

AMENDED IN SENATE MAY 1, 2008  
AMENDED IN ASSEMBLY APRIL 10, 2008  
CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1949**

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**Introduced by Assembly Member Evans**

February 13, 2008

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An act to amend Section 36 of the Code of Civil Procedure, to amend Sections 6103, 68071, 71601, *and* 76000 of the Government Code, to amend Section 832.9 of the Penal Code, and to amend Section 42006 of the Vehicle Code, relating to courts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1949, as amended, Evans. Court operations.

(1) Existing law requires the court to grant a motion for preference by a party to a civil action if it makes specified findings. Under existing law, unless the court otherwise orders, notice of a motion for preference shall be served with the memorandum to set or the at-issue memorandum by the party serving the memorandum, or 10 days after that service by any other party, or thereafter during the pendency of the action upon the application of a party who reaches ~~the age of~~ 70 years *of age*.

This bill would provide that unless the court otherwise orders, a party may file and serve a motion for preference supported by a declaration of the moving party that all essential parties have been served with process or have appeared. In addition, this bill would provide that unless the court otherwise orders, at any time during the pendency of the action, a party who reaches 70 years of age may file and serve a motion for preference. This bill would also delete obsolete references and make other conforming changes.

(2) Under existing law, neither the state nor any county, city, district, or other political subdivision, nor any public officer or body, acting in his or her official capacity on behalf of the state, or any county, city, district or other political subdivision, shall pay or deposit any fee for the filing of any document or paper, for the performance of any official service, or for the filing of any stipulation or agreement which may constitute an appearance in any court by any other party to the stipulation or agreement.

This bill would provide that provision does not apply to civil jury fees or civil jury deposits.

(3) Under existing law, no rule adopted by a superior court shall take effect until January 1 or July 1, whichever comes first, following the 30th day after it has been filed with the Judicial Council and the clerk of the court; and made ~~immediately~~ available for public examination.

This bill would provide instead that no rule adopted by a superior court shall take effect until January 1 or July 1, whichever comes first, following the 45th day after it has been filed with the Judicial Council and the clerk of the court; and made ~~immediately~~ available for public examination.

(4) Existing law defines subordinate judicial officer as an officer appointed to perform subordinate judicial duties, as authorized ~~by Section 22 of Article VI of the California Constitution~~, including, but not limited to, a court commissioner, probate commissioner, referee, traffic referee, juvenile referee, and judge pro tempore. Under existing law, “trial court employee” does not include temporary employees hired through agencies, jurors, individuals hired by the trial court pursuant to an independent contractor agreement, individuals for whom the county or trial court reports income to the Internal Revenue Service on a Form 1099 and does not withhold employment taxes, sheriffs, ~~and or~~ judges whether elected or appointed.

This bill would delete judge pro tempore from the list of subordinate judicial officers. The bill would include temporary judges in the definition of trial court employee.

*(5) Existing law requires an additional county penalty of \$7 for every \$10, or part of \$10, to be levied upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses, for deposit into specified county funds relating to the construction of courthouses, criminal justice facilities, and forensic laboratories, and the support of emergency medical services. That \$7 penalty is required to be reduced by specified amounts in certain counties, including Madera County, in*

*connection with the transfer of responsibility for court facilities from the county to the Judicial Council.*

*This bill would increase the county penalty in Madera County from \$4.50 to \$7.*

(5)

(6) Under existing law, a governmental entity employing a peace officer, as defined, judge, court commissioner, or an attorney employed by the specified agencies or offices, ~~shall~~ *is required to* reimburse the moving and relocation expenses of those employees, or any member of his or her immediate family residing with the officer in the same household or on the same property when it is necessary to move because the officer has received a credible threat that a life threatening action may be taken against that person or his or her immediate family as a result of his or her employment.

This bill would delete the term court commissioner from those provisions and related provisions and replace it with subordinate judicial officer.

