

AMENDED IN ASSEMBLY MAY 2, 1996  
AMENDED IN ASSEMBLY APRIL 11, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

**ASSEMBLY BILL**

**No. 3471**

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**Introduced by Committee on Judiciary (Assembly Members  
Morrow (Chairman), Alby, Battin, Baugh, Bowen, Davis,  
Goldsmith, House, Kaloogian, Knight, Knowles, Machado,  
and Mazzoni)**

March 4, 1996

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An act to amend Sections 116.340, 116.360, 116.370, 116.390, 116.540, 116.570, 116.610, 116.820, 116.910, 685.070, and 1985.3 of, and to add Section 1985.7 to, the Code of Civil Procedure, to amend Sections ~~53069.4~~ 68150, 68151, and 68152 of the Government Code, and to amend Section 1308 of the Penal Code, relating to courts.

LEGISLATIVE COUNSEL'S DIGEST

AB 3471, as amended, Committee on Judiciary. Courts.

(1) Existing law prescribes the jurisdiction and procedures for small claims court, as specified.

This bill would revise small claims court provisions governing destruction of records; claims of a defendant; challenge to venue; transfers of actions; postponements; judgments involving specific property, and apportionment of filing fees, as specified.

(2) Existing law specifies the time for serving a memorandum of costs on a judgment debtor.

This bill would extend that time period, as specified.

(3) Existing law defines personal records of a consumer for purposes of a subpoena duces tecum.

This bill would expand that definition to include records of an employer or former employer of a consumer, and revise the procedures relative to the enforcement of the subpoena of a consumer's personal records.

(4) Existing law makes a medical provider liable for specified expenses if he or she fails to make patient records available to a representative of the patient, as specified.

This bill would also require such a medical provider to respond to an order to show cause with respect to that failure.

(5) Existing law specifies the manner by which trial court records may be preserved, and the period of time during which these records may not be destroyed. In general, the records in a civil case or a small claims case may not be destroyed for at least 10 years after final disposition of the case. Existing law creates numerous exceptions to this provision, however. The records in a mental health case brought pursuant to the Lanterman-Petris-Short Act, for example, may not be destroyed for 30 years. In addition, existing law permits the trial court clerk to destroy the records in a civil case that has either been involuntarily dismissed by a court or voluntarily dismissed by a party without entry of judgment after only one year.

Existing law also provides that court records consist of specified papers and documents, including administrative records and exhibits.

This bill would revise, recast, and clarify these provisions. The bill would specify that court records include administrative records filed in an action or proceeding and paper exhibits. The bill would expand the exception permitting the destruction of records in a civil case that has been dismissed, to apply to small claims cases.

The bill would also provide that the records in a mental health case brought pursuant to the Lanterman Developmental Disabilities Services Act may not be destroyed for 30 years. By increasing the duties of local court employees, the bill would create a state-mandated local program.



(6) Existing law prohibits a court from accepting any person or corporation as surety on bail if a summary judgment against that person or corporation, as specified remains unpaid.

This bill would extend this provision to apply specifically to a bail bondsman.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

1 SECTION 1. Section 116.340 of the Code of Civil  
2 Procedure is amended to read:

3 116.340. (a) Service of the claim and order on the  
4 defendant may be made by any one of the following  
5 methods:

6 (1) The clerk may cause a copy of the claim and order  
7 to be mailed to the defendant by any form of mail  
8 providing for a return receipt.

9 (2) The plaintiff may cause a copy of the claim and  
10 order to be delivered to the defendant in person.

11 (3) The plaintiff may cause service of a copy of the  
12 claim and order to be made by substituted service as  
13 provided in subdivision (a) or (b) of Section 415.20  
14 without the need to attempt personal service on the  
15 defendant. For these purposes, substituted service as  
16 provided in subdivision (b) of Section 415.20 may be  
17 made at the office of the sheriff or marshal who shall



1 deliver a copy of the claim and order to any person  
2 authorized by the defendant to receive service, as  
3 provided in Section 416.90, who is at least 18 years of age,  
4 and thereafter mailing a copy of the claim and order to  
5 the defendant's usual mailing address.

6 (4) The clerk may cause a copy of the claim to be  
7 mailed, the order to be issued, and a copy of the order to  
8 be mailed as provided in subdivision (b) of Section  
9 116.330.

10 (b) Service of the claim and order on the defendant  
11 shall be completed at least 10 days before the hearing date  
12 if the defendant resides within the county in which the  
13 action is filed, or at least 15 days before the hearing date  
14 if the defendant resides outside the county in which the  
15 action is filed.

16 (c) Service by the methods described in subdivision  
17 (a) shall be deemed complete on the date that the  
18 defendant signs the mail return receipt, on the date of the  
19 personal service, as provided in Section 415.20, or as  
20 established by other competent evidence, whichever  
21 applies to the method of service used.

22 (d) Service shall be made within this state, except as  
23 provided in subdivisions (e) and (f).

24 (e) The owner of record of real property in California  
25 who resides in another state and who has no lawfully  
26 designated agent in California for service of process may  
27 be served by any of the methods described in this section  
28 if the claim relates to that property.

29 (f) A nonresident owner or operator of a motor vehicle  
30 involved in an accident within this state may be served  
31 pursuant to the provisions on constructive service in  
32 Sections 17450 to 17461, inclusive, of the Vehicle Code  
33 without regard to whether the defendant was a  
34 nonresident at the time of the accident or when the claim  
35 was filed. Service shall be made by serving both the  
36 Director of the California Department of Motor Vehicles  
37 and the defendant, and may be made by any of the  
38 methods authorized by this chapter or by registered mail  
39 as authorized by Section 17454 or 17455 of the Vehicle  
40 Code.



1 (g) If an action is filed against a principal and his or her  
2 guaranty or surety pursuant to a guarantor or suretyship  
3 agreement, a reasonable attempt shall be made to  
4 complete service on the principal. If service is not  
5 completed on the principal, the action shall be  
6 transferred to the court of appropriate jurisdiction.

7 SEC. 2. Section 116.360 of the Code of Civil Procedure  
8 is amended to read:

9 116.360. (a) The defendant may file a claim against  
10 the plaintiff in the same action in an amount not to exceed  
11 the jurisdictional limits stated in Sections 116.220 and  
12 116.231. The claim need not relate to the same subject or  
13 event as the plaintiff's claim.

14 (b) The defendant's claim shall be filed and served in  
15 the manner provided for filing and serving a claim of the  
16 plaintiff under Sections 116.330 and 116.340.

17 (c) The defendant shall cause a copy of the claim and  
18 order to be served on the plaintiff at least five days before  
19 the hearing date, unless the defendant was served 10 days  
20 or less before the hearing date, in which event the  
21 defendant shall cause a copy of the defendant's claim and  
22 order to be served on the plaintiff at least one day before  
23 the hearing date.

