

Judicial Council of California • Administrative Office of the Courts

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INVITATION TO COMMENT LEG12-02

Title	Action Requested
Proposed Legislation: Modernization and Improvement of Statutes on Trial Court Records Retention and Management	Review and submit comments by Friday, July 6, 2012
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Government Code sections 68150 and 68152 and Welfare and Institutions Code section 781	January 1, 2014
Proposed by	Contact
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Executive Summary and Origins

The Court Executives Advisory Committee¹ recommends that the Judicial Council sponsor legislation to modernize and improve the statutes concerning the retention of trial court records and to realize financial savings. Specifically, this proposal recommends that the records retention statutes be amended to authorize the destruction of various court records earlier than is permitted under existing law; this will enable the trial courts to reduce their storage costs. The amendments will also establish statutory records retention periods for new types of records that are not dealt with under existing law—such as records resulting from the new criminal realignment process. The proposed amendments will eliminate gaps and ambiguities in the law relating to records retention; this will clarify for how long certain records are to be retained. This proposal will also amend the trial court records statutes to clarify that the clerk of the court may use technology to

¹ In developing this proposal, the Court Executives Advisory Committee (CEAC) was assisted by the Working Group on Records Management chaired by Richard D. Feldstein, Court Executive Officer of the Superior Court of Napa County, and composed of CEAC members with a special interest in and knowledge of issues relating to records retention. The working group consulted with other court administrators, advisory committees, and subject matter experts in preparing the specific recommendations presented in this invitation to comment.

The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.

generate certified copies of court records. Finally, the amendments will result in Government Code section 68152, the main records retention statute, being organized in a more logical, readable and understandable manner.

Background

In California, a vast amount of storage space is currently devoted to maintaining and preserving paper files of court records. A survey in 2007 indicated that court records were stored in 276 locations throughout the state (courthouse and off-site facilities), totaling 1,854,922 linear feet.² The total cost associated with records management during the fiscal year 2006–2007 was \$21,619,815, which includes storage costs of \$1,814,530 and staff costs of \$14,908,919.

In 2009, the Judicial Council sponsored legislation to modernize the statutes on the management of court records to authorize courts to create, maintain, and preserve records in any form or forms—including paper, electronic, optical, magnetic or photographic media or other technology. This legislation, which was enacted as AB 1926 (2010 stats., ch. 167), is assisting the courts in modernizing their records and reducing long-term costs of record retention.

Nonetheless, large quantities of existing records still remain in paper forms and it would be prohibitively costly to convert all these records to electronic form. It is also not clear what the value is in keeping some these records for such long periods. Thus, other relief—such as the shortened records retention period recommended in this proposal—would be helpful in reducing the costs of maintaining existing records. The proposed legislation will enable courts that in the near future will still be preserving their records in paper to destroy some of those records sooner than is permissible under current law and so realize additional savings. These measures are particularly important in these financially difficult and challenging times.

The Proposal

The main features of this legislative proposal regarding the retention of trial court records are described below.

Reorganization of Government Code section 68152

The main statute concerning trial court records retention is Government Code section 68152. That statute has been amended numerous times and is currently somewhat more difficult to understand than it needs to be. To improve the accessibility and comprehensibility of the statute, this proposal would reorganize the contents. All the items relating to civil cases would be collected under a single heading for “Civil actions and proceedings.” Under that heading, retention periods regarding similar types of cases (for example, cases relating to protective orders and cases relating to real property) would be grouped together. Also, throughout the statute, many subdivisions and subparts have been revised for clarity and consistency of style and format.

² Forty-nine out of 58 courts provided responses to the survey.

Changes in retention periods

The main thrust of this proposal is to recommend that the records retention statutes provide that all trial court records shall be retained as long as necessary but not longer. The individual retention requirements for different types of cases have been carefully considered and taken into account in developing the specific retention periods recommended in this proposal.³ That is not to say that every possible issue has been uncovered or adequately considered; that is one of the reasons for this request for comment. The highlights of the proposed changes in retention periods are explained below under the specific case type headings.

Family Law. Currently, Government Code section 68152 requires most family law records to be retained for 30 years, except judgments that must be retained permanently. The proposed amendments to that statute would require Judgments and Qualified Domestic Relations Orders (QDROs) to be retained permanently. For all other family law documents, the records (1) for cases that do not involve orders involving minor children would need to be retained for 5 years after the date of judgment and (2) for cases that involve orders concerning minor children would need to be retained for five years after the youngest child turns 23 years of age.⁴ Comments are invited on these proposed retention periods.

Protective Orders. Amended Government Code section 68152 would clarify that emergency protective orders only need to be retained until 60 days after the orders expire. Comments are invited on whether this retention period is appropriate; and, if not, please explain why not and how long the orders should be retained.

The section would be also amended to include revised, more detailed provisions regarding the period for the retention of temporary restraining orders, orders after hearing, and other records in cases involving domestic violence, civil harassment, workplace violence, and private school violence. Comments are invited on whether these periods are appropriate.

Finally, comments are invited on whether the record retention provisions on domestic violence and other restraining orders need to include separate provisions regarding how long any orders providing for exemptions from the firearms relinquishment requirements shall be retained.

Probate. The retention period for conservatorship records would be changed from “ten years after the decree of termination” to “5 years after the conservatorship is terminated.” This change

³ As indicated previously, the Working Group on Records Management consulted with many court administrators, advisory committee members, and subject matter experts to make sure that the proposed retention periods are reasonable and appropriate. Further comments on the proposed retention periods are welcome in response to this invitation.

