 4 (official
32 information and identity of informer) or under Section 1060 (trade
33 secret) or under subdivision (b) of Section 2018 of the Code of
34 Civil Procedure (attorney work product) and is unable to do so
35 without requiring disclosure of the information claimed to be
36 privileged, the court may require the person from whom disclosure
37 is sought or the person authorized to claim the privilege, or both,
38 to disclose the information in chambers out of the presence and
39 hearing of all persons except the person authorized to claim the
40 privilege and any other persons as the person authorized to claim



1 the privilege is willing to have present. If the judge determines that
2 the information is privileged, neither the judge nor any other
3 person may ever disclose, without the consent of a person
4 authorized to permit disclosure, what was disclosed in the course
5 of the proceedings in chambers.

6 ~~SEC. 13.~~

7 *SEC. 14.* Section 68113 of the Government Code is repealed.

8 ~~SEC. 14.~~

9 *SEC. 15.* Section 68502.5 of the Government Code is
10 amended to read:

11 68502.5. (a) The Judicial Council may, as part of its trial
12 court budget process, seek input from groups and individuals as it
13 deems appropriate including, but not limited to, advisory
14 committees and the Administrative Director of the Courts. The
15 trial court budget process may include, but is not limited to, the
16 following:

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

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

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

27 (4) The annual approval of a schedule for the allocation of
28 moneys to individual courts and an overall trial court budget for
29 forwarding to the Governor for inclusion in the Governor's
30 proposed State Budget. The schedule shall be based on the
31 performance criteria established pursuant to paragraph (2), on a
32 minimum standard established by the Judicial Council for the
33 operation and staffing of all trial court operations, and on any other
34 factors as determined by the Judicial Council. This minimum
35 standard shall be modeled on court operations using all reasonable
36 and available measures to increase court efficiency. The schedule
37 of allocations shall assure that all trial courts receive funding for
38 the minimum operating and staffing standards before funding
39 operating and staffing requests above the minimum standards, and



1 shall include incentives and rewards for any trial court's
2 implementation of efficiencies and cost saving measures.

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

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

12 (7) Upon approval of the trial courts' budget by the Legislature,
13 the preparation during the course of the fiscal year of allocation
14 schedules for payments to the trial courts, consistent with Section
15 68085, which shall be submitted to the Controller's office by the
16 10th day of the month in which payments are to be made.

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

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

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

27 (11) Provisions set forth in rules adopted pursuant to Section
28 77206 of the Government Code.

29 (b) *Courts and counties shall establish procedures to allow for*
30 *thesharing of information as it relates to approved budget*
31 *proposals and expenditures that impact the respective court and*
32 *county budgets. The procedures shall include, upon the request of*
33 *a court or county, that a respective court or county shall provide*
34 *the requesting court or county a copy of its approved budget and,*
35 *to the extent possible, approved program expenditure component*
36 *information and a description of budget changes that are*
37 *anticipated to have an impact on the requesting court or county.*
38 *The Judicial Council shall provide to the Legislature on December*
39 *31, 2001, and yearly thereafter, budget expenditure data at the*
40 *program component level for each court.*



1 (c) 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.~~

9 *SEC. 16.* Section 68511.3 of the Government Code is
10 amended to read:

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

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

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

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

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

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

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

34 (A) Litigants who are receiving benefits pursuant to the
35 Supplemental Security Income (SSI) and State Supplemental
36 Payments (SSP) programs (Sections 12200 to 12205, inclusive, of
37 the Welfare and Institutions Code), the California Work
38 Opportunity and Responsibility to Kids Act (CalWORKs)
39 program (Chapter 2 (commencing with Section 11200) of Part 3
40 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 the benefits and may voluntarily provide the court with
16 their date of birth and social security number or their Medi-Cal
17 identification number to permit the court to verify the applicant's
18 receipt of public assistance. The court may require any applicant,
19 except a defendant in an unlawful detainer action, who chooses not
20 to disclose his or her social security number for verification
21 purposes to attach to the application documentation of benefits to
22 support the claim and all other financial information on a form
23 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 the sum and in any manner the court believes is compatible
24 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.~~

8 *SEC. 17.* Section 72055 of the Government Code is amended
9 to read:

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

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

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

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

38 ~~SEC. 17.~~

39 *SEC. 18.* Section 77001 of the Government Code is amended
40 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.~~

25 *SEC. 19.* Section 77003 of the Government Code is amended
26 to read:

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

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



1 staff who provide direct support to the commissioners whose
2 positions were created after July 1, 1997, unless approved by the
3 Judicial Council, subject to availability of funding.