24 SEC. 3. Section 116.370 of the Code of Civil Procedure  
25 is amended to read:

26 116.370. (a) Venue in small claims actions shall be the  
27 same as in other civil actions.

28 (b) A defendant may challenge venue by writing to  
29 the court and mailing a copy of the challenge to each of  
30 the other parties to the action, without personally  
31 appearing at the hearing.

32 (c) In all cases, including those in which the defendant  
33 does not either challenge venue or appear at the hearing,  
34 the court shall inquire into the facts sufficiently to  
35 determine whether venue is proper, and shall make its  
36 determination accordingly.

37 (1) If the court determines that the action was not  
38 commenced in the proper venue, the court, on its own  
39 motion, shall dismiss the action without prejudice unless



1 all defendants are present and agree that the action may  
2 be heard.

3 (2) If the court determines that the action was  
4 commenced in the proper venue, the court may hear the  
5 case if all parties are present. If the defendant challenged  
6 venue and all parties are not present, the court shall  
7 postpone the hearing for at least 15 days and shall notify  
8 all parties by mail of the court's decision and the new  
9 hearing date, time, and place.

10 SEC. 4. Section 116.390 of the Code of Civil Procedure  
11 is amended to read:

12 116.390. (a) If a defendant has a claim against a  
13 plaintiff that exceeds the jurisdictional limits stated in  
14 Sections 116.220 and 116.231, and the claim relates to the  
15 contract, transaction, matter, or event which is the  
16 subject of the plaintiff's claim, the defendant may  
17 commence an action against the plaintiff in a court of  
18 competent jurisdiction and request the small claims court  
19 to transfer the small claims action to that court.

20 (b) The defendant may make the request by filing  
21 with the small claims court in which the plaintiff  
22 commenced the action, at or before the time set for the  
23 hearing of that action, a declaration stating the facts  
24 concerning the defendant's action against the plaintiff  
25 with a true copy of the complaint so filed by the  
26 defendant against the plaintiff and the sum of one dollar  
27 (\$1) for a transmittal fee. The defendant shall cause a  
28 copy of the declaration and complaint to be personally  
29 delivered to the plaintiff at or before the time set for the  
30 hearing of the small claims action.

31 (c) In ruling on a motion to transfer, the small claims  
32 court may do any of the following: (1) render judgment  
33 on the small claims case prior to the transfer; (2) not  
34 render judgment and transfer the small claims case; (3)  
35 refuse to transfer the small claims case on the grounds  
36 that the ends of justice would not be served. If the small  
37 claims action is transferred prior to judgment, both  
38 actions shall be tried together in the transferee court.

1 (d) When the small claims court orders the action  
2 transferred, it shall transmit all files and papers to the  
3 transferee court.

4 (e) The plaintiff in the small claims action shall not be  
5 required to pay to the clerk of the transferee court any  
6 transmittal, appearance, or filing fee unless the plaintiff  
7 appears in the transferee court, in which event the  
8 plaintiff shall be required to pay the filing fee and any  
9 other fee required of a defendant in the transferee court.  
10 However, if the transferee court rules against the plaintiff  
11 in the action filed in that court, the court may award to  
12 the defendant in that action the costs incurred as a  
13 consequence of the transfer, including attorney's fees and  
14 filing fees.

15 SEC. 5. Section 116.540 of the Code of Civil Procedure  
16 is amended to read:

17 116.540. (a) Except as permitted by this section, no  
18 individual other than the plaintiff and the defendant may  
19 take part in the conduct or defense of a small claims  
20 action.

21 (b) A corporation may appear and participate in a  
22 small claims action only through a regular employee, or  
23 a duly appointed or elected officer or director, who is  
24 employed, appointed, or elected for purposes other than  
25 solely representing the corporation in small claims court.

26 (c) A party who is not a corporation or a natural person  
27 may appear and participate in a small claims action only  
28 through a regular employee, or a duly appointed or  
29 elected officer or director, or in the case of a partnership,  
30 a partner, engaged for purposes other than solely  
31 representing the party in small claims court.

32 (d) If a party is an individual doing business as a sole  
33 proprietorship, the party may appear and participate in  
34 a small claims action by a representative and without  
35 personally appearing if both of the following conditions  
36 are met:

37 (1) The claim can be proved or disputed by evidence  
38 of an account that constitutes a business record as defined  
39 in Section 1271 of the Evidence Code, and there is no  
40 other issue of fact in the case.



1 (2) The representative is a regular employee of the  
2 party for purposes other than solely representing the  
3 party in small claims actions and is qualified to testify to  
4 the identity and mode of preparation of the business  
5 record.

6 (e) A plaintiff is not required to personally appear, and  
7 may submit declarations to serve as evidence supporting  
8 his or her claim or allow another individual to appear and  
9 participate on his or her behalf, if (1) the plaintiff is  
10 serving on active duty in the United States armed forces  
11 outside this state, (2) the plaintiff was assigned to his or  
12 her duty station after his or her claim arose, (3) the  
13 assignment is for more than six months, (4) the  
14 representative is serving without compensation, and (5)  
15 the representative has appeared in small claims actions  
16 on behalf of others no more than four times during the  
17 calendar year. The defendant may file a claim in the same  
18 action in an amount not to exceed the jurisdictional limits  
19 stated in Sections 116.220 and 116.231.

20 (f) A party incarcerated in a county jail, a Department  
21 of Corrections facility, or a Youth Authority facility is not  
22 required to personally appear, and may submit  
23 declarations to serve as evidence supporting his or her  
24 claim, or may authorize another individual to appear and  
25 participate on his or her behalf if that individual is serving  
26 without compensation and has appeared in small claims  
27 actions on behalf of others no more than four times during  
28 the calendar year.

29 (g) A defendant who is a nonresident owner of real  
30 property may defend against a claim relating to that  
31 property without personally appearing by any of the  
32 following methods: (1) submitting written declarations to  
33 serve as evidence supporting his or her defense, (2)  
34 allowing another individual to appear and participate on  
35 his or her behalf if that individual is serving without  
36 compensation and has appeared in small claims actions on  
37 behalf of others no more than four times during the  
38 calendar year, or (3) doing both of these.

39 (h) At the hearing of a small claims action, the court  
40 shall require any individual who is appearing as a



1 representative of a party under subdivision (b), (c), (d),  
2 (e), (f), or (g), to file a declaration stating (1) that the  
3 individual is authorized to appear for the party, and (2)  
4 the basis for that authorization. If the representative is  
5 appearing under subdivision (b), (c), or (d), the  
6 declaration also shall state that the individual is not  
7 employed solely to represent the party in small claims  
8 court. If the representative is appearing under  
9 subdivision (e), (f), or (g), the declaration also shall state  
10 that the representative is serving without compensation,  
11 and has appeared in small claims actions on behalf of  
12 others no more than four times during the calendar year.

