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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, 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~~, 71629, 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 a 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 governs trial court employee benefits.

This bill would provide that, if a county administers benefits to trial court employees, the employee is eligible for benefits as regulations specify and the employee has the right to receive, and is similarly subject to the modifications of, the same level of benefits as county employees in similar classifications.

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) A complaint or cross-complaint shall contain
4 both of the following:

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

8 ~~(b)~~
9 (2) A demand for judgment for the relief to which the pleader
10 claims to be entitled. If the recovery of money or damages is
11 demanded, the amount demanded shall be stated, ~~unless the~~.

12 (b) *Notwithstanding subdivision (a), where an action is brought*
13 *to recover actual or punitive damages for personal injury or*
14 *wrongful death, in which case the amount demanded shall not be*
15 *stated, but the caption complaint shall comply with Section 422.30*
16 *and, in a limited civil case, with Section 72055 of the Government*
17 *Code.*

18 SEC. 2. Section 425.11 of the Code of Civil Procedure is
19 amended to read:

20 425.11. (a) As used in this section:
21 (1) "Complaint" includes a cross-complaint.
22 (2) "Plaintiff" includes a cross-complainant.



1 (3) “Defendant” includes a cross-defendant.

2 (b) When a complaint is filed in an action to recover damages
3 for personal injury or wrongful death, the defendant may at any
4 time request a statement setting forth the nature and amount of
5 damages being sought. The request shall be served upon the
6 plaintiff, who shall serve a responsive statement as to the damages
7 within 15 days. In the event that a response is not served, the
8 defendant, on notice to the plaintiff, may petition the court in
9 which the action is pending to order the plaintiff to serve a
10 responsive statement.

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

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

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

18 (2) If a party has appeared in the action, the statement shall be
19 served upon the party’s attorney, or upon the party if the party has
20 appeared without an attorney, in the manner provided for service
21 of a summons or in the manner provided by Chapter 5
22 (commencing with Section 1010) of Title 14 of Part 2.

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

25 SEC. 3. Section 489.220 of the Code of Civil Procedure is
26 amended to read:

27 489.220. (a) Except as provided in subdivision (b), the
28 amount of an undertaking filed pursuant to this article shall be ten
29 thousand dollars (\$10,000).

30 (b) If, upon objection to the undertaking, the court determines
31 that the probable recovery for wrongful attachment exceeds the
32 amount of the undertaking, it shall order the amount of the
33 undertaking increased to the amount it determines to be the
34 probable recovery for wrongful attachment if it is ultimately
35 determined that the attachment was wrongful.

36 SEC. 4. Section 685.030 of the Code of Civil Procedure is
37 amended to read:

38 685.030. (a) If a money judgment is satisfied in full pursuant
39 to a writ under this title, interest ceases to accrue on the judgment:



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

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

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

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

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

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

17 (1) The date satisfaction is actually received by the judgment
18 creditor.

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

21 (3) The date of any other performance that has the effect of
22 satisfaction.

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

29 SEC. 5. Section 720.160 of the Code of Civil Procedure is
30 amended to read:

31 720.160. (a) If the creditor files with the levying officer an
32 undertaking that satisfies the requirements of this section within
33 the time allowed under subdivision (b) of Section 720.140:

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

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



1 (b) Subject to Sections 720.770 and 996.010, unless the
2 creditor elects to file an undertaking in a larger amount, the amount
3 of the undertaking filed by the creditor under this section shall be
4 in the amount of ten thousand dollars (\$10,000), or twice the
5 amount of the execution lien as of the date of levy or other
6 enforcement lien as of the date it was created, whichever is the
7 lesser amount.

8 (c) An undertaking given by the creditor under this chapter
9 shall:

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

11 (2) Indemnify the third person against any loss, liability,
12 damages, costs, and attorney's fees, incurred by reason of the
13 enforcement proceedings.

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

16 (d) If the creditor is a public entity exempt from giving an
17 undertaking, the public entity shall, in lieu of filing the
18 undertaking, file with the levying officer a notice stating that the
19 public entity opposes the claim of the third person. When so filed,
20 the notice is deemed to satisfy the requirement of this section that
21 an undertaking be filed.

22 SEC. 6. Section 720.260 of the Code of Civil Procedure is
23 amended to read:

24 720.260. (a) If the creditor within the time allowed under
25 subdivision (b) of Section 720.240 either files with the levying
26 officer an undertaking that satisfies the requirements of this
27 section and a statement that satisfies the requirements of Section
28 720.280 or makes a deposit with the levying officer of the amount
29 claimed under Section 720.230:

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

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

39 (b) Subject to Sections 720.770 and 996.010, unless the
40 creditor elects to file an undertaking in a larger amount, the amount



1 of the undertaking filed by the creditor under this section shall be
2 in the amount of ten thousand dollars (\$10,000) or twice the
3 amount of the execution lien as of the date of levy or other
4 enforcement lien as of the date it was created, whichever is the
5 lesser amount.

6 (c) An undertaking given by the creditor under this chapter
7 shall:

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

9 (2) Indemnify the secured party or lienholder against any loss,
10 liability, damages, costs, and attorney’s fees, incurred by reason of
11 the enforcement proceedings.

12 (3) Be conditioned on a final judgment that the security interest
13 or lien of the third person is entitled to priority over the creditor’s
14 lien.

15 (d) If the creditor is a public entity exempt from giving an
16 undertaking, the public entity shall, in lieu of filing the
17 undertaking, file with the levying officer a notice stating that the
18 public entity opposes the claim of the third person. When so filed,
19 the notice is deemed to satisfy the requirement of this section that
20 an undertaking be filed.

21 SEC. 7. Section 877.6 of the Code of Civil Procedure is
22 amended to read:

23 877.6. (a) (1) Any party to an action in which it is alleged
24 that two or more parties are joint tortfeasors or co-obligors on a
25 contract debt shall be entitled to a hearing on the issue of the good
26 faith of a settlement entered into by the plaintiff or other claimant
27 and one or more alleged tortfeasors or co-obligors, upon giving
28 notice in the manner provided in subdivision (b) of Section 1005.
29 Upon a showing of good cause, the court may shorten the time for
30 giving the required notice to permit the determination of the issue
31 to be made before the commencement of the trial of the action, or
32 before the verdict or judgment if settlement is made after the trial
33 has commenced.

34 (2) In the alternative, a settling party may give notice of
35 settlement to all parties and to the court, together with an
36 application for determination of good faith settlement and a
37 proposed order. The application shall indicate the settling parties,
38 and the basis, terms, and amount of the settlement. The notice,
39 application, and proposed order shall be given by certified mail,
40 return receipt requested. Proof of service shall be filed with the



1 court. Within 25 days of the mailing of the notice, application, and
2 proposed order, or within 20 days of personal service, a nonsettling
3 party may file a notice of motion to contest the good faith of the
4 settlement. If none of the nonsettling parties files a motion within
5 25 days of mailing of the notice, application, and proposed order,
6 or within 20 days of personal service, the court may approve the
7 settlement. The notice by a nonsettling party shall be given in the
8 manner provided in subdivision (b) of Section 1005. However, this
9 paragraph shall not apply to settlements in which a confidentiality
10 agreement has been entered into regarding the case or the terms of
11 the settlement.

12 (b) The issue of the good faith of a settlement may be
13 determined by the court on the basis of affidavits served with the
14 notice of hearing, and any counteraffidavits filed in response, or
15 the court may, in its discretion, receive other evidence at the
16 hearing.

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

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

24 (e) When a determination of the good faith or lack of good faith
25 of a settlement is made, any party aggrieved by the determination
26 may petition the proper court to review the determination by writ
27 of mandate. The petition for writ of mandate shall be filed within
28 20 days after service of written notice of the determination, or
29 within any additional time not exceeding 20 days as the trial court
30 may allow.

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

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

38 (3) The running of any period of time after which an action
39 would be subject to dismissal pursuant to the applicable provisions
40 of Chapter 1.5 (commencing with Section 583.110) of Title 8 of



1 Part 2 shall be tolled during the period of review of a determination
2 pursuant to this subdivision.

3 SEC. 8. Section 1013 of the Code of Civil Procedure is
4 amended to read:

5 1013. (a) In case of service by mail, the notice or other paper
6 shall be deposited in a post office, mailbox, subpost office,
7 substation, or mail chute, or other like facility regularly
8 maintained by the United States Postal Service, in a sealed
9 envelope, with postage paid, addressed to the person on whom it
10 is to be served, at the office address as last given by that person on
11 any document filed in the cause and served on the party making
12 service by mail; otherwise at that party's place of residence. The
13 service is complete at the time of the deposit, but any period of
14 notice and any right or duty to do any act or make any response
15 within any period or on a date certain after the service of the
16 document, which time period or date is prescribed by statute or
17 rule of court, shall be extended five calendar days, upon service by
18 mail, if the place of address and the place of mailing is within the
19 State of California, 10 calendar days if either the place of mailing
20 or the place of address is outside the State of California but within
21 the United States, and 20 calendar days if either the place of
22 mailing or the place of address is outside the United States, but the
23 extension shall not apply to extend the time for filing notice of
24 intention to move for new trial, notice of intention to move to
25 vacate judgment pursuant to Section 663a, or notice of appeal.
26 This extension applies in the absence of a specific exception
27 provided for by this section or other statute or rule of court.