⁴ The retention periods for adoption and parentage records would be unchanged: the records would be retained permanently.

recognizes both that a shorter 5-year period of records retention is sufficient and that that conservatorships may end by means other than a decree of termination.

The retention period for guardianships would be changed from “10 years after the age of 18” to “5 years after the guardianship is terminated or until the ward reaches the age of 18, whichever is later.” This change better reflects the needs of the courts and the public for records concerning guardianships.

A new provision on minor’s compromises would be added. It would provide that these records need to be retained for the same period as the retention period for records in the underlying case; however, if there is no underlying case, the records would need to be retained for 5 years after final order releasing all funds is entered or until the minor reaches the age of 18, whichever is later. Comments are specifically invited on whether this proposal or an alternative—for example, under which the records in cases involving minors’ compromises would need to be retained for one year after an order for release of all funds has been filed—would be preferable.

Mental health. A new provision would be added as subdivision (a)(11)(C) providing that petitions under Welfare and Institutions Code section 8100 et seq. for return of firearms to petitioners who relinquished them to law enforcement while detained in a mental health facility shall be retained for 10 years.

Criminal actions. Currently, Government Code section 68152 provides that records in capital felony cases where the prosecution seeks the death penalty shall be retained permanently. The statute further provides that, if the charge is disposed of by a sentence less than death, the case shall be reclassified. These provisions would be changed to state that the records shall be retained permanently in capital felony cases in which the defendant is sentenced to death, and any felony resulting in a sentence of life or life without the possibility of parole, including the records of the cases of any co-defendants and any related cases, regardless of the disposition. “Capital felony” is defined as meaning murder with special circumstances where the prosecution seeks the death penalty. Records of the cases of co-defendants and related cases to be retained under the provision are limited to those cases that are factually linked or relate to the charged offense. If a capital felony is disposed of by a sentence less than death, life, or life without possibility of parole, the judgment shall be retained permanently and the record shall be retained for 50 years or for 10 years after official written notification of the death of the defendant. If a capital felony is disposed of by an acquittal, the record shall be retained for 10 years. These changes are intended to ensure that all relevant records in capital cases are maintained for a sufficiently long period, while enabling courts to destroy records that are truly no longer needed.

Regarding other felony cases, Government Code section 68152 currently states that, except as otherwise specified, records need to be retained for 75 years. This would be changed to state that in felony cases, except as otherwise specified, and in any case (felony or misdemeanor) resulting in a requirement that the defendant register as a sex offender under Penal Code section 290, the

judgments shall be retained permanently and all other documents for 50 years or the maximum term of the sentence, whichever is longer; however, any record other than a judgment may be destroyed 10 years after the death of the defendant.

The Government Code would also be amended to clarify that for a felony reduced to a misdemeanor the record shall be maintained in accord with the relevant misdemeanor. For felonies and misdemeanors where the charge is dismissed, the record would need to be retained for one year.

The statutory retention periods for records involving misdemeanors would be reorganized and, in some respects, modified. Most of these records, with some exceptions, would need to be retained for 5 years.

The provisions in the current law on the destruction of records involving certain misdemeanors alleging marijuana violations would be preserved. For misdemeanors alleging violations of sections (c), (d) or (e) of section 11357 of the Health and Safety Code, some clarifying language has been added about redaction and the need for the defendant to have paid all applicable fees and fines and to have completed community service and any and all other terms of conviction if there was a conviction. Also, a cross-reference has been added to the records retention provisions in subdivision (e)(5) of amended Government Code 68152 concerning records for marijuana misdemeanors in cases involving juveniles under section 11357(e) of the Health and Safety Code.

A new provision would be added stating that records for misdemeanors reduced to an infraction shall be retained in accord with the relevant infraction.

The existing retention period for non-traffic infractions would be changed from three years to one year, unless otherwise specified. Records of traffic infractions would still be retained for three years, as provided for under current law. For infractions alleging a marijuana violation under Health and Safety Code section 11357(b) or (c), or Health and Safety Code section 11360(b), if the records are retained past the one-year minimum retention period, the records shall be destroyed or redacted in accord with Section 11361.5(c) of the Health and Safety Code two years from the date of conviction or from the date of arrest if no conviction, provided that the defendant has paid all applicable fees and fines, community service and any and all other terms of conviction if there was a conviction. The more specific two-year retention period for retaining parking infractions under current law would be eliminated entirely because the courts no longer have jurisdiction over original parking infractions. Comments are specifically invited concerning whether the general retention period for infractions should be changed to one year or be kept at three years, similar to the retention period for traffic cases.

The provisions on the retention periods for arrest warrants, search warrants, and probable cause determinations have been moved into the subdivision on criminal records.

Habeas corpus proceedings. The current provision has been divided into two parts: one specifying the retention period for habeas corpus records in criminal matters and the other for such records in mental health matters.

Juvenile actions and proceedings. This legislative proposal recommends shortening the records retention period for certain types of juvenile records. In particular, it proposes amending Government Code section 68152 (e)(3) (formerly (g)(3)) to provide that records under Welfare and Institutions Code section 602 be retained until the individual reaches age 28 instead of age 38. It proposes that sealed records shall be destroyed upon court order when the subject of the record reaches the age of 28 rather than 38.⁵ It also proposes that, for records for traffic and some non-traffic misdemeanors and infractions (section 601 of the Welfare and Institutions Code), the retention periods be changed from until the individual reaches age 21 to until age 18, or five years after jurisdiction over the person has terminated. Comments are invited on these proposed changes.