13 (i) A husband or wife who sues or who is sued with his  
14 or her spouse may appear and participate on behalf of his  
15 or her spouse if (1) the claim is a joint claim, (2) the  
16 represented spouse has given his or her consent, and (3)  
17 the court determines that the interests of justice would be  
18 served.

19 (j) If the court determines that a party cannot  
20 properly present his or her claim or defense and needs  
21 assistance, the court may in its discretion allow another  
22 individual to assist that party.

23 (k) Nothing in this section shall operate or be  
24 construed to authorize an attorney to participate in a  
25 small claims action except as expressly provided in  
26 Section 116.530.

27 SEC. 6. Section 116.570 of the Code of Civil Procedure  
28 is amended to read:

29 116.570. (a) Any party may submit a written request  
30 for postponement of a hearing date.

31 (1) The written request may be made either by letter  
32 or on a form adopted or approved by the Judicial Council.

33 (2) On the date of making the written request, the  
34 requesting party shall mail or personally deliver a copy to  
35 each of the other parties to the action.

36 (3) If the court finds that the interests of justice would  
37 be served by postponing the hearing, the court shall  
38 postpone the hearing, and shall notify all parties by mail  
39 of the new hearing date, time, and place.



1 (4) The court shall provide a prompt response by mail  
2 to any person making a written request for postponement  
3 of a hearing date under this subdivision.

4 (b) If service of the claim and order upon the  
5 defendant is not completed within the number of days  
6 before the hearing date required by subdivision (b) of  
7 Section 116.340, and the defendant has not personally  
8 appeared and has not requested a postponement, the  
9 court shall postpone the hearing for at least 15 days. If a  
10 postponement is ordered under this subdivision, the clerk  
11 shall promptly notify all parties by mail of the new  
12 hearing date, time, and place.

13 (c) Nothing in this section limits the inherent power  
14 of the court to order postponements of hearings in  
15 appropriate circumstances.

16 (d) A fee of ten dollars (\$10) shall be charged and  
17 collected for the filing of a request for postponement and  
18 rescheduling of a hearing date after timely service  
19 pursuant to subdivision (b) of Section 116.340 has been  
20 made upon the defendant.

21 SEC. 7. Section 116.610 of the Code of Civil Procedure  
22 is amended to read:

23 116.610. (a) The small claims court shall give  
24 judgment for damages, or equitable relief, or both  
25 damages and equitable relief, within the jurisdictional  
26 limits stated in Sections 116.220 and 116.231, and may  
27 make such orders as to time of payment or otherwise as  
28 the court deems just and equitable for the resolution of  
29 the dispute.

30 (b) The court may, at its discretion or on request of any  
31 party, continue the matter to a later date in order to  
32 permit and encourage the parties to attempt resolution  
33 by informal or alternative means.

34 (c) The judgment shall include a determination  
35 whether the judgment resulted from a motor vehicle  
36 accident on a California highway caused by the  
37 defendant's operation of a motor vehicle, or by the  
38 operation by some other individual, of a motor vehicle  
39 registered in the defendant's name.



1 (d) If the defendant has filed a claim against the  
2 plaintiff, or if the judgment is against two or more  
3 defendants, the judgment, and the statement of decision  
4 if one is rendered, shall specify the basis for and the  
5 character and amount of the liability of each of the  
6 parties, including, in the case of multiple judgment  
7 debtors, whether the liability of each is joint or several.

8 (e) If specific property is referred to in the judgment,  
9 whether it be personal or real, tangible or intangible, the  
10 property shall be identified with sufficient detail to  
11 permit efficient implementation or enforcement of the  
12 judgment.

13 (f) In an action against several defendants, the court  
14 may, in its discretion, render judgment against one or  
15 more of them, leaving the action to proceed against the  
16 others, whenever a several judgment is proper.

17 (g) The prevailing party is entitled to the costs of the  
18 action, including the costs of serving the order for the  
19 appearance of the defendant.

20 (h) When the court renders judgment, the clerk shall  
21 promptly deliver or mail notice of entry of the judgment  
22 to the parties, and shall execute a certificate of personal  
23 delivery or mailing and place it in the file.

24 (i) The notice of entry of judgment shall be on a form  
25 approved or adopted by the Judicial Council.

26 SEC. 8. Section 116.820 of the Code of Civil Procedure  
27 is amended to read:

28 116.820. (a) The judgment of a small claims court  
29 may be enforced as provided in Title 9 (commencing  
30 with Section 680.010) of Part 2 and in Sections 674 and  
31 1174 on the enforcement of judgments of other courts. A  
32 judgment of the superior court after a hearing on appeal,  
33 and after transfer to the small claims court under  
34 subdivision (d) of Section 116.780, may be enforced like  
35 other judgments of the small claims court, as provided in  
36 Title 9 (commencing with Section 680.010) of Part 2 and  
37 in Sections 674 and 1174 on the enforcement of judgments  
38 of other courts.

39 (b) Fees as provided in Sections 26828, 26830, and  
40 26834 of the Government Code shall be charged and



1 collected by the clerk for the issuance of a writ of  
2 execution, an order of examination of a judgment debtor,  
3 or an abstract of judgment.

4 (c) The prevailing party in any action subject to this  
5 chapter is entitled to the costs of enforcing the judgment  
6 and accrued interest.

7 SEC. 9. Section 116.910 of the Code of Civil Procedure  
8 is amended to read:

9 116.910. (a) Except as provided in this chapter  
10 (including, but not limited to, Section 116.230), no fee or  
11 charge shall be collected by any officer for any service  
12 provided under this chapter.

13 (b) All fees collected under this chapter shall be  
14 deposited with the treasurer of the city and county or  
15 county in whose jurisdiction the court is located.

16 (c) Six dollars (\$6) of each fifteen dollar (\$15) fee and  
17 fourteen dollars (\$14) of each thirty dollar (\$30) fee  
18 charged and collected under subdivision (a) of Section  
19 116.230 shall be deposited by each county in a special  
20 account. Of the money deposited in this account:

21 (1) In counties with a population of less than 4,000,000,  
22 a minimum of 50 percent shall be used to fund the small  
23 claims adviser service described in Section 116.940. The  
24 remainder of these funds shall be used for court and  
25 court-related programs. Records of these moneys shall be  
26 available for inspection by the public on request.

27 (2) In counties with a population of at least 4,000,000,  
28 not less than five hundred thousand dollars (\$500,000)  
29 shall be used to fund the small claims adviser service  
30 described in Section 116.940. That amount shall be  
31 increased each fiscal year by an amount equal to the  
32 percentage increase in revenues derived from small  
33 claims court filing fees over the prior fiscal year. The  
34 remainder of these funds shall be used for court and  
35 court-related programs. Records of these moneys shall be  
36 available for inspection by the public on request.