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

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



1 by another method of delivery providing for overnight delivery,
2 the notice or other paper must be deposited in a box or other facility
3 regularly maintained by the express service carrier, or delivered to
4 an authorized courier or driver authorized by the express service
5 carrier to receive documents, in an envelope or package designated
6 by the express service carrier with delivery fees paid or provided
7 for, addressed to the person on whom it is to be served, at the office
8 address as last given by that person on any document filed in the
9 cause and served on the party making service; otherwise at that
10 party's place of residence. The service is complete at the time of
11 the deposit, but any period of notice and any right or duty to do any
12 act or make any response within any period or on a date certain
13 after the service of the document served by Express Mail or other
14 method of delivery providing for overnight delivery shall be
15 extended by two court days, but the extension shall not apply to
16 extend the time for filing notice of intention to move for new trial,
17 notice of intention to move to vacate judgment pursuant to Section
18 663a, or notice of appeal. This extension applies in the absence of
19 a specific exception provided for by this section or other statute or
20 rule of court.

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

26 (e) Service by facsimile transmission shall be permitted only
27 where the parties agree and a written confirmation of that
28 agreement is made. The Judicial Council may adopt rules
29 implementing the service of documents by facsimile transmission
30 and may provide a form for the confirmation of the agreement
31 required by this subdivision. In case of service by facsimile
32 transmission, the notice or other paper must be transmitted to a
33 facsimile machine maintained by the person on whom it is served
34 at the facsimile machine telephone number as last given by that
35 person on any document which he or she has filed in the cause and
36 served on the party making the service. The service is complete at
37 the time of transmission, but any period of notice and any right or
38 duty to do any act or make any response within any period or on
39 a date certain after the service of the document, which time period
40 or date is prescribed by statute or rule of court, shall be extended,



1 after service by facsimile transmission, by two court days, but the
2 extension shall not apply to extend the time for filing notice of
3 intention to move for new trial, notice of intention to move to
4 vacate judgment pursuant to Section 663a, or notice of appeal.
5 This extension applies in the absence of a specific exception
6 provided for by this section or other statute or rule of court.

7 (f) The copy of the notice or other paper served by facsimile
8 transmission pursuant to this chapter shall bear a notation of the
9 date and place of transmission and the facsimile telephone number
10 to which transmitted or be accompanied by an unsigned copy of
11 the affidavit or certificate of transmission which shall contain the
12 facsimile telephone number to which the notice or other paper was
13 transmitted.

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

15 SEC. 9. Section 1134 of the Code of Civil Procedure is
16 amended to read:

17 1134. (a) The statement required by Section 1133 shall be
18 filed with the clerk of the court in which the judgment is to be
19 entered, who must endorse upon it, and enter a judgment of the
20 court for the amount confessed with the costs provided in
21 subdivision (b).

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

27 (c) The statement and affidavit, with the judgment endorsed
28 thereon, together with the certificate filed pursuant to Section
29 1132, becomes the judgment roll.

30 SEC. 9.4. Section 2017 of the Code of Civil Procedure is
31 amended to read:

32 2017. (a) Unless otherwise limited by order of the court in
33 accordance with this article, any party may obtain discovery
34 regarding any matter, not privileged, that is relevant to the subject
35 matter involved in the pending action or to the determination of
36 any motion made in that action, if the matter either is itself
37 admissible in evidence or appears reasonably calculated to lead to
38 the discovery of admissible evidence. Discovery may relate to the
39 claim or defense of the party seeking discovery or of any other
40 party to the action. Discovery may be obtained of the identity and



1 location of persons having knowledge of any discoverable matter,
2 as well as of the existence, description, nature, custody, condition,
3 and location of any document, tangible thing, or land or other
4 property.

5 (b) A party may obtain discovery of the existence and contents
6 of any agreement under which any insurance carrier may be liable
7 to satisfy in whole or in part a judgment that may be entered in the
8 action or to indemnify or reimburse for payments made to satisfy
9 the judgment. This discovery may include the identity of the
10 carrier and the nature and limits of the coverage. A party may also
11 obtain discovery as to whether that insurance carrier is disputing
12 the agreement's coverage of the claim involved in the action, but
13 not as to the nature and substance of that dispute. Information
14 concerning the insurance agreement is not by reason of disclosure
15 admissible in evidence at trial.

16 (c) The court shall limit the scope of discovery if it determines
17 that the burden, expense, or intrusiveness of that discovery clearly
18 outweighs the likelihood that the information sought will lead to
19 the discovery of admissible evidence. The court may make this
20 determination pursuant to a motion for protective order by a party
21 or other affected person. This motion shall be accompanied by a
22 declaration stating facts showing a good faith attempt at an
23 informal resolution of each issue presented by the motion.

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

30 (d) In any civil action alleging conduct that constitutes sexual
31 harassment, sexual assault, or sexual battery, any party seeking
32 discovery concerning the plaintiff's sexual conduct with
33 individuals other than the alleged perpetrator is required to
34 establish specific facts showing good cause for that discovery, and
35 that the matter sought to be discovered is relevant to the subject
36 matter of the action and reasonably calculated to lead to the
37 discovery of admissible evidence. This showing shall be made by
38 noticed motion and shall not be made or considered by the court
39 at an ex parte hearing. This motion shall be accompanied by a



1 declaration stating facts showing a good faith attempt at an
2 informal resolution of each issue presented by the motion.

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

8 (e) (1) Pursuant to noticed motion, a court may enter orders for
9 the use of technology in conducting discovery in cases designated
10 as complex pursuant to Section 19 of the Judicial Administration
11 Standards, cases ordered to be coordinated pursuant to Chapter 3
12 (commencing with Section 404) of Title 4 of Part 2, or exceptional
13 cases exempt from case disposition time goals pursuant to Article
14 5 (commencing with Section 68600) of Chapter 2 of Title 8 of the
15 Government Code, or cases assigned to Plan 3 pursuant to
16 paragraph (3) of subdivision (b) of Section 2105 of the California
17 Rules of Court. In other cases, the parties may stipulate to the entry
18 of orders for the use of technology in conducting discovery.

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

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

25 (B) They do not impose or require undue expenditures of time
26 or money.

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

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

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

34 (3) Pursuant to these orders, discovery may be conducted and
35 maintained in electronic media and by electronic communication.
36 The court may enter orders prescribing procedures relating to the
37 use of electronic technology in conducting discovery, including
38 orders for the service of requests for discovery and responses,
39 service and presentation of motions, production, storage, and
40 access to information in electronic form, and the conduct of



1 discovery in electronic media. The Judicial Council may
2 promulgate rules, standards, and guidelines relating to electronic
3 discovery and the use of such discovery data and documents in
4 court proceedings.

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

8 (5) If a service provider is to be used and compensated by the
9 parties, the court shall appoint the person or organization agreed
10 upon by the parties and approve the contract agreed upon by the
11 parties and the service provider. If the parties do not agree on the
12 selection, each party shall submit to the court up to three nominees
13 for appointment together with a contract acceptable to the nominee
14 and the court shall appoint a service provider from among the
15 nominees. The court may condition this appointment on the
16 acceptance of modifications in the terms of the contract. If no
17 nominations are received from any of the parties, the court shall
18 appoint one or more service providers. Pursuant to noticed motion
19 at any time and upon a showing of good cause, the court may order
20 the removal of the service provider or vacate any agreement
21 between the parties and the service provider, or both, effective as
22 of the date of the order. The continued service of the service
23 provider shall be subject to review periodically, as agreed by the
24 parties and the service provider, or annually if they do not agree.
25 Any disputes involving the contract or the duties, rights, and
26 obligations of the parties or service providers may be determined
27 on noticed motion in the action.

28 (6) Subject to these findings and the purpose of permitting and
29 encouraging cost-effective and efficient discovery, “technology,”
30 as used in this section, includes, but is not limited to, telephone,
31 e-mail, CD-ROM, Internet web sites, electronic documents,
32 electronic document depositories, Internet depositions and
33 storage, videoconferencing, and other electronic technology that
34 may be used to improve communication and the discovery
35 process.

