

AMENDED IN ASSEMBLY MARCH 10, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2448**

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**Introduced by Assembly Member Feuer**

February 21, 2008

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An act to add Article 6 (commencing with Section 68630) to Chapter 2 of Title 8 of, and to repeal Section 68511.3 of, the Government Code, relating to the courts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2448, as amended, Feuer. Courts: access to justice.

Existing law requires the Judicial Council to formulate and adopt uniform forms and rules of court for litigants proceeding in forma pauperis, providing, among other things, standard procedures for considering and determining applications for permission to proceed in forma pauperis, and that permission to proceed in forma pauperis be granted to eligible litigants.

This bill would, beginning July 1, ~~2010~~ 2009, revise and recast these provisions to provide, instead, that an initial fee waiver shall be granted by the court at any stage of the proceedings at both the appellate and trial court levels if an applicant meets specified standards of eligibility and application requirements. The bill would authorize the court to reconsider the initial fee waiver and to recover fees and costs that were waived under specified circumstances. Among other things, the bill would impose a lien in favor of the court against any settlement, compromise, award, or other recovery in excess of \$10,000 by a party in a civil case whose court fees and costs were initially waived in the amount of those waived fees and costs. The bill would require the Judicial Council to adopt rules and forms to establish uniform procedures

to implement these provisions, and would require applicants for an initial fee waiver to complete application forms under penalty of perjury. The bill also would require a party who petitions the court to enter a satisfaction of judgment to declare under penalty of perjury that any order requiring payment of waived fees and costs has been satisfied, and a party who petitions the court for dismissal in a case to declare under penalty of perjury that a lien in favor of the court against any settlement, compromise, award, or other recovery has been paid, as specified. By expanding the scope of the crime of perjury, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
 State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 68511.3 of the Government Code is  
 2 repealed.

3 SEC. 2. Article 6 (commencing with Section 68630) is added  
 4 to Chapter 2 of Title 8 of the Government Code, to read:

5  
 6 Article 6. Waiver of Court Fees and Costs

7  
 8 68630. The Legislature finds and declares all of the following:

9 (a) That our legal system cannot provide “equal justice under  
 10 law” unless all persons have access to the courts without regard  
 11 to their economic means. California law and court procedures  
 12 should ensure that court fees are not a barrier to court access for  
 13 those with insufficient economic means to pay those fees.

14 (b) That fiscal responsibility should be tempered with concern  
 15 for litigants’ rights to access the justice system. The procedure for  
 16 allowing the poor to use court services without paying ordinary  
 17 fees must be one that applies rules fairly to similarly situated  
 18 persons, is accessible to those with limited knowledge of court  
 19 processes, and does not delay access to court services. The  
 20 procedure for determining if a litigant may file a lawsuit without

1 paying a fee must not interfere with court access for those without  
2 the financial means to do so.

3 (c) That those who are able to pay court fees should do so, and  
4 that courts should be allowed to recover previously waived fees  
5 if a litigant has obtained a judgment or substantial settlement.

6 68631. An initial fee waiver shall be granted by the court at  
7 any stage of the proceedings at both the appellate and trial court  
8 levels if an applicant meets the standards of eligibility and  
9 application requirements under Sections 68632 and 68633. An  
10 initial fee waiver excuses the applicant from paying fees for the  
11 first pleading or other paper, and other court fees and costs as  
12 specified in rules adopted by the Judicial Council, unless the court  
13 orders the applicant to make partial payments under subdivision  
14 (c) of Section 68632, subdivision (d) of Section 68636, or  
15 subdivision (e) of Section 68637. Under circumstances set forth  
16 in Section 68636, the court may reconsider the initial fee waiver  
17 and order the fee waiver withdrawn for future fees and costs or  
18 deny the fee waiver retroactively. At the end of the case, the court  
19 may recover fees and costs that were initially waived under  
20 circumstances set forth in Section 68637.

