

AMENDED IN ASSEMBLY MARCH 29, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 1578

Introduced by Committee on Judiciary (Assembly Members Stone (Chair), Chau, Chiu, Lorena Gonzalez, Holden, Kalra, Maienschein, and Reyes)

March 8, 2021

An act to amend ~~Section~~ *Sections 52.1 and 2983.3* of the Civil Code, to amend Sections 1245.020, 1245.060, 1250.320, and 1260.230 of the Code of Civil Procedure, *to amend Section 44944 of the Education Code*, to amend Section 22329 of the Financial Code, ~~and~~ to amend ~~Section~~ *Sections 11425.20, 11440.20, 11507.6, 11508, and 12935* of, and to add Section 68154 to, the Government Code, *to amend Sections 13009 and 13009.1 of the Health and Safety Code, to amend Section 10139 of the Insurance Code, and to amend Section 4712 of the Welfare and Institutions Code*, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

AB 1578, as amended, Committee on Judiciary. Judiciary omnibus.
(1) Existing law, known as the Automobile Sales Finance Act, prohibits the seller or holder of a conditional sale contract for a motor vehicle from accelerating the maturity of any part or all of the amount due under the contract or repossessing the vehicle in the absence of default in the performance of any of the buyer's obligations under the contract. That act establishes a right in the buyer to reinstate a conditional sale contract for a motor vehicle after default, details various methods by which to cure the default, and in all cases requires reimbursing the seller or holder for all reasonable and necessary

collection and repossession costs and fees incurred. A willful violation of these provisions is a crime.

This bill would instead establish that in order to cure a default by any method, the buyer is required to reimburse the seller or holder for all reasonable and necessary collection and repossession costs and fees actually paid by the seller or holder. By changing the definition of a crime, this bill would impose a state-mandated local program.

Existing

(2) *Existing law, the Eminent Domain Law, authorizes any person authorized to acquire property for a particular use by eminent domain to enter upon property to make photographs, studies, surveys, examinations, tests, soundings, borings, samplings, or appraisals or to engage in similar activities reasonably related to acquisition or use of the property for that use. Existing law provides that if the entry and activities upon property cause actual damage to or substantial interference with the possession or use of the property, the owner may recover for the damage or interference in a civil action or by application to the court. If funds are on deposit, upon application of the owner, the court is required to determine and award the amount the owner is entitled to recover and order that amount paid out of the funds on deposit.*

This bill, among other things, would provide that the civil action in which the owner could collect damages would be as a defendant in an eminent domain proceeding affecting the property. The bill would provide that when the owner seeks funds on deposit upon application to the court, the owner has a right to a jury trial, unless waived, on the amount of compensation for actual damage or substantial interference with the possession or use of the property. The bill would also provide that if the owner seeks damages, the answer is required to include a statement that the defendant claims compensation under the specified provision, but need not specify the amount of that compensation, and if the owner seeks compensation for losses caused by the plaintiff's unreasonable conduct prior to commencing the eminent domain proceeding, the answer is required to include a statement that the owner claims compensation for that loss, but need not specify the amount of the compensation.

(3) *Existing law establishes procedures for the dismissal and suspension of school employees. Existing law prohibits a permanent school employee from being dismissed, except for one or more of certain enumerated causes, and authorizes the suspension of a permanent school employee on specified grounds. Existing law authorizes the*

governing board of a school district to notify the permanent school employee of its intention to dismiss or suspend the employee, and authorizes the employee to demand a hearing on the charges before a Commission on Professional Competence or an administrative law judge. Existing law requires the hearing to be conducted in a place selected by agreement among the members of the Commission on Professional Competence, and, in the absence of agreement, requires the place to be selected by the administrative law judge.

This bill, notwithstanding the latter provision, would authorize the parties to agree to hold the hearing by telephone, videoconference, or other electronic means.

(4) Existing law requires an administrative hearing to be open to public observation, unless otherwise specified, and requires certain conditions to be met if the hearing is conducted by telephone, television, or other electronic means, including that the public have an opportunity to be physically present at the place where the presiding officer is conducting the hearing. Existing law prescribes specified locations where an administrative hearing is authorized to take place.

This bill would additionally specify that an administrative hearing may take place virtually by telephone, videoconference, or other electronic means. The bill, if the presiding officer of an administrative hearing is conducting the hearing from a private home or other location not normally accessible to the public, would require a location to be designated from which members of the public can observe the hearing or a live audio or video feed of the hearing be made available to the public on the internet.

Existing law requires a writing served to a person in conjunction with an administrative hearing to meet specified requirements, including that the writing be sent by mail to the person's last known mailing address. Existing law also specifies rules for discovery and evidence review in relation to an administrative hearing.

This bill would additionally authorize the writing to be an electronic document, and would allow a writing, electronic document, or notice to be delivered to the person's last known mailing address by electronic means. The bill would specify that discovery of certain categories of evidence may be conducted electronically by means prescribed by an administrative law judge.

~~Existing~~

(5) Existing law requires the Fair Employment and Housing Council to adopt, promulgate, amend, and rescind suitable rules, regulations,

and standards that either implement various provisions with regard to prohibiting discrimination or to carry out all other functions and duties of the council, as provided.

This bill would add the prohibition on sex discrimination in wages to the provisions with regard to discrimination.

~~Existing~~

(6) *Existing law provides for the management of trial court records, including, but not limited to, that trial court records may be created, maintained, and preserved in any form or forms of communication or representation, including paper, optical, electronic, magnetic, micrographic, or photographic media or other technology pursuant to the rules adopted by the Judicial Council.*

This bill would provide that the public is not to be prohibited from duplicating audio or video footage from a streaming court proceeding that is accessible by the public, unless that proceeding is closed to the public, as provided.

(7) *Existing law makes a person who negligently, or in violation of the law, sets a fire, allows a fire to be set, or allows a fire kindled or attended by the person to escape onto any public or private property liable for the fire suppression costs incurred in fighting the fire, the cost of providing rescue or emergency medical services, the cost of investigating and making any reports with respect to the fire, and the costs relating to accounting for the fire and the collection of specified funds. Existing law applies the 2-year statute of limitations applicable to an action upon a contract, obligation, or liability not founded upon an instrument of writing to an action brought pursuant to these provisions.*

Existing law provides that the statute of limitations for specified actions, including an action upon a liability created by statute other than a penalty or forfeiture action, is 3 years.

This bill would apply this 3-year statute of limitations to an action brought pursuant to the above-described provisions regarding liability for fires.

(8) *Existing law provides that a transfer of payment rights from a settlement obligor or an annuity issuer under a structured settlement agreement is void unless the transfer has been approved in advance by a court based on specified court findings. Existing law defines “structured settlement agreement” for these purposes to mean an arrangement for periodic payment of damages established by settlement or judgment in resolution of a tort claim in which the payment of the*

judgment or award is paid in whole, or in part, in periodic tax-free payments rather than a lump-sum payment. Existing law requires a transferee, at the time of filing a petition for court approval of a transfer of structured settlement payment rights, to file with the Attorney General a copy of the transferee's petition for court approval, and other specified, related documents. Existing law authorizes the Attorney General to charge a reasonable fee for the filing of the transfer agreement.

This bill would eliminate the requirement to file those documents with the Attorney General and instead would require the transferee to retain those documents for 3 years after the date of the last payment under the structured settlement agreement, or for 5 years after the date of the transfer, whichever date is later.

(9) Existing law, the Lanterman Developmental Disabilities Services Act, requires the State Department of Developmental Services to contract with regional centers to provide services and supports to individuals with developmental disabilities. Under existing law, the regional centers purchase needed services for individuals with developmental disabilities through approved service providers or arrange for those services through other publicly funded agencies. Existing law requires a service agency, defined, in part, as a developmental center or regional center, to have a fair hearing procedure that meets prescribed requirements, including adequate notice standards and that if a fair hearing is requested, the claimant has the right to appear in person with counsel or with other representatives of the claimant's choosing. Existing law requires the fair hearing to be held at a time and place reasonably convenient to the claimant and the authorized representative, as specified.

