

1998

Subordinate Judicial Officers. Discipline.

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Subordinate Judicial Officers. Discipline. California Proposition 221 (1998).
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Subordinate Judicial Officers. Discipline. Legislative Constitutional Amendment.

Official Title and Summary Prepared by the Attorney General

SUBORDINATE JUDICIAL OFFICERS. DISCIPLINE. LEGISLATIVE CONSTITUTIONAL AMENDMENT.

- This measure grants the Commission on Judicial Performance discretionary authority with regard to the oversight and discipline of subordinate judicial officers, subject to California Supreme Court review, according to same standards as judges.
- Provides that no person found unfit to serve as subordinate judicial officer after hearing before Commission shall have status required to serve as subordinate judicial officer.
- Responsibility of court to initially discipline or dismiss subordinate judicial officer as employee not diminished or eliminated by measure.

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

- Probably minor, if any, state costs for the Commission on Judicial Performance to provide oversight and discipline over court commissioners and referees.

Final Votes Cast by the Legislature on SCA 19 (Proposition 221)

Assembly: Ayes 72	Senate: Ayes 39
Noes 1	Noes 0

Analysis by the Legislative Analyst

Background

Court commissioners and referees (generally referred to as "subordinate judicial officers") handle certain matters that come before the local courts. Typically, commissioners and referees handle less complex cases such as traffic matters, family and juvenile matters, and small claims cases. Also, they can serve as temporary judges and hear more complex matters when the parties agree. There are about 370 commissioners and referees throughout the state.

The presiding judge of each court is responsible for handling complaints and disciplinary matters against commissioners and referees. In contrast, the California Commission on Judicial Performance—an 11-member body appointed by the Supreme Court, the Governor, and the Legislature—handles complaints and disciplinary matters against judges.

Proposal

This proposition would give the Commission on Judicial Performance, at its discretion, authority to oversee and discipline court commissioners or referees, just as it currently does for judges. The measure provides that a person who is found unfit to be a commissioner or referee by the Commission on Judicial Performance may not serve as a commissioner or referee.

Fiscal Effect

To the extent that the Commission on Judicial Performance chooses to provide oversight and exercise discipline over court commissioners and referees, the state would incur additional costs. Any additional costs would probably be minor.

For the text of Proposition 221 see page 67

Subordinate Judicial Officers. Discipline. Legislative Constitutional Amendment.



Argument in Favor of Proposition 221

OUR JUDICIAL SYSTEM CRIES OUT FOR REFORM.

YET, FEW KNOW APPOINTED COURT COMMISSIONERS COULD ARBITRARILY DENY A PARENT THE RIGHT TO VISIT WITH HIS OR HER OWN CHILD.

Unfortunately, newspaper reports of this kind of tragedy are all too common.

In one case, a court commissioner awarded custody to a father who was on probation for exhibiting himself in front of children. In another, a court commissioner gave custody of children to a parent with history of drug abuse, fraud, forgery, and violence.

Horror stories like this happen because our legal system lacks procedures to make appointed court commissioners accountable.

Why? Court Commissioners are lawyers, with friends, enemies and business interests in the community.

While most judges are elected, subject to recall and reviewed by the Commission on Judicial Performance, appointed court commissioners are overseen only by the single judge who appointed them.

This measure grants the Commission on Judicial Performance the authority to review complaints that appointed commissioners are biased, unqualified, prejudiced or incapable of rendering good legal decisions because of conflicts of interest.

The measure authorizes the Commission to discipline appointed commissioners who put law abiding Californians at risk by consistently making poor decisions.

Holding court commissioners accountable for bad decisions is one step towards making our judiciary fairer and more accountable to the public. The Family Guardian Network, the Judicial Council, and Los

Angeles County Superior Court Juvenile Division testified in support of these reforms. Please join them in backing our efforts to remedy this injustice. VOTE YES ON PROPOSITION 221.

SENATOR TIM LESLIE

Vice Chair, Senate Judiciary Committee

PROSECUTORS APPLAUD SENATOR TIM LESLIE'S MEASURE TO MAKE CALIFORNIA'S COURTS MORE ACCOUNTABLE.

The provisions in Proposition 221 have strong support from both Republicans and Democrats. The measure passed out of the Senate on a 39-0 vote and passed the Assembly 72-1.

It is deplorable that court commissioners have the power to affect the lives and property of citizens, but, are not directly answerable to those same citizens.

This measure will ensure equal justice for all by giving authorities power to stop unqualified court commissioners from making decisions that could impact our lives.

VOTE YES ON PROPOSITION 221.

KATE KILLEEN

President, Women Prosecutors of California

THE INDEPENDENT REVIEW OF THE PERFORMANCE OF COURT COMMISSIONERS WILL STRENGTHEN OUR CRIMINAL JUSTICE SYSTEM.

The exercise of power of court commissioners who determine the outcomes of juvenile delinquency and other court proceedings must be subject to objective review.

VOTE YES ON PROPOSITION 221.

GEORGE KENNEDY

President, California District Attorneys Association

Argument against was not submitted

an unexpired term serves the remainder of the term. In creating a new court of appeal district or division the Legislature shall provide that the first elective terms are 4, 8, and 12 years.

