



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: November 14, 2019

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#### Title

Judicial Council–Sponsored Legislation:  
Signatures and Consistent Fee Provisions  
with Electronic Filing and Service

Rules, Forms, Standards, or Statutes Affected  
Amend Code Civ. Proc., § 1010.6

#### Recommended by

Policy Coordination and Liaison Committee  
Hon. Marla O. Anderson, Chair  
Information Technology Advisory  
Committee  
Hon. Sheila F. Hanson, Chair

#### Agenda Item Type

Action Required

#### Effective Date

November 14, 2019

#### Date of Report

October 22, 2019

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### Executive Summary

The Policy Coordination and Liaison Committee and Information Technology Advisory Committee recommend sponsoring legislation to amend Code of Civil Procedure section 1010.6, which governs electronic filing and service in civil matters in the trial courts. The proposal would (1) create consistency in fee provisions by allowing courts to recover no more than their actual costs regardless of whether electronic filing and service are permitted by local rule, required by court order, or required by local rule; and (2) account for signatures not made under penalty of perjury by persons other than the filer.

### Recommendation

The Policy Coordination and Liaison Committee and Information Technology Advisory Committee recommend that the Judicial Council sponsor legislation to amend Code of Civil Procedure section 1010.6, effective January 1, 2021, to:

1. Allow courts to recover no more than the actual costs they incur for permissive electronic filing and electronic filing by court order; and

2. Account for electronic signatures not made under penalty of perjury by persons other than the filer.

The text of the statute as amended is attached at pages 6–8.

### **Relevant Previous Council Action**

Since January 1, 2000, section 1010.6<sup>1</sup> has authorized permissive electronic filing and service in the superior courts. (Stats. 1999, ch. 514, § 1.) Over the years, the Judicial Council has sponsored legislation to amend section 1010.6. In 2012, the Legislature enacted Assembly Bill 2073 (Stats. 2012, ch. 320), which authorized the Superior Court of Orange County to implement a mandatory electronic filing and service pilot project. AB 2073 also instructed the Judicial Council to adopt uniform rules to permit mandatory electronic filing and service in specified civil actions. On adoption of those rules, AB 2073 allowed superior courts to require mandatory electronic filing by local rule. In 2017, the Judicial Council sponsored Assembly Bill 976 (Stats. 2017, ch. 319), which the Legislature enacted and which, among other things, provided for use of electronic signatures under penalty of perjury on electronically filed documents and codified provisions on mandatory electronic service that had been in the California Rules of Court.

### **Analysis/Rationale**

#### **Cost recovery**

Section 1010.6 provides statutory authority for electronic filing and service. The trial courts may adopt local rules permitting or requiring electronic filing subject to certain conditions. (§ 1010.6(b), (d).) A court may also require electronic filing and service by court order in certain types of cases if it has adopted local rules conforming to the statutory conditions for permissive electronic filing. (§ 1010.6(c).) When a court permits electronic filing by local rule, it may charge a fee for payment processing not to exceed the costs of processing a payment. (§ 1010.6(b)(7).) If a court permits electronic filing by local rule, it may also require electronic filing and service by court order, but the provision on ordering electronic filing and service does not directly address costs. (§ 1010.6(c).) A court may also require electronic filing and service by local rule, and in that case, it “may charge fees of no more than the actual cost” except in instances where the court deems waiving the fees appropriate. (§ 1010.6(d).) Accordingly, what costs a court can recover vary depending on whether electronic filing and service are permitted by local rule, required by court order, or required by local rule.

The provisions for electronic filing and service *permitted by local rule* are in subdivision (b) of section 1010.6, whereas the provisions for electronic filing and service *required by court order* and *required by local rule* are in subdivisions (c) and (d), respectively. The proposed amendments add a new subdivision, (b)(8), to allow courts to recover actual costs when electronic filing and service are permitted by local rule. The language of proposed subdivision

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<sup>1</sup> This and all subsequent statutory references are to the Code of Civil Procedure, unless otherwise stated.

