

GOVERNMENT CODE - GOV

TITLE 8. THE ORGANIZATION AND GOVERNMENT OF COURTS [68070 - 77655]

(Title 8 added by Stats. 1953, Ch. 206.)

CHAPTER 1.4. Management of Trial Court Records [68150 - 68153]

(Chapter 1.4 added by Stats. 1994, Ch. 1030, Sec. 1.)

68152.

(c) Criminal actions and proceedings, as follows:

(1) Capital felony in which the defendant is sentenced to death, and any felony resulting in a sentence of life or life without the possibility of parole: retain permanently, including records of the cases of any codefendants and any related cases, regardless of the disposition. For the purpose of this paragraph, "capital felony" means murder with special circumstances when the prosecution seeks the death penalty. Records of the cases of codefendants and related cases required to be retained under this paragraph shall be limited to those cases that are factually linked or related to the charged offense, that are identified in the courtroom, and that are placed on the record. If a capital felony is disposed of by a sentence less than death, or imprisonment for life or life without the possibility of parole, the judgment shall be retained permanently, and the record shall be retained for 50 years or for 10 years after the official written notification of the death of the defendant. If a capital felony is disposed of by an acquittal, the record shall be retained for 10 years.

(2) Felony, except as otherwise specified, and in any felony or misdemeanor case resulting in a requirement that the defendant register as a sex offender under Section 290 of the Penal Code: retain judgment permanently. For all other documents: retain for 50 years or the maximum term of the sentence, whichever is longer. However, any record other than the judgment may be destroyed 10 years after the death of the defendant. Felony case files that do not include final sentencing or other final disposition because the case was bound over from a former municipal court to the superior court and not already consolidated with the superior court felony case file: retain for 10 years from the disposition of the superior court case.

(3) Felony reduced to a misdemeanor: retain in accordance with the retention period for the relevant misdemeanor.

(4) Felony, if the charge is dismissed, except as provided in paragraph (6): retain for three years.

(5) Misdemeanor, if the charge is dismissed, except as provided in paragraph (6): retain for one year.

(6) Dismissal under Section 1203.4 or 1203.4a of the Penal Code: retain for the same retention period as for records of the underlying case. If the records in the underlying case have been destroyed, retain for five years after dismissal.

(7) Misdemeanor, except as otherwise specified: retain for five years. For misdemeanors alleging a violation of Section 23109, 23109.5, 23152, or 23153 of the Vehicle Code: retain for 10 years.

(8) Misdemeanor alleging a marijuana violation under subdivision (c), (d), or (e) of Section 11357 of the Health and Safety Code, or subdivision (b) of Section 11360 of the Health and Safety Code: records shall be destroyed, or redacted in accordance with subdivision (c) of Section 11361.5 of the Health and Safety Code, two years from the date of conviction, or from the date of arrest if no conviction, if the case is no longer subject to review on appeal, all applicable fines and fees have been paid, and the defendant has complied with all terms and conditions of the sentence or grant of probation. However, as provided in subdivision (a) of Section 11361.5 of the Health and Safety Code and paragraph (5) of subdivision (e) of this section, records of a misdemeanor alleging a marijuana violation under subdivision (e) of Section 11357 of the Health and Safety Code shall be retained until the offender attains 18 years of age, at which time the records shall be destroyed as provided in subdivision (c) of Section 11361.5 of the Health and Safety Code.

(9) Misdemeanor reduced to an infraction: retain in accordance with the retention period for the relevant infraction.

(10) Infraction, except as otherwise specified: retain for one year. Vehicle Code infraction: retain for three years. Infraction alleging a marijuana violation under subdivision (b) of Section 11357 of the Health and Safety Code: if records are retained past the one-year minimum retention period, the records shall be destroyed or redacted in accordance with subdivision (c) of Section 11361.5 of the Health and Safety Code two years from the date of conviction, or from the date of arrest if no conviction, if the case is no longer subject to review on appeal, all applicable fines and fees have been paid, and the defendant has complied with all terms and conditions of the sentence or grant of probation.

(11) Criminal protective order: retain until the order expires or is terminated.

(12) Arrest warrant: retain for the same retention period as for records in the underlying case. If there is no underlying case, retain for one year from the date of issue.

(13) Search warrant:

(A) If there is no underlying case, retain for five years from the date of issue.

(B) If there is any underlying case, retain for 10 years from the date of issue or, if the retention period for records in the underlying case is less than 10 years or if the underlying case is a capital felony described in paragraph (1) of subdivision (c), retain for the same retention period as for records in the underlying case.

(14) Probable cause declarations: retain for the same retention period as for records in the underlying case. If there is no underlying case, retain for one year from the date of declaration.

(15) Proceedings for revocation of postrelease community supervision or postrelease parole supervision: retain for five years after the period of supervision expires or is terminated.

(4) Traffic and some nontraffic misdemeanors and infractions pursuant to Section 601 of the Welfare and Institutions Code: upon reaching 21 years of age, or five years after jurisdiction over the person has terminated under subdivision (c) of Section 826 of the Welfare and Institutions Code. Records may be microfilmed or photocopied.

(5) Marijuana misdemeanor under subdivision (e) of Section 11357 of the Health and Safety Code in accordance with procedures specified in subdivision (a) of Section 11361.5 of the Health and Safety Code: upon reaching 18 years of age, the records shall be destroyed.

(f) Court records of the appellate division of the superior court: retain for five years.

(g) Other records:

(1) Bench warrant: retain for the same retention period as for records in the underlying case. For a bench warrant issued for a misdemeanor, retain records for the same retention period as for records in the underlying misdemeanor following issuance. If there is no return on the warrant, the court may dismiss on its own motion and immediately destroy the records.

(B) Civil and all other proceedings: retain notes for five years.

(A) Any time after final disposition of the case in infraction and misdemeanor proceedings.

(B) After 10 years in all other criminal proceedings.

(C) After five years in all other proceedings.

(8) Judgments within the jurisdiction of the superior court other than in a limited civil case, misdemeanor case, or infraction case: retain permanently.

(9) Judgments in misdemeanor cases, infraction cases, and limited civil cases: retain for the same retention period as for records in the underlying case.

(Repealed and added by Stats. 2013, Ch. 274, Sec. 4. Effective January 1, 2014.)