This bill would authorize a location for the above-described fair hearing to include a hearing by telephone, videoconference, or other electronic means, by agreement.

~~The~~

(10) The bill would also make nonsubstantive and conforming changes.

(11) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 52.1 of the Civil Code is amended to
 2 read:
 3 52.1. (a) This section shall be known, and may be cited, as the
 4 Tom Bane Civil Rights Act.
 5 (b) If a person or persons, whether or not acting under color of
 6 law, interferes by threat, intimidation, or coercion, or attempts to
 7 interfere by threat, intimidation, or coercion, with the exercise or
 8 enjoyment by any individual or individuals of rights secured by
 9 the Constitution or laws of the United States, or of the rights
 10 secured by the Constitution or laws of this state, the Attorney
 11 General, or any district attorney or city attorney may bring a civil
 12 action for injunctive and other appropriate equitable relief in the
 13 name of the people of the State of California, in order to protect
 14 the peaceable exercise or enjoyment of the right or rights secured.
 15 An action brought by the Attorney General, any district attorney,
 16 or any city attorney may also seek a civil penalty of twenty-five
 17 thousand dollars (\$25,000). If this civil penalty is requested, it
 18 shall be assessed individually against each person who is
 19 determined to have violated this section and the penalty shall be
 20 awarded to each individual whose rights under this section are
 21 determined to have been violated.
 22 (c) Any individual whose exercise or enjoyment of rights
 23 secured by the Constitution or laws of the United States, or of
 24 rights secured by the Constitution or laws of this state, has been
 25 interfered with, or attempted to be interfered with, as described in
 26 subdivision (b). may institute and prosecute in their own name and
 27 on their own behalf a civil action for damages, including, but not
 28 limited to, damages under Section 52, injunctive relief, and other
 29 appropriate equitable relief to protect the peaceable exercise or
 30 enjoyment of the right or rights secured, including appropriate
 31 equitable and declaratory relief to eliminate a pattern or practice
 32 of conduct as described in subdivision (b).
 33 (d) An action brought pursuant to subdivision (b) or (c) may be
 34 filed either in the superior court for the county in which the conduct
 35 complained of occurred or in the superior court for the county in

1 which a person whose conduct complained of resides or has their
2 place of business. An action brought by the Attorney General
3 pursuant to subdivision (b) also may be filed in the superior court
4 for any county wherein the Attorney General has an office, and in
5 that case, the jurisdiction of the court shall extend throughout the
6 state.

7 (e) If a court issues a temporary restraining order or a
8 preliminary or permanent injunction in an action brought pursuant
9 to subdivision (b) or (c), ordering a defendant to refrain from
10 conduct or activities, the order issued shall include the following
11 statement: VIOLATION OF THIS ORDER IS A CRIME
12 PUNISHABLE UNDER SECTION 422.77 OF THE PENAL
13 CODE.

14 (f) The court shall order the plaintiff or the attorney for the
15 plaintiff to deliver, or the clerk of the court to mail, two copies of
16 any order, extension, modification, or termination thereof granted
17 pursuant to this section, by the close of the business day on which
18 the order, extension, modification, or termination was granted, to
19 each local law enforcement agency having jurisdiction over the
20 residence of the plaintiff and any other locations where the court
21 determines that acts of violence against the plaintiff are likely to
22 occur. Those local law enforcement agencies shall be designated
23 by the plaintiff or the attorney for the plaintiff. Each appropriate
24 law enforcement agency receiving any order, extension, or
25 modification of any order issued pursuant to this section shall serve
26 forthwith one copy thereof upon the defendant. Each appropriate
27 law enforcement agency shall provide to any law enforcement
28 officer responding to the scene of reported violence, information
29 as to the existence of, terms, and current status of, any order issued
30 pursuant to this section.

31 (g) A court shall not have jurisdiction to issue an order or
32 injunction under this section, if that order or injunction would be
33 prohibited under Section 527.3 of the Code of Civil Procedure.

34 (h) An action brought pursuant to this section is independent of
35 any other action, remedy, or procedure that may be available to
36 an aggrieved individual under any other provision of law,
37 including, but not limited to, an action, remedy, or procedure
38 brought pursuant to Section 51.7.

39 (i) In addition to any damages, injunction, or other equitable
40 relief awarded in an action brought pursuant to subdivision (c),

1 the court may award the petitioner or plaintiff reasonable attorney's
2 fees.

3 (j) A violation of an order described in subdivision (e) may be
4 punished either by prosecution under Section 422.77 of the Penal
5 Code, or by a proceeding for contempt brought pursuant to Title
6 5 (commencing with Section 1209) of Part 3 of the Code of Civil
7 Procedure. However, in any proceeding pursuant to the Code of
8 Civil Procedure, if it is determined that the person proceeded
9 against is guilty of the contempt charged, in addition to any other
10 relief, a fine may be imposed not exceeding one thousand dollars
11 (\$1,000), or the person may be ordered imprisoned in a county jail
12 not exceeding six months, or the court may order both the
13 imprisonment and fine.

14 (k) Speech alone is not sufficient to support an action brought
15 pursuant to subdivision (b) or (c), except upon a showing that the
16 speech itself threatens violence against a specific person or group
17 of persons; and the person or group of persons against whom the
18 threat is directed reasonably fears that, because of the speech,
19 violence will be committed against them or their property and that
20 the person threatening violence had the apparent ability to carry
21 out the threat.

22 (l) No order issued in any proceeding brought pursuant to
23 subdivision (b) or (c) shall restrict the content of any person's
24 speech. An order restricting the time, place, or manner of any
25 person's speech shall do so only to the extent reasonably necessary
26 to protect the peaceable exercise or enjoyment of constitutional or
27 statutory rights, consistent with the constitutional rights of the
28 person sought to be enjoined.

29 (m) The rights, penalties, remedies, forums, and procedures of
30 this section shall not be waived by contract except as provided in
31 Section 51.7.

32 *SEC. 2. Section 2983.3 of the Civil Code is amended to read:*

33 2983.3. (a) In the absence of default in the performance of any
34 of the buyer's obligations under the contract, the seller or holder
35 may not accelerate the maturity of any part or all of the amount
36 due thereunder or repossess the motor vehicle.

37 (b) If after default by the buyer, the seller or holder repossesses
38 or voluntarily accepts surrender of the motor vehicle, any person
39 liable on the contract shall have a right to reinstate the contract
40 and the seller or holder shall not accelerate the maturity of any

1 part or all of the contract prior to expiration of the right to reinstate,
2 unless the seller or holder reasonably and in good faith determines
3 that any of the following has occurred:

4 (1) The buyer or any other person liable on the contract by
5 omission or commission intentionally provided false or misleading
6 information of material importance on the buyer's or other person's
7 credit application.

8 (2) The buyer, any other person liable on the contract, or any
9 permissive user in possession of the motor vehicle, in order to
10 avoid repossession has concealed the motor vehicle or removed it
11 from the state.

12 (3) The buyer, any other person liable on the contract, or any
13 permissive user in possession of the motor vehicle, has committed
14 or threatens to commit acts of destruction, or has failed to take
15 care of the motor vehicle in a reasonable manner, so that the motor
16 vehicle has become substantially impaired in value, or the buyer,
17 any other person liable on the contract, or any nonoccasional
18 permissive user in possession of the motor vehicle has failed to
19 take care of the motor vehicle in a reasonable manner, so that the
20 motor vehicle may become substantially impaired in value.

21 (4) The buyer or any other person liable on the contract has
22 committed, attempted to commit, or threatened to commit criminal
23 acts of violence or bodily harm against an agent, employee, or
24 officer of the seller or holder in connection with the seller's or
25 holder's repossession of or attempt to repossess the motor vehicle.

26 (5) The buyer has knowingly used the motor vehicle, or has
27 knowingly permitted it to be used, in connection with the
28 commission of a criminal offense, other than an infraction, as a
29 consequence of which the motor vehicle has been seized by a
30 federal, state, or local agency or authority pursuant to federal, state,
31 or local law.