21 68632. Permission to proceed without paying court fees and  
22 costs because of an applicant's financial condition shall be granted  
23 initially to all of the following persons:

24 (a) A person who is receiving public benefits under one or more  
25 of the following programs:

26 (1) Supplemental Security Income (SSI) and State  
27 Supplementary Payment (SSP) (Article 5 (commencing with  
28 Section 12200) of Chapter 3 of Part 3 of Division 9 of the Welfare  
29 and Institutions Code).

30 (2) California Work Opportunity and Responsibility to Kids  
31 Act (CalWORKs) (Chapter 2 (commencing with Section 11200)  
32 of Part 3 of Division 9 of the Welfare and Institutions Code) or a  
33 federal Tribal Temporary Assistance for Needy Families (Tribal  
34 TANF) grant program (Section 10553.25 of the Welfare and  
35 Institutions Code).

36 (3) Food Stamps (Chapter 51 (commencing with Section 2011)  
37 of Title 7 of the United States Code) or the California Food  
38 Assistance Program (Chapter 10.1 (commencing with Section  
39 18930) of Part 6 of Division 9 of the Welfare and Institutions  
40 Code).

1 (4) County Relief, General Relief (GR), or General Assistance  
2 (GA) (Part 5 (commencing with Section 17000) of Division 9 of  
3 the Welfare and Institutions Code).

4 (5) Cash Assistance Program for Aged, Blind, and Disabled  
5 Legal Immigrants (CAPI) (Chapter 10.3 (commencing with Section  
6 18937) of Part 6 of Division 9 of the Welfare and Institutions  
7 Code).

8 (6) In-Home Supportive Services (IHSS) (Article 7  
9 (commencing with Section 12300) of Chapter 3 of Part 3 of  
10 Division 9 of the Welfare and Institutions Code).

11 (7) Medi-Cal (Chapter 7 (commencing with Section 14000) of  
12 Part 3 of Division 9 of the Welfare and Institutions Code).

13 (b) A person whose monthly income is 125 percent or less of  
14 the current poverty guidelines updated periodically in the Federal  
15 Register by the United States Department of Health and Human  
16 Services under the authority of paragraph (2) of Section 9902 of  
17 Title 42 of the United States Code.

18 (c) A person who, as individually determined by the court,  
19 cannot pay court fees without using moneys that normally would  
20 pay for the common necessities of life for the applicant and the  
21 applicant's family. Only if a trial court finds that an applicant under  
22 this subdivision can pay a portion of court fees, or can pay court  
23 fees over a period of time, or under some other equitable  
24 arrangement, without using moneys that normally would pay for  
25 the common necessities of life for the applicant and the applicant's  
26 family, the court may grant a partial initial fee waiver using the  
27 notice and hearing procedures set forth in paragraph (5) of  
28 subdivision (e) of Section 68634. "Common necessities of life,"  
29 as used in this article, shall be interpreted consistently with the use  
30 of that term in paragraph (1) of subdivision (c) of Section 706.051  
31 of the Code of Civil Procedure.

32 68633. (a) An applicant for an initial fee waiver under  
33 subdivision (a) of Section 68632 shall complete, under penalty of  
34 perjury, a Judicial Council application form requiring the applicant  
35 to list his or her current street address, or another address where  
36 the court can contact the applicant, occupation, employer, and the  
37 type of public benefits that he or she is receiving. At the time the  
38 application is submitted, the applicant shall not be required to  
39 provide documents supporting receipt of public benefits, to provide  
40 evidence of identity, to submit to interviews regarding the

1 applicant's financial circumstances, to be physically present to file  
2 the application, or to fill out additional parts of the application  
3 form.

4 (b) An applicant for an initial fee waiver under subdivision (b)  
5 of Section 68632 shall complete, under penalty of perjury, both  
6 of the following:

7 (1) A Judicial Council application form requiring the applicant  
8 to provide his or her current street address, or another address  
9 where the court can contact the applicant, occupation, and  
10 employer.