36 (7) Nothing in this subdivision shall be construed to modify the
37 requirement for use of a stenographic court reporter as provided
38 in paragraph (1) of subdivision (l) of Section 2025. The rules,
39 standards, and guidelines adopted pursuant to this subdivision
40 shall be consistent with the requirement of paragraph (1) of



1 subdivision (l) of Section 2025 that deposition testimony be taken
2 stenographically unless the parties agree or the court orders
3 otherwise.

4 (8) *Nothing in this subdivision shall be construed to modify or*
5 *affect in any way the process used for the selection of a*
6 *stenographic court reporter.*

7 SEC. 9.6. Section 2025 of the Code of Civil Procedure is
8 amended to read:

9 2025. (a) Any party may obtain discovery within the scope
10 delimited by Section 2017, and subject to the restrictions set forth
11 in Section 2019, by taking in California the oral deposition of any
12 person, including any party to the action. The person deposed may
13 be a natural person, an organization such as a public or private
14 corporation, a partnership, an association, or a governmental
15 agency.

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

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

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

26 (c) A party desiring to take the oral deposition of any person
27 shall give notice in writing in the manner set forth in subdivision
28 (d). However, where under subdivision (d) of Section 2020 only
29 the production by a nonparty of business records for copying is
30 desired, a copy of the deposition subpoena shall serve as the notice
31 of deposition. The notice of deposition shall be given to every
32 other party who has appeared in the action. The deposition notice,
33 or the accompanying proof of service, shall list all the parties or
34 attorneys for parties on whom it is served.

35 Where, as defined in subdivision (a) of Section 1985.3, the party
36 giving notice of the deposition is a subpoenaing party, and the
37 deponent is a witness commanded by a deposition subpoena to
38 produce personal records of a consumer, the subpoenaing party
39 shall serve on that consumer (1) a notice of the deposition, (2) the
40 notice of privacy rights specified in subdivision (e) of Section



1 1985.3 and in Section 1985.6, and (3) a copy of the deposition
2 subpoena.

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

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

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

7 (3) The name of each deponent, and the address and telephone
8 number, if known, of any deponent who is not a party to the action.

9 If the name of the deponent is not known, the deposition notice
10 shall set forth instead a general description sufficient to identify
11 the person or particular class to which the person belongs.

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

14 (5) Any intention to record the testimony by audiotape or
15 videotape, in addition to recording the testimony by the
16 stenographic method as required by paragraph (1) of subdivision
17 (l) and any intention to record the testimony by stenographic
18 method, through the instant visual display of the testimony. In the
19 latter event, a copy of the deposition notice shall also be given to
20 the deposition officer. Any offer to provide the instant visual
21 display of the testimony or to provide rough draft transcripts to any
22 party which is accepted prior to, or offered at, the deposition shall
23 also be made by the deposition officer at the deposition to all
24 parties in attendance.

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

32 If the deponent named is not a natural person, the deposition
33 notice shall describe with reasonable particularity the matters on
34 which examination is requested. In that event, the deponent shall
35 designate and produce at the deposition those of its officers,
36 directors, managing agents, employees, or agents who are most
37 qualified to testify on its behalf as to those matters to the extent of
38 any information known or reasonably available to the deponent.
39 A deposition subpoena shall advise a nonparty deponent of its duty



1 to make this designation, and shall describe with reasonable
2 particularity the matters on which examination is requested.

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

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

12 (2) The deposition of an organization that is a party to the action
13 shall be taken at a place that is, at the option of the party giving
14 notice of the deposition, either within 75 miles of the
15 organization's principal executive or business office in California,
16 or within the county where the action is pending and within 150
17 miles of that office. The deposition of any other organization shall
18 be taken within 75 miles of the organization's principal executive
19 or business office in California, unless the organization consents
20 to a more distant place. If the organization has not designated a
21 principal executive or business office in California, the deposition
22 shall be taken at a place that is, at the option of the party giving
23 notice of the deposition, either within the county where the action
24 is pending, or within 75 miles of any executive or business office
25 in California of the organization.

26 (3) A party desiring to take the deposition of a natural person
27 who is a party to the action or an officer, director, managing agent,
28 or employee of a party may make a motion for an order that the
29 deponent attend for deposition at a place that is more distant than
30 that permitted under paragraph (1). This motion shall be
31 accompanied by a declaration stating facts showing a reasonable
32 and good faith attempt at an informal resolution of any issue
33 presented by the motion.

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

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



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

3 (C) The convenience of the deponent.

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

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

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

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

13 The order may be conditioned on the advancement by the
14 moving party of the reasonable expenses and costs to the deponent
15 for travel to the place of deposition.

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

22 (f) An oral deposition shall be scheduled for a date at least 10
23 days after service of the deposition notice. If, as defined in
24 subdivision (a) of Section 1985.3, the party giving notice of the
25 deposition is a subpoenaing party, and the deponent is a witness
26 commanded by a deposition subpoena to produce personal records
27 of a consumer, the deposition shall be scheduled for a date at least
28 20 days after issuance of that subpoena. However, in unlawful
29 detainer actions, an oral deposition shall be scheduled for a date at
30 least five days after service of the deposition notice, but not later
31 than five days before trial.

32 On motion or ex parte application of any party or deponent, for
33 good cause shown, the court may shorten or extend the time for
34 scheduling a deposition, or may stay its taking until the
35 determination of a motion for a protective order under subdivision
36 (i).

37 (g) Any party served with a deposition notice that does not
38 comply with subdivisions (b) to (f), inclusive, waives any error or
39 irregularity unless that party promptly serves a written objection
40 specifying that error or irregularity at least three calendar days



1 prior to the date for which the deposition is scheduled, on the party
2 seeking to take the deposition and any other attorney or party on
3 whom the deposition notice was served. If an objection is made
4 three calendar days before the deposition date, the objecting party
5 shall make personal service of that objection pursuant to Section
6 1011 on the party who gave notice of the deposition. Any
7 deposition taken after the service of a written objection shall not
8 be used against the objecting party under subdivision (u) if the
9 party did not attend the deposition and if the court determines that
10 the objection was a valid one.

11 In addition to serving this written objection, a party may also
12 move for an order staying the taking of the deposition and
13 quashing the deposition notice. This motion shall be accompanied
14 by a declaration stating facts showing a reasonable and good faith
15 attempt at an informal resolution of any issue presented by the
16 motion. The taking of the deposition is stayed pending the
17 determination of this motion.

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

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

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

33 (3) A person may take, and any person other than the deponent
34 may attend, a deposition by telephone or other remote electronic
35 means. The court may expressly provide that a nonparty deponent
36 may appear at his or her deposition by telephone if it finds there
37 is good cause and no prejudice to any party. A party deponent must
38 appear at his or her deposition in person and be in the presence of
39 the deposition officer. The procedures to implement this section



1 shall be established by court order in the specific action proceeding
2 or by the California Rules of Court.

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

9 The court, for good cause shown, may make any order that
10 justice requires to protect any party, deponent, or other natural
11 person or organization from unwarranted annoyance,
12 embarrassment, or oppression, or undue burden and expense. This
13 protective order may include, but is not limited to, one or more of
14 the following directions:

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

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

17 (3) That a videotape deposition of a treating or consulting
18 physician or of any expert witness, intended for possible use at trial
19 under paragraph (4) of subdivision (u), be postponed until the
20 moving party has had an adequate opportunity to prepare, by
21 discovery deposition of the deponent, or other means, for
22 cross-examination.

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

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

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

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

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

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

35 (10) That the scope of the examination be limited to certain
36 matters.

37 (11) That all or certain of the writings or tangible things
38 designated in the deposition notice not be produced, inspected, or
39 copied.



1 (12) That designated persons, other than the parties to the
2 action and their officers and counsel, be excluded from attending
3 the deposition.

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

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

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

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

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

21 (j) (1) If the party giving notice of a deposition fails to attend
22 or proceed with it, the court shall impose a monetary sanction
23 under Section 2023 against that party, or the attorney for that party,
24 or both, and in favor of any party attending in person or by
25 attorney, unless it finds that the one subject to the sanction acted
26 with substantial justification or that other circumstances make the
27 imposition of the sanction unjust.

28 (2) If a deponent does not appear for a deposition because the
29 party giving notice of the deposition failed to serve a required
30 deposition subpoena, the court shall impose a monetary sanction
31 under Section 2023 against that party, or the attorney for that party,
32 or both, in favor of any other party who, in person or by attorney,
33 attended at the time and place specified in the deposition notice in
34 the expectation that the deponent's testimony would be taken,
35 unless the court finds that the one subject to the sanction acted with
36 substantial justification or that other circumstances make the
37 imposition of the sanction unjust.

38 If a deponent on whom a deposition subpoena has been served
39 fails to attend a deposition or refuses to be sworn as a witness, the



1 court may impose on the deponent the sanctions described in
2 subdivision (h) of Section 2020.