32 (6) The motor vehicle has been seized by a federal, state, or
33 local public agency or authority pursuant to (A) Section 1324 of
34 Title 8 of the United States Code or Part 274 of Title 8 of the Code
35 of Federal Regulations, (B) Section 881 of Title 21 of the United
36 States Code or Part 9 of Title 28 of the Code of Federal
37 Regulations, or (C) other federal, state, or local law, including
38 regulations, and, pursuant to that other law, the seizing authority,
39 as a precondition to the return of the motor vehicle to the seller or
40 holder, prohibits the return of the motor vehicle to the buyer or

1 other person liable on the contract or any third person claiming
2 the motor vehicle by or through them or otherwise effects or
3 requires the termination of the property rights in the motor vehicle
4 of the buyer or other person liable on the contract or claimants by
5 or through them.

6 (c) Exercise of the right to reinstate the contract shall be limited
7 to once in any 12-month period and twice during the term of the
8 contract.

9 (d) The provisions of this subdivision cover the method by
10 which a contract shall be reinstated with respect to curing events
11 of default which were a ground for repossession or occurred
12 subsequent to repossession:

13 (1) Where the default is the result of the buyer's failure to make
14 any payment due under the contract, the buyer or any other person
15 liable on the contract shall make the defaulted payments and pay
16 any applicable delinquency charges.

17 (2) Where the default is the result of the buyer's failure to keep
18 and maintain the motor vehicle free from all encumbrances and
19 liens of every kind, the buyer or any other person liable on the
20 contract shall either satisfy all encumbrances and liens or, in the
21 event the seller or holder satisfies the encumbrances and liens, the
22 buyer or any other person liable on the contract shall reimburse
23 the seller or holder for all reasonable costs and expenses incurred
24 therefor.

25 (3) Where the default is the result of the buyer's failure to keep
26 and maintain insurance on the motor vehicle, the buyer or any
27 other person liable on the contract shall either obtain the insurance
28 or, in the event the seller or holder has obtained the insurance, the
29 buyer or any other person liable on the contract shall reimburse
30 the seller or holder for premiums paid and all reasonable costs and
31 expenses, including, but not limited to, any finance charge in
32 connection with the premiums permitted by Section 2982.8,
33 incurred therefor.

34 (4) Where the default is the result of the buyer's failure to
35 perform any other obligation under the contract, unless the seller
36 or holder has made a good faith determination that the default is
37 so substantial as to be incurable, the buyer or any other person
38 liable on the contract shall either cure the default or, if the seller
39 or holder has performed the obligation, reimburse the seller or

1 holder for all reasonable costs and expenses incurred in connection
2 therewith.

3 (5) Additionally, the buyer or any other person liable on the
4 contract shall, in all cases, reimburse the seller or holder for all
5 reasonable and necessary collection and repossession costs and
6 fees ~~incurred~~, *actually paid by the seller or holder*, including
7 attorney's fees and legal expenses expended in retaking and holding
8 the vehicle.

9 (e) If the seller or holder denies the right to reinstatement under
10 subdivision (b) or paragraph (4) of subdivision (d), the seller or
11 holder shall have the burden of proof that the denial was justified
12 in that it was reasonable and made in good faith. If the seller or
13 holder fails to sustain the burden of proof, the seller or holder shall
14 not be entitled to a deficiency, but it shall not be presumed that
15 the buyer is entitled to damages by reason of the failure of the
16 seller or holder to sustain the burden of proof.

17 (f) This section does not apply to a loan made by a lender
18 licensed under Division 9 (commencing with Section 22000) of
19 the Financial Code.

20 ~~SEC. 2:~~

21 *SEC. 3.* Section 1245.020 of the Code of Civil Procedure is
22 amended to read:

23 1245.020. In any case in which the entry and activities
24 mentioned in Section 1245.010 will subject the person having the
25 power of eminent domain to liability under Section 1245.060,
26 before making that entry and undertaking those activities, the
27 person shall secure at least one of the following:

28 (a) The written consent of the owner to enter upon the owner's
29 property and to undertake those activities.

30 (b) An order for entry from the superior court in accordance
31 with Section 1245.030.

32 ~~SEC. 3:~~

33 *SEC. 4.* Section 1245.060 of the Code of Civil Procedure is
34 amended to read:

35 1245.060. (a) If the entry and activities upon property cause
36 actual damage to or substantial interference with the possession
37 or use of the property, whether or not a claim has been presented
38 in compliance with Part 3 (commencing with Section 900) of
39 Division 3.6 of Title 1 of the Government Code, the owner may
40 recover for that damage or interference in a civil action, as a

1 defendant in an eminent domain action affecting the property, or
2 by application to the court under subdivision (c).

3 (b) The prevailing claimant in an action or proceeding under
4 this section shall be awarded the claimant’s costs and, if the court
5 finds that any of the following occurred, the claimant’s litigation
6 expenses incurred in proceedings under this article:

7 (1) The entry was unlawful.

8 (2) The entry was lawful but the activities upon the property
9 were abusive or lacking in due regard for the interests of the owner.

10 (3) There was a failure substantially to comply with the terms
11 of an order made under Section 1245.030 or 1245.040.

12 (c) If funds are on deposit under this article, upon application
13 of the owner, the court shall determine and award the amount the
14 owner is entitled to recover under this section and shall order that
15 amount paid out of the funds on deposit. If the funds on deposit
16 are insufficient to pay the full amount of the award, the court shall
17 enter judgment for the unpaid portion. In a proceeding under this
18 subdivision, the owner has a right to a jury trial, unless waived,
19 on the amount of compensation for actual damage or substantial
20 interference with the possession or use of the property.

21 (d) Nothing in this section affects the availability of any other
22 remedy the owner may have for the damaging of the owner’s
23 property.

24 ~~SEC. 4.~~

25 *SEC. 5.* Section 1250.320 of the Code of Civil Procedure is
26 amended to read:

27 1250.320. (a) The answer shall include a statement of the
28 nature and extent of the interest the defendant claims in the
29 property described in the complaint.

30 (b) If the defendant seeks compensation provided in Article 6
31 (commencing with Section 1263.510) (goodwill) of Chapter 9, the
32 answer shall include a statement that the defendant claims
33 compensation under Section 1263.510, but the answer need not
34 specify the amount of that compensation.

35 (c) If the defendant seeks compensation as provided in Article
36 1 (commencing with Section 1245.010) of Chapter 4, the answer
37 shall include a statement that the defendant claims compensation
38 under Section 1245.060, but need not specify the amount of that
39 compensation.

1 (d) If the defendant seeks compensation for losses caused by
2 the plaintiff's unreasonable conduct prior to commencing the
3 eminent domain proceeding, the answer shall include a statement
4 that the defendant claims compensation for that loss, but need not
5 specify the amount of the compensation.

6 ~~SEC. 5.~~

7 *SEC. 6.* Section 1260.230 of the Code of Civil Procedure is
8 amended to read:

9 1260.230. As far as practicable, the trier of fact shall assess
10 separately each of the following:

11 (a) Compensation for the property taken as required by Article
12 4 (commencing with Section 1263.310) of Chapter 9.

13 (b) When the property acquired is part of a larger parcel:

14 (1) The amount of the damage, if any, to the remainder as
15 required by Article 5 (commencing with Section 1263.410) of
16 Chapter 9.

17 (2) The amount of the benefit, if any, to the remainder as
18 required by Article 5 (commencing with Section 1263.410) of
19 Chapter 9.

20 (c) Compensation for loss of goodwill, if any, as required by
21 Article 6 (commencing with Section 1263.510) of Chapter 9.

22 (d) Compensation claimed under subdivision (c) of Section
23 1250.320.

24 (e) Compensation claimed under subdivision (d) of Section
25 1250.320.

26 *SEC. 7. Section 44944 of the Education Code is amended to*
27 *read:*

28 44944. (a) This section applies only to dismissal or suspension
29 proceedings initiated pursuant to Section 44934.