11 (2) A financial statement showing monthly or yearly income as  
12 determined under rules, and on forms, adopted by the Judicial  
13 Council. At the time the application is submitted, the applicant  
14 shall not be required to provide documents to prove income,  
15 dependents, or expenses, to provide evidence of identity, to submit  
16 to interviews regarding the applicant's financial circumstances, to  
17 be physically present to file the application, or to fill out additional  
18 parts of the application form.

19 (c) An applicant for an initial fee waiver under subdivision (c)  
20 of Section 68632 shall complete, under penalty of perjury, both  
21 of the following:

22 (1) A Judicial Council application form requiring the applicant  
23 to provide his or her current street address, or another address  
24 where the court can contact the applicant, occupation, and  
25 employer.

26 (2) A financial statement showing monthly or yearly income  
27 and expenses and a summary of assets and liabilities as determined  
28 under rules, and on forms, adopted by the Judicial Council. At the  
29 time the application is submitted, the applicant shall not be required  
30 to provide documents to prove income, dependents, or expenses,  
31 to provide evidence of identity, to submit to interviews regarding  
32 the applicant's financial circumstances, or to be physically present  
33 to file the application.

34 (d) The clerk shall provide forms adopted by the Judicial Council  
35 pursuant to this article without charge to any person who requests  
36 those forms or indicates that he or she is unable to pay any court  
37 fees or costs. An applicant shall not be required to complete any  
38 form as part of his or her application under this article other than  
39 those forms adopted by the Judicial Council.

1 (e) An applicant for an initial fee waiver shall be informed that,  
2 at a later date, the court may require proof of receipt of benefits  
3 or financial information to verify eligibility, as provided in Section  
4 68636, and that a trial court may seek reimbursement of initially  
5 waived fees under circumstances set forth in Section 68637. This  
6 notice requirement is satisfied if the information is provided on  
7 the Judicial Council fee waiver application form.

8 (f) Financial information provided by an applicant shall be kept  
9 confidential by the court. No person shall have access to the  
10 application except the court, authorized court personnel, and any  
11 person authorized by the applicant. No person shall reveal any  
12 information contained in the application except as authorized by  
13 law. Any hearing regarding whether to grant or deny a fee waiver  
14 request shall be held in camera, and the court shall exclude all  
15 persons except court staff, the applicant, those present with the  
16 applicant's consent, and any witness being examined. The fact that  
17 an applicant's fees and costs have been initially waived and the  
18 amount of the waived fees and costs are not confidential. The  
19 Judicial Council shall adopt procedures to keep the financial  
20 information confidential and to consider a request seeking that  
21 confidential information.

22 (g) Counsel representing an applicant who is filing in a general  
23 jurisdiction civil case pursuant to an agreement that counsel will  
24 advance litigation costs shall indicate that agreement on the  
25 application form. The court shall set a hearing to determine whether  
26 or not, considering the resources of the counsel, the applicant is  
27 able to pay court fees without using moneys that normally would  
28 pay for the common necessities of life. This subdivision does not  
29 apply if the applicant is represented by counsel for, or affiliated  
30 with, a qualified legal services project, as defined in Section 6213  
31 of the Business and Professions Code.

32 68634. (a) This section applies to the processing and  
33 determination of fee waiver applications in the trial courts.

34 (b) All applications for an initial fee waiver shall be accepted  
35 for filing. If an applicant submits an application without providing  
36 all required information to complete the form, the clerk may request  
37 that the applicant supply the omitted information, but shall not  
38 refuse to file the application, or refuse to file any pleadings  
39 accompanying the application, on the ground that the fee has not  
40 been paid. The clerk shall not request that the applicant furnish

1 information that is not required on the Judicial Council fee waiver  
2 application form. At the time the application is submitted, the clerk  
3 shall not request that the applicant provide documents to support  
4 the information other than those required under Section 68633.

