

**Assembly Bill No. 848**

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Passed the Assembly    September 15, 1995

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*Chief Clerk of the Assembly*

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Passed the Senate    September 15, 1995

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_ day  
of \_\_\_\_\_, 1995, at \_\_\_\_ o'clock \_\_M.

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*Private Secretary of the Governor*



## CHAPTER \_\_\_\_

An act to amend Sections 68085, 68112, and 77203.5 of, and to add Section 68112.5 to, the Government Code, and to amend Sections 1034 and 1035 of the Penal Code, relating to courts.

## LEGISLATIVE COUNSEL'S DIGEST

AB 848, Isenberg. Courts: trial court coordination plan and funding.

(1) Existing law requires the proceeds of the Trial Court Trust Fund to be apportioned quarterly by the Controller on or before the 25th day of the month following the end of that quarter, upon appropriation by the Legislature, for the purpose of funding trial court operations, as defined. Existing law provides for the allocation of funds accrued in the trust fund during the 1993–94 fiscal year.

This bill would delete the latter provision and require the fourth quarterly payment from funds accrued in the Trial Court Trust Fund during the 1994–95 fiscal year to be made on August 31, 1995.

(2) Existing law required the adoption by superior, municipal, and justice courts and the approval by the Judicial Council of a trial court coordination plan on or before March 1, 1992. Existing law requires each trial court to submit an updated coordination plan to the Judicial Council on or before March 1, 1995, and every other year thereafter.

This bill would revise the requirements for the adoption of trial court coordination plans.

(3) Existing law provides for subordinate judicial officers who are authorized to perform specified functions for the trial courts.

This bill would provide that in a county in which the approved trial court coordination plan so provides, subordinate judicial officers may be cross-assigned between trial courts within the same county, as specified.



(4) Existing law requires each county to deposit all funds appropriated in the Budget Act and allocated and reallocated by the Trial Court Budget Commission into the Trial Court Operations Fund, which is a local special revenue fund. Existing law requires the moneys of this fund to be payable only for prescribed purposes and provides that the presiding judge or his or her designee, in consultation with the county executive/administrator, shall authorize the expenditures from this fund, consistent with the trial court's budget, as recommended by the Trial Court Budget Commission and approved by the Judicial Council.

This bill would revise and recast these provisions to, among other things, authorize each board of supervisors to direct that additional financial resources be deposited into the fund to finance specified expenditures or for any other court-related expenditure approved by the board of supervisors and specify that in no event shall interest be charged to the fund.

(5) Existing law provides for a change of venue in the trial of misdemeanor actions.

This bill would add provisions for transfer of a misdemeanor criminal action to another judicial district within the same county where an action filed first in time is pending against the defendant, or if all the courts within the judicial district are unavailable, as specified.

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

SECTION 1. Section 68085 of the Government Code is amended to read:

68085. (a) (1) There is hereby established the Trial Court Trust Fund, the proceeds of which shall be apportioned quarterly by the Controller on or before the 25th day of the month following the end of that quarter, upon appropriation by the Legislature, for the purpose of funding trial court operations, as defined in Section 77003.

(2) The quarterly apportionment payments shall be made by the Controller, except that the quarterly apportionment shall be withheld from any county that is



delinquent in making the full transfer of funds pursuant to this section.

(b) Notwithstanding any other provision of law, the fees listed in subdivision (c) shall all be deposited upon collection in a special account in the county treasury, and transmitted therefrom monthly to the Controller for deposit in the Trial Court Trust Fund.

(c) Except as specified in subdivision (d), this section applies to all fees collected pursuant to Sections 26820.4, 26826, 26827, 68086, 72055, and 72056.

(d) This section does not apply to that portion of a filing fee collected pursuant to Section 26820.4, 26826, 26827, 72055, or 72056 which is allocated for dispute resolution pursuant to Section 470.3 of the Business and Professions Code, the county law library pursuant to Section 6320 of the Business and Professions Code, the Judges' Retirement Fund pursuant to Section 26822.3, automated recordkeeping or conversion to micrographics pursuant to Sections 26863 and 68090.7, and courthouse financing pursuant to Section 76238.

(e) Notwithstanding any other provision of law, no agency shall take action to change the amounts allocated to any of the above funds.

(f) Before making any apportionments under this section, the Controller shall deduct, from the annual appropriation for that purpose, the actual administrative costs that will be incurred under this section. Costs reimbursed under this section shall be determined on an annual basis in consultation with the Judicial Council.

(g) Any amounts required to be transmitted by a county to the state pursuant to this section shall be remitted to the Controller no later than 45 days after the end of the month in which the fees were collected. This remittance shall be accompanied by a remittance advice identifying the collection month and the appropriate account in the Trial Court Trust Fund to which it is to be deposited. Any remittance which is not made by the county in accordance with this section shall be considered delinquent, and subject to the penalties pursuant to this section.