30 (b) (1) (A) In a dismissal or suspension proceeding initiated
31 pursuant to Section 44934, if a hearing is requested by the
32 employee, the hearing shall be commenced within six months from
33 the date of the employee's demand for a hearing. A continuance
34 shall not extend the date for the commencement of the hearing
35 more than six months from the date of the employee's request for
36 a hearing, except for extraordinary circumstances, as determined
37 by the administrative law judge. If extraordinary circumstances
38 are found that extend the date for the commencement of the
39 hearing, the deadline for concluding the hearing and closing the
40 record pursuant to this subdivision shall be extended for a period

1 of time equal to the continuance. The hearing date shall be
2 established after consultation with the employee and the governing
3 board of the school district, or their representatives, except that if
4 the parties are not able to reach an agreement on a date, the Office
5 of Administrative Hearings shall unilaterally set a date in
6 compliance with this section. The hearing shall be completed by
7 a closing of the record within seven months of the date of the
8 employee's demand for a hearing. A continuance shall not extend
9 the date for the close of the record more than seven months from
10 the date of the employee's request for a hearing, except for good
11 cause, as determined by the administrative law judge.

12 (B) If substantial progress has been made in completing the
13 previously scheduled days of the hearing within the seven-month
14 period but the hearing cannot be completed, for good cause shown,
15 within the seven-month period, the period for completing the
16 hearing may be extended by the presiding administrative law judge.
17 If the administrative law judge grants a continuance under this
18 subparagraph, ~~he or she~~ *the administrative law judge* shall establish
19 a reasonable timetable for the completion of the hearing and the
20 closing of the record. The hearing shall be initiated and conducted,
21 and a decision made, in accordance with Chapter 5 (commencing
22 with Section 11500) of Part 1 of Division 3 of Title 2 of the
23 Government Code, and the Commission on Professional
24 Competence shall have all of the power granted to an agency
25 pursuant to that chapter, except as described in this article.

26 (2) (A) A witness shall not be permitted to testify at the hearing
27 except upon oath or affirmation. Testimony shall not be given or
28 evidence shall not be introduced relating to matters that occurred
29 more than four years before the date of the filing of the notice,
30 except in one of the following circumstances:

31 (i) Testimony or evidence regarding allegations of behavior or
32 communication of a sexual nature with a pupil that is beyond the
33 scope or requirements of the educational program, which may
34 constitute misconduct, or an act described in Section 212.5, but
35 not amounting to conduct described in clause (ii), may be
36 introduced in a disciplinary proceeding based on similar conduct,
37 where such allegations have been substantiated through an
38 investigation or proceeding, or for which the employee was subject
39 to discipline or other form of penalty.

1 (ii) Testimony or evidence regarding allegations of an act
2 described in Section 288 of the Penal Code with respect to a pupil
3 of any age, Section 288.3 of the Penal Code, Section 44010 of this
4 code, or Sections 11165.2 to 11165.6, inclusive, of the Penal Code
5 may be introduced in any disciplinary proceeding.

6 (B) Evidence of records regularly kept by the governing board
7 of the school district concerning the employee may be introduced,
8 but no decision relating to the dismissal or suspension of an
9 employee shall be made based on charges or evidence of any nature
10 relating to matters occurring more than four years before the filing
11 of the notice, except as allowed pursuant to subparagraph (A).

12 (c) (1) The hearing provided for in this section shall be
13 conducted by a Commission on Professional Competence, unless
14 the parties submit a statement in writing to the Office of
15 Administrative Hearings, indicating that both parties waive the
16 right to convene a Commission on Professional Competence and
17 stipulate to having the hearing conducted by a single administrative
18 law judge. If the parties elect to waive a hearing before the
19 Commission on Professional Competence, the hearing shall be
20 initiated and conducted, and a decision made, in accordance with
21 Chapter 5 (commencing with Section 11500) of Part 1 of Division
22 3 of Title 2 of the Government Code, and the administrative law
23 judge conducting the hearing shall have all the powers granted to
24 a Commission on Professional Competence pursuant to that
25 chapter, except as described in this article.

26 (2) If the parties elect not to waive a hearing before a
27 Commission on Professional Competence, one member of the
28 commission shall be selected by the employee, one member shall
29 be selected by the governing board of the school district, and one
30 member shall be an administrative law judge of the Office of
31 Administrative Hearings who shall be chairperson and a voting
32 member of the commission and shall be responsible for assuring
33 that the legal rights of the parties are protected at the hearing.

34 (3) The governing board of the school district and the employee
35 shall select Commission on Professional Competence members
36 no later than 45 days before the date set for hearing, and shall serve
37 notice of their selection upon all other parties and upon the Office
38 of Administrative Hearings. Failure to meet this deadline shall
39 constitute a waiver of the right to selection, and the county board
40 of education or its specific designee shall immediately make the

1 selection. If the county board of education is also the governing
2 board of the school district or has by statute been granted the
3 powers of a governing board, the selection shall be made by the
4 Superintendent, who shall be reimbursed by the school district for
5 all costs incident to the selection.

6 (4) Any party who believes that a selected Commission on
7 Professional Competence member is not qualified may file an
8 objection, including a statement describing the basis for the
9 objection, with the Office of Administrative Hearings and serve
10 the objection and statement upon all other parties within 10 days
11 of the date that the notice of selection is filed. Within seven days
12 after the filing of any objection, the administrative law judge
13 assigned to the matter shall rule on the objection or convene a
14 teleconference with the parties for argument.

15 (5) (A) The member selected by the governing board of the
16 school district and the member selected by the employee shall not
17 be related to the employee and shall not be employees of the school
18 district initiating the dismissal or suspension. Each member shall
19 hold a currently valid credential and have at least three years'
20 experience within the past 10 years in the discipline of the
21 employee.

22 (B) For purposes of this paragraph, the following terms have
23 the following meanings:

24 (i) For an employee subject to dismissal whose most recent
25 teaching assignment is in kindergarten or any of the grades 1 to 6,
26 inclusive, "discipline" means a teaching assignment in kindergarten
27 or any of the grades 1 to 6, inclusive.

28 (ii) For an employee subject to dismissal whose most recent
29 assignment requires an education specialist credential or a services
30 credential, "discipline" means an assignment that requires an
31 education specialist credential or a services credential, respectively.

32 (iii) For an employee subject to dismissal whose most recent
33 teaching assignment is in any of the grades 7 to 12, inclusive,
34 "discipline" means a teaching assignment in any of grades 7 to 12,
35 inclusive, in the same area of study, as that term is used in Section
36 51220, as the most recent teaching assignment of the employee
37 subject to dismissal.

38 (d) (1) The decision of the Commission on Professional
39 Competence shall be made by a majority vote, and the commission
40 shall prepare a written decision containing findings of fact,

1 determinations of issues, and a disposition that shall be, solely,
2 one of the following:

3 (A) That the employee should be dismissed.

4 (B) That the employee should be suspended for a specific period
5 of time without pay.

6 (C) That the employee should not be dismissed or suspended.

7 (2) The decision of the Commission on Professional Competence
8 that the employee should not be dismissed or suspended shall not
9 be based on nonsubstantive procedural errors committed by the
10 school district or governing board of the school district unless the
11 errors are prejudicial errors.

12 (3) The Commission on Professional Competence shall not have
13 the power to dispose of the charge of dismissal by imposing
14 probation or other alternative sanctions. The imposition of
15 suspension pursuant to subparagraph (B) of paragraph (1) shall be
16 available only in a suspension proceeding authorized pursuant to
17 subdivision (b) of Section 44932 or Section 44933.

18 (4) The decision of the Commission on Professional Competence
19 shall be deemed to be the final decision of the governing board of
20 the school district.

21 (5) The governing board of the school district may adopt from
22 time to time rules and procedures not inconsistent with this section
23 as may be necessary to effectuate this section.

24 (6) The governing board of the school district and the employee
25 shall have the right to be represented by counsel.

26 (e) (1) If the member selected by the governing board of the
27 school district or the member selected by the employee is employed
28 by any school district in this state, the member shall, during any
29 service on a Commission on Professional Competence, continue
30 to receive salary, fringe benefits, accumulated sick leave, and other
31 leaves and benefits from the school district in which the member
32 is employed, but shall not receive additional compensation or
33 honorariums for service on the commission.