37 (d) This section and Section 116.940 shall not be  
38 applied in any manner that results in a reduction of the  
39 level of services, or the amount of funds allocated for  
40 providing the services described in Section 116.940, that



1 are in existence in each county during the fiscal year  
2 1989–90. Nothing in this section shall preclude the county  
3 from procuring other funding, including state court block  
4 grants, to comply with the requirements of Section  
5 116.940.

6 SEC. 10. Section 685.070 of the Code of Civil  
7 Procedure is amended to read:

8 685.070. (a) The judgment creditor may claim under  
9 this section the following costs of enforcing a judgment:

10 (1) Statutory fees for preparing and issuing, and  
11 recording and indexing, an abstract of judgment or a  
12 certified copy of a judgment.

13 (2) Statutory fees for filing a notice of judgment lien  
14 on personal property.

15 (3) Statutory fees for issuing a writ for the  
16 enforcement of the judgment to the extent that the fees  
17 are not satisfied pursuant to Section 685.050.

18 (4) Statutory costs of the levying officer for  
19 performing the duties under a writ to the extent that the  
20 costs are not satisfied pursuant to Section 685.050 and the  
21 statutory fee of the levying officer for performing the  
22 duties under the Wage Garnishment Law to the extent  
23 that the fee has not been satisfied pursuant to the wage  
24 garnishment.

25 (5) Costs incurred in connection with any proceeding  
26 under Chapter 6 (commencing with Section 708.010) of  
27 Division 2 that have been approved as to amount,  
28 reasonableness, and necessity by the judge or referee  
29 conducting the proceeding.

30 (6) Attorney’s fees, if allowed by Section 685.040.

31 (b) Before the judgment is fully satisfied but not later  
32 than two years after the costs have been incurred, the  
33 judgment creditor claiming costs under this section shall  
34 file a memorandum of costs with the court clerk and serve  
35 a copy on the judgment debtor. Service shall be made  
36 personally or by mail. The memorandum of costs shall be  
37 executed under oath by a person who has knowledge of  
38 the facts and shall state that to the person’s best  
39 knowledge and belief the costs are correct, are reasonable  
40 and necessary, and have not been satisfied.



1 (c) Within 15 days after the memorandum of costs is  
2 served on the judgment debtor, the judgment debtor  
3 may apply to the court on noticed motion to have the  
4 costs taxed by the court. If the memorandum of costs was  
5 served by mail, this period shall be extended pursuant to  
6 Section 1013. The notice of motion shall be served on the  
7 judgment creditor. Service shall be made personally or by  
8 mail. The court shall make an order allowing or  
9 disallowing the costs to the extent justified under the  
10 circumstances of the case.

11 (d) If no motion to tax costs is made within the time  
12 provided in subdivision (c), the costs claimed in the  
13 memorandum are allowed.

14 (e) If a memorandum of costs for the costs specified in  
15 subdivision (a) is filed at the same time as an application  
16 for a writ of execution, these statutory costs not already  
17 allowed by the court in an amount not to exceed one  
18 hundred dollars (\$100) in the aggregate may be included  
19 in the amount specified in the writ of execution, subject  
20 to subsequent disallowance as ordered by the court  
21 pursuant to a motion to tax if filed by the debtor. The  
22 memorandum of costs shall contain the following  
23 statement: “The fees sought under this memorandum  
24 may be disallowed by a court upon a motion to tax filed  
25 by the debtor notwithstanding the fees having been  
26 included in the writ of execution.” The inclusion of the  
27 above costs in the writ of execution or the pendency of the  
28 motion to tax on these costs shall not be cause for the clerk  
29 of the court to delay issuing the writ of execution or for  
30 the levying officer to delay enforcing the writ of  
31 execution.

32 SEC. 11. Section 1985.3 of the Code of Civil Procedure  
33 is amended to read:

34 1985.3. (a) For purposes of this section, the following  
35 definitions apply:

36 (1) “Personal records” means the original or any copy  
37 of books, documents, or other writings pertaining to a  
38 consumer and which are maintained by any “witness”  
39 which is a physician, chiropractor, veterinarian,  
40 veterinary hospital, veterinary clinic, pharmacist,



1 pharmacy, hospital, state or national bank, state or federal  
2 association (as defined in Section 5102 of the Financial  
3 Code), state or federal credit union, trust company,  
4 anyone authorized by this state to make or arrange loans  
5 that are secured by real property, security brokerage  
6 firm, insurance company, title insurance company,  
7 underwritten title company, escrow agent licensed  
8 pursuant to Division 6 (commencing with Section 17000)  
9 of the Financial Code or exempt from licensure pursuant  
10 to Section 17006 of the Financial Code, attorney,  
11 accountant, institution of the Farm Credit System, as  
12 specified in Section 2002 of Title 12 of the United States  
13 Code, telephone corporation which is a public utility, as  
14 defined in Section 216 of the Public Utilities Code,  
15 psychotherapist, as defined in Section 1010 of the  
16 Evidence Code, a private or public preschool, elementary  
17 school, or secondary school, or an employer or former  
18 employer of the consumer.

19 (2) "Consumer" means any individual, partnership of  
20 five or fewer persons, association, or trust which has  
21 transacted business with, or has used the services of, the  
22 witness or for whom the witness has acted as agent,  
23 employer, or fiduciary.

24 (3) "Subpoenaing party" means the person or persons  
25 causing a subpoena duces tecum to be issued or served in  
26 connection with any civil action or proceeding pursuant  
27 to this code, but shall not include the state or local  
28 agencies described in Section 7465 of the Government  
29 Code, or any entity provided for under Article VI of the  
30 California Constitution in any proceeding maintained  
31 before an adjudicative body of that entity pursuant to  
32 Chapter 4 (commencing with Section 6000) of Division  
33 3 of the Business and Professions Code.

34 (b) The date specified in a subpoena duces tecum for  
35 the production of personal records shall not be less than  
36 15 days from the date the subpoena is issued. Prior to the  
37 date called for in the subpoena duces tecum for the  
38 production of personal records, the subpoenaing party  
39 shall serve or cause to be served on the consumer whose  
40 records are being sought a copy of the subpoena duces



1 tecum, of the affidavit supporting the issuance of the  
2 subpoena, and of the notice described in subdivision (e).