(b)(8) is taken from existing subdivision (d). Because subdivision (d) is subject to the requirements and conditions of subdivision (b), the proposal removes the existing language from subdivision (d) that is identical to the new language in proposed subdivision (b)(8).

To improve the continuity of the fee provisions, the proposal also reorders subdivision (b)(7) to be placed before existing subdivision (b)(6). The language in proposed new subdivision (b)(6) is the same as that in existing subdivision (b)(7), which covers recovery of payment processing fees, except that it strikes “the court” from the subdivision. Because the language in subdivision (b)(8) is broad enough to encompass payment processing fees, keeping “the court” in proposed subdivision (b)(6) is unnecessary. Finally, the proposal amends subdivision (c) to make it subject to the requirements and conditions of subdivision (b) and subdivision (f), which cover rule making for mandatory electronic filing. This language matches that in existing subdivision (d) and makes subdivisions (c) and (d) more consistent.

### **Document signing provisions**

Under section 1010.6, “[w]hen a document to be filed requires the signature of any person, not under penalty of perjury, the document shall be deemed to have been signed by the person who filed the document electronically.” (§ 1010.6(b)(2)(A).) Although this provision initially states that it applies when a signature of *any* person is required, the scope is limited by the language, “the document shall be deemed to have been signed *by the person who filed*.” As such, the provision does not account for a situation when someone signs a document not under penalty of perjury, the document is to be filed electronically, and the filer and signer are different people.

The proposed amendment preserves the status quo when the filer is the signer, but also accounts for documents not signed under penalty of perjury when the filer and signer are different people. The amendment leaves the specific processes for signatures not under penalty of perjury when the filer and signer are different people to the rules of court, just as is the case for documents electronically signed under penalty of perjury.

### **Policy implications**

The proposal is consistent with two goals of the Judicial Council’s *Strategic Plan for Technology 2019–2022*. One goal is to promote the digital court to “[i]ncrease access to the courts, administer justice in a timely and efficient manner, and optimize case processing by supporting a foundation for the digital court and by implementing comprehensive digital services for the public and for justice partners.” Another goal is to “[p]romote the modernization of statutes . . . to facilitate the use of technology in court operations and the delivery of court services.” Electronic filing is available in about half of trial courts. Allowing recovery of actual costs for permissive electronic filing may facilitate courts’ expansion in this area by either themselves or through the statewide electronic filing program.

As more courts that do have electronic filing make electronic filing mandatory, courts can reduce the burden on litigants to retain paper records by allowing electronic signatures on electronically filed documents. For example, the California Department of Child Support Services (DCSS) has noted that the ability to use electronic signatures would have a significant favorable impact on it

and local child support agencies because they would no longer need to engage in the labor-intensive process of obtaining signatures in person or through the mail on the thousands of stipulations they file every year.

## **Comments**

The Information Technology Advisory Committee circulated the proposal for public comment between April 11 and June 7, 2019. Five commenters responded to the invitation to comment: (1) Superior Court of San Diego County, which agreed with the proposal; (2) DCSS, which agreed with the proposal; (3) Orange County Bar Association, which agreed with the proposal if modified; (4) Child Support Directors Association of California (CSDA), which agreed with the proposal if modified; and (5) Superior Court of Orange County, Juvenile Court and Family Law Divisions, which did not take a position.

The CSDA recommended that the order of subdivision (b)(7) be changed to improve the continuity of the fee topics relative to the surrounding provisions. The committee agreed and moved existing subdivision (b)(7) above existing subdivision (b)(6). This revision reorders the numbering and does not alter the substance of the proposed amendments.

Internally, the committee discussed the accuracy of using the term “a rule of court” in the proposed amendment to section 1010.6(b)(2)(A)(ii), determined that “the California Rules of Court” was the more appropriate term, and edited the language accordingly.