(h) Upon receipt of any delinquent payment, the Controller shall make the quarterly apportionment on or before the 25th day of the month following the month in which the delinquent payment was received from the county. The Controller shall calculate a penalty on any delinquent payment and that amount shall be deducted from the next quarterly apportionment. The penalty shall be calculated by multiplying the amount of the delinquent payment by the Pooled Money Investment Account rate at the end of the prior fiscal year.

(i) Penalty amounts withheld under subdivision (h) shall be reserved in the Trial Court Trust Fund. The Judicial Council shall allocate these moneys based upon the recommendations of the Trial Court Budget Commission.

(j) The Trial Court Trust Fund shall be invested in the Surplus Money Investment Fund and all interest earned shall be allocated to the Trial Court Trust Fund semiannually and shall be allocated among the counties in accordance with the requirements of subdivision (a). The specific allocations shall be specified by the Judicial Council, based upon recommendations from the Trial Court Budget Commission.

(k) The fourth quarterly payment from funds accrued in the Trial Court Trust Fund during the 1994–95 fiscal year shall be made on August 31, 1995.

SEC. 2. Section 68112 of the Government Code is amended to read:

68112. (a) On or before March 1, 1992, each superior, municipal, and justice court in each county, in consultation with the local bar, shall prepare and submit to the Judicial Council for review and approval a trial court coordination plan designed to achieve maximum utilization of judicial and other court resources and statewide cost reductions in court operations of at least 3 percent in the 1992–93 fiscal year, a further 2 percent in the 1993–94 fiscal year, and a further 2 percent in the 1994–95 fiscal year, as applicable. The cost reduction shall be based on the prior year actual expenditures, plus any amount reduced from the budget for court operations by



a county as a result of any reduction in state funding made pursuant to Section 13308, increased by the percentage change in population for the prior calendar year and the Department of Commerce implicit price deflator for state and local government for the prior calendar year. The coordination plan for each court shall be reviewed and approved by the Judicial Council on or before July 1, 1992. Thereafter, commencing in 1995 and every two years thereafter, courts in each county shall prepare, in consultation with the local bar, and submit a trial court coordination plan to the Judicial Council on or before March 1, for review and approval by July 1. The plans shall comply with rules promulgated by the Judicial Council and shall be designed to achieve maximum utilization of judicial and other resources to accomplish increased efficiency in court operations and increased service to the public. Any plan disapproved by the Judicial Council shall be revised and resubmitted within 60 days of notification of disapproval. The Judicial Council may by rule exempt courts from the requirement of filing a new coordination plan for any year if all courts in the county have (1) totally consolidated administrative functions under a single administrative entity, and (2) adopted and implemented a coordination plan in which all courts share each other's work so that cases in all of the county's courts are substantially assigned without regard to whether a judge is on the superior court or the municipal court, and which provides for procedures that implement that sharing of work.

(b) The coordination plan shall take into consideration the elements specified in standards and rules adopted by the Judicial Council and applicable case processing time standards adopted by the Judicial Council. The standards adopted by the Judicial Council shall include, but not be limited to, the following:

(1) The use of blanket cross-assignments allowing judges to hear civil, criminal, or other types of cases within the jurisdiction of another court.

(2) The coordinated or joint use of subordinate judicial officers to hear or try matters.



(3) The coordinated, joint use, sharing or merger of court support staff among trial courts within a county or across counties. In a county with a population of less than 100,000 the coordination plan need not involve merger of superior and justice court staffs if the court can reasonably demonstrate that the maintenance of separate administrative staffs would be more cost-effective and provide better service.

(4) The assignment of civil, criminal, or other types of cases for hearing or trial, regardless of jurisdictional boundaries, to any available judicial officer.

(5) The assignment of any type of case to a judge for all purposes commencing with the filing of the case and regardless of jurisdictional boundaries.

(6) The establishment of separate calendars or divisions to hear a particular type of case.

(7) In rural counties, the use of all court facilities for hearings and trials of all types of cases and to accept for filing documents in any case before any court in the county participating in the coordination plan.

(8) The coordinated or joint use of alternative dispute resolution programs such as arbitration.

(9) The unification of the trial courts within a county to the maximum extent permitted by the Constitution.

(10) The joint development of automated accounting and case-processing systems, including joint use of moneys available under Section 68090.8.

(c) In preparing coordination plans a court or courts in a county may petition the Judicial Council to permit division of the court or courts into smaller administrative units where a courtwide plan would impose an undue burden because of the number of judges or the physical location of the divisions of the court or courts.

(d) In preparing coordination plans, the courts are strongly encouraged to develop a plan that includes all superior, municipal, and justice courts in the county.

SEC. 3. Section 68112.5 is added to the Government Code, to read:

68112.5. Notwithstanding any other provision of law, in those counties with approved coordination plans



pursuant to Section 68112 that so provide, the subordinate judicial officers of a trial court, by agreement between trial courts within the same county, may be cross-assigned to any other trial court within the same county and, when so assigned, shall exercise all of the powers and perform all of the duties authorized by law to be performed by any subordinate judicial officer of that court.