3 This service shall be made as follows:

4 (1) To the consumer personally, or at his or her last  
5 known address, or in accordance with Chapter 5  
6 (commencing with Section 1010) of Title 14 of Part 3, or,  
7 if he or she is a party, to his or her attorney of record. If  
8 the consumer is a minor, service shall be made on the  
9 minor's parent, guardian, conservator, or similar  
10 fiduciary, or if one of them cannot be located with  
11 reasonable diligence, then service shall be made on any  
12 person having the care or control of the minor or with  
13 whom the minor resides or by whom the minor is  
14 employed, and on the minor if the minor is at least 12  
15 years of age.

16 (2) Not less than 10 days prior to the date for  
17 production specified in the subpoena duces tecum, plus  
18 the additional time provided by Section 1013 if service is  
19 by mail.

20 (3) At least five days prior to service upon the  
21 custodian of the records, plus the additional time  
22 provided by Section 1013 if service is by mail.

23 (c) Prior to the production of the records, the  
24 subpoenaing party shall do either of the following:

25 (1) Serve or cause to be served upon the witness a  
26 proof of personal service or of service by mail attesting to  
27 compliance with subdivision (b).

28 (2) Furnish the witness a written authorization to  
29 release the records signed by the consumer or by his or  
30 her attorney of record. The witness may presume that any  
31 attorney purporting to sign the authorization on behalf of  
32 the consumer acted with the consent of the consumer.

33 (d) A subpoena duces tecum for the production of  
34 personal records shall be served in sufficient time to allow  
35 the witness a reasonable time to locate and produce the  
36 records or copies thereof.

37 Except as to records subpoenaed for a criminal  
38 proceeding or records subpoenaed during trial, a  
39 subpoena duces tecum served upon a witness with  
40 records in more than one location shall be served no less



1 than 10 days prior to the date specified for production,  
2 unless good cause is shown pursuant to subdivision (h).

3 (e) Every copy of the subpoena duces tecum and  
4 affidavit served on a consumer or his or her attorney in  
5 accordance with subdivision (b) shall be accompanied by  
6 a notice, in a typeface designed to call attention to the  
7 notice, indicating that (1) records about the consumer  
8 are being sought from the witness named on the  
9 subpoena; (2) if the consumer objects to the witness  
10 furnishing the records to the party seeking the records,  
11 the consumer shall serve a written objection as provided  
12 in subdivision (g) prior to the date specified for  
13 production on the subpoena; and (3) if the party who is  
14 seeking the records will not agree in writing to cancel or  
15 limit the subpoena, an attorney should be consulted about  
16 the consumer's interest in protecting his or her rights of  
17 privacy. If a notice of taking of deposition is also served,  
18 that other notice may be set forth in a single document  
19 with the notice required by this subdivision.

20 (f) A subpoena duces tecum for personal records  
21 maintained by a telephone corporation which is a public  
22 utility, as defined in Section 216 of the Public Utilities  
23 Code, shall not be valid or effective unless it includes a  
24 consent to release, signed by the consumer whose records  
25 are requested, as required by Section 2891 of the Public  
26 Utilities Code.

27 (g) Any consumer who is a party to the action whose  
28 personal records are sought by a subpoena duces tecum  
29 may, prior to the date for production, bring a motion  
30 under Section 1987.1 to quash or modify the subpoena  
31 duces tecum. Notice of that motion shall be given to the  
32 witness prior to production.

33 Any consumer who is not a party to the action, whose  
34 personal records are sought by a subpoena duces tecum  
35 may, prior to the date of production, serve on the  
36 requesting party and the witness a written objection,  
37 setting forth the specific grounds on which production of  
38 the personal records should be prohibited. No witness  
39 shall be required to produce personal records after  
40 receipt of notice that a motion has been brought or



1 service of a nonparty consumer's objection, except upon  
2 order of the court in which the action is pending or by  
3 agreement of the parties, witness, and consumer affected.

4 A party requesting a nonparty consumer's personal  
5 records, may bring a motion pursuant to Section 1987.1 to  
6 enforce the subpoena within 20 days of service of the  
7 nonparty's written objection. The motion shall be  
8 accompanied by a declaration showing a reasonable and  
9 good faith attempt at informal resolution of the dispute  
10 between the party requesting the personal records and  
11 the consumer or the consumer's attorney.

12 (h) Upon good cause shown and provided that the  
13 rights of witnesses and consumers are preserved, a  
14 subpoenaing party shall be entitled to obtain an order  
15 shortening the time for service of a subpoena duces  
16 tecum or waiving the requirements of subdivision (b)  
17 where due diligence by the subpoenaing party has been  
18 shown.

19 (i) Nothing contained in this section shall be construed  
20 to apply to any subpoena duces tecum which does not  
21 request the records of any particular consumer or  
22 consumers and which requires a custodian of records to  
23 delete all information which would in any way identify  
24 any consumer whose records are to be produced.

25 (j) This section shall not apply to proceedings  
26 conducted under Division 1 (commencing with Section  
27 50), Division 4 (commencing with Section 3200), Division  
28 4.5 (commencing with Section 6100), or Division 4.7  
29 (commencing with Section 6200) of the Labor Code.

30 (k) Failure to comply with this section shall be  
31 sufficient basis for the witness to refuse to produce the  
32 personal records sought by a subpoena duces tecum.

33 SEC. 12. Section 1985.7 is added to the Code of Civil  
34 Procedure, to read:

35 1985.7. When a medical provider fails to comply with  
36 Section 1158 of the Evidence Code, in addition to any  
37 other available remedy, the demanding party may apply  
38 to the court for an order to show cause why the records  
39 should not be produced.



1 Any order to show cause issued pursuant to this section  
2 shall be served upon respondent in the same manner as  
3 a summons. It shall be returnable no sooner than 20 days  
4 after issuance unless ordered otherwise upon a showing  
5 of substantial hardship. The court shall impose monetary  
6 sanctions pursuant to Section 1158 of the Evidence Code  
7 unless it finds that the person subject to the sanction acted  
8 with substantial justification or that other circumstances  
9 make the imposition of the sanction unjust.

