The following has special meaning:
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Senate Bill No. 1146

CHAPTER 112

An act to amend Sections 1010.6 and 2025.310 of, and to add and repeal Section 599 of, the Code of Civil Procedure, relating to civil procedure, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 2020. Filed with Secretary of State September 18, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1146, Umberg. Civil procedure: electronic filing, trial delays, and remote depositions.

(1) Existing law authorizes a trial court to adopt local rules permitting electronic filing of documents, subject to specified conditions. Existing law authorizes a court to require electronic filing and service in civil actions, subject to rules adopted by the Judicial Council permitting mandatory electronic filing and service in specified civil actions.

Existing law authorizes, for cases filed on or after January 1, 2019, if a document may be served by mail, express mail, overnight delivery, or facsimile transmission, electronic service of the document if a party or other person has expressly consented to receive electronic service in that specific action, or the court has ordered electronic service on a represented party or other represented person.

This bill would require a party represented by counsel, who has appeared in an action or proceeding, to accept electronic service of a notice or document that may be served by mail, express mail, overnight delivery, or facsimile transmission. The bill would require a party represented by counsel, upon the request of any party who has appeared in an action or proceeding and who provides an electronic service address, to electronically serve the requesting party with any notice or document that may be served by mail, express mail, overnight delivery, or facsimile transmission.

(2) Existing law prescribes the procedure for taking oral depositions inside the state. Existing law requires a party deponent to appear at the deposition and be in the presence of the deposition officer. Existing law authorizes a court to expressly provide that a nonparty deponent may appear at a deposition by telephone if the court finds there is good cause and no prejudice to any party. Existing law authorizes a court to issue a protective order with respect to the conduct of a deposition in order to protect any party, deponent, or other natural person or organization from unwarranted annoyance, embarrassment, oppression, or undue burden and expense.

This bill would delete the provision authorizing a court to provide that a nonparty deponent may appear by telephone. The bill would instead authorize the deponent or the deposing party to elect to have the deposition officer attend the deposition by telephone or other remote electronic means. The bill would specifically provide that a deponent is not required to be physically present with the deposition officer when being sworn in at the time of the deposition, and that any party or attorney of record may, but is not required to, be physically present at the deposition at the location of the deponent, subject to any protective order issued by the court.

(3) Existing law provides procedures for the postponement of a trial.

This bill would provide, notwithstanding any other law and unless otherwise ordered by a court or agreed to by the parties, that a continuance or postponement of a trial date extends any deadlines that have not already passed as of March 19, 2020, applicable to discovery, including the exchange of expert witness information, mandatory settlement conferences, and summary judgment motions in the same matter. The bill would require the deadlines to be extended for the same length of time as the continuance or postponement of the trial

date. These requirements would only be in effect during the COVID-19 state of emergency proclaimed by the Governor on March 4, 2020, and 180 days thereafter.

(4) This bill would incorporate additional changes to Section 1010.6 of the Code of Civil Procedure proposed by AB 2165 to be operative only if this bill and AB 2165 are enacted and this bill is enacted last.

(5) This bill would declare that it is to take effect immediately as an urgency statute.

Vote Required: TWO THIRDS Appropriation: NO Fiscal Committee: NO Local Program: NO Immediate Effect YES Urgency: YES Tax Levy: NO Election: NO Usual Current Expenses: NO Budget Bill: NO Prop 25 Trailer Bill: NO

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

SECTION 1. Section 599 is added to the Code of Civil Procedure, to read:

599. (a) Notwithstanding any other law and unless ordered otherwise by a court or otherwise agreed to by the parties, a continuance or postponement of a trial date extends any deadlines that have not already passed as of March 19, 2020, applicable to discovery, including the exchange of expert witness information, mandatory settlement conferences, and summary judgment motions in the same matter. The deadlines are extended for the same length of time as the continuance or postponement of the trial date.

(b) This section shall remain in effect only during the state of emergency proclaimed by the Governor on March 4, 2020, related to the COVID-19 pandemic and 180 days after the end, pursuant to Section 8629 of the Government Code, of that state of emergency and is repealed on that date.