## **Alternatives considered**

### ***Cost recovery provisions***

The committee considered maintaining the status quo, which would continue different cost recovery provisions depending on whether electronic filing and service are permitted by local rule, required by court order, or required by local rule. The committee preferred to make the cost recovery provisions consistent and allow courts to recover no more than actual costs. Doing so may encourage more courts to offer electronic filing or expand the scope of their offerings. Currently, only about half of trial courts provide electronic filing and service either directly, through vendor services, or through a combination of vendor and in-house services.

### ***Document signing provisions***

The committee considered addressing this issue only in the California Rules of Court. However, because section 1010.6 states that it governs the signature of *any person* not under penalty of perjury, but then specifically narrows to address only the filer, amending section 1010.6 would ensure consistency between the controlling statute and the rules of court.

## **Fiscal and Operational Impacts**

### **Cost recovery provisions**

Courts can already recover actual costs when electronic filing and service are *required* by local rule. The main fiscal impacts, therefore, would be with electronic filing and service *permitted* by local rule. Where courts already permit electronic filing and service by local rule, the proposal

may reduce costs for courts because those costs would be recoverable. The proposal may also make a court's expansion of the scope of electronic filing and service more feasible. Where courts already permit electronic filing and service by local rule, costs to litigants already using permissive electronic filing may increase because costs are currently limited to recovery of payment processing fees. Where courts do not currently permit electronic filing and service, the proposal may make it more feasible for more courts to do so. Because electronic filing and service permitted by local rule are optional, litigants would still have the choice to use paper.

The Information Technology Advisory Committee sought specific comments from courts on fiscal and operational impacts. The Superior Court of San Diego County commented that it did not believe the proposal would provide a cost savings but thought that the proposal could potentially make it more feasible for courts that do not have local rules to permit electronic filing and service to do so "provided the court has the resources to implement e-filing." The court thought the proposal could encourage improvement or expansion of electronic filing and service and could increase e-filing by self-represented litigants, but specifically only in courts that have direct electronic filing.

Finally, the Judicial Council has been developing a statewide electronic filing program on behalf of the trial courts. Through the program, the council is establishing master agreements with electronic filing manager vendors, and courts can participate in the agreements if they choose. Court program costs are currently recoverable with mandatory electronic filing by local rule. The amendments would also allow recovery of actual costs for permissive electronic filing and mandatory electronic filing by court order.

### **Document signing provisions**

DCSS noted that it expects to increasingly need to electronically file documents—such as stipulations—where the signature lines will be signed by other parties. DCSS commented, "As these scenarios will occur frequently . . . this will have a significant impact on the child support program and the clarity in the law will be necessary and extremely helpful."

### **Attachments and Links**

1. Code Civ. Proc., § 1010.6, as amended, at pages 6–8
2. Chart of comments, at pages 9–15
3. Link A: Judicial Council of Cal., *Strategic Plan for Technology 2019–2022*, [www.courts.ca.gov/documents/jctc-Court-Technology-Strategic-Plan.pdf](http://www.courts.ca.gov/documents/jctc-Court-Technology-Strategic-Plan.pdf)

Section 1010.6 of the Code of Civil Procedure would be amended, effective January 1, 2021, to read:

1   **§ 1010.6**

2  
3   (a) \* \* \*

4  
5   (b) A trial court may adopt local rules permitting electronic filing of documents, subject to rules  
6   adopted pursuant to subdivision (e) and the following conditions:

7  
8   (1) A document that is filed electronically shall have the same legal effect as an original paper  
9   document.

10  
11   (2)(A) When a document to be filed requires the signature of any person, not under penalty of  
12   perjury, the document shall be deemed to have been signed by ~~the~~ that person who filed the  
13   ~~document electronically. if filed electronically and if either of the following conditions is~~  
14   satisfied:

15  
16   (i) The filer is the signer.

17  
18   (ii) The person has signed the document pursuant to the procedure set forth in the California  
19   Rules of Court.

