

**2011 New Laws Workshop
Tier 1 Bills**

Administrative and Criminal

AB 110 (Blumenfield)
Chapter 193, Statutes of 2011
Courts

Effective: 08/30/2011

Summary Description of New Law

Enacts a budget trailer bill intended to provide budgetary relief to the judicial branch by maintaining some, and increasing other, civil filing fees and narrowing the types cases for which courts must send sentencing transcripts to the California Department of Corrections and Rehabilitation. Takes effect immediately as urgency legislation.

Existing Law	New Law	Impact on Court
<p>1 First paper filing fees</p> <p>Provides that, if the amount of the General Fund transfer to the Trial Court Trust Fund were to decrease by more than 10% during fiscal years 2010-2011 through 2012-2013, as compared to fiscal year 2009-2010, the supplemental fees added to the first paper filing fee effective October 2010, would decrease proportionately.</p> <p>Government Code § 70602.5</p>	<p>First paper filing fees</p> <p>Eliminates the provision that would otherwise reduce the amount of the supplemental fees added to the first paper filing fee as a result of reductions in General Fund transfer to the Trial Court Trust Fund.</p> <p>Maintains the first paper filing fees, including the supplemental fees, at \$395 for unlimited civil cases, \$330 for limited civil cases where the amount in controversy exceeds \$10,000, and \$225 in limited civil cases where the amount in controversy does not exceed</p>	<p>No need to give notice of a reduction in any fees.</p>

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Existing Law	New Law	Impact on Court
	<p>\$10,000.</p> <p>Government Code § 70602.5</p>	
<p>2 Appellate filing fees</p> <p>Sets the fee for filing a notice of appeal in a civil case in the court of appeal at \$655.</p> <p>Sets the fee for filing a petition for a writ within the original civil jurisdiction of the court of appeal at \$655.</p> <p>Sets the fee for filing a petition for a writ within the original civil jurisdiction of the Supreme Court at \$590.</p> <p>Contains no fee for a responsive filing in such cases.</p> <p>Government Code §§ 68926 and 68926.1</p> <p>Sets the fee for filing a petition for review in a civil case appealed from the court of appeal to the Supreme Court at \$590.</p>	<p>Appellate filing fees</p> <p>Sets the fee for a party other than the appellant filing a first document in a civil case appealed to a court of appeal at \$325.</p> <p>Sets the fee for a party other than a petitioner filing a first document in a writ proceeding within the original jurisdiction of the Supreme Court or within the original jurisdiction of the court of appeal at \$325.</p> <p>Government Code § 68926</p> <p>Sets the fee for a party other than a petitioner filing its first document in a civil case appealed from the court of appeal to the Supreme Court at</p>	<p>No impact to trial courts.</p>

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Existing Law	New Law	Impact on Court
<p>Government Code §§ 68926.1 and 68927</p> <p>Contains no fee for a responsive filing in such cases.</p>	<p>\$325.</p> <p>Government Code § 68926</p>	
<p>3 Transmittal of sentencing transcripts to the Department of Corrections and Rehabilitation</p> <p>Requires trial courts to transmit certain documents, including transcripts of plea and sentencing proceedings, to the Department of Corrections and Rehabilitation (CDCR) within 60 days of pronouncement of judgment in all felony cases resulting in a commitment to a CDCR institution.</p> <p>Penal Code § 1203.01</p>	<p>Transmittal of sentencing transcripts to the Department of Corrections and Rehabilitation</p> <p>Narrows the cases in which sentencing transcripts need to be transmitted to the Department of Corrections and Rehabilitation to only judgments with sentences of life, life without parole, and death, and any other felony matter upon request of the department, an inmate, or his or her counsel.</p> <p>Penal Code § 1203.01</p>	<p>Reduces the number of guilty plea and sentencing proceeding transcripts to be prepared and transmitted to the Department of Corrections and Rehabilitation.</p> <p>Requires procedure manuals for court reporters and court staff to be updated to indicate which cases need to have a transcript sent.</p>

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**AB 973 (Campos)
Chapter 687, Statutes of 2011**

Effective: 01/01/2012

Trial courts: budget process: public notice

Summary Description of New Law

Requires each trial court, until January 1, 2017, prior to adopting a baseline budget plan for the fiscal year, to provide the public notice of, and an opportunity for public input on, the court’s proposed budget plan. Provides that the opportunity for input may be by submission of written comment or by public hearing, at the court’s discretion. Requires that, during the current 60-day notice period regarding notice of courtroom closures, or closures of or reductions in the hours of clerks’ offices, the public be given an opportunity to submit written comments on the court’s plan. Requires the court to review and consider all public comments submitted and immediately post a revised notice if the court’s plan changes as a result of those comments.