SEC. 2. Section 1010.6 of the Code of Civil Procedure is amended to read:

1010.6. (a) A document may be served electronically in an action filed with the court as provided in this section, in accordance with rules adopted pursuant to subdivision (f).

(1) For purposes of this section:

(A) "Electronic service" means service of a document, on a party or other person, by either electronic transmission or electronic notification. Electronic service may be performed directly by a party or other person, by an agent of a party or other person, including the party or other person's attorney, or through an electronic filing service provider.

(B) "Electronic transmission" means the transmission of a document by electronic means to the electronic service address at or through which a party or other person has authorized electronic service.

(C) "Electronic notification" means the notification of the party or other person that a document is served by sending an electronic message to the electronic address at or through which the party or other person has authorized electronic service, specifying the exact name of the document served, and providing a hyperlink at which the served document may be viewed and downloaded.

(2) (A) (i) For cases filed on or before December 31, 2018, if a document may be served by mail, express mail, overnight delivery, or facsimile transmission, electronic service of the document is not authorized unless a party or other person has agreed to accept electronic service in that specific action or the court has ordered electronic service on a represented party or other represented person under subdivision (c) or (d).

(ii) For cases filed on or after January 1, 2019, if a document may be served by mail, express mail, overnight delivery, or facsimile transmission, electronic service of the document is authorized if a party or other person has expressly consented to receive electronic service in that specific action, the court has ordered electronic service on a represented party or other represented person under subdivision (c) or (d), or the document is served electronically pursuant to the procedures specified in subdivision (e). Express consent to electronic service may be accomplished either by (I) serving a notice on all the parties and filing the notice with the court, or (II) manifesting affirmative consent through electronic means with the court or the court's electronic filing service provider, and concurrently providing the party's electronic address with that consent for the purpose of receiving electronic service. The act of electronic filing shall not be construed as express consent.

(B) If a document is required to be served by certified or registered mail, electronic service of the document is not authorized.

(3) In any action in which a party or other person has agreed or provided express consent, as applicable, to accept electronic service under paragraph (2), or in which the court has ordered electronic service on a represented party or other represented person under subdivision (c) or (d), the court may electronically serve any document issued by the court that is not required to be personally served in the same manner that parties electronically serve documents. The electronic service of documents by the court shall have the same legal effect as service by mail, except as provided in paragraph (4).

(4) (A) If a document may be served by mail, express mail, overnight delivery, or facsimile transmission, electronic service of that document is deemed complete at the time of the electronic transmission of the document or at the time that the electronic notification of service of the document is sent.

(B) Any period of notice, or any right or duty to do any act or make any response within any period or on a date certain after the service of the document, which time period or date is prescribed by statute or rule of court, shall be extended after service by electronic means by two court days, but the extension shall not apply to extend the time for filing any of the following:

(i) A notice of intention to move for new trial.

(ii) A notice of intention to move to vacate judgment under Section 663a.

(iii) A notice of appeal.

(C) This extension applies in the absence of a specific exception provided by any other statute or rule of court.

(5) Any document that is served electronically between 12:00 a.m. and 11:59:59 p.m. on a court day shall be deemed served on that court day. Any document that is served electronically on a noncourt day shall be deemed served on the next court day.

(6) A party or other person who has provided express consent to accept service electronically may withdraw consent at any time by completing and filing with the court the appropriate Judicial Council form. The Judicial Council shall create the form by January 1, 2019.

(7) Consent, or the withdrawal of consent, to receive electronic service may only be completed by a party or other person entitled to service or that person's attorney.

(8) Confidential or sealed records shall be electronically served through encrypted methods to ensure that the documents are not improperly disclosed.

(b) A trial court may adopt local rules permitting electronic filing of documents, subject to rules adopted pursuant to subdivision (f) and the following conditions:

(1) A document that is filed electronically shall have the same legal effect as an original paper document.

(2) (A) When a document to be filed requires the signature of any person, not under penalty of perjury, the document shall be deemed to have been signed by the person who filed the document electronically.

