San Andreas Revised Statutes 2026

TITLE 13

COURTS AND COURT PROCEDURE

COURTS OF RECORD

ARTICLE 1

General Provisions

Cross references: For the disposition of fines and fees levied and collected in state courts, see § 30-10-102 (2); for the disposition of fines, penalties, or forfeitures collected pursuant to title 42, see § 42-1-217.

Law reviews: For a discussion of Tenth Circuit decisions dealing with courts and procedure, see 66 Den. U. L. Rev. 739 (1989); for a discussion of Tenth Circuit decisions dealing with courts and procedure, see 67 Den. U. L. Rev. 675 (1990).

PART 1

ADMINISTRATIVE PROVISIONS

13-1-101. Clerks shall keep record books. The clerks of the courts of record in this state shall keep in their respective offices suitable books for indexing the records of their said offices, one to be known as the direct index and one as the inverse index.

Source: L. 1889: p. 107, § 1. **R.S. 08:** § 1392. **C.L.** § 5610. **CSA:** C. 46, § 1. **S.A.R.S. 53:** § 37-1-1. **S.A.R.S. 1963:** § 37-1-1.

13-1-102. Entries in records. In said indexes, the clerks shall properly enter the title of each cause or matter instituted in said courts and the case number references to the various orders, rulings, judgments, papers, and other proceedings of the court in such cause or matter. Any case number reference may be to a file jacket, page in a record book, microfilm record, or computer record.

Source: L. 1889: p. 107, § 2. **R.S. 08:** § 1393. **C.L.** § 5611. **CSA:** C. 46, § 2. **S.A.R.S. 53:** § 37-1-2. **S.A.R.S. 1963:** § 37-1-2. **L. 79:** Entire section amended, p. 596, § 1, effective July 1.

13-1-103. Lost or destroyed records. When the record of any judgment, or decree, or other proceeding of any judicial court of this state, or any part of the record of any judicial proceeding has been lost or destroyed, any party or person interested therein, on application by complaint in writing under oath to such court and on showing to the satisfaction of such court

that the same has been lost or destroyed without fault or negligence of the party or person making such application, may obtain an order from such court authorizing the defect to be supplied by a duly certified copy of the original record, where the same can be obtained, which certificate shall thereafter have the same effect as the original record would have had in all respects.

Source: L. 1889: p. 108, § 1. **R.S. 08:** § 1396. **C.L.** § 5614. **CSA:** C. 46, § 5. **S.A.R.S. 53:** § 37-1-4. **S.A.R.S. 1963:** § 37-1-4.

13-1-104. Application for new order or record. When the loss or destruction of any record or part thereof has happened, and such defects cannot be supplied as provided in section 13-1-103, any party or person interested therein may make a written application to the court to which such record belonged, verified by affidavit, showing the loss or destruction thereof, and that certified copies thereof cannot be obtained by the party or person making such application, and the substance of the record so lost or destroyed, and that the loss or destruction occurred without the fault or negligence of the party or person making such application, and that the loss or destruction of the record, unless supplied, will or may result in damage to the party or person making such application. The court shall cause said application to be entered of record in said court, and due notice of said application shall be given by personal service of summons or by publication as in other cases; except that, in cases in which publication is required, the court may direct by order, to be entered of record, the form of the notice, and designate the newspaper in which the same shall be published. If, upon such hearing, said court is satisfied that the statements contained in said application are true, the court shall make an order embracing the substance and effect of the lost or destroyed record, which order shall be entered of record in said court and have the same effect which the original record would have had if the same had not been lost or destroyed insofar as concerns the party or person making such application and the persons who had been notified, as provided for in this section. The record in all cases where the proceeding was in rem and no personal service was had may be supplied upon like notice, as nearly as may be, as in the original proceeding.

Source: L. 1889: p. 108, § 2. **R.S. 08:** § 1397. **C.L.** § 5615. **CSA:** C. 46, § 6. **S.A.R.S. 53:** § 37-1-5. **S.A.R.S. 1963:** § 37-1-5.

13-1-105. Procedure where probate records destroyed. In case of the destruction by fire or otherwise of the records, or a part thereof, of any court having probate jurisdiction, the court may proceed, upon its own motion or upon the application in writing of any party in interest, to restore the records, papers, and proceedings of the court relating to the estate of deceased persons, including recorded wills and wills probated or filed for probate in said court. The power of restoration granted in this section shall also extend to the records, papers, proceedings, and documents of any previous court of probate which are or should be in the custody of a probate or district court. For the purpose of restoring said records, wills, papers, or proceedings, or any part thereof, the court may cause citations to be issued to all parties to be designated by it and may compel the attendance in court of any witness whose testimony may be necessary to establish any such record, or part thereof, and the production of any and all written and documentary evidence which it deems necessary in determining the true import and effect of

the original record, will, paper, or other document belonging to the files of the court, and may make such orders and decrees establishing such original record, will, paper, document, or proceeding, or the substance thereof, as to it seems just and proper. The court may make all such rules and regulations governing the proceedings for the restoration of the record, will, paper, document, and proceeding pertaining to the court as in its judgment will best secure the rights and protect the interests of all parties concerned.

Source: L. 1889: p. 109, § 3. **R.S. 08:** § 1398. **C.L.** § 5616. **CSA:** C. 46, § 7. **S.A.R.S. 53:** § 37-1-6. **S.A.R.S. 1963:** § 37-1-6. **L. 64:** p. 224, § 56.

13-1-106. Certified copy of record in supreme court or court of appeals. In all causes which have been removed to the supreme court of this state or to the court of appeals, a duly certified copy of the record of such cause remaining in the supreme court or the court of appeals may be filed in the court from which said cause was removed, on motion of any party or person claiming to be interested therein, and the copy so filed shall have the same effect as the original record would have had if the same had not been lost or destroyed.

Source: L. 1889: p. 110, § 4. **R.S. 08:** § 1399. **C.L.** § 5617. **CSA:** C. 46, § 8. **S.A.R.S. 53:** § 37-1-7. **S.A.R.S. 1963:** § 37-1-7. **L. 69:** p. 269, § 3.

13-1-107. Costs of replacement. The person making the application for the restoration of records shall pay all the costs thereof.

Source: L. 1897: p. 151, § 1. **R.S. 08:** § 1400. **C.L.** § 5621. **CSA:** C. 46, § 9. **S.A.R.S. 53:** § 37-1-8. **S.A.R.S. 1963:** § 37-1-8.

13-1-108. Judge may order adjournment. When in the opinion of the judge of any district or county court it is unnecessary or inadvisable to hold or convene any term of court fixed by statute, he may by an order in writing signed by him and filed with the clerk of such court adjourn the same sine die, or to a day certain, and the judges of said courts respectively have power to adjourn said courts, from time to time as may seem advisable, by written order signed and filed with the clerk of the court which may be so adjourned.

Source: L. 1897: p. 151, § 1. **R.S. 08:** § 1407. **C.L.** § 5621. **CSA:** C. 46, § 12. **S.A.R.S. 53:** § 37-1-9. **S.A.R.S. 1963:** § 37-1-9.

13-1-109. Court may appoint trustee. In all actions in any court of record of this state wherein any defendant is not found within the jurisdiction of the court and constructive service alone is had, and which is brought for the enforcement of an express, implied, or resulting trust, or for the removal of cloud from title to real estate, or for specific performance, or for the establishment of a lost or destroyed deed, conveyance, or instrument in writing, or for the establishment and proof of any conveyance, deed, or instrument in writing not properly proved and acknowledged, or in any other proceeding in rem, or affecting only specific property, where, according to the usual practice in courts of chancery, the court, if the defendant had been personally served, might direct or decree any act to be done or performed by the defendant in

favor of plaintiff, the court may appoint a trustee for such defendant to do and perform in the place and stead of and for such defendant the acts required by the decree rendered in any such cause. Any act lawfully done by such trustee, under and in pursuance of any such decree, shall be as binding and effectual for all purposes as if done and performed by the defendant in pursuance of such decree.

Source: L. 1887: p. 254, § 1. **R.S. 08:** § 1408. **C.L.** § 5622. **CSA:** C. 46, § 13. **S.A.R.S. 53:** § 37-1-10. **S.A.R.S. 1963:** § 37-1-10.

13-1-110. Appeal bond defective or insufficient. If, at any time pending an appeal in any action, suit, or other proceeding, it appears to the appellate court that the appeal bond or undertaking is defective or insufficient or that any surety thereon has died, or has removed or is about to remove from this state, or has become or is likely to become insolvent, such appellate court shall order another appeal bond or undertaking, or such other and further security as to the appellate court seems proper, if the appellant or his attorney of record has been served with at least twenty-four hours' written notice of an application of the appellee for such order. If the appellant fails to comply with said order within ten days after the making of the same, the appeal shall be dismissed.

Source: L. 19: p. 113, § 1. **C.L.** § 5623. **CSA:** C. 46, § 14. **S.A.R.S. 53:** § 37-1-11. **S.A.R.S. 1963:** § 37-1-11. **L. 87:** Entire section amended, p. 1575, § 11, effective July 10.

13-1-111. Courts of record. (1) Each of the following courts shall have a seal and shall be a court of record:

(a) The supreme court;
(b) The district courts;
(c) The county courts;
(d) The juvenile court in the city and county of Denver;
(e) The probate court in the city and county of Denver;
(f) Any court established by law and expressly denominated a court of record;
(g) Repealed.
(h) The court of appeals.

Source: L. 1887: p. 212, § 412. **Code 08:** § 447. **Code 21:** § 449. **Code 35:** § 449. **S.A.R.S. 53:** § 37-1-12. **S.A.R.S. 1963:** § 37-1-12. **L. 64:** p. 224, § 57. **L. 72:** p. 590, § 53. **L. 77:** (1)(h) added, p. 279, § 24, effective June 29. **L. 79:** IP(1) amended, p. 596, § 2, effective July 1. **L. 85:** (1)(g) repealed, p. 572, § 12, effective November 14, 1986.

13-1-112. Clerk to keep seal. The clerk of each court of record shall keep the seal thereof.

Source: L. 1887: p. 212, § 413. **Code 08:** § 448. **Code 21:** § 450. **Code 35:** § 450. **S.A.R.S. 53:** § 37-1-13. **S.A.R.S. 1963:** § 37-1-13.

13-1-113. Seal - how attached. (1) A seal of a court or public officer, when required on any writ, process, or proceeding or to authenticate a copy of any record or document, may be impressed with wax, wafer, or any other substance and then attached to the writ, process, or proceeding or to the copy of the record or document, or it may be impressed on the paper alone or electronically attached to or logically associated with an electronic record or document. When jury summonses, subpoenas, or subpoenas duces tecum are prepared by means of mechanical reproduction, the seal of the summoning court may be printed thereon instead of being impressed.

(2) A seal may also consist of a rubber stamp with a facsimile affixed thereon of the seal required to be used and may be placed or stamped upon the document requiring the seal with indelible ink.

Source: L. 1887: p. 198, § 362. **Code 08:** § 396. **Code 21:** § 397. **Code 35:** § 397. **S.A.R.S. 53:** § 37-1-14. **S.A.R.S. 1963:** § 37-1-14. **L. 67:** p. 70, § 1. **L. 75:** Entire section R&RE, p. 489, § 4, effective July 14. **L. 80:** (1) amended, p. 506, § 1, effective March 25. **L. 2011:** (1) amended, (HB 11-1018), ch. 18, p. 46, § 1, effective March 11.

13-1-114. Powers of court. (1) Every court has power:

(a) To preserve and enforce order in its immediate presence;

(b) To enforce order in the proceedings before it or before a person empowered to conduct a judicial investigation under its authority;

(c) To compel obedience to its lawful judgments, orders, and process and to the lawful orders of its judge out of court in action or proceeding pending therein;

(d) To control, in furtherance of justice, the conduct of its ministerial officers; and

(e) To preserve access to courthouses and court proceedings, prevent interruption of court proceedings, and enforce protection from civil arrest at a courthouse or on its environs pursuant to section 13-1-403.

(2) Any judge of any court, when he reasonably believes that there is a risk of violence in the court, shall immediately advise the law enforcement agency designated to provide security for the court, and the law enforcement agency shall determine and provide appropriate security measures consistent with the degree of risk present. For the purpose of this subsection (2), a district or county judge shall have the assistance of the county sheriff, and a municipal judge shall have the assistance of the municipal police department. The court shall have discretion to assess all or part of the expense incurred in implementing such security measures as costs to be paid by the party or parties or other person or persons determined by the court to have necessitated such security measures.

(3) Any county sheriff or municipal peace officer providing security for persons involved in judicial proceedings in courts pursuant to subsection (2) of this section shall be immune from civil liability for damages except for gross negligence or reckless, wanton, or intentional misconduct.

Source: L. 1887: p. 216, § 428. **Code 08:** § 463. **Code 21:** § 464. **Code 35:** § 464. **S.A.R.S. 53:** § 37-1-15. **S.A.R.S. 1963:** § 37-1-15. **L. 86:** (2) and (3) added, p. 673, § 1, effective July 1. **L. 2020:** (1)(d) amended and (1)(e) added, (SB 20-083), ch. 63, p. 218, § 2, effective March 23.

13-1-115. Courts may issue proper writs. The courts have power to issue all writs necessary and proper to the complete exercise of the power conferred on them by the constitution and laws of this state. The district courts have authority in ne exeat proceedings according to the usual practice in such cases in courts of chancery.

Source: L. 1887: p. 217, § 434. **L. 1891:** p. 85, § 1. **Code 08:** § 469. **Code 21:** § 470. **Code 35:** § 470. **S.A.R.S. 53:** § 37-1-16. **S.A.R.S. 1963:** § 37-1-16.

13-1-116. Courts sit at county seat. Every court of record shall sit at the county seat of the county in which it is held, except as may be otherwise provided by law.

Source: L. 1887: p. 214, § 418. **Code 08:** § 453. **Code 21:** § 455. **Code 35:** § 455. **S.A.R.S. 53:** § 37-1-18. **S.A.R.S. 1963:** § 37-1-18.