Existing Law	New Law	Impact on Court
<p>1 Courtroom closures and reduction in services</p> <p>Requires a trial court to provide written notice to the public 60 days prior to closing any courtroom or closing or reducing the hours of clerks’ offices. Specifies that notice shall be posted on the court’s Web site, within or about the court’s facilities and sent to the Judicial Council, which shall post the notice on its Web site and provide copies to</p>	<p>Courtroom closures and reduction in services</p> <p>Requires the court to accept, and the public notice to specify the manner in which written public comment may be submitted during the 60-day comment period.</p> <p>Requires a trial court to also provide at least 60 days’ written notice electronically to individuals who have subscribed to the court’s</p>	<p>Now required to include information in the notice that comments may be submitted during the designated 60-day period.</p> <p>Establish protocols and advise public how to submit comments to the court.</p> <p>Establish contact to receive public comments and process to submit comments to presiding judge and</p>

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Existing Law	New Law	Impact on Court
<p>the Legislature. Government Code § 68106</p>	<p>electronic distribution service. Specifies that the court is not required to respond to the comments received, and that any change in the plan made as a result of comments received shall not restart the 60-day clock, but requires the court to immediately post a revised notice. Government Code § 68106</p>	<p>court executive officer for action. Immediately post any changes made resulting from comments received during 60-day period. Retain comments for the period required for administrative records.</p>
<p>2 Public comment on proposed budget plan Does not require a court to provide public notice or an opportunity to comment prior to the adoption of the annual baseline budget plan. Provides that the Judicial Council may, as part of the trial court budget process, seek input from individuals and groups as it deems appropriate. Government Code § 68502.5 Provides that the presiding judge is responsible, with the assistance of the court executive officer for, among</p>	<p>Public comment on proposed budget plan Requires courts, prior to adopting a baseline budget plan for the fiscal year (the Schedule 1) to provide public notice of, and an opportunity for public input on the proposed budget plan. Requires the plan to be made available at the at least 3 days prior to the hearing or, if there is no hearing, 3 days prior to adoption of the plan. Specifies that the plan shall be made available at the courthouse and on the court’s public Web site.</p>	<p>Determine method for public input. If by written comment then court may establish protocols in a manner similar to California Rules of Court, rule 10.613(g) – <i>Comment period for proposed local rules, e.g.,</i></p> <ul style="list-style-type: none"> • Distribute for public comment by posting on the court’s public Web site at least 3 days before adopting the budget plan and establish the means to make the plan available at the courthouse;

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Existing Law	New Law	Impact on Court
<p>other things, allocating resources in a manner that promotes access to justice for members of the public, provides a forum for the fair and expeditious resolution of disputes, maximizes the use of resources, increases efficiency in court operations, and enhances service to the public.</p> <p>California Rules of Court, rule 10.603</p> <p>Requires the presiding judge to establish responsible budget priorities and submit budget requests that will best enable the court to achieve its goals.</p> <p>California Rules of Court, rule 10.603</p>	<p>Gives the court discretion to determine if it will conduct a public hearing or allow written comment as the method for public input.</p> <p>If the court chooses to conduct a public hearing, directs that the hearing be held in a place reasonably accessible to the residents of the county, and specifies that the hearing may be conducted in any courthouse in the county. Requires the court to provide notice of the hearing and the ability to submit comments not less than 10 court days prior to the hearing. Requires this notice to be posted within or about the court's facilities, on the court's public Web site, and to be sent electronically to individuals who have subscribed to the court's electronic distribution service.</p> <p>Government Code § 68511.7</p>	<ul style="list-style-type: none"> • Include organizations such as media outlets or other interested individuals who have subscribed to the court's electronic distribution of such notice. May want to include the district attorney, public defender, county counsel, county bar association, and the nearest office of the State Attorney General; • Establish contact to receive public comments and process to submit comments to presiding judge and court executive officer for consideration; • Retain comments for the period required for administrative records. <p>If by public hearing then, in addition to the above, established protocols must include:</p> <ul style="list-style-type: none"> • Location of the hearing; • Security arrangements;

