

RESOLUTION 08-01-2018

DIGEST

Judges: Delete Obsolete Provision for Defense of Judges by County Counsel

Deletes Government Code section 27647, which allows trial court judges to be defended by county counsel upon request.

STATEMENT OF REASONS

The Problem: California voters authorized the state assumption of the functions of the consolidated superior courts throughout California. This eliminated many of the obligations of counties with regard to trial courts, including county counsel defending trial courts and their judicial officers in litigation, subject to specific exceptions. This change rendered obsolete the provisions of Government Code section 27647 setting forth as one of the enumerated functions of the County Counsel, the provision of representation to the trial court or trial court judges.

The Solution: This resolution deletes Government Code section 26740 because it is now obsolete with the state having assumed the obligation of providing representation to judicial officers.

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to delete Government Code section 27647 to read as follows:

- 1 § 27647.
- 2 (a) If requested so to do by the superior court of the county of the county counsel, or by
- 3 any municipal court in such county, or by any judge thereof, and insofar as such duties are not in
- 4 conflict with, and do not interfere with, other duties, the county counsel may represent any such
- 5 court or judge thereof in all matters and questions of law pertaining to any of such judge's duties,
- 6 including any representation authorized by Section 68111 and representation in all civil actions
- 7 and proceedings in any court in which with respect to the court's or judge's official capacity,
- 8 such court or judge is concerned or is a party.
- 9 (b) This section shall not apply to any of the following:
- 10 (1) Any criminal proceedings in which a judge is a defendant.
- 11 (2) Any grand jury proceedings.
- 12 (3) Any proceeding before the Commission on Judicial Qualifications.
- 13 (4) Any civil action or proceeding arising out of facts under which the judge was
- 14 convicted of a criminal offense in a criminal proceeding.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT: San Diego County Bar Association

IMPACT STATEMENT

This resolution does not affect any other law, statute or rule other than those expressly identified.

CURRENT OR PRIOR RELATED LEGISLATION

None known.

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RESPONSIBLE FLOOR DELEGATE: Darin L. Wessel

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RESOLUTIONS COMMITTEE RECOMMENDATION

APPROVE IN PRINCIPLE

History:

No similar resolutions found.

Reasons:

This resolution deletes Government Code section 27647, which allows trial court judges to be defended by county counsel upon request. This resolution should be approved in principle because subject to limited exceptions, trial court judges are now defended by the State of California, which eliminates the need for representation by county counsel.

On June 2, 1998, California voters approved Proposition 220, which consolidated superior and municipal courts and centralized the administration of California’s state court system. Consequently, the State of California assumed financial responsibility for the courts, including defending trial court judges in lawsuits. Since county counsels no longer defend trial judges in lawsuits, Government Code section 27647 is obsolete. Under Government Code section 811.9, all judges are now considered state officers and the Judicial Council provides for representation, defense, and indemnification of those individuals. Therefore, Government Code section 27647 should be deleted.