(B) When a document to be filed requires the signature, under penalty of perjury, of any person, the document shall be deemed to have been signed by that person if filed electronically and if either of the following conditions is satisfied:

(i) The person has signed a printed form of the document before, or on the same day as, the date of filing. The attorney or other person filing the document represents, by the act of filing, that the declarant has complied with this section. The attorney or other person filing the document shall maintain the printed form of the document bearing the original signature until final disposition of the case, as defined in subdivision (c) of Section 68151 of the Government Code, and make it available for review and copying upon the request of the court or any party to the action or proceeding in which it is filed.

(ii) The person has signed the document using a computer or other technology pursuant to the procedure set forth in a rule of court adopted by the Judicial Council by January 1, 2019.

(3) Any document received electronically by the court between 12:00 a.m. and 11:59:59 p.m. on a court day shall be deemed filed on that court day. Any document that is received electronically on a noncourt day shall be deemed filed on the next court day.

(4) The court receiving a document filed electronically shall issue a confirmation that the document has been received and filed. The confirmation shall serve as proof that the document has been filed.

(5) Upon electronic filing of a complaint, petition, or other document that must be served with a summons, a trial court, upon request of the party filing the action, shall issue a summons with the court seal and the case number. The court shall keep the summons in its records and may electronically transmit a copy of the summons to the requesting party. Personal service of a printed form of the electronic summons shall have the same legal effect as personal service of an original summons. If a trial court plans to electronically transmit a summons to the party filing a complaint, the court shall immediately, upon receipt of the complaint, notify the attorney or party that a summons will be electronically transmitted to the electronic address given by the person filing the complaint.

(6) The court shall permit a party or attorney to file an application for waiver of court fees and costs, in lieu of requiring the payment of the filing fee, as part of the process involving the electronic filing of a document. The court shall consider and determine the application in accordance with Article 6 (commencing with Section 68630) of Chapter 2 of Title 8 of the Government Code and shall not require the party or attorney to submit any documentation other than that set forth in Article 6 (commencing with Section 68630) of Chapter 2 of Title 8 of the Government Code. Nothing in this section shall require the court to waive a filing fee that is not otherwise waivable.

(7) A fee, if any, charged by the court, an electronic filing manager, or an electronic filing service provider to process a payment for filing fees and other court fees shall not exceed the costs incurred in processing the payment.

(c) If a trial court adopts rules conforming to subdivision (b), it may provide by order that all parties to an action file and serve documents electronically in a class action, a consolidated action, a group of actions, a coordinated action, or an action that is deemed complex under Judicial Council rules, provided that the trial court's order does not cause undue hardship or significant prejudice to any party in the action.

(d) A trial court may, by local rule, require electronic filing and service in civil actions, subject to the requirements and conditions stated in subdivision (b), the rules adopted by the Judicial Council under subdivision (g), and the following conditions:

(1) The court shall have the ability to maintain the official court record in electronic format for all cases where electronic filing is required.

(2) The court and the parties shall have access to more than one electronic filing service provider capable of electronically filing documents with the court or to electronic filing access directly through the court. The court may charge fees of no more than the actual cost of the electronic filing and service of the documents. Any fees charged by an electronic filing service provider shall be reasonable. The court, an electronic filing manager, or an electronic filing service provider shall waive any fees charged if the court deems a waiver appropriate, including in instances where a party has received a fee waiver.

(3) The court shall have a procedure for the filing of nonelectronic documents in order to prevent the program from causing undue hardship or significant prejudice to any party in an action, including, but not limited to, unrepresented parties. The Judicial Council shall make a form available to allow a party to seek an exemption from mandatory electronic filing and service on the grounds provided in this paragraph.

(4) Unrepresented persons are exempt from mandatory electronic filing and service.

(5) Until January 1, 2021, a local child support agency, as defined in subdivision (h) of Section 17000 of the Family Code, is exempt from a trial court's mandatory electronic filing and service requirements, unless the Department of Child Support Services and the local child support agency determine it has the capacity and functionality to comply with the trial court's mandatory electronic filing and service requirements.

(e) (1) A party represented by counsel, who has appeared in an action or proceeding, shall accept electronic service of a notice or document that may be served by mail, express mail, overnight delivery, or facsimile transmission. Before first serving a represented party electronically, the serving party shall confirm by telephone or email the appropriate electronic service address for counsel being served.

