

1994

## Abolish Justice Courts

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## **Justice Courts. Legislative Constitutional Amendment.**

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### **Official Title and Summary Prepared by the Attorney General**

#### **JUSTICE COURTS. LEGISLATIVE CONSTITUTIONAL AMENDMENT.**

- Effective January 1, 1995, eliminates justice courts; elevates existing justice courts to municipal courts; and unifies justice courts within municipal courts. Continues number, qualifications, compensation of judges and personnel, until modified by Legislature.
- Authorizes Legislature to provide for organization and jurisdiction of municipal courts, and to prescribe number, qualifications and compensation of municipal court judges, staff.
- Makes conforming changes to composition of Judicial Council, appellate jurisdiction of Superior Court.

#### **Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:**

- Probably no significant fiscal impact on state or local governments.

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#### **Final Votes Cast by the Legislature on SCA 7 (Proposition 191)**

Assembly: Ayes 79	Senate: Ayes 39
Noes 0	Noes 0

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## **Analysis by the Legislative Analyst**

### **Background**

The California Constitution currently provides for superior, municipal, and justice courts. These courts are referred to as the state's "trial courts."

**Superior courts** generally have jurisdiction over cases involving felonies, family law (for example, divorce cases), juvenile law, civil law suits involving more than \$25,000, and appeals from municipal and justice court decisions. Each of the state's 58 counties has a superior court.

**Municipal and justice courts** generally have jurisdiction over misdemeanors and infractions and most civil law suits involving disputes of \$25,000 or less. Counties are divided into municipal and justice court districts based on population. Municipal court districts have more than 40,000 residents; justice court districts have 40,000 or fewer residents.

As of August 1, 1994, there were 37 justice courts in California. Currently, most justice court judges divide their time between their own courts and other trial courts.

### **Proposal**

This constitutional amendment eliminates justice courts and provides that all justice courts would become municipal courts. In addition, all justice court judges would become full-time municipal court judges. The amendment would become effective on January 1, 1995.

### **Fiscal Effect**

This measure probably would have no significant fiscal impact on the state or local governments. This is because these changes are primarily organizational in nature.

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**For the text of Proposition 191 see page 20**

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### Argument in Favor of Proposition 191

Proposition 191 finishes a job that the voters of California began when they overwhelmingly approved Proposition 91 in November of 1988. They decided that there should be one standard of equal access to justice in both rural areas and urban areas. Proposition 91 made most of the changes necessary to equalize the justice courts that serve less populous counties with the municipal courts that serve most Californians. Proposition 191 is the culmination of the process of professionalizing and equalizing the administration of justice in rural areas.

Already today:

- The jurisdiction of justice courts is the same as that of municipal courts.
- Justice court judges are subject to the same rules of judicial conduct and discipline as municipal court judges.
- Justice court judges serve terms of the same length and are accountable to the public at the same elections as municipal court judges.

By approving Proposition 91, the voters:

- Put the judgments and decisions rendered in justice courts on an equal footing with those of municipal courts and any other court of record.
- Required justice court judges to have the same legal experience as judges of the municipal courts throughout the state.
- Imposed the requirement that justice court judges work full time for full salary, sitting by assignment as needed anywhere in the state when their home courts do not require the judge's presence.

All of these changes have proven extremely successful. The full time justice court judges' program saved the state the cost of more than two dozen new judgeships!

Proposition 191 neither increases nor decreases the current number of judges, courts, or judicial districts. But the time has come to reflect the full compliance of justice courts with the standards of municipal courts by granting them the same title. The label "municipal court" commands greater respect than the designation "justice court," and will increase respect for the court's authority. As the courts come to grips with the increased work required to put the "3 strikes" felony sentencing legislation into effect, the terms used in our courts should not raise doubts that erect barriers to the use of all available judges.

Under Proposition 191, Californians who appear in any of the 47 remaining justice courts will no longer be given the false impression that they are receiving a second-class brand of justice. Your Yes vote helps California fulfill the voter mandate to provide citizens in our state's less populous counties with courts of equal statute and judges of equal quality to those found in Los Angeles, San Francisco, and other cities.