(6)

(7) Existing law authorizes a special assessment to be levied in an amount equal to \$1 for every fine, forfeiture, and traffic violator school fee imposed and collected by any court that conducts a night or weekend session of the court, on all offenses involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking. The clerk of the court is required to collect the amount due and transmit it to the county treasury to be deposited in the night court session fund for maintaining courts in the county that have night or weekend sessions for traffic offenses.

This bill would require the clerk of the court, if a specified transfer of responsibility for a court facility that holds night or weekend sessions has occurred, to collect any special assessment imposed pursuant to these provisions and transmit it to the Court Facilities Trust Fund to be used for the operation, repair, and maintenance of court facilities, as specified, and other authorized purposes. The bill would require the county treasurer of each county to transfer certain percentages of those moneys from the night court session fund to the Court Facilities Trust Fund, 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 36 of the Code of Civil Procedure is  
2 amended to read:

3 36. (a) A party to a civil action who is over 70 years of age  
4 may petition the court for a preference, which the court shall grant  
5 if the court makes ~~at~~ both of the following findings:

6 (1) The party has a substantial interest in the action as a whole.

7 (2) The health of the party is such that a preference is necessary  
8 to prevent prejudicing the party’s interest in the litigation.

9 (b) A civil action to recover damages for wrongful death or  
10 personal injury shall be entitled to preference upon the motion of  
11 any party to the action who is under 14 years of age unless the  
12 court finds that the party does not have a substantial interest in the  
13 case as a whole. A civil action subject to subdivision (a) shall be  
14 given preference over a case subject to this subdivision.

15 (c) Unless the court otherwise orders:

16 (1) A party may file and serve a motion for preference supported  
17 by a declaration of the moving party that all essential parties have  
18 been served with process or have appeared.

19 (2) At any time during the pendency of the action, a party who  
20 reaches 70 years of age may file and serve a motion for preference.

21 (d) In its discretion, the court may also grant a motion for  
22 preference that is accompanied by clear and convincing medical  
23 documentation that concludes that one of the parties suffers from  
24 an illness or condition raising substantial medical doubt of survival  
25 of that party beyond six months, and that satisfies the court that  
26 the interests of justice will be served by granting the preference.

27 (e) Notwithstanding any other provision of law, the court may  
28 in its discretion grant a motion for preference that is supported by  
29 a showing that satisfies the court that the interests of justice will  
30 be served by granting this preference.

31 (f) Upon the granting of such a motion for preference, the court  
32 shall set the matter for trial not more than 120 days from that date  
33 and there shall be no continuance beyond 120 days from the  
34 granting of the motion for preference except for physical disability  
35 of a party or a party’s attorney, or upon a showing of good cause  
36 stated in the record. ~~Such a~~ Any continuance shall be for no more  
37 than 15 days and no more than one continuance for physical  
38 disability may be granted to any party.

1 (g) Upon the granting of a motion for preference pursuant to  
2 subdivision (b), a party in an action based upon a health provider's  
3 alleged professional negligence, as defined in Section 364, shall  
4 receive a trial date not sooner than six months and not later than  
5 nine months from the date that the motion is granted.

6 SEC. 2. Section 6103 of the Government Code is amended to  
7 read:

8 6103. Neither the state nor any county, city, district, or other  
9 political subdivision, nor any public officer or body, acting in his  
10 or her official capacity on behalf of the state, or any county, city,  
11 district, or other political subdivision, shall pay or deposit any fee  
12 for the filing of any document or paper, for the performance of  
13 any official service, or for the filing of any stipulation or agreement  
14 that may constitute an appearance in any court by any other party  
15 to the stipulation or agreement. This section does not apply to civil  
16 jury fees or civil jury deposits. This section does not apply to the  
17 State Compensation Insurance Fund or where a public officer is  
18 acting with reference to private assets or obligations that have  
19 come under that officer's jurisdiction by virtue of his or her office,  
20 or where it is specifically provided otherwise. No fee shall be  
21 charged for the filing of a confession of judgment in favor of any  
22 of the public agencies named in this section.

23 No fee shall be charged any of the public agencies named in this  
24 section to defray the costs of reporting services by court reporters.  
25 Such fees shall be recoverable as costs as provided in Section  
26 6103.5.

