

ASSEMBLY BILL

No. 1529

Introduced by Assembly Member Dickinson

January 23, 2012

An act to amend Section 25762 of the Business and Professions Code, to amend Sections 116.940 and 631.2 of, to amend the heading of Article 7 (commencing with Section 116.710) of Chapter 5.5 of Title 1 of Part 1 of, to add Section 116.798 to, and to repeal Section 631.1 of, the Code of Civil Procedure, to amend Section 56159 of the Education Code, to amend Sections 731, 752, 753, and 754 of the Evidence Code, to amend Sections 1814, 1820, 1834, 1838, 1850, 3025.5, 3170, 3173, 3188, 6303, 7553, and 7556 of the Family Code, to amend Sections 1750, 23249, 23332, 23535, 24350, 24351, 24353, 25252.6, 27080.1, 29320, 29370, 29370.1, 29371, 29372, 29373, 29374, 29375, 29376, 29377, 29379, 29603, 31116, and 68098 of, and to add Sections 68083 and 68083.5 to, the Government Code, and to amend Section 1306 of, and to add Section 1305.5 to, the Penal Code, relating to courts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1529, as introduced, Dickinson. Trial courts: restructuring and bail forfeiture.

Existing law provides for the restructuring of the trial court system, including the abolition of municipal courts, the unification of those courts with superior courts, and state funding of trial courts. Under existing law, a statutory reference to a judicial district that relates to a municipal court in a county in which unification has occurred generally means the county, as specified.

This bill would modify provisions of law to reflect trial court restructuring. As part of these modifications, this bill would delete

obsolete references to municipal courts and would specify the jurisdiction of a writ petition relating to a small claims case in the unified state court system. Further, this bill would revise various provisions to reflect the state's responsibility for trial court funding, including provisions related to jury fees in civil cases, payment of expert witnesses, interpreters, and translators in criminal actions, juvenile proceedings, and certain civil actions. This bill would also delete obsolete references to judicial districts, counties, and county entities following trial court restructuring. Additionally, this bill would prescribe the rules applying to the acceptance of money by superior courts to reflect trial court restructuring.

Existing law also provides for the forfeiture of the undertaking of bail when a defendant fails to appear in court. Under existing law, a court must enter a summary judgment against the bondsman named in the bail bond within 180 days of the date of forfeiture or within 180 days of the date of mailing of the notice, regardless of the amount of the bail.

This bill would provide that an appeal from an order of the superior court on a motion to vacate a bail forfeiture shall be to the court of appeal as an unlimited civil case if the amount in controversy exceeds \$25,000, and to the appellate division of the superior court as a limited civil case if the amount in controversy does not exceed \$25,000, except as specified.

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 25762 of the Business and Professions
- 2 Code is amended to read:
- 3 25762. (a) All fines and forfeitures of bail imposed for a
- 4 violation of this division and collected in any ~~court other than a~~
- 5 ~~municipal court~~ *felony case after the indictment or the legal*
- 6 *commitment by a magistrate, or at or after the sentencing hearing,*
- 7 *shall be paid to the county treasurer of the county in which the*
- 8 *court is held.*
- 9 ~~All~~
- 10 (b) *All* fines and forfeitures of bail imposed for violation of this
- 11 division and collected upon conviction or upon forfeiture of bail,
- 12 together with money deposited as bail, in any ~~municipal court~~
- 13 *misdemeanor or infraction case, or in any felony case at the*

1 *preliminary hearing or at another proceeding before the legal*
2 *commitment by a magistrate, shall be deposited with the county*
3 *treasurer of the county in which the court is situated and the money*
4 *deposited shall be distributed and disposed of pursuant to Section*
5 *1463 of the Penal Code.*

6 *(c) For purposes of this section, a case in which both a felony*
7 *and a misdemeanor were charged shall be treated as a felony case.*

8 SEC. 2. The heading of Article 7 (commencing with Section
9 116.710) of Chapter 5.5 of Title 1 of Part 1 of the Code of Civil
10 Procedure is amended to read:

11
12 Article 7. Motion to Vacate, ~~and~~ Appeal, *and Related Matters*
13

14 SEC. 3. Section 116.798 is added to the Code of Civil
15 Procedure, to read:

16 116.798. (a) (1) A petition that seeks a writ of review, a writ
17 of mandate, or a writ of prohibition relating to an act of the small
18 claims division, other than a postjudgment enforcement order, may
19 be heard by a judge who is assigned to the appellate division of
20 the superior court.

21 (2) A petition described by paragraph (1) may also be heard by
22 the court of appeal or by the Supreme Court.

23 (3) Where a judge described in paragraph (1) grants a writ
24 directed to the small claims division, the small claims division is
25 an inferior tribunal for purposes of Title 1 (commencing with
26 Section 1067) of Part 3.

27 (4) The fee for filing a writ petition in the superior court under
28 paragraph (1) is the same as the fee for filing a notice of appeal
29 under Section 116.760.

30 (5) The Judicial Council shall promulgate procedural rules for
31 a writ proceeding under paragraph (1).

32 (6) An appeal shall not be taken from a judgment granting or
33 denying a petition under paragraph (1) for issuance of a writ. An
34 appellate court may, in its discretion, upon petition for
35 extraordinary writ, review the judgment.

36 (b) A petition that seeks a writ of review, a writ of mandate, or
37 a writ of prohibition relating to an act of a superior court in a small
38 claims appeal may be heard by the court of appeal or by the
39 Supreme Court.

1 (c) A petition that seeks a writ of review, a writ of mandate, or
2 a writ of prohibition relating to a postjudgment enforcement order
3 of the small claims division may be heard by the appellate division
4 of the superior court, by the court of appeal, or by the Supreme
5 Court.

6 SEC. 4. Section 116.940 of the Code of Civil Procedure is
7 amended to read:

8 116.940. (a) Except as otherwise provided in this section or
9 in rules adopted by the Judicial Council, which are consistent with
10 the requirements of this section, the characteristics of the small
11 claims advisory service required by Section 116.260 shall be
12 determined by each county, *or by the superior court in a county*
13 *where the small claims advisory service is administered by the*
14 *court*, in accordance with local needs and conditions.

15 (b) Each advisory service shall provide the following services:

16 (1) Individual personal advisory services, in person or by
17 telephone, and by any other means reasonably calculated to provide
18 timely and appropriate assistance. The topics covered by individual
19 personal advisory services shall include, but not be limited to,
20 preparation of small claims court filings, procedures, including
21 procedures related to the conduct of the hearing, and information
22 on the collection of small claims court judgments.

23 (2) Recorded telephone messages may be used to supplement
24 the individual personal advisory services, but shall not be the sole
25 means of providing advice available in the county.

26 (3) Adjacent counties, *superior courts in adjacent counties, or*
27 *any combination thereof*, may provide advisory services jointly.