34 (2) If the member selected is a retired employee, the member
35 shall receive pay at the daily substitute teacher rate in the school
36 district that is a party to the hearing. Service on a Commission on
37 Professional Competence shall not be credited toward retirement
38 benefits.

39 (3) If service on a Commission on Professional Competence
40 occurs during summer recess or vacation periods, the member shall

1 receive compensation proportionate to that received during the
2 current or immediately preceding contract period from the
3 member's employing school district, whichever amount is greater.

4 (f) (1) If the Commission on Professional Competence
5 determines that the employee should be dismissed or suspended,
6 the governing board of the school district and the state shall share
7 equally the expenses of the hearing, including the cost of the
8 administrative law judge. The state shall pay any costs incurred
9 under paragraphs (2) and (3) of subdivision (e), the reasonable
10 expenses, as determined by the administrative law judge, of the
11 member selected by the governing board of the school district and
12 the member selected by the employee, including, but not limited
13 to, payments or obligations incurred for travel, meals, and lodging,
14 and the cost of the substitute or substitutes, if any, for the member
15 selected by the governing board of the school district and the
16 member selected by the employee. The Controller shall pay all
17 claims submitted pursuant to this paragraph from the General Fund,
18 and may prescribe reasonable rules, regulations, and forms for the
19 submission of the claims. The employee and the governing board
20 of the school district shall pay their own attorney's fees.

21 (2) If the Commission on Professional Competence determines
22 that the employee should not be dismissed or suspended, the
23 governing board of the school district shall pay the expenses of
24 the hearing, including the cost of the administrative law judge, any
25 costs incurred under paragraphs (2) and (3) of subdivision (e), the
26 reasonable expenses, as determined by the administrative law
27 judge, of the member selected by the governing board of the school
28 district and the member selected by the employee, including, but
29 not limited to, payments or obligations incurred for travel, meals,
30 and lodging, the cost of the substitute or substitutes, if any, for the
31 member selected by the governing board of the school district and
32 the member selected by the employee, and reasonable attorney's
33 fees incurred by the employee.

34 (3) As used in this section, "reasonable expenses" shall not be
35 deemed "compensation" within the meaning of subdivision (e).

36 (4) If either the governing board of the school district or the
37 employee petitions a court of competent jurisdiction for review of
38 the decision of the Commission on Professional Competence, the
39 payment of expenses to members of the commission required by
40 this subdivision shall not be stayed.

1 (5) If the decision of the Commission on Professional
2 Competence is reversed or vacated by a court of competent
3 jurisdiction, either the state, having paid the commission members'
4 expenses, shall be entitled to reimbursement from the governing
5 board of the school district for those expenses, or the governing
6 board of the school district, having paid the expenses, shall be
7 entitled to reimbursement from the state. If either the governing
8 board of the school district or the employee petitions a court of
9 competent jurisdiction for review of the decision to overturn the
10 administrative law judge's decision, the payment of the expenses
11 of the hearing, including the cost of the administrative law judge
12 required by this paragraph, shall be stayed until no further appeal
13 is sought, or all appeals are exhausted.

14 (g) (1) The hearing provided for in this section shall be
15 conducted in a place selected by agreement among the members
16 of the Commission on Professional Competence. In the absence
17 of agreement, the place shall be selected by the administrative law
18 judge.

19 (2) *Notwithstanding paragraph (1), the parties may agree to*
20 *hold the hearing by telephone, videoconference, or other electronic*
21 *means.*

22 ~~SEC. 6.~~

23 *SEC. 8.* Section 22329 of the Financial Code is amended to
24 read:

25 22329. (a) This section applies to a loan secured in whole or
26 in part by a lien on a motor vehicle as defined by subdivision (k)
27 of Section 2981 of the Civil Code.

28 (b) In the absence of default in the performance of any of the
29 borrower's obligations under the loan, the licensee may not
30 accelerate the maturity of any part or all of the amount due
31 thereunder or repossess the motor vehicle.

32 (c) If, after default by the borrower, the licensee repossesses or
33 voluntarily accepts surrender of the motor vehicle, any person
34 liable on the loan shall have a right to reinstate the loan and the
35 licensee shall not accelerate the maturity of any part or all of the
36 loan prior to the expiration of the right to reinstate, unless the
37 licensee reasonably and in good faith determines that:

38 (1) The borrower or any other person liable on the loan by
39 omission or commission intentionally provided false or misleading
40 information of material importance on their credit application.

1 (2) The borrower or any other person liable on the loan has
2 concealed the motor vehicle or removed it from the state in order
3 to avoid repossession.

4 (3) The borrower or any other person liable on the loan has
5 committed or threatens to commit acts of destruction, or has failed
6 to take care of the motor vehicle in a reasonable manner, so that
7 the motor vehicle has or may become substantially impaired in
8 value.

9 (d) Exercise of the right to reinstate the loan shall be limited to
10 once in any 12-month period and twice during the term of the loan.

11 (e) The provisions of this subdivision shall govern the method
12 by which a loan shall be reinstated with respect to curing events
13 of default that were grounds for repossession or that occurred
14 subsequent to repossession.

15 (1) When the default is the result of the borrower's failure to
16 make any payment due under the loan, the borrower or any other
17 person liable on the loan shall make the defaulted payments and
18 pay any applicable delinquency charges.

19 (2) When the default is the result of the borrower's failure to
20 keep and maintain the motor vehicle free from all encumbrances
21 and liens of every kind, the borrower or any person liable on the
22 loan shall either satisfy all the encumbrances and liens or, in the
23 event the licensee satisfies the encumbrances and liens, the
24 borrower or any other person liable on the loan shall reimburse
25 the licensee for all reasonable costs and expenses incurred therefor.

26 (3) When the default is the result of the borrower's failure to
27 keep and maintain insurance on the motor vehicle, the borrower
28 or any other person liable on the loan shall either obtain the
29 insurance or, in the event the licensee has obtained the insurance,
30 the borrower or any other person liable on the loan shall reimburse
31 the licensee for premiums paid and all reasonable costs and
32 expenses incurred therefor.

33 (4) When the default is the result of the borrower's failure to
34 perform any other obligation under the loan, unless the licensee
35 has made a good faith determination that the default is so
36 substantial as to be incurable, the borrower or any other person
37 liable on the loan shall reimburse the licensee for all reasonable
38 costs and expenses incurred therefor.

39 (5) Additionally, the borrower or any other person liable on the
40 loan shall reimburse the licensee for actual and necessary fees in

1 an amount not exceeding the amount specified in subdivision (e)
2 of Section 22202 paid in connection with the repossession of a
3 motor vehicle to a repossession agency licensed pursuant to
4 Chapter 11 (commencing with Section 7500) of Division 3 of the
5 Business and Professions Code, and actual fees in conformity with
6 Sections 26751 and 41612 of the Government Code in an amount
7 not exceeding the amount specified in those sections of the
8 Government Code.

9 (f) If the licensee denies the right to reinstatement under
10 subdivision (c) or paragraph (4) of subdivision (e), the licensee
11 shall have the burden of proof that the denial was justified in that
12 it was reasonable and made in good faith. If the licensee fails to
13 sustain the burden of proof, the licensee shall not be entitled to a
14 deficiency.

15 *SEC. 9. Section 11425.20 of the Government Code is amended*
16 *to read:*

17 11425.20. (a) A hearing shall be open to public observation.
18 ~~Nothing in this~~ *This subdivision limits shall not limit* the authority
19 of the presiding officer to order closure of a hearing or make other
20 protective orders to the extent necessary or proper for any of the
21 following purposes:

22 (1) To satisfy the United States Constitution, the California
23 Constitution, federal or state statute, or other law, ~~including but~~
24 ~~not limited to~~ *including, but not limited to*, laws protecting
25 privileged, confidential, or other protected information.

26 (2) To ensure a fair hearing in the circumstances of the particular
27 case.