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Existing Law	New Law	Impact on Court
		<ul style="list-style-type: none"> • Agenda; • Parliamentary procedures. <p>At least 10 days before the hearing, post notice on the court’s public Web site, at its facilities, and include organizations such as media outlets or other interested individuals who have subscribed to the court’s electronic distribution of such notice. The court may want to include the district attorney, public defender, county counsel, county bar association, and the nearest office of the State Attorney General.</p> <p>Consider establishing protocols regarding attendance, (<i>e.g.</i>, first-come first-seated) or registration prior to the hearing to address space limitations.</p> <p>Retain records related to the public hearing (<i>i.e.</i>, minutes, comments) for period required for administrative records.</p>

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AB 1111 (Fletcher)
Chapter 466, Statutes of 2011
Debt collection: homeless youth

Effective: 01/01/2012

Summary Description of New Law

Provides that the court shall not garnish wages or levy against bank accounts when the court, in the course of its routine efforts to collect delinquent fines, obtains information that a person under the age of 25 who has not paid a fine for truancy, loitering, curfew violations, or illegal lodging is homeless. Provides that garnishment and bank account levies may proceed when the person reaches the age of 25 or is no longer homeless.

Existing Law	New Law	Impact on Court
<p>1 Wage and bank account garnishment</p> <p>Defines a comprehensive debt collection program for delinquent court-ordered debt and lists the elements that may be used in order to qualify as a comprehensive program, including the use of wage and bank account garnishments.</p> <p>Penal Code § 1463.007</p>	<p>Wage and bank account garnishment</p> <p>Prohibits courts from using wage garnishment or bank account garnishment when the: (1) delinquent debt is a fine for truancy, loitering, or illegal housing; (2) debtor is under age 25; and (3) court obtains information in its routine collection efforts indicating that the debtor is homeless. Allows the court to use standard collection efforts once the debtor reaches age 25, or is no longer homeless.</p> <p>Penal Code § 1463.011</p>	<p>Continue collection efforts as usual as new law prohibits such efforts only if court obtains information that the person is under age 25 and is homeless.</p> <p>Advise collection unit, in-house or third-party contractor, of new law.</p> <p>Develop new form for debtors to use declaring that they meet the criteria prohibiting collection efforts by the court.</p> <p>Update current procedure and/or form related to discharge of civil</p>

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Existing Law	New Law	Impact on Court
		<p>assessment imposed under Penal Code section 1214.1.</p> <p>Modify case management system as needed.</p>
<p>2 Definition of homeless</p> <p>Defines a “homeless person” as any person who lacks a fixed, regular, and adequate nighttime residence, or who has a primary nighttime residence in a shelter, a temporary living institution, or a public or private place not designated for regular sleeping accommodations for humans.</p> <p>Health and Safety Code § 50582</p>	<p>Definition of homeless</p> <p>Defines, for purpose of this new law, a person as “homeless” or “having no permanent residence” if the person “does not have a fixed, regular, adequate nighttime residence, or has a primary nighttime residence that is one of the following: (1) a supervised publicly or privately operated shelter designed to provide temporary living accommodations, including, but not limited to, welfare hotels, congregate shelters, and transitional housing for the mentally ill; or (2) an institution that provides a temporary residence for individuals intended to be institutionalized.”</p> <p>Penal Code § 1463.011</p>	<p>Use modified criteria to establish procedures, forms, and coding to update case management systems.</p>

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**SB 78 (Committee on Budget and Fiscal Review)
Chapter 10, Statutes of 2011
Administration of Justice**

Effective: Various (see details)