27 SEC. 3. Section 68071 of the Government Code is amended  
28 to read:

29 68071. No rule adopted by a superior court shall take effect  
30 until January 1 or July 1, whichever comes first, following the  
31 45th day after it has been filed with the Judicial Council and the  
32 clerk of the court, and made immediately available for public  
33 examination. The Judicial Council may establish, by rule, a  
34 procedure for exceptions to these effective dates.

35 SEC. 4. Section 71601 of the Government Code is amended  
36 to read:

37 71601. For purposes of this chapter, the following definitions  
38 shall apply:

- 1 (a) “Appointment” means the offer to and acceptance by a  
2 person of a position in the trial court in accordance with this chapter  
3 and the trial court’s personnel policies, procedures, and plans.
- 4 (b) “Employee organization” means either of the following:  
5 (1) Any organization that includes trial court employees and  
6 has as one of its primary purposes representing those employees  
7 in their relations with that trial court.  
8 (2) Any organization that seeks to represent trial court  
9 employees in their relations with that trial court.
- 10 (c) “Hiring” means appointment as defined in subdivision (a).
- 11 (d) “Mediation” means effort by an impartial third party to assist  
12 in reconciling a dispute regarding wages, hours, and other terms  
13 and conditions of employment between representatives of the trial  
14 court and the recognized employee organization or recognized  
15 employee organizations through interpretation, suggestion, and  
16 advice.
- 17 (e) “Meet and confer in good faith” means that a trial court or  
18 representatives as it may designate, and representatives of  
19 recognized employee organizations, shall have the mutual  
20 obligation personally to meet and confer promptly upon request  
21 by either party and continue for a reasonable period of time in  
22 order to exchange freely information, opinions, and proposals, and  
23 to endeavor to reach agreement on matters within the scope of  
24 representation. The process should include adequate time for the  
25 resolution of impasses where specific procedures for resolution  
26 are contained in this chapter or in a local rule, or when the  
27 procedures are utilized by mutual consent.
- 28 (f) “Personnel rules,” “personnel policies, procedures, and  
29 plans,” and “rules and regulations” mean policies, procedures,  
30 plans, rules, or regulations adopted by a trial court or its designee  
31 pertaining to conditions of employment of trial court employees,  
32 subject to meet and confer in good faith.
- 33 (g) “Promotion” means promotion within the trial court as  
34 defined in the trial court’s personnel policies, procedures, and  
35 plans, subject to meet and confer in good faith.
- 36 (h) “Recognized employee organization” means an employee  
37 organization that has been formally acknowledged to represent  
38 trial court employees by the county under Sections 3500 to 3510,  
39 inclusive, prior to the implementation date of this chapter, or by  
40 the trial court under former Rules 2201 to 2210, inclusive, of the

1 California Rules of Court, as those rules read on April 23, 1997,  
2 Sections 70210 to 70219, inclusive, or Article 3 (commencing  
3 with Section 71630).

4 (i) “Subordinate judicial officer” means an officer appointed to  
5 perform subordinate judicial duties as authorized by Section 22 of  
6 Article VI of the California Constitution, including, but not limited  
7 to, a court commissioner, probate commissioner, referee, traffic  
8 referee, and juvenile referee.

9 (j) “Transfer” means transfer within the trial court as defined  
10 in the trial court’s personnel policies, procedures, and plans, subject  
11 to meet and confer in good faith.

12 (k) “Trial court” means a superior court.

13 (l) “Trial court employee” means a person who is both of the  
14 following:

15 (1) Paid from the trial court’s budget, regardless of the funding  
16 source. For the purpose of this paragraph, “trial court’s budget”  
17 means funds from which the presiding judge of a trial court, or his  
18 or her designee, has authority to control, authorize, and direct  
19 expenditures, including, but not limited to, local revenues, all grant  
20 funds, and trial court operations funds.

21 (2) Subject to the trial court’s right to control the manner and  
22 means of his or her work because of the trial court’s authority to  
23 hire, supervise, discipline, and terminate employment. For purposes  
24 of this paragraph only, the “trial court” includes the judges of a  
25 trial court or their appointees who are vested with or delegated the  
26 authority to hire, supervise, discipline, and terminate.