20  
21   (B) When a document to be filed requires the signature, under penalty of perjury, of any person,  
22   the document shall be deemed to have been signed by that person if filed electronically and if  
23   either of the following conditions is satisfied:

24  
25   (i) The person has signed a printed form of the document before, or on the same day as, the date  
26   of filing. The attorney or other person filing the document represents, by the act of filing, that the  
27   declarant has complied with this section. The attorney or other person filing the document shall  
28   maintain the printed form of the document bearing the original signature until final disposition of  
29   the case, as defined in subdivision (c) of Section 68151 of the Government Code, and make it  
30   available for review and copying upon the request of the court or any party to the action or  
31   proceeding in which it is filed.

32  
33   (ii) The person has signed the document using a computer or other technology pursuant to the  
34   procedure set forth in a rule of court adopted by the Judicial Council by January 1, 2019.

35  
36   (3) Any document received electronically by the court between 12:00 a.m. and 11:59:59 p.m. on  
37   a court day shall be deemed filed on that court day. Any document that is received electronically  
38   on a noncourt day shall be deemed filed on the next court day.

1 (4) The court receiving a document filed electronically shall issue a confirmation that the  
2 document has been received and filed. The confirmation shall serve as proof that the document  
3 has been filed.

4  
5 (5) Upon electronic filing of a complaint, petition, or other document that must be served with a  
6 summons, a trial court, upon request of the party filing the action, shall issue a summons with the  
7 court seal and the case number. The court shall keep the summons in its records and may  
8 electronically transmit a copy of the summons to the requesting party. Personal service of a  
9 printed form of the electronic summons shall have the same legal effect as personal service of an  
10 original summons. If a trial court plans to electronically transmit a summons to the party filing a  
11 complaint, the court shall immediately, upon receipt of the complaint, notify the attorney or party  
12 that a summons will be electronically transmitted to the electronic address given by the person  
13 filing the complaint.

14  
15 (6) A fee, if any, charged by an electronic filing manager or an electronic filing service provider  
16 to process a payment for filing fees and other court fees shall not exceed the costs incurred in  
17 processing the payment.

18  
19 ~~(6)~~(7) The court shall permit a party or attorney to file an application for waiver of court fees and  
20 costs, in lieu of requiring the payment of the filing fee, as part of the process involving the  
21 electronic filing of a document. The court shall consider and determine the application in  
22 accordance with Article 6 (commencing with Section 68630) of Chapter 2 of Title 8 of the  
23 Government Code and shall not require the party or attorney to submit any documentation other  
24 than that set forth in Article 6 (commencing with Section 68630) of Chapter 2 of Title 8 of the  
25 Government Code. Nothing in this section shall require the court to waive a filing fee that is not  
26 otherwise waivable.

27  
28 ~~(7) A fee, if any, charged by the court, an electronic filing manager, or an electronic filing~~  
29 ~~service provider to process a payment for filing fees and other court fees shall not exceed the~~  
30 ~~costs incurred in processing the payment.~~

31  
32 (8) The court may charge fees of no more than the court's actual cost of the electronic filing and  
33 service of the documents. The court shall waive any fees charged if the court deems a waiver  
34 appropriate, including in instances when a party has received a fee waiver.

35  
36 (c) If a trial court adopts rules conforming to subdivision (b), it may provide by order, subject to  
37 the requirements and conditions stated in subdivision (b) and the rules adopted by the Judicial  
38 Council under subdivision (f), that all parties to an action file and serve documents electronically  
39 in a class action, a consolidated action, a group of actions, a coordinated action, or an action that  
40 is deemed complex under Judicial Council rules, provided that the trial court's order does not  
41 cause undue hardship or significant prejudice to any party in the action.

1 (d) A trial court may, by local rule, require electronic filing and service in civil actions, subject to  
2 the requirements and conditions stated in subdivision (b), the rules adopted by the Judicial  
3 Council under subdivision (f), and the following conditions:

4  
5 (1) The court shall have the ability to maintain the official court record in electronic format for  
6 all cases where electronic filing is required.