(2) A party represented by counsel shall, upon the request of any party who has appeared in an action or proceeding and who provides an electronic service address, electronically serve the requesting party with any notice or document that may be served by mail, express mail, overnight delivery, or facsimile transmission.

(f) The Judicial Council shall adopt uniform rules for the electronic filing and service of documents in the trial courts of the state, which shall include statewide policies on vendor contracts, privacy, and access to public records, and rules relating to the integrity of electronic service. These rules shall conform to the conditions set forth in this section, as amended from time to time.

(g) The Judicial Council shall adopt uniform rules to permit the mandatory electronic filing and service of documents for specified civil actions in the trial courts of the state, which shall include statewide policies on vendor contracts, privacy, access to public records, unrepresented parties, parties with fee waivers, hardships, reasonable exceptions to electronic filing, and rules relating to the integrity of electronic service. These rules shall conform to the conditions set forth in this section, as amended from time to time.

(h) (1) The Judicial Council shall adopt uniform rules to implement this subdivision as soon as practicable, but no later than June 30, 2019.

(2) Any system for the electronic filing and service of documents, including any information technology applications, internet websites, and web-based applications, used by an electronic service provider or any other vendor or contractor that provides an electronic filing and service system to a trial court, regardless of the case management system used by the trial court, shall satisfy both of the following requirements:

(A) The system shall be accessible to individuals with disabilities, including parties and attorneys with disabilities, in accordance with Section 508 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794d), as amended, the regulations implementing that act set forth in Part 1194 of Title 36 of the Code of Federal Regulations and Appendices A, C, and D of that part, and the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.).

(B) The system shall comply with the Web Content Accessibility Guidelines 2.0 at a Level AA success criteria.

(3) A vendor or contractor that provides an electronic filing and service system to a trial court shall comply with paragraph (2) as soon as practicable, but no later than June 30, 2019. Commencing on June 27, 2017, the vendor or contractor shall provide an

accommodation to an individual with a disability in accordance with subparagraph (D) of paragraph (4).

(4) A trial court that contracts with an entity for the provision of a system for electronic filing and service of documents shall require the entity, in the trial court's contract with the entity, to do all of the following:

(A) Test and verify that the entity's system complies with this subdivision and provide the verification to the Judicial Council no later than June 30, 2019.

(B) Respond to, and resolve, any complaints regarding the accessibility of the system that are brought to the attention of the entity.

(C) Designate a lead individual to whom any complaints concerning accessibility may be addressed and post the individual's name and contact information on the entity's internet website.

(D) Provide to an individual with a disability, upon request, an accommodation to enable the individual to file and serve documents electronically at no additional charge for any time period that the entity is not compliant with paragraph (2) of this subdivision. Exempting an individual with a disability from mandatory electronic filing and service of documents shall not be deemed an accommodation unless the person chooses that as an accommodation. The vendor or contractor shall clearly state in its internet website that an individual with a disability may request an accommodation and the process for submitting a request for an accommodation.

(5) A trial court that provides electronic filing and service of documents directly to the public shall comply with this subdivision to the same extent as a vendor or contractor that provides electronic filing and services to a trial court.

(6) (A) The Judicial Council shall submit four reports to the appropriate committees of the Legislature relating to the trial courts that have implemented a system of electronic filing and service of documents. The first report is due by June 30, 2018; the second report is due by December 31, 2019; the third report is due by December 31, 2021; and the fourth report is due by December 31, 2023.

(B) The Judicial Council's reports shall include all of the following information:

(i) The name of each court that has implemented a system of electronic filing and service of documents.

(ii) A description of the system of electronic filing and service.

(iii) The name of the entity or entities providing the system.

(iv) A statement as to whether the system complies with this subdivision and, if the system is not fully compliant, a description of the actions that have been taken to make the system compliant.

(7) An entity that contracts with a trial court to provide a system for electronic filing and service of documents shall cooperate with the Judicial Council by providing all information, and by permitting all testing, necessary for the Judicial Council to prepare its reports to the Legislature in a complete and timely manner.