28 (c) In any county in which the number of small claims actions
29 filed annually is 1,000 or less as averaged over the immediately
30 preceding two fiscal years, the county *or the superior court* may
31 elect to exempt itself from the requirements set forth in subdivision
32 (b). ~~This~~ *If the small claims advisory service is administered by*
33 *the county, this exemption shall be formally noticed through the*
34 *adoption of a resolution by the board of supervisors. If the small*
35 *claims advisory service is administered by the superior court, this*
36 *exemption shall be formally noticed through adoption of a local*
37 *rule.* If a county *or court* so exempts itself, the county *or court*
38 shall nevertheless provide the following minimum advisory
39 services in accordance with rules adopted by the Judicial Council:

1 (1) Recorded telephone messages providing general information
2 relating to small claims actions filed in the county shall be provided
3 during regular business hours.

4 (2) Small claims information booklets shall be provided in the
5 court clerk's office of each superior court, ~~the county~~
6 ~~administrator's office,~~ other appropriate county offices, and in any
7 other location that is convenient to prospective small claims
8 litigants in the county.

9 (d) The advisory service shall operate in conjunction and
10 cooperation with the small claims division, and shall be
11 administered so as to avoid the existence or appearance of a conflict
12 of interest between the individuals providing the advisory services
13 and any party to a particular small claims action or any judicial
14 officer deciding small claims actions.

15 (e) Advisers may be volunteers, and shall be members of the
16 State Bar, law students, paralegals, or persons experienced in
17 resolving minor disputes, and shall be familiar with small claims
18 court rules and procedures. Advisers may not appear in court as
19 an advocate for any party.

20 (f) Advisers, including independent contractors, other
21 employees, and volunteers have the immunity conferred by Section
22 818.9 of the Government Code with respect to advice provided as
23 a public service on behalf of a court or county to small claims
24 litigants and potential litigants under this chapter.

25 (g) *Nothing in this section precludes a court or county from*
26 *contracting with a third party to provide small claims advisory*
27 *services as described in this section.*

28 SEC. 5. Section 631.1 of the Code of Civil Procedure is
29 repealed.

30 ~~631.1. Notwithstanding any other provision of law, the county~~
31 ~~may pay jury fees in civil cases from general funds of the county~~
32 ~~available therefor. Nothing in this section shall be construed to~~
33 ~~change the requirements for the deposit of jury fees in any civil~~
34 ~~case by the appropriate party to the litigation at the time and in the~~
35 ~~manner otherwise provided by law. Nothing in this section shall~~
36 ~~preclude the right of the county to be reimbursed by the party to~~
37 ~~the litigation liable therefor for any payment of jury fees pursuant~~
38 ~~to this section.~~

39 SEC. 6. Section 631.2 of the Code of Civil Procedure is
40 amended to read:

631.2. (a) Notwithstanding any other provision of law, the county superior court may pay jury fees in civil cases from general funds of the county court available therefor. Nothing in this section shall be construed to change the requirements for the deposit of jury fees in any civil case by the appropriate party to the litigation at the time and in the manner otherwise provided by law. Nothing in this section shall preclude the right of the county superior court to be reimbursed by the party to the litigation liable therefor for any payment of jury fees pursuant to this section. *Nothing in this section shall preclude the right of the county to be reimbursed by the party to the litigation liable therefor for any payment of jury fees pursuant to this section as it read in Section 4 of Chapter 10 of the Statutes of 1988, or pursuant to former Section 631.1 as it read in Section 1 of Chapter 144 of the Statutes of 1971.*

(b) The party who has demanded trial by jury shall reimburse the county superior court for the fees and mileage of all jurors appearing for voir dire examination, except those jurors who are excused and subsequently on the same day are called for voir dire examination in another case.

SEC. 7. Section 56159 of the Education Code is amended to read:

56159. If a district, special education local plan area, or county office does not make the placement decision of an individual with exceptional needs in a licensed children's institution or in a foster family home, the court, regional center for the developmentally disabled, or public agency, excluding an education agency, placing the individual in the institution, shall be responsible for the residential costs and the cost of noneducation services of the individual.

SEC. 8. Section 731 of the Evidence Code is amended to read:

731. (a) (1) In all criminal actions and juvenile court proceedings, the compensation fixed under Section 730 shall be a charge against the county in which such the action or proceeding is pending and shall be paid out of the treasury of such that county on order of the court.

(2) *Notwithstanding paragraph (1), if the expert is appointed for the court's needs, the compensation shall be a charge against the court.*

(b) *In any county in which the superior court so provides, the compensation fixed under Section 730 for medical experts*

1 *appointed for the court's needs in civil actions shall be a charge*
2 *against the court.* In any county in which the board of supervisors
3 so provides, the compensation fixed under Section 730 for medical
4 experts *appointed in civil actions, for purposes other than the*
5 *court's needs, in such county* shall be a charge against and paid
6 out of the treasury of ~~such~~ *that* county on order of the court.

7 (c) Except as otherwise provided in this section, in all civil
8 actions, the compensation fixed under Section 730 shall, in the
9 first instance, be apportioned and charged to the several parties in
10 ~~such~~ a proportion as the court may determine and may thereafter
11 be taxed and allowed in like manner as other costs.

12 SEC. 9. Section 752 of the Evidence Code is amended to read:

13 752. (a) When a witness is incapable of understanding the
14 English language or is incapable of expressing himself or herself
15 in the English language so as to be understood directly by counsel,
16 court, and jury, an interpreter whom ~~he or she~~ *the witness* can
17 understand and who can understand ~~him or her~~ *the witness* shall
18 be sworn to interpret for ~~him or her~~ *the witness*.

19 (b) The record shall identify the interpreter who may be
20 appointed and compensated as provided in Article 2 (commencing
21 with Section 730) of Chapter 3, *with that compensation charged*
22 *as follows:*

23 (1) *In all criminal actions and juvenile court proceedings, the*
24 *compensation for an interpreter under this section shall be a*
25 *charge against the court.*

26 (2) *In all civil actions, the compensation for an interpreter under*
27 *this section shall, in the first instance, be apportioned and charged*
28 *to the several parties in a proportion as the court may determine*
29 *and may thereafter be taxed and allowed in a like manner as other*
30 *costs.*

31 SEC. 10. Section 753 of the Evidence Code is amended to read:

32 753. (a) When the written characters in a writing offered in
33 evidence are incapable of being deciphered or understood directly,
34 a translator who can decipher the characters or understand the
35 language shall be sworn to decipher or translate the writing.