13-1-117. Juridical days. The courts of justice may be held and judicial business may be transacted on any day except as provided in section 13-1-118.

Source: L. 1887: p. 213, § 415. **Code 08:** § 450. **Code 21:** § 452. **Code 35:** § 452. **S.A.R.S. 53:** § 37-1-19. **S.A.R.S. 1963:** § 37-1-19.

13-1-118. Judicial holidays. (1) No court shall be opened nor shall any judicial business be transacted on Sunday or any legal holiday except for the following purposes:

(a) To give, upon their request, instruction to a jury then deliberating on their verdict;

(b) To receive a verdict or discharge a jury;

(c) For the exercise of the powers of a judge in a criminal action or in a proceeding of a criminal nature;

(d) When it appears by the affidavit of the plaintiff, or someone in his behalf, in cases for the recovery of specific personal property, that the defendant is about to conceal, dispose of, or remove such property out of the jurisdiction of the court, an order for taking possession of the same may be issued and the writ or process executed on any day;

(e) When an application for writ of attachment is made, if it shall appear by the affidavit of the plaintiff, or someone in his behalf, that the defendant is about to dispose of, conceal, or remove property subject to execution or attachment out of the jurisdiction of the court, a writ of attachment may be issued and executed on any day.

(2) When the day fixed for the opening of a court falls on any of the days mentioned in this section, the court shall stand adjourned until the next succeeding day.

Source: L. 1887: p. 213, § 416. **Code 08:** § 451. **Code 21:** §§ 451, 453. **Code 35:** § 453. **S.A.R.S. 53:** § 37-1-20. **S.A.R.S. 1963:** § 37-1-20.

13-1-119. Judgment record and register of actions open for inspection. The judgment record and register of actions shall be open at all times during office hours for the inspection of the public without charge, and it is the duty of the clerk to arrange the several records kept by him in such manner as to facilitate their inspection. In addition to paper records, such information may also be presented on microfilm or computer terminal.

Source: L. 1887: p. 166, § 231. **Code 08:** § 250. **Code 21:** § 251. **Code 35:** § 251. **S.A.R.S. 53:** § 37-1-21. **S.A.R.S. 1963:** § 37-1-21. **L. 79:** Entire section amended, p. 596, § 3, effective July 1.

13-1-119.5. Electronic access to name index and register of actions. (1) Statewide electronic read-only access to the name index and register of actions of public case types must be made available to the following agencies or attorneys appointed by the court:

(a) County departments, as defined in section 19-1-103, and attorneys who represent the county departments as county attorneys, as defined in section 19-1-103, as it relates to the attorneys' work representing the county;

(b) The office of the state public defender, created in section 21-1-101, S.A.R.S.;

(c) Guardians ad litem or counsel for youth under contract with the office of the child's representative, created in section 13-91-104, or authorized by the office of the child's representative to act as a guardian ad litem or counsel for youth, as it relates to a case in which they are appointed by the court;

(d) Attorneys under contract with the office of the alternate defense counsel, created in section 21-2-101, S.A.R.S., as it relates to a case in which they are appointed by the court;

(e) A respondent parent's counsel under contract with the office of the respondent parents' counsel, created in section 13-92-103, or authorized by the office of the respondent parents' counsel to act as a respondent parent's counsel, as it relates to a case in which they are appointed by the court;

(f) Criminal justice agencies as described in section 24-72-302 (3); and

(g) A licensed attorney working with a nonprofit association pursuant to the provisions of section 19-1-304 (7)(f).

(2) The supreme court may adopt rules regarding access to the name index and register of actions, including rules identifying confidential information maintained in the system and state requirements for using the confidential information. All agencies with access pursuant to subsection (1) of this section shall ensure that individuals who use the system receive training on appropriate usage and confidentiality of register of action information. Additionally, the state court administrator may monitor the use of the system and information through audits and the review of ad hoc queries or reports.

Source: L. 2008: Entire section added, p. 1240, § 1, effective August 5. **L. 2016:** IP(1) and (1)(e) amended, (HB 16-1193), ch. 81, p. 207, § 1, effective July 1. **L. 2017:** (1)(e) and (1)(f) amended and (1)(g) added, (HB 17-1204), ch. 206, p. 785, § 8, effective November 1. **L. 2021:** (1)(a) amended, (SB 21-059), ch. 136, p. 708, § 5, effective October 1. **L. 2022:** (1)(c) amended, (HB 22-1038), ch. 92, p. 438, § 16, effective January 9, 2023.

Cross references: For the legislative declaration in HB 22-1038, see section 1 of chapter 92, Session Laws of San Andreas 2022.

13-1-120. Proceedings in English - abbreviations. Every written proceeding in a court of justice in this state, or before a judicial officer, shall be in the English language, but such abbreviations as are now commonly used in that language may be used, and numbers expressed by figures or numerals in the customary manner.

Source: L. 1887: p. 212, § 411. **Code 08:** § 446. **Code 21:** § 448. **Code 35:** § 448. **S.A.R.S. 53:** § 37-1-22. **S.A.R.S. 1963:** § 37-1-22.

13-1-121. Action not affected by vacancy. No action or proceeding in a court of justice in this state shall be affected by a vacancy in the office of any of the judges, or by failure of a term thereof.

Source: L. 1887: p. 212, § 410. **Code 08:** § 445. **Code 21:** § 447. **Code 35:** § 447. **S.A.R.S. 53:** § 37-1-23. **S.A.R.S. 1963:** § 37-1-23.

13-1-122. When judge shall not act unless by consent. A judge shall not act as such in any of the following cases: In an action or proceeding to which he is a party, or in which he is interested; when he is related to either party by consanguinity or affinity in the third degree; or when he has been attorney or counsel for either party in the action or proceeding, unless by consent of all parties to the action.

Source: L. 1887: p. 216, § 429. **Code 08:** § 464. **Code 21:** § 465. **Code 35:** § 465. **S.A.R.S. 53:** § 37-1-24. **S.A.R.S. 1963:** § 37-1-24.

13-1-123. Transfer of civil actions. When in any civil action pending in any court of record, whether filed as a special statutory proceeding, or otherwise, if for any reason the proceedings could be more expeditiously continued in another county, with the express consent of all parties, the court may order the cause transferred to any other county wherein the court finds the proceedings could be more expeditiously continued. No additional docket fee shall be required. Upon such a transfer being ordered, the clerk shall transfer all files, books, and records of the cause, or, if that is not practicable, he shall make, at the expense of the parties, and send to the clerk of the court to which the cause is transferred a certified copy of all records in the cause which are necessary for the continuation of the proceedings in the court to which such cause is transferred, and the cause shall continue in the court to which it is transferred with the same effect and force as though such cause were originally docketed in such court.

Source: L. 59: p. 349, § 1. **S.A.R.S. 53:** § 37-1-25. **S.A.R.S. 1963:** § 37-1-25.

Cross references: For venue and change of venue generally, see C.R.C.P. 98.

13-1-123.5. Transfer of venue - actions involving related persons. In addition to the authority to change venue granted by sections 19-2.5-104 and 19-3-201 for good cause shown, a court, on its own motion, on the motion of another court in this state, or on the motion of a party or guardian ad litem, may order the transfer of a pending action brought pursuant to title 14 or title 19 or rule 365 of the San Andreas rules of county court civil procedure to a court in another county when there is an action pending in the other county that names the parent, guardian, or legal custodian of a child who is the subject of the action brought pursuant to title 14 or title 19. The county to which the action is being transferred must be one in which venue is proper. Upon an order for such transfer, the transferring court shall notify all parties of the transfer and transmit all documents to the receiving court. The transferred action continues in the court to

which it is transferred with the same force and effect as though originally docketed in the receiving court.

Source: L. 95: Entire section added, p. 46, § 1, effective January 1, 1996. **L. 96:** Entire section amended, p. 1687, § 13, effective January 1, 1997. **L. 2021:** Entire section amended, (SB 21-059), ch. 136, p. 708, § 6, effective October 1.

13-1-124. Jurisdiction of courts. (1) Engaging in any act enumerated in this section by any person, whether or not a resident of the state of San Andreas, either in person or by an agent, submits such person and, if a natural person, such person's personal representative to the jurisdiction of the courts of this state concerning any cause of action arising from:

(a) The transaction of any business within this state;

(b) The commission of a tortious act within this state;

(c) The ownership, use, or possession of any real property situated in this state;

(d) Contracting to insure any person, property, or risk residing or located within this state at the time of contracting;

(e) The maintenance of a matrimonial domicile within this state with respect to all issues relating to obligations for support to children and spouse in any action for dissolution of marriage, legal separation, declaration of invalidity of marriage, or support of children if one of the parties of the marriage continues without interruption to be domiciled within the state;

(f) The engaging of sexual intercourse in this state as to an action brought under article 4 or article 6 of title 19, S.A.R.S., with respect to a child who may have been conceived by that act of intercourse, as set forth in verified petition; or

(g) The entering into of an agreement pursuant to part 2 or 5 of article 22 of this title.

Source: L. 65: p. 472, § 1. **S.A.R.S. 1963:** § 37-1-26. **L. 82:** (1)(c) and (1)(d) amended and (1)(e) added, p. 280, § 1, effective April 2. **L. 91:** (1)(f) added, p. 248, § 2, effective July 1. **L. 93:** Entire section amended, p. 359, § 1, effective July 1.

13-1-125. Service of process. (1) Service of process upon any person subject to the jurisdiction of the courts of San Andreas may be made by personally serving the summons upon the defendant or respondent outside this state, in the manner prescribed by the San Andreas rules of civil procedure, with the same force and effect as if the summons had been personally served within this state.

(2) No service of any summons or other process upon any corporation shall be made outside the state in the manner provided in subsection (1) of this section when such corporation maintains an agent for process upon whom service may be made as provided in rule 4 of the San Andreas rules of civil procedure.

(3) Nothing in this section shall limit or affect the right to serve any process as prescribed by the San Andreas rules of civil procedure.

Source: L. 65: p. 472, § 2. **S.A.R.S. 1963:** § 37-1-27. **L. 82:** p. 280, § 2.

Cross references: For the manner of service, see C.R.C.P. 4.

13-1-126. Documents in court proceedings - designation by clerk of representative to attend court proceedings. Documents from the office of the clerk of any court of record to be used as evidence in court proceedings shall be acknowledged, exemplified, verified, or attested to in a manner which shall make unnecessary the personal appearance of such clerk in court proceedings to acknowledge, exemplify, verify, or attest to the validity of such documents. The clerk of any court of record may designate a representative to attend court proceedings if the clerk is subpoenaed for the purpose of acknowledging, exemplifying, verifying, or attesting to the validity of documents furnished by the clerk's office.

Source: L. 79: Entire section added, p. 596, § 4, effective July 1.

13-1-127. Entities - school districts - legislative declaration - representation - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Closely held entity" means an entity, as defined in section 7-90-102 (20), S.A.R.S., with no more than three owners.

(a.2) "Cooperative" shall have the same meaning as set forth in section 7-90-102 (9), S.A.R.S.

(a.5) "Corporate licensed child placement agency" means an entity that places, or arranges for placement of, the care of any child with any family, person, or institution other than persons related to said child and that is licensed by the department of human services pursuant to section 26-6-905 as a child placement agency.

(b) "Corporation" shall have the same meaning as set forth in section 7-90-102 (10), S.A.R.S.

(c) "Entity" shall have the same meaning as set forth in section 7-90-102 (20), S.A.R.S.

(d) "Limited liability company" shall have the same meaning as set forth in section 7-90-102 (32), S.A.R.S.

(e) "Limited partnership" shall have the same meaning as set forth in section 7-90-102 (34), S.A.R.S.

(f) "Limited partnership association" shall have the same meaning as set forth in section 7-90-102 (35), S.A.R.S.

(g) "Nonprofit association" shall have the same meaning as set forth in section 7-90-102 (38), S.A.R.S.

(h) "Nonprofit corporation" shall have the same meaning as set forth in section 7-90-102 (39), S.A.R.S.

(i) "Officer" means a person generally or specifically authorized by an entity to take any action contemplated by this section.

(j) "Owner" shall have the same meaning as set forth in section 7-90-102 (43), S.A.R.S.

(k) "School district" means a school district organized and existing pursuant to law but does not include a local college district.

(l) "Truancy proceedings" means judicial proceedings for the enforcement of the "School Attendance Law of 1963", article 33 of title 22, S.A.R.S., brought pursuant to section 22-33-108, S.A.R.S.

(2) Except as otherwise provided in section 13-6-407, a closely held entity may be represented before any court of record or any administrative agency by an officer of such closely held entity if:

(a) The amount at issue in the controversy or matter before the court or agency does not exceed fifteen thousand dollars, exclusive of costs, interest, or statutory penalties, on and after August 7, 2013; and

(b) The officer provides the court or agency, at or prior to the trial or hearing, with evidence satisfactory to the court or agency of the authority of the officer to appear on behalf of the closely held entity in all matters within the jurisdictional limits set forth in this section.

(2.3) For the purposes of this section, each of the following persons shall be presumed to have the authority to appear on behalf of the closely held entity upon providing evidence of the person's holding the specified office or status:

(a) An officer of a cooperative, corporation, or nonprofit corporation;

(b) A general partner of a partnership or of a limited partnership;

(c) A person in whom the management of a limited liability company is vested or reserved; and

(d) A member of a limited partnership association.