SEC. 2.5. Section 1010.6 of the Code of Civil Procedure is amended to read:

1010.6. (a) A document may be served electronically in an action filed with the court as provided in this section, in accordance with rules adopted pursuant to subdivision (f).

(1) For purposes of this section:

(A) "Electronic service" means service of a document, on a party or other person, by either electronic transmission or electronic notification. Electronic service may be performed directly by a party or other person, by an agent of a party or other person, including the party or other person's attorney, or through an electronic filing service provider.

(B) "Electronic transmission" means the transmission of a document by electronic means to the electronic service address at or through which a party or other person has authorized electronic service.

(C) "Electronic notification" means the notification of the party or other person that a document is served by sending an electronic message to the electronic address at or through which the party or other person has authorized electronic service, specifying the exact name of the document served, and providing a hyperlink at which the served document may be viewed and downloaded.

(D) "Electronic filing" means the electronic transmission to a court of a document presented for filing in electronic form. For purposes of this section, this definition of electronic filing concerns the activity of filing and does not include the processing and review of the document and its entry into the court's records, which are necessary for a document to be officially filed.

(2) (A) (i) For cases filed on or before December 31, 2018, if a document may be served by mail, express mail, overnight delivery, or facsimile transmission, electronic service of the document is not authorized unless a party or other person has agreed to accept electronic service in that specific action or the court has ordered electronic service on a represented party or other represented person under subdivision (c) or (d).

(ii) For cases filed on or after January 1, 2019, if a document may be served by mail, express mail, overnight delivery, or facsimile transmission, electronic service of the document is authorized if a party or other person has expressly consented to receive electronic service in that specific action, the court has ordered electronic service on a represented party or other represented person under subdivision (c) or (d), or the document is served electronically pursuant to the procedures specified in subdivision (e). Express consent to electronic service may be accomplished either by (I) serving a notice on all the parties and filing the notice with the court, or (II) manifesting affirmative consent through electronic means with the court or the court's electronic filing service provider, and concurrently providing the party's electronic address with that consent for the purpose of receiving electronic service. The act of electronic filing shall not be construed as express consent.

(B) If a document is required to be served by certified or registered mail, electronic service of the document is not authorized.

(3) In any action in which a party or other person has agreed or provided express consent, as applicable, to accept electronic service under paragraph (2), or in which the court has ordered electronic service on a represented party or other represented person under subdivision (c) or (d), the court may electronically serve any document issued by the court that is not required to be personally served in the same manner that parties electronically serve documents. The electronic service of documents by the court shall have the same legal effect as service by mail, except as provided in paragraph (4).

(4) (A) If a document may be served by mail, express mail, overnight delivery, or facsimile transmission, electronic service of that document is deemed complete at the time of the electronic transmission of the document or at the time that the electronic notification of service of the document is sent.

(B) Any period of notice, or any right or duty to do any act or make any response within any period or on a date certain after the service of the document, which time period or date is prescribed by statute or rule of court, shall be extended after service by electronic means by two court days, but the extension shall not apply to extend the time for filing any of the following:

(i) A notice of intention to move for new trial.

(ii) A notice of intention to move to vacate judgment under Section 663a.

(iii) A notice of appeal.

(C) This extension applies in the absence of a specific exception provided by any other statute or rule of court.

(5) Any document that is served electronically between 12:00 a.m. and 11:59:59 p.m. on a court day shall be deemed served on that court day. Any document that is served electronically on a noncourt day shall be deemed served on the next court day.

(6) A party or other person who has provided express consent to accept service electronically may withdraw consent at any time by completing and filing with the court the appropriate Judicial Council form. The Judicial Council shall create the form by January 1, 2019.

(7) Consent, or the withdrawal of consent, to receive electronic service may only be completed by a party or other person entitled to service or that person's attorney.

(8) Confidential or sealed records shall be electronically served through encrypted methods to ensure that the documents are not improperly disclosed.

(b) A trial court may adopt local rules permitting electronic filing of documents, subject to rules adopted by the Judicial Council pursuant to subdivision (f) and the following conditions:

(1) A document that is filed electronically shall have the same legal effect as an original paper document.