36 (b) The record shall identify the translator, who may be
37 appointed and compensated as provided in Article 2 (commencing
38 with Section 730) of Chapter 3, *with that compensation charged*
39 *as follows:*

1 (1) *In all criminal actions and juvenile court proceedings, the*
2 *compensation for a translator under this section shall be a charge*
3 *against the court.*

4 (2) *In all civil actions, the compensation for a translator under*
5 *this section shall, in the first instance, be apportioned and charged*
6 *to the several parties in a proportion as the court may determine*
7 *and may thereafter be taxed and allowed in like manner as other*
8 *costs.*

9 SEC. 11. Section 754 of the Evidence Code is amended to read:

10 754. (a) As used in this section, “individual who is deaf or
11 hearing impaired” means an individual with a hearing loss so great
12 as to prevent his or her understanding language spoken in a normal
13 tone, but does not include an individual who is hearing impaired
14 provided with, and able to fully participate in the proceedings
15 through the use of, an assistive listening system or computer-aided
16 transcription equipment provided pursuant to Section 54.8 of the
17 Civil Code.

18 (b) In any civil or criminal action, including, but not limited to,
19 any action involving a traffic or other infraction, any small claims
20 court proceeding, any juvenile court proceeding, any family court
21 proceeding or service, or any proceeding to determine the mental
22 competency of a person, in any court-ordered or court-provided
23 alternative dispute resolution, including mediation and arbitration,
24 or any administrative hearing, where a party or witness is an
25 individual who is deaf or hearing impaired and the individual who
26 is deaf or hearing impaired is present and participating, the
27 proceedings shall be interpreted in a language that the individual
28 who is deaf or hearing impaired understands by a qualified
29 interpreter appointed by the court or other appointing authority,
30 or as agreed upon.

31 (c) For purposes of this section, “appointing authority” means
32 a court, department, board, commission, agency, licensing or
33 legislative body, or other body for proceedings requiring a qualified
34 interpreter.

35 (d) For the purposes of this section, “interpreter” includes, but
36 is not limited to, an oral interpreter, a sign language interpreter,
37 or a deaf-blind interpreter, depending upon the needs of the
38 individual who is deaf or hearing impaired.

39 (e) For purposes of this section, “intermediary interpreter” means
40 an individual who is deaf or hearing impaired, or a hearing

1 individual who is able to assist in providing an accurate
2 interpretation between spoken English and sign language or
3 between variants of sign language or between American Sign
4 Language and other foreign languages by acting as an intermediary
5 between the individual who is deaf or hearing impaired and the
6 qualified interpreter.

7 (f) For purposes of this section, “qualified interpreter” means
8 an interpreter who has been certified as competent to interpret
9 court proceedings by a testing organization, agency, or educational
10 institution approved by the Judicial Council as qualified to
11 administer tests to court interpreters for individuals who are deaf
12 or hearing impaired.

13 (g) In the event that the appointed interpreter is not familiar
14 with the use of particular signs by the individual who is deaf or
15 hearing impaired or his or her particular variant of sign language,
16 the court or other appointing authority shall, in consultation with
17 the individual who is deaf or hearing impaired or his or her
18 representative, appoint an intermediary interpreter.

19 (h) Prior to July 1, 1992, the Judicial Council shall conduct a
20 study to establish the guidelines pursuant to which it shall
21 determine which testing organizations, agencies, or educational
22 institutions will be approved to administer tests for certification
23 of court interpreters for individuals who are deaf or hearing
24 impaired. It is the intent of the Legislature that the study obtain
25 the widest possible input from the public, including, but not limited
26 to, educational institutions, the judiciary, linguists, members of
27 the State Bar, court interpreters, members of professional
28 interpreting organizations, and members of the deaf and
29 hearing-impaired communities. After obtaining public comment
30 and completing its study, the Judicial Council shall publish these
31 guidelines. By January 1, 1997, the Judicial Council shall approve
32 one or more entities to administer testing for court interpreters for
33 individuals who are deaf or hearing impaired. Testing entities may
34 include educational institutions, testing organizations, joint powers
35 agencies, or public agencies.

36 Commencing July 1, 1997, court interpreters for individuals who
37 are deaf or hearing impaired shall meet the qualifications specified
38 in subdivision (f).

39 (i) Persons appointed to serve as interpreters under this section
40 shall be paid, in addition to actual travel costs, the prevailing rate

1 paid to persons employed by the court to provide other interpreter
2 services unless such service is considered to be a part of the
3 person's regular duties as an employee of the state, county, or other
4 political subdivision of the state. ~~Payment~~ *Except as provided in*
5 *subdivision (j), payment of the interpreter's fee shall be a charge*
6 *against the county, or other political subdivision of the state, in*
7 ~~which that action is pending court.~~ Payment of the interpreter's
8 fee in administrative proceedings shall be a charge against the
9 appointing board or authority.

10 (j) Whenever a peace officer or any other person having a law
11 enforcement or prosecutorial function in any criminal or
12 quasi-criminal investigation or *non-court* proceeding questions or
13 otherwise interviews an alleged victim or witness who demonstrates
14 or alleges deafness or hearing impairment, a good faith effort to
15 secure the services of an interpreter shall be made, without any
16 unnecessary delay unless either the individual who is deaf or
17 hearing impaired affirmatively indicates that he or she does not
18 need or cannot use an interpreter, or an interpreter is not otherwise
19 required by Title II of the Americans with Disabilities Act of 1990
20 (Public Law 101-336) and federal regulations adopted thereunder.
21 *Payment of the interpreter's fee shall be a charge against the*
22 *county, or other political subdivision of the state, in which the*
23 *action is pending.*

24 (k) No statement, written or oral, made by an individual who
25 the court finds is deaf or hearing impaired in reply to a question
26 of a peace officer, or any other person having a law enforcement
27 or prosecutorial function in any criminal or quasi-criminal
28 investigation or proceeding, may be used against that individual
29 who is deaf or hearing impaired unless the question was accurately
30 interpreted and the statement was made knowingly, voluntarily,
31 and intelligently and was accurately interpreted, or the court makes
32 special findings that either the individual could not have used an
33 interpreter or an interpreter was not otherwise required by Title II
34 of the Americans with Disabilities Act of 1990 (Public Law
35 101-336) and federal regulations adopted thereunder and that the
36 statement was made knowingly, voluntarily, and intelligently.

37 (l) In obtaining services of an interpreter for purposes of
38 subdivision (j) or (k), priority shall be given to first obtaining a
39 qualified interpreter.

1 (m) Nothing in subdivision (j) or (k) shall be deemed to
2 supersede the requirement of subdivision (b) for use of a qualified
3 interpreter for individuals who are deaf or hearing impaired
4 participating as parties or witnesses in a trial or hearing.

5 (n) In any action or proceeding in which an individual who is
6 deaf or hearing impaired is a participant, the appointing authority
7 shall not commence proceedings until the appointed interpreter is
8 in full view of and spatially situated to assure proper
9 communication with the participating individual who is deaf or
10 hearing impaired.

11 (o) Each superior court shall maintain a current roster of
12 qualified interpreters certified pursuant to subdivision (f).

