

AMENDED IN ASSEMBLY MARCH 18, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2256

Introduced by Assembly Member Garcia

February 21, 2014

An act to amend Sections 415.21, 415.95, 491.160, 684.115, ~~700.140, 708.170, and 1993 of, and to add Section 415.35 to,~~ the Code of Civil Procedure, to amend Sections 6103.2, 6103.3, 6103.9, 26720.9, 26721, 26721.2, 26722, 26723, 26725.1, 26726, 26727, 26728.1, 26729, 26730, 26731, 26733.5, 26736, 26738, 26740, 26741, 26744.5, 26746, 26746.1, and 26750 of, to add Section 26725.2 to, and to repeal Section 26744 of, the Government Code, ~~and to amend Section 166 of,~~ and to amend, repeal, and add Section 1214.2 of the Penal Code, relating to civil procedure.

LEGISLATIVE COUNSEL'S DIGEST

AB 2256, as amended, Garcia. Civil procedure: service and fees: sheriffs.

(1) Existing law establishes the procedures by which a person or business organization may be served a summons and complaint in a civil action. Existing law authorizes service on a business organization, form unknown, by leaving a copy of the summons and complaint during usual office hours and by mailing a copy of the summons and complaint, as specified.

~~This bill would additionally authorize a sheriff or marshal to serve a summons and complaint by mail, as specified, and would allow the person or business organization to accept service by mail by executing a written acknowledgment of receipt of summons, upon which date service would be deemed complete. The bill also would prohibit a sheriff~~

or marshal from serving a summons on a business organization without ascertaining the form of the organization.

(2) Existing law requires, when a gated community is staffed by a guard or other security personnel assigned to control access to the community, that a person be granted access to the gated community for a reasonable period of time to perform service of process or service of a subpoena, as specified.

This bill would delete those provisions and instead require a county sheriff, marshal, registered process server, or licensed private investigator to be granted access to a gated community for a reasonable period of time to perform service of process or service of a subpoena, regardless of whether there is a guard or other security personnel present.

(3) Existing law establishes procedures for service of various legal processes on financial institutions, and establishes procedures for service of process and execution of levies at a financial institution's central locations and other branches. Existing law prohibits service of legal process at a location other than a central location unless the financial institution elects to act upon the process as if it were effective, and authorizes a financial institution to respond to the legal process in the absence of an election, as specified. ~~Existing law also requires a levying officer to personally serve specified documents on the financial institution in order to levy upon a deposit account.~~

This bill would instead require the financial institution to respond to the legal process, as specified, if service of legal process is ineffective. ~~The bill also would permit a levying officer to serve specified documents on a central bank location in another county either by authorizing service by a sheriff in that county on behalf of the levying officer, as specified, or by electronic service, as specified.~~

(4) Existing law permits a court, in specified circumstances in civil actions for attachment and enforcement of judgments, to issue a warrant when a person fails to appear for an examination as ordered by the court and permits the court to punish that person for contempt. Existing law establishes fees for serving and executing these bench warrants. Existing law establishes procedures, as specified, as an alternative to issuing a warrant for contempt, pursuant to which a court may issue an arrest warrant for a witness who failed to appear pursuant to a subpoena or a person who failed to appear pursuant to a court order. Existing law specifies the contents of the arrest warrant, including a command to bring the person to be arrested before the court for the setting of bail in

the amount of the warrant, or to release on the person's own recognizance.

This bill would allow a bench warrant to be directed to any peace officer, and would delete the provision establishing fees for serving or executing a bench warrant. The bill also would remove the requirement that bail be set in the amount of the arrest warrant.

(5) Existing law authorizes a sheriff or marshal, for any order or injunction relating to harassment, workplace violence, domestic violence, or elder abuse, for which the sheriff or marshal provides service of process, to notify the protected person by electronic or telephonic means that the order or injunction has been served on the restrained person, as specified.

This bill would remove the requirement that an order or injunction be related to harassment, workplace violence, domestic violence, or elder abuse, and would authorize the sheriff to, in lieu of or in addition to providing notice by electronic or telephonic means, to publish notice of service of process on the sheriff's Internet Web site.

(6) Existing law prescribes fees for serving, executing, and processing required court notices, writs, orders, and other services provided by sheriffs and marshals. Under existing law, a sheriff or marshal, in connection with the service of process or notices, is authorized to require prepayment of all fees that a person or entity is required to pay under specified provisions of law, except as to the district attorney's office or local child support agency, as specified.

This bill would revise and increase the fees for services provided by sheriffs or marshals, as specified, and would authorize a sheriff or marshal to submit a billing to a local child support agency for payment of fees for services rendered.

(7) Existing law authorizes the enforcement of an order to pay a fine as a condition of a defendant's probation, as specified.

This bill would authorize a sheriff, upon the request of a prosecutor, to access criminal record offender information for the purpose of identifying the defendant's employer to assist the prosecutor in seeking to obtain a levy on the defendant's wages, as specified, and would authorize the sheriff or marshal to assess a fee of \$100 for accessing the criminal record offender information. These provisions would remain in effect only until January 1, 2016.

~~(8) Under existing law, a willful and knowing violation of a protective order or stay-away court order issued relating to a victim or witness in a pending criminal proceeding involving domestic violence, issued as~~

~~a condition of probation after a conviction in a criminal proceeding involving domestic violence or elder or dependent adult abuse, or issued under other specified conditions, constitutes contempt of court, a misdemeanor, punishable by imprisonment in a county jail not exceeding one year, a fine not exceeding \$1,000, or by both the imprisonment and the fine, except as specified.~~

~~This bill would authorize a court to order a person convicted of contempt of court for willfully resisting or delaying a sheriff or marshal during the execution of any pre-judgment or post-judgment writ or other court order to pay restitution to the county for any extraordinary costs necessarily incurred by the sheriff or marshal to overcome resistance to the process of the court, as specified.~~

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 415.21 of the Code of Civil Procedure
- 2 is amended to read:
- 3 415.21. Notwithstanding any other law, a county sheriff,
- 4 marshal, process server registered pursuant to Chapter 16
- 5 (commencing with Section 22350) of Division 8 of the Business
- 6 and Professions Code, or private investigator licensed pursuant to
- 7 Chapter 11.3 (commencing with Section 7512) of Division 3 of
- 8 the Business and Professions Code shall be granted access to a
- 9 gated community for a reasonable period of time for the purpose
- 10 of performing lawful service of process or service of a subpoena.
- 11 SEC. 2. Section 415.35 is added to the Code of Civil Procedure,
- 12 to read:
- 13 415.35.(a) ~~A sheriff or marshal may serve a summons by mail~~
- 14 ~~as provided in this section. A copy of the summons and of the~~
- 15 ~~complaint shall be mailed by first-class mail to the person to be~~
- 16 ~~served, together with two copies of the notice and acknowledgment~~
- 17 ~~provided for in subdivision (b) and a return envelope, postage~~
- 18 ~~prepaid, addressed to the sheriff, marshal, or constable.~~
- 19 ~~(b) The notice specified in subdivision (a) shall be in~~
- 20 ~~substantially the following form:~~
- 21

1 (Title of court and cause, with action number, to be inserted by
2 the sender prior to mailing)

3
4 NOTICE —

5 To: (Insert name and legal capacity of the defendant.)

6 The enclosed summons and complaint have been referred to the
7 (insert name and address of sheriff) for service. You may accept
8 service by mail by completing this form acknowledging receipt of
9 the summons and complaint and returning it to the above-named
10 sheriff no later than (insert date). If you prefer not to accept service
11 by mail by timely completing and returning this form, the sheriff,
12 marshal, or constable will attempt to locate and personally serve
13 you at your residence, place of employment, or other location
14 within the jurisdiction of the sheriff. If you are served on behalf
15 of a corporation, unincorporated association (including a
16 partnership), or other entity, this form must be signed in the name
17 of that entity by you or by a person authorized to receive service
18 of process on behalf of the entity. In all other cases, this form must
19 be signed by you personally or by a person authorized by you to
20 acknowledge receipt of summons.

