

AMENDED IN ASSEMBLY SEPTEMBER 1, 2011

AMENDED IN ASSEMBLY AUGUST 22, 2011

AMENDED IN SENATE MAY 10, 2011

AMENDED IN SENATE APRIL 25, 2011

SENATE BILL

No. 326

Introduced by Senator Yee
(Coauthor: Assembly Member Dickinson)

February 14, 2011

An act to add Chapter 1.45 (commencing with Section 68180) to Title 8 of the Government Code, relating to courts.

LEGISLATIVE COUNSEL'S DIGEST

SB 326, as amended, Yee. Court records: public access.

Existing law requires the Judicial Council to adopt rules of court to establish the standards and guidelines for the creation, maintenance, reproduction, and preservation of court records, and requires that these standards and guidelines reflect industry standards for each medium used, ensure the accuracy and preserve the integrity of the records, and ensure that the public can access and reproduce the records. Specifically, unless access is otherwise restricted by law, court records created, maintained, preserved, or reproduced under specified provisions are required to be made reasonably accessible to all members of the public for viewing and duplication, and electronic court records must be viewable at the court, whether or not they are accessible remotely. Additionally, rules of court require courts to provide public access to electronic records, as specified.

This bill would require the Judicial Council, in consultation with stakeholder groups, and within 18 months of the date of enactment of

this act, to adopt a rule of court to require courts to provide the public with same-day access to case-initiating civil and criminal court records, as defined, *at no cost to the requester*, for viewing at the courthouse. ~~The bill would require the rule to allow a court to charge a nominal fee for providing a copy of these records.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Timely public access to court records and documents as
4 public documents is an important right and necessity for an
5 informed citizenry.

6 (b) The use of new electronic technologies for filing court
7 actions and modernizing access to court records can, while intended
8 to streamline and improve court functions and public access to
9 court records, actually result in delays in access to court documents.

10 (c) Delays in public access to court documents and filings should
11 be minimized, therefore ensuring free flow of public information
12 in a timely and cost-effective manner.

13 (d) Delays in public access to case-initiating documents have a
14 special significance because those documents are the means by
15 which the public becomes aware that the powers of the judiciary
16 have been invoked with respect to a particular controversy or crime.
17 However, the use of electronic technologies for filing court actions
18 and modernizing access to court records have in many instances
19 had the unintended consequence of increasing delays in access to
20 those case-initiating court records.

21 (e) It is the intent of the Legislature to ensure, as California's
22 courts move forward to implement various electronic filing and
23 other technologies, that case-initiating documents, as well as other
24 court filings and documents, continue to be available to the public
25 on a timely basis.

26 SEC. 2. Chapter 1.45 (commencing with Section 68180) is
27 added to Title 8 of the Government Code, to read:

CHAPTER 1.45. ACCESS TO CASE-INITIATING TRIAL COURT
RECORDS

68180. The following definitions apply to this chapter:

(a) (1) “Case-initiating civil and criminal court records” means all of the following:

(A) Any complaint or petition in an unlimited civil case, as defined in Section 88 of the Code of Civil Procedure.

(B) Any writ petition, as provided for in Title 1 (commencing with Section 1067) of Part 3 of the Code of Civil Procedure.

(C) Any indictment, information, or complaint in felony and misdemeanor criminal actions.

(2) “Case-initiating civil and criminal court records” includes both electronic and nonelectronic records.

(3) For the purposes of this chapter, “case-initiating civil and criminal court records” does not include records that are sealed or proposed to be sealed by court order and are confidential in accordance with Rules 2.550 and 2.551 of the California Rules of Court, or that are otherwise made confidential by law, including, but not limited to, juvenile court records made confidential by Section 827 of the Welfare and Institutions Code, Child Support Case Registry Forms, as developed by the Judicial Council pursuant to Section 4014 of the Family Code, adoption records made confidential by Section 9200 of the Family Code, pleadings in child custody proceedings containing information made confidential by Section 3429 of the Family Code, determination of parentage records made confidential by Section 7643 of the Family Code, child and spousal support enforcement program records made confidential by Section 17212 of the Family Code, or any other case-initiating document that is confidential by law.

(b) “Public” means an individual, a group, or an entity, including, but not limited to, the print or electronic media, or the representative of an individual, group, or entity.

68181. (a) The Judicial Council, in consultation with stakeholder groups, shall adopt, within 18 months of the date of enactment of the act adding this section, a rule or rules of court to require courts to provide the public with same-day access to case-initiating civil and criminal court records, *at no cost to the requester*, for viewing at the courthouse. To the extent possible and practicable, the rule or rules shall provide for same-day access

1 to those records that are received by the court within 30 minutes
2 of the court closing for that day. However, in no case shall these
3 records be made available later than 60 minutes after the court
4 opens the next court day.

5 ~~(b) The rule or rules shall allow a court to charge a nominal fee~~
6 ~~for providing a copy of these records, if a copy is requested at the~~
7 ~~courthouse.~~

8 (c)

9 (b) The Legislature specifically recognizes the importance of
10 timely access not just to case-initiating civil and criminal court
11 records, but to all court records and documents. Nothing in this
12 statute or in the rule or rules of court to be adopted pursuant to this
13 statute may be construed to limit or otherwise negatively affect
14 the public's right of timely access to court records as a general
15 matter.