3 (3) If, after service of a deposition notice, a party to the action
4 or an officer, director, managing agent, or employee of a party, or
5 a person designated by an organization that is a party under
6 subdivision (d), without having served a valid objection under
7 subdivision (g), fails to appear for examination, or to proceed with
8 it, or to produce for inspection any document or tangible thing
9 described in the deposition notice, the party giving the notice may
10 move for an order compelling the deponent's attendance and
11 testimony, and the production for inspection of any document or
12 tangible thing described in the deposition notice. This motion (A)
13 shall set forth specific facts showing good cause justifying the
14 production for inspection of any document or tangible thing
15 described in the deposition notice, and (B) shall be accompanied
16 by a declaration stating facts showing a reasonable and good faith
17 attempt at an informal resolution of each issue presented by it or,
18 when the deponent fails to attend the deposition and produce the
19 documents or things described in the deposition notice, by a
20 declaration stating that the petitioner has contacted the deponent
21 to inquire about the nonappearance. If this motion is granted, the
22 court shall also impose a monetary sanction under Section 2023
23 against the deponent or the party with whom the deponent is
24 affiliated, unless it finds that the one subject to the sanction acted
25 with substantial justification or that other circumstances make the
26 imposition of the sanction unjust. On motion of any other party
27 who, in person or by attorney, attended at the time and place
28 specified in the deposition notice in the expectation that the
29 deponent's testimony would be taken, the court shall also impose
30 a monetary sanction under Section 2023, unless it finds that the one
31 subject to the sanction acted with substantial justification or that
32 other circumstances make the imposition of the sanction unjust.

33 If that party or party-affiliated deponent then fails to obey an
34 order compelling attendance, testimony, and production, the court
35 may make those orders that are just, including the imposition of an
36 issue sanction, an evidence sanction, or a terminating sanction
37 under Section 2023 against that party deponent or against the party
38 with whom the deponent is affiliated. In lieu of, or in addition to,
39 this sanction, the court may impose a monetary sanction under
40 Section 2023 against that deponent or against the party with whom



1 that party deponent is affiliated, and in favor of any party who, in
2 person or by attorney, attended in the expectation that the
3 deponent’s testimony would be taken pursuant to that order.

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

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

11 (2) Services and products offered or provided by the deposition
12 officer or the entity providing the services of the deposition officer
13 to any party or to any party’s attorney or third party who is
14 financing all or part of the action shall be offered to all parties or
15 their attorneys attending the deposition. No service or product may
16 be offered or provided by the deposition officer or by the entity
17 providing the services of the deposition officer to any party or any
18 party’s attorney or third party who is financing all or part of the
19 action unless the service or product is offered or provided to all
20 parties or their attorneys attending the deposition. All services and
21 products offered or provided shall be made available at the same
22 time to all parties or their attorneys.

23 (3) The deposition officer or the entity providing the services
24 of the deposition officer shall not provide to any party or any
25 party’s attorney or third party who is financing all or part of the
26 action any service or product consisting of the deposition officer’s
27 notations or comments regarding the demeanor of any witness,
28 attorney, or party present at the deposition. The deposition officer
29 or entity providing the services of the deposition officer shall not
30 collect any personal identifying information about the witness as
31 a service or product to be provided to any party or third party who
32 is financing all or part of the action.

33 (4) Upon the request of any party or any party’s attorney
34 attending a deposition, any party or any party’s attorney attending
35 the deposition shall enter in the record of the deposition all services
36 and products made available to that party or party’s attorney or
37 third party who is financing all or part of the action by the
38 deposition officer or by the entity providing the services of the
39 deposition officer. A party in the action who is not represented by



1 an attorney shall be informed by the noticing party or the party's
2 attorney that the unrepresented party may request this statement.

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

7 (l) (1) The deposition officer shall put the deponent under
8 oath. Unless the parties agree or the court orders otherwise, the
9 testimony, as well as any stated objections, shall be taken
10 stenographically. The party noticing the deposition may also
11 record the testimony by audiotape or videotape if the notice of
12 deposition stated an intention also to record the testimony by either
13 of those methods, or if all the parties agree that the testimony may
14 also be recorded by either of those methods. Any other party, at
15 that party's expense, may make a simultaneous audiotape or
16 videotape record of the deposition, provided that other party
17 promptly, and in no event less than three calendar days before the
18 date for which the deposition is scheduled, serves a written notice
19 of this intention to audiotape or videotape the deposition testimony
20 on the party or attorney who noticed the deposition, on all other
21 parties or attorneys on whom the deposition notice was served
22 under subdivision (c), and on any deponent whose attendance is
23 being compelled by a deposition subpoena under Section 2020. If
24 this notice is given three calendar days before the deposition date,
25 it shall be made by personal service under Section 1011.
26 Examination and cross-examination of the deponent shall proceed
27 as permitted at trial under the provisions of the Evidence Code.

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

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

32 (B) The operator of the recording equipment shall be
33 competent to set up, operate, and monitor the equipment in the
34 manner prescribed in this subdivision. The operator may be an
35 employee of the attorney taking the deposition unless the operator
36 is also the deposition officer. However, if a videotape of deposition
37 testimony is to be used under paragraph (4) of subdivision (u), the
38 operator of the recording equipment shall be a person who is
39 authorized to administer an oath, and shall not be financially
40 interested in the action or be a relative or employee of any attorney



1 of any of the parties, unless all parties attending the deposition
2 agree on the record to waive these qualifications and restrictions.
3 Services and products offered or provided by the deposition officer
4 or the entity providing the services of the deposition officer to any
5 party or to any party's attorney or third party who is financing all
6 or part of the action shall be offered or provided to all parties or
7 their attorneys attending the deposition. No service or product may
8 be offered or provided by the deposition officer or by the entity
9 providing the services of the deposition officer to any party or any
10 party's attorney or third party who is financing all or part of the
11 action unless the service or product is offered or provided to all
12 parties or their attorneys attending the deposition. All services and
13 products offered or provided shall be made available at the same
14 time to all parties or their attorneys. The deposition officer or the
15 entity providing the services of the deposition officer shall not
16 provide to any party or any other person or entity any service or
17 product consisting of the deposition officer's notations or
18 comments regarding the demeanor of any witness, attorney, or
19 party present at the deposition. The deposition officer or the entity
20 providing the services of the deposition officer shall not collect
21 any personal identifying information about the witness as a service
22 or product to be provided to any party or third party who is
23 financing all or part of the action. Upon the request of any party
24 or any party's attorney attending a deposition, any party or any
25 party's attorney attending the deposition shall enter in the record
26 of the deposition all services and products made available to that
27 party or party's attorney or third party who is financing all or part
28 of the action by the deposition officer or by the entity providing the
29 services of the deposition officer. A party in the action who is not
30 represented by an attorney shall be informed by the noticing party
31 that the unrepresented party may request this statement.

32 (C) The operator shall not distort the appearance or the
33 demeanor of participants in the deposition by the use of camera or
34 sound recording techniques.

35 (D) The deposition shall begin with an oral or written statement
36 on camera or on the audiotape that includes the operator's name
37 and business address, the name and business address of the
38 operator's employer, the date, time, and place of the deposition,
39 the caption of the case, the name of the deponent, a specification



1 of the party on whose behalf the deposition is being taken, and any
2 stipulations by the parties.

3 (E) Counsel for the parties shall identify themselves on camera
4 or on the audiotape.

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

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

10 (H) At the conclusion of a deposition, a statement shall be made
11 on camera or on the audiotape that the deposition is ended and shall
12 set forth any stipulations made by counsel concerning the custody
13 of the audiotape or videotape recording and the exhibits, or
14 concerning other pertinent matters.

15 (I) A party intending to offer an audiotaped or videotaped
16 recording of a deposition in evidence under subdivision (u) shall
17 notify the court and all parties in writing of that intent and of the
18 parts of the deposition to be offered within sufficient time for
19 objections to be made and ruled on by the judge to whom the case
20 is assigned for trial or hearing, and for any editing of the tape.
21 Objections to all or part of the deposition shall be made in writing.
22 The court may permit further designations of testimony and
23 objections as justice may require. With respect to those portions of
24 an audiotaped or videotaped deposition that are not designated by
25 any party or that are ruled to be objectionable, the court may order
26 that the party offering the recording of the deposition at the trial
27 or hearing suppress those portions, or that an edited version of the
28 deposition tape be prepared for use at the trial or hearing. The
29 original audiotape or videotape of the deposition shall be
30 preserved unaltered. If no stenographic record of the deposition
31 testimony has previously been made, the party offering a
32 videotape or an audiotape recording of that testimony under
33 subdivision (u) shall accompany that offer with a stenographic
34 transcript prepared from that recording.

