

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2023-2024 Regular Session

AB 1756 (Committee on Judiciary)

Version: June 23, 2023

Hearing Date: July 6, 2023

Fiscal: Yes

Urgency: No

AM

SUBJECT

Committee on Judiciary: judiciary omnibus

DIGEST

This bill makes various noncontroversial changes to existing law, including clarifying existing law, deleting obsolete references, extending sunsets, and removing sunsets thereby indefinitely extending certain provisions of law.

EXECUTIVE SUMMARY

This bill is the Assembly Judiciary Committee omnibus bill that makes various noncontroversial changes to existing law with the purpose of increasing efficiencies in the legislative process, conserving legislative resources, and eliminating the need to unnecessarily hear a number of technical, clarifying, or modest stand-alone bills that might otherwise have to be introduced and require individual consideration by the Legislature. The bill, among other things, reduces the cost burdens on Californians of moderate means for filing Government Claims Act cases; enacts recommendations of the California Law Revision Commission regarding trial court restructuring; includes a judge of a federally recognized Indian tribe as an “elected or appointed official” under the California Public Records Act; extends the authority of county clerks to use remote technology to enable couples to receive a marriage license and solemnize their marriage indefinitely; extends the authorization of rental car companies to use, access, or obtain information relating to a renter’s use of a rental vehicle via electronic surveillance technology when the vehicle has not been returned; and makes several other technical and generally non-substantive revisions to the existing law.

The bill is author sponsored. The bill is supported by the Conference of California Bar Associations. There is no known opposition.

PROPOSED CHANGES TO THE LAW

Existing law and this bill:

- 1) Existing law authorizes the Attorney General to operate and maintain the Attorney General's Registry of Charitable Trusts to oversee commercial fundraisers for charitable purposes and provide public access to various reports transmitted to the Attorney General by charitable organizations. (Gov. Code § 12587.)

This bill revises and recasts several provisions of existing law to change the name "Attorney General's Registry of Charitable Trusts" to the "Attorney General's Registry of Charities and Fundraisers" and makes similar revisions to the Fund of the same name.

- 2) Existing law provides that if indebtedness created by any contract is satisfied prior to its maturity through surrender of a motor vehicle, repossession of a motor vehicle, redemption of a motor vehicle after repossession, or any judgment, the outstanding obligation of the buyer of the motor vehicle is based on the initial finance charge, as specified. (Civ. Code § 2982.)

This bill clarifies that an auto buyer's indebtedness on an auto loan contract may be satisfied by the debtor by returning the vehicle to the debt holder, who may elect to keep the vehicle.

- 3) Existing law provides that if a guaranteed asset protection waiver is terminated and the termination occurs later than 30 days after the date the buyer purchased the guaranteed asset protection waiver, the buyer is entitled to a refund of the unearned guaranteed asset protection waiver charges, which is to be calculated on a pro rata basis. (Civ. Code § 2982.12(b)(2).)

This bill clarifies that if the original full term of the conditional sale contract exceeded the original full term of the guaranteed asset protection waiver as of the date the buyer purchased the guaranteed asset protection waiver, "calculating a refund on a pro rata basis," as required by existing law, requires multiplying the total dollar amount of guaranteed asset protection waiver charges by the quotient of the number of calendar days from the termination date to the guaranteed asset protection waiver's original full term date, including the termination date as a full calendar day, divided by the total number of calendar days in the guaranteed asset protection waiver's original term.

- 4) Existing law requires, prior to filing a demurrer, the demurring party to meet and confer in person or by telephone with the party who filed the pleading that is subject to demurrer for the purpose of determining whether an agreement can be reached that would resolve the objections to be raised in the demurrer. (Code of Civ. Proc. § 430.41(a).) Requires, prior to filing a motion for judgment on the pleadings, the

moving party to meet and confer in person or by telephone with the party who filed the pleading that is subject to motion for the purpose of determining whether an agreement can be reached that would resolve the objections to be raised in the motion. (Code of Civ. Proc. § 439(a).)

This bill authorizes the mandatory meet and confer process for the filing of a demur, motion to strike, and a motion for judgment on the pleadings to occur via video conference.

- 5) Existing law provides that if parties to pending litigation stipulate, in a writing signed by the parties outside of the presence of the court or orally before the court, for settlement of the case, or part thereof, the court, upon motion, may enter judgment pursuant to the terms of the settlement, and if requested by the parties, the court may retain jurisdiction over the parties to enforce the settlement until performance in full of the terms of the settlement. (Code of Civ. Proc. § 664.6.)