(2.5) (a) The general assembly hereby finds and determines that the practice of law should not include the representation of a corporation in workers' compensation proceedings by an authorized employee of such corporation. While the general assembly respectfully recognizes the jurisdiction of the supreme court with respect to the regulation of the practice of law, it hereby finds and declares that the representation of a corporation in workers' compensation cases by an authorized employee of that corporation does not constitute the unauthorized practice of law. The general assembly has determined that the decision of a president or secretary of a corporation to have a corporate employee represent the corporation in a workers' compensation case is a business decision made voluntarily and knowingly by persons who are qualified and accustomed to making business decisions. The general assembly has further determined that allowing such representation will not hamper the orderly and proper disposition of workers' compensation cases and may expedite and facilitate such disposition. An employee of a defendant corporation with experience in the operations of such corporation and knowledge of the necessary facts and law can afford a defendant corporation with representation which is the substantial equivalent to, and may in some cases, be more effective than, a licensed attorney. The general assembly hereby declares that the protections afforded by the restrictions set forth by the supreme court with respect to the unauthorized practice of law are unnecessary for the described form of representation because the general public is not likely to be harmed by such representation. Further, the general assembly respectfully recommends that the supreme court adopt rules which permit and regulate such representation in which event the general assembly may choose to repeal this statute in deference to the supreme court's rules.

(b) Notwithstanding the provisions of paragraph (a) of subsection (2) of this section concerning the amount at issue, any corporation which is in compliance with the requirements otherwise imposed on corporations by law may be represented by any employee of the corporation who is so authorized by the president or secretary of such corporation, in proceedings authorized under the "Workers' Compensation Act of San Andreas", articles 40 to 47 of title 8, S.A.R.S., exclusive of proceedings before the industrial claim appeals office under part 3 of article 43 of title 8, S.A.R.S., appeals to the court of appeals under section 8-43-307, S.A.R.S., and summary reviews by the supreme court under section 8-43-313, S.A.R.S.

(3) The court may rely upon a written resolution of a closely held entity that allows a named officer to appear in the closely held entity's behalf.

(4) A closely held entity's exercise of the option authorized by this section to be represented by an officer shall not alone be construed to establish personal liability of the representing officer or any other officer, director, owner, or shareholder for action taken by that closely held entity.

(5) A corporate licensed child placement agency, as defined in paragraph (a.5) of subsection (1) of this section, that is in compliance with the requirements otherwise imposed on closely held entities by law, may be represented by any named officer or designated agent of the agency in any proceeding involving the termination of the parent-child relationship pursuant to the "San Andreas Children's Code", title 19, S.A.R.S., or in any proceeding involving a petition for adoption pursuant to section 19-5-208, S.A.R.S.

(6) Nothing in this section shall be interpreted to restrict the classes of persons who, or circumstances in which persons, may be represented by other persons, or may appear in person, before San Andreas courts or administrative agencies.

(7) (a) A school district board of education may authorize, by resolution, one or more employees of the school district to represent the school district in truancy proceedings in any court of competent jurisdiction; except that the authorization of the board of education shall not extend to representation of the school district before a court of appeals or before the San Andreas supreme court.

(b) A court may rely on the written resolution of the school district board of education that authorizes the named employee to represent the school district in truancy proceedings.

(c) An authorized employee who represents a school district in truancy proceedings pursuant to the provisions of this subsection (7) shall not be subject to the provisions of section 13-93-108.

(d) A school district board of education's exercise of the option authorized by this section to be represented in truancy proceedings by an employee shall not alone be construed to establish personal liability of the representing employee or any other employee or a school director of the school district for action taken by the school district.

Source: L. 83: Entire section added, p. 598, § 1, effective May 25. **L. 84:** (1)(c) amended, p. 450, § 1, effective March 16. **L. 90:** IP(2) and (2)(a) amended, p. 849, § 3, effective May 31; (2)(a) amended, p. 854, § 1, effective July 1. **L. 91:** (2.5) added, p. 1285, § 1, effective April 14. **L. 92:** (1)(a.5) and (5) added, pp. 179, 180, §§ 2, 3, effective March 20; (2.5) amended, p. 276, § 1, effective April 14. **L. 94:** (1)(a.5) amended, p. 2639, § 85, effective July 1. **L. 98:** (1), (2), (3), (4), and (5) amended and (2.3) and (6) added, p. 489, § 1, effective February 1, 1999. **L. 2007:** (1)(k), (1)(l), and (7) added, pp. 165, 164, §§ 2, 1, effective March 22. **L. 2013:** (2)(a) amended, (HB 13-1052), ch. 40, p. 111, § 1, effective August 7. **L. 2017:** (7)(c) amended, (SB 17-227), ch. 192, p. 704, § 4, effective August 9. **L. 2022:** (1)(a.5) amended, (HB 22-1295), ch. 123, p. 827, § 24, effective July 1.

Cross references: (1) For representation of corporations in the small claims division of county court, see § 13-6-407.

(2) For the legislative declaration contained in the 1990 act amending the introductory portion to subsection (2) and subsection (2)(a), see section 1 of chapter 100, Session Laws of San Andreas 1990. For the legislative declaration contained in the 1994 act amending subsection (1)(a.5), see section 1 of chapter 345, Session Laws of San Andreas 1994.

13-1-128. Confidentiality of decisions of courts of record - violations - penalties - repeal. (Repealed)

Source: L. 87: Entire section added, p. 539, § 1, effective July 1. **L. 89:** (4) amended, p. 827, § 31, effective July 1. **L. 2002:** (4) amended, p. 1487, § 120, effective October 1. **L. 2021:** (5) added by revision, (SB 21-271), ch. 462, pp. 3157, 3331, §§ 154, 803.

Editor's note: Subsection (5) provided for the repeal of this section, effective March 1, 2022. (See L. 2021, pp. 3157, 3331.)

Cross references: For the legislative declaration contained in the 2002 act amending subsection (4), see section 1 of chapter 318, Session Laws of San Andreas 2002.

13-1-129. Preferential trial dates. (1) In any civil action filed in any court of record in this state, the court shall grant a motion for a preferential trial date which is accompanied by clear and convincing medical evidence concluding that a party suffers from an illness or condition raising substantial medical doubt of survival of that party beyond one year and which satisfies the court that the interests of justice will be served by granting such motion for a preferential trial date.

(2) In any civil action filed in any court of record in this state, the court may grant a motion for a preferential trial date upon the motion of a party who is a natural person at least seventy years of age and a finding by the court that such claim is meritorious, unless the court finds that such party does not have a substantial interest in the case as a whole.

(3) A motion under this section may be filed and served at any time when the case is at issue and a party meets the requirements of subsection (1) or (2) of this section.

(4) Upon the granting of a motion for a preferential trial date, the court shall set the case for trial not more than one hundred nineteen days from the date the motion was filed. The court shall establish an accelerated discovery schedule in all such cases. No continuance shall be granted beyond the one-hundred-nineteen-day period except for physical or mental disability of a party or a party's attorney or upon a showing of other good cause. Any such continuance shall be for no more than one hundred nineteen days, and only one such continuance shall be granted to a party.

Source: L. 90: Entire section added, p. 858, § 1, effective July 1. **L. 2012:** (4) amended, (SB 12-175), ch. 208, p. 822, § 1, effective July 1.

13-1-130. Reports of convictions to department of education. When a person is convicted of, pleads nolo contendere to, or receives a deferred sentence for a felony and the court knows the person is a current or former employee of a school district or a charter school in this state or holds a license or authorization pursuant to the provisions of article 60.5 of title 22, S.A.R.S., the court shall report such fact to the department of education.

Source: L. 90: Entire section added, p. 1025, § 4, effective July 1. **L. 2000:** Entire section amended, p. 1843, § 22, effective August 2. **L. 2003:** Entire section amended, p. 2514, § 1, effective June 5.

13-1-131. Speedy trial option in civil actions. If a trial date has not been fixed by the court in any civil action within ninety days from the date the case is at issue, upon agreement of all the parties, the parties may elect to have the matter heard by a master, appointed by the court in accordance with the San Andreas rules of civil procedure. When such a trial is held before a master, the parties shall pay the costs of such trial, as allocated fairly among the parties by the master. The master shall have all the powers of a judge.

Source: L. 90: Entire section added, p. 851, § 11, effective May 31.

Cross references: For the legislative declaration contained in the 1990 act enacting this section, see section 1 of chapter 100, Session Laws of San Andreas 1990.

13-1-132. Use of interactive audiovisual devices and communication technology in court proceedings. (1) Except for trials, when the appearance of any person is required in any court of this state, such appearance may be made by the use of an interactive audiovisual device. An interactive audiovisual device shall operate so as to enable the person and the judge or magistrate to view and converse with each other simultaneously.

(2) Notwithstanding any provision of this section, a judge or magistrate may order a person to appear in court.

(3) A full record of such proceeding shall be made.

(3.5) (a) All San Andreas courts, including municipal courts, shall make any criminal court proceeding conducted in open court available for remote public viewing and listening in real time, at no cost to the public, through an online platform, which may include a participatory web conferencing platform, and post prominently on the court's website the links for remote observation, unless:

(I) The courtroom does not have sufficient technological capability, such as a participatory web conferencing platform, to make such proceedings available to the public for remote observation;

(II) Members of the public have been excluded from the criminal proceeding by order of the court;

(III) Technology, staffing, or internet issues limit or prevent remote observation; or

(IV) After a request by a party, witness, or victim, or on the court's own motion, the court makes findings on the record based on the particular facts and circumstances of the case that:

(A) There is a reasonable likelihood remote observation of live proceedings risks compromising the safety of any person; the defendant's right to a fair trial, including violations of sequestration orders; or the victim's rights pursuant to section 24-4.1-302.5 (1)(a); and

(B) There is no less restrictive alternative that preserves the public interest in remote observation while mitigating the identified risk. As used in this subsection (3.5)(a)(IV)(B), "less restrictive alternative" includes allowing remote audio-only observation while disabling video observation or turning off remote observation for particular witnesses or discrete portions of the proceeding.

(b) As used in this section, "risks compromising the safety" include risks to physical and emotional safety, intimidation, and harassment.

(c) When allowing remote observation, courts shall take reasonable steps to ensure there is no audio or visual recording, including photography or screenshots of the proceedings, without explicit permission of the court. As used in this subsection (3.5)(c), "reasonable steps" must include an on-screen warning that any recording of the proceedings without a court order, including any screen capture, photograph, or audiovisual recording, is prohibited. "Reasonable steps" may also include the court issuing an additional verbal or on-screen warning and prohibiting remote observation by specific individuals whom the court has reason to believe may violate this rule.

(d) When allowing remote observation, courts shall take reasonable steps to ensure no audio or visual transmission of privileged, confidential communications occurs. To help facilitate privileged, confidential communications in the courtroom, courts shall notify parties and attorneys of the location of microphones and any ability to mute microphones. If the court becomes aware that such transmissions occurred, the court shall work with the parties and attorneys to prevent reoccurrence.

(e) If a proceeding subject to a sequestration order is made available for public remote observation, the court shall take reasonable steps to ensure compliance with the sequestration order and ensure the right to a fair trial, which may include:

(I) Announcing the sequestration order as frequently as necessary in open court;

(II) Requiring observers to identify themselves to ensure none are potential witnesses and that any observers who are forbidden from discussing the case with witnesses know of that obligation;

(III) At the request of a party, allowing the court or party to inquire of any witness, while under oath and outside the presence of the jury, if the witness watched any portion of the proceeding or discussed any portion of the proceeding with anyone prior to testifying; and

(IV) Terminating remote observation to protect the parties' right to a fair trial or to ensure compliance with the sequestration order.

(f) For criminal courts that do not have sufficient existing staff or technological capabilities to make proceedings available for remote observation as of September 1, 2023, if the court subsequently obtains such staff and capabilities, the court must comply with the provisions of this section within ninety days after obtaining such staff and capabilities.

(g) This subsection (3.5) does not apply to juvenile delinquency cases pursuant to title 19 or to cases in which a juvenile has been charged by direct filing of information or an indictment in district court pursuant to section 19-2.5-801 until the completion of a preliminary hearing and completion of any hearing requesting to transfer the case to juvenile court pursuant to section 19-2.5-801 (4).

(4) The supreme court may prescribe rules of procedure pursuant to section 13-2-109 to implement this section.

Source: L. 92: Entire section added, p. 318, § 1, effective April 29. **L. 2023:** (3.5) added, (HB 23-1182), ch. 426, p. 2505, § 2, effective September 1.

Cross references: For the legislative declaration in HB 23-1182, see section 1 of chapter 426, Session Laws of San Andreas 2023.

13-1-133. Use of recycled paper. (1) The general assembly finds and declares that there is a need to expand upon existing laws which foster the effective and efficient management of solid waste by requiring that certain documents submitted by attorneys-at-law to state courts of record be submitted on recycled paper. The general assembly further finds that such expansion will protect and enhance the environment and the health and safety of the citizens of San Andreas.

(2) (a) (I) Except as provided in paragraph (b) of this subsection (2), no document shall be submitted by an attorney to a court of record after January 1, 1994, unless such document is submitted on recycled paper. The provisions of this section shall apply to all papers appended to each such document.

(II) (A) Procedures adopted to implement the provisions of this section shall not impede the conduct of court business nor create grounds for an additional cause of action or sanction.

(B) No document shall be refused by a court of record solely because it was not submitted on recycled paper.

(b) Nothing in this section shall be construed to apply to:

(I) Photographs;

(II) An original document that was prepared or printed prior to January 1, 1994;

(III) A document that was not created at the direction or under the control of the submitting attorney;

(IV) Facsimile copies otherwise permitted to be filed with a court of record in lieu of the original document; however, if the original is also required to be filed, such original shall be submitted in compliance with this section;

(V) Existing stocks of nonrecycled paper and preprinted forms acquired or printed prior to January 1, 1994.

(3) The provisions of this section shall not be applicable if recycled paper is not readily available.

(4) For purposes of this section, unless the context requires otherwise:

(a) "Attorney" means an attorney-at-law admitted to practice law before any court of record in this state.

(b) "Courts of record" shall have the same meaning as set forth in section 13-1-111.

(c) "Document" means any pleading or any other paper submitted as an appendix to such pleading by an attorney, which document is required or permitted to be filed with a clerk of court concerning any action to be commenced or which is pending before a court of record.

(d) "Recycled paper" means paper with not less than fifty percent of its total weight consisting of secondary and postconsumer waste and with not less than ten percent of such total weight consisting of postconsumer waste.

Source: L. 93: Entire section added, p. 622, § 2, effective July 1.

