

AMENDED IN SENATE JULY 12, 2011

AMENDED IN SENATE JULY 11, 2011

AMENDED IN SENATE JUNE 28, 2011

AMENDED IN SENATE MARCH 14, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 110**

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**Introduced by Assembly Member Blumenfield**

January 10, 2011

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An act to amend Sections 68526, 68926, 68926.1, 68926.3, 68927, and 70602.5 of the Government Code, and to amend Section 1203.01 of the Penal Code, relating to courts, and making an appropriation therefor, to take effect immediately, bill related to the budget.

LEGISLATIVE COUNSEL'S DIGEST

AB 110, as amended, Blumenfield. Courts.

(1) Existing law requires the Judicial Council to conduct an analysis of the cost incurred by trial courts related to the default prove up process and to report on the different methods trial courts use in processing filings related to the default prove up process, as well as the revenue generated by these filings. Existing law requires the report to be provided to the Assembly Committee on Budget, the Senate Committee on Budget and Fiscal Review, and the Legislative Analyst's Office by September 30, 2011. Existing law requires the Legislative Analyst's Office to provide the Assembly Committee on Budget and the Senate Committee on Budget and Fiscal Review its recommendations pertaining to the report no later than June 30, 2012. Existing law provides that these

provisions will become inoperative on July 1, 2013, and are repealed on January 1, 2014.

This bill would require the report to be provided no later than September 30, 2013, and the recommendations to be provided no later than June 30, 2014. The bill would provide that the above-described provisions become inoperative on July 1, 2015, and are repealed on January 1, 2016.

(2) Existing law provides that if the amount of the General Fund transfer to the Trial Court Trust Fund is decreased in excess of 10% from the amount appropriated in the 2010–11 fiscal year and is not offset by another source of noncourt fee revenue, then the amount of certain supplemental fees for filing first paper for specified civil matters shall be decreased proportionally, and that the Judicial Council shall adopt and publish a schedule setting the fees resulting from the decrease.

This bill would repeal those provisions.

(3) Existing law establishes fees for filing a notice of appeal in a civil case appealed to a court of appeal, for filing a petition for a writ within the original civil jurisdiction of the Supreme Court, and for filing a petition for a writ within the original civil jurisdiction of a court of appeal. Existing law also establishes the fee for filing a petition for review in a civil case in the Supreme Court after a decision in a court of appeal.

This bill would establish a fee of \$325 for a party other than appellant filing its first document in a civil case appealed to a court of appeal, for a party other than petitioner filing its first document in a writ proceeding within the original jurisdiction of the Supreme Court, or for a party other than petitioner filing its first document in a writ proceeding within the original jurisdiction of a court of appeal. This bill would also establish a fee of \$325 for a party other than petitioner filing its first document in a civil case in the Supreme Court after a decision in a court of appeal.

(4) Existing law provides that within 60 days after judgment has been pronounced, the clerk of the court shall mail a copy of the charging documents, the transcript of the proceedings at the time of the defendant's guilty plea, if the defendant pleaded guilty, and the transcript of the proceedings at the time of sentencing, with postage prepaid, to the prison or other institution to which the person convicted is delivered.

This bill would limit the above provisions to cases in which the judgment imposed includes a sentence of death or an indeterminate term with or without the possibility of parole, and additionally require

the clerk of the court to include a copy of any waiver or plea forms. The bill would provide similar provisions without the 60-day requirement for all other cases, except that a transcript of the proceedings would be included only upon written request by the Department of Corrections and Rehabilitation, or by an inmate, or by his or her counsel, for specified purposes, including an appeal.

The bill would also make an appropriation of \$1,000 to the Administrative Office of the Courts, for support of trial court operations, payable from the Trial Court Trust Fund.

This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

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

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

1 SECTION 1. Section 68526 of the Government Code is  
2 amended to read:

3 68526. (a) The Judicial Council shall conduct an analysis of  
4 the cost incurred by trial courts related to the default prove up  
5 process and report on the different methods trial courts use in  
6 processing filings related to the default prove up process, as well  
7 as the revenue generated by these filings. The Judicial Council  
8 shall also compare the processes used by trial courts in filings  
9 related to the default prove up process to best practices used in  
10 other states, including, but not limited to, the use of electronic  
11 filing.