This bill provides that if the Court enters judgment or dismisses the case without prejudice but retains jurisdiction to enforce the judgment the following terms apply:

- a) A party may file a motion or other document pertaining to the settlement, including an application for determination of good faith settlement, a motion for the reduction or determination of a lien, a petition related to the compromise of the claim of a minor or person with a disability, or, if the terms of a settlement are not performed;
- b) The court must exercise its retained jurisdiction if a party files a notice that a written settlement agreement required of all parties was not signed by all parties;
- c) A party who has paid a first appearance fee is not to be assessed a first appearance fee again for filing a motion, notice or other document pertaining to the settlement after entry of judgment or dismissal without prejudice; and
- d) The Clerk of the Court must accept any motion, notice, or other document properly filed by a party after entry of judgment or dismissal without prejudice.

This bill provides that nothing precludes a party from filing a request for dismissal with prejudice after the court has dismissed the case without prejudice. Requires, on or before January 1, 2024, the Judicial Council to update or develop new forms or Rules of Court as necessary to implement these provisions.

- 6) Existing law requires the Judicial Council to submit to the Legislature a report regarding the amount by which the dollar amounts of exemptions provided for under the Homestead Exemption in effect immediately before that date may be increased, as provided. (Code of Civ. Proc. § 703.150(d).)

This bill eliminates that reporting requirement.

- 7) Existing law prohibits a landlord from terminating a tenancy or failing to renew a tenancy based on an act of abuse or violence against a tenant, a tenant's immediate family member, or a tenant's household member if the landlord has received documentation evidencing abuse or violence against the tenant, the tenant's immediate family member, or the tenant's household member. (Code of Civ. Proc. § 1161.3(b).) Provides that a violation of this prohibition is an affirmative defense to a cause of action for unlawful detainer. (Code of Civ. Proc. § 1161.3(d).)

This bill clarifies the process in which a defendant in an unlawful detainer action may raise an affirmative defense to the action based on domestic abuse.

- 8) Existing law provides that an employment or consumer arbitration that requires, either expressly or through application of state or federal law or the rules of the arbitration provider, that the drafting party pay certain fees and costs during the pendency of an arbitration proceeding, if the fees or costs required to continue the arbitration proceeding are not paid within 30 days after the due date, the drafting party is in material breach of the arbitration agreement, is in default of the arbitration, and waives its right to compel the employee or consumer to proceed with that arbitration as a result of the material breach. (Code of Civ. Proc. § 1281.98(a).)

This bill clarifies the process in which a defendant in an unlawful detainer action may raise an affirmative defense to the action based on domestic abuse.

- 9) Existing law prohibits a person from adopting an unrelated adult within one year of an adoption of another person unless the persons are siblings. (Fam. Code § 9303(b).)

This bill provides that upon a finding of good cause by the court a person may adopt more than one non-related adult in a calendar year.

- 10) Existing law waives the filing fee for Government Claims Act cases for persons who are receiving benefits pursuant to the Supplemental Security Income and State Supplementary Payment programs, the California Work Opportunity and Responsibility to Kids Act program, the federal Supplemental Nutrition Assistance Program or specified city and county social service payment programs. (Gov. Code § 905.2(c).)

This bill provides that, in addition to provisions in existing law, the filing fee for Government Claims Act filings are:

- a) For a person whose monthly income is less than one hundred dollars (\$100) above the income of a person whose monthly income is 125 percent of the current monthly poverty line annually established by the United States Department of Health and Human Services, the fee assessed shall be 25 percent of the difference between their income and 125 percent of the current monthly poverty line; and

- b) For a person who is sentenced to imprisonment in a state prison or confined in a county jail, or who is a resident in a state institution and, within 90 days prior to the date the claim is filed, has a balance greater than one hundred dollars (\$100) and less than two hundred dollars (\$200), the fee assessed shall be 25 percent of the difference between the inmate's or resident's balance and one hundred dollars (\$100).

11) Existing law requires, on and after July 1, 2022, a trustee holding assets subject to a charitable trust to give written notice to the Attorney General at least 20 days before the trustee sells, leases, conveys, exchanges, transfers, or otherwise disposes of all or substantially all of the charitable assets. (Prob. Code § 16106.)