21
22 _____
23 (Name of deputy)

24 (Name of sheriff or marshal)

25 (Address)

26 (Telephone)
27
28
29

30 ACKNOWLEDGMENT OF RECEIPT OF SUMMONS

31
32 I hereby acknowledge receipt of this summons and complaint.

33
34 Date: _____
35 (Date this acknowledgment is executed)

36 _____
37 Signature of person acknowledging receipt

38 _____
39 Print name of person acknowledging receipt
40

1 The defendant is a _____(insert type of entity such as corporation,
2 defunct corporation, association or partnership) for which I am the
3 _____(insert title) and authorized to accept service. (If applicable.)
4

5 (c) Service of a summons pursuant to this section is deemed
6 complete on the date that the written acknowledgment of receipt
7 of summons is executed, if the acknowledgment thereafter is
8 returned to the sender.

9 ~~SEC. 3.~~

10 SEC. 2. Section 415.95 of the Code of Civil Procedure is
11 amended to read:

12 415.95. (a) A summons may be served on a business
13 organization, form unknown, by leaving a copy of the summons
14 and complaint during usual office hours with the person who is
15 apparently in charge of the office of that business organization,
16 and by thereafter mailing a copy of the summons and complaint
17 by first-class mail, postage prepaid, to the person to be served at
18 the place where a copy of the summons and complaint was left.
19 Service of a summons in this manner is deemed complete on the
20 10th day after the mailing.

21 (b) Service of a summons pursuant to this section is not valid
22 for a corporation with a registered agent for service of process
23 listed with the Secretary of State.

24 (c) This section shall not apply to service of a summons and
25 complaint on a business organization, form unknown, by a sheriff
26 or marshal.

27 ~~SEC. 4.~~

28 SEC. 3. Section 491.160 of the Code of Civil Procedure is
29 amended to read:

30 491.160. (a) If an order requiring a person to appear for an
31 examination was served by a sheriff, marshal, a person specially
32 appointed by the court in the order, or a registered process server,
33 and the person fails to appear:

- 34 (1) The court may do either of the following:
 - 35 (A) Pursuant to a warrant directed to any peace officer, have
36 the person brought before the court to answer for the failure to
37 appear and may punish the person for contempt.
 - 38 (B) Issue a warrant for the arrest of the person who failed to
39 appear as required by the court order, pursuant to Section 1993.

1 (2) If the person’s failure to appear is without good cause, the
2 plaintiff shall be awarded reasonable attorney’s fees incurred in
3 the examination proceeding.

4 (b) A person who willfully makes an improper service of an
5 order for an examination which subsequently results in the arrest
6 pursuant to subdivision (a) of the person who fails to appear is
7 guilty of a misdemeanor.

8 ~~SEC. 5.~~

9 *SEC. 4.* Section 684.115 of the Code of Civil Procedure is
10 amended to read:

11 684.115. (a) A financial institution may, and if it has more
12 than nine branches or offices at which it conducts its business
13 within this state shall, designate one or more central locations for
14 service of legal process within this state. Each designated location
15 shall be referred to as a “central location.” If a financial institution
16 elects or is required to designate a central location for service of
17 legal process, the financial institution shall file a notice of its
18 designation with the Department of Financial Institutions, which
19 filing shall be effective upon filing and shall contain all of the
20 following:

21 (1) The physical address of the central location.

22 (2) The days and hours during which service will be accepted
23 at the central location.

24 (3) If the central location will not accept service of legal process
25 directed at deposit accounts maintained or property held at all of
26 the financial institution’s branches or offices within this state, or
27 if the service accepted at the central location will not apply to
28 safe-deposit boxes or other property of the judgment debtor held
29 by or for the judgment debtor, the filing shall also contain sufficient
30 information to permit a determination of the limitation or
31 limitations, including, in the case of a limitation applicable to
32 certain branches or offices, an identification of the branches or
33 offices as to which service at the central location will not apply
34 and the nature of the limitation applicable to those branches or
35 offices. If the limitation will apply to all branches or offices of the
36 financial institution within this state, the filing may indicate the
37 nature of the limitation and that it applies to all branches or offices,
38 in lieu of an identification of branches or offices as to which the
39 limitation applies. To the extent that a financial institution’s
40 designation of a central location for service of legal process covers

1 the process directed at deposit accounts, safe-deposit boxes, or
2 other property of the judgment debtor held by or for the judgment
3 debtor at a particular branch or office located within this state, the
4 branch or office shall be a branch or office covered by central
5 process.

6 (b) If a financial institution required to designate a central
7 location fails to do so, each branch of that institution located in
8 this state shall be deemed to be a central location at which service
9 of legal process may be made, and all of the institution's branches
10 or offices located within this state shall be deemed to be a branch
11 or office covered by central process.

12 (c) Subject to any limitation noted pursuant to paragraph (3) of
13 subdivision (a), service of legal process at a central location of a
14 financial institution shall be effective against all deposit accounts
15 and all property held for safekeeping, as collateral for an obligation
16 owed to the financial institution or in a safe-deposit box if the same
17 is described in the legal process and held by the financial institution
18 at any branch or office covered by central process and located
19 within this state. However, while service of legal process at the
20 central location will establish a lien on all property, if any property
21 other than deposit accounts is physically held by the financial
22 institution in a county other than that in which the designated
23 central location is located, the financial institution shall include in
24 its garnishee's memorandum the location or locations of the
25 property, and the judgment creditor shall obtain a writ of execution
26 covering the property and directed to the levying officer in that
27 county to accomplish the turnover of the property and shall forward
28 the writ and related required documentation to the levying officer
29 in the county in which the property is held.

30 (d) A financial institution may modify or revoke any designation
31 made pursuant to subdivision (a) by filing the modification or
32 revocation with the Department of Financial Institutions. The
33 modification or revocation shall be effective when the Department
34 of Financial Institutions' records have been updated to reflect the
35 modification or revocation, provided that the judgment creditor
36 may rely upon the superseded designation during the 30-day period
37 following the effective date of the revocation or modification.

38 (e) (1) The Department of Financial Institutions shall update
39 its online records to reflect a filing by a financial institution
40 pursuant to subdivision (a) or a modification or revocation filed

1 by a financial institution pursuant to subdivision (d) within 10
2 business days following the filing by the financial institution. The
3 Department of Financial Institutions' Internet Web site shall reflect
4 the date its online records for each financial institution have most
5 recently been updated.

6 (2) The Department of Financial Institutions shall provide any
7 person requesting it with a copy of each current filing made by a
8 financial institution pursuant to subdivision (a). The Department
9 of Financial Institutions may satisfy its obligation under this
10 subdivision by posting all current designations of a financial
11 institution, or the pertinent information therein, on an Internet Web
12 site available to the public without charge, and if that information
13 is made available, the Department of Financial Institutions may
14 impose a reasonable fee for furnishing that information in any
15 other manner.

