

Senate Bill No. 367

CHAPTER 514

An act to add Section 1010.6 to the Code of Civil Procedure, and to amend Section 6159 of the Government Code, relating to civil procedure.

[Approved by Governor September 27, 1999. Filed
with Secretary of State September 27, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

SB 367, Dunn. Court filings: electronic transmission.

Existing law authorizes the Judicial Council to adopt rules permitting the filing of papers by facsimile transmission.

This bill would authorize a trial court to adopt local rules of court permitting electronic filing and service of documents, as specified. The bill would further require the Judicial Council, by January 1, 2003, to adopt uniform rules of court for these purposes, as specified, which conform to the same conditions.

Existing law authorized a court to accept credit card payments upon approval of the board of supervisors.

This bill would make that authorization subject, instead, to the approval of the Judicial Council, would make the approval of credit card fees imposed by courts subject to Judicial Council approval. The bill would also authorize the Judicial Council to enter into specified agreements with credit card companies.

The bill would also make a statement of legislative intent.

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

SECTION 1. Section 1010.6 is added to the Code of Civil Procedure, to read:

1010.6. (a) A trial court may adopt local rules permitting electronic filing and service of documents, subject to rules adopted pursuant to subdivision (b) and the following conditions:

(1) A document that is filed electronically shall have the same legal effect as an original paper document.

(2) (A) When a document to be filed requires the signature, not under penalty of perjury, of an attorney or a person filing in propria persona, the document shall be deemed to have been signed by that attorney or person if filed electronically.

(B) When a document to be filed requires the signature, under penalty of perjury, of any person, the document shall be deemed to have been signed by that person if filed electronically and if, prior to filing, a printed form of the document has been signed by that person.



The attorney or person filing the document represents, by the act of filing, that the declarant has signed the document. The attorney or person filing the document shall maintain the printed form of the document bearing the original signature and make it available for review and copying upon the request of the court or any party to the action or proceeding in which it is filed.

(3) Any document that is electronically filed with the court after the close of business on any day shall be deemed to have been filed on the next court day. “Close of business,” as used in this paragraph, shall mean 5 p.m. or the time at which the court would not accept filing at the court’s filing counter, whichever is earlier.

(4) The court receiving a document filed electronically shall issue a confirmation that the document has been received and filed. The confirmation shall serve as proof that the document has been filed.

(5) Upon electronic filing of a complaint, petition, or other document that must be served with a summons, a trial court may electronically transmit a summons with the court seal and the case number to the party filing the complaint. Personal service of a printed form of the electronic summons shall have the same legal effect as personal service of an original summons. If a trial court plans to electronically transmit a summons to the party filing a complaint, the court shall immediately upon receipt of the complaint notify the attorney or party that a summons will be electronically transmitted to the electronic address given by the person filing the complaint.

(6) Where notice may be served by mail, express mail, overnight delivery, or facsimile transmission, electronic service of the notice and any accompanying documents may be authorized when a party has agreed to accept service electronically in that action. Electronic service is complete at the time of transmission, but any period of notice or any right or duty to do any act or make any response within any period or on a date certain after the service of the document, which time period or date is prescribed by statute or rule of court, shall be extended after service by electronic transmission by two court days, but the extension shall not apply to extend the time for filing notice of intention to move for new trial, notice of intention to move to vacate judgment pursuant to Section 663a, or notice of appeal. This extension applies in the absence of a specific exception provided for by any other statute or rule of court.

(7) The court shall permit a party or attorney to file an application for waiver of court fees and costs, in lieu of requiring the payment of the filing fee, as part of the process involving the electronic filing of a document. The court shall consider and determine the application in accordance with Section 68511.3 of the Government Code and shall not require the party or attorney to submit any documentation other than that set forth in Section 68511.3 of the Government Code. Nothing in this section shall require the court to waive a filing fee that is not otherwise waivable.



(8) If a trial court adopts rules conforming to paragraphs (1) to (7), inclusive, it may provide by order that all parties to an action file documents electronically in a class action, a consolidated action, or a group of actions, a coordinated action, or an action that is deemed complex under Judicial Council rules, provided that the trial court's order does not cause undue hardship or significant prejudice to any party in the action.

(b) By January 1, 2003, the Judicial Council shall adopt uniform rules for the electronic filing and service of documents in the trial courts of the state, which shall include statewide policies on vendor contracts, privacy, and access to public records. These rules shall conform to the conditions set forth in this section, as amended from time to time.