5 (c) If a person has filed an application for an initial fee waiver,  
6 the person shall be permitted to file his or her pleading or other  
7 papers immediately, without paying any fees.

8 (d) The court may delegate to the clerk the authority to grant  
9 applications for an initial fee waiver that meet the standards of  
10 eligibility and application requirements set forth in Sections 68632  
11 and 68633. The court shall not delegate to a clerk the authority to  
12 deny or to partially grant an application for an initial fee waiver.

13 (e) The fee waiver application shall be determined without  
14 regard to the substance of the applicant's pleading or other paper  
15 filed, if any. On review of an application for an initial fee waiver  
16 the court shall take the following actions, as applicable:

17 (1) Grant the application if the information provided on the  
18 application establishes that the applicant meets the criteria for  
19 eligibility and application requirements set forth in Sections 68632  
20 and 68633.

21 (2) Deny the application if the application is incomplete. If the  
22 application is denied on this basis, the applicant shall be given  
23 notice of the specific reason for denial and a reasonable opportunity  
24 to submit a revised application.

25 (3) Deny the application if the information provided on the  
26 application conclusively establishes that the applicant is not eligible  
27 for an initial fee waiver under Section 68632 on the grounds  
28 requested. If the application is denied on this basis, the applicant  
29 shall be given notice of the specific reason for denial and a  
30 reasonable opportunity to request a hearing. The applicant may  
31 submit additional information at the hearing.

32 (4) Set an eligibility hearing if the court has good reason to  
33 doubt the veracity of the factual statements in the application. The  
34 applicant shall be given 10 days' notice of the hearing and the  
35 specific reason the court doubts the veracity of the factual  
36 statements. The court may require that specified, reasonably  
37 available, additional information be provided concerning the  
38 truthfulness of the factual statements in the application, but shall  
39 not require submission of information that is not related to the

1 criteria for eligibility and application requirements set forth in  
2 Sections 68632 and 68633.

3 (5) Set an eligibility hearing if the information provided on the  
4 application does not establish that the applicant meets the criteria  
5 for eligibility and application requirements set forth in Sections  
6 68632 and 68633, but that information does not conclusively  
7 establish that the applicant is not eligible for an initial fee waiver  
8 on the grounds requested. The applicant shall be given 10 days'  
9 notice of the hearing and the specific reason why the court has not  
10 granted the application. The court may require that specified,  
11 reasonably available, additional information be provided, but shall  
12 not require submission of information that is not related to the  
13 criteria for eligibility and application requirements set forth in  
14 Sections 68632 and 68633.

15 After notice and an opportunity to be heard, the court may require  
16 an applicant under subdivision (c) of Section 68632 to pay a portion  
17 of court fees, or to pay court fees over a period of time or under  
18 some other equitable arrangement that meets the criteria of  
19 subdivision (c) of Section 68632. The court shall give a written  
20 statement of reasons if an application is denied in whole or in part.

21 (f) An application for an initial fee waiver is deemed granted  
22 five court days after it is filed, unless before that time, the court  
23 gives notice of action on the application as provided in subdivision  
24 (e). Any delay by the court in processing an application to initially  
25 waive court fees and costs does not count against any time limits  
26 affecting the pleadings or other papers that the applicant timely  
27 filed.

28 (g) If an application is denied in whole or in part, the applicant  
29 shall pay the court fees and costs that ordinarily would be charged,  
30 or make the partial payment as ordered by the court, within 10  
31 days after the clerk gives notice of the denial, unless within that  
32 time the applicant submits a new application or requests a hearing  
33 under subdivision (e). If the applicant does not pay on time, the  
34 clerk shall void the papers that were filed without payment of the  
35 court fees and costs.

