

AMENDED IN SENATE MAY 6, 2013

AMENDED IN ASSEMBLY APRIL 3, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1167

Introduced by Assembly Member Dickinson

February 22, 2013

An act to amend Section 687.010 of the Code of Civil Procedure *and to amend Sections 68150 and 68151 of the Government Code*, relating to ~~civil procedure~~ *court records*.

LEGISLATIVE COUNSEL'S DIGEST

AB 1167, as amended, Dickinson. ~~Civil procedure: levies~~ *Court records: electronic forms*.

Existing law governs the procedure for levying an execution lien upon real or personal property. Existing law requires the judgment creditor to give the levying officer written instructions containing the information needed or requested by the levying officer to serve the writ, order, notice, or other paper on a person.

This bill would require instructions given to a levying officer to include specified information if the instructions are accompanied by a specified writ of execution issued by the court as an electronic record or document printed from an electronic record issued by the court. Except as specified, the bill would authorize the levying officer to proceed in the same manner as if in possession of a paper version of the *original* writ.

Existing law authorizes courts to create and maintain court records in electronic forms and authorizes the signing and verification of specified trial court documents using a computer or other technology.

Existing law also defines the term “court record” for purposes of the management of trial court records.

This bill would additionally include a writ, subpoena, or other legal process as a trial court document that may be signed and verified using a computer or other technology. The bill would make a conforming change to the definition of the term “court record.”

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 687.010 of the Code of Civil Procedure
- 2 is amended to read:
- 3 687.010. (a) The judgment creditor shall give the levying
- 4 officer instructions in writing. The instructions shall be signed by
- 5 the judgment creditor’s attorney of record or, if the judgment
- 6 creditor does not have an attorney of record, by the judgment
- 7 creditor. The instructions shall contain the information needed or
- 8 requested by the levying officer to comply with this title, including,
- 9 but not limited to, all of the following:
- 10 (1) An adequate description of any property to be levied upon.
- 11 (2) A statement whether the property is a dwelling.
- 12 (3) If the property is a dwelling, whether it is real or personal
- 13 property.
- 14 (4) The name of the judgment debtor. If the judgment debtor is
- 15 other than a natural person, the type of legal entity shall be stated.
- 16 (b) Subject to subdivision (c), the levying officer shall act in
- 17 accordance with the written instructions to the extent the actions
- 18 are taken in conformance with the provisions of this title.
- 19 (c) Except to the extent the levying officer has actual knowledge
- 20 that the information is incorrect, the levying officer may rely on
- 21 any information contained in the written instructions.
- 22 (d) The levying officer instructions may be transmitted
- 23 electronically to the levying officer pursuant to Chapter 2
- 24 (commencing with Section 263) of Title 4 of Part 1.
- 25 (e) If the instructions directing the levying officer to perform a
- 26 levy are accompanied by a writ of execution for money, possession
- 27 ~~of personal or real property~~, or sale of personal or real property
- 28 issued by the court as an electronic record, as defined in subdivision
- 29 (b) of Section 263.1, or a document printed from an electronic

1 record issued by the court, the instructions shall also include all
2 of the following information, as stated in the ~~electronic writ or~~
3 ~~document printed from an electronic record issued by the court:~~

4 (1) The date of issuance of the writ.

5 (2) The name of the debtor or debtors whose property is subject
6 ~~to levy under the writ~~ *each judgment creditor and judgment debtor.*

7 (3) The amount ~~to be secured by the execution and the amount~~
8 ~~required to satisfy the money judgment on the date the writ is~~
9 ~~issued or a description of the property to be delivered pursuant to~~
10 ~~the judgment for possession to the judgment creditor in satisfaction~~
11 ~~of the judgment~~ *of the total judgment for money, a description of*
12 *the property subject to a judgment for possession or sale, or both*
13 *the amount and the description.*

14 (4) A statement indicating that the accompanying writ is either
15 of the following:

16 (A) An original writ not already in the possession of the levying
17 officer.

18 (B) A copy of the original writ already in possession of the
19 levying officer.

20 (f) Except to the extent the levying officer has actual knowledge
21 that the information in the electronic writ has been altered, the
22 levying officer may proceed in the same manner as if in possession
23 of a paper version of the *original* writ.

24 *SEC. 2. Section 68150 of the Government Code is amended to*
25 *read:*

26 68150. (a) Trial court records may be created, maintained, and
27 preserved in any form or forms of communication or representation,
28 including paper, optical, electronic, magnetic, micrographic, or
29 photographic media or other technology, if the form or forms of
30 representation or communication satisfy the rules adopted by the
31 Judicial Council pursuant to subdivision (c), once those rules have
32 been adopted. Until those rules are adopted, the court may continue
33 to create, maintain, and preserve records according to the minimum
34 standards or guidelines for the preservation and reproduction of
35 the medium adopted by the American National Standards Institute
36 or the Association for Information and Image Management.