This bill revises and renumbers several provisions related to notices to the Attorney General regarding the disposal of charitable assets.

12) Existing law provides, on and after July 1, 1997, that the state bears sole responsibility for the funding of court operations and requires the state to be responsible for the cost of court operations incurred by the trial courts. (Gov. Code § 77200.) Specifies, beginning July 1, 1997, that no county is responsible for funding court operations. (Gov. Code §§ 77201 & 70311.) Requires the Commission to determine whether any provisions of law are obsolete as a result of trial court restructuring and to recommend to the Legislature any amendments to remove those obsolete provisions. (Gov. Code § 71674.)

This bill, in response to recommendations made by the Commission:

- a) removes outdated references to municipal courts and municipal court personnel;
- b) deletes an obsolete provision that requires a district attorney to defend a court or judge, upon request of any superior court or municipal court judge, if the court or the judge is named as a defendant in their official capacity;
- c) repeals certain provisions of law that specify benefits for municipal judges on January 1, 2074, thereby ensuring that the obsolete provisions are removed without disrupting any existing rights of former municipal court judges and their beneficiaries;
- d) removes provisions regarding travel expenses of certain large county court personnel, and makes other conforming changes;
- e) authorizes a court in a county of the first class to assign an automobile in lieu of allowing travel expenses if the court determines the best interests of the court would be served;
- f) provides that the Judicial Council is permitted to insure courts and its personnel from liability for claims resulting from any act or omission in the scope of employment, and to insure against the expense of defending such a claim; and

- g) authorizes a county counsel, at the request of Judicial Counsel, to represent a superior court judge in matters concerning the judge or the court's official capacity.

13) Establishes an asset-forfeiture procedure for drug-related cases, as provided. (Health & Saf. Code §§ 11469-11495.)

This bill revises provisions relating to drug forfeiture cases to clarify that such cases are unlimited civil cases, regardless of the value of the seized property, and clarifies that the filing fees in drug forfeiture cases apply notwithstanding any other law.

14) Existing law allows rental car companies to use, access, or obtain information relating to a renter's use of a rental vehicle obtained using electronic surveillance technology when the vehicle has not been returned following 72 hours after the contracted return date or at the end of any extension. (Civ. Code § 1939.23(a).)

This bill extends the sunset date on these provisions until January 1, 2028.

15) Existing law provides for the use of remote technology, as defined, for the issuance, witnessing, and solemnization of marriage licenses, as specified. (Fam. Code § 550 et. seq.)

This bill deletes that sunset date thereby extending this authorization indefinitely.

16) Existing law establishes the California Public Records Act (CPRA) to govern the disclosure of public records. The CPRA provides protections for the disclosure or posting of information of an "elected or appointed official" or their relatives, as provided, and defines "elected or appointed official" to include, among others, judges and federal judges. (Gov. Code §§ 7920.000 et seq.; § 7920.500.)

This bill would additionally include a judge of a federally recognized Indian tribe under that definition.

COMMENTS

1. Stated need for the bill

The author writes:

This broad measure makes modest updates to several policies falling within the jurisdiction of the Committee on the Judiciary that are insufficiently substantive to warrant a standalone bill. This bill modernizes the name of a report and fund at the Department of Justice, eliminates an outdated Judicial Council report, clarifies Government Claims Act filing fees for persons just above the poverty line, and makes several code clean-up related amendments.

2. Civil law omnibus

Since this bill was heard in the Assembly Judiciary Committee it was amended to add additional changes relating to civil law that have not been analyzed by a policy committee and, therefore, this analysis will focus on analyzing those additional changes.¹

- a. *Includes a judge of a federally recognized Indian tribe as an “elected or appointed official” under the California Public Records Act (CPRA)*

California generally recognizes that public access to information concerning the conduct of the people’s business is a fundamental and necessary right. (Gov. Code § 7921.000.) At the same time, the state recognizes that this right must be balanced against the right to privacy. (*Ibid.*) As such, the CPRA provides certain protections for personally identifiable information of elected or appointed officials. ((Gov. Code §§ 7921.200 et. seq.) For example, the CPRA prohibits a person, business, or association from publicly posting or publicly displaying certain personal information regarding elected or appointed officials, such as the home address or telephone number of any elected or appointed official, or of the official’s residing spouse or child, on the internet knowing that person is an elected or appointed official and intending to cause imminent great bodily harm that is likely to occur or threatening to cause imminent great bodily harm to that individual. (Gov. Code § 7921.210.) This amendment would include a judge of a federally recognized Indian tribe under the definition of an “elected or appointed official” thus extending these protections on personally identifiable information to a judge of a federally recognized Indian tribe.