SEC. 2. Section 6159 of the Government Code is amended to read:

6159. (a) As used in this section:

(1) "Credit card" means any card, plate, coupon book, or other credit device existing for the purpose of being used from time to time upon presentation to obtain money, property, labor, or services on credit.

(2) "Card issuer" means any person, or his or her agent, who issues a credit card and purchases credit card drafts.

(3) "Cardholder" means any person to whom a credit card is issued or any person who has agreed with the card issuer to pay obligations arising from the issuance of a credit card to another person.

(4) "Draft purchaser" means any person who purchases credit card drafts.

(b) Subject to subdivision (c), a court, city, county, city and county, or other public agency may authorize the acceptance of a credit card for any of the following:

(1) The payment for the deposit of bail or for any fine for any offense not declared to be a felony.

(2) The payment of a filing fee or other court fee.

(3) The payment of any towage or storage costs for a vehicle that has been removed from a highway, or from public or private property, as a result of parking violations.

(4) The payment of child, family, or spousal support, including reimbursement of public assistance, related fees, costs, or penalties, with the authorization of the cardholder.

(5) The payment for services rendered by any city, county, city and county, or other public agency.

(6) The payment of any fee, charge, or tax due a city, county, city and county, or other public agency.

(c) A court desiring to authorize the use of a credit card pursuant to subdivision (b) shall obtain the approval of the Judicial Council. A city desiring to authorize the use of a credit card pursuant to



subdivision (b) shall obtain the approval of its city council. Any other public agency desiring to authorize the use of a credit card pursuant to subdivision (b) shall obtain the approval of the governing body that has fiscal responsibility for that agency. After approval is obtained, a contract may be executed with one or more credit card issuers or draft purchasers. The contract shall provide for:

(1) The respective rights and duties of the court, city, county, city and county, or other public agency and card issuer or draft purchaser regarding the presentment, acceptability, and payment of credit card drafts.

(2) The establishment of a reasonable means by which to facilitate payment settlements.

(3) The payment to the card issuer or draft purchaser of a reasonable fee or discount.

(4) Any other matters appropriately included in contracts with respect to the purchase of credit card drafts as may be agreed upon by the parties to the contract.

(d) The honoring of a credit card pursuant to subdivision (b) hereof constitutes payment of the amount owing to the court, city, county, city and county, or other public agency as of the date the credit card is honored, provided the credit card draft is paid following its due presentment to a card issuer or draft purchaser.

(e) If any credit card draft is not paid following due presentment to a card issuer or draft purchaser or is charged back to the court, city, county, city and county, or other public agency for any reason, any record of payment made by the court, city, or other public agency honoring the credit card shall be void. Any receipt issued in acknowledgment of payment shall also be void. The obligation of the cardholder shall continue as an outstanding obligation as if no payment had been attempted.

(f) Notwithstanding Title 1.3 (commencing with Section 1747) of Part 4 of Division 3 of the Civil Code, a court, city, county, city and county, or any other public agency may impose a fee for the use of a credit card, not to exceed the costs incurred by the agency in providing for payment by credit card. These costs may include, but shall not be limited to, the payment of fees or discounts as specified in paragraph (3) of subdivision (c). Any fee imposed by a court pursuant to this subdivision shall be approved by the Judicial Council. Any fee imposed by any other public agency pursuant to this subdivision for the use of a credit card shall be approved by the governing body responsible for the fiscal decisions of the public agency.

(g) Fees or discounts provided for under paragraph (3) of subdivision (c) shall be deducted or accounted for prior to any statutory or other distribution of funds received from the card issuer or draft purchaser to the extent not recovered from the cardholder pursuant to subdivision (f).



(h) The Judicial Council may enter into a master agreement with one or more credit card issuers or draft purchasers for the acceptance and payment of credit card drafts received by the courts. Any court may join in any of these master agreements or may enter into a separate agreement with a credit card issuer or draft purchaser.

SEC. 3. It is the intent of the Legislature in enacting this act to do both of the following:

(a) To provide for the eventual standardization of electronic filing and service procedures on a statewide level.

(b) To provide that a court shall not adopt an electronic filing procedure that requires a litigant or attorney to possess specialized, cumbersome, or expensive equipment or software to utilize the electronic filing system.