7  
8 (2) The court and the parties shall have access to more than one electronic filing service provider  
9 capable of electronically filing documents with the court or to electronic filing access directly  
10 through the court. ~~The court may charge fees of no more than the actual cost of the electronic~~  
11 ~~filing and service of the documents.~~ Any fees charged by an electronic filing service provider  
12 shall be reasonable. ~~The court,~~ An electronic filing manager, or an electronic filing service  
13 provider shall waive any fees charged if the court deems a waiver appropriate, including in  
14 instances where a party has received a fee waiver.

15  
16 (3)-(5) \* \* \*

17  
18 (e)-(g) \* \* \*

19  
20 (g) \* \* \*



## LEG19-01

### Judicial Council–Sponsored Legislation: Signatures and Consistent Fee Provisions with Electronic Filing and Service (Amend Code Civ. Proc., § 1010.6)

All comments are verbatim unless indicated by an asterisk (\*).

|    | Commenter  | Position | Comment   | Committee Responses  |
|----|--|----------|---|--|
| 1. | Orange County Bar Association<br>By Deirdre Kelly<br>President<br>P.O. Box 6130<br>Newport Beach, CA 92658 | AM       | <p>The OCBA believes that (a) this proposal does not achieve its purpose of creating consistency in the fee provisions for electronic filing and service, and (b) it does properly account for signatures not made under penalty of perjury by persons other than the filer. The proposal as to fees is inconsistent, ambiguous, and creates more ambiguities for unexplained reasons: (1) as proposed the statute still only allows an electronic service provider to charge a fee “for the costs incurred in processing the payment” of filing and other fees, but changes the legislation to now allow the court to charge a fee “no more than the actual cost of the electronic filing and service of the documents”; as currently written the fees charged by the court and the service provider under CCP §1010.6(b)(7) have the same limitations to the “costs incurred in processing the payment”; perhaps there are logical and fiscal reasons for treating the courts and the service provider differently, but this proposal does not explain, justify, nor analyze any of those difference and misstates a significant purpose of this proposal; and (2) as proposed, only in the case of an electronic service provider functioning under a trial court’s mandatory local rule requirements of CCP §1010.6(d) is the provider limited to charging “reasonable” fees; but a provider operating under the optional local rules of CCP §1010.6(b) has no such limitation nor does a provider operating under the court order rules of CCP §1010.6(c); it is also seemingly inconsistent to not place a similar “reasonable” fee requirement on the courts if such a rule is to exist at all (the “reasonable” fee rule seems fair to litigants but is</p> | <p>The committee appreciates the support and the comments.</p> <p>As to the first point made by OCBA, the “costs in processing a payment” apply only to those costs. “Actual costs” is a broader term and can therefore encompass more than payment processing fees. The actual cost provision in the proposal applies only to the courts. The committee has added a clarifying edit on this point that actual cost is <i>the court’s</i> actual cost. Unlike the courts, private providers such as electronic filing service providers (EFSPs) are not limited to actual costs except for payment processing fees. For example, an EFSP could build profit into its pricing model for services it provides to its users. The purpose of the fee provisions of the proposal is to create consistency by allowing courts to recover no more than their actual costs regardless of whether electronic filing and service is permitted by local rule, required by court order, or required by local rule. Currently, the fee provisions vary as applied to the courts.</p> <p>As to the second point, the proposal was not designed to impact EFSPs. There does not appear to be a need for the committee to address fees charged by EFSPs in a legislative proposal. When electronic filing and service are optional, litigants can simply choose not to use an EFSP. There is a stronger argument when electronic filing and service are mandated by court order, but even then, litigants must be exempted if electronic</p> |