37 (b) This section shall not apply to court reporters' transcripts
38 or to specifications for electronic recordings made as the official
39 record of oral proceedings. These records shall be governed by
40 the California Rules of Court.

1 (c) The Judicial Council shall adopt rules to establish the
2 standards or guidelines for the creation, maintenance, reproduction,
3 or preservation of court records, including records that must be
4 preserved permanently. The standards or guidelines shall reflect
5 industry standards for each medium used, if those standards exist.
6 The standards or guidelines shall ensure that court records are
7 created and maintained in a manner that ensures accuracy and
8 preserves the integrity of the records throughout their maintenance.
9 They shall also ensure that the records are stored and preserved in
10 a manner that will protect them against loss and ensure preservation
11 for the required period of time. Standards and guidelines for the
12 electronic creation, maintenance, and preservation of court records
13 shall ensure that the public can access and reproduce records with
14 at least the same amount of convenience as paper records
15 previously provided.

16 (d) No additions, deletions, or changes shall be made to the
17 content of court records, except as authorized by statute or the
18 California Rules of Court.

19 (e) Court records shall be indexed for convenient access.

20 (f) A copy of a court record created, maintained, preserved, or
21 reproduced according to subdivisions (a) and (c) shall be deemed
22 an original court record and may be certified as a correct copy of
23 the original record.

24 (g) Any notice, order, judgment, decree, decision, ruling,
25 opinion, memorandum, warrant, certificate of service, *writ*,
26 *subpoena*, or *other legal process* or similar document issued by a
27 trial court or by a judicial officer of a trial court may be signed,
28 subscribed, or verified using a computer or other technology in
29 accordance with procedures, standards, and guidelines established
30 by the Judicial Council pursuant to this section. Notwithstanding
31 any other provision of law, all notices, orders, judgments, decrees,
32 decisions, rulings, opinions, memoranda, warrants, certificates of
33 service, *writs*, *subpoenas*, or *other legal process* or similar
34 documents that are signed, subscribed, or verified by computer or
35 other technological means pursuant to this subdivision shall have
36 the same validity, and the same legal force and effect, as paper
37 documents signed, subscribed, or verified by a trial court or a
38 judicial officer of the court.

39 (h) A court record created, maintained, preserved, or reproduced
40 in accordance with subdivisions (a) and (c) shall be stored in a

1 manner and in a place that reasonably ensures its preservation
2 against loss, theft, defacement, or destruction for the prescribed
3 retention period under Section 68152.

4 (i) A court record that was created, maintained, preserved, or
5 reproduced in accordance with subdivisions (a) and (c) may be
6 disposed of in accordance with the procedure under Section 68153,
7 unless it is either of the following:

8 (1) A comprehensive historical and sample superior court record
9 preserved for research under the California Rules of Court.

10 (2) A court record that is required to be preserved permanently.

11 (j) Instructions for access to data stored on a medium other than
12 paper shall be documented.

13 (k) Each court shall conduct a periodic review of the media in
14 which the court records are stored to ensure that the storage
15 medium is not obsolete and that current technology is capable of
16 accessing and reproducing the records. The court shall reproduce
17 records before the expiration of their estimated lifespan for the
18 medium in which they are stored according to the standards or
19 guidelines established by the Judicial Council.

20 (l) Unless access is otherwise restricted by law, court records
21 created, maintained, preserved, or reproduced under subdivisions
22 (a) and (c) shall be made reasonably accessible to all members of
23 the public for viewing and duplication as the paper records would
24 have been accessible. Unless access is otherwise restricted by law,
25 court records maintained in electronic form shall be viewable at
26 the court, regardless of whether they are also accessible remotely.
27 Reasonable provision shall be made for duplicating the records at
28 cost. Cost shall consist of all costs associated with duplicating the
29 records as determined by the court.

30 *SEC. 3. Section 68151 of the Government Code is amended to*
31 *read:*

32 68151. The following definitions apply to this chapter:

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

34 (1) All filed papers and documents in the case folder, *including,*
35 *but not limited to a writ, subpoena, or other legal process,* but if
36 no case folder is created by the court, all filed papers and
37 documents that would have been in the case folder if one had been
38 created.

39 (2) Administrative records filed in an action or proceeding,
40 depositions, transcripts, including preliminary hearing transcripts,

1 and recordings of electronically recorded proceedings filed, lodged,
2 or maintained in connection with the case, unless disposed of
3 earlier in the case pursuant to law.

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

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

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

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

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