16 (f) As to deposit accounts maintained or property held for
17 safekeeping, as collateral for an obligation owed to the financial
18 institution or in a safe-deposit box at a branch or office covered
19 by central process, service of legal process at a location other than
20 a central location designated by the financial institution shall not
21 be effective unless the financial institution, in its absolute
22 discretion, elects to act upon the process at that location as if it
23 were effective. If the service of legal process is ineffective, the
24 financial institution shall respond to the legal process by mailing
25 or delivery of the garnishee's memorandum to the levying officer
26 within the time otherwise provided therefor, with a statement on
27 the garnishee's memorandum that the legal process was not
28 properly served at the financial institution's designated location
29 for receiving legal process, and, therefore, was not processed, and
30 the address at which the financial institution is to receive legal
31 process.

32 (g) If any legal process is served at a central location of a
33 financial institution pursuant to this section, all related papers to
34 be served on the financial institution shall be served at that location,
35 unless agreed to the contrary between the serving party and the
36 financial institution.

37 (h) This subdivision shall apply whenever a financial institution
38 operates within this state at least one branch or office in addition
39 to its head office or main office, as applicable, or a financial
40 institution headquartered in another state operates more than one

1 branch or office within this state, and no central location has been
2 designated or deemed to have been designated by the institution
3 for service of legal process relating to deposit accounts maintained
4 at the financial institution's head office or main office, as
5 applicable, and branches located within this state. If a judgment
6 creditor reasonably believes that, pursuant to Section 700.140 and,
7 if applicable, Section 700.160, any act of enforcement would be
8 effective against a specific deposit account maintained at a financial
9 institution described in this subdivision, the judgment creditor may
10 file with the financial institution a written request that the financial
11 institution identify the branch or office within this state at which
12 a specified account might be maintained by the financial institution.
13 The written request shall contain the following statements or
14 information:

15 (1) The name of the person reasonably believed by the judgment
16 creditor to be a person in whose name the specified deposit account
17 stands.

18 (2) If the name of the person reasonably believed by the
19 judgment creditor to be a person in whose name the specified
20 deposit account stands is not a judgment debtor identified in the
21 writ of execution, a statement that a person reasonably believed
22 by the judgment creditor to be a person in whose name the specified
23 deposit account stands will be appropriately identified in the legal
24 process to be served pursuant to Section 700.160, including any
25 supplementary papers, such as a court order or affidavit if the same
26 will be required by Section 700.160.

27 (3) The specific identifying number of the account reasonably
28 believed to be maintained with the financial institution and standing
29 in the name of the judgment debtor or other person.

30 (4) The address of the requesting party.

31 (5) An affidavit by the judgment creditor or the judgment
32 creditor's counsel stating substantially the following:

33

34 I hereby declare that this deposit account location request
35 complies with Section 684.115 of the Code of Civil Procedure,
36 that the account or accounts of the judgment debtor or other person
37 or persons appropriately identified in the legal process and
38 specified herein are subject to a valid writ of execution, or court
39 order, that I have a reasonable belief, formed after an inquiry
40 reasonable under the circumstances, that the financial institution

1 receiving this deposit account location request has an account
2 standing in the name of the judgment debtor or other person or
3 persons appropriately identified in the legal process, and that
4 information pertaining to the location of the account will assist the
5 judgment creditor in enforcing the judgment.
6

7 (i) The affidavit contemplated by subdivision (h) shall be signed
8 by the judgment creditor or the judgment creditor's counsel and
9 filed at the financial institution's head office located within this
10 state or, if the financial institution's head office is in another state,
11 at one of its branches or offices within this state. Failure to comply
12 with the requirements of subdivision (h) and this subdivision shall
13 be sufficient basis for the financial institution to refuse to produce
14 the information that would otherwise be required by subdivision
15 (j).

16 (j) Within 10 banking days following receipt by a financial
17 institution at the applicable location specified in subdivision (i) of
18 a request contemplated by subdivision (h), as to each specific
19 deposit account identified in the request contemplated by
20 subdivision (h), the financial institution shall respond by mailing,
21 by first-class mail with postage prepaid, to the requester's address
22 as specified in the request a response indicating the branch or office
23 location of the financial institution at which the specified deposit
24 account might be maintained, or, if the specified deposit account,
25 if it exists, would not be maintained at a specific location, at least
26 one place within this state at which legal process relating to the
27 deposit account should or may be served. The response to be
28 furnished pursuant to this subdivision shall not require the financial
29 institution to determine whether an account exists or, if an account
30 does exist, whether it would be reached by the legal process.
31 Rather, the branch or office location shall be determined and
32 reported by the financial institution based solely upon its
33 determination that an account with the identifying number provided
34 by the requester would be maintained at that branch if an account
35 did exist, and the response shall not contain any information about
36 the name in which the account stands or any other information
37 concerning the account, if it exists. If more than one account
38 number is specified in the request, the financial institution's
39 responses as to some or all of those account numbers may be
40 combined in a single writing.

1 (k) A response furnished in good faith by the financial institution
 2 pursuant to subdivision (j) shall not be deemed to violate the
 3 privacy of any person in whose name the specified deposit account
 4 stands nor the privacy of any other person, and shall not require
 5 the consent of the person in whose name the account stands nor
 6 that of any other person.

7 (l) A financial institution shall not notify the person in whose
 8 name the specified deposit account stands or any other person
 9 related to the specified account of the receipt of a request made
 10 pursuant to subdivision (h) that affects that person's or persons'
 11 accounts at the financial institution, provided that the financial
 12 institution shall have no liability for its failure to comply with the
 13 provisions of this subdivision.

14 ~~SEC. 6. Section 700.140 of the Code of Civil Procedure is~~
 15 ~~amended to read:~~

16 ~~700.140. (a) Subject to Sections 684.115 and 700.160, to levy~~
 17 ~~upon a deposit account, the levying officer shall personally serve~~
 18 ~~a copy of the writ of execution, notice of levy, and memorandum~~
 19 ~~of garnishee on the financial institution with which the deposit~~
 20 ~~account is maintained.~~

21 ~~(b) In the case of service on a central bank location in another~~
 22 ~~county pursuant to Section 684.115, the levying officer may do~~
 23 ~~either of the following:~~

24 ~~(1) Forward the documents identified in subdivision (a) to the~~
 25 ~~sheriff or marshal of that county, who shall, as the agent of the~~
 26 ~~levying officer, personally serve the central bank location and,~~
 27 ~~promptly after service, mail a copy of the writ of execution, notice~~
 28 ~~of levy, and list of exemptions from the enforcement of judgments~~
 29 ~~to the judgment debtor and any third party listed in the notice of~~
 30 ~~levy. The levying officer shall perform all other duties associated~~
 31 ~~with the levy, including processing claims of exemption, third~~
 32 ~~party claims, bankruptcy stays, and collecting and disbursing levied~~
 33 ~~moneys. The sheriff or marshal shall charge a fee as provided by~~
 34 ~~Article 7 (commencing with Section 26720) of Chapter 2 of Part~~
 35 ~~3 of Division 2 of Title 3 of the Government Code for making the~~
 36 ~~service and submitting a proof of service as the levying officer's~~
 37 ~~agent.~~

38 ~~(2) Electronically transmit the documents identified in~~
 39 ~~subdivision (a) to the financial institution. Service by electronic~~
 40 ~~transmission shall be deemed complete on the date and time of~~

1 receipt as indicated in an acknowledgment of receipt electronically
2 submitted to the levying officer by the financial institution.

3 (A) After receipt of an acknowledge of receipt of the levy by
4 the financial institution, the levying officer shall promptly mail a
5 copy of the writ of execution, notice of levy, and list of exemptions
6 from the enforcement of judgments to the judgment debtor and
7 any third party listed in the notice of levy.