(b) Judges of other

(b) (1) *In counties in which there is no municipal court, judges of superior courts shall be elected in their counties at general elections except as otherwise necessary to meet the requirements of federal law. In the latter case the Legislature, by two-thirds vote of the membership of each house thereof, with the advice of judges within the affected court, may provide for their election by the system prescribed in subdivision (d), or by any other arrangement. The Legislature may provide that an unopposed incumbent's name not appear on the ballot.*

(2) *In counties in which there is one or more municipal court districts, judges of superior and municipal courts shall be elected in their counties or districts at general elections. The Legislature may provide that an unopposed incumbent's name not appear on the ballot.*

(c) Terms of judges of superior courts are 6 years beginning the Monday after January 1 following their election. A vacancy shall be filled by election to a full term at the next general election after the second January 1 following the vacancy, but the Governor shall appoint a person to fill the vacancy temporarily until the elected judge's term begins.

(d) Within 30 days before August 16 preceding the expiration of the judge's term, a judge of the Supreme Court or a court of appeal may file a declaration of candidacy to succeed to the office presently held by the judge. If the declaration is not filed, the Governor before September 16 shall nominate a candidate. At the next general election, only the candidate so declared or nominated may appear on the ballot, which shall present the question whether the candidate shall be elected. The candidate shall be elected upon receiving a majority of the votes on the question. A candidate not elected may not be appointed to that court but later may be nominated and elected.

The Governor shall fill vacancies in those courts by appointment. An appointee holds office until the Monday after January 1 following the first general election at which the appointee had the right to become a candidate or until an elected judge qualifies. A nomination or appointment by the Governor is effective when confirmed by the Commission on Judicial Appointments.

Electors of a county, by majority of those voting and in a manner the Legislature shall provide, may make this system of selection applicable to judges of superior courts.

Tenth—That Section 23 is added to Article VI thereof, to read:

SEC. 23. (a) The purpose of the amendments to Sections 1, 4, 5, 6, 8, 10, 11, and 16, of this article, and the amendments to Section 16 of Article I, approved at the June 2, 1998, primary election is to permit the Legislature to provide for the abolition

of the municipal courts and unify their operations within the superior courts. Notwithstanding Section 8 of Article IV, the implementation of, and orderly transition under, the provisions of the measure adding this section may include urgency statutes that create or abolish offices or change the salaries, terms, or duties of offices, or grant franchises or special privileges, or create vested rights or interests, where otherwise permitted under this Constitution.

(b) *When the superior and municipal courts within a county are unified, the judgeships in each municipal court in that county are abolished and the previously selected municipal court judges shall become judges of the superior court in that county. The term of office of a previously selected municipal court judge is not affected by taking office as a judge of the superior court. The 10-year membership or service requirement of Section 15 does not apply to a previously selected municipal court judge. Pursuant to Section 6, the Judicial Council may prescribe appropriate education and training for judges with regard to trial court unification.*

(c) *Except as provided by statute to the contrary, in any county in which the superior and municipal courts become unified, the following shall occur automatically in each preexisting superior and municipal court:*

(1) *Previously selected officers, employees, and other personnel who serve the court become the officers and employees of the superior court.*

(2) *Preexisting court locations are retained as superior court locations.*

(3) *Preexisting court records become records of the superior court.*

(4) *Pending actions, trials, proceedings, and other business of the court become pending in the superior court under the procedures previously applicable to the matters in the court in which the matters were pending.*

(5) *Matters of a type previously within the appellate jurisdiction of the superior court remain within the jurisdiction of the appellate division of the superior court.*

(6) *Matters of a type previously subject to rehearing by a superior court judge remain subject to rehearing by a superior court judge, other than the judge who originally heard the matter.*

(7) *Penal Code procedures that necessitate superior court review of, or action based on, a ruling or order by a municipal court judge shall be performed by a superior court judge other than the judge who originally made the ruling or order.*

Eleventh—That if any provision of this measure or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this measure that can be given effect without the invalid provision or application, and to this end the provisions of this measure are severable.

Proposition 221: Text of Proposed Law

This amendment proposed by Senate Constitutional Amendment 19 (Statutes of 1996, Resolution Chapter 54) expressly amends the Constitution by adding a section thereto; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED AMENDMENT TO ARTICLE VI

SEC. 18.1. The Commission on Judicial Performance shall exercise discretionary jurisdiction with regard to the oversight and discipline of subordinate judicial officers, according to the

same standards, and subject to review upon petition to the Supreme Court, as specified in Section 18.

No person who has been found unfit to serve as a subordinate judicial officer after a hearing before the Commission on Judicial Performance shall have the requisite status to serve as a subordinate judicial officer.

This section does not diminish or eliminate the responsibility of a court to exercise initial jurisdiction to discipline or dismiss a subordinate judicial officer as its employee.

Proposition 222: Text of Proposed Law

This law proposed by Assembly Bill 446 (Statutes of 1997, Chapter 413) is submitted to the people in accordance with the provisions of Article XVI of the Constitution.

This proposed law amends a section of the Penal Code; 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 LAW

SECTION 1. Section 190 of the Penal Code, as amended by Chapter 609 of the Statutes of 1993, is amended to read:

190. (a) Every person guilty of murder in the first degree