A new provision would be added providing that, for dismissed juvenile cases, the retention period shall be one year from the date of dismissal.

Comments are specifically invited on all the proposed changes to the juvenile records retention statutes.

Other trial court records. The retention period for coroner's inquest reports is eliminated from section 68152 because these are not records retained by the trial courts. Other records retention provisions that would be eliminated include provisions relating to a naturalization index and ninety-day evaluations under Penal Code section 1203.3.

⁵ If the section is amended as proposed to provide for a different date for the retention of the juvenile records (e.g., until age 28 instead age 38), Welfare and Institutions Code section 781(d) will also need to be amended to read as follows:

(d) Unless for good cause the court determines that the juvenile court record shall be retained, the court shall order the destruction of a person's juvenile court records that are sealed pursuant to this section as follows: five years after the record was ordered sealed, if the person who is the subject of the record was alleged or adjudged to be a person described by Section 601; or when the person who is the subject of the record reaches the age of ~~38~~28 if the person was alleged or adjudged to be a person described by Section 602, except that if the subject of the record was found to be a person described in Section 602 because of the commission of an offense listed in subdivision (b), of Section 707, when he or she was 14 years of age or older, the record shall not be destroyed. Any other agency in possession of sealed records may destroy its records five years after the record was ordered sealed.

This change is included in the text of the proposed legislation at the end of this invitation to comment.

The retention period for court orders not associated with any underlying case—such as orders for the destruction of court records for telephone taps, or to destroy drugs, and other miscellaneous court orders— would be changed from three years to one year.

Retention periods for records in new or previously omitted case types.

The criminal justice realignment legislation of 2011⁶ changed the ways in which criminal cases are handled in many important respects, including the creation of new categories of court records. To reflect this change, new provisions would be added to the Government Code to specify the retention periods for records for (1) proceedings for revocation of post-release community supervision, and (2) proceedings for post-release parole supervision. This proposal recommends that these records be retained for a period of five years from the filing of the petition to revoke supervision. Comments are specifically invited in this recommendation.

New provisions have been also added concerning the retention periods for records in cases involving minor’s compromises, petitions for return of firearms, elder and dependent adult abuse, private postsecondary school violence and workplace violence, expungements, and juror sanction proceedings. Comments are specifically invited on these additions.

Retention periods for indexes and registers of actions

This proposal recommends retaining the existing retention period for indexes and register of actions. Under the amended statute, these would be located in subdivision (g)(12) and(13). In the amended statute, the provision for indexes generally and for indexes specifically for traffic offenses would be combined in subdivision (g)(12). Comments are invited on whether the current provision on traffic indexes, which requires them to be retained for the same period as the records in the underlying case category, should be revised or further clarified.

Clarification of retention periods

The preamble to section 68152 would be amended to clarify that the statute provides for the destruction of records when the times specified “have expired after the date of final disposition of the case in the categories listed “(the underlined language has been added).

The reference to “paternity” records has been changed to “parentage” records.

The provision concerning the retention of court reporting notes has been subdivided into two subparts for clarity, though no substantive change has been made. One subpart specifies that court reporting notes in criminal proceedings shall be retained for ten years and the other that reporting notes in civil, juvenile, and all other proceedings shall be retained for five years.⁷

⁶ Assembly Bill 109.

⁷ The provisions in Government Codes section 68152 on reporting notes in criminal cases need to be consistent with Government Code section 69955(e), which provides:

The provision on the retention period for electronic recordings not made as the official record of oral proceedings has been changed from “any time either before or after final disposition of the case” to “may be destroyed or deleted at any time at the discretion of the court.”

Scope of amendments

A provision would be included in the legislation that would expressly state that the new records retention periods in amended section 68152 apply to all court records existing at the time that the legislation goes into effect. This is important to eliminate any ambiguity and to ensure that the legislation will achieve have the full financial savings that are intended.

Historical records

This proposal makes no changes in the law relating to the preservation of historical records either as to selection or retention media.

Amendment of Government Code section 68150

In addition to amending the statutes on records retention, this proposal recommends amending Government Code section 68150 to clarify a legal issue concerning certification of electronic court records. That code section currently provides that copies of electronic records may be certified as a correct copy of the original record. (See Government Code section 68150(f).) The current statute may already provide all the authorization that courts need to electronically certify records. However, to avoid any future uncertainty, it may be beneficial to clarify in the statute that the clerk or deputy clerk does not need to print out a copy of an electronic court record and personally certify the record, but that instead the clerk court may use technology to generate certified electronic records. Specifically, it may be useful to add a sentence to section 68150(f) to this effect. Accordingly, CEAC recommends that subdivision (f) be amended to read as follows:

(f) A copy of a court record created, maintained, preserved, or reproduced according to subdivisions (a) and (c) shall be deemed an original court record and may be certified as a true and correct copy of the original record. The clerk of the court may certify a copy of such a record by electronic or other technological means, provided that the means adopted by the court reasonably ensures that the certified copy is a true and correct copy of the original, or of a specified part thereof.