8 (B) Compliance with this paragraph shall be contingent on the
9 levying officer and the financial institution having agreed to
10 effectuate service electronically and having jointly determined that
11 they have the resources and the technological capacity to do so.

12 (c) The execution lien that arises upon service of a copy of the
13 writ of execution, notice of levy, and memorandum of garnishee
14 reaches only amounts that are in a deposit account at the time of
15 service on the financial institution, including the amount of any
16 deposit not yet finally collected unless the deposit is returned
17 unpaid to the financial institution.

18 (d) The levying officer shall serve a copy of the writ of execution
19 and a notice of levy on any third person in whose name any deposit
20 account described therein stands. Service shall be made personally
21 or by mail as follows:

22 (1) At the time of levy or promptly thereafter, if the party
23 seeking the levy informs the levying officer of the person and his,
24 her, or its residence or business address.

25 (2) Promptly following the levying officer's receipt of a
26 garnishee's memorandum if service was not accomplished pursuant
27 to paragraph (1), if the garnishee's memorandum identifies the
28 person and his, her, or its residence or business address.

29 (e) The financial institution shall not honor a withdrawal request
30 or a check or other order for the payment of money from the deposit
31 account if presentment of the withdrawal request or item to the
32 financial institution occurs during the time the execution lien is in
33 effect unless, following the withdrawal or payment, sufficient
34 funds are available to cover the levy. For these purposes, a
35 withdrawal from the deposit account to cover the financial
36 institution's standard fee or charge for processing the levy shall
37 not be considered a payment of money from the account in
38 violation of this subdivision.

39 (f) During the time the execution lien is in effect, the financial
40 institution shall not be liable to any person for any of the following:

1 ~~(1) Performance of the duties of a garnishee under the levy.~~
2 ~~(2) Nonpayment of a check or other order for the payment or~~
3 ~~transfer of money drawn or presented against the deposit account,~~
4 ~~if the nonpayment is pursuant to the requirements of subdivision~~
5 ~~(e).~~
6 ~~(3) Refusal to pay a withdrawal from the deposit account, if the~~
7 ~~refusal is pursuant to the requirements of subdivision (e).~~
8 ~~(g) When the amount levied upon pursuant to this section is~~
9 ~~paid to the levying officer, the execution lien on the deposit account~~
10 ~~levied upon terminates.~~
11 ~~(h) For purposes of this section, none of the following is a third~~
12 ~~person in whose name the deposit account stands:~~
13 ~~(1) A person who is only a person named as the beneficiary of~~
14 ~~a Totten trust account.~~
15 ~~(2) A person who is only a payee designated in a pay-on-death~~
16 ~~provision in an account pursuant to Section 18318.5 of the~~
17 ~~Financial Code or Section 5140 of the Probate Code, or other~~
18 ~~similar provision.~~
19 ~~(3) A person who is only acting in a representative or custodial~~
20 ~~capacity with respect to benefits paid or payable by the United~~
21 ~~States government. Rather, accounts maintained by the~~
22 ~~representative or custodian shall be deemed to stand in the~~
23 ~~beneficiary's name, and the amounts therein shall be covered by~~
24 ~~a levy against the beneficiary.~~
25 ~~(i) For purposes of this section, final payment of a deposit shall~~
26 ~~be deemed to have occurred in accordance with Section 4215 or~~
27 ~~11210 of the Commercial Code or with automated clearinghouse~~
28 ~~or Federal Reserve System rule, regulation, operating circular, or~~
29 ~~similar governing document, as applicable to the deposit. If, for~~
30 ~~any reason, a deposit is returned by the financial institution upon~~
31 ~~which it is drawn, the deposit shall not be deemed finally collected~~
32 ~~for purposes of this subdivision regardless of any later payment~~
33 ~~by the financial institution upon which the deposit is drawn.~~
34 ~~SEC. 7.~~
35 ~~SEC. 5.~~ Section 708.170 of the Code of Civil Procedure is
36 amended to read:
37 708.170. (a) If an order requiring a person to appear for an
38 examination was served by a sheriff, marshal, a person specially
39 appointed by the court in the order, or a registered process server,
40 and the person fails to appear:

1 (1) The court may do either of the following:

2 (A) Pursuant to a warrant directed to any peace officer, have
3 the person brought before the court to answer for the failure to
4 appear and may punish the person for contempt.

5 (B) Issue a warrant for the arrest of the person who failed to
6 appear as required by the court order, pursuant to Section 1993.

7 (2) If the person's failure to appear is without good cause, the
8 judgment creditor shall be awarded reasonable attorney's fees
9 incurred in the examination proceeding. Attorney's fees awarded
10 against the judgment debtor shall be added to and become part of
11 the principal amount of the judgment.

12 (b) A person who willfully makes an improper service of an
13 order for an examination which subsequently results in the arrest
14 pursuant to subdivision (a) of the person who fails to appear is
15 guilty of a misdemeanor.

16 ~~SEC. 8.~~

17 *SEC. 6.* Section 1993 of the Code of Civil Procedure is
18 amended to read:

19 1993. (a) (1) As an alternative to issuing a warrant for
20 contempt pursuant to paragraph (5) or (9) of subdivision (a) of
21 Section 1209, the court may issue a warrant for the arrest of a
22 witness who failed to appear pursuant to a subpoena or a person
23 who failed to appear pursuant to a court order. The court, upon
24 proof of the service of the subpoena or order, may issue a warrant
25 to the sheriff of the county in which the witness or person may be
26 located and the sheriff shall, upon payment of fees as provided in
27 Section 26744.5 of the Government Code, arrest the witness or
28 person and bring him or her before the court.

29 (2) Before issuing a warrant for a failure to appear pursuant to
30 a subpoena pursuant to this section, the court shall issue a "failure
31 to appear" notice informing the person subject to the subpoena
32 that a failure to appear in response to the notice may result in the
33 issuance of a warrant. This notice requirement may be omitted
34 only upon a showing that the appearance of the person subject to
35 the subpoena is material to the case and that urgency dictates the
36 person's immediate appearance.

37 (b) The warrant shall contain all of the following:

38 (1) The title and case number of the action.

39 (2) The name and physical description of the person to be
40 arrested.

- 1 (3) The last known address of the person to be arrested.
- 2 (4) The date of issuance and county in which it is issued.
- 3 (5) The signature or name of the judicial officer issuing the
- 4 warrant, the title of his or her office, and the name of the court.
- 5 (6) A command to arrest the person for failing to appear pursuant
- 6 to the subpoena or court order, and specifying the date of service
- 7 of the subpoena or court order.
- 8 (7) A command to bring the person to be arrested before the
- 9 issuing court, or the nearest court if in session, for the setting of
- 10 bail or to release on the person’s own recognizance. A person so
- 11 arrested shall be released from custody if he or she cannot be
- 12 brought before the court within 12 hours of arrest, and the person
- 13 shall not be arrested if the court will not be in session during the
- 14 12-hour period following the arrest.
- 15 (8) A statement indicating the expiration date of the warrant as
- 16 determined by the court.
- 17 (9) The amount of bail.
- 18 (10) An endorsement for nighttime service if good cause is
- 19 shown, as provided in Section 840 of the Penal Code.
- 20 (11) A statement indicating whether the person may be released
- 21 upon a promise to appear, as provided by Section 1993.1. The
- 22 court shall permit release upon a promise to appear, unless it makes
- 23 a written finding that the urgency and materiality of the person’s
- 24 appearance in court precludes use of the promise to appear process.
- 25 (12) The date and time to appear in court if arrested and released
- 26 pursuant to paragraph (11).
- 27 ~~SEC. 9.~~
- 28 *SEC. 7.* Section 6103.2 of the Government Code is amended
- 29 to read:
- 30 6103.2. (a) Section 6103 does not apply to any fee or charge
- 31 or expense for official services rendered by a sheriff or marshal
- 32 in connection with the levy of writs of attachment, execution,
- 33 possession, or sale. The fee, charge, or expense may be advanced
- 34 to the sheriff or marshal, as otherwise required by law.
- 35 (b) (1) Notwithstanding Section 6103, the sheriff or marshal,
- 36 in connection with the service of process or notices, may require
- 37 that all fees which a public agency, or any person or entity, is
- 38 required to pay under provisions of law other than this section be
- 39 prepaid by a public agency named in Section 6103, or by any
- 40 person or entity, prior to the performance of any official act. This

1 authority to require prepayment shall include fees governed by
2 Section 6103.5.