35 (3) In lieu of participating in the oral examination, parties may
36 transmit written questions in a sealed envelope to the party taking
37 the deposition for delivery to the deposition officer, who shall
38 unseal the envelope and propound them to the deponent after the
39 oral examination has been completed.



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

5 (2) Errors and irregularities of any kind occurring at the oral
6 examination that might be cured if promptly presented are waived
7 unless a specific objection to them is timely made during the
8 deposition. These errors and irregularities include, but are not
9 limited to, those relating to the manner of taking the deposition, to
10 the oath or affirmation administered, to the conduct of a party,
11 attorney, deponent, or deposition officer, or to the form of any
12 question or answer. Unless the objecting party demands that the
13 taking of the deposition be suspended to permit a motion for a
14 protective order under subdivision (n), the deposition shall
15 proceed subject to the objection.

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

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

27 (n) The deposition officer shall not suspend the taking of
28 testimony without stipulation of the party conducting the
29 deposition and the deponent unless any party attending the
30 deposition or the deponent demands the taking of testimony be
31 suspended to enable that party or deponent to move for a protective
32 order on the ground that the examination is being conducted in bad
33 faith or in a manner that unreasonably annoys, embarrasses, or
34 oppresses that deponent or party. This motion shall be
35 accompanied by a declaration stating facts showing a reasonable
36 and good faith attempt at an informal resolution of each issue
37 presented by the motion. The court, for good cause shown, may
38 terminate the examination or may limit the scope and manner of
39 taking the deposition as provided in subdivision (i). If the order



1 terminates the examination, the deposition shall not thereafter be
2 resumed, except on order of the court.

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

9 (o) If a deponent fails to answer any question or to produce any
10 document or tangible thing under the deponent's control that is
11 specified in the deposition notice or a deposition subpoena, the
12 party seeking discovery may move the court for an order
13 compelling that answer or production. This motion shall be made
14 no later than 60 days after the completion of the record of the
15 deposition, and shall be accompanied by a declaration stating facts
16 showing a reasonable and good faith attempt at an informal
17 resolution of each issue presented by the motion. Notice of this
18 motion shall be given to all parties, and to the deponent either
19 orally at the examination, or by subsequent service in writing. If
20 the notice of the motion is given orally, the deposition officer shall
21 direct the deponent to attend a session of the court at the time
22 specified in the notice. Not less than five days prior to the hearing
23 on this motion, the moving party shall lodge with the court a
24 certified copy of any parts of the stenographic transcript of the
25 deposition that are relevant to the motion. If a deposition is
26 recorded by audiotape or videotape, the moving party is required
27 to lodge a certified copy of a transcript of any parts of the
28 deposition that are relevant to the motion. If the court determines
29 that the answer or production sought is subject to discovery, it shall
30 order that the answer be given or the production be made on the
31 resumption of the deposition.

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

38 If a deponent fails to obey an order entered under this
39 subdivision, the failure may be considered a contempt of court. In
40 addition, if the disobedient deponent is a party to the action or an



1 officer, director, managing agent, or employee of a party, the court
2 may make those orders that are just against the disobedient party,
3 or against the party with whom the disobedient deponent is
4 affiliated, including the imposition of an issue sanction, an
5 evidence sanction, or a terminating sanction under Section 2023.
6 In lieu of, or in addition to, this sanction, the court may impose a
7 monetary sanction under Section 2023 against that party deponent
8 or against any party with whom the deponent is affiliated.

9 (p) Unless the parties agree otherwise, the testimony at any
10 deposition recorded by stenographic means shall be transcribed.
11 The party noticing the deposition shall bear the cost of that
12 transcription, unless the court, on motion and for good cause
13 shown, orders that the cost be borne or shared by another party.
14 Notwithstanding paragraph (2) of subdivision (k), any other party,
15 at that party's expense, may obtain a copy of the transcript. If the
16 deposition officer receives a request from a party for an original
17 or a copy of the deposition transcript, or any portion thereof, and
18 the document will be available to that party prior to the time the
19 original or copy would be available to any other party, the
20 deposition officer shall immediately notify all other parties
21 attending the deposition of the request, and shall, upon request by
22 any party other than the party making the original request, make
23 that copy of the full or partial deposition transcript available to all
24 parties at the same time. Stenographic notes of depositions shall
25 be retained by the reporter for a period of not less than eight years
26 from the date of the deposition, where no transcript is produced,
27 and not less than one year from the date on which the transcript is
28 produced. Those notes may be either on paper or electronic media,
29 as long as it allows for satisfactory production of a transcript at any
30 time during the periods specified. At the request of any other party
31 to the action, including a party who did not attend the taking of the
32 deposition testimony, any party who records or causes the
33 recording of that testimony by means of audiotape or videotape
34 shall promptly (1) permit that other party to hear the audiotape or
35 to view the videotape, and (2) furnish a copy of the audiotape or
36 videotape to that other party on receipt of payment of the
37 reasonable cost of making that copy of the tape.

38 If the testimony at the deposition is recorded both
39 stenographically, and by audiotape or videotape, the stenographic



1 transcript is the official record of that testimony for the purpose of
2 the trial and any subsequent hearing or appeal.

3 (q) (1) If the deposition testimony is stenographically
4 recorded, the deposition officer shall send written notice to the
5 deponent and to all parties attending the deposition when the
6 original transcript of the testimony for each session of the
7 deposition is available for reading, correcting, and signing, unless
8 the deponent and the attending parties agree on the record that the
9 reading, correcting, and signing of the transcript of the testimony
10 will be waived or that the reading, correcting, and signing of a
11 transcript of the testimony will take place after the entire
12 deposition has been concluded or at some other specific time. For
13 30 days following each notice, unless the attending parties and the
14 deponent agree on the record or otherwise in writing to a longer or
15 shorter time period, the deponent may change the form or the
16 substance of the answer to a question, and may either approve the
17 transcript of the deposition by signing it, or refuse to approve the
18 transcript by not signing it.

19 Alternatively, within this same period, the deponent may
20 change the form or the substance of the answer to any question and
21 may approve or refuse to approve the transcript by means of a letter
22 to the deposition officer signed by the deponent which is mailed
23 by certified or registered mail with return receipt requested. A
24 copy of that letter shall be sent by first-class mail to all parties
25 attending the deposition. For good cause shown, the court may
26 shorten the 30-day period for making changes, approving, or
27 refusing to approve the transcript.

28 The deposition officer shall indicate on the original of the
29 transcript, if the deponent has not already done so at the office of
30 the deposition officer, any action taken by the deponent and
31 indicate on the original of the transcript, the deponent's approval
32 of, or failure or refusal to approve, the transcript. The deposition
33 officer shall also notify in writing the parties attending the
34 deposition of any changes which the deponent timely made in
35 person. If the deponent fails or refuses to approve the transcript
36 within the allotted period, the deposition shall be given the same
37 effect as though it had been approved, subject to any changes
38 timely made by the deponent. However, on a seasonable motion
39 to suppress the deposition, accompanied by a declaration stating
40 facts showing a reasonable and good faith attempt at an informal



1 resolution of each issue presented by the motion, the court may
2 determine that the reasons given for the failure or refusal to
3 approve the transcript require rejection of the deposition in whole
4 or in part.

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

11 (2) If there is no stenographic transcription of the deposition,
12 the deposition officer shall send written notice to the deponent and
13 to all parties attending the deposition that the recording is available
14 for review, unless the deponent and all these parties agree on the
15 record to waive the hearing or viewing of an audiotape or
16 videotape recording of the testimony. For 30 days following this
17 notice the deponent, either in person or by signed letter to the
18 deposition officer, may change the substance of the answer to any
19 question.

20 The deposition officer shall set forth in a writing to accompany
21 the recording any changes made by the deponent, as well as either
22 the deponent's signature identifying the deposition as his or her
23 own, or a statement of the deponent's failure to supply the
24 signature, or to contact the officer within the allotted period. When
25 a deponent fails to contact the officer within the allotted period, or
26 expressly refuses by a signature to identify the deposition as his or
27 her own, the deposition shall be given the same effect as though
28 signed. However, on a reasonable motion to suppress the
29 deposition, accompanied by a declaration stating facts showing a
30 reasonable and good faith attempt at an informal resolution of each
31 issue presented by the motion, the court may determine that the
32 reasons given for the refusal to sign require rejection of the
33 deposition in whole or in part.

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



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

6 (2) When prepared as a rough draft transcript, the transcript of
7 the deposition may not be certified and may not be used, cited, or
8 transcribed as the certified transcript of the deposition
9 proceedings. The rough draft transcript may not be cited or used
10 in any way or at any time to rebut or contradict the certified
11 transcript of deposition proceedings as provided by the deposition
12 officer.