(e) Reporting notes produced under subdivision (b) may be destroyed upon the order of the court after 10 years from the taking of the notes in criminal proceedings and after five years from the taking of the notes in all other proceedings, unless the notes report proceedings in capital felony cases including the preliminary hearing. No reporting notes in a capital felony case proceeding shall be destroyed until such time as the Supreme Court on request by the court clerk authorizes the destruction.

Clarification of Definition of “Court Record”

This proposal does not include specific recommendations for revisions to the definition of “court records” as defined in Government Code section 68151(a).⁸ However, in reviewing the current records retention statutes, it appears that, as records are increasingly maintained in electronic form instead of in paper form, there may sometimes be less clarity than in the past as to what constitutes a “court record” under current law (that is, all filed papers and documents “in the case folder...[or] that would have been in the case folder if one had been created”). For example, it may not be clear whether court records in traffic infraction cases include records of installment payment plans and the payment of fines or whether these are part of the administrative record in the case. Thus, comments are invited on whether there is a need to amend the definition of “court records” in the Government Code and, if so, how.

Alternatives Considered

The current records retention statute might be left unchanged. But if this were done, the trial courts would not be able to realize the substantial savings and benefits from retaining records for shorter periods that the proposed amendments to the statute would make possible. Hence, the Court Executives Advisory Committee strongly supports the proposed legislation.

Expected Costs and Implementation Requirements

For the courts, the key feature of this proposal is that it would not require them to make any changes in their court records retention practices, but if a court determines that it could incur savings and other benefits by retaining records for a shorter period as authorized by the proposed statutory change, it could do so to the extent provided for under the legislation. By being able to dispose of voluminous unnecessary records, courts should be able to achieve significant savings if this legislation is enacted.

To realize the savings from reduced storage and other records-related costs, courts will need to take measures to review and destroy records. This will require staff time and resources. But under the amended statutes, courts will have the discretion to undertake such review and

⁸ Government Code section 68151 provides in pertinent part:

68151. The following definitions apply to this chapter:

(a) "Court record" shall consist of the following:

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

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

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

(b)-(d) * * *

destruction. If they determine it is cost-effective, they may change their records retention practices. Only if a court determines that the review and destruction of records is a net benefit will it need to take measures to implement the new shorter records retention periods provided under the legislation.

Request for Specific Comments

In addition to any general comments on the proposed legislation, comments are requested on the following issues:

- Are all of the recommended retention periods for the different types of court records appropriate? Should some periods be longer or shorter than is proposed? If you recommend a different retention period for a particular category of court records, explain your recommendation. What alternative period would be more appropriate—given the nature of the record, the realistic duration of the need to refer to the record, or requirements of other statutes or government actions that may require reliance on an historical record?
- Are there any provisions in Government Code section 68152 on record retention that need further clarification beyond what is provided in the proposed legislation? If so, what types of documents, documentation, correspondence, or other material should be explicitly stated to be part of the record?
- Are there any types of trial court records not covered under the amended statutes that should be added?
- Are there any additional statutes that need to be amended to achieve consistency with or fully implement the records retention policies reflected in this proposal?

Furthermore, as indicated in the invitation above, specific comments are requested on the following matters:

- Are the proposed new retention periods proposed for records in cases involving protective orders to prevent elder abuse, private postsecondary school violence and workplace violence proceedings appropriate?
- Do the record retention provisions concerning protective orders need to include separate provisions regarding the length of retention of any orders providing for exemptions from the firearms relinquishment requirements? If so, explain why and how long such orders should be retained.
- Regarding the proposal to retain emergency protective orders until the order expires, is this period long enough? If not, explain why and how long the order should be retained.

- On the new provision on minor's compromises, is the language in proposed amended Government Code section 68152(a)(10)(D) or the alternative language described on page 4 of this invitation is preferable?
- Is the proposed new retention period (10 years) proposed for records in matters involving petitions for return of firearms in mental health cases appropriate?
- On the proposed new provisions applicable to capital cases concerning the retention of records of any related cases and cases of co-defendants in capital cases, is there is a need to further define or clarify the words "any related cases and cases of any co-defendants" ? If so, how should these terms be defined or clarified?
- On the proposal to change the general retention period for infractions from three years to one year, should this change be made or should the period be kept at three years as proposed for traffic infractions?
- On the proposal to establish new retention periods for the records filed under the criminal justice realignment legislation of 2011 (that is, that these records be retained for a period of five years from the filing of the petition to revoke supervision), are the proposed retention periods appropriate?
- On the proposal to reduce the retention period for certain juvenile records relating to wards under Welfare and Institutions Code section 602, is it appropriate to reduce the retention period from until the individual reaches the age of 38 to until the individual reaches the age of 28?
- Are the proposed new retention periods proposed for records in matters involving expungements and juror sanctions appropriate?
- On the proposal concerning records for traffic and some non-traffic misdemeanors and infractions (section 601 of the Welfare and Institutions Code), is it appropriate to reduce the retention periods from upon reaching age 28 to upon reaching age 21, or five years after jurisdiction over the person has terminated?
- Regarding indexes for cases alleging traffic violations, should the current approach, which requires these indexes to be retained for the same period as the records in the underlying case category, be modified or further clarified?
- Does the definition of "court records" in Government Code section 68151 need to be amended? If so, what kind of clarification would be helpful?