3 (2) (A) The requirement for prepayment of a fee does not apply
4 to the service of process or notices in any action by the district
5 attorney's office or local child support agency for the establishment
6 or enforcement of a child support obligation.

7 (B) Notwithstanding subparagraph (A), a sheriff or marshal
8 may submit a billing to a local child support agency for payment
9 of fees for services rendered.

10 (3) This subdivision does not apply to a particular jurisdiction
11 unless the sheriff or marshal, as the case may be, imposes the
12 requirement of prepayment upon public agencies and upon all
13 persons or entities within the private sector.

14 (4) (A) The requirement for prepayment of a fee deposit does
15 not apply to orders or injunctions described in paragraph (1) of
16 subdivision (x) of Section 527.6, paragraph (1) of subdivision (w)
17 of Section 527.8, or paragraph (1) of subdivision (w) of Section
18 527.85 of the Code of Civil Procedure, Division 10 (commencing
19 with Section 6200) of the Family Code (Domestic Violence
20 Prevention Act), and Chapter 11 (commencing with Section 15600)
21 of Part 3 of Division 9 of the Welfare and Institutions Code (Elder
22 Abuse and Dependent Adult Civil Protection Act).

23 (B) Notwithstanding subparagraph (A), a sheriff or marshal
24 may submit a billing to the superior court for payment of fees in
25 the manner prescribed by the Judicial Council irrespective of the
26 in forma pauperis status of any party under Rules 3.50 to 3.58,
27 inclusive, of the California Rules of Court. The fees for service,
28 cancellation of service, and making a not-found return shall not
29 exceed the amounts provided in Sections 26721, 26736, and 26738,
30 respectively, and are subject to the provisions of Section 26731.

31 ~~SEC. 10.~~

32 *SEC. 8.* Section 6103.3 of the Government Code is amended
33 to read:

34 6103.3. (a) (1) For any order or injunction described in
35 subparagraph (A) of paragraph (4) of subdivision (b) of Section
36 6103.2, the sheriff or marshal may notify the protected person by
37 electronic or telephonic means within 24 hours after service of
38 process that the order or injunction has been served on the
39 restrained person, including the date and time when the order or
40 injunction was served, if the protected person has requested this

1 notification and has registered a telephone number or email address
2 at which the protected person may be contacted for this purpose.

3 (2) The sheriff may provide the notification described in
4 subdivision (a) via an automated statewide victim information and
5 notification system if the sheriff has access to that system, his or
6 her county participates in that system, and local, state, or federal
7 funds are made available for the operation of that system.

8 (b) A sheriff may, in lieu of or in addition to providing the
9 notification described in subdivision (a), publish notice of service
10 of process on the sheriff's Internet Web site.

11 (c) If the sheriff participates in the notification program
12 authorized under this section and the service of process is provided
13 by a marshal, the marshal shall promptly inform the sheriff of the
14 date and time when the order or injunction was served, and the
15 sheriff shall provide the notice described in subdivision (a) to the
16 protected person.

17 ~~SEC. 11.~~

18 *SEC. 9.* Section 6103.9 of the Government Code is amended
19 to read:

20 6103.9. (a) Notwithstanding any other law, except as provided
21 in this section, the local child support agency and the district
22 attorney shall be exempt from the payment of any fees, including
23 filing fees, in an action or proceeding brought for the establishment
24 of a child support obligation or the enforcement of a child or
25 spousal support obligation.

26 (b) A court or county may be reimbursed for the direct costs
27 related to the establishment of a child support obligation or the
28 enforcement of a child or spousal support obligation which have
29 been agreed to pursuant to a plan of cooperation. Reimbursement
30 pursuant to a plan of cooperation shall not include any amount
31 which is payable as a filing fee.

32 (c) For purposes of this section, a "plan of cooperation" includes
33 an agreement entered into by a court and the Administrative Office
34 of the Courts of the California Judicial Council which provides
35 for reimbursement for the cost of providing clerical and
36 administrative support furnished by the court.

37 ~~SEC. 12.~~

38 *SEC. 10.* Section 26720.9 of the Government Code is amended
39 to read:

1 26720.9. Notwithstanding any other law, the amounts set forth
2 in Sections 26721, 26721.1, 26725, 26728, 26734, 26742, and
3 26743 shall be ~~fifty dollars (\$50)~~. *forty dollars (\$40)*.

4 ~~SEC. 13.~~

5 *SEC. 11.* Section 26721 of the Government Code is amended
6 to read:

7 26721. (a) Except as provided in this article, the fee for serving
8 or executing any process or notice required by law or the litigants
9 to be served shall be the amount described in Section 26720.9, and
10 there shall be no additional fee for substitute service when
11 substitute service is authorized.

12 (b) In any case where property has been levied upon and,
13 pursuant to the levy, a copy of the writ of execution and a notice
14 of levy are required by statute to be served either personally or by
15 mail upon the judgment debtor or other person, a fee shall not be
16 charged for that service.

17 ~~SEC. 14.~~

18 *SEC. 12.* Section 26721.2 of the Government Code is amended
19 to read:

20 26721.2. (a) For any action commenced in the superior court,
21 the fee for the service of the summons, the complaint for which
22 the summons is issued, and all other documents or notices required
23 to be served with the summons and complaint, is ~~fifty dollars (\$50)~~.
24 *forty dollars (\$40)*.

25 (b) The fee for cancellation of the service of a summons prior
26 to its completion is ~~fifty dollars (\$50)~~. *forty dollars (\$40)*.

27 (c) The fee for making a not-found return on a summons
28 certifying that the person cannot be found at the address specified
29 is ~~fifty dollars (\$50)~~. *forty dollars (\$40)*.

30 ~~SEC. 15.~~

31 *SEC. 13.* Section 26722 of the Government Code is amended
32 to read:

33 26722. The fee for serving, executing, or processing any writ
34 or order where the levying officer is required to take immediate
35 possession of the property levied upon is one hundred dollars
36 (\$100).

37 ~~SEC. 16.~~

38 *SEC. 14.* Section 26723 of the Government Code is amended
39 to read:

1 26723. The fee for opening a safe-deposit box pursuant to
 2 Sections 488.460 and 700.150 of the Code of Civil Procedure is
 3 one hundred-seventy-five dollars (~~\$175~~); *thirty-five dollars (\$135)*.

4 ~~SEC. 17.~~

5 *SEC. 15.* Section 26725.1 of the Government Code is amended
 6 to read:

7 26725.1. The fee for serving or posting any additionally
 8 required notices or orders on other parcels *is* twenty dollars (\$20)
 9 each.