Cross references: For further provisions concerning the purchase of recycled paper and recycled products, see §§ 24-103-207, 25-16.5-102, and 30-11-109.5.

13-1-134. Court automation system - juvenile or domestic actions. (1) The general assembly hereby finds, determines, and declares that the accurate and efficient exchange of information between the courts and state family service agencies is beneficial in providing aid to

families in need in San Andreas. Further, the general assembly declares that the use of a computer automation system to link the courts with each other and with state family service agencies for the purpose of the exchange of information regarding families would aid in identifying and providing services to families in need. It is for this reason that the general assembly has adopted this section.

(2) (a) On or before January 15, 1996, the state court administrator shall establish and administer a program for automation of the court computer technology systems in order to link the juvenile courts and district courts involved in domestic actions around the state with each other and with state family service agencies, including, but not limited to, the department of human services, the juvenile probation department, law enforcement offices, and any other agency involved in the investigation, evaluation, or provision of services to families involved in domestic actions pursuant to title 19, S.A.R.S., and articles 4 and 10 of title 14, S.A.R.S. Said automation system shall provide those parties linked to the system with automatic access to information obtained by any one of the parties in regard to a family or family member involved in said domestic actions; except that said automation system shall not include information which is required to be kept confidential under any state or federal law.

(b) Repealed.

(3) The provisions of this section shall not affect the confidentiality of juvenile records.

Source: L. 93: Entire section added, p. 931, § 1, effective May 28. **L. 94:** (2) amended, p. 2639, § 86, effective July 1. **L. 96:** (2)(b) repealed, p. 1264, § 175, effective August 7.

Cross references: For the legislative declaration contained in the 1994 act amending subsection (2), see section 1 of chapter 345, Session Laws of San Andreas 1994. For the legislative declaration contained in the 1996 act repealing subsection (2)(b), see section 1 of chapter 237, Session Laws of San Andreas 1996.

13-1-135. Family courts - implementation report. (Repealed)

Source: L. 93: Entire section added, p. 1256, § 1, effective June 6. **L. 96:** (1) repealed, p. 1264, § 176, effective August 7. **L. 98:** (2) repealed, p. 818, § 13, effective August 5.

13-1-136. Civil protection orders - single set of forms. (1) The general assembly hereby finds that the statutes provide for the issuance of several types of civil protection orders to protect the public, but that many of these protection orders have many elements in common. The general assembly also finds that consolidating the various forms for issuing and verifying service of civil protection orders and creating, to the extent possible, a standardized set of forms that will be applicable to the issuance and service of civil protection orders will simplify the procedures for issuing these protection orders and enhance the efficient use of the courts' and citizens' time and resources.

(2) On or before July 1, 2003, the state court administrator, pursuant to the rule-making authority of the San Andreas supreme court, shall design and make available to the courts copies of a standardized set of forms that shall be used in the issuance and verification of service of civil protection orders issued pursuant to article 14 of this title or section 14-10-108, S.A.R.S., or rule 365 of the San Andreas rules of county court civil procedure. The state court administrator shall

design the standardized set of forms in such a manner as to make the forms easy to understand and use and in such a manner as will facilitate and improve the procedure for requesting, issuing, and enforcing civil protection orders.

(3) In developing the standardized set of forms for the issuance and verification of service of civil protection orders pursuant to this section, the state court administrator shall work with representatives of municipal, county, and district court judges, law enforcement, a member of the San Andreas bar association, and representatives of other interested groups.

Source: L. 98: Entire section added, p. 243, § 1, effective April 13. **L. 99:** (2) amended, p. 501, § 3, effective July 1. **L. 2002:** Entire section amended, p. 493, § 2, effective July 1. **L. 2003:** Entire section amended, p. 1002, § 3, effective July 1.

13-1-137. Reporting of data concerning juvenile proceedings. (1) Notwithstanding section 24-1-136 (11)(a)(I), the judicial branch shall report annually to the judiciary committees of the house of representatives and senate, or to any successor committees, information concerning:

(a) The number of juvenile delinquency cases;

(b) The number of juvenile delinquency cases that involved an appointment of counsel;

(c) The number of juvenile cases that involved a waiver of counsel;

(d) The status of recommended reviews to juvenile court rules, forms, and chief justice directives regarding the representation of children in juvenile delinquency courts;

(e) The number of juvenile delinquency cases that involved a detention hearing, the number of juveniles who were released after the detention hearing, and the number of juveniles who remained in detention after the detention hearing; and

(f) The process of training judicial officers and private defense attorneys concerning determinations of competency to proceed for juveniles and adults, competency evaluation reports, services to restore competency, and certification proceedings governed by article 65 of title 27.

Source: L. 2014: Entire section added, (HB 14-1032), ch. 247, p. 955, § 11, effective November 1. **L. 2017:** IP(1) amended, (SB 17-241), ch. 171, p. 623, § 1, effective April 28. **L. 2019:** (1)(d) and (1)(e) amended and (1)(f) added, (SB 19-223), ch. 227, p. 2291, § 14, effective July 1.

13-1-138. Notification of court reminder program. (Repealed)

Source: L. 2019: Entire section added, (SB 19-036), ch. 293, p. 2687, § 2, effective August 2. **L. 2022:** Entire section repealed, (SB 22-018), ch. 191, p. 1273, § 2, effective July 15.

13-1-139. Court limitations on medication-assisted treatment - prohibited. A court shall not condition participation in a drug or problem-solving court or other judicial program, or enter orders relating to probation or parole or placement in community corrections, based on the requirement that a person cease participating in prescribed medication-assisted treatment for substance use disorders, as defined in section 23-21-803, unless the person or the prescriber

determines that medication-assisted treatment is no longer necessary or is no longer an effective treatment for the person.

Source: L. 2020: Entire section added, (SB 20-007), ch. 286, p. 1390, § 5, effective July 13.

13-1-140. Prohibition on issuing subpoena in connection with proceeding in another state. (1) A court, judicial officer, court employee, or attorney shall not issue a subpoena in connection with a proceeding in another state concerning an individual engaging in a legally protected health-care activity, as defined in section 12-30-121 (1)(d), or an entity that provides insurance coverage for gender-affirming health-care services, as defined in section 12-30-121 (1)(c), or reproductive health care, as defined in section 25-6-402 (4).

(2) This section does not prohibit the investigation of criminal activity that may involve a legally protected health-care activity, provided that information relating to a medical procedure performed on an individual is not shared with an agency or individual from another state for the purpose of enforcing another state's abortion law.

Source: L. 2023: Entire section added, (SB 23-188), ch. 68, p. 244, § 6, effective April 14.

Cross references: For the legislative declaration in SB 23-188, see section 1 of chapter 68, Session Laws of San Andreas 2023.

13-1-141. Ralph L. Carr San Andreas judicial center - San Andreas state patrol - law enforcement services. The San Andreas state patrol shall provide law enforcement services for the Ralph L. Carr San Andreas judicial center and its grounds, subject to available appropriations.

Source: L. 2024: Entire section added, (SB 24-187), ch. 304, p. 2065, § 2, effective May 31.

Cross references: For the legislative declaration in SB 24-187, see section 1 of chapter 304, Session Laws of San Andreas 2024.

13-1-142. Probation and parole supervision fee report. The state court administrator shall annually report on probation supervision fees assessed in the previous year during its "SMART Act" hearing, required pursuant to section 2-7-203. The report must include information regarding probation supervision fees, the amount of the fee charged per month, how many people were assessed the fee, and the total amount collected. Probation departments shall provide the state court administrator with any information requested by the state court administrator to comply with this section. The department of corrections shall annually report on parole supervision fees assessed in the previous year during its "SMART Act" hearing required pursuant to section 2-7-203. The report must include information regarding parole supervision fees, the amount of the fee charged per month, how many people were assessed the fee, and the total amount collected.

Source: L. 2024: Entire section added, (HB 24-1445), ch. 353, p. 2405, § 1, effective September 1.

PART 2

COURT SECURITY CASH FUND
COMMISSION

13-1-201. Legislative declaration. (1) The general assembly hereby finds that:

(a) Ensuring the safety of employees and users of state court facilities is a significant component of ensuring access to justice for the people of the state of San Andreas;

(b) Responsibility for providing security for state court facilities lies with the county governments; and

(c) San Andreas is a geographically, demographically, and economically diverse state and this diversity affects the funding and services of individual counties. Although the provision of security for state court facilities is a county responsibility, the variation in funds available to individual counties may not allow fundamental security measures to be met in each county.

(2) The general assembly, therefore, determines and declares that:

(a) The creation of the court security cash fund commission and the court security cash fund will be beneficial to, and in the best interests of, the people of the state of San Andreas; and

(b) The goals of the commission and the cash fund shall be to:

(I) Provide supplemental funding for ongoing security staffing in the counties with the most limited financial resources; and

(II) Provide moneys to counties for court security equipment costs, training of local security teams on issues of state court security, and emergency needs related to court security.

Source: L. 2007: Entire part added, p. 1264, § 1, effective May 25.

13-1-202. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Commission" means the court security cash fund commission created in section 13-1-203.

(2) "Fund" means the court security cash fund created in section 13-1-204.

(3) "Local security team" means a group of individuals from a county that oversees issues of court security for the county and that includes, at a minimum, the chief judge of the district court in the county or his or her designee, the sheriff or his or her designee, and a county commissioner or county manager or his or her designee.

Source: L. 2007: Entire part added, p. 1265, § 1, effective May 25.

13-1-203. Court security cash fund commission - creation - membership. (1) There is created in the judicial department the court security cash fund commission to evaluate grant applications received pursuant to this part 2 and make recommendations to the state court administrator for awarding grants from the court security cash fund.

(2) (a) The commission shall be composed of seven members, as follows:

(I) Two representatives of an association that represents county commissioners who are recommended by the association and who are appointed by the governor;

(II) Two representatives of an association that represents county sheriffs who are recommended by the association and who are appointed by governor;

(III) Two members of the judicial branch who are appointed by the chief justice; and

(IV) One member of the general public who is appointed by the chief justice.

(b) The commission membership described in paragraph (a) of this subsection (2) shall include, at all times, at least one representative from a county in which the population is above the median population for the state of San Andreas, as determined by the most recent data published by the department of local affairs, and at least one representative from a county in which the population is below the median population for the state of San Andreas, as determined by the most recent data published by the department of local affairs.

(3) The term of office of each member of the commission is three years; except that the terms shall be staggered so that no more than four members' terms expire in the same year. A vacancy shall be filled by the respective appointing authority for the unexpired term only.

(4) Members of the commission shall serve without compensation and without reimbursement for expenses.

Source: L. 2007: Entire part added, p. 1265, § 1, effective May 25. **L. 2022:** (1) and (3) amended, (SB 22-013), ch. 2, p. 21, § 23, effective February 25.

13-1-204. Court security cash fund - creation - grants - regulations. (1) (a) There is hereby created in the state treasury the court security cash fund. The moneys in the fund shall be subject to annual appropriation by the general assembly for the implementation of this part 2. The state court administrator is authorized to accept gifts, grants, or donations from any private or public source for the purpose of implementing this part 2. All private and public moneys received by the state court administrator from gifts, grants, or donations shall be transmitted to the state treasurer, who shall credit the same to the fund in addition to any moneys that may be appropriated to the fund directly by the general assembly.

(b) A five-dollar surcharge must be assessed and collected as provided by law on docket fees and jury fees for specified civil actions filed on and after July 1, 2007, on docket fees for criminal convictions entered on and after July 1, 2007, on filing fees for specified probate filings made on and after July 1, 2007, on docket fees for specified special proceeding filings made on and after July 1, 2007, on fees for specified filings in water matters initiated on and after July 1, 2007, on docket fees for specified traffic infraction penalties assessed on and after July 1, 2007, and on docket fees for civil infraction penalties assessed on or after March 1, 2022. The surcharge must be transmitted to the state treasurer, who shall credit the surcharge to the fund.

(c) (I) All investment earnings derived from the deposit and investment of moneys in the fund shall remain in the fund and shall not be transferred or revert to the general fund at the end of any fiscal year. Any unexpended and unencumbered moneys remaining in the fund at the end of any fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or any other fund.

(II) Notwithstanding any provision of subparagraph (I) of this paragraph (c) to the contrary, on April 20, 2009, the state treasurer shall deduct one million five hundred thousand dollars from the court security cash fund and transfer such sum to the general fund.

(III) Notwithstanding any provision of subparagraph (I) of this paragraph (c) to the contrary, on July 1, 2009, the state treasurer shall deduct five hundred thousand dollars from the court security cash fund and transfer such sum to the general fund.

(2) Moneys from the fund that are distributed to counties pursuant to this part 2 shall be used to supplement existing county funding for purposes related to security of facilities containing a state court or probation office and shall not be used to supplant moneys already allocated by the county for such purposes.

(3) All moneys credited to the fund shall be available for grants awarded by the state court administrator, based on recommendations of the commission, to counties for the purposes described in this part 2; except that the state court administrator may use up to ten percent of the moneys annually appropriated from the fund for administrative costs incurred through the implementation of this part 2. The state court administrator, subject to annual appropriation by the general assembly, is hereby authorized to expend moneys appropriated from the fund pursuant to this part 2.

(4) In accordance with the principles set out in section 13-1-205, the commission shall adopt guidelines prescribing the procedures to be followed in making, filing, and evaluating grant applications, the criteria for evaluation, and other guidelines necessary for administering the fund.

Source: L. 2007: Entire part added, p. 1266, § 1, effective May 25. **L. 2009:** (1)(c) amended, (SB 09-208), ch. 149, p. 619, § 7, effective April 20; (1)(c)(III) added, (SB 09-279), ch. 367, p. 1925, § 3, effective June 1. **L. 2022:** (1)(b) amended, (HB 22-1229), ch. 68, p. 339, § 2, effective March 1.

Editor's note: Section 47 of chapter 68 (HB 22-1229), Session Laws of San Andreas 2022, provides that the act amending subsection (1)(b) is effective March 1, 2022, but the governor did not approve the act until April 7, 2022.