13 SEC. 12. Section 1814 of the Family Code is amended to read:

14 1814. (a) In each county in which a family conciliation court
15 is established, the superior court may appoint one supervising
16 counselor of conciliation and one secretary to assist the family
17 conciliation court in disposing of its business and carrying out its
18 functions. ~~In counties which have~~ *When superior courts by contract*
19 *have* established joint family conciliation court services, the
20 ~~superior contracting courts in contracting counties~~ jointly may
21 make the appointments under this subdivision.

22 (b) The supervising counselor of conciliation has the power to
23 do all of the following:

24 (1) Hold conciliation conferences with parties to, and hearings
25 in, proceedings under this part, and make recommendations
26 concerning the proceedings to the judge of the family conciliation
27 court.

28 (2) Provide supervision in connection with the exercise of the
29 counselor's jurisdiction as the judge of the family conciliation
30 court may direct.

31 (3) Cause reports to be made, statistics to be compiled, and
32 records to be kept as the judge of the family conciliation court may
33 direct.

34 (4) Hold hearings in all family conciliation court cases as may
35 be required by the judge of the family conciliation court, and make
36 investigations as may be required by the court to carry out the
37 intent of this part.

38 (5) Make recommendations relating to marriages where one or
39 both parties are underage.

1 (6) Make investigations, reports, and recommendations as
2 provided in Section 281 of the Welfare and Institutions Code under
3 the authority provided the probation officer in that code.

4 (7) Act as domestic relations cases investigator.

5 (8) Conduct mediation of child custody and visitation disputes.

6 (c) The superior court, or contracting superior courts, may also
7 appoint, ~~with the consent of the board of supervisors~~, associate
8 counselors of conciliation and other office assistants as may be
9 necessary to assist the family conciliation court in disposing of its
10 business. The associate counselors shall carry out their duties under
11 the supervision of the supervising counselor of conciliation and
12 have the powers of the supervising counselor of conciliation. Office
13 assistants shall work under the supervision and direction of the
14 supervising counselor of conciliation.

15 (d) The classification and salaries of persons appointed under
16 this section shall be determined by:

17 (1) ~~The board of supervisors~~ *superior court* of the county in
18 which a noncontracting family conciliation court operates.

19 (2) ~~The board of supervisors~~ *superior court* of the county which
20 by contract has the responsibility to administer funds of the joint
21 family conciliation court service.

22 SEC. 13. Section 1820 of the Family Code is amended to read:

23 1820. (a) ~~A county court~~ may contract with any other ~~county~~
24 ~~court or counties courts~~ to provide joint family conciliation court
25 services.

26 (b) An agreement between two or more ~~counties courts~~ for the
27 operation of a joint family conciliation court service may provide
28 that ~~the treasurer of one participating county court~~ shall be the
29 custodian of moneys made available for the purposes of the joint
30 services, and that the ~~treasurer~~ *custodian court* may make payments
31 from the moneys upon audit of the appropriate auditing officer or
32 body of the ~~county of that treasurer court~~.

33 (c) An agreement between two or more ~~counties courts~~ for the
34 operation of a joint family conciliation court service may also
35 provide:

36 (1) For the joint provision or operation of services and facilities
37 or for the provision or operation of services and facilities by one
38 participating ~~county court~~ under contract for the other participating
39 ~~counties courts~~.

1 (2) For appointments of members of the staff of the family
2 conciliation court including the supervising counselor.

3 (3) That, for specified purposes, the members of the staff of the
4 family conciliation court including the supervising counselor, but
5 excluding the judges of the family conciliation court ~~and other~~
6 ~~court personnel~~, shall be considered to be employees of one
7 participating ~~county~~ court.

8 (4) For other matters that are necessary or proper to effectuate
9 the purposes of the Family Conciliation Court Law.

10 (d) The provisions of this part relating to family conciliation
11 court services provided by a single ~~county~~ court shall be equally
12 applicable to ~~counties~~ courts which contract, pursuant to this
13 section, to provide joint family conciliation court services.

14 SEC. 14. Section 1834 of the Family Code is amended to read:

15 1834. (a) The clerk of the court shall provide, at the expense
16 of the ~~county~~ court, blank forms for petitions for filing pursuant
17 to this part.

18 (b) The probation officers of the county and the attachés and
19 employees of the family conciliation court shall assist a person in
20 the preparation and presentation of a petition under this part if the
21 person requests assistance.

22 (c) All public officers in each county shall refer to the family
23 conciliation court all petitions and complaints made to them in
24 respect to controversies within the jurisdiction of the family
25 conciliation court.

26 (d) The jurisdiction of the family conciliation court in respect
27 to controversies arising out of an instance of domestic violence is
28 not exclusive but is coextensive with any other remedies either
29 civil or criminal in nature that may be available.

30 SEC. 15. Section 1838 of the Family Code is amended to read:

31 1838. (a) The hearing shall be conducted informally as a
32 conference or a series of conferences to effect a reconciliation of
33 the spouses or an amicable adjustment or settlement of the issues
34 in controversy.

35 (b) To facilitate and promote the purposes of this part, the court
36 may, with the consent of both parties to the proceeding, recommend
37 or invoke the aid of medical or other specialists or scientific
38 experts, or of the pastor or director of any religious denomination
39 to which the parties may belong. Aid under this subdivision shall
40 not be at the expense of the court ~~or unless the presiding judge~~

1 *specifically authorizes the aid, nor at the expense* of the county
2 unless the board of supervisors of the county specifically provides
3 and authorizes the aid.

4 SEC. 16. Section 1850 of the Family Code is amended to read:
5 1850. The Judicial Council shall do all of the following:

6 (a) Assist ~~counties~~ courts in implementing mediation and
7 conciliation proceedings under this code.

8 (b) Establish and implement a uniform statistical reporting
9 system relating to proceedings brought for dissolution of marriage,
10 for nullity of marriage, or for legal separation of the parties,
11 including, but not limited to, a custody disposition survey.

12 (c) Administer a program of grants to public and private agencies
13 submitting proposals for research, study, and demonstration
14 projects in the area of family law, including, but not limited to, all
15 of the following:

16 (1) The development of conciliation and mediation and other
17 newer dispute resolution techniques, particularly as they relate to
18 child custody and to avoidance of litigation.

19 (2) The establishment of criteria to ensure that a child support
20 order is adequate.

21 (3) The development of methods to ensure that a child support
22 order is paid.

23 (4) The study of the feasibility and desirability of guidelines to
24 assist judges in making custody decisions.

25 (d) Administer a program for the training of court personnel
26 involved in family law proceedings, which shall be available to
27 the court personnel and which shall be totally funded from funds
28 specified in Section 1852. The training shall include, but not be
29 limited to, the order of preference for custody of minor children
30 and the meaning of the custody arrangements under Part 2
31 (commencing with Section 3020) of Division 8.

32 (e) Conduct research on the effectiveness of current family law
33 for the purpose of shaping future public policy.