10 ~~SEC. 13. Section 53069.4 of the Government Code is~~  
11 ~~amended to read:~~

12 ~~53069.4. (a) (1) The legislative body of a local~~  
13 ~~agency, as the term "local agency" is defined in Section~~  
14 ~~54951, may by ordinance make any violation of any~~  
15 ~~ordinance enacted by the local agency subject to an~~  
16 ~~administrative fine or penalty. The local agency shall set~~  
17 ~~forth by ordinance the administrative procedures that~~  
18 ~~shall govern the imposition, enforcement, collection, and~~  
19 ~~administrative review by the local agency of those~~  
20 ~~administrative fines or penalties. Where the violation~~  
21 ~~would otherwise be an infraction, the administrative fine~~  
22 ~~or penalty shall not exceed the maximum fine or penalty~~  
23 ~~amounts for infractions set forth in subdivision (b) of~~  
24 ~~Section 25132 and subdivision (b) of Section 36900.~~

25 ~~(2) The administrative procedures set forth by~~  
26 ~~ordinance adopted by the local agency pursuant to~~  
27 ~~paragraph (1), shall provide for a reasonable period of~~  
28 ~~time, as specified in the ordinance, for a person~~  
29 ~~responsible for a continuing violation to correct or~~  
30 ~~otherwise remedy the violation prior to the imposition of~~  
31 ~~administrative fines or penalties, when the violation~~  
32 ~~pertains to building, plumbing, electrical, or other similar~~  
33 ~~structural or zoning issues, that do not create an~~  
34 ~~immediate danger to health or safety.~~

35 ~~(b) (1) Notwithstanding the provisions of Section~~  
36 ~~1094.5 or 1094.6 of the Code of Civil Procedure within 20~~  
37 ~~days after service of the final administrative order or~~  
38 ~~decision of the local agency is made pursuant to an~~  
39 ~~ordinance enacted in accordance with this section~~  
40 ~~regarding the imposition, enforcement or collection of~~



1 ~~the administrative fines or penalties, a person contesting~~  
2 ~~that final administrative order or decision may seek~~  
3 ~~review by filing an appeal to be heard by the municipal~~  
4 ~~court, where the same shall be heard de novo, except that~~  
5 ~~the contents of the local agency's file in the case shall be~~  
6 ~~received in evidence. A copy of the document or~~  
7 ~~instrument of the local agency providing notice of the~~  
8 ~~violation and imposition of the administrative fine or~~  
9 ~~penalty shall be admitted into evidence as prima facie~~  
10 ~~evidence of the facts stated therein. A copy of the notice~~  
11 ~~of appeal shall be served in person or by first class mail~~  
12 ~~upon the local agency by the contestant.~~

13 ~~(2) The fee for filing the notice of appeal shall be~~  
14 ~~twenty-five dollars (\$25). The court shall request that the~~  
15 ~~local agency's file on the case be forwarded to the court,~~  
16 ~~to be received within 15 days of the request. The court~~  
17 ~~shall retain the twenty-five dollar (\$25) fee regardless of~~  
18 ~~the outcome of the appeal. If the court finds in favor of the~~  
19 ~~contestant, the amount of the fee shall be reimbursed to~~  
20 ~~the contestant by the local agency. Any deposit of the fine~~  
21 ~~or penalty shall be refunded by the local agency in~~  
22 ~~accordance with the judgment of the court.~~

23 ~~(3) The hearing shall be informal, the object being to~~  
24 ~~dispense justice promptly, fairly, and inexpensively. No~~  
25 ~~party has a right to a formal trial by the court or a jury and~~  
26 ~~no statement of decision is required. If the court finds in~~  
27 ~~favor of the contestant, the amount of the fee shall be~~  
28 ~~reimbursed to the contestant by the local agency and any~~  
29 ~~deposit of the fine or penalty shall be refunded by the~~  
30 ~~local agency.~~

31 ~~(4) The conduct of the appeal under this section is a~~  
32 ~~subordinate judicial duty that may be performed by~~  
33 ~~traffic trial commissioners and other subordinate judicial~~  
34 ~~officials at the direction of the presiding judge of the~~  
35 ~~court.~~

36 ~~(e) If no notice of appeal of the local agency's final~~  
37 ~~administrative order or decision is filed within the period~~  
38 ~~set forth in this section, the order or decision shall be~~  
39 ~~deemed confirmed.~~



1 ~~(d) If the fine or penalty has not been deposited and~~  
2 ~~the decision of the court is against the contestant, the local~~  
3 ~~agency may proceed to collect the penalty pursuant to~~  
4 ~~the procedures set forth in its ordinance.~~

5 ~~(e) There is no right of appeal by the contestant or the~~  
6 ~~local agency, and the decision of the municipal court is~~  
7 ~~final and conclusive.~~

8 ~~SEC. 14.~~

9 *SEC. 13.* Section 68150 of the Government Code is  
10 amended to read:

11 68150. (a) Trial court records may be preserved in  
12 any form of communication or representation, including  
13 optical, electronic, magnetic, micrographic, or  
14 photographic media or other technology capable of  
15 accurately producing or reproducing the original record  
16 according to minimum standards or guidelines for the  
17 preservation and reproduction of the medium adopted  
18 by the American National Standards Institute or the  
19 Association for Information and Image Management.

20 Specifications for electronic recordings made as the  
21 official record of the oral proceedings shall be governed  
22 by the California Rules of Court.

23 (b) No additions, deletions, or changes shall be made  
24 to the content of the record. The records shall be indexed  
25 for convenient access.

26 (c) A copy of the record preserved or reproduced  
27 according to subdivisions (a) and (b) shall be deemed the  
28 original court record and may be certified as a correct  
29 copy of the original record.

30 (d) A court record preserved or reproduced in  
31 accordance with subdivisions (a) and (b) shall be stored  
32 in a manner and in a place that reasonably assures its  
33 preservation against loss, theft, defacement, or  
34 destruction for the prescribed retention period under  
35 Section 68152. Electronic recordings made as the official  
36 record of the oral proceedings shall not require a backup  
37 copy unless otherwise specified in the California Rules of  
38 Court.

39 (e) The court record that was reproduced in  
40 accordance with subdivisions (a) and (b) may be



1 disposed of in accordance with the procedure under  
2 Section 68153, unless it is subject to subdivision (f).

3 (f) The following court records may be preserved or  
4 reproduced under subdivisions (a) and (b) but shall also  
5 be preserved on paper, microfilm, or in another form of  
6 communication or representation approved by and in  
7 accordance with standards that are defined as archival by  
8 the American National Standards Institute for the  
9 duration of the record’s retention period:

10 (1) The comprehensive historical and sample superior  
11 court records preserved for research under the California  
12 Rules of Court.

13 (2) Court records that are preserved permanently.  
14 Court records that must be preserved longer than 10  
15 years but not permanently may be reproduced on media  
16 other than paper or microfilm using technology  
17 authorized under subdivisions (a) and (b). However the  
18 records shall be reproduced before the expiration of their  
19 estimated lifespan for the medium in which they are  
20 stored as specified in subdivision (g).

21 (g) Instructions for access to data stored on a medium  
22 other than paper shall be documented. Each court shall  
23 conduct a periodic review of the media in which the court  
24 records are stored to assure that the storage medium is  
25 not obsolete and that current technology is capable of  
26 accessing and reproducing the records. The court shall  
27 reproduce records before the expiration of their  
28 estimated lifespan for the medium in which they are  
29 stored according to minimum standards and guidelines  
30 for the preservation and reproduction of the medium  
31 adopted by the American National Standards Institute or  
32 the Association for Information and Image Management.