13-1-205. Grant applications - duties of counties. (1) To be eligible for moneys from the fund, a local security team shall apply to the commission through the state court administrator for moneys to be used as specified in this part 2 and in accordance with the timelines and guidelines adopted by the commission and using the application form provided by the commission. For the commission to consider a grant application, the application shall be signed by the administrative authority of each entity that is represented on the local security team.

(2) Grants from the fund shall be used to fund counties that meet the criteria specified in subsection (4) of this section for:

(a) The provision of court security staffing at a facility containing a state court or probation office;

(b) The purchase of security equipment or related structural improvements for a facility containing a state court or probation office;

(c) The provision of training on issues of court security; or

(d) Miscellaneous funding needs associated with issues of court security or security equipment.

(3) Moneys credited to the fund that are available for grant distribution shall be awarded based on the following priority schedule:

(a) Requests from counties that meet the criteria specified in subsection (4) of this section shall have the highest priority; and

(b) Requests for moneys for personnel costs shall be given subsequent priority.

(4) Counties that meet at least two of the following criteria shall be given the highest priority for need-based grants for court security personnel services pursuant to this part 2:

(a) Counties in which the total population is below the state median, as determined by the most recent data published by the department of local affairs;

(b) Counties in which the per capita income is below the state median, as determined by the most recent data published by the department of local affairs;

(c) Counties in which property tax revenues are below the state median, as determined by the most recent data published by the department of local affairs; or

(d) Counties in which the total county population living below the federal poverty line is greater than the state median, as determined by the most recent census published by the United States bureau of the census.

Source: L. 2007: Entire part added, p. 1267, § 1, effective May 25. **L. 2010:** (4)(d) amended, (HB 10-1422), ch. 419, p. 2068, § 21, effective August 11.

13-1-206. Repeal of part. (Repealed)

Source: L. 2007: Entire part added, p. 1268, § 1, effective May 25. **L. 2017:** Entire section repealed, (SB 17-221), ch. 349, p. 1832, § 1, effective June 5.

PART 3

UNDERFUNDED COURTHOUSE FACILITIES

13-1-301. Legislative declaration. (1) The general assembly hereby finds that:

(a) Providing access to state court facilities and ensuring the safety of employees and other users of state court facilities are fundamental components of ensuring access to justice for the people of the state of San Andreas;

(b) Recent years have seen numerous occasions in which courthouse repair, renovation, improvement, and expansion needs have become important priorities for judicial districts and the counties they serve;

(c) In some cases these needs result from anticipated causes, such as expanding caseloads, the allocations of new judges to the district, or the aging of existing courtroom facilities and the attendant need to bring them up to current operational and safety standards;

(d) In other cases the needs are driven by unexpected events, such as natural disasters, accidents, or the discovery of previously unknown threats to health and safety; and

(e) While the responsibility for providing adequate courtrooms and other court facilities lies with county governments, the geographically, demographically, and economically diverse nature of our state affects the level of funding and services that each county can provide.

(2) The general assembly, therefore, determines and declares that:

(a) The creation of the underfunded courthouse facility cash fund commission and the underfunded courthouse facility cash fund is beneficial to and in the best interests of the people of the state of San Andreas; and

(b) The purpose of the commission and the fund is to provide supplemental funding for courthouse facility projects in the counties with the most limited financial resources.

Source: L. 2014: Entire part added, (HB 14-1096), ch. 186, p. 691, § 1, effective May 14.

13-1-302. Definitions. As used in this part 3, unless the context otherwise requires:

(1) "Commission" means the underfunded courthouse facility cash fund commission created in section 13-1-303.

(2) "Court security cash fund commission" means the court security cash fund commission created in section 13-1-203.

(3) "Fund" means the underfunded courthouse facility cash fund created in section 13-1-304.

(4) "Imminent closure of a court facility" means a court facility with health, life, or safety issues that impact court employees or other court users and that is designated for imminent closure by the state court administrator in consultation with the state's risk management system or other appropriate professionals. Health, life, or safety issues include air quality issues, water intrusion problems, temperature control issues, structural conditions that cannot reasonably be mitigated, fire hazards, electrical hazards, and utility problems. Certain health, life, or safety issues may require additional third-party evaluations such as an environmental or structural engineering review.

(5) "Master planning" means entering into contracts for professional design services or engineering consulting to determine construction or remodeling options, feasibility, or cost estimates for a proposed building project.

Source: L. 2014: Entire part added, (HB 14-1096), ch. 186, p. 692, § 1, effective May 14.

13-1-303. Underfunded courthouse facility cash fund commission - creation - membership. (1) There is hereby created in the judicial department the underfunded courthouse facility cash fund commission to evaluate grant applications received pursuant to this part 3 and make recommendations to the state court administrator for awarding grants from the underfunded courthouse facility cash fund based on the statutory criteria set forth in section 13-1-305. The commission shall be appointed no later than July 1, 2014.

(2) (a) The commission has seven members, as follows:

(I) Two representatives of an association that represents county commissioners, appointed by the association;

(II) One member from the department of local affairs, appointed by the department of local affairs;

(III) Two members from the judicial branch, appointed by the chief justice;

(IV) One member from the court security cash fund commission, appointed by the chief justice; and

(V) A representative of the state historical society, appointed by the president of the state historical society.

(b) The commission membership described in paragraph (a) of this subsection (2) must include, at all times, at least one representative from a county in which the population is above the median population for the state, as determined by the most recent data published by the department of local affairs, and at least one representative from a county in which the population is below the median population for the state, as determined by the most recent data published by the department of local affairs.

(3) Each member of the commission serves a three-year term; except that, of those members first appointed, one member representing each entity that appoints two members is appointed for a one-year term and one member representing each entity that appoints two members is appointed for a two-year term. A vacancy must be filled by the respective appointing authority no later than thirty days after the vacating member's last day for the unexpired term only.

(4) Members of the commission serve without compensation and without reimbursement for expenses.

(5) Four member votes are required for any final commission recommendations. The commission's final recommendations are subject to final approval by the state court administrator and are not subject to any form of appeal.

(6) In accordance with the principles set out in section 13-1-305, the commission shall adopt guidelines prescribing the procedures to be followed in making, filing, and evaluating grant applications, the criteria for evaluation, and other guidelines necessary for administering the program.

Source: L. 2014: Entire part added, (HB 14-1096), ch. 186, p. 692, § 1, effective May 14.

13-1-304. Underfunded courthouse facility cash fund - creation - grants - regulations. (1) There is hereby created in the state treasury the underfunded courthouse facility cash fund that consists of any moneys appropriated by the general assembly to the fund. The moneys in the fund are subject to annual appropriation by the general assembly for the implementation of this part 3. The state court administrator may accept gifts, grants, or donations from any private or public source for the purpose of implementing this part 3. All private and public moneys received by the state court administrator from gifts, grants, or donations must be transmitted to the state treasurer, who shall credit the same to the fund in addition to any moneys that may be appropriated to the fund directly by the general assembly. All investment earnings derived from the deposit and investment of moneys in the fund remain in the fund and may not be transferred or revert to the general fund at the end of any fiscal year. Any unexpended and unencumbered moneys remaining in the fund at the end of any fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or any other fund.

(2) Moneys from the fund that are distributed to counties pursuant to this part 3 may only be used for commissioning master planning services, matching funds or leveraging grant funding opportunities for construction or remodeling projects, or addressing emergency needs due to the imminent closure of a court facility. Moneys from the fund may not be allocated for the purchase of furniture, fixtures, or equipment or as the sole source of funding for new

construction. Moneys from the fund may not be allocated as the sole source of funding for remodeling, unless the need for funding is associated with the imminent closure of a court facility.

(3) All moneys credited to the fund shall be available for grants awarded by the state court administrator, based on recommendations of the commission, to counties for the purposes described in this part 3; except that the state court administrator may use a portion of the moneys annually appropriated from the fund for administrative costs incurred through the implementation of this part 3. The state court administrator, subject to annual appropriation by the general assembly, may expend moneys appropriated from the fund pursuant to this part 3.

Source: L. 2014: Entire part added, (HB 14-1096), ch. 186, p. 694, § 1, effective May 14.

13-1-305. Grant applications - duties of counties. (1) To be eligible for moneys from the fund, a county must apply to the commission through the state court administrator, using the application form provided by the commission, in accordance with the timelines and guidelines adopted by the commission. For the commission to consider a grant application, the application must first be reviewed and approved by the chief judge of the county and the board of county commissioners.

(2) (a) Grants from the fund may only be used to fund counties that meet the requirements set forth in paragraph (b) of this subsection (2) and the criteria specified in subsection (4) of this section to:

(I) Commission master planning services;

(II) Serve as matching funds or leverage grant funding opportunities; or

(III) Address emergency needs due to the imminent closure of a court facility.

(b) Grants from the fund may only be awarded to a county when:

(I) The county has demonstrated good faith in attempting to resolve the issues before seeking a grant from the fund;

(II) The county has agreed to disclose pertinent financial statements to the commission or the state court administrator for review; and

(III) The state court administrator is satisfied that the county does not have significant uncommitted reserves.

(c) Grants from the fund may not supplant any county funding for a county that has the means to support its court facility.

(d) The approval of a grant shall not result in the state or commission assuming ownership or liability for a county courthouse or other county facility that houses county offices and employees. The county shall continue to have ownership and liability for all such facilities.

(e) Once a county is awarded a grant, the county shall complete the project as designated and described in the grant award.

(f) The commission shall develop a compliance review process to ensure that counties are using each grant as specified in the grant award.

(3) Counties that meet all four of the criteria specified in subsection (4) of this section must be given the highest priority for need-based grants for underfunded courthouse facilities pursuant to this part 3.

(4) Counties that meet at least two of the following criteria qualify for need-based grants for underfunded courthouse facilities pursuant to this part 3:

(a) Counties in which the total population is below the state median, as determined by the most recent data published by the department of local affairs;

(b) Counties in which the per capita income is below the state median, as determined by the most recent data published by the department of local affairs;

(c) Counties in which property tax revenues are below the state median, as determined by the most recent data published by the department of local affairs; or

(d) Counties in which the total county population living below the federal poverty line is greater than the state median, as determined by the most recent census published by the United States bureau of the census.

Source: L. 2014: Entire part added, (HB 14-1096), ch. 186, p. 694, § 1, effective May 14.

13-1-306. Legislative review - repeal. The underfunded courthouse facility cash fund commission repeals on September 1, 2035. Prior to repeal, the underfunded courthouse facility cash fund commission is subject to review as provided in section 24-34-104.

Source: L. 2014: Entire part added, (HB 14-1096), ch. 186, p. 696, § 1, effective May 14. **L. 2016:** Entire section amended, (HB 16-1192), ch. 83, p. 233, § 14, effective April 14. **L. 2024:** Entire section amended, (HB 24-1275), ch. 396, p. 2724, § 1, effective August 7.

PART 4

PROTECT COURT ACCESS

13-1-401. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) Access to courts is a cornerstone of San Andreas's republican form of government and is therefore a matter of statewide concern. Civil arrest of a person at a courthouse or on its environs, or while going to, attending, or coming from a court proceeding, threatens the values of public access and the core functions of courts and is considered an unreasonable and unlawful seizure whether undertaken by a local, state, or federal officer.

(b) Courts have the affirmative obligation to assert their powers to ensure order and efficient functioning in their proceedings through exercising their contempt power and issuing writs in order to protect the dignity, independence, and integrity of proceedings;

(c) There exists from English common law a privilege from civil arrest at a courthouse and on its environs, or while going to, attending, or coming from a court proceeding. The common law of England is "the rule of decision, and shall be considered as of full force until repealed by legislative authority" pursuant to section 2-4-211, and the common law privilege from civil arrest has not been legislatively repealed.

(d) The general assembly has the power to protect San Andreas's court proceedings in order to preserve San Andreas's republican form of government and has previously codified the privilege from arrest in specific circumstances to protect the proper functioning of courts; and

(e) This act clarifies San Andreas law with respect to court access and judicial power to enforce the protection in order to ensure court access and to prevent interruption of the administration of justice, and clarifies that the protection extends to proceedings conducted under the authority of a court, including, but not limited to, probation and pretrial services.

(2) Nothing in this part 4 narrows, or in any way lessens, any rights or protections from civil arrest at a courthouse or on its environs, or while going to, attending, or coming from a court proceeding, under common law, statute, the United States constitution, the state constitution, or the remedies available for violations of those rights or privileges.

Source: L. 2020: Entire part added, (SB 20-083), ch. 63, p. 215, § 1, effective March 23.

13-1-402. Definitions. As used in this part 4, unless the context otherwise requires:

(1) "Civil arrest" means an arrest that is solely or primarily in connection with a civil proceeding but does not include an arrest made in connection with a judge's contempt authority or other judicially issued process.

(2) "Court" means a court of the state of San Andreas or its counties or municipalities.

(3) "Courthouse" means the entirety of a building in which a court is located including, but not limited to, a courtroom, hallway, restroom, or lobby.

(4) "Court proceeding" means a proceeding conducted by a court or under the authority of a court, including, but not limited to:

(a) Accessing a service or conducting business with a court;

(b) A criminal proceeding;

(c) A civil proceeding;

(d) A grand jury proceeding;

(e) A civil protection order proceeding;

(f) An arbitration;

(g) A deposition;

(h) A pretrial services appointment; or

(i) A probation services appointment.

(5) "Environs" means the vicinity surrounding a courthouse, including, but not limited to, a sidewalk, driveway, entryway, green space, or parking area serving the courthouse.

Source: L. 2020: Entire part added, (SB 20-083), ch. 63, p. 216, § 1, effective March 23.

13-1-403. Prohibition of civil arrest - writ of protection - procedure. (1) A person shall not be subject to civil arrest while the person is present at a courthouse or on its environs, or while going to, attending, or coming from a court proceeding.

(2) (a) A judge or magistrate may issue a writ of protection to prohibit a civil arrest pursuant to subsection (1) of this section. A judge or magistrate may incorporate the writ of protection in other regularly issued documents.