36 (h) A person who applies for an initial fee waiver shall indicate  
37 whether he or she has filed a prior application for an initial fee  
38 waiver in the same case within the previous six months and shall  
39 attach a copy, if one is reasonably available.

1 68634.5. (a) This section applies to the processing and  
2 determination of fee waiver applications in the appellate courts.

3 (b) All completed applications for a fee waiver shall be accepted  
4 for filing. If an application is submitted without all required  
5 information filled out on the form, the clerk may return the  
6 application to the applicant and request that the applicant supply  
7 the omitted information, but shall not refuse to file any paper  
8 accompanying the application on the ground that the application  
9 is incomplete or the fee has not been paid. The clerk shall not  
10 request that the applicant furnish information that is not required  
11 on the Judicial Council fee waiver application form. At the time  
12 the application is submitted, the clerk shall not request that the  
13 applicant provide documents to support the information other than  
14 those required under Section 68633.

15 (c) A person shall be permitted to file his or her papers  
16 immediately, even if the person does not present the filing fee, or  
17 an application for, or order granting, a fee waiver.

18 (d) The court may delegate to the clerk the authority to grant  
19 applications for a fee waiver that meet the standards of eligibility  
20 and application requirements set forth in Sections 68632 and 68633.  
21 The court shall not delegate to a clerk the authority to deny an  
22 application for a fee waiver.

23 (e) The fee waiver application shall be determined without  
24 regard to the substance of any other paper filed by the applicant.  
25 On review of an application for a fee waiver, the court shall take  
26 the following actions, as applicable:

27 (1) Grant the application if the information provided on the  
28 application establishes that the applicant meets the criteria for  
29 eligibility and application requirements set forth in Sections 68632  
30 and 68633.

31 (2) Deny the application if the application is incomplete. If the  
32 application is denied on this basis, the applicant shall be given  
33 notice of the specific reason for denial and a reasonable opportunity  
34 to submit a revised application.

35 (3) Deny the application if the information provided on the  
36 application conclusively establishes that the applicant is not eligible  
37 for a fee waiver under Section 68632 on the grounds requested. If  
38 the application is denied on this basis, the applicant shall be given  
39 notice of the specific reason for denial and a reasonable opportunity

1 to submit additional information related to the criteria for eligibility  
2 and application requirements.

3 (4) If the court concludes that there is a substantial evidentiary  
4 question regarding the applicant's eligibility, the court:

5 (A) May require the applicant to provide specified, reasonably  
6 available, additional information concerning the factual statements  
7 in the application, but shall not require submission of information  
8 that is not related to the criteria for eligibility and application  
9 requirements set forth in Sections 68632 and 68633.

10 (B) May set a hearing to consider evidence concerning the  
11 applicant's eligibility.

12 (C) Shall give a written statement of reasons if an application  
13 is denied.

14 (f) An application for a fee waiver is deemed granted five court  
15 days after it is filed, unless before that time, the court gives notice  
16 of action on the application as provided in subdivision (e).

17 (g) If an application is denied, the applicant shall pay the court  
18 fees and costs that ordinarily would be charged within 10 days  
19 after the clerk gives notice of the denial, unless within that time,  
20 the court grants a fee waiver based on a new application or  
21 additional information provided by the applicant under subdivision  
22 (e). The clerk shall notify the applicant of the consequences for  
23 failure to pay the court fees.

24 (h) A person who applies for an initial fee waiver shall indicate  
25 whether he or she has filed a prior application for a fee waiver in  
26 the same case and shall attach a copy, if one is reasonably available.

27 68635. (a) This section applies only to waivers of trial court  
28 fees.

29 (b) Notwithstanding any other provision of this article, a person  
30 who is sentenced to the state prison or confined in a county jail  
31 shall pay the full amount of the trial court filing fees and costs to  
32 the extent provided in this section.