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

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|    | Commenter  | Position | Comment   | Committee Responses  |
|----|--|----------|---|--|
|    |  |          | <p>ambiguous and difficult to interpret); and (3) although a statutory amendment would take precedence, the Judicial Council should reference and explain that Rule 8.73 of the California Appellate Rules would have to be changed since it now allows an electronic service provider to charge a “reasonable fee” in addition to the court’s own filing fees and several other rules provisions such as Rule 8.76 pertaining to filing fees would be rendered inconsistent or superfluous with this legislation.</p> <p>The Judicial Council request for comment on what impact the proposal would have on self-represented litigants is answered by a simple reference to CCP §1010.6(d)(4) which provides that “unrepresented persons are exempt from mandatory electronic filing and service.” This provision should be added to CCP §1010.6(c), which deals with court-ordered mandatory filing and service, for purposes of consistency.</p> | <p>filing and service cause undue hardship or significant prejudice.</p> <p>As to the third point, the fee provisions of section 1010.6 are found in subdivisions (b) and (d), which apply to the trial courts, not the appellate courts. Therefore, the appellate rules would not need to be changed.</p> |
| 2. | Superior Court of California,<br>County of Orange<br>Juvenile Court and Family Law<br>Divisions<br>By Cynthia Beltrán<br>Administrative Analyst<br>Family Law and Juvenile Court | NI       | After review, it was determined this change would not impact our Family Law or Juvenile case types. Our case management system vendor, Tyler Technologies, is our electronic filing manager. All signatures and fees are collected through them, then directed to the Court.  | The committee appreciates the comments.  |
| 3. | Superior Court of California,<br>County of San Diego<br>By Mike Roddy, Executive Officer   | A        | 1. Does the proposal appropriately address the stated purpose?<br>Yes.  | The committee appreciates the support and the comments.  |

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

## LEG19-01

### Judicial Council–Sponsored Legislation: Signatures and Consistent Fee Provisions with Electronic Filing and Service (Amend Code Civ. Proc., § 1010.6)

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|    | Commenter   | Position | Comment   | Committee Responses                                     |
|----|---|----------|---|---|
|    | Central Courthouse<br>1100 Union Street<br>San Diego, California 92101          |          | <p>2. What impact would the proposal have on self-represented litigants and their access to permissive electronic filing and service?</p> <p>May increase e-filings by self-represented litigants in courts that directly providing e-filing.</p> <p>3. Would the proposal provide cost savings? If so, please quantify.</p> <p>No.</p> <p>4. If the court does not currently have local rules permitting electronic filing and service, would the proposal make it more feasible for the court to do so?</p> <p>Potentially, provided a court has the resources to implement e-filing.</p> <p>5. If the court currently has local rules permitting electronic filing and service, would the proposal help the court to improve or expand electronic filing and service?</p> <p>It may, if the court directly provides e-filing. It does not appear that it would impact courts that utilize an electronic filing service provider.</p> |   |
| 4. | California Department of Child Support Services<br>By Lara Racine, Attorney III | A        | The California Department of Child Support Services (DCSS) has reviewed the proposal  | The committee appreciates the support and the comments. |

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

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### Judicial Council–Sponsored Legislation: Signatures and Consistent Fee Provisions with Electronic Filing and Service (Amend Code Civ. Proc., § 1010.6)

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|  | Commenter   | Position | Comment  | Committee Responses |
|--|---|----------|--|---------------------|
|  | P.O. Box 419064<br>Rancho Cordova, California 95741 |          | <p>identified above for potential impacts to the child support program, the local child support agencies (LCSAs), and our case participants. DCSS is in support of the proposals made in this invitation.</p> <p>REQUEST FOR SPECIFIC COMMENTS:</p> <p>1. Does the proposal appropriately address the stated purpose?</p> <p>Yes, the proposal is clear as to intent and purpose. The background section was well stated, especially as to the proposed amendment to Code of Civil Procedure Section 1010.6.</p> <p>2. What impact would the proposal have on self-represented litigants and their access to permissive electronic filing and service?</p> <p>The proposal provides further clarity and consistency as to fees for electronic filing and service, as well as the process and requirements for electronically filing documents with signature components. Should a self-represented litigant choose to electronically file documents with the court, this proposal will serve them in that it clarifies language that was not accurate for all e-filing scenarios.</p> <p>GENERAL COMMENTS:</p> <p>Cost Recovery</p> <p>DCSS, as a government entity, is not subject to filing fees per Government Code Section 6103.9.</p> |                     |

