

COURT CLOSURE LEGISLATION
Government Code section 68106

SEC. 3. Section 68106 is added to the Government Code, to read:

68106. (a) The Legislature finds and declares that the current fiscal crisis, one of the most serious and dire ever to affect the state, threatens the continued operations of the judicial branch. This situation requires a unique response to effectively use judicial branch resources while protecting the public by ensuring that courts remain open and accessible and that the core functions of the judicial branch are maintained to the greatest extent possible.

(b) Notwithstanding any other law, the Judicial Council may provide that the courts be closed for the transaction of judicial business for one day per month and may adopt rules of court to implement this section, subject to the following conditions:

(1) If the Judicial Council has provided for the closure of courts pursuant to this section, the day so designated shall be treated as a holiday for purposes of performing any act requiring the transaction of judicial business, including, but not limited to, all of the following:

(A) The transaction of judicial business under Section 134 of the Code of Civil Procedure.

(B) The sitting or holding of a court under Section 136 of the Code of Civil Procedure.

(C) The computation of time under Sections 12 and 12a of the Code of Civil Procedure.

(D) The computation of time under all time-dependent provisions, including, but not limited to, Sections 825, 859b, 1050, 1191, 1382, and 1449 of the Penal Code, and Sections 313, 315, 631, 632, 637, 657, 702, 704, 708, and 777 of the Welfare and Institutions Code.

(2) A court may still receive papers for filing on a day designated for closure, but the time of filing of the papers shall be the next court day on which the court is open for the transaction of judicial business. The receipt of papers pursuant to this subdivision shall not constitute opening of the court for any purpose. A day designated for closure under this section is not governed by Section 68108.

(3) The impact of the court closure shall be subject to subdivision (c) of Section 71634 and subdivision (c) of Section 71816. Notwithstanding any other law, any court closure or reduction in earnings as a result of this section shall not constitute a reduction in salary or service for the purpose of calculation of retirement benefits or other employment-related benefits for court employees otherwise eligible for those benefits. Nothing in this section shall relieve a trial court of its obligation to meet and confer concerning the impact of a court closure pursuant to Chapter 7 (commencing with Section 71600) and Chapter 7.5 (commencing with Section 71800) of Title 8 of the Government Code, and the trial courts, rather than the Judicial Council or Administrative Office of the Courts, shall remain responsible for meeting and conferring concerning that impact.

(4) A judge or justice may sign a form, to be prepared by the Administrative Office of the Courts, which shall provide that the judge or justice voluntarily agrees to irrevocably waive, in advance, on a monthly basis, an amount equal to 4.62 percent of the monthly salary otherwise payable to the judge or justice in the absence of a waiver. The Administrative Office of the Courts shall transmit the form to the Controller, county, or other entity paying the salary of the judge or justice, except that the form shall only be transmitted to the entity that pays the greatest portion of the salary if the judge or justice is paid by more than one entity. The entity receiving the form shall reduce the payment otherwise due to the judge or justice from that entity by an amount that takes into account the full effect of the 4.62 percent reduction of the total monthly salary of the judge or justice received from all entities. Notwithstanding any other law, a judge or justice who elects to sign the form under this section shall not be deemed by that act to be

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holding office for other than full-time service during the time covered by the voluntary waiver of salary, and that waiver shall not be deemed a reduction in salary or service for purposes of the calculation of any retirement benefits, supplemental judicial benefits provided pursuant to Section 68220, or other job-related benefits. Except as necessary for purposes of paragraph (5), a judge or justice who makes a waiver is not obligated to appear for work at the courthouse on any day that a court is closed under this section.

(5) A judicial officer shall be available for the signing of any necessary documents on an emergency basis during the time a court is closed under this section on the same basis as a judicial officer is available on Saturdays, Sundays, and judicial holidays, and any other time a court is closed.

(6) As a result of the closures authorized by this subdivision, court security shall not be required on any day in which courts are closed pursuant to this section.

(A) If a superior court has executed a memorandum of understanding as required by Section 69926 with a sheriff, county, or sheriff and county, the court and the sheriff, county, or sheriff and county shall negotiate in good faith a reduction of 4.62 percent in the compensation due to the sheriff because of the reduced amount of security resulting from the closure of the courts under this section. Nothing in this section shall prohibit a superior court and sheriff, county, or sheriff and county from negotiating additional savings due to voluntary court closures or other cost savings programs. If necessary, the court and sheriff, county, or sheriff and county shall amend the memorandum of understanding required under Section 69926 to reflect that reduction. Notwithstanding any other law or memorandum of understanding, if the court and sheriff are unable to reach an agreement within 30 days of the first court closure after good faith negotiations, the amount of compensation payable to the sheriff under the memorandum of understanding shall be reduced by an amount equal to 4.62 percent of those allowable costs authorized to be paid under paragraph (6) of subdivision (a) of Section 69927. The sheriff shall not reduce the level of service previously required under its memorandum of understanding on the days the court remains open due to this 4.62 percent reduction. Upon reaching an agreement, the court and sheriff may reconcile any prior payments based on the terms subsequently agreed upon by the court and sheriff.

(B) If a superior court and a sheriff, county, or sheriff and county, have not executed a memorandum of understanding as required by Section 69926, the sheriff shall continue to provide security services as required by the court, but the compensation payable to the sheriff shall be no more than the rate of the average monthly amount paid by the court to the sheriff in the 2008-09 fiscal year, reduced by 4.62 percent, to reflect the reduced level of security required as a result of the closure of the courts under this section.

(c) To the extent practicable, the impact of the court closure on the availability of courtrooms and court services shall be spread in a proportional manner that reflects the caseload of the court.

(d) This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.