33 (c) To apply for an initial fee waiver, a person who is sentenced  
34 to the state prison or confined in a county jail shall complete, under  
35 penalty of perjury, a Judicial Council application form giving the  
36 current address of the inmate and a statement that he or she is  
37 incarcerated, together with a statement of account for any moneys  
38 due to the inmate for the six-month period immediately preceding  
39 the application. The form shall be certified by the appropriate

1 official of the Department of Corrections and Rehabilitation or a  
2 county jail.

3 (d) When the pleadings or other papers are filed, the court shall  
4 assess and, if funds exist, collect as partial payment, a partial filing  
5 fee of 20 percent of the greater of either of the following:

6 (1) The average monthly deposits to the inmate's account.

7 (2) The average monthly balance in the inmate's account for  
8 the six-month period immediately preceding the application.

9 (e) After the initial filing fee is partially paid, the inmate shall  
10 make monthly payments of 20 percent of the preceding month's  
11 income credited to the inmate's account. The Department of  
12 Corrections and Rehabilitation, or a county jail, shall forward  
13 payments from this account to the clerk of the court each time the  
14 amount in the account exceeds ten dollars (\$10) until the filing  
15 fees are paid in full.

16 (f) The fees collected by the court under this section shall not  
17 exceed the amount of the fees that would be charged to a person  
18 who is not incarcerated.

19 (g) The court may delegate to a clerk the authority to process  
20 requests for fee waivers from inmates under this section.

21 (h) An inmate shall not be prohibited from filing pleadings or  
22 other papers solely because the inmate has no assets and no means  
23 to partially pay the initial filing fee.

24 68636. (a) After the court has granted an initial fee waiver in  
25 whole or in part, and before final disposition of the case, the person  
26 who received the initial fee waiver shall notify the court within  
27 five days of any change in financial circumstances that affects his  
28 or her ability to pay all or a portion of the court fees and costs that  
29 were initially waived.

30 (b) If, before or at the time of final disposition of the case, the  
31 court obtains information, including information derived from the  
32 court file, suggesting that a person whose fees and costs were  
33 initially waived is not entitled to a fee waiver, or that the person's  
34 financial condition has changed so that he or she is no longer  
35 eligible for a fee waiver, the court may require the person to appear  
36 at a court hearing by giving the applicant no less than 10 days'  
37 written notice of the hearing and the specific reasons why the initial  
38 fee waiver might be reconsidered. The court may require the person  
39 to provide reasonably available evidence, including financial  
40 information, to support his or her eligibility for the fee waiver, but

1 shall not require submission of information that is not related to  
2 the criteria for eligibility and application requirements set forth in  
3 Sections 68632 and 68633. The court shall not conduct a hearing  
4 pursuant to this subdivision more often than once every six months.

5 (c) At the time of final disposition of the case, the court may  
6 give notice that a person whose fees and costs were initially waived  
7 is required to appear at a court hearing by giving the applicant no  
8 less than 10 days' written notice of the hearing. The court may  
9 require the person to provide reasonably available evidence,  
10 including financial information, to support his or her eligibility  
11 for the fee waiver, but shall not require submission of information  
12 that is not related to the criteria for eligibility and application  
13 requirements set forth in Sections 68632 and 68633.

14 (d) In conducting a hearing under subdivision (b) or (c), if the  
15 court determines that the person was not entitled to the initial fee  
16 waiver at the time it was granted, the court may order the waiver  
17 withdrawn retroactively. The court may order the person to pay  
18 to the court immediately, or over a period of time, all or part of  
19 the fees that were initially waived. The court shall give the person  
20 a minimum of 10 court days to begin paying the full or partial fees.

21 (e) In conducting a hearing under subdivision (a), (b), or (c), if  
22 the court determines that the person's financial circumstances have  
23 changed since the grant of the initial fee waiver or partial initial  
24 fee waiver, the court may order the fee waiver withdrawn  
25 prospectively from the time that the person no longer was eligible  
26 for a fee waiver. The court may order the person to pay to the court  
27 immediately, or over a period of time, all or part of the fees that  
28 were waived since the time that the person no longer was eligible  
29 for a fee waiver. The court may order the person to begin paying  
30 all or part of the court fees assessed for future activities in the case.  
31 The court shall give the person a minimum of 10 court days to  
32 begin paying the full or partial fees.