34 SEC. 17. Section 3025.5 of the Family Code is amended to
35 read:

36 3025.5. In any proceeding involving child custody or visitation
37 rights, if a report containing psychological evaluations of a child
38 or recommendations regarding custody of, or visitation with, a
39 child is submitted to the court, including, but not limited to, a
40 report created pursuant to Chapter 6 (commencing with Section

1 3110) of this part, a recommendation made to the court pursuant
2 to Section 3183, and a written statement of issues and contentions
3 pursuant to subdivision (b) of Section 3151, that information shall
4 be contained in a document that shall be placed in the confidential
5 portion of the court file of the proceeding, and may not be
6 disclosed, except to the following persons:

7 (a) A party to the proceeding and his or her attorney.

8 (b) A federal or state law enforcement officer, judicial officer,
9 court employee, or family court facilitator ~~for~~ *of the superior court*
10 *of the county in which the action was filed, or an employee or*
11 *agent of that facilitator, acting within the scope of his or her duties.*

12 (c) Counsel appointed for the child pursuant to Section 3150.

13 (d) Any other person upon order of the court for good cause.

14 SEC. 18. Section 3170 of the Family Code is amended to read:

15 3170. (a) If it appears on the face of a petition, application, or
16 other pleading to obtain or modify a temporary or permanent
17 custody or visitation order that custody, visitation, or both are
18 contested, the court shall set the contested issues for mediation.

19 (b) Domestic violence cases shall be handled by Family Court
20 Services in accordance with a separate written protocol approved
21 by the Judicial Council. The Judicial Council shall adopt guidelines
22 for services, other than services provided under this chapter, that
23 *courts or counties* may offer to parents who have been unable to
24 resolve their disputes. These services may include, but are not
25 limited to, parent education programs, booklets, video recordings,
26 or referrals to additional community resources.

27 SEC. 19. Section 3173 of the Family Code is amended to read:

28 3173. (a) ~~Upon the adoption of a resolution by the board of~~
29 ~~supervisors~~ *an order of the presiding judge of a superior court*
30 *authorizing the procedure in that court,* a petition may be filed
31 pursuant to this chapter for mediation of a dispute relating to an
32 existing order for custody, visitation, or both.

33 (b) The mediation of a dispute concerning an existing order
34 shall be set not later than 60 days after the filing of the petition.

35 SEC. 20. Section 3188 of the Family Code is amended to read:

36 3188. (a) Any court selected by the Judicial Council under
37 subdivision (c) may voluntarily adopt a confidential mediation
38 program that provides for all of the following:

1 (1) The mediator may not make a recommendation as to custody
2 or visitation to anyone other than the disputing parties, except as
3 otherwise provided in this section.

4 (2) If total or partial agreement is reached in mediation, the
5 mediator may report this fact to the court. If both parties consent
6 in writing, where there is a partial agreement, the mediator may
7 report to the court a description of the issues still in dispute, without
8 specific reference to either party.

9 (3) In making the recommendation described in Section 3184,
10 the mediator may not inform the court of the reasons why it would
11 be in the best interest of the minor child to have counsel appointed.

12 (4) If the parties have not reached agreement as a result of the
13 initial mediation, this section does not prohibit the court from
14 requiring subsequent mediation that may result in a
15 recommendation as to custody or visitation with the child if the
16 subsequent mediation is conducted by a different mediator with
17 no prior involvement with the case or knowledge of any
18 communications, as defined in Section 1040 of the Evidence Code,
19 with respect to the initial mediation. The court, however, shall
20 inform the parties that the mediator will make a recommendation
21 to the court regarding custody or visitation in the event that the
22 parties cannot reach agreement on these issues.

23 (5) If an initial screening or intake process indicates that the
24 case involves serious safety risks to the child, such as domestic
25 violence, sexual abuse, or serious substance abuse, the ~~court~~
26 *mediator* may provide an initial emergency assessment service
27 that includes a recommendation to the court concerning temporary
28 custody or visitation orders in order to expeditiously address those
29 safety issues.

30 (b) This section shall become operative upon the appropriation
31 of funds in the annual Budget Act sufficient to implement this
32 section.

33 (c) This section shall apply only in four or more ~~counties~~
34 *superior courts* selected by the Judicial Council that currently
35 allow a mediator to make custody recommendations to the court
36 and have more than 1,000 family law case filings per year. The
37 Judicial Council may also make this section applicable to additional
38 ~~counties~~ *superior courts* that have fewer than 1,000 family law
39 case filings per year.

40 SEC. 21. Section 6303 of the Family Code is amended to read:

1 6303. (a) It is the function of a support person to provide moral
2 and emotional support for a person who alleges he or she is a victim
3 of domestic violence. The person who alleges that he or she is a
4 victim of domestic violence may select any individual to act as a
5 support person. No certification, training, or other special
6 qualification is required for an individual to act as a support person.
7 The support person shall assist the person in feeling more confident
8 that he or she will not be injured or threatened by the other party
9 during the proceedings where the person and the other party must
10 be present in close proximity. The support person is not present
11 as a legal adviser and shall not give legal advice.

12 (b) A support person shall be permitted to accompany either
13 party to any proceeding to obtain a protective order, as defined in
14 Section 6218. Where the party is not represented by an attorney,
15 the support person may sit with the party at the table that is
16 generally reserved for the party and the party's attorney.

17 (c) Notwithstanding any other provision of law to the contrary,
18 if a court has issued a protective order, a support person shall be
19 permitted to accompany a party protected by the order during any
20 mediation orientation or mediation session, including separate
21 mediation sessions, held pursuant to a proceeding described in
22 Section 3021. *The Family Court Services, and any agency charged*
23 *with providing family court services, shall advise the party*
24 *protected by the order of the right to have a support person during*
25 *mediation. A mediator may exclude a support person from a*
26 *mediation session if the support person participates in the mediation*
27 *session, or acts as an advocate, or the presence of a particular*
28 *support person is disruptive or disrupts the process of mediation.*
29 *The presence of the support person does not waive the*
30 *confidentiality of the mediation, and the support person is bound*
31 *by the confidentiality of the mediation.*

32 (d) In a proceeding subject to this section, a support person shall
33 be permitted to accompany a party in court where there are
34 allegations or threats of domestic violence and, where the party is
35 not represented by an attorney, may sit with the party at the table
36 that is generally reserved for the party and the party's attorney.

37 (e) Nothing in this section precludes a court from exercising its
38 discretion to remove a person from the courtroom when it would
39 be in the interest of justice to do so, or when the court believes the

1 person is prompting, swaying, or influencing the party protected
2 by the order.

3 SEC. 22. Section 7553 of the Family Code is amended to read:

4 7553. (a) The compensation of each expert witness appointed
5 by the court shall be fixed at a reasonable amount. It shall be paid
6 as the court shall order. ~~The~~ *Except as provided in subdivision (b),*
7 *the* court may order that it be paid by the parties in the proportions
8 and at the times the court prescribes, or that the proportion of any
9 party be paid by the county, and that, after payment by the parties
10 or the county or both, all or part or none of it be taxed as costs in
11 the action or proceeding.