Finally, *courts* are asked to respond to the following questions concerning the benefits, costs, and implementation requirements if this legislation is enacted:

- Will the proposal provide cost savings? If so, please quantify.
- What are the implementation requirements for the courts?
- Are there any reasons to expedite or delay the implementation of this proposal?

Sections 68150 and 68152 of the Government Code and section 781 of the Welfare and Institutions Code would be amended, effective January 1, 2014, to read:

1 **Government Code section 68150**

2 (a)–(e) * * * *

3
4 (f) A copy of a court record created, maintained, preserved, or reproduced according to
5 subdivisions (a) and (c) shall be deemed an original court record and may be certified as a true
6 and correct copy of the original record. The clerk of the court may certify a copy of such a record
7 by electronic or other technological means, provided that the means adopted by the court
8 reasonably ensures that the certified copy is a true and correct copy of the original or of a
9 specified part thereof.

10
11 (j)–(k) * * * *

12
13 **Government Code section 68152**

14 The trial court clerk may destroy court records under Section 68153 after notice of destruction
15 and if there is no request and order for transfer of the records, except the comprehensive
16 historical and sample superior court records preserved for research under the California Rules of
17 Court, when the following times have expired after the date of final disposition of the case in the
18 categories listed:

19
20 ~~(a) Adoption: retain permanently.~~

21
22 ~~(b) Change of name: retain permanently.~~

23
24 ~~(c)~~(a) ~~Other~~ Civil actions and proceedings, as follows:

25
26 (1) Except as otherwise specified: retain 10 years.

27
28 (2) Civil unlimited cases, limited cases, and small claims cases (including after trial de novo, if
29 any), except as otherwise specified: retain for 10 years. Civil judgments: retain for 10 years
30 unless judgment is renewed. If judgment is renewed, retain judgment for length of renewal
31 pursuant to Code of Civil Procedure, sections 683.110–683.220.

32
33 ~~(2)~~(3) Where a party in a civil case appears by a guardian ad litem: retain for 10 years after
34 termination of the court's jurisdiction.

1 ~~(3) Domestic violence: same period as duration of the restraining or other orders and renewals,~~
2 ~~then retain the restraining or other orders as a judgment; 60 days after expiration of the~~
3 ~~temporary protective or temporary restraining order.~~

4
5 ~~(4) Eminent domain: retain permanently.~~

6
7 ~~(5)~~(4) Family law, except as otherwise specified: 30 years. Judgment and Qualified Domestic
8 Relations Order (QDRO) and any subsequent modifications: retain permanently. For all other
9 family law records:

10
11 (A) For cases that do not involve minor children: retain for 5 years after the date of
12 judgment.

13
14 (B) For cases that include orders concerning minor children: retain until the youngest child
15 turns 23 years of age.

16
17 (5) Adoption: retain permanently.

18
19 (6) Parentage: retain permanently.

20
21 (7) Change of name, gender, or name and gender: retain permanently.

22
23 (8) Domestic violence:

24
25 (A) Emergency protective order: retain until 60 days after the order expires.

26
27 (B) Temporary restraining order: retain order until 60 days after expiration of the order,
28 including any extensions.

29
30 (C) Restraining order after hearing: retain order for 5 years after expiration of the order and
31 all renewals.

32
33 (D) Other orders after hearing: retain orders for the period specified for family law records
34 in (4).

35
36 (E) Other domestic violence records: retain for duration of the restraining order or other
37 orders and renewals.

1 ~~(6)~~(9) Civil harassment, elder and dependent adult abuse, private postsecondary school violence
2 and workplace violence: same period as duration of the injunction and renewals, then retain the
3 injunction as a judgment; 60 days after expiration of the temporary restraining order.
4

5 (A) Emergency protective order: retain until 60 days after the order expires.
6

7 (B) Temporary restraining order: retain until 60 days after expiration of the order, including
8 any extensions.
9

10 (C) Restraining order and other orders after hearing: retain for 5 years after expiration of the
11 order and all renewals.
12

13 (D) Other case records: retain for period of the related order and renewals.
14

15 (10) Probate:
16

17 (A) Probate, including wills, except as otherwise specified: retain permanently.
18

19 (B) Conservatorship: retain for 5 years after the conservatorship is terminated.
20

21 (C) Guardianship: retain for 5 years after the guardianship is terminated or until the ward
22 reaches the age of 18, whichever is later.
23

24 (D) Minor's compromises under Probate Code section 3600 et seq.: retain for the same
25 period as the retention period for records in the underlying case. If there is no underlying
26 case, retain for 5 years after final order releasing all funds is entered or until the minor
27 reaches the age of 18, whichever is later.
28

29 ~~(7)~~(11) Mental health:
30

31 (A) (Lanterman Developmental Disabilities Services Act and Lanterman-Petris-Short Act):
32 retain for ~~30~~ 10 years.
33

34 (B) Riese hearings: retain for 10 years.
35

36 (C) Petitions under Welfare and Institutions Code section 8100 et seq. for return of firearms
37 to petitioners who relinquished them to law enforcement while detained in a mental health
38 facility: retain for 10 years.
39

40 ~~(8)~~ Paternity: retain permanently.

1
2 ~~(9) Petition, except as otherwise specified: 10 years.~~

3
4 (12) Eminent domain: retain permanently.

5
6 ~~(10)~~(13) Real property other than unlawful detainer: retain permanently if the action affects title
7 or an interest in real property.