10 ~~SEC. 18.~~

11 *SEC. 16.* Section 26725.2 is added to the Government Code,
 12 to read:

13 26725.2. (a) In addition to any other fee provided for by this
 14 article, the sheriff or marshal may assess a fee of one hundred
 15 dollars (\$100) for accessing criminal record offender information
 16 in order to identify the employer of a defendant pursuant to Section
 17 1214.2 of the Penal Code. The fee described in this section shall
 18 be collected from the defendant’s withheld wages and shall not be
 19 paid in advance by the prosecutor.

20 (b) This section shall remain in effect only until January 1, 2016,
 21 and as of that date is repealed, unless a later enacted statute, that
 22 is enacted before January 1, 2016, deletes or extends that date.

23 ~~SEC. 19.~~

24 *SEC. 17.* Section 26726 of the Government Code is amended
 25 to read:

26 26726. (a) The fee for keeping and caring for property under
 27 a writ of attachment, execution, possession, or sale is ~~two hundred~~
 28 ~~dollars (\$200)~~ *one hundred forty dollars (\$140)* when necessarily
 29 employed for any eight-hour period or any part thereof. If an
 30 additional keeper or keepers are required during these periods, the
 31 fee for the additional keeper or keepers shall be the same as fixed,
 32 but, in no event shall any one keeper receive more than ~~four~~ *three*
 33 ~~hundred dollars (\$400)~~ (*\$300*) during any 24-hour period when so
 34 employed.

35 (b) In addition to the fees provided by Section 26721, the fee
 36 for maintaining custody of property under levy by the use of a
 37 keeper is ~~fifty dollars (\$50)~~ *forty dollars (\$40)* for each day custody
 38 is maintained after the first day.

1 (c) Notwithstanding any other fee charged, a keeper shall receive
2 ~~seventy-five dollars (\$75)~~ *sixty dollars (\$60)* when, pursuant to
3 Section 26738, a levying officer prepares a not-found return.

4 ~~SEC. 20.~~

5 *SEC. 18.* Section 26727 of the Government Code is amended
6 to read:

7 26727. The fee for a copy of any writ, process, paper, order,
8 or notice actually made by him or her when required or demanded
9 is ~~two dollars (\$2)~~ *a one dollar (\$1) per page*, except that when
10 correct copies are furnished to him or her for use no charge shall
11 be made for those copies.

12 ~~SEC. 21.~~

13 *SEC. 19.* Section 26728.1 of the Government Code is amended
14 to read:

15 26728.1. The fee for preparing and posting additionally required
16 notices of personal property sales is ~~twenty~~ *fifteen* dollars (~~\$20~~)
17 (*\$15*) each.

18 ~~SEC. 22.~~

19 *SEC. 20.* Section 26729 of the Government Code is amended
20 to read:

21 26729. The fee for furnishing a notice for publication is ~~twenty~~
22 ~~dollars (\$20)~~ *fifteen dollars (\$15)*.

23 ~~SEC. 23.~~

24 *SEC. 21.* Section 26730 of the Government Code is amended
25 to read:

26 26730. The fee for conducting or postponing the sale of real
27 or personal property as required by law or the litigant is ~~one~~
28 ~~hundred dollars (\$100)~~ *ninety dollars (\$90)*.

29 ~~SEC. 24.~~

30 *SEC. 22.* Section 26731 of the Government Code is amended
31 to read:

32 26731. (a) ~~Twenty-five dollars (\$25)~~ *Eighteen dollars (\$18)*
33 of any fee collected by the sheriff's civil division or marshal under
34 Sections 26721, 26722, 26725, 26726, 26728, 26730, 26733.5,
35 26734, 26736, 26738, 26742, 26743, 26744, and 26750 shall be
36 deposited in a special fund in the county treasury. A separate
37 accounting of funds deposited shall be maintained for each
38 depositor, and funds deposited shall be for the exclusive use of the
39 sheriff's civil division or marshal.

1 (b) Ninety-five percent of the moneys in the special fund shall
2 be expended to supplement the costs of the depositor for the
3 implementation, maintenance, and purchase of auxiliary equipment
4 and furnishings for automated systems or other nonautomated
5 operational equipment and furnishings deemed necessary by the
6 sheriff's civil division or marshal. Five percent of the moneys in
7 the special fund shall be used to supplement the expenses of the
8 sheriff's civil division or marshal in administering the funds.

9 ~~SEC. 25.~~

10 *SEC. 23.* Section 26733.5 of the Government Code is amended
11 to read:

12 26733.5. The fee for serving a writ of possession of real
13 property on an occupant or the occupants or for posting and serving
14 a copy on the judgment debtor is ~~one hundred dollars (\$100).~~
15 *eighty-five dollars (\$85).* The additional fee for removing an
16 occupant or occupants from the premises and putting a person in
17 possession of the premises is ~~one hundred dollars (\$100).~~ *sixty*
18 *dollars (\$60).* The fee for reposting a notice to vacate shall be
19 pursuant to Section 26721.

20 ~~SEC. 26.~~

21 *SEC. 24.* Section 26736 of the Government Code is amended
22 to read:

23 26736. The fee for cancellation of the service or execution of
24 any process or notice, other than a summons, prior to its completion
25 is ~~fifty dollars (\$50).~~ *forty dollars (\$40).* The fee provided by this
26 section shall not be charged if a fee is charged pursuant to any
27 other section of this article in attempting to serve or execute the
28 process or notice.

29 ~~SEC. 27.~~

30 *SEC. 25.* Section 26738 of the Government Code is amended
31 to read:

32 26738. The fee for making a not-found return on an affidavit
33 and order, order for appearance, subpoena, writ of attachment, writ
34 of execution, writ of possession, order for delivery of personal
35 property, or other process or notice required to be served, certifying
36 that the person or property cannot be found at the address specified
37 is ~~fifty dollars (\$50).~~ *forty dollars (\$40).*

38 ~~SEC. 28.~~

39 *SEC. 26.* Section 26740 of the Government Code is amended
40 to read:

1 26740. The fee for the execution and delivery of a deed or
2 certificate of redemption is ~~twenty dollars (\$20)~~; *fifteen dollars*
3 *(\$15)*.

4 ~~SEC. 29.~~

5 *SEC. 27.* Section 26741 of the Government Code is amended
6 to read:

7 26741. The fee for executing and delivering a certificate or
8 deed of sale is ~~twenty dollars (\$20)~~; *fifteen dollars (\$15)*.

9 ~~SEC. 30.~~

10 *SEC. 28.* Section 26744 of the Government Code is repealed.

11 ~~SEC. 31.~~

12 *SEC. 29.* Section 26744.5 of the Government Code is amended
13 to read:

14 26744.5. (a) The fees for processing a warrant issued pursuant
15 to Section 1993 of the Code of Civil Procedure shall be paid by
16 the moving party, as follows:

17 (1) ~~Fifty dollars (\$50)~~; *Forty dollars (\$40)* to receive and process
18 the warrant, which shall include the issuance and mailing of a
19 notice advising the person to be arrested of the issuance of the
20 warrant and demanding that the person appear in court.

21 (2) ~~Fifty dollars (\$50)~~; *Thirty-five dollars (\$35)* to cancel the
22 service of the warrant.

23 (3) ~~One hundred dollars (\$100)~~; *Eighty-five dollars (\$85)* if
24 unable to find the person at the address specified using due
25 diligence.

26 (4) One hundred dollars (\$100) to arrest the person, which shall
27 include the arrest and release of the person on a promise to appear
28 pursuant to Section 1993.2 of the Code of Civil Procedure.

29 (b) The in forma pauperis fee waiver provisions under Rules
30 3.50 to 3.58, inclusive, of the California Rules of Court shall apply
31 to the collection of fees under this section.