(2) (A) When a document to be filed requires the signature of any person, not under penalty of perjury, the document shall be deemed to have been signed by that person if filed electronically and if either of the following conditions is satisfied:

(i) The filer is the signer.

(ii) The person has signed the document pursuant to the procedure set forth in the California Rules of Court.

(B) When a document to be filed requires the signature, under penalty of perjury, of any person, the document shall be deemed to have been signed by that person if filed electronically and if either of the following conditions is satisfied:

(i) The person has signed a printed form of the document before, or on the same day as, the date of filing. The attorney or other person filing the document represents, by the act of filing, that the declarant has complied with this section. The attorney or other person filing the document shall maintain the printed form of the document bearing the original signature until final disposition of the case, as defined in subdivision (c) of Section 68151 of the Government Code, and make it available for review and copying upon the request of the court or any party to the action or proceeding in which it is filed.

(ii) The person has signed the document using a computer or other technology pursuant to the procedure set forth in a rule of court

adopted by the Judicial Council by January 1, 2019.

(3) Any document received electronically by the court between 12:00 a.m. and 11:59:59 p.m. on a court day shall be deemed filed on that court day. Any document that is received electronically on a noncourt day shall be deemed filed on the next court day.

(4) (A) Whichever of a court, an electronic filing service provider, or an electronic filing manager is the first to receive a document submitted for electronic filing shall promptly send a confirmation of receipt of the document indicating the date and time of receipt to the party or person who submitted the document.

(B) If a document received by the court under subparagraph (A) complies with filing requirements and all required filing fees have been paid, the court shall promptly send confirmation that the document has been filed to the party or person who submitted the document.

(C) If the clerk of the court does not file a document received by the court under subparagraph (A) because the document does not comply with applicable filing requirements or the required filing fee has not been paid, the court shall promptly send notice of the rejection of the document for filing to the party or person who submitted the document. The notice of rejection shall state the reasons that the document was rejected for filing and include the date the clerk of the court sent the notice.

(D) If the court utilizes an electronic filing service provider or electronic filing manager to send the notice of rejection described in subparagraph (C), the electronic filing service provider or electronic filing manager shall promptly send the notice of rejection to the party or person who submitted the document. A notice of rejection sent pursuant to this subparagraph shall include the date the electronic filing service provider or electronic filing manager sent the notice.

(E) If the clerk of the court does not file a complaint or cross complaint because the complaint or cross complaint does not comply with applicable filing requirements or the required filing fee has not been paid, any statute of limitations applicable to the causes of action alleged in the complaint or cross complaint shall be tolled for the period beginning on the date on which the court received the document and as shown on the confirmation of receipt described in subparagraph (A), through the later of either the date on which the clerk of the court sent the notice of rejection described in subparagraph (C) or the date on which the electronic filing service provider or electronic filing manager sent the notice of rejection as described in subparagraph (D), plus one additional day if the complaint or cross complaint is subsequently submitted in a form that corrects the errors which caused the document to be rejected. The party filing the complaint or cross complaint shall not make any change to the complaint or cross complaint other than those required to correct the errors which caused the document to be rejected.

(5) Upon electronic filing of a complaint, petition, or other document that must be served with a summons, a trial court, upon request of the party filing the action, shall issue a summons with the court seal and the case number. The court shall keep the summons in its records and may electronically transmit a copy of the summons to the requesting party. Personal service of a printed form of the electronic summons shall have the same legal effect as personal service of an original summons. If a trial court plans to electronically transmit a summons to the party filing a complaint, the court shall immediately, upon receipt of the complaint, notify the attorney or party that a summons will be electronically transmitted to the electronic address given by the person filing the complaint.

(6) The court shall permit a party or attorney to file an application for waiver of court fees and costs, in lieu of requiring the payment of the filing fee, as part of the process involving the electronic filing of a document. The court shall consider and determine the application in accordance with Article 6 (commencing with Section 68630) of Chapter 2 of Title 8 of the Government Code and shall not require the party or attorney to submit any documentation other than that set forth in Article 6 (commencing with Section 68630) of Chapter 2 of Title 8 of the Government Code. The court, an electronic filing service provider, or an electronic filing manager shall waive any fees charged to a party if the party has been granted a waiver of court fees pursuant to Section 68631. The electronic filing manager or electronic filing service provider shall not seek payment from the court of any fee waived by the court. This section does not require the court to waive a filing fee that is not otherwise waivable.