8
9 ~~(11) Small claims: 10 years.~~

10
11 ~~(12)~~(14) Unlawful detainer: retain for one year if judgment is only for possession of the
12 premises; retain for 10 years if judgment is for money-, or money and possession.

13
14 ~~(d)~~(b) Notwithstanding subdivision (e)(a), any civil or small claims case in the trial court:

15
16 (1) Involuntarily dismissed by the court for delay in prosecution or failure to comply with state
17 or local rules: retain for one year.

18
19 (2) Voluntarily dismissed by a party without entry of judgment: retain for one year.

20
21 ~~Notation of the dismissal shall be made on the civil index of cases or on a separate dismissal~~
22 ~~index.~~

23
24 ~~(e)~~(c) Criminal actions and proceedings, as follows:

25
26 (1) Capital felony (murder with special circumstances where the prosecution seeks the death
27 penalty) in which the defendant is sentenced to death, and any felony resulting in a sentence of
28 life or life without the possibility of parole: retain permanently, including the records of the cases
29 of any co-defendants and any related cases, regardless of the disposition. "Capital felony" means
30 murder with special circumstances where the prosecution seeks the death penalty. Records of
31 the cases of co-defendants and related cases to be retained under this provision shall be limited to
32 those cases that are factually linked or relate to the charged offense. If the charge a capital felony
33 is disposed of by a sentence less than death, life, or life without possibility of parole, the
34 judgment shall be retained permanently and the case record shall be reclassified retained for 50
35 years or for 10 years after official written notification of the death of the defendant. If a capital
36 felony is disposed of by an acquittal, the record shall be retained for 10 years.

37
38
39 (2) Felony, except as otherwise specified, and in any case (felony or misdemeanor) resulting in a
40 requirement that the defendant register as a sex offender under Penal Code section 290:

1 Judgment: retain permanently. For all other documents: retain for 7550 years or the maximum
2 term of the sentence, whichever is longer; provided, however, any record other than the
3 judgment may be destroyed 10 years after the death of the defendant. Felony case files that do
4 not include final sentencing or other final disposition because the case was bound over from a
5 former municipal court to the superior court and not already consolidated with the superior court
6 felony case file: retain for 10 years from the disposition of the superior court case.

7
8 ~~(3) Felony, except capital felony, with court records from the initial complaint through the~~
9 ~~preliminary hearing or plea and for which the case file does not include final sentencing or other~~
10 ~~final disposition of the case because the case was bound over to the superior court: five years.~~

11
12 ~~(4)(3) Misdemeanor, except as otherwise specified: five years. Felony reduced to a~~
13 ~~misdemeanor: retain in accord with the relevant misdemeanor.~~

14
15 ~~(5)(4) Misdemeanor alleging a violation of the Vehicle Code, except as otherwise specified:~~
16 ~~three years. Felony or misdemeanor, where charge is dismissed: retain for one year.~~

17
18 ~~(6)(5) Misdemeanor alleging a violation of Section 23103, 23152, or 23153 of the Vehicle Code:~~
19 ~~10 years. Misdemeanor, except as otherwise specified: retain for 5 years. For misdemeanors~~
20 ~~alleging a violation of Vehicle Code Section 23152, 23153, 23109, 23109.5 or 23662, or Penal~~
21 ~~Code Section 12021(c): retain for 10 years.~~

22
23 ~~(7) Misdemeanor alleging a violation of Section 14601, 14601.1, 20002, 23104, 23105, 23109,~~
24 ~~or 23109.1 of the Vehicle Code: five years.~~

25
26 ~~(8)(6) Misdemeanor alleging a marijuana violation under subdivision (c), (d), or (e) of Section~~
27 ~~11357 of the Health and Safety Code: records shall be destroyed or redacted in accord with~~
28 ~~Section 11361.5(c) of the Health and Safety Code two 2 years from the date of conviction or~~
29 ~~from the date of arrest if no conviction, provided that the defendant has paid all applicable fees~~
30 ~~and fines, and has completed community service and any and all other terms of conviction if~~
31 ~~there was a conviction. However, as provided in Health and Safety Code section 11361.5(a) and~~
32 ~~subdivision (e)(5) of this Section, records of a misdemeanor alleging a marijuana violation under~~
33 ~~Health and Safety Code section 11357(e) shall be retained until the offender attains the age of 18~~
34 ~~years at which time the records shall be destroyed as provided in Health and Safety Code section~~
35 ~~11361.5(c).~~

36
37 ~~(7) Misdemeanor reduced to an infraction: retain in accord with the relevant infraction.~~
38

1 ~~(9) Misdemeanor, infraction, or civil action alleging a violation of the regulation and licensing~~
2 ~~of dogs under Sections 30951 to 30956, inclusive, of the Food and Agricultural Code or violation~~
3 ~~of any other local ordinance: three years.~~

4
5 ~~(10) Misdemeanor action resulting in a requirement that the defendant register as a sex offender~~
6 ~~pursuant to Section 290 of the Penal Code: 75 years. This paragraph shall apply to records~~
7 ~~relating to a person convicted on or after September 20, 2006.~~

8
9 ~~(11)~~(8) Infraction, except as otherwise specified: three years retain for one year. Vehicle Code
10 infraction: retain for three years. Infraction alleging a marijuana violation under subdivision (b),
11 or (c) of Section 11357 of the Health and Safety Code, or subdivision (b) of Section 11360 of the
12 Health and Safety Code: if records are retained past the one-year minimum retention period, the
13 records shall be destroyed or redacted in accord with Section 11361.5(c) of the Health and Safety
14 Code two years from the date of conviction or from the date of arrest if no conviction, provided
15 that the defendant has paid all applicable fees and fines, community service and any and all other
16 terms of conviction if there was a conviction.