- b. *Extends the authority of county clerks to enable couples to receive a marriage license, and solemnize their marriage, using remote technology indefinitely*

In response to the COVID-19 pandemic, Governor Newsom issued an Executive Order (EO) that enables adults to obtain a marriage license at the discretion of the county clerk through video-conferencing, provided that both adults are located in California, are present at the same time, and present identification during the video conference. The license is then issued by email or other electronic means and can be filled out and signed electronically. The EO also provides that marriages may be solemnized through video-conferencing, provided that both parties, the person solemnizing the marriage, and at least one witness can join the live video conference. The Legislature enacted AB 583 (Davies, Ch. 620, Stats. 2021), which closely resembled the Governor’s EO, to authorize county clerks to enable couples to receive a marriage license, and solemnize their marriage, using remote technology, as defined. The bill provided that these

¹ See Asm. Jud. Analysis for AB 1756 (Assembly Judiciary Committee), as amended March 29, 2023; Asm. Floor Analysis AB 1756 (Assembly Judiciary Committee), as amended April 12, 2023.

provisions would sunset on January 1, 2024. This bill removes that sunset date, thereby extending this authorization indefinitely.

- c. *Extends the authorization on rental car companies to use, access, or obtain information relating to a renter's use of a rental vehicle obtained using electronic surveillance technology when the vehicle has not been returned following 72 hours after the contracted return date or the end of any extension*

AB 2620 (Ting, Ch. 344, Stats. 2018) authorized rental car companies to use, access, or obtain information relating to a renter's use of a rental vehicle obtained using electronic surveillance technology when the vehicle has not been returned following 72 hours after the contracted return date or the end of any extension. A rental car company is required to provide 24-hour advance notice to the customer by telephone and electronically before using accessing, or obtaining information under that authorization, as specified, and requires the company to advise the customer of the fact they can obtain information using electronic surveillance. AB 2620 repealed these provisions on January 1, 2024. This bill extends the sunset date on this provision four years until January 1, 2028.

3. Recommendations of the California Law Revision Commission regarding trial court restructuring

These provisions were in AB 1757 (Committee on Judiciary, 2023) as introduced, but were deleted from that bill and amended into this bill.

California overhauled its court system through a series of reforms over 20 years ago resulting in the existing superior court system. After the reforms were implemented, references to outdated terms and policies remained throughout the codes. The Legislature, recognizing this issue, assigned the California Law Revision Commission (Commission) with the task of providing recommendations to update the codes in light of the reforms made and, over the years, has enacted almost all of the Commission's recommendations. These non-controversial provisions are the latest in a series of changes to continue cleaning up the codes based on the Commission's recommendations. These provisions were in AB 1757 (Committee on Judiciary, 2023) as introduced, but were deleted from that bill and amended into this bill.

Specifically, these provisions seek to enact the recommendations made by the CLRC in the following reports: *Statutes Made Obsolete by Trial Court Restructuring: Part 8* and *Statutes Made Obsolete by Trial Court Restructuring (Part 9): Jurisdictional Classification of a Drug Asset Forfeiture Proceeding*. These changes seem to merely delete obsolete provisions from existing law, which is bolstered by the review of the Commission and the conclusions in their reports. However, in the off-chance that these changes repeal a non-obsolete provision of law, the bill specifically provides that a person's rights are protected and continue into effect notwithstanding the repeal.

a. Judicial benefits

The Commission initially proposed several revisions to statutes on judicial benefits when it began making recommendations regarding trial court restructuring. However, those revisions were withdrawn because it was determined that the jurisprudence was unsettled and the proposed changes warranted further study. Over the past two decades, several developments in this area of law have occurred: a Judicial Council advisory committee on judicial service, a series of lawsuits over supplemental judicial benefits (extra benefits that some counties provide to local trial court judges in addition to their state compensation), a Judicial Council study on disparities in judicial benefits across the state, and other related legislation. Based on these developments, the Commission determined that the statutes on judicial benefits did not need to be substantively reformed. Therefore, these amendments do not make any substantive changes to those statutes, but does make changes to remove obsolete references to the municipal courts and ensure that benefits of municipal personnel are not interrupted in retirement.

