

Assembly Bill No. 110

Passed the Assembly July 14, 2011

Chief Clerk of the Assembly

Passed the Senate July 14, 2011

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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, 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 Existing law provides that these provisions will become inoperative on July 1, 2013, and are repealed on January 1, 2014.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 The bill would provide that the above-described provisions become inoperative on July 1, 2015, and are repealed on January 1, 2016.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.

Appropriation: yes.

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

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

68526. (a) The Judicial Council shall conduct an analysis of the cost incurred by trial courts related to the default prove up process and 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. The Judicial Council shall also compare the processes used by trial courts in filings related to the default prove up process to best practices used in other states, including, but not limited to, the use of electronic filing.

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

(c) The Judicial Council shall provide its report to the Assembly Committee on Budget, the Senate Committee on Budget and Fiscal Review, and the Legislative Analyst's Office by September 30, 2013. The Legislative Analyst's Office shall provide the Assembly Committee on Budget and the Senate Committee on Budget and Fiscal Review its recommendations no later than June 30, 2014.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) The deposit shall be forfeited in the event of abandonment or dismissal of appeal prior to filing of the record in the reviewing court.

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

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

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

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

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

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

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

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

(b) The fee 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 is three hundred twenty-five dollars (\$325).

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

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

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

(1) A supplemental fee of forty dollars (\$40) shall be collected for filing any first paper subject to the uniform fee that is set at three hundred fifty-five dollars (\$355) under Sections 70611, 70612, 70650, 70651, 70652, 70653, 70655, 70658, and 70670. The total fee collected under these sections, which includes the supplemental fee, shall be deposited and distributed as provided in Sections 68085.3 and 68086.1, as applicable.

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

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

(b) This section shall become inoperative on July 1, 2013, and, as of January 1, 2014, is repealed, unless a later enacted statute,

that becomes operative on or before January 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed.

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

1203.01. (a) Immediately after judgment has been pronounced, the judge and the district attorney, respectively, may cause to be filed with the clerk of the court a brief statement of their views respecting the person convicted or sentenced and the crime committed, together with any reports the probation officer may have filed relative to the prisoner. The judge and district attorney shall cause those statements to be filed if no probation officer's report has been filed. The attorney for the defendant and the law enforcement agency that investigated the case may likewise file with the clerk of the court statements of their views respecting the defendant and the crime of which he or she was convicted. Immediately after the filing of those statements and reports, the clerk of the court shall mail a copy thereof, certified by that clerk, with postage prepaid, addressed to the Department of Corrections and Rehabilitation at the prison or other institution to which the person convicted is delivered. The clerk shall also mail a copy of any statement submitted by the court, district attorney, or law enforcement agency, pursuant to this section, with postage prepaid, addressed to the attorney for the defendant, if any, and to the defendant, in care of the Department of Corrections and Rehabilitation, and a copy of any statement submitted by the attorney for the defendant, with postage prepaid, shall be mailed to the district attorney.

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

(2) In all other cases not described in paragraph (1), the clerk shall mail with postage prepaid, to the prison or other institution to which the person convicted is delivered, a copy of the charging documents, a copy of the waiver and plea forms, if any, and upon

written request by the Department of Corrections and Rehabilitation or by an inmate, or by his or her counsel, for, among other purposes on a particular case, appeals, review of custody credits and release dates, and restitution orders, the transcript of the proceedings at the time of the defendant's guilty or nolo contendere plea, if the defendant pleaded guilty or nolo contendere, and the transcript of the proceedings at the time of sentencing.

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

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

Approved _____, 2011

Governor