Summary Description of New Law

Implements provisions in the Budget Act of 2011-2012 related to funding for the judicial branch:

- Continues the court security fee (renamed in other legislation as the court operations assessment) at \$40 for each conviction until July 1, 2013. Makes the reduction in the fee to \$30 effective July 1, 2013.
- Eliminates the obligation of courts to comply with those mandates of the Omnibus Conservatorship and Guardianship Reform Act of 2006 that required funding until such time as a specific appropriation is made for that purpose. Permits courts that have the resources to meet some or all of these requirements to continue to do so, but does not require it.
- Adopts a new part to the Public Contract Code relating to contracting by superior courts, Courts of Appeal, the Supreme Court, Judicial Council, Administrative Office of the Courts, and the Habeas Corpus Resource Center and requires all contracts entered into or amended on or after October 1, 2011, to comply with provisions of the Public Contract Code related to the procurement of goods and services that are applicable to state agencies and departments.

Except as otherwise specified, as a budget trailer bill, takes effect upon enactment (March 24, 2011).

Existing Law	New Law	Impact on Court
<p>1 Court security fee Requires that \$40 be imposed on every conviction for a criminal offense, including traffic offenses, to ensure and maintain adequate</p>	<p>Court security fee Extends the \$40 fee until July 1, 2013, at which time the charge would be reduced to \$30. Deletes the provision that would have</p>	<p><u>NOTE:</u> Courts should already be imposing the \$40 fee. <u>NOTE:</u> AB 118, Stats. of 2011,</p>

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Existing Law	New Law	Impact on Court
<p>funding for court security. Provides that the amount of the fee be reduced to \$30 on July 1, 2011, and reduced to \$20 on July 1, 2013.</p> <p>Penal Code § 1465.8</p>	<p>reduced the fee/assessment to \$20.</p> <p>Penal Code § 1465.8</p>	<p>Chapter 40 (AB 118) re-names the court security fee the “court operations assessment.” This name change is not intended to have any impact on how the fee is applied, collected, or distributed.</p>
<p>2 Omnibus Conservatorship and Guardianship Reform Act of 2006</p> <p>Imposes various requirements on courts related to conservatorships in an attempt to provide greater oversight and better protect conservatees, including increased frequency of investigations and accountings, and expanded responsibilities for court investigators. Fails to condition implementation of the new court responsibilities on the receipt of necessary funding.</p> <p>Probate Code §§ 1051, 1826, 1850, 1850.5, 1851, 2250, 2250.4, 2250.6, 2253, and 2620</p>	<p>Omnibus Conservatorship and Guardianship Reform Act of 2006</p> <p>For those requirements that necessitated funding, effective March 24, 2011, eliminates the obligation of the judicial branch to comply until such time as funding is appropriated expressly for that purpose. Permits courts that have the resources to begin or continue to meet these mandates to continue to do so.</p> <p>Probate Code §§ 1051, 1826, 1850, 1850.5, 1851, 2250, 2250.4, 2250.6, 2253, and 2620</p>	<p>Continue to process conservatorships and guardianships as before.</p> <p>Courts may suspend planning to comply with the mandates of the Omnibus Act that require funding until specific appropriation is made, unless the court chooses to go forward with existing resources.</p> <p>For those courts that meet some or all of the requirements, determine if the administration wants to continue to do so as it is no longer a requirement.</p>

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Existing Law	New Law	Impact on Court
<p>3 Judicial branch contracting</p> <p>Sets forth various policies and procedures for judicial branch entities relating to procurement and contracting.</p> <p>Trial Court Financial Policies and Procedures Manual §§ 6.01, 7.01, 7.02, and 7.03; AOC Policy Regarding Legal Review of Procurement Matters; AOC Policy 7.2.1; and Court Facilities Contracting Policies and Procedures</p>	<p>Judicial branch contracting</p> <p>Creates the California Judicial Branch Contract Law, which would require judicial branch entities to comply, beginning October 1, 2011, with specified provisions of the State Public Contract Code relating to state agencies and departments for contracts initially entered into or amended by judicial branch entities.</p> <p>Requires the Judicial Council to adopt a Judicial Branch Contracting Manual (available at http://www.courts.ca.gov/documents/jbcl-manual.pdf) and requires all judicial branch entities to comply with that manual. Requires each judicial branch entity to adopt a local contracting manual as well. Provides that all such manuals must be consistent with the Public Contract Code provisions relating to state agencies and departments and substantially similar to the State Administrative Manual and the State Contracting Manual.</p> <p>Provides that, with the exception of</p>	<p>Review procurement procedures and processes to comply with new law.</p> <p>Review and modify accounting and finance processes and procedures to ensure acceptable audit trail and to provide data for required reports by mandated deadlines.</p> <p>Meet with vendors as necessary to review if contracts comply with new requirements.</p> <p>Develop local contracting manual.</p>