28 (3) To conduct the hearing, including the manner of examining
29 witnesses, in a way that is appropriate to protect a minor witness
30 or a witness with a developmental disability, as defined in Section
31 4512 of the Welfare and Institutions Code, from intimidation or
32 other harm, taking into account the rights of all persons.

33 (b) To the extent a hearing is conducted by telephone, television,
34 or other electronic means, *and is not closed as otherwise required*
35 *by law, the requirement that the meeting is open to public*
36 *observation pursuant to* subdivision (a) is satisfied if members of
37 the public have an opportunity to do both of the following:

38 (1) At reasonable times, hear or inspect the agency's record,
39 and inspect any transcript obtained by the agency.

1 (2) Be physically present at the place where the presiding officer
2 is conducting the ~~hearing~~, *hearing, unless the presiding officer is*
3 *conducting the hearing from a private home or other location not*
4 *normally accessible to the public. If the presiding officer conducts*
5 *the hearing from a private home or other location not normally*
6 *accessible to the public, a location shall be designated from which*
7 *members of the public can observe the hearing or a live audio or*
8 *video feed of the hearing shall be made available to the public on*
9 *the internet.*

10 (c) This section does not apply to a prehearing conference,
11 settlement conference, or proceedings for alternative dispute
12 resolution other than binding arbitration.

13 *SEC. 10. Section 11440.20 of the Government Code is amended*
14 *to read:*

15 11440.20. Service of a writing *or electronic document* on, or
16 giving of a notice to, a person in a procedure provided in this
17 chapter is subject to the following provisions:

18 (a) ~~The writing~~ *writing, electronic document*, or notice shall be
19 delivered personally or sent by ~~mail~~ *mail, electronic*, or other
20 means to the person at the person's last known address or, if the
21 person is a party with an attorney or other authorized representative
22 of record in the proceeding, to the party's attorney or other
23 authorized representative. If a party is required by statute or
24 regulation to maintain an address with an agency, the party's last
25 known address is the address maintained with the agency.

26 (b) Unless a provision specifies the form of mail, service or
27 notice by mail may be by first-class mail, registered mail, or
28 certified mail, by mail delivery service, by facsimile transmission
29 if complete and without error, or by other electronic means as
30 provided by regulation, in the discretion of the sender.

31 *SEC. 11. Section 11507.6 of the Government Code is amended*
32 *to read:*

33 11507.6. After initiation of a proceeding in which a respondent
34 or other party is entitled to a hearing on the merits, a party, upon
35 written request made to another party, prior to the hearing and
36 within 30 days after service by the agency of the initial pleading
37 or within 15 days after the service of an additional pleading, is
38 entitled to (1) obtain the names and addresses of witnesses to the
39 extent known to the other party, including, but not limited to, those
40 intended to be called to testify at the hearing, and (2) inspect and

1 make a copy of any of the following in the possession or custody
2 or under the control of the other party:

3 (a) A statement of a person, other than the respondent, named
4 in the initial administrative pleading, or in any additional pleading,
5 when it is claimed that the act or omission of the respondent as to
6 this person is the basis for the administrative proceeding;

7 (b) A statement pertaining to the subject matter of the proceeding
8 made by any party to another party or person;

9 (c) Statements of witnesses then proposed to be called by the
10 party and of other persons having personal knowledge of the acts,
11 omissions or events which are the basis for the proceeding, not
12 included in (a) or (b) above;

13 (d) All writings, including, but not limited to, reports of mental,
14 physical and blood examinations and things which the party then
15 proposes to offer in evidence;

16 (e) Any other writing or thing which is relevant and which would
17 be admissible in evidence;

18 (f) Investigative reports made by or on behalf of the agency or
19 other party pertaining to the subject matter of the proceeding, to
20 the extent that these reports (1) contain the names and addresses
21 of witnesses or of persons having personal knowledge of the acts,
22 omissions or events which are the basis for the proceeding, or (2)
23 reflect matters perceived by the investigator in the course of ~~his~~
24 ~~or her~~ *their* investigation, or (3) contain or include by attachment
25 any statement or writing described in (a) to (e), inclusive, or
26 summary thereof.

27 For the purpose of this section, “statements” include written
28 statements by the person signed or otherwise authenticated by ~~him~~
29 ~~or her~~, *the person*, stenographic, mechanical, electrical or other
30 recordings, or transcripts thereof, of oral statements by the person,
31 and written reports or summaries of these oral statements.

32 Nothing in this section shall authorize the inspection or copying
33 of any writing or thing which is privileged from disclosure by law
34 or otherwise made confidential or protected as the attorney’s work
35 product.

36 *Discovery of all categories of evidence specified in this section*
37 *may be conducted electronically by means prescribed by an*
38 *administrative law judge.*

39 *SEC. 12. Section 11508 of the Government Code is amended*
40 *to read:*

1 11508. (a) The agency shall consult the office, and subject to
 2 the availability of its staff, shall determine the time and place of
 3 the hearing. The hearing shall be held at a hearing facility
 4 maintained by the office in Sacramento, Oakland, Los Angeles,
 5 or San Diego and shall be held at the facility that is closest to the
 6 location where the transaction occurred or the respondent resides.

7 (b) Notwithstanding subdivision (a), the hearing may be held
 8 at ~~either~~ any of the following places:

9 (1) A place selected by the agency that is closer to the location
 10 where the transaction occurred or the respondent resides.

11 (2) A place within the state selected by agreement of the parties.

12 (3) *Virtually by telephone, videoconference, or other electronic*
 13 *means.*

14 (c) The respondent may move for, and the administrative law
 15 judge has discretion to grant or deny, a change in the place of the
 16 hearing. A motion for a change in the place of the hearing shall
 17 be made within 10 days after service of the notice of hearing on
 18 the respondent.

19 ~~Unless~~

20 (d) *Unless* good cause is identified in writing by the
 21 administrative law judge, hearings shall be held in a facility
 22 maintained by the office.

23 ~~SEC. 7.~~

24 *SEC. 13.* Section 12935 of the Government Code is amended
 25 to read:

26 12935. The council shall have the following functions, powers,
 27 and duties:

28 (a) To adopt, promulgate, amend, and rescind suitable rules,
 29 regulations, and standards that do either of the following:

30 (1) Interpret, implement, and apply all provisions of this part,
 31 Article 9.5 (commencing with Section 11135) of Chapter 1 of Part
 32 1 of Division 3 of Title 2 of this code, Sections 51, 51.5, 51.7, 54,
 33 54.1, and 54.2 of the Civil Code, and Section 1197.5 of the Labor
 34 Code.

35 (A) As of January 1, 2017, Chapter 1 (commencing with Section
 36 98000), Chapter 2 (commencing with Section 98100), and Chapter
 37 3 (commencing with Section 98200) of Division 8 of Title 22 of
 38 the California Code of Regulations shall be transferred from the
 39 portion of the California Code of Regulations that is under the
 40 authority of the California Health and Human Services Agency to

1 the portion of the California Code of Regulations that is under the
2 authority of the department, and upon transfer shall be deemed
3 adopted by the council.

4 (B) The council shall, within existing resources and pursuant
5 to Chapter 3.5 (commencing with Section 11340), adopt additional
6 regulations, as necessary, and amend or repeal, as necessary,
7 regulations transferred to the department from the California Health
8 and Human Services Agency relating to Article 9.5 (commencing
9 with Section 11135) of Chapter 1 of Part 1.

10 (2) Carry out all other functions and duties of the council
11 pursuant to this part.

12 (b) To meet at any place within the state and function in any
13 office of the department.

14 (c) To create or provide technical assistance to any advisory
15 agencies and conciliation councils, local or otherwise, as in its
16 judgment will aid in effectuating the purposes of this part, and to
17 empower them to study the problems of discrimination in all or
18 specific fields of human relationships or in particular instances of
19 employment discrimination on the bases enumerated in this part
20 or in specific instances of housing discrimination on the bases
21 enumerated in this part and to foster, through community effort or
22 otherwise, good will, cooperation, and conciliation among the
23 groups and elements of the population of the state and to make
24 recommendations to the Fair Employment and Housing Council
25 for the development of policies and procedures in general except
26 for procedural rules and regulations that carry out the investigation,
27 prosecution, and dispute resolution functions and duties of the
28 department. These advisory agencies and conciliation councils
29 shall be composed of representative citizens, serving without pay.