SEC. 4. Section 77203.5 of the Government Code is amended to read:

77203.5. (a) For the purpose of funding trial court operations, each board of supervisors shall establish in the county treasury a Trial Court Operations Fund, which will operate as a special revenue fund. All funds appropriated in the Budget Act and allocated and reallocated by the Trial Court Budget Commission created pursuant to Section 68502.5 shall be deposited into the fund. Each board of supervisors may direct that additional financial resources be deposited into the fund to finance expenditures in accordance with subdivision (b) which are not funded through the Budget Act.

(b) The moneys of the Trial Court Operations Fund arising from deposits of funds appropriated in the Budget Act and allocated or reallocated by the Trial Court Budget Commission shall be payable only for purposes set forth pursuant to Sections 77003 and 77006.5. The moneys of the Trial Court Operations Fund arising from deposits of additional resources as directed by the board of supervisors shall be payable for purposes set forth pursuant to Sections 77003 and 77006.5 or for any other court-related expenditure approved by the board of supervisors. The presiding judge or his or her designee, in consultation with the county executive/administrator, shall authorize the expenditures from this fund. All state allocations deposited into this fund shall be exclusively dedicated to offset the costs identified in the trial court budget, recommended by the Trial Court Budget Commission, and approved by the Judicial Council. The purpose of this requirement is to produce a reduction in the net county costs of trial courts.



(c) Interest received by a county which is attributable to investment of money required by this section to be deposited in its Trial Court Operations Fund shall be deposited in the fund and shall be used for trial court operations purposes.

(d) In no event shall interest be charged to the Trial Court Operations Fund.

(e) Pursuant to Section 77205, the Controller, at the request of the Legislature or Judicial Council, may perform financial and fiscal compliance audits of this fund.

SEC. 5. Section 1034 of the Penal Code is amended to read:

1034. In a criminal action pending in a municipal court, the court shall order a change of venue:

(a) On motion of the defendant, to another judicial district when it appears that there is a reasonable likelihood that a fair and impartial trial cannot be had in the judicial district. When a change of venue is ordered by a municipal court, it shall be for the trial itself. All proceedings before trial shall occur in the judicial district of original venue, except when it is evident that a particular proceeding must be heard by the judge who is to preside over the trial.

(b) On its own motion or on motion of any party, to an adjoining judicial district in the same county when it appears as a result of the exhaustion of all of the jury panels called that it will be impossible to secure a jury to try the cause in the judicial district or, when for the same reason it appears that it will be impossible to try the cause in any judicial district in the county, to a judicial district in an adjoining county.

(c) On its own motion, to an adjoining judicial district in the same county, when it appears as a result of the unavailability of all the courts within a judicial district such that it will be unable to try the cause within the requirements of Section 1382. The court shall state its findings on the record. This subdivision is limited to those judicial districts operating under Judicial Council-approved trial court coordination plans.



SEC. 6. Section 1035 of the Penal Code is amended to read:

1035. (a) (1) In a criminal action pending in a municipal court, the court shall order a change of venue to another judicial district in the same county on motion of the prosecution if it appears that the change will be for the convenience of all parties to the action and the defendant and his attorney, if any, consent in writing to the change.

(2) In a misdemeanor criminal case pending in a municipal court, upon a motion by any party, the court may order a change of venue, for changes of plea, to the judicial district in the same county where an action filed first in time is pending against the defendant, when the court finds that the transfer would increase efficiency and advance the court's coordination plan. The court shall state its findings on the record. If the change of venue is from one prosecutorial agency to another within the same county, the transferring agency shall approve in writing the transfer to the other prosecuting agency. This subdivision shall apply only to those judicial districts operating under Judicial Council-approved trial court coordination plans.

(b) A defendant arrested, held, or present in a county other than that in which an indictment, information, felony complaint, or felony probation violation is pending against the defendant, may state in writing his or her agreement to plead guilty or nolo contendere to some or all of the pending charges, to waive trial or hearing in the county in which the pleading is pending, and to consent to disposition of the case in the county in which that defendant was arrested, held, or present, subject to the approval of the district attorney for each county. Upon receipt of the defendant's statement and of the written approval of the district attorneys, the clerk of the court in which the pleading is pending shall transmit the papers in the proceeding or certified copies thereof to the clerk of the court for the county in which the defendant is arrested, held, or present, and the prosecution shall continue in that county. However, the proceedings shall



be limited solely to the purposes of plea and sentencing and not for trial. If, after the proceeding has been transferred pursuant to this section, the defendant pleads not guilty, the clerk shall return the papers to the court in which the prosecution was commenced and the proceeding shall be restored to the docket of that court. The defendant's statement that the defendant wishes to plead guilty or nolo contendere shall not be used against the defendant.



Approved \_\_\_\_\_, 1995

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*Governor*