12 (b) *If the expert witness is appointed for the court's needs, the*
13 *compensation shall be paid by the court.*

14 SEC. 23. Section 7556 of the Family Code is amended to read:

15 7556. This part applies to criminal actions subject to the
16 following limitations and provisions:

17 (a) An order for the tests shall be made only upon application
18 of a party or on the court's initiative.

19 (b) The compensation of the experts, *other than an expert*
20 *witness appointed by the court for the court's needs*, shall be paid
21 by the county under order of court. *The compensation of an expert*
22 *witness appointed for the court's needs shall be paid by the court.*

23 (c) The court may direct a verdict of acquittal upon the
24 conclusions of all the experts under Section 7554; otherwise, the
25 case shall be submitted for determination upon all the evidence.

26 SEC. 24. Section 1750 of the Government Code is amended
27 to read:

28 1750. Resignations shall be in writing, and made as follows:

29 (a) By the Governor and Lieutenant Governor, to the Legislature,
30 if it is in session; and if not, then to the Secretary of State.

31 (b) By all officers commissioned by the Governor, to the
32 Governor.

33 (c) By Senators and Members of the Assembly, to the presiding
34 officers of their respective houses, who shall immediately transmit
35 the resignation to the Governor.

36 (d) By all officers of a county ~~or judicial district~~ or special
37 district other than an air pollution control district which includes
38 territory in more than one county or a school district, not
39 commissioned by the Governor, to the clerk of the board of
40 supervisors of their respective counties, unless by the terms of the

1 act under which a district is formed appointment to vacancies is
2 made by other than the board of supervisors, in which case the
3 resignation shall be submitted to the appointing body.

4 (e) *By officers of a superior court, to the presiding judge.*

5 (e)

6 (f) By officers of a municipal corporation, to the clerk of the
7 legislative body of their corporation.

8 (f)

9 (g) By all other appointed officers, to the body or officer that
10 appointed them.

11 SEC. 25. Section 23249 of the Government Code is amended
12 to read:

13 23249. The commission shall determine:

14 (a) An equitable distribution, as between the transferring county
15 and the accepting county, of the indebtedness of each affected
16 county.

17 (b) The fiscal impact of the proposed boundary change in each
18 affected county.

19 (c) The economic viability of each affected county if the
20 proposed boundary change is effected.

21 (d) The final boundary lines between the two affected counties
22 as they will exist if the proposed boundary change is effected.

23 (e) A procedure for the orderly and timely transition of services,
24 functions and responsibilities from the transferring county to the
25 accepting county.

26 (f) The division of both affected counties into five supervisorial
27 districts. The boundaries of the districts shall be established in a
28 manner that results in a population in each district which is as
29 equal as possible to the population in each other district within the
30 county.

31 (g) The division of both affected counties into a convenient and
32 necessary number of ~~judicial~~, road and school districts, the territory
33 of which shall be defined. To the extent possible, existing ~~judicial~~,
34 road and school districts located within the territory which is to
35 be transferred shall be maintained.

36 SEC. 26. Section 23332 of the Government Code is amended
37 to read:

38 23332. The commission shall determine all of the following:

1 (a) A fair, just, and equitable distribution, as between each
2 affected county and the proposed county, of the indebtedness of
3 each affected county.

4 (b) The fiscal impact of the proposed county creation on each
5 affected county.

6 (c) The economic viability of the proposed county.

7 (d) The final boundaries of the proposed county, pursuant to
8 Sections 23337, 23337.5, and 23338.

9 (e) A procedure for the orderly and timely transition of service
10 functions and responsibilities from the affected county or counties
11 to the proposed county.

12 (f) The division of the proposed county into five supervisorial
13 districts. The boundaries of the districts shall be established in a
14 manner which results in a population in each district which is as
15 equal as possible to the population in each of the other districts
16 within the county.

17 (g) The division of the proposed county into a convenient and
18 necessary number of ~~judicial, road, road~~ and school districts, the
19 territory of which shall be defined. To the extent possible, existing
20 ~~judicial, road, road~~ and school districts located within the territory
21 of the proposed county shall be maintained.

22 (h) Which county offices shall be filled by election at the
23 subsequent election of officials for an approved county conducted
24 pursuant to Article 4.5 (commencing with Section 23374.1), and
25 which of the offices shall be filled by appointments made by the
26 board of supervisors of the approved county. At a minimum, the
27 county offices to be filled by election shall be those which by law,
28 are required to be filled by election.

29 (i) That the boundaries of the proposed county do not create a
30 territory completely surrounded by any affected county.

31 (j) The location of the county seat of the proposed county.

32 (k) The appropriations limit for the proposed county in
33 accordance with Section 4 of Article XIII B of the California
34 Constitution.

35 The commission shall not be required to make any other
36 determinations.

37 SEC. 27. Section 23535 of the Government Code is amended
38 to read:

39 23535. The commission shall determine:

1 (a) The fiscal impact of the proposed consolidation on the
2 affected counties.

3 (b) A procedure for the orderly and timely transition of services,
4 functions and responsibilities from each affected county to the
5 consolidated county.

6 (c) The division of the proposed consolidated county into five
7 supervisorial districts.

8 (d) The division of the proposed consolidated county into a
9 convenient and necessary number of ~~judicial~~, road and school
10 districts, the territory of which shall be defined.

11 (e) The county officers to be elected at the election provided
12 for in Section 23550.

13 (f) The location of the county seat of the proposed consolidated
14 county.

15 SEC. 28. Section 24350 of the Government Code is amended
16 to read:

17 24350. Each salaried officer of a county ~~or judicial~~ district
18 shall charge and collect for the use of his or her county and pay
19 into the county treasury on or before the fifth day of each month
20 the fees allowed by law in all cases, except those or a percentage
21 of them allowed him or her, and those which are a charge against
22 the county. No salaried officer who collects fees pursuant to this
23 section shall be required to accept coin in payment of those fees.

