

AMENDED IN SENATE MARCH 27, 2007

SENATE BILL

No. 968

Introduced by Senator Simitian

February 23, 2007

An act to ~~amend Section 209 of the Code of Civil Procedure, relating to jury service.~~ *add Section 1669.9 to the Code of Civil Procedure, relating to contracts.*

LEGISLATIVE COUNSEL'S DIGEST

SB 968, as amended, Simitian. ~~Jury service: absence.~~ *Contracts.*

Existing law provides that contracts for unlawful purposes or contracts that are contrary to public policy are void. Existing law permits a court to refuse to enforce a provision of a contract that the court finds to have been unconscionable at the time it was made.

This bill would void as contrary to public policy any provision of a contract that provides for a penalty, including, but not limited to, a fee, an increased interest rate, or an accelerated payment schedule, based on behavior not directly related to the performance of the contract, including a default with a person or entity that is not a party to the contract.

~~Existing law provides that a prospective trial juror who has been summoned for service, and who fails to attend as directed or to respond, as specified, may be attached and compelled to attend and punished for contempt. Existing law, effective until January 1, 2010, permits a court, in lieu of imposing sanctions for contempt, to impose reasonable monetary sanctions if it first provides the juror with notice and an opportunity to be heard. As part of this process, a juror is required to respond to an initial summons within 12 months.~~

This bill would change the period within which a juror must respond to the initial summons, as described above, from within 12 months to within one year of the date of service.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1669.9 is added to the Code of Civil
2 Procedure, to read:

3 1669.9. Any provision of a contract that provides for a penalty,
4 including, but not limited to, a fee, an increased interest rate, or
5 an accelerated payment schedule, based on behavior not directly
6 related to the performance of the contract, including a default with
7 a person or entity that is not a party to the contract, is void as
8 contrary to public policy.

9 SECTION 1. ~~Section 209 of the Code of Civil Procedure, as~~
10 ~~amended by Section 5 of Chapter 567 of the Statutes of 2006, is~~
11 ~~amended to read:~~

12 209. (a) Any prospective trial juror who has been summoned
13 for service, and who fails to attend as directed or to respond to the
14 court or jury commissioner and to be excused from attendance,
15 may be attached and compelled to attend. Following an order to
16 show cause hearing, the court may find the prospective juror in
17 contempt of court, punishable by fine, incarceration, or both, as
18 otherwise provided by law.

19 (b) In lieu of imposing sanctions for contempt as set forth in
20 subdivision (a), the court may impose reasonable monetary
21 sanctions, as provided in this subdivision, on a prospective juror
22 who has not been excused pursuant to Section 204 after first
23 providing the prospective juror with notice and an opportunity to
24 be heard. If a juror fails to respond to the initial summons within
25 one year of the date of service, the court may issue a second
26 summons indicating that the person failed to appear in response
27 to a previous summons and ordering the person to appear for jury
28 duty. Upon the failure of the juror to appear in response to the
29 second summons, the court may issue a failure to appear notice
30 informing the person that failure to respond may result in the
31 imposition of money sanctions. If the prospective juror does not
32 attend the court within the time period as directed by the failure

1 to appear notice, the court shall issue an order to show cause.
2 Payment of monetary sanctions imposed pursuant to this
3 subdivision does not relieve the person of his or her obligation to
4 perform jury duty.

5 (e) (1) The court may give notice of its intent to impose
6 sanctions by either of the following means:

7 (A) Verbally to a prospective juror appearing in person in open
8 court.

9 (B) The issuance on its own motion of an order to show cause
10 requiring the prospective juror to demonstrate reasons for not
11 imposing sanctions. The court may serve the order to show cause
12 by certified or first-class mail.

13 (2) The monetary sanctions imposed pursuant to subdivision
14 (b) may not exceed two hundred fifty dollars (\$250) for the first
15 violation, seven hundred fifty dollars (\$750) for the second
16 violation, and one thousand five hundred dollars (\$1,500) for the
17 third and any subsequent violation. Monetary sanctions may not
18 be imposed on a prospective juror more than once during a single
19 juror pool cycle. The prospective juror may be excused from paying
20 sanctions pursuant to subdivision (b) of Section 204 or in the
21 interests of justice. The full amount of any sanction paid shall be
22 deposited in a bank account established for this purpose by the
23 Administrative Office of the Courts and transmitted from that
24 account monthly to the Controller for deposit in the Trial Court
25 Trust Fund, as provided in Section 68085.1 of the Government
26 Code. It is the intent of the Legislature that the funds derived from
27 the monetary sanctions authorized in this section be allocated, to
28 the extent feasible, to the family courts and the civil courts. The
29 Judicial Council shall, by rule, provide for a procedure by which
30 a prospective juror against whom a sanction has been imposed by
31 default may move to set aside the default.

32 (d) On or before December 31, 2008, the Judicial Council shall
33 report to the Legislature regarding the effects of the implementation
34 of subdivisions (b) and (c). The report shall include, but not be
35 limited to, information regarding any change in rates of response
36 to juror summons, the amount of moneys collected pursuant to
37 subdivision (e), the efficacy of the default procedures adopted in
38 rules of court, and how, if at all, the Legislature may wish to alter
39 this chapter to further attainment of its objectives.

1 ~~(e) This section shall remain in effect only until January 1, 2010,~~
2 ~~and as of that date is repealed, unless a later enacted statute, that~~
3 ~~is enacted before January 1, 2010, deletes or extends that date.~~

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