**VOTE YES ON PROPOSITION 191!**

**ROBERT PRESLEY**

*State Senator, 36th District*

**E. MAC AMOS, JR.**

*President, California Judges Association*

**CARLOS C. LAROCHE**

*Judge of the Mariposa Justice Court*

### Rebuttal to Argument in Favor of Proposition 191

Proponents argue that, under the "3 strikes" law on the books (and certainly under the "3 strikes" initiative on the ballot as Proposition 184), California will need all of the judges and court personnel it can find.

It is true that these new "tough on crime" laws will require thousands of new state employees and perhaps twice as much prison space. The cost of locking up so many people will be astronomical. Under Proposition 184, for example, the defendant need not even have displayed any real threat to the rest of us to get life in prison. The third "strike" would be any "felony" which might include possession of more than an ounce of marijuana (H&S Code Section 11359) or possession of

someone else's prescription drug (H&S Code Section 11350).

Even if we fall for the "tough on crime" election talk and pass overly-broad laws that will require thousands of new state employees, there is no reason former "justice court" judges and court personnel should be guaranteed some of the jobs.

In the private sector, jobs are not guaranteed. Let them compete for the new positions.

**GARY B. WESLEY**

*Attorney at Law*

**Argument Against Proposition 191**

This measure is a proposal by the Legislature to amend the California Constitution so as to eliminate justice courts and elevate all justice court judges in the State to municipal court judges. It also provides for the retention of all "officers, attachés, and employees" of existing justice courts. Justice courts still exist in some small counties in California.

The principal problem with this measure is its elevation of justice court judges to municipal court judges and the retention of all employees. If justice courts are to be eliminated, the judges and employees should have to apply for jobs in the municipal court. Perhaps they will not be needed or sufficiently qualified.

**GARY B. WESLEY**  
*Attorney at Law*

**Rebuttal to Argument Against Proposition 191**

The opponent presents no serious argument against Proposition 191. There is no question of lesser qualifications for justice court judges. In 1988, the voters required all justice court judges to have the same experience to qualify for office as is required of municipal court judges, and today every single justice court judge is fully qualified for the municipal court bench. Most, if not all, have twice the experience required—enough to qualify for the superior court as well.

Proposition 191 will neither add nor subtract judges or court employees from the current rosters of the affected courts. It is not intended to do so. Continuation in office of all current court employees is not a burden on state or local government, as the opponent implies. The language in Proposition 191 merely ensures that the level of

service provided to the public remains the same and to protect the rights of current employees.

The time has come to complete the job of providing our rural population with the same access to quality justice as provided to urban residents. Proposition 191 is good government. Streamline court structure and put an end to the appearance of second-class justice based on population numbers.

**VOTE YES ON PROPOSITION 191**

**ROBERT PRESLEY**  
*State Senator, 36th District*  
**E. MAC AMOS, JR.**  
*President, California Judges Association*  
**CARLOS C. LAROCHE**  
*Judge of the Mariposa Justice Court*

SEC. 18.5. (a) Upon request, the Commission on Judicial Performance shall provide to the Governor of any State of the Union the text of any private admonishment, advisory letter, or other disciplinary action together with any information that the Commission on Judicial Performance deems necessary to a full understanding of the commission's action, with respect to any applicant whom the Governor of any State of the Union indicates is under consideration for any judicial appointment.

(b) Upon request, the Commission on Judicial Performance shall provide the President of the United States the text of any private admonishment, advisory letter, or other disciplinary action together with any information that the Commission on Judicial Performance deems necessary to a full understanding of the commission's action, with respect to any applicant whom the President indicates is under consideration for any federal judicial appointment.

(c) Upon request, the Commission on Judicial Performance shall provide the Commission on Judicial

Appointments the text of any private admonishment, advisory letter, or other disciplinary action together with any information that the Commission on Judicial Performance deems necessary to a full understanding of the commission action, with respect to any applicant whom the Commission on Judicial Appointments indicates is under consideration for any judicial appointment.

(d) All information released under this section shall remain confidential and privileged.

(e) Notwithstanding subdivision (d), any information released pursuant to this section shall also be provided to the applicant about whom the information was requested.

(f) "Private admonishment" refers to a disciplinary action against a judge by the Commission on Judicial Performance as authorized by subdivision (c) of Section 18 of Article VI, as amended November 8, 1988.

Fourth—That this measure shall become operative on March 1, 1995.