13 (s) (1) The certified transcript of a deposition shall not be filed
14 with the court. Instead, the deposition officer shall securely seal
15 that transcript in an envelope or package endorsed with the title of
16 the action and marked: “Deposition of (here insert name of
17 deponent),” and shall promptly transmit it to the attorney for the
18 party who noticed the deposition. This attorney shall store it under
19 conditions that will protect it against loss, destruction, or
20 tampering.

21 The attorney to whom the transcript of a deposition is
22 transmitted shall retain custody of it until six months after final
23 disposition of the action. At that time, the transcript may be
24 destroyed, unless the court, on motion of any party and for good
25 cause shown, orders that the transcript be preserved for a longer
26 period.

27 (2) An audiotape or videotape record of deposition testimony,
28 including a certified tape made by an operator qualified under
29 subparagraph (B) of paragraph (2) of subdivision (l), shall not be
30 filed with the court. Instead, the operator shall retain custody of
31 that record and shall store it under conditions that will protect it
32 against loss, destruction, or tampering, and preserve as far as
33 practicable the quality of the tape and the integrity of the testimony
34 and images it contains.

35 At the request of any party to the action, including a party who
36 did not attend the taking of the deposition testimony, or at the
37 request of the deponent, that operator shall promptly (A) permit
38 the one making the request to hear or to view the tape on receipt
39 of payment of a reasonable charge for providing the facilities for
40 hearing or viewing the tape, and (B) furnish a copy of the audiotape



1 or the videotape recording to the one making the request on receipt
2 of payment of the reasonable cost of making that copy of the tape.

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

9 (t) Once any party has taken the deposition of any natural
10 person, including that of a party to the action, neither the party who
11 gave, nor any other party who has been served with a deposition
12 notice pursuant to subdivision (c) may take a subsequent
13 deposition of that deponent. However, for good cause shown, the
14 court may grant leave to take a subsequent deposition, and the
15 parties, with the consent of any deponent who is not a party, may
16 stipulate that a subsequent deposition be taken. This subdivision
17 does not preclude taking one subsequent deposition of a natural
18 person who has previously been examined (1) as a result of that
19 person's designation to testify on behalf of an organization under
20 subdivision (d), or (2), pursuant to a court order under Section
21 485.230, for the limited purpose of discovering pursuant to
22 Section 485.230 the identity, location, and value of property in
23 which the deponent has an interest. This subdivision does not
24 authorize the taking of more than one subsequent deposition for
25 the limited purpose of Section 485.230.

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

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

36 (2) An adverse party may use for any purpose, a deposition of
37 a party to the action, or of anyone who at the time of taking the
38 deposition was an officer, director, managing agent, employee,
39 agent, or designee under subdivision (d) of a party. It is not ground
40 for objection to the use of a deposition of a party under this



1 paragraph by an adverse party that the deponent is available to
2 testify, has testified, or will testify at the trial or other hearing.

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

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

8 (B) The deponent, without the procurement or wrongdoing of
9 the proponent of the deposition for the purpose of preventing
10 testimony in open court, is (i) exempted or precluded on the
11 ground of privilege from testifying concerning the matter to which
12 the deponent's testimony is relevant, (ii) disqualified from
13 testifying, (iii) dead or unable to attend or testify because of
14 existing physical or mental illness or infirmity, (iv) absent from the
15 trial or other hearing and the court is unable to compel the
16 deponent's attendance by its process, or (v) absent from the trial
17 or other hearing and the proponent of the deposition has exercised
18 reasonable diligence but has been unable to procure the deponent's
19 attendance by the court's process.

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

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

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

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

36 (7) When an action has been brought in any court of the United
37 States or of any state, and another action involving the same
38 subject matter is subsequently brought between the same parties
39 or their representatives or successors in interest, all depositions
40 lawfully taken and duly filed in the initial action may be used in



1 the subsequent action as if originally taken in that subsequent
2 action. A deposition previously taken may also be used as
3 permitted by the Evidence Code.

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

7 SEC. 10. Section 2026 of the Code of Civil Procedure is
8 amended to read:

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

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

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

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



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

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

14 2033.5. (a) The Judicial Council shall develop and approve
15 official form interrogatories and requests for admission of the
16 genuineness of any relevant documents or of the truth of any
17 relevant matters of fact for use in any civil action in a state court
18 based on personal injury, property damage, wrongful death,
19 unlawful detainer, breach of contract, family law, or fraud and for
20 any other civil actions the Judicial Council deems appropriate. Use
21 of the approved form interrogatories and requests for admission
22 shall be optional.

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

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

35 (d) The Judicial Council shall develop and approve official
36 form interrogatories for use by a victim who has not received
37 complete payment of a restitution order made pursuant to Section
38 1202.4 of the Penal Code.

39 (e) Notwithstanding whether a victim initiates or maintains an
40 action to satisfy the unpaid restitution order, a victim may



1 propound the form interrogatories approved pursuant to this
2 section once each calendar year. The defendant subject to the
3 restitution order shall, in responding to the interrogatories
4 propounded, provide current information regarding the nature,
5 extent, and location of any assets, income, and liabilities in which
6 the defendant claims a present or future interest.

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

8 SEC. 12. Section 2093 of the Code of Civil Procedure is
9 amended to read:

10 2093. (a) Every court, every judge, or clerk of any court,
11 every justice, and every notary public, and every officer or person
12 authorized to take testimony in any action or proceeding, or to
13 decide upon evidence, has the power to administer oaths or
14 affirmations.

15 (b) (1) Every shorthand reporter certified pursuant to Article
16 3 (commencing with Section 8020) of Chapter 13 of Division 3 of
17 the Business and Professions Code has the power to administer
18 oaths or affirmations and may perform the duties of the deposition
19 officer pursuant to Section 2025. The certified shorthand reporter
20 shall be entitled to receive fees for services rendered during a
21 deposition, including fees for deposition services, as specified in
22 subdivision (c) of Section 8211 of the Government Code.

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

26 (c) A former judge or justice of a court of record in this state
27 who retired or resigned from office, other than a judge or justice
28 who was retired by the Supreme Court for disability, shall have the
29 power to administer oaths or affirmations, if the former judge or
30 justice requests and receives a certification from the Commission
31 on Judicial Performance that there was no formal disciplinary
32 proceeding pending at the time of retirement or resignation. Where
33 no formal disciplinary proceeding was pending at the time of
34 retirement or resignation, the Commission on Judicial
35 Performance shall issue the certification.

36 No law, rule, or regulation regarding the confidentiality of
37 proceedings of the Commission on Judicial Performance shall be
38 construed to prohibit the Commission on Judicial Performance
39 from issuing a certificate as provided for in this section.



1 SEC. 13. Section 915 of the Evidence Code is amended to
2 read:

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

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

29 SEC. 14. Section 68113 of the Government Code is repealed.

30 SEC. 15. Section 68502.5 of the Government Code is
31 amended to read:

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

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

39 (2) The review of the trial courts' budget requests and evaluate
40 them against performance criteria established by the Judicial



1 Council by which a court's performance, level of coordination,
2 and efficiency can be measured.

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

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

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

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

32 (7) Upon approval of the trial courts' budget by the Legislature,
33 the preparation during the course of the fiscal year of allocation
34 schedules for payments to the trial courts, consistent with Section
35 68085, which shall be submitted to the Controller's office by the
36 10th day of the month in which payments are to be made.

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



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

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

8 (11) Provisions set forth in rules adopted pursuant to Section
9 77206 of the Government Code.

10 (b) Courts and counties shall establish procedures to allow for
11 the sharing of information as it relates to approved budget
12 proposals and expenditures that impact the respective court and
13 county budgets. The procedures shall include, upon the request of
14 a court or county, that a respective court or county shall provide
15 the requesting court or county a copy of its approved budget and,
16 to the extent possible, approved program expenditure component
17 information and a description of budget changes that are
18 anticipated to have an impact on the requesting court or county.
19 The Judicial Council shall provide to the Legislature on December
20 31, 2001, and yearly thereafter, budget expenditure data at the
21 program component level for each court.

22 (c) The Judicial Council shall retain the ultimate responsibility
23 to adopt a budget and allocate funding for the trial courts and
24 perform the other activities listed in subdivision (a) that best assure
25 their ability to carry out their functions, promote implementation
26 of statewide policies, and promote the immediate implementation
27 of efficiencies and cost savings measures in court operations, in
28 order to guarantee equal access to the courts.

29 SEC. 16. Section 68511.3 of the Government Code is
30 amended to read:

31 68511.3. (a) The Judicial Council shall formulate and adopt
32 uniform forms and rules of court for litigants proceeding in forma
33 pauperis. These rules shall provide for all of the following:

34 (1) Standard procedures for considering and determining
35 applications for permission to proceed in forma pauperis,
36 including, in the event of a denial of permission, a written
37 statement detailing the reasons for denial and an evidentiary
38 hearing where there is a substantial evidentiary conflict.