17
18 ~~(12) Parking infractions, including alleged violations under the stopping, standing, and parking~~
19 ~~provisions set forth in Chapter 9 (commencing with Section 22500) of Division 11 of the Vehicle~~
20 ~~Code: two years.~~

21
22 (9) Arrest warrant: retain for same period as period for retention of the records in the underlying
23 case category. If there is no underlying case, then retain for one year from date of issue.

24
25 (10) Search warrant: retain for same period as retention period for underlying case. If there is no
26 underlying case, retain for 5 years from date of issue.

27
28 (11) Probable cause declarations: retain for same period as retention period for underlying case.
29 If there is no underlying case, retain for one year from date of declaration.

30
31 (12) Revocation proceedings:

32
33 (A) Proceedings for revocation of postrelease community supervision: retain for 5 years
34 from the date of filing of the petition to revoke supervision.

35
36 (B) Proceedings for revocation of postrelease parole supervision: retain for 5 years from the
37 date of filing of the petition to revoke supervision.

38
39 ~~(f)~~(d) Habeas corpus:

1 (1) Habeas corpus in criminal matters: retain for the same period as period for retention of the
2 records in the underlying case category whether granted or denied.

3
4 (2) Habeas corpus in mental health matters: retain for same period as period for retention of the
5 records in the underlying case category, but if there is no underlying case, then retain records for
6 10 years.

7
8 ~~(g)~~(e) Juvenile actions and proceedings, as follows:-

9
10 (1) Dependent (Section 300 of the Welfare and Institutions Code): upon reaching age ~~28~~ 23 or on
11 written request shall be released to the juvenile ~~five~~ 5 years after jurisdiction over the person has
12 terminated under subdivision (a) of Section 826 of the Welfare and Institutions Code. Sealed
13 records shall be destroyed upon court order ~~five~~ 5 years after the records have been sealed
14 pursuant to subdivision (c) of Section 389 of the Welfare and Institutions Code.

15
16 (2) Ward (Section 601 of the Welfare and Institutions Code): upon reaching age ~~21~~ 18 or on
17 written request shall be released to the juvenile ~~five~~ 5 years after jurisdiction over the person has
18 terminated under subdivision (a) of Section 826 of the Welfare and Institutions Code. Sealed
19 records shall be destroyed upon court order ~~five~~ 5 years after the records have been sealed under
20 subdivision (d) of Section 781 of the Welfare and Institutions Code.

21
22 (3) Ward (Section 602 of the Welfare and Institutions Code): upon reaching age ~~38~~ 28 under
23 subdivision (a) of Section 826 of the Welfare and Institutions Code. Sealed records shall be
24 destroyed upon court order when the subject of the record reaches the age of ~~38~~ 28 under
25 subdivision (d) of Section 781 of the Welfare and Institutions Code; however, if the subject of
26 the record was found to be a person described in Section 602 because of the commission of an
27 offense listed in subdivision (b), of Section 707, when he or she was 14 years of age or older, the
28 record shall not be destroyed.

29
30 (4) Traffic and some nontraffic misdemeanors and infractions (Section 601 of the Welfare and
31 Institutions Code): upon reaching age ~~21~~ 18 or five years after jurisdiction over the person has
32 terminated under subdivision (c) of Section 826 of the Welfare and Institutions Code. ~~May be~~
33 ~~microfilmed or photocopied.~~

34
35 (5) Marijuana misdemeanor under subdivision (e) of Section 11357 of the Health and Safety
36 Code ~~in accordance with procedures specified in subdivision (a) of Section 11361.5 of the Health~~
37 ~~and Safety Code: the records shall be retained until the offender reaches the~~ upon reaching age of
38 18 at which time the records shall be destroyed in accordance with procedures specified in
39 subdivisions (a) and (c) of Section 11361.5 of the Health and Safety Code.

1 (6) For dismissed cases, records shall be retained for one year from the date of dismissal.

2
3 ~~(h) Probate:~~

4
5 ~~(1) Conservatorship: 10 years after decree of termination.~~

6
7 ~~(2) Guardianship: 10 years after the age of 18.~~

8
9 ~~(3) Probate, including probated wills, except as otherwise specified: retain permanently.~~

10
11 ~~(i)(f)~~ Court records of the appellate division of the superior court: retain for five 5 years.

12
13 ~~(j)(g)~~ Other records:-

14
15 ~~(1) Applications in forma pauperis: any time after the disposition of the underlying case.~~

16
17 ~~(2) Arrest warrant: same period as period for retention of the records in the underlying case~~
18 ~~category.~~

19
20 ~~(3)(1)~~ Bench warrant: retain for same period as period for retention of the records in the
21 underlying case category. For bench warrants issued for a misdemeanor, retain records for the
22 same period as the underlying misdemeanor following issuance. If there is no return on warrant,
23 court may dismiss on its own motion and immediately destroy the records.

24
25 ~~(4)(2)~~ Body attachment: retain for same period as period for retention of the records in the
26 underlying case.