b. Representation and indemnification

Trial court restructuring changed the funding for trial court operations from county-funding to state-funding. As a result, provisions relating to legal representation of court employees and reimbursement of costs associated with providing representation needed to be changed. At the beginning of trial court restructuring, many of these areas of law remained unsettled. Extensive developments have occurred since that time, including amending the Government Claims Act to specifically address the issues of representation and indemnification. Further statutory revisions are necessary to fully conform the codes to the current approach concerning representation and indemnification of trial courts and trial court employees.

c. Drug asset forfeiture proceedings

Under existing law, a law enforcement officer is permitted, in some circumstances, to seize certain property connected with an unlawful drug activity. (Health & Saf. Code §§ 11469-11495.) The seized property may be subject to forfeiture to the state or local government and proceeds from forfeited property may be used to support state and local law enforcement. These provisions of law do not expressly state whether a drug asset forfeiture proceeding is a limited civil case or an unlimited civil case. However, the statutes authorizing these drug seizures do expressly refer to filing of a petition in “superior court”. These statutory references predate the unification of the municipal and superior courts. As a result of unification, the original jurisdiction of the superior courts expanded to also include civil cases that traditionally were brought in municipal court in addition to those that were traditionally brought in superior court. Superior courts maintained procedural distinctions between these types of cases by creating limited civil cases, those where the amount in controversy is less than \$25,000

(municipal court cases), and unlimited civil cases, which involved claims in excess of \$25,000. It reasons then that drug seizure petitions should be treated as an unlimited civil case and the procedures for an unlimited civil case apply, unless specifically stated otherwise under the statutes. This bill does not address the substantive merits of California's existing approach to drug asset seizures and forfeitures. It simply clarifies that these petitions are to be treated as unlimited civil cases in order to reduce confusion, prevent misclassifications, and minimize waste of judicial resources in remedying the misclassifications of these types of cases.

4. Proposed amendments

- a. *Commission recommendation regarding court consolidation that were inadvertently left out of this bill when provisions of AB 1757, as introduced, were amended in*

AB 1757, as introduced, repealed Section 26524 of the Government Code, which is an obsolete provision that provides a judge who is entitled to district attorney representation, but has a conflict of interest, can recover reasonable attorney's fees and expenses from the appropriate public entity. The repeal of this section was inadvertently left out of the amendments made to this bill when the provisions of AB 1757, as introduced, were amended into this bill. To address this oversight, the Committee may wish to amend this bill to repeal Section 26524 of the Government Code.

The specific amendment is:

Section 26524 of the Government Code is repealed.
~~26524.~~

~~Upon request of any judge of the superior or municipal court, the district attorney shall appear for and represent the court or judge if the court or judge in his or her official capacity is a party defendant in any action.~~

- b. *AB 1194 (Low, Ch. 412, 2021) report to the Legislature regarding conservatorship cases*

AB 1194, among other things, required the Judicial Council, on or before January 1, 2024, to report to the Legislature the findings of a study measuring court effectiveness in conservatorship cases, including the effectiveness of protecting the legal rights and best interests of a conservatee. The report must include caseload statistics, an analysis of compliance with statutory timeframes in the 2018-19 fiscal year, and a description of any operational differences between courts that affect the processing of conservatorship cases. The report must also include recommendations for statewide performance measures to be collected, best practices that serve to protect the rights of conservatees, and staffing needs to meet case processing measures. The Judicial Council must select at least three courts for the evaluation, including one small court, one medium-sized court,

and one large court. The purpose of the information is to help the Legislature make informed choices as it contemplates further reforms to the probate conservatorship system.

According to the Judicial Council, they need more time to ensure that they can complete the study. They did not receive funding for the study until the 2022-23 Budget Act and only received one response to the request for proposal (RFP) when they put out a bid for RFPs at the beginning of this year. The only respondent indicated that they would need 22 months to perform the study, which would not meet the timelines prescribed under the statute. The Judicial Council indicates they reached out to other organizations that received the RFP but did not respond and these organizations all indicated they could not meet the statutory timelines. As such, they are seeking an extension of the requirement to report until January 1, 2027. In light of these complications and the importance of the information that the study will provide to the Legislature, the extension of time seems warranted.