27 (m) A person is a “trial court employee” if and only if both  
28 paragraphs (1) and (2) of subdivision (l) are true irrespective of  
29 job classification or whether the functions performed by that person  
30 are identified in Rule 10.810 of the California Rules of Court.  
31 “Trial court employee” includes those subordinate judicial officers  
32 who satisfy paragraphs (1) and (2) of subdivision (l). The phrase  
33 “trial court employee” does not include temporary employees hired  
34 through agencies, jurors, individuals hired by the trial court  
35 pursuant to an independent contractor agreement, individuals for  
36 whom the county or trial court reports income to the Internal  
37 Revenue Service on a Form 1099 and does not withhold  
38 employment taxes, sheriffs, temporary judges, and judges whether  
39 elected or appointed. Any temporary employee, whether hired  
40 through an agency or not, shall not be employed in the trial court

1 for a period exceeding 180 calendar days, except that for court  
2 reporters in a county of the first class, a trial court and a recognized  
3 employee organization may provide otherwise by mutual agreement  
4 in a memorandum of understanding or other agreement.

5 *SEC. 5. Section 76000 of the Government Code is amended to*  
6 *read:*

7 76000. (a) (1) Except as otherwise provided elsewhere in this  
8 section, in each county there shall be levied an additional penalty  
9 in the amount of seven dollars (\$7) for every ten dollars (\$10), or  
10 part of ten dollars (\$10), upon every fine, penalty, or forfeiture  
11 imposed and collected by the courts for all criminal offenses,  
12 including all offenses involving a violation of the Vehicle Code  
13 or any local ordinance adopted pursuant to the Vehicle Code.

14 (2) This additional penalty shall be collected together with and  
15 in the same manner as the amounts established by Section 1464  
16 of the Penal Code. These moneys shall be taken from fines and  
17 forfeitures deposited with the county treasurer prior to any division  
18 pursuant to Section 1463 of the Penal Code. The county treasurer  
19 shall deposit those amounts specified by the board of supervisors  
20 by resolution in one or more of the funds established pursuant to  
21 this chapter. However, deposits to these funds shall continue  
22 through whatever period of time is necessary to repay any  
23 borrowings made by the county on or before January 1, 1991, to  
24 pay for construction provided for in this chapter.

25 (3) This additional penalty does not apply to the following:

26 (A) Any restitution fine.

27 (B) Any penalty authorized by Section 1464 of the Penal Code  
28 or this chapter.

29 (C) Any parking offense subject to Article 3 (commencing with  
30 Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

31 (D) The state surcharge authorized by Section 1465.7 of the  
32 Penal Code.

33 (b) In each authorized county, provided that the board of  
34 supervisors has adopted a resolution stating that the implementation  
35 of this subdivision is necessary to the county for the purposes  
36 authorized, with respect to each authorized fund established  
37 pursuant to Section 76100 or 76101, for every parking offense  
38 where a parking penalty, fine, or forfeiture is imposed, an added  
39 penalty of two dollars and fifty cents (\$2.50) shall be included in  
40 the total penalty, fine, or forfeiture. Except as provided in

1 subdivision (c), for each parking case collected in the courts of the  
2 county, the county treasurer shall place in each authorized fund  
3 two dollars and fifty cents (\$2.50). These moneys shall be taken  
4 from fines and forfeitures deposited with the county treasurer prior  
5 to any division pursuant to Section 1462.3 or 1463.009 of the Penal  
6 Code. The judges of the county shall increase the bail schedule  
7 amounts as appropriate to reflect the added penalty provided for  
8 by this section. In those cities, districts, or other issuing agencies  
9 which elect to accept parking penalties, and otherwise process  
10 parking violations pursuant to Article 3 (commencing with Section  
11 40200) of Chapter 1 of Division 17 of the Vehicle Code, that city,  
12 district, or issuing agency shall observe the increased bail amounts  
13 as established by the court reflecting the added penalty provided  
14 for by this section. Each agency which elects to process parking  
15 violations shall pay to the county treasurer two dollars and fifty  
16 cents (\$2.50) for each fund for each parking penalty collected on  
17 each violation which is not filed in court. Those payments to the  
18 county treasurer shall be made monthly, and the county treasurer  
19 shall deposit all those sums in the authorized fund. No issuing  
20 agency shall be required to contribute revenues to any fund in  
21 excess of those revenues generated from the surcharges established  
22 in the resolution adopted pursuant to this chapter, except as  
23 otherwise agreed upon by the local governmental entities involved.