12 (b) The Legislative Analyst's Office shall review the Judicial  
13 Council report, consult with stakeholders, consider the best  
14 practices of other states, and make any recommendations to  
15 increase efficiency, streamline the processes and turnaround times  
16 for filing documents related to the default prove up process, and  
17 assess whether any changes should be made to the fee structure  
18 for filings related to the process. In conducting its analysis, the  
19 Legislative Analyst's Office shall consider, among other factors  
20 it deems relevant, whether electronic filing could be implemented  
21 as a tool to improve the efficiency and turnaround times of the  
22 default prove up process.

23 (c) The Judicial Council shall provide its report to the Assembly  
24 Committee on Budget, the Senate Committee on Budget and Fiscal

1 Review, and the Legislative Analyst’s Office by September 30,  
 2 2013. The Legislative Analyst’s Office shall provide the Assembly  
 3 Committee on Budget and the Senate Committee on Budget and  
 4 Fiscal Review its recommendations no later than June 30, 2014.

5 (d) For the purposes of this section, the following definitions  
 6 apply:

7 (1) “Collections case” means an action for recovery of money  
 8 owed in a sum stated to be certain that is not more than twenty-five  
 9 thousand dollars (\$25,000), exclusive of interest and attorney’s  
 10 fees, arising from a transaction in which property, services, or  
 11 money were acquired on credit. “Collections case” does not include  
 12 an action seeking tort damages, punitive damages, recovery of real  
 13 property or personal property, a prejudgment writ of attachment,  
 14 or any action filed pursuant to the Family Code.

15 (2) “Default prove up process” means a request for entry of  
 16 default filed pursuant to Section 585 of the Code of Civil Procedure  
 17 in a collections case.

18 (e) This section shall become inoperative on July 1, 2015, and,  
 19 as of January 1, 2016, is repealed, unless a later enacted statute,  
 20 that becomes operative on or before January 1, 2016, deletes or  
 21 extends the dates on which it becomes inoperative and is repealed.

22 SEC. 2. Section 68926 of the Government Code is amended  
 23 to read:

24 68926. (a) (1) The fee for filing a notice of appeal in a civil  
 25 case appealed to a court of appeal is four hundred eighty-five  
 26 dollars (\$485).

27 (2) The fee for filing a petition for a writ within the original  
 28 civil jurisdiction of the Supreme Court is four hundred twenty  
 29 dollars (\$420).

30 (3) The fee for filing a petition for a writ within the original  
 31 civil jurisdiction of a court of appeal is four hundred eighty-five  
 32 dollars (\$485).

33 (b) (1) The fee for a party other than appellant filing its first  
 34 document in a civil case appealed to a court of appeal is three  
 35 hundred twenty-five dollars (\$325).

36 (2) The fee for a party other than petitioner filing its first  
 37 document in a writ proceeding within the original jurisdiction of  
 38 the Supreme Court is three hundred twenty-five dollars (\$325).

1 (3) The fee for a party other than petitioner filing its first  
2 document in a writ proceeding within the original jurisdiction of  
3 a court of appeal is three hundred twenty-five dollars (\$325).

4 (c) These fees are in full, for all services, through the rendering  
5 of the judgment or the issuing of the remittitur or peremptory writ,  
6 except the fees imposed by subdivision (b) of Section 68926.1 and  
7 Section 68927. The Judicial Council may make rules governing  
8 the time and method of payment of these fees, and providing for  
9 excuse therefrom in appropriate cases. A fee may not be charged  
10 in appeals from, nor petitions for writs involving, juvenile cases  
11 or proceedings to declare a minor free from parental custody or  
12 control, or proceedings under the Lanterman-Petris-Short Act (Part  
13 1 (commencing with Section 5000) of Division 5 of the Welfare  
14 and Institutions Code).