The specific amendments are as follows:

Section 1458 of the Probate Code is amended to read:

(a) On or before January 1, ~~2024~~, 2027, the Judicial Council shall report to the Legislature the findings of a study measuring court effectiveness in conservatorship cases, including the effectiveness of protecting the legal rights and best interests of a conservatee. The report shall include all of the following, with respect to the courts chosen for evaluation pursuant to subdivision (b):

(1) Caseload statistics from the 2018–19 fiscal year, for both temporary and general probate conservatorships, including, at a minimum, all of the following:

(A) The number of petitions filed requesting appointment of a conservator, the number of those petitions granted, and the number denied, with cases in which a professional fiduciary was appointed presented separately from cases in which a nonprofessional conservator was appointed.

(B) The number of conservatorships under court supervision at the end of the fiscal year in which a court investigation was conducted, with cases in which a professional fiduciary was appointed presented separately from cases in which a nonprofessional conservator was appointed.

(C) The number of conservatorships under court supervision at the end of the fiscal year in which a court review hearing was held, with cases in which a professional fiduciary was appointed presented separately from cases in which a nonprofessional conservator was appointed.

(D) The number of petitions or objections filed by or on behalf of a conservatee challenging a conservator's action, failure to act, accounting, or compensation; the

number of those petitions that were granted; and the number of petitions that were denied, with cases in which a professional fiduciary was appointed presented separately from cases in which a nonprofessional conservator was appointed.

(E) The number of conservatorships under court supervision in which accountings due, and the number of accountings received after they were due, or not received at all, with cases in which a professional fiduciary was appointed presented separately from cases in which a nonprofessional conservator was appointed.

(F) The number of conservatorships of the estate, or of the person and the estate, under court supervision in which bond was not required of the conservator, with cases in which a professional fiduciary was appointed presented separately from cases in which a nonprofessional conservator was appointed.

(2) An analysis of compliance with statutory timeframes in the 2018–19 fiscal year.

(3) A description of any operational differences between courts that affect the processing of conservatorship cases, including timeframes and steps taken to protect the legal rights and best interests of conservatees.

(b) The Judicial Council shall select at least three courts for the evaluation required by this section, including one small court, one medium-sized court, and one large court.

(c) The report shall include recommendations for statewide performance measures to be collected, best practices that serve to protect the legal rights of conservatees, and staffing needs to meet case processing requirements.

(d) The report shall be submitted pursuant to Section 9795 of the Government Code.

(e) This section shall remain in effect only until January 1, ~~2026~~, 2028, and as of that date is repealed.

c. Clarification to changes made to Section 664.6 of the Code of Civil Procedure

Once parties have reached a settlement agreement in civil cases, the courts are authorized to issue a final judgment. Existing law permits parties to have the court retain jurisdiction over the matter in order to enable the court to enforce the settlement until such time as the terms of the agreement have been met. However, according to stakeholders, an informal practice seemed to be emerging whereby a case would be dismissed to keep the court calendar clear even though jurisdiction remained. Some stakeholders claimed this was causing delays in getting cases re-calendared if issues arose regarding implementing the terms of the settlement agreement. An attempt to remedy this issue occurred in 2020 under SB 1105 (Umberg), but an agreement between all the stakeholders was not obtained. This bill includes language to remedy this problem as agreed to by all stakeholders.

The provision provides for an expedited procedure for calendaring actions dismissed by a court when it becomes necessary to enforce the terms of settlement agreements. The language provides that a settlement may be entered by the court if the parties to pending litigation stipulate in writing to settlement, as specified. The bill provides that, if an insurer is defending and indemnifying a party to the action, an agent who is authorized in writing by the insurer to sign on the party's behalf may be considered a party for purposes of this provision. In order to ensure that the party cannot not be made liable for any amount outside of the policy limits without providing explicit approval themselves, the Committee may wish to amend the bill to specify that this provision does not apply if the party whom the insurer is defending would be liable under the terms of the settlement for any amount above the policy limits.

The specific amendments are as follows:

Section 664.6 of the Code of Civil Procedure is amended to read:

664.6. (a) If parties to pending litigation stipulate, in a writing signed by the parties outside of the presence of the court or orally before the court, for settlement of the case, or part thereof, the court, upon motion, may enter judgment pursuant to the terms of the settlement. If requested by the parties, the court may retain jurisdiction over the parties to enforce the settlement until performance in full of the terms of the settlement.

(b) For purposes of this section, a writing is signed by a party if it is signed by any of the following:

(1) The party.

(2) An attorney who represents the party.

