



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on December 16, 2016

Title	Agenda Item Type
Judicial Council-Sponsored Legislation: Court Records Destruction Reporting Requirement	Action Required
Rules, Forms, Standards, or Statutes Affected Amend Gov. Code, § 68153	Effective Date December 16, 2016
Recommended by Policy Coordination and Liaison Committee Hon. Kenneth K. So, Chair Court Executives Advisory Committee Mr. Jake Chatters, Chair	Date of Report October 28, 2016
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Executive Summary

The Policy Coordination and Liaison Committee and Court Executives Advisory Committee recommend that the Judicial Council sponsor legislation to amend Government Code section 68153, the statute governing the destruction of court records, to eliminate the requirement that superior courts must report destroyed court records to the Judicial Council. Current law requires superior courts to provide lists of the court records destroyed within the jurisdiction of the superior court to the Judicial Council in accordance with the California Rules of Court. Eliminating the requirement for courts to provide the lists to the council would reduce the courts' workload and simplify the reporting process.

Recommendation

The Policy Coordination and Liaison Committee and Court Executives Advisory Committee recommend that the Judicial Council sponsor legislation to eliminate the statutory reporting requirement in Government Code section 68153.

The text of the amendments to the statute is attached at page 4.

Previous Council Action

In 1994, the Legislature enacted Assembly Bill 1374,¹ which added Government Code section 68153, which requires that superior courts report any court records that they have destroyed to the Judicial Council. In response, the Judicial Council subsequently adopted subdivision (l) of rule 10.855 (amended and relettered as subd. (j) effective July 1, 2016) and Judicial Council form REC-003 to implement the reporting requirement.

Rationale for Recommendation

Under Government Code section 68153, superior courts must provide a “list of the court records destroyed within the jurisdiction of the superior court ... to the Judicial Council in accordance with the California Rules of Court.” In turn, subdivision (j) of rule 10.855 requires each superior court to submit semiannually to the Judicial Council a *Report to Judicial Council: Superior Court Records Destroyed, Preserved, and Transferred* (form REC-003), which includes the following information: (1) a list by year of filing of the court records destroyed; (2) a list by year of filing and location of the court records of the comprehensive and sample court records preserved; and (3) a list by year of filing and location of the court records transferred to entities under rule 10.856.

The Policy Coordination and Liaison Committee (PCLC) and Court Executives Advisory Committee (CEAC) have concluded that the reporting requirement in Government Code section 68153 is unnecessary and burdensome on courts. The committees recommend that the Judicial Council sponsor legislation to eliminate this requirement.

Government Code section 68153 would be amended to eliminate the reporting requirement.² Complying with this requirement is time-consuming and burdensome for superior courts, and Judicial Council staff have received no requests for the lists of forms. Moreover, when superior courts destroy court records under section 68153, they are required to make a notation of the date of destruction on the index of cases or on a separate destruction index. This statutory requirement ensures that superior courts establish appropriate mechanisms for tracking whether a court record has been destroyed. PCLC and CEAC are not aware of any reason for additionally tracking the

¹ Stats. 1994, ch 1030, § 1.

² If the Legislature enacts this amendment to Gov. Code, § 68153, CEAC intends to recommend eliminating subdivision (j) of rule 10.855 of the Cal. Rules of Court.

destruction of these records on a statewide level and reason that tracking is best left at the local level.

Comments, Alternatives Considered, and Policy Implications

This proposal was circulated for public comment from December 11, 2015, to January 22, 2016, during the winter 2016 cycle. There were no comments received in response to the circulation of the legislative proposal.

Implementation Requirements, Costs, and Operational Impacts

The legislative proposal would result in staff time savings for the court because it would eliminate this time-consuming and burdensome reporting requirement.

Attachments

1. Text of proposed Government Code section 68153, at page 4

Government Code section 68153 would be amended, effective January 1, 2018, to read:

1 **§ 68153. Manner of destruction; Notation of date**

2

3 Upon order of the presiding judge of the court, court records open to public inspection and not
4 ordered transferred under the procedures in the California Rules of Court, confidential records,
5 and sealed records that are ready for destruction under Section 68152 may be destroyed.

6 Destruction shall be by shredding, burial, burning, erasure, obliteration, recycling, or other
7 method approved by the court, except confidential and sealed records, which shall not be buried
8 or recycled unless the text of the records is first obliterated.

9

10 Notation of the date of destruction shall be made on the index of cases or on a separate
11 destruction index. ~~A list of the court records destroyed within the jurisdiction of the superior~~
12 ~~court shall be provided to the Judicial Council in accordance with the California~~
13 ~~Rules of Court.~~