24 SEC. 29. Section 24351 of the Government Code is amended
25 to read:

26 24351. Unless otherwise specifically provided for by law, each
27 officer of a county ~~or judicial district~~ shall on the certificate of the
28 auditor immediately deposit in the county treasury all trust money
29 coming into ~~his~~ *the officer's* possession officially. Trust money so
30 deposited shall be withdrawn only on a warrant issued by the
31 county auditor drawn ~~upon an order of the court into which the~~
32 ~~money was paid, or upon requisition of the officer depositing the~~
33 ~~money where no court proceedings are had.~~

34 SEC. 30. Section 24353 of the Government Code is amended
35 to read:

36 24353. Each officer of a county ~~or of a superior court~~
37 authorized to collect money shall pay into the county treasury all
38 money collected by him or her, or under his or her control, that is
39 payable into the treasury in a timely manner, and shall remit fee,
40 fine, and forfeiture data within 35 days after the end of the month

1 in which they are collected to the county auditor and treasurer in
2 the form they require. No officer who collects money as described
3 in this section shall be required to accept payment in coin. If the
4 county auditor finds that an officer of the county ~~or an officer of~~
5 ~~the court~~ has failed to comply with the requirements for payment
6 of moneys pursuant to this section or Section 68101, which directly
7 results in the assessment of a financial penalty pursuant to Section
8 68085, the county department ~~or superior court~~ that failed to
9 comply shall reimburse the county general fund in an amount equal
10 to the actual penalty. With the approval of the treasurer as provided
11 in Section 27080.1, each depositing officer may deposit directly
12 into the treasurer's active account all money payable into the
13 county treasury. ~~On and after January 1, 2006, this section does~~
14 ~~not apply to money collected under Chapter 5.8 (commencing with~~
15 ~~Section 70600) of Title 8 or fees and fines to which Section~~
16 ~~68085.1 applies.~~

17 SEC. 31. Section 25252.6 of the Government Code is amended
18 to read:

19 25252.6. The board of supervisors may in its discretion
20 establish and determine the amount of, or may by resolution
21 authorize the county auditor to establish and determine the amount
22 of, a revolving cash trust fund for the purpose of eliminating delays
23 which adversely affect the official operation of offices and
24 departments of the county ~~or of judicial districts therein~~ resulting
25 from regular deposits in and withdrawals from a trust fund
26 established for the use of any ~~such county~~ officer or department
27 head. The amount of the revolving cash trust fund shall not exceed
28 the amount of the trust fund. The revolving cash trust fund shall
29 be used by the officer or department head for payment of services,
30 expenses or other charges which are legally payable out of the
31 deposits in the trust fund.

32 SEC. 32. Section 27080.1 of the Government Code is amended
33 to read:

34 27080.1. Where the county treasurer has entered into a contract
35 for the deposit of moneys with a depository pursuant to Section
36 53682, the county treasurer may authorize any county officer ~~or~~
37 ~~judicial district~~, required to deposit into the county treasury all
38 money collected by him or her ~~or the district~~, to deposit that money
39 directly into the depository with whom the county treasurer has
40 entered into the contract. *The county treasurer may also authorize*

1 *any superior court officer to deposit money collected by the officer*
2 *that is payable to the county treasury into the depository. All*
3 *deposits made under authority granted by the treasurer pursuant*
4 *to this section shall be made in the form as required by the*
5 *treasurer, and receipts for those deposits shall be given in*
6 *accordance with Section 27009.*

7 SEC. 33. Section 29320 of the Government Code is amended
8 to read:

9 29320. As used in this article, “officer of the county” includes
10 any elective or appointive officer of a county, ~~superior court, or~~
11 ~~judicial district~~ and any person in charge of any office, department,
12 service, or institution of the county, or a division or branch thereof.

13 SEC. 34. Section 29370 of the Government Code is amended
14 to read:

15 29370. The board of supervisors may establish a county officers
16 cash difference fund for the use of any county officer or
17 administrative head of any county department ~~or judicial district~~
18 handling county funds by adopting a resolution setting forth the
19 amount of the fund. Certified copies of the resolution shall be
20 transmitted to the county auditor and to each county officer or
21 administrative head of a county department ~~or judicial district~~ who
22 has such fund.

23 SEC. 35. Section 29370.1 of the Government Code is amended
24 to read:

25 29370.1. (a) As an alternative to Section 29370, the board of
26 supervisors may, by resolution, authorize the county auditor to
27 perform the functions of the board in establishing, increasing,
28 reducing, or discontinuing any county officers cash difference
29 fund. ~~The~~

30 (b) The resolution adopted by the board of supervisors may set
31 the amount of the fund. If the board of supervisors adopts the
32 resolution, the county auditor shall do all of the following:

33 (a)
34 (1) Be subject to the same requirements and limitations
35 otherwise prescribed for the board of supervisors in this article.

36 (b)
37 (2) In lieu of acting by resolution, act by signed statement having
38 the same content otherwise prescribed in this article for resolutions.

39 (c)

1 (3) Render a written report to the board of ~~supervisors~~
2 *supervisors* at the end of each fiscal year identifying the cash
3 difference funds in existence during the fiscal year, the amount of
4 those funds, and the officer using the fund. The board of
5 supervisors may require the county auditor to give an account of
6 the cash difference fund at any other time.

7 ~~The~~

8 (c) *The* county auditor shall send a copy of his or her signed
9 statement to each county officer or administrative head of a county
10 department ~~or judicial district~~ who has the fund.

11 SEC. 36. Section 29371 of the Government Code is amended
12 to read:

13 29371. If the board elects to establish a cash difference fund,
14 it shall by the same resolution also establish an overage fund for
15 the use of each county officer or administrative head of a county
16 department ~~or judicial district~~ affected.

17 SEC. 37. Section 29372 of the Government Code is amended
18 to read:

19 29372. Upon the adoption of the resolution, the auditor shall
20 draw ~~his~~ *a* warrant in favor of the county officer or administrative
21 head of a county department ~~or judicial district~~ in the amount set
22 forth in the resolution, and the treasurer shall pay the warrant. The
23 county officer or administrative head of a county department ~~or~~
24 ~~judicial district~~ shall use this fund only for cash deficits pursuant
25 to this article.

26 SEC. 38. Section 29373 of the Government Code is amended
27 to read:

28 29373. Any person in any county office; ~~or department, or~~
29 ~~judicial district~~ in which a cash difference fund has been established
30 who receives and disburses money placed in ~~his~~ *the person's*
31 custody as directed by law or by official authority, shall render a
32 written report to the county officer or administrative head of a
33 county department ~~or judicial district~~ at the close of each business
34 day, setting forth the exact sum of any cash deficit or overage in
35 ~~his~~ *the person's* account for that day. Failure to report any cash
36 deficit or overage at the close of the business day in which it
37 occurred is a violation of this article.

38 SEC. 39. Section 29374 of the Government Code is amended
39 to read:

29374. If a cash deficit is reported to the county officer or administrative head of a county department ~~or judicial district~~, ~~he~~, *the county officer or administrative head* shall immediately reimburse the cash charged to the person in the amount of the cash deficit. The reimbursement shall not exceed the amount in the cash difference fund unless that fund is replenished by the board of supervisors, and in any event *is not to exceed the sum appropriated by the board.*

SEC. 40. Section 29375 of the Government Code is amended to read:

29375. If an overage is reported to the county officer or administrative head of a county department ~~or judicial district~~ involved, ~~he~~ *the county officer or administrative head* shall immediately deposit the overage in the overage fund in the county treasury.

SEC. 41. Section 29376 of the Government Code is amended to read:

29376. Each county officer or administrative head of a county department ~~or judicial district~~ having a cash difference fund shall upon demand of the auditor or the board of supervisors give an account of the cash difference fund.