33 (h) Court records preserved or reproduced under  
34 subdivisions (a) and (b) shall be made reasonably  
35 accessible to all members of the public for viewing and  
36 duplication as would the paper records. Reasonable  
37 provision shall be made for duplicating the records at  
38 cost. Cost shall consist of all costs associated with  
39 duplicating the records as determined by the court.

40 ~~SEC. 15.~~



1 *SEC. 14.* Section 68151 of the Government Code is  
2 amended to read:

3 68151. The following definitions apply to this chapter:

4 (a) “Court record” shall consist of the following:

5 (1) All filed papers and documents in the case folder;  
6 but if no case folder is created by the court, all filed papers  
7 and documents that would have been in the case folder  
8 if one had been created.

9 (2) Administrative records filed in an action or  
10 proceeding, depositions, paper exhibits, transcripts,  
11 including preliminary hearing transcripts, and tapes of  
12 electronically recorded proceedings filed, lodged, or  
13 maintained in connection with the case, unless disposed  
14 of earlier in the case pursuant to law.

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

17 (b) “Notice of destruction and no transfer” means that  
18 the clerk has given notice of destruction of the superior  
19 court records open to public inspection, and that there is  
20 no request and order for transfer of the records as  
21 provided in the California Rules of Court.

22 (c) “Final disposition of the case” means that an  
23 acquittal, dismissal, or order of judgment has been  
24 entered in the case or proceeding, the judgment has  
25 become final, and no postjudgment motions or appeals  
26 are pending in the case or for the reviewing court upon  
27 the mailing of notice of the issuance of the remittitur.

28 In a criminal prosecution, the order of judgment shall  
29 mean imposition of sentence, entry of an appealable  
30 order (including, but not limited to, an order granting  
31 probation, commitment of a defendant for insanity, or  
32 commitment of a defendant as a narcotics addict  
33 appealable under Section 1237 of the Penal Code), or  
34 forfeiture of bail without issuance of a bench warrant or  
35 calendaring of other proceedings.

36 (d) “Retain permanently” means that the original  
37 court records shall never be transferred or destroyed.

38 ~~SEC. 16.~~

39 *SEC. 15.* Section 68152 of the Government Code is  
40 amended to read:



1 68152. The trial court clerk may destroy court records  
 2 under Section 68153 after notice of destruction and if  
 3 there is no request and order for transfer of the records,  
 4 except the comprehensive historical and sample superior  
 5 court records preserved for research under the California  
 6 Rules of Court, when the following times have expired  
 7 after final disposition of the case in the categories listed:

8 (a) Adoption: retain permanently.  
 9 (b) Change of name: retain permanently.  
 10 (c) Other civil actions and proceedings, as follows:  
 11 (1) Except as otherwise specified: 10 years.  
 12 (2) Where a party appears by a guardian ad litem: 10  
 13 years after termination of the court’s jurisdiction.  
 14 (3) Domestic violence: same period as duration of the  
 15 restraining or other orders and any renewals, then retain  
 16 the restraining or other orders as a judgment; 60 days  
 17 after expiration of the temporary protective or  
 18 temporary restraining order.  
 19 (4) Eminent domain: retain permanently.  
 20 (5) Family law, except as otherwise specified: 30 years.  
 21 (6) Harassment: same period as duration of the  
 22 injunction and any renewals, then retain the injunction  
 23 as a judgment; 60 days after expiration of the temporary  
 24 restraining order.  
 25 (7) Mental health (Lanterman Developmental  
 26 Disabilities Services Act and Lanterman-Petris-Short  
 27 Act): 30 years.  
 28 (8) Paternity: retain permanently.  
 29 (9) Petition, except as otherwise specified: 10 years.  
 30 (10) Real property other than unlawful detainer:  
 31 retain permanently if the action affects title or an interest  
 32 in real property.  
 33 (11) Small claims: 10 years.  
 34 (12) Unlawful detainer: one year if judgment is for  
 35 possession of the premises; 10 years if judgment is for  
 36 money.  
 37 (d) Notwithstanding subdivision (c), any civil or small  
 38 claims case in the trial court:



1 (1) Involuntarily dismissed by the court for delay in  
2 prosecution or failure to comply with state or local rules:  
3 one year.

4 (2) Voluntarily dismissed by a party without entry of  
5 judgment: one year.

6 Notation of the dismissal shall be made on the civil  
7 index of cases or on a separate dismissal index.

8 (e) Criminal.

9 (1) Capital felony (murder with special circumstances  
10 where the prosecution seeks the death penalty): retain  
11 permanently. If the charge is disposed of by acquittal or  
12 a sentence less than death, the case shall be reclassified.

13 (2) Felony, except as otherwise specified: 75 years.

14 (3) Felony, except capital felony, with court records  
15 from the initial complaint through the preliminary  
16 hearing or plea and for which the case file does not  
17 include final sentencing or other final disposition of the  
18 case because the case was bound over to the superior  
19 court: five years.

20 (4) Misdemeanor, except as otherwise specified: five  
21 years.

22 (5) Misdemeanor alleging a violation of the Vehicle  
23 Code, except as otherwise specified: three years.

24 (6) Misdemeanor alleging a violation of Section 23103,  
25 23152, or 23153 of the Vehicle Code: seven years.

26 (7) Misdemeanor alleging a violation of Section 14601,  
27 14601.1, 20002, 23104, or 23109 of the Vehicle Code: five  
28 years.

29 (8) Misdemeanor alleging a marijuana violation under  
30 subdivision (b), (c), (d), or (e) of Section 11357 of the  
31 Health and Safety Code, or subdivision (b) of Section  
32 11360 of the Health and Safety Code in accordance with  
33 the procedure set forth in Section 11361.5 of the Health  
34 and Safety Code: records shall be destroyed two years  
35 from the date of conviction or from the date of arrest if  
36 no conviction.

37 (9) Misdemeanor, infraction, or civil action alleging a  
38 violation of the regulation and licensing of dogs under  
39 Sections 30951 to 30956, inclusive, of the Food and



1 Agricultural Code or violation of any other local  
2 ordinance: three years.

3 (10) Infraction, except as otherwise specified: three  
4 years.

5 (11) Parking infractions, including alleged violations  
6 under the stopping, standing, and parking provisions set  
7 forth in Chapter 9 (commencing with Section 22500) of  
8 Division 11 of the Vehicle Code: two years.

9 (f) Habeas corpus: same period as period for retention  
10 of the records in the underlying case category.

11 (g) Juvenile.

12 (1) Dependent (Section 300 of the Welfare and  
13 Institutions Code): upon reaching age 28 or on written  
14 request shall be released to the juvenile five years after  
15 jurisdiction over the person has terminated under  
16 subdivision (a) of Section 826 of the Welfare and  
17 Institutions Code. Sealed records shall be destroyed upon  
18 court order five years after the records have been sealed  
19 pursuant to subdivision (c) of Section 389 of the Welfare  
20 and Institutions Code.