30 (d) To hold hearings, issue publications, results of inquiries and
31 research, and reports to the Governor and the Legislature that, in
32 its judgment, will tend to aid in effectuating the purpose of this
33 part, promote good will, cooperation and conciliation, and
34 minimize or eliminate unlawful discrimination, or advance civil
35 rights in the State of California.

36 ~~SEC. 8.~~

37 *SEC. 14.* Section 68154 is added to the Government Code, to
38 read:

39 68154. The public shall not be prohibited from duplicating
40 audio or video footage from a streaming court proceeding that is

1 accessible by the public, unless that proceeding is closed to the
2 public pursuant to California Rule of Court 2.551.

3 *SEC. 15. Section 13009 of the Health and Safety Code is*
4 *amended to read:*

5 13009. (a) Any person (1) who negligently, or in violation of
6 the law, sets a fire, allows a fire to be set, or allows a fire kindled
7 or attended by ~~him or her~~ *the person* to escape onto any public or
8 private property, (2) other than a mortgagee, who, being in actual
9 possession of a structure, fails or refuses to correct, within the time
10 allotted for correction, despite having the right to do so, a fire
11 hazard prohibited by law, for which a public agency properly has
12 issued a notice of violation respecting the hazard, or (3) including
13 a mortgagee, who, having an obligation under other provisions of
14 law to correct a fire hazard prohibited by law, for which a public
15 agency has properly issued a notice of violation respecting the
16 hazard, fails or refuses to correct the hazard within the time allotted
17 for correction, despite having the right to do so, is liable for the
18 fire suppression costs incurred in fighting the fire and for the cost
19 of providing rescue or emergency medical services, and those costs
20 shall be a charge against that person. The charge shall constitute
21 a debt of that person, and is collectible by the person, or by the
22 federal, state, county, public, or private agency, incurring those
23 costs in the same manner as in the case of an obligation under a
24 contract, expressed or implied.

25 (b) Public agencies participating in fire suppression, rescue, or
26 emergency medical services as set forth in subdivision (a), may
27 designate one or more of the participating agencies to bring an
28 action to recover costs incurred by all of the participating agencies.
29 An agency designated by the other participating agencies to bring
30 an action pursuant to this section shall declare that authorization
31 and its basis in the complaint, and shall itemize in the complaint
32 the total amounts claimed under this section by each represented
33 agency.

34 (c) Any costs incurred by the Department of Forestry and Fire
35 Protection in suppressing any wildland fire originating or spreading
36 from a prescribed burning operation conducted by the department
37 pursuant to a contract entered into pursuant to Article 2
38 (commencing with Section 4475) of Chapter 7 of Part 2 of Division
39 4 of the Public Resources Code shall not be collectible from any
40 party to the ~~contract, including any private consultant or contractor~~

1 ~~who entered into an agreement with that party pursuant to~~
2 ~~subdivision (d) of Section 4475.5 of the Public Resources Code,~~
3 ~~contract as provided in subdivision (a), to the extent that those~~
4 ~~costs were not incurred as a result of a violation of any provision~~
5 ~~of the contract.~~

6 (d) This section applies to all areas of the state, regardless of
7 whether primarily wildlands, sparsely developed, or urban.

8 (e) *The statute of limitations applicable to an action brought*
9 *pursuant to this section is that set forth in Section 338 of the Code*
10 *of Civil Procedure.*

11 *SEC. 16. Section 13009.1 of the Health and Safety Code is*
12 *amended to read:*

13 13009.1. (a) Any person (1) who negligently, or in violation
14 of the law, sets a fire, allows a fire to be set, or allows a fire kindled
15 or attended by ~~him or her~~ *the person* to escape onto any public or
16 private property, (2) other than a mortgagee, who, being in actual
17 possession of a structure, fails or refuses to correct, within the time
18 allotted for correction, despite having the right to do so, a fire
19 hazard prohibited by law, for which a public agency properly has
20 issued a notice of violation respecting the hazard, or (3) including
21 a mortgagee, who, having an obligation under other provisions of
22 law to correct a fire hazard prohibited by law, for which a public
23 agency properly has issued a notice of violation respecting the
24 hazard, fails or refuses to correct the hazard within the time allotted
25 for correction, despite having the right to do so, is liable for both
26 of the following:

27 (1) The cost of investigating and making any reports with respect
28 to the fire.

29 (2) The costs relating to accounting for that fire and the
30 collection of any funds pursuant to Section 13009, including, but
31 not limited to, the administrative costs of operating a fire
32 suppression cost recovery program. The liability imposed pursuant
33 to this paragraph is limited to the actual amount expended ~~which~~
34 *that* is attributable to the fire.

35 (b) In any civil action brought for the recovery of costs provided
36 in this section, the court in its discretion may impose the amount
37 of liability for costs described in subdivision (a).

38 (c) The burden of proof as to liability shall be on the plaintiff
39 and shall be by a preponderance of the evidence in an action
40 alleging that the defendant is liable for costs pursuant to this

1 section. The burden of proof as to the amount of costs recoverable
2 shall be on the plaintiff and shall be by a preponderance of the
3 evidence in any action brought pursuant to this section.

4 (d) Any testimony, admission, or any other statement made by
5 the defendant in any proceeding brought pursuant to this section,
6 or any evidence derived from the testimony, ~~admission~~ admission,
7 or other statement, shall not be admitted or otherwise used in any
8 criminal proceeding arising out of the same conduct.

9 (e) The liability constitutes a debt of that person and is
10 collectible by the person, or by the federal, state, county, public,
11 or private agency, incurring those costs in the same manner as in
12 the case of an obligation under a contract, expressed or implied.

13 (f) This section applies in all areas of the state, regardless of
14 whether primarily wildlands, sparsely developed, or urban.

15 (g) *The statute of limitations applicable to an action brought*
16 *pursuant to this section is that set forth in Section 338 of the Code*
17 *of Civil Procedure.*

18 *SEC. 17. Section 10139 of the Insurance Code is amended to*
19 *read:*

20 10139. (a) ~~At the time of filing a petition pursuant to Section~~
21 ~~10139.5 for court approval, the transferee shall file with the~~
22 ~~Attorney General~~ *The transferee shall retain, for three years after*
23 *the date of the last payment under the structured settlement*
24 *agreement, or for five years after the date of the transfer, whichever*
25 *date is later, a copy of the transferee's petition for approval,*
26 *approval filed pursuant to Section 10139.5, a copy of the written*
27 *disclosure statement required by subdivision (a) (b) of Section*
28 *10136, a copy of the transfer agreement as defined in subdivision*
29 *(o) of Section 10134, and, unless excepted pursuant to*
30 *subparagraph (H) of paragraph (2) of subdivision (f) of Section*
31 *10139.5, a copy of the annuity contract, any qualified assignment*
32 *agreement, the underlying structured settlement agreement, or any*
33 *order or approval of any court or responsible administrative*
34 *authority authorizing or approving the structured settlement, and*
35 *a copy and proof of notice to the interested parties, and a verified*
36 *statement from the transferee stating that all of the conditions set*
37 *forth in Sections 10136, 10137, and 10138 have been met.*

38 ~~(b) The Attorney General may, but is not required to, review~~
39 ~~any transfer agreement in order to ensure that the transfer meets~~
40 ~~the requirements of this article.~~

1 ~~(e) The Attorney General may charge a reasonable fee for the~~
2 ~~filing of the transfer agreement as provided in this section. The~~
3 ~~fee shall be paid by the transferee.~~

4 ~~(d) This section does not apply to a transfer by a payee who is~~
5 ~~not a resident of California at the time the payee executes the~~
6 ~~transfer agreement.~~

7 *SEC. 18. Section 4712 of the Welfare and Institutions Code is*
8 *amended to read:*

9 4712. (a) The fair hearing shall be held within 50 days of the
10 date the hearing request form is received by the service agency,
11 unless a continuance based upon a showing of good cause has been
12 granted to the claimant. The service agency may also request a
13 continuance based upon a showing of good cause, provided that
14 the granting of the continuance does not extend the time period
15 for rendering a final administrative decision beyond the 90-day
16 period provided for in this chapter. For purposes of this section,
17 good cause includes, but is not limited to, the following
18 circumstances:

19 (1) Death of a spouse, parent, child, brother, sister, grandparent
20 of the claimant or authorized representative, or legal guardian or
21 conservator of the claimant.