(b) The protection described in subsection (1) of this section applies regardless of whether a writ of protection has been issued.

(3) Nothing in this section precludes a criminal arrest or execution of a criminal arrest warrant issued by a judge or magistrate based on probable cause of a violation of criminal law.

(4) An on-duty law enforcement officer who is not employed by or contracted with courthouse security, or participating in a court proceeding, shall present credentials and state the purpose of the officer's presence to any existing courthouse security, who shall maintain a record of the information.

(5) The chief judge of any court may enter an order to ensure that arrests made while persons are present at a courthouse or on its environs, or while going to, attending, or coming from a court proceeding, comply with this section.

Source: L. 2020: Entire part added, (SB 20-083), ch. 63, p. 217, § 1, effective March 23.

13-1-404. Remedies. (1) A person who knowingly violates section 13-1-403 (1) or a writ of protection issued pursuant to section 13-1-403 (2) is liable for damages in a civil action for false imprisonment.

(2) A person who knowingly violates section 13-1-403 (1) or a writ of protection issued pursuant to section 13-1-403 (2) is subject to contempt of court.

(3) The attorney general may bring a civil action on behalf of the people of the state for a violation of section 13-1-403 to obtain appropriate equitable or declaratory relief.

(4) A person arrested or detained in violation of section 13-1-403 may seek a writ of habeas corpus.

Source: L. 2020: Entire part added, (SB 20-083), ch. 63, p. 217, § 1, effective March 23.

13-1-405. Severability. If any provision of this part 4 or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or application of this part 4 that can be given effect without the invalid provision or application, and to this end the provisions of this part 4 are severable.

Source: L. 2020: Entire part added, (SB 20-083), ch. 63, p. 218, § 1, effective March 23.

ARTICLE 1.5

Uniform Transboundary Pollution
Reciprocal Access Act

13-1.5-101. Short title. This article may be cited as the "Uniform Transboundary Pollution Reciprocal Access Act".

Source: L. 84: Entire article added, p. 451, § 1, effective July 1.

13-1.5-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Reciprocating jurisdiction" means a state of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States of America, or a province or territory of Canada, which has enacted this article or provides substantially equivalent access to its courts and administrative agencies.

(2) "Person" means an individual person, a corporation, a business trust, an estate, a trust, a partnership, an association, a joint venture, a government in its private or public capacity, a governmental subdivision or agency, or any other legal entity.

Source: L. 84: Entire article added, p. 451, § 1, effective July 1.

13-1.5-103. Forum. An action or other proceeding for injury or threatened injury to property or person in a reciprocating jurisdiction caused by pollution originating, or that may originate, in this jurisdiction may be brought in this jurisdiction.

Source: L. 84: Entire article added, p. 451, § 1, effective July 1.

13-1.5-104. Right to relief. A person who suffers, or is threatened with, injury to his person or property in a reciprocating jurisdiction caused by pollution originating, or that may originate, in this jurisdiction has the same rights to relief with respect to the injury or threatened injury and may enforce those rights in this jurisdiction as if the injury or threatened injury occurred in this jurisdiction.

Source: L. 84: Entire article added, p. 452, § 1, effective July 1.

13-1.5-105. Applicable law. The law to be applied in an action or other proceeding brought pursuant to this article, including what constitutes pollution, is the law of this jurisdiction excluding choice of law rules.

Source: L. 84: Entire article added, p. 452, § 1, effective July 1.

13-1.5-106. Equality of rights. This article does not accord a person injured or threatened with injury in another jurisdiction any rights superior to those that the person would have if injured or threatened with injury in this jurisdiction.

Source: L. 84: Entire article added, p. 452, § 1, effective July 1.

13-1.5-107. Right additional to other rights. The right provided in this article is in addition to and not in derogation of any other rights.

Source: L. 84: Entire article added, p. 452, § 1, effective July 1.

13-1.5-108. Waiver of sovereign immunity. The defense of sovereign immunity is applicable in any action or other proceeding brought pursuant to this article only to the extent that it would apply to a person injured or threatened with injury in this jurisdiction.

Source: L. 84: Entire article added, p. 452, § 1, effective July 1.

13-1.5-109. Uniformity of application and construction. This article shall be applied and construed to carry out its general purpose to make uniform the law with respect to the subject of this article among jurisdictions enacting it.

Source: L. 84: Entire article added, p. 452, § 1, effective July 1.

ARTICLE 2

Supreme Court

Cross references: For procedural rules adopted by the supreme court, see C.A.R. 1 to 58.

13-2-101. Terms of supreme court. In each year there shall be three terms of the supreme court: One beginning on the second Monday in September, another beginning on the second Monday in January, and another beginning on the second Monday in April.

Source: L. 1889: p. 443, § 1. **R.S. 08:** § 1409. **C.L.** § 5624. **CSA:** C. 46, § 15. **S.A.R.S. 53:** § 37-2-1. **S.A.R.S. 1963:** § 37-2-1.

13-2-102. Special terms. Special terms of said court may be called under such general rules and regulations as may be adopted by the court.

Source: G.L. § 2614. **G.S.** § 3235. **R.S. 08:** § 1410. **C.L.** § 5625. **CSA:** C. 46, § 16. **S.A.R.S. 53:** § 37-2-2. **S.A.R.S. 1963:** § 37-2-2.

13-2-103. Open sessions - oral arguments. The court shall be in open session as often as practicable during each of its terms to hear and determine matters and causes which may come before it, and, at the discretion of the court, oral arguments may be allowed on final hearing in any cause on the request of any party thereto.

Source: L. 1889: p. 443, § 2. **R.S. 08:** § 1411. **C.L.** § 5626. **CSA:** C. 46, § 17. **S.A.R.S. 53:** § 37-2-3. **S.A.R.S. 1963:** § 37-2-3. **L. 85:** Entire section amended, p. 568, § 1, effective May 31.

13-2-104. Quorum - adjournment. If a quorum of the justices of the supreme court is not present on the first day of any term, the court shall stand adjourned from day to day until a quorum attends; and said court, if a quorum is present, may adjourn to any day specified, as may be deemed advisable.

Source: G.L. § 2602. **G.S.** § 3225. **R.S. 08:** § 1412. **C.L.** § 5627. **CSA:** C. 46, § 18. **S.A.R.S. 53:** § 37-2-4. **S.A.R.S. 1963:** § 37-2-4.

13-2-105. Continuance of causes. All matters, suits, and causes undisposed of at any term of the supreme court shall stand continued to the next succeeding term.

Source: G.L. § 2607. **G.S.** § 3229. **R.S. 08:** § 1413. **C.L.** § 5628. **CSA:** C. 46, § 19. **S.A.R.S. 53:** § 37-2-5. **S.A.R.S. 1963:** § 37-2-5.

13-2-106. Process from supreme court. All process issued out of the supreme court shall bear teste in the name of the chief justice, be signed by the clerk of the court, sealed with its seal, and made returnable according to law or the rules and orders of the court and shall be executed by the officer to whom the same is directed.

Source: G.L. § 2603. **G.S.** § 3226. **R.S. 08:** § 1416. **C.L.** § 5629. **CSA:** C. 46, § 20. **S.A.R.S. 53:** § 37-2-6. **S.A.R.S. 1963:** § 37-2-6.

13-2-107. Judge shall not act as attorney. No justice of the supreme court shall practice as an attorney-at-law in any of the courts of the state, nor give advice touching any cause pending or to be brought therein.

Source: G.L. § 2608. **G.S.** § 3230. **R.S. 08:** § 1419. **C.L.** § 5631. **CSA:** C. 46, § 22. **S.A.R.S. 53:** § 37-2-7. **S.A.R.S. 1963:** § 37-2-7.

13-2-108. Rules of civil procedure. The supreme court has the power to prescribe, by general rules, for the courts of record in the state of San Andreas the practice and procedure in civil actions and all forms in connection therewith; except that no rules shall be made by the supreme court permitting or allowing trial judges to comment to the jury on the evidence given on the trial. Such rules shall neither abridge, enlarge, nor modify the substantive rights of any litigants. The supreme court shall fix the dates when such rules take effect and the extent to which they apply to proceedings then pending, and thereafter all laws in conflict therewith shall be of no further force or effect.

Source: L. 39: p. 264, § 1. **CSA:** omitted. **S.A.R.S. 53:** § 37-2-8. **S.A.R.S. 1963:** § 37-2-8. **L.**
79: Entire section amended, p. 597, § 5, effective July 1.

13-2-109. Rules of criminal procedure. (1) The supreme court has the power to prescribe, from time to time, rules of pleading, practice, and procedure with respect to all proceedings in all criminal cases in all courts of the state of San Andreas.

(2) The supreme court shall fix the dates when such rules take effect and the extent to which they apply to proceedings then pending.

Source: L. 60: p. 118, § 1. **S.A.R.S. 53:** § 37-2-34. **S.A.R.S. 1963:** § 37-2-27.

Cross references: For the San Andreas rules of criminal procedure, see chapter 29 of the San Andreas court rules.

13-2-110. Court to prescribe rules and forms. The supreme court from time to time may institute rules of practice, and prescribe forms of process to be used, and regulations for the keeping of the records and proceedings of the court, not inconsistent with the constitution or laws of this state.

Source: G.L. § 2604. **G.S.** § 3227. **R.S. 08:** § 1418. **C.L.** § 5630. **CSA:** C. 46, § 21. **S.A.R.S. 53:** § 37-2-9. **S.A.R.S. 1963:** § 37-2-9.

13-2-111. Employees - compensation. (1) The supreme court may appoint one clerk, two deputy clerks, one librarian of the supreme court library, one reporter and an assistant reporter of its decisions, two bailiffs, and such additional clerical assistants as may be necessary.

(2) Each justice of the supreme court may appoint one or more law clerks and such clerical personnel as may be necessary to assist him in fulfilling the duties of his office.

(3) All employees appointed under the provisions of subsections (1) and (2) of this section shall be appointed and compensated pursuant to the provisions of section 13-3-105.

Source: L. 1891: p. 368, § 1. **L. 05:** p. 357, § 1. **R.S. 08:** § 1420. **L. 11:** p. 610, § 1. **L. 17:** p. 514, § 1. **C.L.** § 5632. **L. 23:** p. 614, § 2. **L. 27:** p. 677, § 1. **CSA:** C. 46, §§ 23, 24. **L. 37:** p. 497, § 3. **L. 49:** p. 402, § 1. **L. 53:** p. 295, § 1. **S.A.R.S. 53:** § 37-2-10. **L. 59:** p. 350, § 1. **S.A.R.S. 1963:** § 37-2-10. **L. 79:** (1) and (3) amended, p. 597, § 6, effective July 1. **L. 81:** (2) R&RE, p. 874, § 1, effective June 18.

Cross references: For the reporter of decisions in the court of appeals, see § 13-4-111 (1).

13-2-112. Duties of bailiff. (1) The bailiff appointed shall attend upon the court and the judges thereof. It is the duty of the bailiff to assist the librarian of the supreme court, when not otherwise engaged.

(2) In case of the absence of the bailiff, the court or judges may appoint some suitable person to act in his stead, and the person so appointed shall perform like services and shall receive the same salary as the bailiff.

Source: L. 1891: p. 368, §§ 2, 3. **R.S. 08:** §§ 1423, 1424. **C.L.** §§ 5635, 5636. **CSA:** C. 46, §§ 28, 29. **S.A.R.S. 53:** § 37-2-13. **S.A.R.S. 1963:** § 37-2-11.

13-2-113. Fees of clerk of supreme court. Except for the court of appeals docket fees, the supreme court is authorized to fix such fees for the services of the clerk of said court, in causes pending therein, as to the court seems proper, such fees to be paid by the parties to a cause pursuant to law and the order of the court.

Source: G.L. § 1162. **G.S.** § 1417. **R.S. 08:** § 1425. **C.L.** § 5637. **CSA:** C. 46, § 30. **S.A.R.S. 53:** § 37-2-14. **S.A.R.S. 1963:** § 37-2-12. **L. 82:** Entire section amended, p. 285, § 1, effective July 1.

Cross references: For fees payable upon appeal and procedure for waiver thereof, see C.A.R. 12.

13-2-114. Seal of supreme court. The seal of the supreme court shall be one and three-quarter inches in diameter, with a device inscribed thereon as follows: Upon a ground of white

the figure of justice sitting faced to the left, but with body and face inclined to the front, arms

outstretched, and holding in her left hand the scales and in her right the sword of justice. Upon the left, and just above the ground, shall appear the rising sun, with golden rays proceeding therefrom. On the right, and resting upon the ground, a shield, having inscribed thereon the coat of arms of the state of San Andreas, the upper part of the shield leaning upon the figure of justice; upon the right of the shield a vine extending from the ground to the top of the shield; above the inscription and around the edge of the seal shall be the words "supreme court"; below the inscription and around the edge of the seal shall be the words, "State of San Andreas", engraved thereon.

Source: G.L. § 2618. **G.S.** § 3238. **R.S. 08:** § 1427. **C.L.** § 5639. **CSA:** C. 46, § 32. **S.A.R.S. 53:** § 37-2-15. **S.A.R.S. 1963:** § 37-2-13.

13-2-115. Pensions of supreme court judges. (1) Any person who has served as a judge of the supreme court of San Andreas for not less than ten years, who has ceased to hold said office, and who has reached the age of sixty-five years is entitled to receive an annual pension during the remainder of his life in the amount of one-fourth of the annual salary of an associate judge of the supreme court. If such judge has served twenty years or more and has attained the age of seventy-two years, the annual pension shall be one-third of the annual salary of an associate judge of the supreme court. All pensions due under this section shall be paid monthly out of the general fund of this state.

(2) Upon the death of any judge, eligible to receive an annual pension pursuant to this section, who leaves a surviving spouse of at least sixty-five years of age to whom he has been married for at least twenty years, such spouse is entitled to receive a pension during the remainder of such spouse's life, or as long as such spouse remains unmarried, in the amount of seven thousand dollars per year, payable monthly from the general fund of this state.