24 (c) The county treasurer shall deposit one dollar (\$1) of every  
25 two dollars and fifty cents (\$2.50) collected pursuant to subdivision  
26 (b) into the general fund of the county.

27 (d) The authority to impose the two-dollar-and-fifty-cent (\$2.50)  
28 penalty authorized by subdivision (b) shall be reduced to one dollar  
29 (\$1.00) as of the date of transfer of responsibility for facilities from  
30 the county to the Judicial Council pursuant to Article 3  
31 (commencing with Section 70321) of Chapter 5.1, except as money  
32 is needed to pay for construction provided for in Section 76100  
33 and undertaken prior to the transfer of responsibility for facilities  
34 from the county to the Judicial Council.

35 (e) The seven-dollar (\$7) additional penalty authorized by  
36 subdivision (a) shall be reduced in each county by the additional  
37 penalty amount assessed by the county for the local courthouse  
38 construction fund established by Section 76100 as of January 1,  
39 1998, when the money in that fund is transferred to the state under

1 Section 70402. The amount each county shall charge as an  
 2 additional penalty under this section shall be as follows:

|    |              |                             |                |        |                 |        |
|----|--------------|-----------------------------|----------------|--------|-----------------|--------|
| 4  | Alameda      | \$5.00                      | Marin          | \$5.00 | San Luis Obispo | \$6.00 |
| 5  | Alpine       | \$5.00                      | Mariposa       | \$2.00 | San Mateo       | \$4.75 |
| 6  | Amador       | \$5.00                      | Mendocino      | \$7.00 | Santa Barbara   | \$3.50 |
| 7  | Butte        | \$6.00                      | Merced         | \$5.00 | Santa Clara     | \$5.50 |
| 8  | Calaveras    | \$3.00                      | Modoc          | \$4.00 | Santa Cruz      | \$7.00 |
| 9  | Colusa       | \$6.00                      | Mono           | \$5.00 | Shasta          | \$3.50 |
| 10 | Contra Costa | \$5.00                      | Monterey       | \$5.00 | Sierra          | \$7.00 |
| 11 | Del Norte    | \$5.00                      | Napa           | \$3.00 | Siskiyou        | \$5.00 |
| 12 | El Dorado    | \$5.00                      | Nevada         | \$5.00 | Solano          | \$5.00 |
| 13 | Fresno       | \$7.00                      | Orange         | \$3.50 | Sonoma          | \$5.00 |
| 14 | Glenn        | \$4.06                      | Placer         | \$4.75 | Stanislaus      | \$5.00 |
| 15 | Humboldt     | \$5.00                      | Plumas         | \$5.00 | Sutter          | \$3.00 |
| 16 | Imperial     | \$6.00                      | Riverside      | \$4.60 | Tehama          | \$7.00 |
| 17 | Inyo         | \$4.00                      | Sacramento     | \$5.00 | Trinity         | \$4.26 |
| 18 | Kern         | \$7.00                      | San Benito     | \$5.00 | Tulare          | \$5.00 |
| 19 | Kings        | \$7.00                      | San Bernardino | \$5.00 | Tuolumne        | \$5.00 |
| 20 | Lake         | \$7.00                      | San Diego      | \$5.00 | Ventura         | \$5.00 |
| 21 | Lassen       | \$2.00                      | San Francisco  | \$6.99 | Yolo            | \$7.00 |
| 22 | Los Angeles  | \$5.00                      | San Joaquin    | \$3.75 | Yuba            | \$3.00 |
| 23 |              |                             |                |        |                 |        |
| 24 | Madera       | <del>\$4.50</del><br>\$7.00 |                |        |                 |        |