32 ~~SEC. 32.~~

33 *SEC. 30.* Section 26746 of the Government Code is amended
34 to read:

35 26746. (a) In addition to any other fees required by law, a
36 processing fee of ~~fifteen dollars (\$15)~~; *thirteen dollars (\$13)* shall
37 be assessed for each disbursement of money collected under a writ
38 of attachment, execution, possession, or sale, but excluding any
39 action by the local child support agency for the establishment or
40 enforcement of a child support obligation. The fee shall be

1 collected from the judgment debtor in addition to, and in the same
 2 manner as, the moneys collected under the writ. All proceeds of
 3 this fee shall be deposited in a special fund in the county treasury.
 4 A separate accounting of funds deposited shall be maintained for
 5 each depositor, and funds deposited shall be for the exclusive use
 6 of the depositor.

7 (b) The special fund shall be expended to supplement the
 8 county’s cost for vehicle fleet replacement and equipment,
 9 maintenance, and civil process operations, including data systems
 10 and consultant services.

11 (c) A processing fee shall not be charged pursuant to this section
 12 if the only disbursement is the return of the judgment creditor’s
 13 deposit for costs.

14 ~~SEC. 33.~~

15 *SEC. 31.* Section 26746.1 of the Government Code is amended
 16 to read:

17 26746.1. (a) ~~A twenty-five dollar (\$25)~~ *twenty dollar (\$20)*
 18 fee shall be assessed by the sheriff or marshal for certification of
 19 correction on each citation that requires inspection for proof of
 20 correction of any violation pursuant to Section 40616 of the Vehicle
 21 Code.

22 (b) All proceeds of the fee shall be deposited in a special fund
 23 in the county treasury. A separate accounting of funds deposited
 24 shall be maintained for each depositor, and funds deposited shall
 25 be for the exclusive use of the sheriff’s civil division or marshal.

26 (c) Ninety-five percent of the moneys in the special fund shall
 27 be expended to supplement the costs of the depositor for the
 28 implementation, maintenance, and purchase of auxiliary equipment
 29 and furnishings for automated systems or other nonautomated
 30 operational equipment and furnishings deemed necessary by the
 31 sheriff’s civil division or marshal. Five percent of the moneys in
 32 the special fund shall be used to supplement the expenses of the
 33 sheriff’s civil division or marshal in administering the funds.

34 ~~SEC. 34.~~

35 *SEC. 32.* Section 26750 of the Government Code is amended
 36 to read:

37 26750. (a) The fee for serving an earnings withholding order
 38 under the Wage Garnishment Law (Chapter 5 (commencing with
 39 Section 706.010) of Division 2 of Title 9 of Part 2 of the Code of
 40 Civil Procedure), including, but not limited to, the costs of postage

1 or traveling, and for performing all other duties of the levying
2 officer under that law with respect to the levy shall be ~~fifty dollars~~
3 ~~(\$50)~~; *thirty-five dollars (\$35)*.

4 (b) Except as provided in Section 26746, the levying officer
5 shall not charge additional fees, costs, or expenses for performing
6 the duties under the Wage Garnishment Law (Chapter 5
7 (commencing with Section 706.010) of Division 2 of Title 9 of
8 Part 2 of the Code of Civil Procedure).

9 ~~SEC. 35.~~ Section 166 of the Penal Code is amended to read:

10 166. ~~(a) Except as provided in subdivisions (b), (c), and (d),~~
11 ~~a person guilty of any of the following contempts of court is guilty~~
12 ~~of a misdemeanor:~~

13 ~~(1) Disorderly, contemptuous, or insolent behavior committed~~
14 ~~during the sitting of a court of justice, in the immediate view and~~
15 ~~presence of the court, and directly tending to interrupt its~~
16 ~~proceedings or to impair the respect due to its authority.~~

17 ~~(2) Behavior specified in paragraph (1) that is committed in the~~
18 ~~presence of a referee, while actually engaged in a trial or hearing,~~
19 ~~pursuant to the order of a court, or in the presence of any jury while~~
20 ~~actually sitting for the trial of a cause, or upon an inquest or other~~
21 ~~proceeding authorized by law.~~

22 ~~(3) A breach of the peace, noise, or other disturbance directly~~
23 ~~tending to interrupt the proceedings of the court.~~

24 ~~(4) Willful disobedience of the terms as written of any process~~
25 ~~or court order or out-of-state court order, lawfully issued by a~~
26 ~~court, including orders pending trial.~~

27 ~~(5) Resistance willfully offered by any person to the lawful~~
28 ~~order or process of a court.~~

29 ~~(6) Willful disobedience by a juror of a court admonishment~~
30 ~~related to the prohibition on any form of communication or research~~
31 ~~about the case, including all forms of electronic or wireless~~
32 ~~communication or research.~~

33 ~~(7) The contumacious and unlawful refusal of a person to be~~
34 ~~sworn as a witness or, when so sworn, the like refusal to answer~~
35 ~~a material question.~~

36 ~~(8) The publication of a false or grossly inaccurate report of the~~
37 ~~proceedings of a court.~~

38 ~~(9) Presenting to a court having power to pass sentence upon a~~
39 ~~prisoner under conviction, or to a member of the court, an affidavit,~~
40 ~~testimony, or representation of any kind, verbal or written, in~~

1 ~~aggravation or mitigation of the punishment to be imposed upon~~
2 ~~the prisoner, except as provided in this code.~~

3 ~~(10) Willful disobedience of the terms of an injunction that~~
4 ~~restrains the activities of a criminal street gang or any of its~~
5 ~~members, lawfully issued by a court, including an order pending~~
6 ~~trial.~~

7 ~~(b) (1) A person who is guilty of contempt of court under~~
8 ~~paragraph (4) of subdivision (a) by willfully contacting a victim~~
9 ~~by telephone or mail, or directly, and who has been previously~~
10 ~~convicted of a violation of Section 646.9 shall be punished by~~
11 ~~imprisonment in a county jail for not more than one year, by a fine~~
12 ~~of five thousand dollars (\$5,000), or by both that fine and~~
13 ~~imprisonment.~~

14 ~~(2) For purposes of sentencing under this subdivision, each~~
15 ~~contact shall constitute a separate violation of this subdivision.~~

16 ~~(3) The present incarceration of a person who makes contact~~
17 ~~with a victim in violation of paragraph (1) is not a defense to a~~
18 ~~violation of this subdivision.~~

19 ~~(e) (1) Notwithstanding paragraph (4) of subdivision (a), a~~
20 ~~willful and knowing violation of a protective order or stay-away~~
21 ~~court order described as follows shall constitute contempt of court,~~
22 ~~a misdemeanor, punishable by imprisonment in a county jail for~~
23 ~~not more than one year, by a fine of not more than one thousand~~
24 ~~dollars (\$1,000), or by both that imprisonment and fine:~~

25 ~~(A) An order issued pursuant to Section 136.2.~~

26 ~~(B) An order issued pursuant to paragraph (2) of subdivision~~
27 ~~(a) of Section 1203.097.~~

28 ~~(C) An order issued as a condition of probation after a conviction~~
29 ~~in a criminal proceeding involving elder or dependent adult abuse,~~
30 ~~as defined in Section 368.~~

31 ~~(D) An order issued pursuant to Section 1201.3.~~

32 ~~(E) An order described in paragraph (3):~~

33 ~~(2) If a violation of paragraph (1) results in a physical injury,~~
34 ~~the person shall be imprisoned in a county jail for at least 48 hours,~~
35 ~~whether a fine or imprisonment is imposed, or the sentence is~~
36 ~~suspended.~~