21 (2) Ward (Section 601 of the Welfare and Institutions  
22 Code): upon reaching age 21 or on written request shall  
23 be released to the juvenile five years after jurisdiction  
24 over the person has terminated under subdivision (a) of  
25 Section 826 of the Welfare and Institutions Code. Sealed  
26 records shall be destroyed upon court order five years  
27 after the records have been sealed under subdivision (d)  
28 of Section 781 of the Welfare and Institutions Code.

29 (3) Ward (Section 602 of the Welfare and Institutions  
30 Code): upon reaching age 38 under subdivision (a) of  
31 Section 826 of the Welfare and Institutions Code. Sealed  
32 records shall be destroyed upon court order when the  
33 subject of the record reaches the age of 38 under  
34 subdivision (d) of Section 781 of the Welfare and  
35 Institutions Code.

36 (4) Traffic and some nontraffic misdemeanors and  
37 infractions (Section 601 of the Welfare and Institutions  
38 Code): upon reaching age 21 or five years after  
39 jurisdiction over the person has terminated under



1 subdivision (c) of Section 826 of the Welfare and  
2 Institutions Code. May be microfilmed or photocopied.

3 (5) Marijuana misdemeanor under subdivision (e) of  
4 Section 11357 of the Health and Safety Code in  
5 accordance with procedures specified in subdivision (a)  
6 of Section 11361.5 of the Health and Safety Code: upon  
7 reaching age 18 the records shall be destroyed.

8 (h) Probate.

9 (1) Conservatorship: 10 years after decree of  
10 termination.

11 (2) Guardianship: 10 years after the age of 18.

12 (3) Probate, including probated wills, except as  
13 otherwise specified: retain permanently.

14 (i) Court records of the appellate department of the  
15 trial court: five years.

16 (j) Other records.

17 (1) Applications in forma pauperis: same period as  
18 period for retention of the records in the underlying case  
19 category.

20 (2) Arrest warrant: same period as period for retention  
21 of the records in the underlying case category.

22 (3) Bench warrant: same period as period for  
23 retention of the records in the underlying case category.

24 (4) Bond: three years after exoneration and release.

25 (5) Coroner's inquest report: same period as period for  
26 retention of the records in the underlying case category;  
27 if no case, then permanent.

28 (6) Court orders not associated with an underlying  
29 case, such as orders for destruction of court records for  
30 telephone taps, or to destroy drugs, and other  
31 miscellaneous court orders: three years.

32 (7) Court reporter notes: 10 years after the notes have  
33 been taken in criminal and juvenile proceedings and five  
34 years after the notes have been taken in all other  
35 proceedings, except notes reporting proceedings in  
36 capital felony cases (murder with special circumstances  
37 where the prosecution seeks the death penalty and the  
38 sentence is death), including notes reporting the  
39 preliminary hearing, which shall be retained



1 permanently, unless the Supreme Court on request of the  
2 court clerk authorizes the destruction.

3 (8) Electronic recordings made as the official record  
4 of the oral proceedings under the California Rules of  
5 Court: any time after final disposition of the case in  
6 infraction and misdemeanor proceedings, 10 years in all  
7 other criminal proceedings, and five years in all other  
8 proceedings.

9 (9) Electronic recordings not made as the official  
10 record of the oral proceedings under the California Rules  
11 of Court: any time either before or after final disposition  
12 of the case.

13 (10) Index, except as otherwise specified: retain  
14 permanently.

15 (11) Index for cases alleging traffic violations: same  
16 period as period for retention of the records in the  
17 underlying case category.

18 (12) Judgments within the jurisdiction of the superior  
19 court: retain permanently.

20 (13) Judgments within the jurisdiction of the  
21 municipal and justice court: same period as period for  
22 retention of the records in the underlying case category.

23 (14) Minutes: same period as period for retention of  
24 the records in the underlying case category.

25 (15) Naturalization index: retain permanently.

26 (16) Ninety-day evaluation (under Section 1203.03 of  
27 the Penal Code): same period as period for retention of  
28 the records in the underlying case category, or period for  
29 completion or termination of probation, whichever is  
30 longer.

31 (17) Register of actions or docket: same period as  
32 period for retention of the records in the underlying case  
33 category, but in no event less than 10 years for civil and  
34 small claims cases.

35 (18) Search warrant: 10 years, except search warrants  
36 issued in connection with a capital felony case defined in  
37 paragraph (7), which shall be retained permanently.

38 (k) Retention of any of the court records under this  
39 section shall be extended as follows:



1 (1) By order of the court on its own motion, or on  
2 application of a party or any interested member of the  
3 public for good cause shown and on such terms as are just.  
4 No fee shall be charged for making the application.

5 (2) Upon application and order for renewal of the  
6 judgment to the extended time for enforcing the  
7 judgment.

8 ~~SEC. 17.~~

9 *SEC. 16.* Section 1308 of the Penal Code is amended  
10 to read:

11 1308. No court or magistrate shall accept any person  
12 or corporation as surety on bail, nor shall a court accept  
13 a bail bond from a bail bondsman, if any summary  
14 judgment against that person, corporation, or bail  
15 bondsman entered pursuant to Section 1306 remains  
16 unpaid after the expiration of 20 days after service of  
17 notice of the entry of the summary judgment. However,  
18 if during the 20 days on an action or proceeding available  
19 at law is initiated to determine the validity of the order  
20 of forfeiture or summary judgment rendered thereon,  
21 this section shall be rendered inoperative until that action  
22 or proceeding has finally been determined, provided that  
23 an appeal bond is posted in compliance with Section 917.1  
24 of the Code of Civil Procedure. The clerk of the court in  
25 which the judgment is rendered shall serve notice of the  
26 entry of judgment upon the judgment debtor within five  
27 days after the date of the entry of the summary judgment.

28 ~~SEC. 18.~~

29 *SEC. 17.* Notwithstanding Section 17610 of the  
30 Government Code, if the Commission on State Mandates  
31 determines that this act contains costs mandated by the  
32 state, reimbursement to local agencies and school  
33 districts for those costs shall be made pursuant to Part 7  
34 (commencing with Section 17500) of Division 4 of Title  
35 2 of the Government Code. If the statewide cost of the  
36 claim for reimbursement does not exceed one million  
37 dollars (\$1,000,000), reimbursement shall be made from  
38 the State Mandates Claims Fund.

39 Notwithstanding Section 17580 of the Government  
40 Code, unless otherwise specified, the provisions of this act



1 shall become operative on the same date that the act  
2 takes effect pursuant to the California Constitution.

O

