

AMENDED IN ASSEMBLY MAY 13, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1028**

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**Introduced by Assembly Member Bonta**

February 26, 2015

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An act to amend Section 2093 of the Code of Civil Procedure, and to amend Section 1225 of the Government Code, relating to judicial officers.

LEGISLATIVE COUNSEL'S DIGEST

AB 1028, as amended, Bonta. Judicial officers: oaths and affirmations.

Under existing law, a judicial officer, among others, may administer oaths or affirmations. Existing law also authorizes a former judge or justice of a court of record in this state who retired or resigned from office, other than a judge or justice who was retired by the Supreme Court for disability, to administer oaths ~~and or~~ affirmations, ~~as specified if certified by the Commission on Judicial Performance.~~

This bill would ~~remove the provision preventing~~ *permit* a former judge or justice who ~~was~~ *is* retired by the Supreme Court for disability ~~from administering to administer~~ oaths and ~~affirmations.~~ *affirmations, if certified by the Commission on Judicial Performance. This bill would require all former judges and justices to submit a medical certification in conjunction with their application for certification to administer oaths and affirmations, and it would require the commission to issue a certification to administer oaths and affirmations, valid for five years from the date of issuance, to the applicant if his or her medical certification indicated that he or she did not have a medical condition that would impair his or her ability to administer oaths and affirmations.*

*If the applicant’s medical certification indicated that he or she had a medical condition that could impair his or her ability to administer oaths and affirmations, but did not do so at the time of the medical certification’s submission, the bill would require the commission to issue a certification to administer oaths and affirmations valid for only two years. This bill would also permit former judges and justices certified before January 1, 2016 to continue to administer oaths and affirmations until January 1, 2017, before needing to reapply for certification pursuant to these provisions.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.

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

1 SECTION 1. Section 2093 of the Code of Civil Procedure is  
2 amended to read:  
3 2093. (a) A court, judge or clerk of any court, justice, notary  
4 public, and officer or person authorized to take testimony in any  
5 action or proceeding, or to decide upon evidence, has the power  
6 to administer oaths ~~or~~ and affirmations.  
7 (b) (1) A shorthand reporter certified pursuant to Article 3  
8 (commencing with Section 8020) of Chapter 13 of Division 3 of  
9 the Business and Professions Code has the power to administer  
10 oaths ~~or~~ and affirmations and may perform the duties of the  
11 deposition officer pursuant to Chapter 9 (commencing with Section  
12 2025.010) of Title 4. The certified shorthand reporter shall be  
13 entitled to receive fees for services rendered during a deposition,  
14 including fees for deposition services, as specified in subdivision  
15 (c) of Section 8211 of the Government Code.  
16 (2) This subdivision shall also apply to depositions taken by  
17 telephone or other remote electronic means as specified in Chapter  
18 2 (commencing with Section 2017.010) and Chapter 9  
19 (commencing with Section 2025.010) of Title 4.  
20 (c) (1) A former judge or justice of a court of record in this  
21 state who retired or resigned from office shall have the power to  
22 administer oaths ~~or~~ and affirmations, if ~~the~~ *both of the following*  
23 *conditions are met:*  
24 (A) *The* former judge or justice requests and receives a  
25 certification from the Commission on Judicial Performance ~~that~~

1 ~~there was no formal disciplinary proceeding pending at the time~~  
2 ~~of retirement or resignation. pursuant to paragraph (2).~~

3 ~~(2)~~

4 ~~(B) If a~~ A formal disciplinary proceeding was not pending at  
5 the time of *the* retirement or resignation, ~~the Commission on~~  
6 ~~Judicial Performance shall issue the certification.~~

7 (2) (A) A former judge or justice of a court of record in this  
8 state who retired or resigned from office may apply to the  
9 commission to receive a certification to administer oaths and  
10 affirmations. The commission shall supply the required forms to  
11 an applicant upon request.

12 (B) (i) A certification application shall be accompanied by a  
13 medical certification. If an applicant's medical certification  
14 indicates that the applicant does not have a medical condition that  
15 would impair his or her ability to administer oaths and  
16 affirmations, the commission shall issue a certification to the  
17 applicant to administer oaths and affirmations. Except as provided  
18 in clause (ii), a certification issued pursuant to this paragraph  
19 shall be valid for a period of five years from the date of issuance.

20 (ii) If an applicant's medical certification indicates that the  
21 applicant has a medical condition that may impair his or her ability  
22 to administer oaths and affirmations, but does not do so at the  
23 time the medical certification is submitted with the application,  
24 the commission shall issue a certification to administer oaths and  
25 affirmations, but the certification shall only be valid for a period  
26 of two years from the date of issuance.

27 (3) Notwithstanding paragraph (1), a former judge or justice  
28 of a court of record who received a certification from the  
29 commission before January 1, 2016, to administer oaths and  
30 affirmations may continue to exercise this power until January 1,  
31 2017, at which time he or she shall reapply for certification  
32 pursuant to paragraph (2).

33 (4) The commission may charge a regulatory fee not to exceed  
34 fifteen dollars (\$15) for each certification application submitted  
35 pursuant to this subdivision to cover its costs, including costs to  
36 review the medical certification.

37 ~~(3)~~

38 (d) A rule, or regulation regarding the confidentiality of  
39 proceedings of the ~~Commission on Judicial Performance~~  
40 ~~commission~~ shall not be construed to prohibit the ~~Commission on~~

1 ~~Judicial Performance~~ *commission* from issuing a certificate as  
2 provided for in this section.

3 SEC. 2. Section 1225 of the Government Code is amended to  
4 read:

5 1225. (a) An executive officer, a judicial officer, and a Member  
6 of the Legislature may administer and certify oaths.

7 (b) (1) A former judge of a court of record in this state who  
8 retired or resigned from office shall be deemed a judicial officer  
9 for purposes of this section, if ~~the former judge requests and~~  
10 ~~receives a certification from the Commission on Judicial~~  
11 ~~Performance that there was no formal disciplinary proceeding~~  
12 ~~pending at the time of retirement or resignation. he or she satisfies~~  
13 ~~the conditions set forth in subdivision (c) of Section 2093 of the~~  
14 ~~Code of Civil Procedure.~~

15 (2) ~~If a formal disciplinary proceeding was not pending at the~~  
16 ~~time of retirement or resignation, the Commission on Judicial~~  
17 ~~Performance shall issue the certification.~~

18 (c) A law, rule, or regulation regarding the confidentiality of  
19 proceedings of the Commission on Judicial Performance shall not  
20 be construed to prohibit the ~~Commission on Judicial Performance~~  
21 ~~commission~~ from issuing a certificate as provided for in this  
22 section.