### Proposition 191: Text of Proposed Law

This amendment proposed by Senate Constitutional Amendment 7 (Statutes of 1994, Resolution Chapter 113) expressly amends the Constitution by amending sections thereof; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

#### PROPOSED AMENDMENTS TO ARTICLE VI

First—That Section 1 of Article VI thereof is amended to read:

SEC. 1. The judicial power of this State is vested in the Supreme Court, courts of appeal, superior courts, ~~and municipal courts, and justice courts.~~ All courts are courts of record.

Second—That Section 5 of Article VI thereof is amended to read:

SEC. 5. (a) Each county shall be divided into municipal court ~~and justice court~~ districts as provided by statute, but a city may not be divided into more than one district. Each municipal ~~and justice~~ court shall have one or more judges. *Each municipal court district shall have no fewer than 40,000 residents; provided that each county shall have at least one municipal court district. The number of residents shall be determined as provided by statute.*

(b) *On the operative date of this subdivision, all existing justice courts shall become municipal courts, and the number, qualifications, and compensation of judges, officers, attachés, and employees shall continue until changed by the Legislature. Each judge of a part-time municipal court is deemed to have agreed to serve full time and shall be available for assignment by the Chief Justice for the balance of time necessary to comprise a full-time workload.*

~~There shall be a municipal court in each district of more than 40,000 residents and a justice court in each district of 40,000 residents or less. The number of residents shall be ascertained as provided by statute.~~

(c) The Legislature shall provide for the organization and prescribe the jurisdiction of municipal ~~and justice~~

courts. It shall prescribe for each municipal court ~~and provide for each justice court~~ the number, qualifications, and compensation of judges, officers, and employees.

(b)

(d) Notwithstanding ~~the provisions of~~ subdivision (a), any city in San Diego County may be divided into more than one municipal court ~~or justice court~~ district if the Legislature determines that unusual geographic conditions warrant such division.

Third—That Section 6 of Article VI thereof is amended to read:

SEC. 6. The Judicial Council consists of the Chief Justice and one other judge of the Supreme Court, 3 judges of courts of appeal, 5 judges of superior courts, ~~3 and 5~~ judges of municipal courts, ~~and 2 judges of justice courts,~~ each appointed by the Chief Justice for a 2-year term; 4 members of the State Bar appointed by its governing body for 2-year terms; and one member of each house of the Legislature appointed as provided by the house.

Council membership terminates if a member ceases to hold the position that qualified the member for appointment. A vacancy shall be filled by the appointing power for the remainder of the term.

The council may appoint an Administrative Director of the Courts, who serves at its pleasure and performs functions delegated by the council or the Chief Justice, other than adopting rules of court administration, practice and procedure.

To improve the administration of justice the council shall survey judicial business and make recommendations to the courts, make recommendations annually to the Governor and Legislature, adopt rules for court administration, practice and procedure, not inconsistent with statute, and perform other functions prescribed by statute.

The Chief Justice shall seek to expedite judicial business and to equalize the work of judges. The Chief Justice may provide for the assignment of any judge to

another court but only with the judge's consent if the court is of lower jurisdiction. A retired judge who consents may be assigned to any court.

Judges shall report to the Judicial Council as the Chief Justice directs concerning the condition of judicial business in their courts. They shall cooperate with the council and hold court as assigned.

Fourth—That Section 11 of Article VI thereof is amended to read:

SEC. 11. The Supreme Court has appellate jurisdiction when judgment of death has been pronounced. With that exception courts of appeal have appellate jurisdiction when superior courts have original jurisdiction and in other causes prescribed by statute.

Superior courts have appellate jurisdiction in causes

prescribed by statute that arise in municipal ~~and justice~~ courts in their counties.

The Legislature may permit appellate courts to take evidence and make findings of fact when jury trial is waived or not a matter of right.

Fifth—That Section 15 of Article VI thereof is amended to read:

SEC. 15. A person is ineligible to be a judge of a court of record unless for 5 years immediately preceding selection to a municipal ~~or justice~~ court or 10 years immediately preceding selection to other courts, the person has been a member of the State Bar or served as a judge of a court of record in this State. A judge eligible for municipal court service may be assigned by the Chief Justice to serve on any court.

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