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Existing Law	New Law	Impact on Court
	<p>information technology contracts, all contracts in excess of \$1 million shall be subject to the review and recommendation of the Bureau of State Audits, and requires every judicial branch entity to notify the state auditor within 10 business days of entering into such a contract.</p> <p>Provides that the California Judicial Branch Contract Law does not apply to procurement and contracting by judicial branch entities related to trial court construction.</p> <p>Requires the Judicial Council to report to the Joint Legislative Budget Committee and the Bureau of State Audits twice a year, beginning in 2012 on the procurement of goods and services under the new law, and, by January 15, 2013, on the process, transparency, costs, and timeliness of the branch's construction procurement practices.</p> <p>Requires the Legislative Analyst's Office to analyze the report's findings.</p> <p>Public Contract Code § 19200 et seq., as</p>	

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Existing Law	New Law	Impact on Court
amended by SB 92, Stats. 2011, ch. 36		
<p>4 Trial court audits</p> <p>Provides that the Judicial Council may regulate the budget and fiscal management of the trial courts. Requires the Administrative Office of the Courts to contract with the Controller to perform audits.</p> <p>Government Code § 77206</p>	<p>Trial court audits</p> <p>Requires that the trial court audits address compliance with the California Judicial Branch Contract Law.</p> <p>Provides that the State Auditor shall be reimbursed by the judicial branch entity that is the subject of the audit for all reasonable and necessary costs associated with conducting those audits.</p> <p>Government Code § 77206(i)(1)</p> <p>[NOTE: this statutory change was revised by SB 92, Stats. 2011, ch. 36, which removed the audit provision from Government Code section 77206, and instead created a new section 19210 in the Public Contract Code requiring the State Auditor to audit compliance with the Judicial Branch Contract Law, in provisions parallel to the operation and time line for trial court fiscal audits.]</p>	<p>Review and modify accounting and finance processes and procedures to ensure acceptable audit trail and to provide data for required reports by mandated deadlines.</p>

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New Law	Why New Law is Significant to Trial Courts / Actions to Consider
<p>AB 887 (Atkins) Effective: 01/01/2012 Chapter 719, Statutes of 2011 <u>Gender</u> Changes the definition of “gender” to include a person’s gender identity and gender expression for purposes of the Unruh Civil Rights Act.</p>	<p>Courts may want to ensure that their personnel and human resources policies do not unintentionally infringe on an individual’s right to exercise gender expression or identity. Although the new law expressly states no modifications need be made to any facilities as a result of its provisions, courts should review their policies on the use of facilities to ensure that employees’ privacy rights are protected.</p>
<p>AB 1133 (Silva) Effective: 01/01/2012 Chapter 184, Statutes of 2011 <u>Grand jurors: conflict of interest</u> Provides that a grand juror who is a current employee of, or a former or retired employee last employed within the prior 3 years by, an agency within the investigative jurisdiction of the civil grand jury shall inform the foreperson and court of that fact and shall recuse himself or herself from participating in any grand jury civil investigation of that agency, including any discussion or vote concerning a civil investigation of that agency.</p>	<p>Courts and counties share responsibility for the civil grand jury, and the court is responsible for training grand jurors. A court may wish to advise the county and the grand jury to amend any internal rules of procedure, bylaws or codes of conduct applicable to grand jurors to clarify that a grand juror should recuse himself or herself from any investigation of an agency, if the grand juror is a current employee of the agency, or worked for the agency in the past three years.</p>