26 ~~SEC. 5.~~

27 *SEC. 6.* Section 832.9 of the Penal Code is amended to read:

28 832.9. (a) A governmental entity employing a peace officer,  
 29 as defined in Section 830, judge, subordinate judicial officer, or  
 30 an attorney employed by the Department of Justice, the State Public  
 31 Defender, or a county office of a district attorney or public defender  
 32 shall reimburse the moving and relocation expenses of those  
 33 employees, or any member of his or her immediate family residing  
 34 with the officer in the same household or on the same property  
 35 when it is necessary to move because the officer has received a  
 36 credible threat that a life threatening action may be taken against  
 37 the officer, judge, subordinate judicial officer, or an attorney  
 38 employed by the Department of Justice, the State Public Defender,

1 or a county office of the district attorney or public defender or his  
2 or her immediate family as a result of his or her employment.

3 (b) The person relocated shall receive actual and necessary  
4 moving and relocation expenses incurred both before and after the  
5 change of residence, including reimbursement for the costs of  
6 moving household effects either by a commercial household goods  
7 carrier or by the employee.

8 (1) Actual and necessary moving costs shall be those costs that  
9 are set forth in the Department of Personnel Administration rules  
10 governing promotional relocations while in the state service. The  
11 department shall not be required to administer this section.

12 (2) The public entity shall not be liable for any loss in value to  
13 a residence or for the decrease in value due to a forced sale.

14 (3) Except as provided in subdivision (c), peace officers, judges,  
15 subordinate judicial officers, and attorneys employed by the  
16 Department of Justice, the State Public Defender, or a county office  
17 of a district attorney or public defender shall receive approval of  
18 the appointing authority prior to incurring any cost covered by this  
19 section.

20 (4) Peace officers, judges, subordinate judicial officers, and  
21 attorneys employed by the Department of Justice, the State Public  
22 Defender, or a county office of a district attorney or public defender  
23 shall not be considered to be on duty while moving unless approved  
24 by the appointing authority.

25 (5) For a relocation to be covered by this section, the appointing  
26 authority shall be notified as soon as a credible threat has been  
27 received.

28 (6) Temporary relocation housing shall not exceed 60 days.

29 (7) The public entity ceases to be liable for relocation costs after  
30 120 days of the original notification of a viable threat if the peace  
31 officer, judge, subordinate judicial officer, or attorney employed  
32 by the Department of Justice, the State Public Defender, or a county  
33 office of a district attorney or public defender has failed to relocate.

34 (c) (1) For purposes of the right to reimbursement of moving  
35 and relocation expenses pursuant to this section, judges shall be  
36 deemed to be employees of the State of California and a  
37 subordinate judicial officer is an employee of the court by which  
38 he or she is employed.

39 (2) For purposes of paragraph (3) of subdivision (b), a  
40 subordinate judicial officer shall receive approval by the presiding

1 judge of the superior court in the county in which he or she is  
2 located.

3 (3) For purposes of paragraph (3) of subdivision (b), judges,  
4 including justices of the Supreme Court and the Courts of Appeal,  
5 shall receive approval from the Chief Justice, or his or her designee.

6 (d) As used in this section, “credible threat” means a verbal or  
7 written statement or a threat implied by a pattern of conduct or a  
8 combination of verbal or written statements and conduct made  
9 with the intent and the apparent ability to carry out the threat so  
10 as to cause the person who is the target of the threat to reasonably  
11 fear for his or her safety or the safety of his or her immediate  
12 family.

13 (e) As used in this section, “immediate family” means the  
14 spouse, parents, siblings, and children residing with the peace  
15 officer, judge, subordinate judicial officer, or attorney employed  
16 by the Department of Justice, the State Public Defender, or a county  
17 office of a district attorney or public defender.