39 (2) Standard procedures to toll relevant time limitations when
40 a pleading or other paper accompanied by the application is timely



1 lodged with the court and delay is caused due to the processing of
2 the application to proceed in forma pauperis.

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

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

8 (5) That the court may authorize the clerk of the court, county
9 financial officer, or other appropriate county officer to make
10 reasonable efforts to verify the litigant's financial condition
11 without compromising the confidentiality of the application.

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

14 (A) Litigants who are receiving benefits pursuant to the
15 Supplemental Security Income (SSI) and State Supplemental
16 Payments (SSP) programs (Sections 12200 to 12205, inclusive, of
17 the Welfare and Institutions Code), the California Work
18 Opportunity and Responsibility to Kids Act (CalWORKs)
19 program (Chapter 2 (commencing with Section 11200) of Part 3
20 of Division 9 of the Welfare and Institutions Code), the Food
21 Stamp program (7 U.S.C. Sec. 2011 et seq.), or Section 17000 of
22 the Welfare and Institutions Code.

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

27 (C) Other persons when in the court's discretion, this
28 permission is appropriate because the litigant is unable to proceed
29 without using money which is necessary for the use of the litigant
30 or the litigant's family to provide for the common necessities of
31 life.

32 (b) (1) Litigants who apply for permission to proceed in forma
33 pauperis pursuant to subparagraph (A) of paragraph (6) of
34 subdivision (a) shall declare under penalty of perjury that they are
35 receiving the benefits and may voluntarily provide the court with
36 their date of birth and social security number or their Medi-Cal
37 identification number to permit the court to verify the applicant's
38 receipt of public assistance. The court may require any applicant,
39 except a defendant in an unlawful detainer action, who chooses not
40 to disclose his or her social security number for verification



1 purposes to attach to the application documentation of benefits to
2 support the claim and all other financial information on a form
3 promulgated by the Judicial Council for this purpose.

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

9 (c) The forms and rules adopted by the Judicial Council shall
10 provide for the disclosure of the following information about the
11 litigant:

12 (1) Current street address.

13 (2) Occupation and employer.

14 (3) Monthly income and expenses.

15 (4) Address and value of any real property owned directly or
16 beneficially.

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

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

22 (d) At any time after the court has granted a litigant permission
23 to proceed in forma pauperis and prior to final disposition of the
24 case, the clerk of the court, county financial officer, or other
25 appropriate county officer may notify the court of any changed
26 financial circumstances which may enable the litigant to pay all or
27 a portion of the fees and costs which had been waived. The court
28 may authorize the clerk of the court, county financial officer, or
29 other appropriate county officer to require the litigant to appear
30 before and be examined by the person authorized to ascertain the
31 validity of their indigent status. However, no litigant shall be
32 required to appear more than once in any four-month period. A
33 litigant proceeding in forma pauperis shall notify the court within
34 five days of any settlement or monetary consideration received in
35 settlement of this litigation and of any other change in financial
36 circumstances that affects the litigant's ability to pay court fees and
37 costs. After the litigant either (1) appears before and is examined
38 by the person authorized to ascertain the validity of his or her
39 indigent status or (2) notifies the court of a change in financial
40 circumstances, the court may then order the litigant to pay to the



1 county the sum and in any manner the court believes is compatible
2 with the litigant's financial ability.

3 In any action or proceeding in which the litigant whose fees and
4 costs have been waived would have been entitled to recover those
5 fees and costs from another party to the action or proceeding had
6 they been paid, the court may assess the amount of the waived fees
7 and costs against the other party and order the other party to pay
8 that sum to the county or to the clerk and serving and levying
9 officers respectively, or the court may order the amount of the
10 waived fees and costs added to the judgment and so identified by
11 the clerk.

12 Execution may be issued on any order provided for in this
13 subdivision in the same manner as on a judgment in a civil action.
14 When an amount equal to the sum due and payable to the clerk has
15 been collected upon the judgment, these amounts shall be remitted
16 to the clerk within 30 days. Thereafter, when an amount equal to
17 the sum due to the serving and levying officers has been collected
18 upon the judgment, these amounts shall be due and payable to
19 those officers and shall be remitted within 30 days. If the
20 remittance is not received by the clerk within 30 days or there is
21 a filing of a partial satisfaction of judgment in an amount at least
22 equal to the fees and costs payable to the clerk or a satisfaction of
23 judgment has been filed, notwithstanding any other provision of
24 law, the court may issue an abstract of judgment, writ of execution,
25 or both for recovery of those sums, plus the fees for issuance and
26 execution and an additional fee for administering this section. The
27 county board of supervisors shall establish a fee, not to exceed
28 actual costs of administering this subdivision and in no case
29 exceeding twenty-five dollars (\$25), which shall be added to the
30 writ of execution.

31 (e) Notwithstanding subdivision (a), a person who is sentenced
32 to imprisonment in a state prison or confined in a county jail and,
33 during the period of imprisonment or confinement, files a civil
34 action or notice of appeal of a civil action in forma pauperis shall
35 be required to pay the full amount of the filing fee to the extent
36 provided in this subdivision.

37 (1) In addition to the form required by this section for filing in
38 forma pauperis, an inmate shall file a copy of a statement of
39 account for any sums due to the inmate for the six-month period
40 immediately preceding the filing of the civil action or notice of



1 appeal of a civil action. This copy shall be certified by the
2 appropriate official of the Department of Corrections or a county
3 jail.

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

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

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

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

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

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

24 SEC. 17. *Section 71629 of the Government Code is amended*
25 *to read:*

26 71629. Except as provided in Sections 71624, 71625, 71626,
27 71626.5, 71627, and 71628, and notwithstanding any other
28 provision of law:

29 (a) As provided in Section 71612, the implementation of this
30 chapter shall not be a cause for the modification of the level of trial
31 court employment benefits. If the same trial court employment
32 benefits are not permitted by law or the plan vendor, the trial court
33 shall provide other trial court employment benefits at the same
34 level subject to the provisions of subdivision (b). The level of trial
35 court employment benefits provided to a trial court employee as
36 of the implementation date of this chapter shall remain in effect
37 unless modified pursuant to subdivision (b).

38 (b) For employees who are represented by a recognized
39 employee organization, the level of trial court employment
40 benefits provided to a trial court employee may not be modified



1 until after the expiration of an existing memorandum of
2 understanding or agreement or a period of 24 months, whichever
3 is longer, unless the trial court and recognized employee
4 organization mutually agree to a modification. For employees who
5 are not represented by a recognized employee organization, the
6 level of trial court employment benefits may be revised by the trial
7 court.

8 (c) The trial court shall reimburse the county for the cost of
9 coverage of trial court employees in trial court employment
10 benefit plans. *If the county administers trial court employment*
11 *benefits to trial court employees, or if the trial court contracts with*
12 *the county administer trial court employment benefits to trial court*
13 *employees, a trial court employee shall be eligible to participate*
14 *in trial court employment benefits subject to trial court*
15 *employment benefit regulations, policies, terms and conditions,*
16 *and subject to both of the following:*

17 (1) *A trial court employee shall have the right to receive the*
18 *same level of trial court employment benefits as county employees*
19 *in similar classifications, as designated by the trial court subject*
20 *to the obligation to meet and confer in good faith, without the*
21 *opportunity to meet and confer with the county as to those benefits.*

22 (2) *The level of trial court employment benefits accruing to a*
23 *trial court employee is subject to modification by the county if the*
24 *county changes the level of the same employment benefits accruing*
25 *to county employees in classifications that have been designated*
26 *as similar classification pursuant to paragraph (1).*

27 (d) As of the implementation date of this chapter:

28 (1) If the trial court administers trial court employment benefits
29 to trial court employees separately from the county, the trial court
30 shall continue to administer these benefits as provided under
31 existing personnel policies, procedures, plans, or trial court
32 employee memoranda of understanding or agreements.

33 (2) If the county administers trial court employment benefits to
34 trial court employees or if the trial court contracts with the county
35 to administer trial court employment benefits to trial court
36 employees, the county may continue to administer trial court
37 employment benefits to trial court employees pursuant to
38 subdivision (e) or the trial court may administer trial court
39 employment benefits to trial court employees pursuant to the
40 following transition process:



1 (A) While an existing memorandum of understanding or
2 agreement remains in effect or for a transition period of 24 months,
3 whichever is longer, the county shall administer trial court
4 employment benefits for represented trial court employees as
5 provided in the applicable memorandum of understanding or
6 agreement, unless the county is notified by the trial court pursuant
7 to subparagraph (D) that the trial court no longer needs the county
8 to administer specified benefits, or the trial court and the county
9 mutually agree that the county will no longer administer specified
10 benefits.