(7) If a party electronically files a filing that is exempt from the payment of filing fees under any other law, including a filing described in Section 212 of the Welfare and Institutions Code or Section 6103.9, subdivision (b) of Section 70617, or Section 70672 of the Government Code, the party shall not be required to pay any court fees associated with the electronic filing. An electronic filing service provider or an electronic filing manager shall not seek payment of these fees from the court.

(8) A fee, if any, charged by the court, an electronic filing service provider, or an electronic filing manager to process a payment for filing fees and other court fees shall not exceed the costs incurred in processing the payment.

(9) The court shall not charge fees for electronic filing and service of documents that are more than the court's actual cost of electronic filing and service of the documents.

(c) If a trial court adopts rules conforming to subdivision (b), it may provide by order, subject to the requirements and conditions stated in paragraphs (2) through (4), inclusive, of subdivision (d), and the rules adopted by the Judicial Council under subdivision (g), that all parties to an action file and serve documents electronically in a class action, a consolidated action, a group of actions, a coordinated action, or an action that is deemed complex under Judicial Council rules, provided that the trial court's order does not cause undue hardship or significant prejudice to any party in the action.

(d) A trial court may, by local rule, require electronic filing and service in civil actions, subject to the requirements and conditions stated in subdivision (b), the rules adopted by the Judicial Council under subdivision (g), and the following conditions:

(1) The court shall have the ability to maintain the official court record in electronic format for all cases where electronic filing is required.

(2) The court and the parties shall have access to more than one electronic filing service provider capable of electronically filing documents with the court or to electronic filing access directly through the court. Any fees charged by an electronic filing service provider shall be reasonable. An electronic filing manager or an electronic filing service provider shall waive any fees charged if the court deems a waiver appropriate, including in instances where a party has received a fee waiver.

(3) The court shall have a procedure for the filing of nonelectronic documents in order to prevent the program from causing undue hardship or significant prejudice to any party in an action, including, but not limited to, unrepresented parties. The Judicial Council shall make a form available to allow a party to seek an exemption from mandatory electronic filing and service on the grounds provided in this paragraph.

(4) Unrepresented persons are exempt from mandatory electronic filing and service.

(5) Until January 1, 2021, a local child support agency, as defined in subdivision (h) of Section 17000 of the Family Code, is exempt from a trial court's mandatory electronic filing and service requirements, unless the Department of Child Support Services and the local child support agency determine it has the capacity and functionality to comply with the trial court's mandatory electronic filing and service requirements.

(e) (1) A party represented by counsel, who has appeared in an action or proceeding, shall accept electronic service of a notice or document that may be served by mail, express mail, overnight delivery, or facsimile transmission. Before first serving a represented party electronically, the serving party shall confirm by telephone or email the appropriate electronic service address for counsel being served.

(2) A party represented by counsel shall, upon the request of any party who has appeared in an action or proceeding and who provides an electronic service address, electronically serve the requesting party with any notice or document that may be served by mail, express mail, overnight delivery, or facsimile transmission.

(f) The Judicial Council shall adopt uniform rules for the electronic filing and service of documents in the trial courts of the state, which shall include statewide policies on vendor contracts, privacy, and access to public records, and rules relating to the integrity of electronic service. These rules shall conform to the conditions set forth in this section, as amended from time to time.

(g) The Judicial Council shall adopt uniform rules to permit the mandatory electronic filing and service of documents for specified civil actions in the trial courts of the state, which shall include statewide policies on vendor contracts, privacy, access to public records, unrepresented parties, parties with fee waivers, hardships, reasonable exceptions to electronic filing, and rules relating to the integrity of electronic service. These rules shall conform to the conditions set forth in this section, as amended from time to time.