18 ~~SEC. 6.~~

19 *SEC. 7.* Section 42006 of the Vehicle Code is amended to read:

20 42006. (a) Except as provided in subdivision (c), there may  
21 be levied a special assessment in an amount equal to one dollar  
22 (\$1) for every fine, forfeiture, and traffic violator school fee  
23 imposed and collected by any court that conducts a night or  
24 weekend session of the court, on all offenses involving a violation  
25 of a section of this code or any local ordinance adopted pursuant  
26 to this code, except offenses relating to parking.

27 (b) When a person makes a deposit of bail for an offense to  
28 which this section applies, in a case in which the person is required  
29 to appear in a court that conducts a night or weekend session, the  
30 person making the deposit shall also deposit a sufficient amount  
31 to include the assessment prescribed in this section for forfeited  
32 bail. If bail is forfeited, the amount of the assessment shall be  
33 transmitted by the clerk of the court to the county treasury for  
34 disposition as prescribed by subdivision (d).

35 (c) If a court conducts night or weekend sessions at two or more  
36 locations, the court may do either of the following:

37 (1) Levy assessments only on those persons who are required  
38 to appear at the location where night or weekend sessions are held.

39 (2) Levy assessments on persons who have the option to appear  
40 at a location where night or weekend court sessions are held and

1 that is within 25 miles of the location of the court where the person  
2 is otherwise required to appear.

3 (d) After a determination by the court of the amount of the  
4 assessment due, the clerk of the court shall collect the amount and  
5 transmit it as provided in subdivision (g).

6 (e) In any case where a person convicted of any offense to which  
7 this section applies is imprisoned until the fine is satisfied, the  
8 court shall waive the penalty assessment.

9 (f) As used in subdivisions (g) and (h), the following terms have  
10 the following meanings:

11 (1) "Court Facilities Trust Fund" means the fund established  
12 by Section 70352 of the Government Code.

13 (2) "Location" means a court facility holding night or weekend  
14 sessions under this section.

15 (3) "Transfer of responsibility" means the transfer of  
16 responsibility for court facilities from the counties to the state  
17 pursuant to Chapter 5.7 (commencing with Section 70301) of Title  
18 8 of the Government Code.

19 (g) (1) If transfer of responsibility for a location has occurred,  
20 the clerk shall collect any assessment imposed pursuant to  
21 subdivision (c) and transmit it to the Court Facilities Trust Fund.  
22 Moneys deposited pursuant to this subdivision shall be used for  
23 any purpose provided by subdivision (b) of Section 70352 of the  
24 Government Code.

25 (2) If transfer of responsibility for a location has not occurred,  
26 the clerk shall collect any assessment imposed pursuant to  
27 subdivision (c) and transmit it to the county treasury to be deposited  
28 in the night court session fund, and the moneys in the fund shall  
29 be expended by the county for maintaining courts for which transfer  
30 of responsibility has not occurred and that have night or weekend  
31 sessions for traffic offenses.

32 (h) (1) The county treasurer of each county shall transfer from  
33 the night court session fund to the Court Facilities Trust Fund an  
34 amount that is the same percentage of the night court session fund  
35 as of January 1, 2009, as the square footage of locations for which  
36 transfer of responsibility has occurred on or before January 1,  
37 2009, is to the total square footage of locations.

38 (2) For locations for which transfer of responsibility occurs after  
39 January 1, 2009, the county treasurer shall, at the time of transfer  
40 of any location, transfer from the night court session fund to the

1 Court Facilities Trust Fund an amount that is the same percentage  
2 of the night court session fund as the square footage of the location  
3 for which transfer of responsibility is occurring is to the sum of  
4 the square footage of locations for which transfer of responsibility  
5 has not occurred and the square footage of the location being  
6 transferred.

7 (3) Upon the transfer of responsibility for all locations, the  
8 county treasurer shall transfer to the Court Facilities Trust Fund  
9 any amount remaining in the night court session fund.

10 (4) Any expenditures made from the fund for a purpose other  
11 than those specified in paragraph (2) of subdivision (g) shall be  
12 repaid to the state for deposit in the Court Facilities Trust Fund.

O