27
28 ~~(4)(3)~~ Bond: retain for three years after exoneration and release.

29
30 ~~(5) Coroner's inquest report: same period as period for retention of the records in the underlying~~
31 ~~case category; if no case, then permanent.~~

32
33 ~~(6) Court orders not associated with an underlying case, such as orders for destruction of court~~
34 ~~records for telephone taps, or to destroy drugs, and other miscellaneous court orders: three years.~~

35
36 ~~(7)(4)~~ Court reporting notes: 10 years after the notes have been taken in criminal and juvenile
37 proceedings and five years after the notes have been taken in all other proceedings, except notes
38 reporting proceedings in capital felony cases (murder with special circumstances where the
39 prosecution seeks the death penalty and the sentence is death), including notes reporting the

1 ~~preliminary hearing, which shall be retained permanently, unless the Supreme Court on request~~
2 ~~of the court clerk authorizes the destruction.~~

3
4 (A) Criminal proceedings: retain notes for 10 years, except as otherwise specified. Notes
5 reporting proceedings in capital felony cases (murder with special circumstances where the
6 prosecution seeks the death penalty and the sentence is death), including notes reporting the
7 preliminary hearing, shall be retained permanently, unless the Supreme Court on request of
8 the court clerk authorizes the destruction.

9
10 (B) Civil, juvenile, and all other proceedings: retain notes for 5 years.

11
12 ~~(8)(5) Electronic recordings made as the official record of the oral proceedings under the~~
13 ~~California Rules of Court may be destroyed or deleted:~~

14
15 (A) Any time after final disposition of the case in infraction and misdemeanor proceedings,

16
17 (B) After 10 years in all other criminal proceedings, and

18
19 (C) After ~~five~~ 5 years in all other proceedings.

20
21 ~~(9)(6) Electronic recordings not made as the official record of the oral proceedings under the~~
22 ~~California Rules of Court: any time either before or after final disposition of the case may be~~
23 ~~destroyed or deleted at any time at the discretion of the court.~~

24
25 ~~(10) Index, except as otherwise specified: retain permanently.~~

26
27 ~~(11) Index for cases alleging traffic violations: same period as period for retention of the records~~
28 ~~in the underlying case category.~~

29
30 ~~(12) Judgments within the jurisdiction of the superior court other than in a limited civil case,~~
31 ~~misdemeanor case, or infraction case: retain permanently.~~

32
33 ~~(13) Judgments in misdemeanor cases, infraction cases, and limited civil cases: same period as~~
34 ~~period for retention of the records in the underlying case category.~~

35
36 (7) Expungements: retain for same period as for retention of the records in underlying case. If the
37 records in the underlying case have been destroyed, retain for one year after the application for
38 expungement has been granted or denied.

39
40 (8) Fee waiver applications: retain for same period as underlying case.

1
2 (9) Juror proceedings, including sanctions: retain for one year.

3
4 ~~(14)~~(10) Minutes: retain for same period as period for retention of the records in the underlying
5 case category.

6
7 (11) Orders not associated with an underlying case, such as orders for destruction of court
8 records for telephone taps, or to destroy drugs, and other miscellaneous court orders: retain for
9 one year

10
11 ~~(15) Naturalization index: retain permanently.~~

12
13 ~~(16) Ninety-day evaluation (under Section 1203.03 of the Penal Code): same period as period for~~
14 ~~retention of the records in the underlying case category, or period for completion or termination~~
15 ~~of probation, whichever is longer.~~

16
17 (12) Index, except as otherwise specified: retain permanently. Index for cases alleging traffic
18 violations: retain for same period as for retention of the records in the underlying case category.

19
20 ~~(17)~~(13) Register of actions or docket: retain for the same period as period for retention of the
21 records in the underlying case category, but in no event less than 10 years for civil and small
22 claims cases.

23
24 ~~(18) Search warrant: 10 years, except search warrants issued in connection with a capital felony~~
25 ~~case defined in paragraph (7), which shall be retained permanently.~~

26
27 ~~(k)~~(h) Retention of the court records under this section shall be extended as follows:(1) by order
28 of the court on its own motion, or on application of a party or an interested member of the public
29 for good cause shown and on those terms as are just. A fee shall not be charged for making the
30 application.

31
32 ~~(2) Upon application and order for renewal of the judgment to the extended time for enforcing~~
33 ~~the judgment.~~

34
35 (i) The record retention periods provided in this section as amended effective January 1, 2014
36 apply to all court records in existence prior to that date as well as to records created after that
37 date.

38
39
40 **Welfare and Institutions Code section 781**

1 (a)-(c) * * *

2

3 (d) Unless for good cause the court determines that the juvenile court record shall be retained,
4 the court shall order the destruction of a person's juvenile court records that are sealed pursuant
5 to this section as follows: five years after the record was ordered sealed, if the person who is the
6 subject of the record was alleged or adjudged to be a person described by Section 601; or when
7 the person who is the subject of the record reaches the age of ~~38~~28 if the person was alleged or
8 adjudged to be a person described by Section 602, except that if the subject of the record was
9 found to be a person described in Section 602 because of the commission of an offense listed in
10 subdivision (b), of Section 707, when he or she was 14 years of age or older, the record shall not
11 be destroyed. Any other agency in possession of sealed records may destroy its records five years
12 after the record was ordered sealed.

13

14 (e)-(f) * * *