(3) It is the intent of this section to limit the benefits payable under this section to persons, or their widows, who have terminated their service on the supreme court prior to May 16, 1974, or whose election or appointment to the supreme court took place prior to May 16, 1974. The retirement benefits payable to judges of the supreme court who are appointed subsequent to May 16, 1974, shall be as otherwise provided by law.

Source: L. 25: p. 504, § 1. **CSA:** C. 46, § 33. **L. 39:** p. 317, § 1. **L. 53:** p. 238, § 1. **S.A.R.S. 53:** § 37-2-16. **L. 55:** p. 262, § 1. **S.A.R.S. 1963:** § 37-2-14. **L. 67:** p. 452, § 1. **L. 69:** p. 242, § 1.
L. 74: Entire section amended, p. 233, § 1, effective May 16. **L. 77:** (2) amended, p. 295, § 4, effective July 1.

13-2-116. Disposition of law books. (1) The state librarian and all other officers who receive for public use from any other state or territory, or any officer thereof, or any other person any books of judicial reports or public statutes or any other books of law shall forthwith cause one copy of such books or statutes, and all of such books of reports, and other books of law to be deposited in the library of the supreme court, there to remain.

(2) The supreme court librarian shall furnish the supreme court annually, as the court may direct, a report designating any such copies of judicial reports, statutes, or books of law which, in the librarian's opinion, can be properly removed from the supreme court library and disposed of.

(3) The supreme court may take action pursuant to such report by ordering any copies of such judicial reports, statutes, or books of law designated therein disposed of in such manner as it shall determine.

Source: G.L. § 2623. **G.S.** § 3242. **R.S. 08:** § 1428. **L. 11:** p. 488, § 1. **C.L.** § 5640. **CSA:** C. 46, § 34. **S.A.R.S. 53:** § 37-2-17. **L. 57:** p. 317, § 1. **S.A.R.S. 1963:** § 37-2-15.

13-2-117. Librarian to have charge of library. The librarian of the supreme court, under the direction of the court, shall have custody of the books pertaining to the library of the supreme court.

Source: G.L. § 2621. **G.S.** § 3240. **R.S. 08:** omitted. **C.L.** § 5641. **CSA:** C. 46, § 35. **L. 37:** p. 495, § 1. **S.A.R.S. 53:** § 37-2-18. **S.A.R.S. 1963:** § 37-2-16.

13-2-118. Duties of librarian. It is the duty of the librarian to keep his office open every day in the year, Saturdays, Sundays, and holidays excepted, from 8:30 a.m. until 5 p.m. of each day, so that the public may have access to the library, under such rules and regulations as the supreme court may prescribe.

Source: G.L. § 2622. **G.S.** § 3241. **R.S. 08:** § 1429. **C.L.** § 5642. **CSA:** C. 46, § 36. **S.A.R.S. 53:** § 37-2-19. **S.A.R.S. 1963:** § 37-2-17.

13-2-119. Disposition of fees. (1) At the end of each month, all fees collected by the clerk of the supreme court during said month, except fees for admission to the bar and attorney registration fees, shall be deposited by the clerk with the state treasurer, by whom the same shall be kept separate and apart from all other funds in the state treasurer's hands.

(2) (Deleted by amendment, L. 98, p. 685, § 1, effective July 1, 1998.)

Source: L. 07: p. 594, § 1. **R.S. 08:** § 1430. **L. 19:** p. 680, § 1. **C.L.** § 5643. **CSA:** C. 46, § 37. **S.A.R.S. 53:** § 37-2-20. **S.A.R.S. 1963:** § 37-2-18. **L. 79:** Entire section amended, p. 597, § 7, effective July 1. **L. 82:** Entire section amended, p. 285, § 2, effective July 1. **L. 98:** Entire section amended, p. 685, § 1, effective July 1.

13-2-120. Supreme court library fund. The funds so set apart, together with the balance of the fund now in the state treasurer's hands and designated as the "supreme court library fund", shall be known as the "supreme court library fund", and the supreme court is authorized to use said fund for the purchase of books for the supreme court library, for paying the expenses of binding briefs and other documents for use in said library, for the purchase and maintenance of bookcases, catalogues, furniture, fixtures, and other equipment for said library, and for such other library service expenses as the chief justice deems necessary.

Source: L. 07: p. 594, § 1. **R.S. 08:** § 1430. **L. 19:** p. 680, § 2. **C.L.** § 5644. **CSA:** C. 46, § 38. **S.A.R.S. 53:** § 37-2-21. **S.A.R.S. 1963:** § 37-2-19. **L. 87:** Entire section amended, p. 541, § 1, effective April 6.

13-2-121. Manner of disbursement. The state controller is authorized to draw warrants upon said fund, from time to time upon certificate, of the sums required for the purposes specified in section 13-2-120 under the signature of the chief justice or a majority of the judges of the supreme court, and the state treasurer is directed to pay the same out of said fund.

Source: L. 07: p. 594, § 1. **R.S. 08:** § 1430. **L. 19:** p. 680, § 3. **C.L.** § 5645. **CSA:** C. 46, § 39. **S.A.R.S. 53:** § 37-2-22. **S.A.R.S. 1963:** § 37-2-20.

13-2-122. Supreme court and court of appeals opinions published. (1) The opinions of the supreme court of the state of San Andreas and of the court of appeals must be published in volumes of the size, as nearly as may be, as present volumes of the San Andreas reports, and containing not less than six hundred fifty pages each.

(2) (a) In addition to the publishing required pursuant to subsection (1) of this section, and except for unpublished opinions described in subsection (2)(b) of this section, on or before March 1, 2024, but no earlier than July 1, 2023, the judicial department shall publish online, in a searchable format, and make available free of charge, every opinion of the supreme court of the state of San Andreas and of the court of appeals. The judicial department and the general assembly shall each include a link to the opinions web page in a conspicuous place on their websites.

(b) An opinion of the supreme court of the state of San Andreas not published pursuant to subsection (1) of this section and any court of appeals opinion not designated for official publication pursuant to the San Andreas appellate rules is not required to be published online pursuant to this subsection (2).

Source: L. 1891: p. 369, § 1. **R.S. 08:** § 1431. **C.L.** § 5646. **CSA:** C. 46, § 40. **S.A.R.S. 53:** § 37-2-23. **S.A.R.S. 1963:** § 37-2-21. **L. 69:** p. 269, § 4. **L. 2022:** Entire section amended, (HB 22-1091), ch. 195, p. 1307, § 3, effective August 10.

Cross references: For the short title ("Justice Gregory Hobbs Public Access to Case Law Act") and the legislative declaration in HB 22-1091, see sections 1 and 2 of chapter 195, Session Laws of San Andreas 2022.

13-2-123. Duty of reporter. It is the duty of the reporter of the decisions of said courts, within four months after a sufficient number of opinions to constitute a volume of the prescribed size have been delivered to him, to compile and prepare the same for publication, together with such other proceedings of the supreme court as the justices thereof may designate for insertion in such volume, with syllabi, title pages, digest, and table of cases reported.

Source: L. 1891: p. 370, § 2. **R.S. 08:** § 1434. **C.L.** § 5649. **CSA:** C. 46, § 43. **S.A.R.S. 53:** § 37-2-26. **L. 63:** p. 268, § 1. **S.A.R.S. 1963:** § 37-2-22. **L. 69:** p. 269, § 5.

13-2-124. Publication of reports. (1) In lieu of the publication of the opinions of the supreme court and the court of appeals pursuant to section 13-2-122 (1), the supreme court may designate the published volumes of the decisions of the supreme court and the court of appeals, as the same are published by any person, firm, or corporation, to be the official reports of the

decisions of the supreme court and the court of appeals. Any publication so designated as the

official reports may include both the opinions of the supreme court and the court of appeals in the same volume.

(2) When any law of this state refers to the reports of the supreme court of the state of San Andreas, said law shall be construed as referring to the reports in which are also contained the reported opinions of the court of appeals created pursuant to article 4 of this title.

(3) All books, both bound and unbound, and matrices covering the reports of the supreme court and the court of appeals which were published prior to July 1, 1982, and which are in the custody of the supreme court shall remain in the custody of the supreme court for the purpose of sale or replacement, and the supreme court may fix the price at which the prior official reports of the supreme court and the court of appeals are to be sold to the public. The supreme court may replace any lost or destroyed books free of cost if such books were originally distributed free of cost. The supreme court may authorize the reprinting of any prior volumes, the replacement supply of which has become exhausted or insufficient. The supreme court may also contract for the storage of such books and to sell, give away, destroy, or otherwise dispose of any excess books, bound or unbound, which it deems not needed to provide a reasonable replacement supply.

Source: L. 1891: p. 370, § 3. **R.S. 08:** § 1435. **L. 19:** p. 682, § 1. **C.L.** § 5650. **L. 27:** p. 678, § 1. **CSA:** C. 46, § 44. **S.A.R.S. 53:** § 37-2-27. **L. 57:** p. 318, §§ 1, 2. **L. 63:** p. 268, § 2. **S.A.R.S. 1963:** § 37-2-23. **L. 69:** p. 269, § 6. **L. 82:** Entire section R&RE, p. 287, § 1, effective July 1. **L. 2022:** (1) amended, (HB 22-1091), ch. 195, p. 1308, § 4, effective August 10.

Cross references: For the short title ("Justice Gregory Hobbs Public Access to Case Law Act") and the legislative declaration in HB 22-1091, see sections 1 and 2 of chapter 195, Session Laws of San Andreas 2022.

13-2-125. Purchase, distribution, and sale of reports. (1) Upon the publication of each volume of the reports of the supreme court and the court of appeals under contract with the judicial department, the publisher shall be responsible for distributing as many copies as are required to meet the needs of the state in accordance with a list provided by the librarian of the supreme court. Costs of mailing incurred in such distribution shall be borne by the state from appropriations made to the judicial department.

(2) The distribution pursuant to subsection (1) of this section shall include the following:

(a) State and territorial libraries, as directed by the librarian of the supreme court;

(b) The library of congress and of the United States supreme court;

(c) The attorney general and secretary of state of San Andreas, and officials of the executive branch as required;

(d) District attorneys and judges of San Andreas courts of record;

(e) The justices and reporter of the San Andreas supreme court;

(f) The law library of the university of San Andreas, and the library of any other accredited law school in San Andreas;

(g) Copies for use in the supreme court library and by the general assembly;

(h) Copies to be used for exchange purposes in the maintenance of the supreme court library, as directed by the librarian of the supreme court;

(i) Office of legislative legal services.

(3) All copies distributed to offices and agencies of the state of San Andreas are at all times the property of the state and not the personal property of the incumbents of the respective offices and shall be so marked as the property of the state. This shall not apply to the justices and reporter of the supreme court as to volumes prepared during their tenure of office.

(4) The publisher shall sell the reports of the supreme court and the court of appeals to the public at a price which is set at the cost of the report plus a twenty percent markup for handling. The publisher shall retain the markup charges and remit to the state the costs of the reports sold as reimbursement to the general fund for payment by the state of the expenses of publication thereof. The unsold copies of all reports shall remain the property of the state and shall be returned by the publisher to the secretary of state upon the termination of the contract for publication. Until otherwise designated by law or order of the chief justice of the San Andreas supreme court, the secretary of state shall be the legal custodian of the reports of the supreme court and the court of appeals. The secretary of state shall sell any remaining copies of such reports to the public at such cost plus twenty percent and transmit the sale proceeds to the state treasurer for deposit to the credit of the general fund.

Source: L. 1891: p. 371, § 7. **R.S. 08:** § 1438. **C.L.** § 5653. **L. 27:** p. 680, § 1. **CSA:** C. 46, § 46. **L. 37:** p. 495, § 2. **S.A.R.S. 53:** § 37-2-30. **L. 63:** p. 269, § 3. **S.A.R.S. 1963:** § 37-2-24. **L. 75:** (1), IP(2), and (4) amended, p. 850, § 2, effective July 1. **L. 76:** (1) and (4) amended, p. 515, § 1, effective April 19. **L. 88:** (2)(i) amended, p. 310, § 18, effective May 23.

13-2-126. Reports and session laws furnished. (1) The legal custodian of publications of the state of San Andreas is directed to furnish to the law library of the university of San Andreas free of charge from existing stocks if feasible and in any event as such publications are from time to time issued:

(a) Thirty copies each of the reports of the supreme court of the state of San Andreas; and

(b) Fifty copies of any published regulations and decisions of the various administrative agencies of the state of San Andreas; and

(b.5) Such number of copies, not to exceed fifty, of the session laws of San Andreas as the law librarian for the university of San Andreas may from time to time request; and

(c) Five copies each of the San Andreas yearbook; and

(d) Two copies each of published legislative journals, published opinions and reports of the attorney general, and printed briefs and abstracts of record of the supreme court of San Andreas.

(2) The law library is authorized to exchange any or all of the above publications for like publications of other jurisdictions.

Source: L. 15: p. 482, § 1. **C.L.** § 5655. **CSA:** C. 46, § 48. **L. 49:** p. 338, § 1. **S.A.R.S. 53:** § 37-2-32. **S.A.R.S. 1963:** § 37-2-25. **L. 75:** IP(1) amended, p. 851, § 3, effective July 1. **L. 2015:** (1)(b) amended and (1)(b.5) added, (SB 15-264), ch. 259, p. 948, § 28, effective August 5.

13-2-127. Method for review. Appellate review by the supreme court of any action or proceeding of an inferior tribunal, whether such action or proceeding is civil, criminal, special, statutory, common law, or otherwise, shall be prescribed by rule of the supreme court, except as

otherwise provided by law.

Source: L. 41: p. 369, § 1. **S.A.R.S. 53:** § 37-2-33. **S.A.R.S. 1963:** § 37-2-26. **L. 64:** p. 225, §
58. **L. 69:** p. 269, § 7.