11 (B) For a transition period of up to 24 months after the
12 implementation date of this chapter, the county shall administer
13 trial court employment benefits for unrepresented trial court
14 employees, unless notified by the trial court pursuant to
15 subparagraph (D) that the trial court no longer needs the county to
16 administer specified benefits, or the trial court and the county
17 mutually agree that the county will no longer administer specified
18 benefits. During the transition period, if the county intends to
19 change unrepresented trial court employees' trial court
20 employment benefits, the county shall provide the trial court with
21 at least 60 days' notice, or a mutually agreed to amount of notice,
22 before any change in benefits is implemented so the trial court can
23 decide whether to accept the county's change or consider
24 alternatives and arrange to provide benefits on its own.

25 (C) If, during the transition period, the trial court decides to
26 offer particular trial court employment benefits that are different
27 from what the county is administering, the trial court shall be
28 responsible for administering those particular benefits.

29 (D) If the trial court decides that it no longer needs the county
30 to administer specified trial court employment benefits to trial
31 court employees, the trial court shall provide the county with at
32 least 60 days' notice, or a mutually agreed to amount of notice.

33 (e) To facilitate trial court employee participation in county
34 trial court employment benefit plans, the trial court and county
35 may mutually agree that the county shall administer the payroll for
36 trial court employees.

37 (f) A county shall have authority to provide trial court
38 employment benefits to trial court employees if those benefits are
39 requested by the trial court and subject to county concurrence to
40 providing those benefits. A county's agreement to provide those



1 benefits shall not be construed to create a meet and confer
2 obligation between the county and any recognized employee
3 organization.

4 (g) Nothing in this section shall prevent the trial court from
5 arranging for trial court employees other trial court employment
6 benefits plans subject to the obligation to meet and confer in good
7 faith.

8 *SEC. 18.* 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)~~ *ninety dollars (\$90)*,
12 *except that in a case where the amount demanded, excluding*
13 *attorney's fees and costs, is ten thousand dollars (\$10,000) or less,*
14 *the fee shall be eighty-three dollars (\$83). The first page of the first*
15 *paper shall state whether the amount demanded exceeds or does*
16 *not exceed ten thousand dollars (\$10,000).*

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

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

34 (d) The fee shall be waived in any action for damages against
35 a defendant, based upon the defendant's commission of a felony
36 offense, upon presentation to the clerk of the court of a certified
37 copy of the abstract of judgment of conviction of the defendant of
38 the felony giving rise to the claim for damages. If the plaintiff
39 would have been entitled to recover those fees from the defendant
40 had they been paid, the court may assess the amount of the waived



1 fees against the defendant and order the defendant to pay that sum
2 to the county.

3 ~~SEC. 18.~~

4 *SEC. 19.* Section 77001 of the Government Code is amended
5 to read:

6 77001. The Judicial Council shall adopt rules which establish
7 a decentralized system of trial court management. These rules
8 shall ensure:

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

11 (b) Countywide administration of the trial courts.

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

15 (1) Annual allocation of funding, including policies and
16 procedures about moving funding between functions or line items
17 or programs.

18 (2) Local personnel plans, including the promulgation of
19 personnel policies.

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

22 (4) The trial courts of each county shall establish the means of
23 selecting presiding judges, assistant presiding judges, executive
24 officers or court administrators, clerks of court, and jury
25 commissioners.

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

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

29 ~~SEC. 19.~~

30 *SEC. 20.* Section 77003 of the Government Code is amended
31 to read:

32 77003. (a) As used in this chapter, “court operations” means
33 all of the following:

34 (1) Salaries, benefits, and public agency retirement
35 contributions for superior and municipal court judges and for
36 subordinate judicial officers. For purposes of this paragraph,
37 “subordinate judicial officers” includes all commissioner or
38 referee positions created prior to July 1, 1997, including positions
39 created in the municipal court prior to July 1, 1997, which
40 thereafter became positions in the superior court as a result of



1 unification of the municipal and superior courts in a county, and
2 including those commissioner positions created pursuant to
3 Sections 69904, 70141, 70141.9, 70142.11, 72607, 73794,
4 74841.5, and 74908; and includes any staff who provide direct
5 support to commissioners; but does not include commissioners or
6 staff who provide direct support to the commissioners whose
7 positions were created after July 1, 1997, unless approved by the
8 Judicial Council, subject to availability of funding.

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

12 (3) Those marshals and sheriffs as the court deems necessary
13 for court operations.

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

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

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

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

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

31 ~~SEC. 20.~~

32 *SEC. 21.* Section 77009 of the Government Code is amended
33 to read:

34 77009. (a) For the purposes of funding trial court operations,
35 each board of supervisors shall establish in the county treasury a
36 Trial Court Operations Fund, which will operate as an agency
37 fund. All funds appropriated in the Budget Act and allocated and
38 reallocated to each court in the county by the Judicial Council shall
39 be deposited into the fund. Accounts shall be established in the
40 Trial Court Operations Fund for each trial court in the county,



1 except that one account may be established for courts which have
2 a unified budget. In a county where court budgets include
3 appropriations for expenditures administered on a countywide
4 basis, including, but not limited to, court security, centralized
5 data-processing and planning and research services, an account for
6 each centralized service shall be established and funded from those
7 appropriations.

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

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

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

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

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



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

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

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

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

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

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

32 ~~SEC. 21.~~

33 SEC. 22. Section 77202 of the Government Code is amended
34 to read:

35 77202. (a) The Legislature shall make an annual
36 appropriation to the Judicial Council for the general operations of
37 the trial courts based on the request of the Judicial Council. The
38 Judicial Council’s trial court budget request shall meet the needs
39 of all trial courts in a manner which promotes equal access to the
40 courts statewide. The Judicial Council shall allocate the



1 appropriation to the trial courts in a manner that best ensures the
2 ability of the courts to carry out their functions, promotes
3 implementation of statewide policies, and promotes the immediate
4 implementation of efficiencies and cost saving measures in court
5 operations, in order to guarantee access to justice to citizens of the
6 state.

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

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

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

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

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

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

22 (5) The use of alternative dispute resolution programs, such as
23 arbitration.

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

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

34 ~~SEC. 22.~~

35 *SEC. 23.* Section 77206 of the Government Code is amended
36 to read:

37 77206. (a) Notwithstanding any other provision of law, the
38 Judicial Council may regulate the budget and fiscal management
39 of the trial courts. The Judicial Council, in consultation with the
40 Controller, shall maintain appropriate regulations for



1 recordkeeping and accounting by the courts. The Judicial Council
 2 shall seek to ensure, by these provisions, that (1) the fiscal affairs
 3 of the trial courts are managed efficiently, effectively, and
 4 responsibly, and (2) all moneys collected by the courts, including
 5 filing fees, fines, forfeitures, and penalties, and all revenues and
 6 expenditures relating to court operations are known. The Judicial
 7 Council may delegate their authority under this section, when
 8 appropriate, to the Administrative Director of the Courts.

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

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

21 (d) The Judicial Council shall provide for the transmission of
 22 summary information concerning court revenues and
 23 expenditures to the Controller.

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

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

32 ~~SEC. 23.~~

33 *SEC. 24.* Section 77212 of the Government Code is amended
 34 to read:

35 77212. (a) The State of California, the counties of California,
 36 and the trial courts of California, recognize that a unique and
 37 interdependent relationship has evolved between the courts and
 38 the counties over a sustained period of time. While it is the intent
 39 of this act to transfer all fiscal responsibility for the support of the
 40 trial courts from the counties to the State of California, it is



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

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

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



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

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

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

20 ~~SEC. 24.~~

21 *SEC. 25.* Section 1463.1 of the Penal Code is amended to
22 read:

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

29 All moneys received and disbursed through the bank account
30 shall be properly and uniformly accounted for under any
31 procedures the Controller may deem necessary. The Judicial
32 Council may regulate the bank accounts, provided that its
33 regulations are not inconsistent with those of the Controller.

34 ~~SEC. 25.~~

35 *SEC. 26.* Section 4750 of the Penal Code is amended to read:

36 4750. A city or county and the superior court in the county
37 shall be entitled to reimbursement for reasonable and necessary
38 costs connected with state prisons or prisoners in connection with
39 any of the following:



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

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

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

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

16 (d) Any trial or hearing on the question of the sanity of a
17 prisoner.

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

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

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

26 ~~SEC. 26.~~

27 *SEC. 27.* Section 4751 of the Penal Code is amended to read:
28 4751. Costs incurred include all of the following:

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

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



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

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

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

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

11 ~~SEC. 27.~~

12 *SEC. 28.* Section 4753 of the Penal Code is amended to read:

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

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