22 (2) Personal illness or injury of the claimant or authorized
23 representative.

24 (3) Sudden and unexpected emergencies, including, but not
25 limited to, court appearances of the claimant or authorized
26 representative, conflicting schedules of the authorized
27 representative if the conflict is beyond the control of the authorized
28 representative.

29 (4) Unavailability of a witness or evidence, the absence of which
30 would result in serious prejudice to the claimant.

31 (5) An intervening request by the claimant or ~~his or her~~ *the*
32 *claimant's* authorized representative for mediation.

33 (b) Notwithstanding Sections 19130, 19131, and 19132 of the
34 Government Code, the department shall contract for the provision
35 of independent hearing officers. Hearing officers shall have had
36 at least two years of full-time legal training at a California or
37 American Bar Association accredited law school or the equivalent
38 in training and experience as established by regulations to be
39 adopted by the department pursuant to Section 4705. These hearing
40 officers shall receive training in the law and regulations governing

1 services to developmentally disabled individuals and administrative
2 hearings. Training shall include, but not be limited to, the
3 Lanterman Developmental Disabilities Services Act and regulations
4 adopted thereunder, relevant case law, information about services
5 and supports available to persons with developmental disabilities,
6 including innovative services and supports, the standard agreement
7 contract between the department and regional centers and regional
8 center purchase-of-service policies, and information and training
9 on protecting the rights of consumers at administrative hearings,
10 with emphasis on assisting, where appropriate, those consumers
11 represented by themselves or an advocate inexperienced in
12 administrative hearings in fully developing the administrative
13 record. The State Department of Developmental Services shall
14 seek the advice of the State Council on Developmental Disabilities,
15 the protection and advocacy agency designated by the Governor
16 in this state to fulfill the requirements and assurances of the federal
17 Developmental Disabilities Assistance and Bill of Rights Act of
18 2000, contained in Chapter 144 (commencing with Section 15001)
19 of Title 42 of the United States Code, the Association of Regional
20 Center Agencies, and other state agencies or organizations and
21 consumers and family members as designated by the department
22 in the development of standardized hearing procedures for hearing
23 officers and training materials and the implementation of training
24 procedures by the department. The department shall provide formal
25 training for hearing officers on at least an annual basis. The training
26 shall be developed and presented by the department, however, the
27 department shall invite those agencies and organizations listed in
28 this subdivision to participate.

29 (c) The hearing officer shall not be an employee, agent, board
30 member, or contractor of the service agency against whose action
31 the appeal has been filed, or a spouse, parent, child, brother, sister,
32 grandparent, legal guardian, or conservator of the claimant, or any
33 person who has a direct financial interest in the outcome of the
34 fair hearing, or any other interest which would preclude a fair and
35 impartial hearing.

36 (d) The claimant and the service agency shall exchange a list
37 of potential witnesses, the general subject of the testimony of each
38 witness, and copies of all potential documentary evidence at least
39 five calendar days prior to the hearing. The hearing officer may
40 prohibit testimony of a witness that is not disclosed and may

1 prohibit the introduction of documents that have not been disclosed.
2 However, the hearing officer may allow introduction of the
3 testimony or witness in the interest of justice.

4 (e) (1) The fair hearing shall be held at a time and place
5 reasonably convenient to the claimant and the authorized
6 representative. The claimant or the authorized representative of
7 the claimant and the regional center shall agree on the location of
8 the fair hearing.

9 (2) A location pursuant to paragraph (1) may include an
10 agreement to conduct the hearing by telephone, videoconference,
11 or other electronic means.

12 (f) Merits of a pending fair hearing shall not be discussed
13 between the hearing officer and a party outside the presence of the
14 other party.

15 (g) The hearing officer shall voluntarily disqualify ~~himself or~~
16 ~~herself themselves~~ and withdraw from any case in which ~~he or she~~
17 ~~the hearing officer~~ cannot accord a fair and impartial hearing or
18 consideration. Any party may request the disqualification of the
19 hearing officer by filing an affidavit, prior to the taking of evidence
20 at a hearing, stating with particularity the grounds upon which it
21 is claimed that a fair and impartial hearing cannot be accorded.
22 The issue shall be decided by the hearing officer.

23 (h) Both parties to the fair hearing shall have the rights specified
24 in subdivision (f) of Section 4701.

25 (i) The fair hearing need not be conducted according to the
26 technical rules of evidence and those related to witnesses. Any
27 relevant evidence shall be admitted. Both parties shall be allowed
28 to submit documents into evidence at the beginning of the hearing.
29 No party shall be required to formally authenticate any document
30 unless the hearing officer determines the necessity to do so in the
31 interest of justice. All testimony shall be under oath or affirmation
32 which the hearing officer is empowered to administer.

33 (j) A service agency shall present its witnesses and all other
34 evidence before the claimant presents ~~his or her~~ *the claimant's*
35 case unless the parties agree otherwise or the hearing officer
36 determines that there exists good cause for a witness to be heard
37 out of order. This section does not alter the burden of proof.

38 (k) A recording shall be made of the proceedings before the
39 hearing officer. Any cost of recording shall be borne by the
40 responsible state agency.

1 (l) The fair hearing shall be conducted in the English language.
2 However, if the claimant, the claimant's guardian or conservator,
3 parent of a minor claimant, or authorized representative does not
4 understand English, an interpreter shall be provided by the
5 responsible state agency.

6 (m) The fair hearing shall be open to the public except at the
7 request of the claimant or authorized representative or when
8 personnel matters are being reviewed.

9 (n) The agency awarded the contract for independent hearing
10 officers shall biennially conduct, or cause to be conducted, an
11 evaluation of the hearing officers who conduct hearings under this
12 part. The department shall approve the methodology used to
13 conduct the evaluation. Information and data for this evaluation
14 shall be solicited from consumers who were claimants in an
15 administrative hearing over the past two years, their family
16 members or authorized representative if involved in the hearing,
17 regional centers, and nonattorney advocates, attorneys who
18 represented either party in an administrative hearing over the past
19 two years, and the organizations identified in subdivision (b).
20 Regional centers shall forward copies of administrative decisions
21 reviewed by the superior court to the department. The areas of
22 evaluation shall include, but not be limited to, the hearing officers'
23 demeanor toward parties and witnesses, conduct of the hearing in
24 accord with fairness and standards of due process, ability to fairly
25 develop the record in cases where consumers represent themselves
26 or are represented by an advocate that does not have significant
27 experience in administrative hearings, use of legal authority, clarity
28 of written decisions, and adherence to the requirements of
29 subdivision (b) of Section 4712.5. The department shall be
30 provided with a copy of the evaluation and shall use the evaluation
31 in partial fulfillment of its evaluation of the contract for the
32 provision of independent hearing officers. A summary of the data
33 collected shall be made available to the public upon request,
34 provided that the names of individual hearing officers and
35 consumers shall not be disclosed.

36 *SEC. 19. No reimbursement is required by this act pursuant*
37 *to Section 6 of Article XIII B of the California Constitution because*
38 *the only costs that may be incurred by a local agency or school*
39 *district will be incurred because this act creates a new crime or*
40 *infraction, eliminates a crime or infraction, or changes the penalty*

1 *for a crime or infraction, within the meaning of Section 17556 of*
2 *the Government Code, or changes the definition of a crime within*
3 *the meaning of Section 6 of Article XIII B of the California*
4 *Constitution.*

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