37 ~~(3) Paragraphs (1) and (2) apply to the following court orders:~~

38 ~~(A) An order issued pursuant to Section 6320 or 6389 of the~~
39 ~~Family Code.~~

1 ~~(B) An order excluding one party from the family dwelling or~~
2 ~~from the dwelling of the other.~~

3 ~~(C) An order enjoining a party from specified behavior that the~~
4 ~~court determined was necessary to effectuate the orders described~~
5 ~~in paragraph (1).~~

6 ~~(4) A second or subsequent conviction for a violation of an order~~
7 ~~described in paragraph (1) occurring within seven years of a prior~~
8 ~~conviction for a violation of any of those orders and involving an~~
9 ~~act of violence or “a credible threat” of violence, as provided in~~
10 ~~subdivision (e) of Section 139, is punishable by imprisonment in~~
11 ~~a county jail not to exceed one year, or in the state prison for 16~~
12 ~~months or two or three years.~~

13 ~~(5) The prosecuting agency of each county shall have the~~
14 ~~primary responsibility for the enforcement of the orders described~~
15 ~~in paragraph (1).~~

16 ~~(d) (1) A person who owns, possesses, purchases, or receives~~
17 ~~a firearm knowing he or she is prohibited from doing so by the~~
18 ~~provisions of a protective order as defined in Section 136.2 of this~~
19 ~~code, Section 6218 of the Family Code, or Section 527.6 or 527.8~~
20 ~~of the Code of Civil Procedure, shall be punished under Section~~
21 ~~29825.~~

22 ~~(2) A person subject to a protective order described in paragraph~~
23 ~~(1) shall not be prosecuted under this section for owning,~~
24 ~~possessing, purchasing, or receiving a firearm to the extent that~~
25 ~~firearm is granted an exemption pursuant to subdivision (h) of~~
26 ~~Section 6389 of the Family Code.~~

27 ~~(e) (1) If probation is granted upon conviction of a violation of~~
28 ~~subdivision (e), the court shall impose probation consistent with~~
29 ~~Section 1203.097.~~

30 ~~(2) If probation is granted upon conviction of a violation of~~
31 ~~subdivision (e), the conditions of probation may include, in lieu~~
32 ~~of a fine, one or both of the following requirements:~~

33 ~~(A) That the defendant make payments to a battered women’s~~
34 ~~shelter, up to a maximum of one thousand dollars (\$1,000).~~

35 ~~(B) That the defendant provide restitution to reimburse the~~
36 ~~victim for reasonable costs of counseling and other reasonable~~
37 ~~expenses that the court finds are the direct result of the defendant’s~~
38 ~~offense.~~

39 ~~(3) For an order to pay a fine, make payments to a battered~~
40 ~~women’s shelter, or pay restitution as a condition of probation~~

1 under this subdivision or subdivision (c), the court shall make a
2 determination of the defendant's ability to pay. In no event shall
3 an order to make payments to a battered women's shelter be made
4 if it would impair the ability of the defendant to pay direct
5 restitution to the victim or court-ordered child support.

6 ~~(4) If the injury to a married person is caused in whole, or in
7 part, by the criminal acts of his or her spouse in violation of
8 subdivision (c), the community property shall not be used to
9 discharge the liability of the offending spouse for restitution to the
10 injured spouse required by Section 1203.04, as operative on or
11 before August 2, 1995, or Section 1202.4, or to a shelter for costs
12 with regard to the injured spouse and dependents required by this
13 subdivision, until all separate property of the offending spouse is
14 exhausted.~~

15 ~~(5) A person violating an order described in subdivision (c) may
16 be punished for any substantive offenses described under Section
17 136.1 or 646.9. A finding of contempt shall not be a bar to
18 prosecution for a violation of Section 136.1 or 646.9. However, a
19 person held in contempt for a violation of subdivision (c) shall be
20 entitled to credit for any punishment imposed as a result of that
21 violation against any sentence imposed upon conviction of an
22 offense described in Section 136.1 or 646.9. A conviction or
23 acquittal for a substantive offense under Section 136.1 or 646.9
24 shall be a bar to a subsequent punishment for contempt arising out
25 of the same act.~~

26 ~~(f) A person convicted of contempt of court under paragraph
27 (5) of subdivision (a) for willfully resisting or delaying a sheriff
28 or marshal during the execution of any pre-judgment or
29 post-judgment writ or other court order may be ordered to pay
30 restitution to the county for any extraordinary costs necessarily
31 incurred by the sheriff or marshal to overcome resistance to the
32 process of the court, including costs for personnel, specialized
33 services, and specialized equipment. The order for restitution may
34 be enforced by the county in the same manner as a money
35 judgment. Funds collected pursuant to this subdivision shall be
36 remitted to the sheriff or marshal.~~

37 ~~SEC. 36.~~

38 ~~SEC. 33. Section 1214.2 of the Penal Code is amended to read:~~

39 ~~1214.2. (a) Except as provided in subdivision (c), if a defendant
40 is ordered to pay a fine as a condition of probation, the order to~~

1 pay a fine may be enforced during the term of probation in the
2 same manner as is provided for the enforcement of money
3 judgments.

4 (b) Except as provided in subdivision (c), an order to pay a fine
5 as a condition of probation may also be enforced as follows:

6 (1) With respect to a willful failure to pay during the term of
7 probation, in the same manner as a violation of the terms and
8 conditions of probation.

9 (2) If any balance remains unpaid at the end of the term of
10 probation, in the same manner as a judgment in a civil action.

11 (c) If an order to pay a fine as a condition of probation is stayed,
12 a writ of execution shall not issue until the stay is lifted.

13 (d) Upon request of the prosecutor, a sheriff may access the
14 criminal offender record information of a defendant to identify the
15 employer of the defendant. The prosecutor may then seek to obtain
16 a writ of execution from the court and file with the sheriff the writ
17 and an application to levy on the defendant's wages, pursuant to
18 the Wage Garnishment Law (Chapter 5 (commencing with Section
19 706.010) of Division 2 of Title 9 of Part 2 of the Code of Civil
20 Procedure).

21 (1) The prosecutor is deemed to be the attorney of record and
22 the People of the State of California is deemed to be the creditor
23 in a wage garnishment levy made pursuant to this subdivision.

24 (2) The sheriff shall first deduct from the wages remitted by the
25 defendant's employer the amount specified by Section 26725.2 of
26 the Government Code. The balance of withheld wages shall be
27 remitted to the prosecutor for disbursement to the court or to the
28 court directly, if so instructed by the prosecutor.

29 (3) This section shall remain in effect only until January 1, 2016,
30 and as of that date is repealed, unless a later enacted statute, that
31 is enacted before January 1, 2016, deletes or extends that date.

32 ~~SEC. 37.~~

33 *SEC. 34.* Section 1214.2 is added to the Penal Code, to read:

34 1214.2. (a) Except as provided in subdivision (c), if a defendant
35 is ordered to pay a fine as a condition of probation, the order to
36 pay a fine may be enforced during the term of probation in the
37 same manner as is provided for the enforcement of money
38 judgments.

39 (b) Except as provided in subdivision (c), an order to pay a fine
40 as a condition of probation may also be enforced as follows:

1 (1) With respect to a willful failure to pay during the term of
2 probation, in the same manner as a violation of the terms and
3 conditions of probation.

4 (2) If any balance remains unpaid at the end of the term of
5 probation, in the same manner as a judgment in a civil action.

6 (c) If an order to pay a fine as a condition of probation is stayed,
7 a writ of execution shall not issue until the stay is lifted.

8 (d) This section is operative on and after January 1, 2016.

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CORRECTIONS:

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Text—Pages 5.

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