(3) If an insurer is defending and indemnifying a party to the action, an agent who is authorized in writing by the insurer to sign on the party's behalf. *This paragraph does not apply if the party whom the insurer is defending would be liable under the terms of the settlement for any amount above the policy limits.*

(c) Paragraphs (2) and (3) of subdivision (b) do not apply in a civil harassment action, an action brought pursuant to the Family Code, an action brought pursuant to the Probate Code, or a matter that is being adjudicated in a juvenile court or a dependency court.

(d) In addition to any available civil remedies, an attorney who signs a writing on behalf of a party pursuant to subdivision (b) without the party's express authorization shall, absent good cause, be subject to professional discipline.

(e) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

Section 664.6 as added to the Code of Civil Procedure, is amended to read:

664.6. (a) If parties to pending litigation stipulate, in a writing signed by the parties outside of the presence of the court or orally before the court, for settlement of the case, or part thereof, the court, upon motion, may enter judgment pursuant to the terms of the settlement. If the parties to the settlement agreement or their counsel stipulate in writing or orally before the court, the court may dismiss the case as to the settling parties without prejudice and retain jurisdiction over the parties to enforce the settlement until performance in full of the terms of the settlement.

(b) For purposes of this section, a writing is signed by a party if it is signed by any of the following:

(1) The party.

(2) An attorney who represents the party.

(3) If an insurer is defending and indemnifying a party to the action, an agent who is authorized in writing by the insurer to sign on the party's behalf. *This paragraph does not apply if the party whom the insurer is defending would be liable under the terms of the settlement for any amount above the policy limits.*

(c) Paragraphs (2) and (3) of subdivision (b) do not apply in a civil harassment action, an action brought pursuant to the Family Code, an action brought pursuant to the Probate Code, or a matter that is being adjudicated in a juvenile court or a dependency court.

(d) In addition to any available civil remedies, an attorney who signs a writing on behalf of a party pursuant to subdivision (b) without the party's express authorization shall, absent good cause, be subject to professional discipline.

(e) (1) If a plaintiff, cross-complainant, or other party seeking affirmative relief has filed a notice of conditional settlement, the court may, upon its own motion, without stipulation from the parties or their counsel, set an order to show cause as to why the court should not dismiss the entire action without prejudice and retain jurisdiction to enforce the settlement.

(2) This subdivision does not apply to actions brought pursuant to Chapter 5 of Title 3 of Part 2 of the Code of Civil Procedure (commencing with Section 378) and Part 13 of Division 2 of the Labor Code (commencing with Section 2698).

(f) If the Court enters judgment or dismisses the case without prejudice pursuant to this section, the following shall apply:

(1) A party may file a motion or other document pertaining to the settlement, including an application for determination of good faith settlement, a motion for the reduction or determination of a lien, a petition related to the compromise of the claim of a minor or person with a disability, or, if the terms of a settlement are not performed, a motion based upon such terms. Responsive filings and related documents may also be filed.

(2) The court shall exercise its retained jurisdiction if a party files a notice that a written settlement agreement required of all parties was not signed by all parties.

(3) A party who has paid a first appearance fee shall not be assessed a first appearance fee again for filing a motion, notice or other document pertaining to the settlement after entry of judgment or dismissal without prejudice.

(4) The clerk of the court shall accept any motion, notice, or other document properly filed by a party after entry of judgment or dismissal without prejudice.

(g) Nothing in this section shall preclude a party from filing a request for dismissal with prejudice after the court has dismissed the case without prejudice pursuant to this section.

(h) On or before January 1, 2025, the Judicial Council shall update or develop new forms or Rules of Court as necessary to implement this section.

(i) This section shall become operative on January 1, 2025.

SUPPORT

Conference of California Bar Associations

OPPOSITION

None known

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation:

AB 1756 (Committee on Judiciary)

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AB 2960 (Committee on Judiciary, Ch. 420, Stats. 2022) Assembly Committee on Judiciary omnibus bill.

AB 1578 (Committee on Judiciary, Ch. 401, Stats. 2021) Assembly Committee on Judiciary omnibus bill.

AB 3364 (Committee on Judiciary, Ch. 36, Stats. 2020) Assembly Committee on Judiciary omnibus bill.

PRIOR VOTES

Assembly Floor (Ayes 79, Noes 0)

Assembly Appropriations Committee (Ayes 15, Noes 0)

Assembly Judiciary Committee (Ayes 11, Noes 0)