(h) (1) Any system for the electronic filing and service of documents, including any information technology applications, internet websites and web-based applications, used by an electronic service provider or any other vendor or contractor that provides an electronic filing and service system to a trial court, regardless of the case management system used by the trial court, shall satisfy both of the following requirements:

(A) The system shall be accessible to individuals with disabilities, including parties and attorneys with disabilities, in accordance with Section 508 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794d), as amended, the regulations implementing that act set forth in Part 1194 of Title 36 of the Code of Federal Regulations and Appendices A, C, and D of that part, and the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.).

(B) The system shall comply with the Web Content Accessibility Guidelines 2.0 at a Level AA success criteria.

(2) Commencing on June 27, 2017, the vendor or contractor shall provide an accommodation to an individual with a disability in accordance with subparagraph (D) of paragraph (3).

(3) A trial court that contracts with an entity for the provision of a system for electronic filing and service of documents shall require the entity, in the trial court's contract with the entity, to do all of the following:

(A) Test and verify that the entity's system complies with this subdivision and provide the verification to the Judicial Council no later than June 30, 2019.

(B) Respond to, and resolve, any complaints regarding the accessibility of the system that are brought to the attention of the entity.

(C) Designate a lead individual to whom any complaints concerning accessibility may be addressed and post the individual's name and contact information on the entity's internet website.

(D) Provide to an individual with a disability, upon request, an accommodation to enable the individual to file and serve documents

electronically at no additional charge for any time period that the entity is not compliant with paragraph (1). Exempting an individual with a disability from mandatory electronic filing and service of documents shall not be deemed an accommodation unless the person chooses that as an accommodation. The vendor or contractor shall clearly state in its internet website that an individual with a disability may request an accommodation and the process for submitting a request for an accommodation.

(4) A trial court that provides electronic filing and service of documents directly to the public shall comply with this subdivision to the same extent as a vendor or contractor that provides electronic filing and services to a trial court.

(5) (A) The Judicial Council shall submit four reports to the appropriate committees of the Legislature relating to the trial courts that have implemented a system of electronic filing and service of documents. The first report is due by June 30, 2018; the second report is due by December 31, 2019; the third report is due by December 31, 2021; and the fourth report is due by December 31, 2023.

(B) The Judicial Council's reports shall include all of the following information:

(i) The name of each court that has implemented a system of electronic filing and service of documents.

(ii) A description of the system of electronic filing and service.

(iii) The name of the entity or entities providing the system.

(iv) A statement as to whether the system complies with this subdivision and, if the system is not fully compliant, a description of the actions that have been taken to make the system compliant.

(6) An entity that contracts with a trial court to provide a system for electronic filing and service of documents shall cooperate with the Judicial Council by providing all information, and by permitting all testing, necessary for the Judicial Council to prepare its reports to the Legislature in a complete and timely manner.

SEC. 3. Section 2025.310 of the Code of Civil Procedure is amended to read:

2025.310. (a) At the election of the deponent or the deposing party, the deposition officer may attend the deposition at a different location than the deponent via remote means. A deponent is not required to be physically present with the deposition officer when being sworn in at the time of the deposition.

(b) Subject to Section 2025.420, any party or attorney of record may, but is not required to, be physically present at the deposition at the location of the deponent.

(c) The procedures to implement this section shall be established by court order in the specific action or proceeding or by the California Rules of Court.

(d) An exercise of the authority granted by subdivision (a) or (b) does not waive any other provision of this title, including, but not limited to, provisions regarding the time, place, or manner in which a deposition shall be conducted.

(e) This section does not alter or amend who may lawfully serve as a deposition officer pursuant to this title or who otherwise may administer oaths pursuant to Sections 2093 and 2094 of this code or Section 8201 of the Government Code.

SEC. 4. Section 2.5 of this bill incorporates amendments to Section 1010.6 of the Code of Civil Procedure proposed by both this bill and Assembly Bill 2165. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2021, but this bill becomes operative first, (2) each bill amends Section 1010.6 of the Code of Civil Procedure, and (3) this bill is enacted after Assembly Bill 2165, in which case Section 1010.6 of the Code of Civil Procedure, as amended by Section 2 of this bill, shall remain operative only until the operative date of Assembly Bill 2165, at which time Section 2.5 of this bill shall become operative.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure the effective operation of the courts during the COVID-19 pandemic, it is necessary that this act take effect immediately.

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