

**Senate Bill No. 1489**

**CHAPTER 283**

An act to amend Section 68151 of the Government Code, and to amend Section 1417.1 of the Penal Code, relating to courts.

[Approved by Governor September 7, 2012. Filed with Secretary of State September 7, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1489, Harman. Courts: management and destruction of trial court exhibits.

Existing law provides that, for purposes of specified provisions governing the management of trial court records, a "court record" consists of, among other things, administrative records filed in an action or proceeding, depositions, paper exhibits, transcripts, and recordings of electronically recorded proceedings, as specified.

This bill would delete paper exhibits from the definition of "court record" for these purposes.

Existing law authorizes the clerk of the court to distribute or dispose of exhibits that have been introduced or filed in any criminal action or proceeding after the final determination of the action or proceeding, as specified. In cases where the death penalty is imposed, existing law prohibits a court from ordering the destruction of an exhibit until 30 days after the date of execution of sentence.

This bill would permit a court to order the destruction of exhibits, in cases where the death penalty is imposed, 30 days after the execution of sentence or, when the defendant dies while awaiting execution, one year after the date of the defendant's death.

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

SECTION 1. Section 68151 of the Government Code is amended to read:

68151. The following definitions apply to this chapter:

(a) "Court record" shall consist of the following:

(1) All filed papers and documents in the case folder, but if no case folder is created by the court, all filed papers and documents that would have been in the case folder if one had been created.

(2) Administrative records filed in an action or proceeding, depositions, transcripts, including preliminary hearing transcripts, and recordings of electronically recorded proceedings filed, lodged, or maintained in

connection with the case, unless disposed of earlier in the case pursuant to law.

(3) Other records listed under subdivision (j) of Section 68152.

(b) “Notice of destruction and no transfer” means that the clerk of the court has given notice of destruction of the superior court records open to public inspection, and that there is no request and order for transfer of the records as provided in the California Rules of Court.

(c) “Final disposition of the case” means that an acquittal, dismissal, or order of judgment has been entered in the case or proceeding, the judgment has become final, and no postjudgment motions or appeals are pending in the case or for the reviewing court upon the mailing of notice of the issuance of the remittitur.

In a criminal prosecution, the order of judgment shall mean imposition of sentence, entry of an appealable order (including, but not limited to, an order granting probation, commitment of a defendant for insanity, or commitment of a defendant as a narcotics addict appealable under Section 1237 of the Penal Code), or forfeiture of bail without issuance of a bench warrant or calendaring of other proceedings.

(d) “Retain permanently” means that the court records shall be maintained permanently according to the standards or guidelines established pursuant to subdivision (c) of Section 68150.

SEC. 2. Section 1417.1 of the Penal Code is amended to read:

1417.1. No order shall be made for the destruction of an exhibit prior to the final determination of the action or proceeding. For the purposes of this chapter, the date when a criminal action or proceeding becomes final is as follows:

(a) When no notice of appeal is filed, 30 days after the last day for filing that notice.

(b) When a notice of appeal is filed, 30 days after the date the clerk of the court receives the remittitur affirming the judgment.

(c) When an order for a rehearing, a new trial, or other proceeding is granted and the ordered proceedings have not been commenced within one year thereafter, one year after the date of that order.

(d) (1) In cases where the death penalty is imposed, 30 days after the date of execution of sentence.

(2) In cases where the death penalty is imposed and the defendant dies while awaiting execution, one year after the date of the defendant’s death.