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

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|    | Commenter   | Position | Comment   | Committee Responses   |
|----|---|----------|---|---|
|    |   |          | <p>SIGNATURES ONE-FILED DOCUMENTS NOT SIGNED UNDER PENAL TY OF PERJURY</p> <p>DCSS is a current e-filer with several Superior Courts statewide. When our LCSAs e-file legal documents today, the signature lines on the enabled forms are meant to be signed by the worker generating the form; therefore, the current language of Code of Civil Procedure Section 1010.6(b)(2)(A) works. However, with the expansion of our e-filing program, and in the future when we begin toe-file documents such as stipulations, where the signature lines will be signed by other parties, the current language will be incorrect and the clarifying language proposed will account for those situations. As these scenarios will occur frequently once stipulations and other similar forms are added to e-filing via DCSS, this will have a significant impact on the child support program and the clarity in the law will be necessary and extremely helpful.</p> |   |
| 5. | Child Support Directors Association<br>By Terrie Porter<br>Sacramento, California | AM       | <p>General comments:<br/>Grouping like provisions may make the code section clearer. Keep the fees discussion in one area and waivers in another.</p> <p>CCP Sec. 1010.6(b)(7) as proposed speaks to fees that can be charged by electronic filing manager or electronic filing service manager to process payment for filing fees. This section seems out of place and doesn't clearly link to the section before or after as each of those sections is speaking to fee waiver</p>   | <p>The committee appreciates the support and the comments.</p> <p>Regarding the order of the subdivisions, based the comment, the committee considered whether there was a more logical ordering to the proposed amendments. The committee agreed to move subdivision (b)(7) before subdivision (b)(6) to improve the continuity of the topics.</p> |

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

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|  | Commenter | Position | Comment   | Committee Responses   |
|--|-----------|----------|---|---|
|  |           |          | <p>options. Can subsection (7) be located elsewhere or swapped with (8) so there's some continuity to provision topics?</p> <p>CCP Sec. 1010.6(d)(2) as proposed notes "The court and the parties shall have access to more than one electronic filing service provider capable of electronically filing documents with the court or to electronic filing access directly through the court. Any fees charged by an electronic filing service provider shall be reasonable..." More clearly defining the term reasonable or what is considered reasonable will help create more consistency between electronic filing service provider fees and costs.</p> <p>Request for Specific Comments:<br/>Does the proposal appropriately address the stated purpose?</p> <p>As proposed, this change will create consistent court fees when courts are allowing electronic filing. As noted, the courts are only able to recover actual costs of the electronic filing. It does not necessarily create consistency between electronic filing service providers, see General Comments regarding CCP Sec. 1010.6(d)(2).<br/>What impact would the proposal have on self-represented litigants and their access to permissive electronic filing and service?</p> <p>This change will provide the opportunity of electronic filing and service for self-represented</p> | <p>Regarding "reasonable" fees allowed to be charged by EFSPs, the language on reasonable fees is part of the current statute. The proposal did not include the meaning of the term within its scope of amendments to subsection (d)(2). Rather, the only amendment to (d)(2) was to strike language that was unnecessary because the language had been moved to proposed subsection (b)(8).</p> <p>Regarding the impact on self-represented litigants, the concern CSDA raises about imposing prohibitive costs on self-rep is already addressed in the current version of 1010.6. Subdivision (d)(4) specifically exempts "unrepresented persons" from mandatory electronic filing and service, and the proposed amendments do not change this exemption.</p> |

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### Judicial Council–Sponsored Legislation: Signatures and Consistent Fee Provisions with Electronic Filing and Service (Amend Code Civ. Proc., § 1010.6)

All comments are verbatim unless indicated by an asterisk (\*).

|  | Commenter | Position | Comment   | Committee Responses |
|--|-----------|----------|---|---------------------|
|  |           |          | litigants, but it may be cost prohibitive depending upon the court's discretion with and/or use of waivers. If electronic filing is mandated by the courts, then this may result in increased costs to the self-represented litigant. If it is offered as an option and/or waivers are allowable, then the anticipated impact will be diminished. |                     |

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated