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SB-1208 Courts, judicial emergencies. (2017-2018)

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Senate Bill No. 1208

CHAPTER 201

An act to amend Section 68115 of the Government Code, relating to courts.

[Approved by Governor August 24, 2018. Filed with Secretary of State August 24, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1208, Committee on Judiciary. Courts, judicial emergencies.

Existing law authorizes a presiding judge to request the Chairperson of the Judicial Council to authorize the court to transfer cases to an adjacent county, hold sessions in other parts of the county, extend specified time periods, and declare judicial holidays, among other emergency responses, when war, insurrection, pestilence, or other public calamity, among other things, threatens the orderly operation of a superior court location or locations within a county.

This bill would instead grant the judge that authority if war, an act of terrorism, public unrest or calamity, epidemic, natural disaster, or other substantial risk to the health and welfare of court personnel or the public, or the danger thereof, threatens the orderly operation of a superior court location or locations within a county or renders presence in, or access to, an affected court facility or facilities unsafe. The bill would also extend this authorization when a condition leads to a state of emergency being proclaimed by the President of the United States or by the Governor. The bill would allow for the transfer of cases to be made to a superior court in any county, to a court in an adjacent county, or to a superior court within 100 miles of the border of the county in which the court impacted by the emergency is situated, as specified.

Existing law requires that a civil action be brought to trial within 5 years after the action is commenced against the defendant. Existing law requires that if a new trial is granted, the action be brought to trial within 3 years.

This bill would allow those time periods to be extended for the fewest days necessary under the circumstances of an emergency, as determined by the Chairperson of the Judicial Council.

The bill would specify that the Chairperson of the Judicial Council is not precluded from granting further extensions upon making a renewed determination that circumstances warranting relief continue to exist.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 68115 of the Government Code is amended to read:

68115. (a) When war, an act of terrorism, public unrest or calamity, epidemic, natural disaster, or other substantial risk to the health and welfare of court personnel or the public, or the danger thereof, the destruction of or danger to the building appointed

for holding the court, a large influx of criminal cases resulting from a large number of arrests within a short period of time, or a condition that leads to a state of emergency being proclaimed by the President of the United States or by the Governor pursuant to Section 8625, threatens the orderly operation of a superior court location or locations within a county or renders presence in, or access to, an affected court facility or facilities unsafe, the presiding judge may request and the Chairperson of the Judicial Council may, notwithstanding any other law, by order authorize the court to do one or more of the following:

(1) Hold sessions anywhere within the county.

(2) Transfer civil cases pending trial in the court to a superior court in another county. A transfer shall not be made pursuant to this paragraph except as follows:

(A) With the consent of all parties to the case, a pending civil case may be transferred to a superior court in any county.

(B) Upon a finding by the court that extreme or undue hardship would result unless the case is transferred for trial, a pending civil case may be transferred to any superior court in an adjacent county or to any superior court within 100 miles of the border of the county in which the court impacted by the emergency is situated. In addition to the foregoing, if a court is located within an area identified to be within the boundary of a state of emergency proclaimed by the Governor pursuant to Section 8625, a pending civil case may be transferred to any superior court within 100 miles of the outer boundary of the area proclaimed to be experiencing a state of emergency.

(3) Any civil case so transferred pursuant to paragraph (2) shall be integrated into the existing caseload of the court to which it is transferred pursuant to rules to be provided by the Judicial Council. This section does not affect a court's authority under Section 69740.

(4) Declare that a date or dates on which an emergency condition, as described in this section, substantially interfered with the public's ability to file papers in a court facility or facilities be deemed a holiday for purposes of computing the time for filing papers with the court under Sections 12 and 12a of the Code of Civil Procedure. This paragraph applies to the fewest days necessary under the circumstances of the emergency, as determined by the Chairperson of the Judicial Council.

(5) Declare that a date on which an emergency condition, as described in this section, prevented the court from either (A) conducting proceedings governed by Section 825 of the Penal Code, or Section 315, 334, 631, 632, 637, or 657 of the Welfare and Institutions Code, or (B) accepting the filing of petitions for purposes of Section 313 or 631 of the Welfare and Institutions Code, be deemed a holiday for purposes of computing time under those statutes. This paragraph applies to the fewest days necessary under the circumstances of the emergency, as determined by the Chairperson of the Judicial Council.

(6) Extend the time periods provided in Sections 583.310 and 583.320 of the Code of Civil Procedure to bring an action to trial. The extension shall be for the fewest days necessary under the circumstances of the emergency, as determined by the Chairperson of the Judicial Council.

(7) Extend the duration of any temporary restraining order that would otherwise expire because an emergency condition, as described in this section, prevented the court from conducting proceedings to determine whether a permanent order should be entered. The extension shall be for the fewest days necessary under the circumstances of the emergency, as determined by the Chairperson of the Judicial Council.

(8) Within the affected county during a state of emergency resulting from a natural or human-made disaster proclaimed by the President of the United States or by the Governor pursuant to Section 8625 of the Government Code, extend the time period provided in Section 825 of the Penal Code within which a defendant charged with a felony offense shall be taken before a magistrate from 48 hours to not more than seven days, with the number of days to be designated by the Chairperson of the Judicial Council. This authorization shall be effective for 30 days unless it is extended by a new request and a new order.

(9) Extend the time period provided in Section 859b of the Penal Code for the holding of a preliminary examination from 10 court days to not more than 15 court days.

(10) Extend the time period provided in Section 1382 of the Penal Code within which the trial must be held by not more than 30 days, but the trial of a defendant in custody whose time is so extended shall be given precedence over all other cases.

(11) Within the affected area of a county during a state of emergency resulting from a natural or human-made disaster proclaimed by the President of the United States or by the Governor pursuant to Section 8625 of the Government Code, extend the time periods provided in Sections 313, 315, 632, and 637 of the Welfare and Institutions Code, with the number of days to be designated by the Chairperson of the Judicial Council. The extension of time shall be for the shortest period of time necessary under the circumstances of the emergency, but the time period shall not be extended to more than seven days. This authorization shall be effective for 30 days unless it is extended by a new request and a new order. With regard to the time

periods provided in Sections 632 and 637 of the Welfare and Institutions Code, this paragraph applies only if the minor has been charged with a felony.

(12) Within the affected county during a state of emergency resulting from a natural or human-made disaster proclaimed by the President of the United States or by the Governor pursuant to Section 8625 of the Government Code, extend the time period provided in Sections 334 and 657 of the Welfare and Institutions Code within which a hearing on a juvenile court petition shall be held by not more than 15 days, with the number of days to be designated by the Chairperson of the Judicial Council. This authorization shall be effective for 30 days unless it is extended by a new request and a new order. With regard to the time periods provided in Section 657 of the Welfare and Institutions Code, this paragraph applies only if the minor has been charged with a felony.

(b) The limitations on extensions of time provided for in subdivision (a) set forth the maximum respective extensions allowable from the time when the Chairperson of the Judicial Council makes a determination that circumstances warranting relief under this section exist. The limitations on extensions of time do not preclude the Chairperson of the Judicial Council, at the request of a presiding judge, from granting further extensions, up to the maximum permitted under the relevant paragraph, upon making a renewed determination that circumstances warranting relief under this section continue to exist.