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

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

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

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

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

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

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

26 ~~SEC. 19.~~

27 *SEC. 20.* Section 77009 of the Government Code is amended
28 to read:

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



1 each centralized service shall be established and funded from those
2 appropriations.

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

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

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

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

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

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

38 (f) Reasonable administrative expenses incurred by the county
39 associated with the operation of this fund shall be charged to each



1 court on a pro rata basis in proportion to the total amount allocated
2 to each court in this fund.

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

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

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

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

28 ~~SEC. 20.~~

29 *SEC. 21.* Section 77202 of the Government Code is amended
30 to read:

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



1 operations, in order to guarantee access to justice to citizens of the
2 state.

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

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

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

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

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

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

18 (5) The use of alternative dispute resolution programs, such as
19 arbitration.

20 (6) The development and use of automated accounting and
21 case-processing systems.

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

30 ~~SEC. 21.~~

31 *SEC. 22.* Section 77206 of the Government Code is amended
32 to read:

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



1 filing fees, fines, forfeitures, and penalties, and all revenues and
2 expenditures relating to court operations are known. The Judicial
3 Council may delegate their authority under this section, when
4 appropriate, to the Administrative Director of the Courts.

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

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

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

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

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

28 ~~SEC. 22.~~

29 *SEC. 23.* Section 77212 of the Government Code is amended
30 to read:

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



1 counties shall continue to provide and courts shall continue to use,
2 county services provided to the trial courts on July 1, 1997,
3 including, but not limited to: auditor/controller services,
4 coordination of telephone services, data-processing and
5 information technology services, procurement, human resources
6 services, affirmative action services, treasurer/tax collector
7 services, county counsel services, facilities management, and legal
8 representation. These services shall be provided to the court at a
9 rate that shall not exceed the costs of providing similar services to
10 county departments or special districts. If the cost was not included
11 in the county base pursuant to paragraph (1) of subdivision (b) of
12 Section 77201 or was not otherwise charged to the court prior to
13 July 1, 1997, and were court operation costs as defined in Section
14 77003 in fiscal year 1994–95, the court may seek adjustment of the
15 amount the county is required to submit to the state pursuant
16 Section 77201.

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

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

36 (d) (1) If a trial court desires to receive or continue to receive
37 a specific service from a county or city and county as provided in
38 subdivision (c), and the county or city and county desires to
39 provide or continue to provide that service as provided in
40 subdivision (b), the presiding judge of that court and the county or



1 city and county shall enter into a contract for that service. The
2 contract shall identify the scope of service, method of service
3 delivery, term of agreement, anticipated service outcomes, and the
4 cost of the service. The court and the county or city and county
5 shall cooperate in developing and implementing the contract.

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

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

15 ~~SEC. 23.~~

16 *SEC. 24.* Section 1463.1 of the Penal Code is amended to
17 read:

18 1463.1. Notwithstanding any other provisions of law except
19 Section 77009 of the Government Code, any trial court may elect,
20 with prior approval of the Administrative Director of the Courts,
21 to deposit in a bank account pursuant to Section 53679 of the
22 Government Code, all moneys deposited as bail with the court, or
23 with the clerk thereof.

24 All moneys received and disbursed through the bank account
25 shall be properly and uniformly accounted for under any
26 procedures the Controller may deem necessary. The Judicial
27 Council may regulate the bank accounts, provided that its
28 regulations are not inconsistent with those of the Controller.

29 ~~SEC. 24.~~

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

31 4750. A city or county and the superior court in the county
32 shall be entitled to reimbursement for reasonable and necessary
33 costs connected with state prisons or prisoners in connection with
34 any of the following:

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

37 With respect to a prisoner, “crime committed at a state prison”
38 as used in this subdivision, includes, but is not limited to, crimes
39 committed by the prisoner while detained in local facilities as a
40 result of a transfer pursuant to Section 2910 or 6253, or in



1 conjunction with any hearing, proceeding, or other activity for
2 which reimbursement is otherwise provided by this section.

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

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

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

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

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

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

20 ~~SEC. 25.~~

21 *SEC. 26.* Section 4751 of the Penal Code is amended to read:
22 4751. Costs incurred include all of the following:

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

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

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



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

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

5 ~~SEC. 26.~~

6 *SEC. 27.* Section 4753 of the Penal Code is amended to read:

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

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