33 (f) If the court obtains information suggesting that a litigant  
34 whose fees and costs were initially waived is obtaining court  
35 services in bad faith, or for an improper purpose such as to harass  
36 or cause unnecessary delay, or to needlessly increase the costs of  
37 litigation, the court may give notice that the litigant is required to  
38 appear at a court hearing to consider whether limitations should  
39 be placed on court services for which fees were initially waived.

1 68637. (a) This section applies only to waivers of trial court  
2 fees.

3 (b) (1) If a party whose trial court fees and costs were initially  
4 waived is a prevailing party within the meaning of Section 1032  
5 of the Code of Civil Procedure, the judgment or dismissal entered  
6 in favor of the party whose fees and costs were initially waived  
7 shall include an order requiring that the party against whom  
8 judgment or dismissal has been entered pay to the court the waived  
9 fees and costs. The court may refuse to enter a partial or full  
10 satisfaction of a judgment until an accompanying order requiring  
11 payment of waived fees and costs has been satisfied.

12 (2) A party petitioning the court to enter satisfaction of judgment  
13 shall declare, under penalty of perjury, that any order requiring  
14 payment of waived fees and costs has been satisfied.

15 (3) This subdivision does not apply to any of the following:

16 (A) Unlawful detainer cases.

17 (B) Family law matters, for which recovery of fees is subject  
18 to subdivisions (d) and (e).

19 (C) Cases in which the judgment or dismissal is entered against  
20 a party whose fees and costs were initially waived.

21 (c) If a party in a civil case whose trial court fees and costs were  
22 initially waived recovers ten thousand dollars (\$10,000) or more  
23 in value by way of settlement, compromise, arbitration award,  
24 mediation settlement, or other recovery, the waived fees and costs  
25 shall be paid to the court out of the settlement, compromise, award,  
26 or other recovery.

27 (1) The court shall have a lien on any settlement, compromise,  
28 award, or other recovery in the amount of all the court fees and  
29 costs initially waived.

30 (2) The waived fees and costs shall first be paid to the court  
31 before the party whose fees and costs were initially waived receives  
32 anything of value under the settlement, compromise, award, or  
33 other recovery.

34 (3) Notice of the lien shall be given to the parties under rules  
35 and on forms adopted by the Judicial Council, and the Judicial  
36 Council shall provide by rule the procedures by which a party  
37 subject to a lien may determine the amount of the lien.

38 (4) The court may refuse to enter a petition for dismissal in the  
39 case until the lien is satisfied. A party filing a petition for dismissal  
40 shall declare, under penalty of perjury, that the lien has been paid,

1 or that any settlement, compromise, award, or other recovery has  
2 a value of less than ten thousand dollars (\$10,000).

3 (5) In a case in which an initial waiver of fees and costs was  
4 granted, or if a petition to dismiss the case is filed without the  
5 declaration, the court may issue an order to show cause why the  
6 lien should not be enforced and why the court should not enter a  
7 judgment making the parties jointly and severally liable to the  
8 court for initially waived fees and costs.

9 (d) If a judgment or an order to pay support is entered in a family  
10 law case, the trial court shall consider, based on the information  
11 in the court file, whether a party who did not receive a fee waiver  
12 has the ability to pay all or part of the other party's waived fees.  
13 Any order for the payment of the other party's waived fees shall  
14 be made payable only after all current support and all accrued  
15 arrears owed by the party who did not receive the fee waiver have  
16 been paid. If the court orders payment of the other party's waived  
17 fees, and the party required to pay is not present in court at the  
18 time judgment is entered, the party required to pay shall be given  
19 notice and an opportunity for a hearing to request that the court  
20 set aside the order to pay fees. A request for a hearing shall be  
21 made in writing within 30 days after service of the notice of the  
22 court order. If a request for hearing is made, the order for payment  
23 of initially waived fees shall not be enforced until after the hearing.