15 *SEC. 3. Section 68926.1 of the Government Code is amended*  
16 *to read:*

17 68926.1. (a) (1) Upon filing a notice of appeal for which a  
18 fee is paid pursuant to Section 68926, the appellant shall deposit  
19 the sum of one hundred dollars (\$100) with the clerk of the  
20 originating court. The deposit shall be credited against the amount  
21 chargeable for the preparation of the clerk's transcript or any other  
22 appeal processing or notification.

23 ~~The~~  
24 (2) *The* deposit shall be forfeited in the event of abandonment  
25 or dismissal of appeal prior to filing of the record in the reviewing  
26 court.

27 ~~The~~  
28 (3) *The* amount charged for preparation of the transcript or any  
29 deposit that is forfeited shall be distributed to the court in which  
30 it was collected.

31 (b) Upon filing a notice of appeal, a petition for a writ, or a  
32 petition for a hearing for which a fee is paid pursuant to *subdivision*  
33 *(a) of Section 68926 or subdivision (a) of Section 68927*, the  
34 appellant shall pay an additional fee in the amount of one hundred  
35 seventy dollars (\$170). *Upon filing its first document for which a*  
36 *fee is paid pursuant to subdivision (b) of Section 68926 or*  
37 *subdivision (b) of Section 68927, a party other than the appellant*  
38 *or petitioner is not required to pay this additional fee.* The fees  
39 collected pursuant to this subdivision shall be transmitted to the  
40 State Treasury for deposit in the Appellate Court Trust Fund.

1     ~~SEC. 3.~~

2     SEC. 4. Section 68926.3 of the Government Code is amended  
3 to read:

4     68926.3. (a) Notwithstanding any other provision of law,  
5 sixty-five dollars (\$65) of each fee collected in a civil case by the  
6 clerk of each court of appeal pursuant to subdivision (a) of Section  
7 68926 shall be paid into the State Treasury for deposit in a special  
8 account in the General Fund to be known as the California State  
9 Law Library Special Account, which account is hereby established.

10    (b) Moneys deposited in the California State Law Library  
11 Special Account shall be available for the support of the California  
12 State Law Library upon appropriation thereto by the Legislature  
13 in the annual Budget Act.

14    (c) This section shall remain in effect only until January 1, 2015,  
15 and as of that date, is repealed, unless a later statute that is enacted  
16 before that date extends or repeals that date.

17     ~~SEC. 4.~~

18     SEC. 5. Section 68927 of the Government Code is amended  
19 to read:

20     68927. (a) The fee for filing a petition for review in a civil  
21 case in the Supreme Court after a decision in a court of appeal is  
22 four hundred twenty dollars (\$420). ~~The~~

23     (b) ~~The~~ fee for a party other than petitioner filing its first  
24 document in a civil case in the Supreme Court after a decision in  
25 a court of appeal is three hundred twenty-five dollars (\$325). ~~A~~

26     (c) A fee may not be charged for petitions for review from  
27 decisions in juvenile cases or proceedings to declare a minor free  
28 from parental custody or control or proceedings under the  
29 Lanterman-Petris-Short Act (Part 1 (commencing with Section  
30 5000) of Division 5 of the Welfare and Institutions Code).

31     ~~SEC. 5.~~

32     SEC. 6. Section 70602.5 of the Government Code is amended  
33 to read:

34     70602.5. (a) Notwithstanding any other law, due to the severity  
35 of the continuing economic crisis facing the State of California, it  
36 is the intent of the Legislature to supplement, until July 1, 2013,  
37 certain first paper filing fees as provided below:

38     (1) A supplemental fee of forty dollars (\$40) shall be collected  
39 for filing any first paper subject to the uniform fee that is set at  
40 three hundred fifty-five dollars (\$355) under Sections 70611,

1 70612, 70650, 70651, 70652, 70653, 70655, 70658, and 70670.  
2 The total fee collected under these sections, which includes the  
3 supplemental fee, shall be deposited and distributed as provided  
4 in Sections 68085.3 and 68086.1, as applicable.

5 (2) A supplemental fee of forty dollars (\$40) shall be collected  
6 for filing any first paper subject to the uniform fee that is set at  
7 three hundred thirty dollars (\$330) under Sections 70613, 70614,  
8 and 70621. The total fee collected under these sections, which  
9 includes the supplemental fee, shall be deposited and distributed  
10 as provided in Sections 68085.4 and 68086.1, as applicable.