SEC. 42. Section 29377 of the Government Code is amended to read:

29377. If the cash difference fund becomes exhausted, the county officer or administrative head of a county department ~~or judicial district~~ involved may make a written application to the board of supervisors to have it replenished. In ~~his~~ *the* application ~~he~~, *the county officer or administrative head* shall itemize each cash deficit as to amount, date of occurrence and the name of the person whose account was reimbursed from the fund.

SEC. 43. Section 29379 of the Government Code is amended to read:

29379. The board may at any time discontinue the cash difference fund. If the cash difference fund is discontinued, the county officer or administrative head of a county department ~~or judicial district~~ shall immediately give an account thereof and deposit any balance in that fund ~~in~~ *into* the county general fund.

SEC. 44. Section 29603 of the Government Code is amended to read:

1 29603. The sums required by law to be paid to the grand and
2 trial jurors and witnesses in criminal cases tried in a superior or
3 municipal court, *other than expert witnesses appointed by the court*
4 *for the court's needs pursuant to Section 730 of the Evidence Code,*
5 are county charges.

6 SEC. 45. Section 31116 of the Government Code is amended
7 to read:

8 31116. For the purpose of facilitating the recruitment of
9 professional and technically trained persons to fill positions for
10 which there is a shortage of qualified applicants, a county may
11 expend county funds to pay reasonable travel expenses of
12 applicants for county or judicial district employment in traveling,
13 from any point within the continental United States, to and from
14 the place or places at which the applicants are to be examined or
15 interviewed. Such payments shall be authorized only upon a
16 determination by the board of supervisors that the expenditure is
17 necessary to recruit qualified persons needed by the county or
18 judicial district.

19 SEC. 46. Section 68083 is added to the Government Code, to
20 read:

21 68083. Each salaried officer of a superior court shall charge,
22 collect, and promptly deposit the fees allowed in each case, as
23 provided by law. No salaried officer who collects fees shall be
24 required to accept coin in payment of those fees.

25 SEC. 47. Section 68083.5 is added to the Government Code,
26 to read:

27 68083.5. Each officer of a superior court authorized to collect
28 money shall pay into the county treasury all money collected by
29 that officer, or under the officer's control, that is payable into the
30 treasury in a timely manner, and shall remit fee, fine, and forfeiture
31 data within 35 days after the end of the month in which they are
32 collected to the county auditor and treasurer in the form they
33 require. No officer who collects money as described in this section
34 shall be required to accept payment in coin. If the county auditor
35 finds that an officer of the court has failed to comply with the
36 requirements for payment of moneys pursuant to this section or
37 Section 68101, which directly results in the assessment of a
38 financial penalty pursuant to Section 68085, the superior court that
39 failed to comply shall reimburse the county general fund in an
40 amount equal to the actual penalty. With the approval of the

1 treasurer as provided in Section 27080.1, each depositing officer
2 may deposit directly into the treasurer's active account all money
3 payable into the county treasury. On and after January 1, 2006,
4 this section does not apply to money collected under Chapter 5.8
5 (commencing with Section 70600) of Title 8 or fees and fines to
6 which Section 68085.1 applies.

7 SEC. 48. Section 68098 of the Government Code is amended
8 to read:

9 68098. Witness' fees in criminal cases in superior~~and~~
10 ~~municipal~~ courts, *other than fees for expert witnesses appointed*
11 *by the court for the court's needs pursuant to Section 730 of the*
12 *Evidence Code*, are charges against the same funds as *grand jurors'*
13 *fees in such criminal cases.*

14 SEC. 49. Section 1305.5 is added to the Penal Code, to read:

15 1305.5. Notwithstanding Sections 85, 580, 904.1, and 904.2
16 of the Code of Civil Procedure, the following rules apply to an
17 appeal from an order of the superior court on a motion to vacate
18 a bail forfeiture declared under Section 1305:

19 (a) If the amount in controversy exceeds twenty-five thousand
20 dollars (\$25,000), the appeal is to the court of appeal and shall be
21 treated as an unlimited civil case.

22 (b) Except as provided in subdivision (c), if the amount in
23 controversy does not exceed twenty-five thousand dollars
24 (\$25,000), the appeal is to the appellate division of the superior
25 court and shall be treated as a limited civil case.

26 (c) If the bail forfeiture was in a felony case, or in a case in
27 which both a felony and a misdemeanor were charged, and the
28 forfeiture occurred at or after the sentencing hearing or after the
29 indictment or the legal commitment by a magistrate, the appeal is
30 to the court of appeal and shall be treated as an unlimited civil
31 case.

32 SEC. 50. Section 1306 of the Penal Code is amended to read:

33 1306. (a) When any bond is forfeited and the period of time
34 specified in Section 1305 has elapsed without the forfeiture having
35 been set aside, the court which has declared the forfeiture;
36 ~~regardless of the amount of the bail~~, shall enter a summary
37 judgment against each bondsman named in the bond in the amount
38 for which the bondsman is bound. The judgment shall be the
39 amount of the bond plus costs, and notwithstanding any other law,
40 no penalty assessments shall be levied or added to the judgment.

(b) If a court grants relief from bail forfeiture, it shall impose a monetary payment as a condition of relief to compensate the people for the costs of returning a defendant to custody pursuant to Section 1305, except for cases where the court determines that in the best interest of justice no costs should be imposed. The amount imposed shall reflect the actual costs of returning the defendant to custody. Failure to act within the required time to make the payment imposed pursuant to this subdivision shall not be the basis for a summary judgment against any or all of the underlying amount of the bail. A summary judgment entered for failure to make the payment imposed under this subdivision is subject to the provisions of Section 1308, and shall apply only to the amount of the costs owing at the time the summary judgment is entered, plus administrative costs and ~~interests~~ interest.

(c) If, because of the failure of any court to promptly perform the duties enjoined upon it pursuant to this section, summary judgment is not entered within 90 days after the date upon which it may first be entered, the right to do so expires and the bail is exonerated.

(d) A dismissal of the complaint, indictment, or information after the default of the defendant shall not release or affect the obligation of the bail bond or undertaking.

(e) The district attorney or county counsel shall:

(1) Demand immediate payment of the judgment within 30 days after the summary judgment becomes final.

(2) If the judgment remains unpaid for a period of 20 days after demand has been made, shall forthwith enforce the judgment in the manner provided for enforcement of money judgments generally. If the judgment is appealed by the surety or bondsman, the undertaking required to be given in these cases shall be provided by a surety other than the one filing the appeal. The undertaking shall comply with the enforcement requirements of Section 917.1 of the Code of Civil Procedure. *Notwithstanding Sections 85, 580, 904.1, and 904.2 of the Code of Civil Procedure, jurisdiction of the appeal, and treatment of the appeal as a limited civil case or an unlimited civil case, is governed by Section 1305.5.*

- 1 (f) The right to enforce a summary judgment entered against a
- 2 bondsman pursuant to this section shall expire two years after the
- 3 entry of the judgment.

O