24 (e) If a judgment is entered in a family law case, the trial court  
25 shall consider, based on the information in the court file, whether  
26 a party's circumstances have changed so that it is reasonable to  
27 require a party who received an initial fee waiver to pay all or part  
28 of the fees that were initially waived. In making this determination,  
29 the court shall use the criteria for eligibility set forth in Section  
30 68632. In considering whether a child or spousal support order  
31 constitutes a change of circumstances allowing the party to pay  
32 fees, the court also shall consider the likelihood that the support  
33 obligor will remit the payments ordered by the court. If a support  
34 order is the primary basis for the court's finding of changed  
35 circumstances, the court shall order the support obligor to pay the  
36 previously waived fees subject to the provisions of subdivision  
37 (d). When the court orders the party to pay all or part of the fees  
38 that were initially waived, the party required to pay shall be given  
39 notice and an opportunity for a hearing to request that the court  
40 set aside the order to pay fees. A request for a hearing shall be

1 made in writing within 30 days after service of the notice of the  
2 court order. If a request for hearing is made, the order for payment  
3 of initially waived fees shall not be enforced until after the hearing.

4 68638. (a) The trial court may execute on any order for  
5 payment of initially waived fees and costs in the same manner as  
6 on a judgment in a civil action. The court may issue an abstract of  
7 judgment, a writ of execution, or both, for all of the following:

8 (1) Recovery of the initially waived fees and costs as ordered.

9 (2) Fees for issuing the abstract of judgment, writ of execution,  
10 or both.

11 (3) A twenty-five dollar (\$25) fee for administering this  
12 subdivision.

13 (4) An amount due to levying officers for serving and collecting  
14 on the judgment that will all be added to the writ of execution.

15 (b) Upon collection, the initially waived fees and costs, the fees  
16 for issuing the abstract of judgment and writ of execution, and the  
17 twenty-five dollar (\$25) administrative fee shall be remitted to the  
18 court. Thereafter, the amount due to the levying officers for serving  
19 and collecting on the judgment shall be paid.

20 68639. An initial fee waiver shall expire 60 days after the  
21 judgment, dismissal, or other final disposition of the case.

22 68640. The Judicial Council may adopt a rule of court to allow  
23 litigants who are not eligible for a fee waiver to pay court fees in  
24 installments.

25 68641. The Judicial Council shall adopt rules and forms to  
26 establish uniform procedures to implement this article, including,  
27 but not limited to, procedures for all of the following:

28 (a) Considering and determining applications to proceed without  
29 paying court fees and costs at every stage of the proceedings,  
30 including at the trial and appellate levels of the court.

31 (b) Prescribing the court fees and costs that may be waived at  
32 every stage of the proceedings.

33 (c) Giving notice of lien and hearings for reconsideration and  
34 recovery of initially waived fees and costs.

35 (d) Collecting waived fees and costs.

36 (e) Requesting a hearing when an application is denied.

37 (f) Any other procedures necessary to implement the provisions  
38 of this article.

39 SEC. 3. This act shall become operative on July 1, ~~2010~~ 2009.

1     SEC. 4. No reimbursement is required by this act pursuant to  
2 Section 6 of Article XIII B of the California Constitution because  
3 the only costs that may be incurred by a local agency or school  
4 district will be incurred because this act creates a new crime or  
5 infraction, eliminates a crime or infraction, or changes the penalty  
6 for a crime or infraction, within the meaning of Section 17556 of  
7 the Government Code, or changes the definition of a crime within  
8 the meaning of Section 6 of Article XIII B of the California  
9 Constitution.

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