11 (3) A supplemental fee of twenty dollars (\$20) shall be collected  
12 for filing any first paper subject to the uniform fee that is set at  
13 two hundred five dollars (\$205) under Sections 70613, 70614,  
14 70621, 70654, and 70656 of this code, and Section 103470 of the  
15 Health and Safety Code. The total fee collected under these  
16 sections, which includes the supplemental fee, shall be deposited  
17 and distributed as provided in Section 68085.4.

18 (b) This section shall become inoperative on July 1, 2013, and,  
19 as of January 1, 2014, is repealed, unless a later enacted statute,  
20 that becomes operative on or before January 1, 2014, deletes or  
21 extends the dates on which it becomes inoperative and is repealed.

22 ~~SEC. 6.~~

23 *SEC. 7.* Section 1203.01 of the Penal Code is amended to read:

24 1203.01. (a) Immediately after judgment has been pronounced,  
25 the judge and the district attorney, respectively, may cause to be  
26 filed with the clerk of the court a brief statement of their views  
27 respecting the person convicted or sentenced and the crime  
28 committed, together with any reports the probation officer may  
29 have filed relative to the prisoner. The judge and district attorney  
30 shall cause those statements to be filed if no probation officer's  
31 report has been filed. The attorney for the defendant and the law  
32 enforcement agency that investigated the case may likewise file  
33 with the clerk of the court statements of their views respecting the  
34 defendant and the crime of which he or she was convicted.  
35 Immediately after the filing of those statements and reports, the  
36 clerk of the court shall mail a copy thereof, certified by that clerk,  
37 with postage prepaid, addressed to the Department of Corrections  
38 and Rehabilitation at the prison or other institution to which the  
39 person convicted is delivered. The clerk shall also mail a copy of  
40 any statement submitted by the court, district attorney, or law

1 enforcement agency, pursuant to this section, with postage prepaid,  
2 addressed to the attorney for the defendant, if any, and to the  
3 defendant, in care of the Department of Corrections and  
4 Rehabilitation, and a copy of any statement submitted by the  
5 attorney for the defendant, with postage prepaid, shall be mailed  
6 to the district attorney.

7 (b) (1) In all cases in which the judgment imposed includes a  
8 sentence of death or an indeterminate term with or without the  
9 possibility of parole, the clerk shall, within 60 days after judgment  
10 has been pronounced, mail with postage prepaid, to the prison or  
11 other institution to which the person convicted is delivered, a copy  
12 of the charging documents, a copy of waiver and plea forms, if  
13 any, the transcript of the proceedings at the time of the defendant's  
14 guilty or nolo contendere plea, if the defendant pleaded guilty or  
15 nolo contendere, and the transcript of the proceedings at the time  
16 of sentencing.

17 (2) In all other cases not described in paragraph (1), the clerk  
18 shall mail with postage prepaid, to the prison or other institution  
19 to which the person convicted is delivered, a copy of the charging  
20 documents, a copy of the waiver and plea forms, if any, and upon  
21 written request by the Department of Corrections and Rehabilitation  
22 or by an inmate, or by his or her counsel, for, among other purposes  
23 on a particular case, appeals, review of custody credits and release  
24 dates, and restitution orders, the transcript of the proceedings at  
25 the time of the defendant's guilty or nolo contendere plea, if the  
26 defendant pleaded guilty or nolo contendere, and the transcript of  
27 the proceedings at the time of sentencing.

28 ~~SEC. 7.~~

29 *SEC. 8.* An appropriation of one thousand dollars (\$1,000) is  
30 provided to the Administrative Office of the Courts, for the support  
31 of trial court operations, payable from the Trial Court Trust Fund.

32 ~~SEC. 8.~~

33 *SEC. 9.* This act is a bill providing for appropriations related  
34 to the Budget Bill within the meaning of subdivision (e) of Section  
35 12 of Article IV of the California Constitution, has been identified  
36 as related to the budget in the Budget Bill, and shall take effect  
37 immediately.

O