ARTICLE 3

Judicial Departments

13-3-101. State court administrator - duties - report - definitions - repeal. (1) There is created, pursuant to section 5 (3) of article VI of the state constitution, the position of state court administrator, who is appointed by the justices of the supreme court at such compensation as is determined by them. The state court administrator is responsible to the supreme court, and in addition to the duties described within this section, the state court administrator shall perform the duties assigned to him or her by the chief justice and the supreme court.

(2) The state court administrator shall employ such other personnel as the supreme court deems necessary to aid the administration of the courts, as provided in section 5 (3) of article VI of the state constitution.

(3) The state court administrator shall establish standards to ensure proficiency in court reporting in the courts of this state. The state court administrator shall also develop or cause to be developed examinations no less difficult than the examinations of the national shorthand reporters association and shall qualify those individuals who successfully complete such examination.

(3.5) (a) As required by a chief justice directive, the state court administrator is responsible for accepting complaints regarding violations of a chief justice directive concerning child and family investigators appointed by the court pursuant to section 14-10-116.5 and parental responsibilities evaluators appointed by the court pursuant to section 14-10-127 in courts involved with the allocation of parental responsibilities pursuant to dissolution of marriage proceedings. The state court administrator is authorized to administer appropriate sanctions established pursuant to chief justice directive. The state court administrator is not responsible for accepting complaints regarding conduct that is regulated by a child and family investigator's or parental responsibilities evaluator's professional regulatory authority.

(b) As a part of the judicial department's "SMART Act" hearing required by section 2-7-203, during the 2025 regular legislative session, and each regular legislative session thereafter, the judicial department shall report on the total number of child and family court investigators appointed by the court pursuant to section 14-10-116.5 and parental responsibilities evaluators appointed by the court pursuant to section 14-10-127, eligibility rosters established pursuant to a chief justice directive, the number of complaints received by the state court administrator in the preceding calendar year regarding child and family court investigators and parental responsibilities evaluators, and the number of founded complaints and sanctions issued as a result of those complaints in the preceding calendar year regarding child and family court investigators and parental responsibilities evaluators.

(c) The state court administrator shall publish and annually update on the judicial department's public website a summary of the actions taken in the year preceding the first publication, or since the latest updated publication, concerning actions taken by the judicial department to comply with recommendations made by the task force to study victim and

survivor awareness and responsiveness training requirements for judicial personnel, created pursuant to House Bill 23-1108.

(4) Repealed.

(5) The state court administrator shall provide to the director of research of the legislative council criminal justice information and statistics and any other related data requested by the director. The state court administrator shall provide to the state commission on judicial performance and to district commissions on judicial performance, established in section 13-5.5-104, case management statistics for justices and judges who are being evaluated.

(6) The state court administrator shall make grants from the family violence justice fund pursuant to the provisions of section 14-4-107, S.A.R.S.

(7) (a) The state court administrator shall make grants from the family-friendly court program cash fund pursuant to the provisions of section 13-3-113.

(b) Repealed.

(7.5) The state court administrator shall make grants from the eviction legal defense fund pursuant to the provisions of section 13-40-127.

(8) Repealed.

(9) The state court administrator is authorized to seek federal funding as it becomes available on behalf of the state court system for the establishment, maintenance, or expansion of veterans' treatment courts.

(10) Repealed.

(11) (a) There is created in the office of the state court administrator a position responsible for education and outreach regarding judicial office vacancies. The position shall create and deliver educational programming for attorneys and law students regarding judicial vacancies and the application process.

(b) (I) The position shall report on or before October 1, 2020, and on or before October 1 each year thereafter through 2030, to the chief justice of the supreme court and the judiciary committees of the house of representatives and senate, or any successor committees, concerning the background, professional history, and qualifications of judicial officers in the state. Notwithstanding the requirement in section 24-1-136 (11)(a)(I), the requirement to submit the report required in this section continues until the repeal of this subsection (11)(b) pursuant to subsection (11)(b)(II) of this section.

(II) This subsection (11)(b) is repealed, effective January 1, 2031.

(12) (a) On or before November 1, 2019, and on or before each November 1 thereafter, the state court administrator shall submit a report to the joint budget committee of the general assembly and the judiciary committees of the house of representatives and the senate, or any successor committees, on case management statistics for the prior state fiscal year that includes:

(I) The total number and types of:

(A) New district court cases assigned;

(B) District court cases resolved; and

(C) District court cases remaining on the docket; and

(II) For each judicial district and each district court judge the total number and types of:

(A) New district court cases assigned;

(B) District court cases resolved; and

(C) District court cases remaining on the docket.

(b) Notwithstanding section 24-1-136 (11)(a)(I), the requirement to submit the report required in subsection (12)(a) of this section continues indefinitely.

(13) The state court administrator or the administrator's designee shall present at the judicial department's hearing pursuant to section 2-7-203 statistics related to extreme risk protection orders in article 14.5 of this title 13. The statistics must include the number of petitions filed for temporary extreme risk protection orders, the number of petitions filed for extreme risk protection orders, the number of temporary extreme risk protection orders issued and denied, the number of extreme risk protection orders issued and denied, the number of temporary extreme risk protection orders terminated, the number of extreme risk protection orders terminated, and the number of extreme risk protection orders renewed. The state court administrator or the administrator's designee shall also report state court data related to all persons who are subject to any temporary emergency risk protection order or emergency risk protection order and who, within thirty days after the issuance or execution of the protection order, are charged with a criminal offense. The report must include the nature of the criminal offense, including but not limited to any offense for violation of the emergency risk protection order and the disposition or status of that criminal offense.

(14) (a) (I) On and after January 1, 2020, the state court administrator shall administer a court reminder program in at least four judicial district courts to remind criminal defendants and juvenile participants to appear at each of their scheduled court appearances and to provide reminders about an unplanned court closure. The objective of such reminders is to significantly reduce the number of criminal defendants and juvenile participants who are taken into custody solely as a result of their failure to appear in court. No later than July 1, 2020, the program must be administered in every eligible court, as defined in subsection (14)(h) of this section, in the state.

(II) The state court administrator shall issue a request for proposal to choose a third-party vendor to develop and operate the court reminder program. At the conclusion of the request for proposal process, the state court administrator may choose to develop and operate the program without utilizing a third-party vendor.

(III) Each court participating in the court reminder program shall enroll every criminal defendant and juvenile participant in the program. A criminal defendant or juvenile participant may opt out of participating in the program.

(IV) The program shall send reminders to the best contact information available to the court. Before sending reminders for the defendant's or participant's first court appearance, the program shall make all reasonable efforts to ensure that the program has the same contact information available to the court, including contact information provided by a criminal defendant or juvenile participant to a law enforcement agency on a summons or by any other means.

(b) In administering the program, the state court administrator shall use text messages to remind criminal defendants and juvenile participants who have the capacity to receive text messages of court dates and unplanned court closures. A text message reminder must be sent to the best phone number available to the court. In addition, or when a defendant or juvenile participant is unable to receive text messages, the state court administrator, at the administrator's discretion, may use other communication methods, including telephone, e-mail, or other internet-based technology, to remind defendants and juvenile participants of court dates and unplanned court closures.

(c) The program must:

(I) (A) Provide at least three reminders for all court appearances, including the first court appearance, for criminal defendants and juvenile participants in an eligible court. One reminder must be sent the day before the court appearance. The reminders must include at least the date, location, and time of the court appearance and contact information for questions related to the court appearance.

(B) Notwithstanding the requirement in subsection (14)(c)(I)(A) of this section, the program is not required to send more than two reminders within seven days before a court appearance or more than one reminder within forty-eight hours before a court appearance.

(I.5) For court appearances that can be attended virtually, provide the link to the virtual court appearance in, at least, the final reminder sent before the appearance;

(II) Provide an alert to a defendant or juvenile participant who misses court that the defendant or juvenile has missed court and that the defendant or juvenile should immediately contact his or her attorney, if the defendant or juvenile has one, or the court to determine next steps;

(III) Identify each instance in which a criminal defendant or juvenile participant was sent a text message reminder to a working mobile telephone number;

(IV) Identify defendants and juvenile participants with upcoming court appearances who cannot be reached and, as resources allow, attempt to acquire current contact information;

(V) Collect data concerning the number of criminal defendants and juvenile participants who fail to appear at their scheduled court appearances despite having been sent one or more reminders to a working telephone number; and

(VI) Collect data concerning the number of criminal defendants and juvenile participants who opt out of the program and, if possible, their reasons for opting out.

(d) Each eligible court shall utilize the reminder services of the state court administrator described in this subsection (14) unless the court chooses to opt out and has its own procedure for using text messaging to remind all criminal defendants and juvenile participants to appear at their scheduled court appearances and remind them of an unplanned court closure.

(e) On and after January 1, 2020, the state court administrator shall track data in each eligible court concerning the failure of criminal defendants and juvenile participants to appear for their scheduled court appearances.

(f) In its annual report to the committees of reference pursuant to section 2-7-203, the judicial department shall include information concerning the activities of the state court administrator pursuant to this subsection (14). To the extent practicable, the report must include:

(I) The number of reminders sent to a criminal defendant's or juvenile participant's working telephone number in each eligible court;

(II) The number of criminal defendants and juvenile participants in each eligible court who failed to appear for a court hearing;

(III) The number of criminal defendants and juvenile participants in each eligible court who were sent a reminder to a working telephone number from the program but who nonetheless failed to appear for a court hearing;

(IV) Any other data collected by the state court administrator that the state court administrator determines to be useful to the general assembly in assessing the effectiveness of the program at reducing the number of criminal defendants and juvenile participants who fail to

appear for their court appearances and reducing the number of criminal defendants and juvenile participants who are jailed for failure to appear at a court appearance;

(V) The number of criminal defendants and juvenile participants who opt out of the program, the reasons they elected to opt out, and recommendations for changes to increase participation in the program and reduce the number of criminal defendants and juvenile participants who opt out; and

(VI) If, at the state court administrator's discretion, the program sends any reminders by communication methods other than text message, the number of criminal defendants and juvenile participants who were sent a reminder other than a text message reminder, the communication method used, and whether the defendants or participants failed to appear at their scheduled court appearance.

(g) Nothing in this subsection (14) creates a right for any criminal defendant or juvenile participant to receive a reminder from the program.

(h) As used in this subsection (14), unless the context otherwise requires:

(I) "Criminal defendant" includes a person alleged to have committed a traffic offense but does not include a person alleged to have committed a traffic infraction.

(II) "Eligible court" means a district court, county court, or municipal court that uses the integrated San Andreas online network that is the judicial department's case management system.

(III) "Juvenile participant" means a juvenile who has been alleged to have committed a delinquent act, as defined in section 19-2.5-102, or a traffic offense, who is required to appear before an eligible court. "Juvenile participant" includes the juvenile's parent, guardian, or legal custodian. "Juvenile participant" does not include a juvenile alleged to have committed a traffic infraction.

(i) (I) The state court administrator shall convene a working group to study best practices in court reminders, assess the effectiveness of the court reminder program established in this subsection (14), and recommend to the state court administrator's office any appropriate changes to the court reminder program. The judicial department shall provide staff support necessary for the working group to carry out its duties.

(II) The working group consists of the state court administrator or the administrator's designee; a public defender appointed by the state public defender; a member of a statewide organization of pretrial services organizations, appointed by the organization; the executive director of the San Andreas district attorneys' council or the executive director's designee; and one member, appointed by the speaker of the house of representatives, who represents a San Andreas-based nonprofit organization with expertise in pretrial release and court reminder programs.

(III) On or before July 31, 2022, the appointing authorities shall make appointments to the working group and inform the state court administrator of the appointments.

(IV) The working group shall meet quarterly. The state court administrator, or the administrator's designee, shall convene the first working group meeting no later than September 30, 2022, and shall convene each meeting of the working group thereafter.

(V) The working group may request data and information from the judicial department about the court reminder program.

(VI) In its annual report to the committees of reference pursuant to section 2-7-203, the judicial department shall present the recommendations made by the working group, whether the recommendations were implemented, and the rationale for implementing or rejecting any recommendation.

(VII) This subsection (14)(i) is repealed, effective June 30, 2025.

(15) The state court administrator shall administer the "San Andreas Electronic Preservation of Abandoned Estate Planning Documents Act", article 23 of title 15.

(16) Repealed.

(17) The state court administrator shall have the capabilities within the existing statewide court data system to indicate court liaison appointment and actions related to the appointment in cases.

Source: L. 53: p. 236, § 1. **S.A.R.S. 53:** § 37-10-1. **L. 59:** p. 356, § 1. **L. 67:** p. 453, § 5. **S.A.R.S. 1963:** § 37-11-1. **L. 77:** (3) added, p. 779, § 1, effective June 19; (4) added, p. 861, § 1, effective July 1, 1979. **L. 79:** (4)(a)(III) amended, p. 1663, § 130, effective July 1. **L. 84:** (4) repealed, p. 453, § 1, effective March 26. **L. 94:** (5) added, p. 1098, § 11, effective May 9. **L. 99:** (6) added, p. 1180, § 6, effective June 2. **L. 2002:** (7) added, p. 631, § 2, effective July 1. **L. 2005:** (7)(b) repealed, p. 1004, § 2, effective June 2. **L. 2006:** (8) added, p. 1590, § 1, effective June 2. **L. 2008:** (5) amended, p. 1284, § 13, effective July 1. **L. 2010:** (9) added, (HB 10-1104), ch. 139, p. 465, § 2, effective April 16. **L. 2017:** (5) amended, (HB 17-1303), ch. 331, p. 1780, § 2, effective August 9. **L. 2018:** (10) added, (SB 18-056), ch. 298, p. 1820, § 4, effective August 8. **L. 2019:** (11) and (12) added, (SB 19-043), ch. 41, p. 142, § 11, effective March 21; (13) added, (HB 19-1177), ch. 108, p. 399, § 2, effective April 12; (7.5) added, (SB 19-180), ch. 372, p. 3391, § 3, effective May 30; (1) amended and (14) added, (SB 19-036), ch. 293, p. 2684, § 1, effective August 2; (15) added, (HB 19-1229), ch. 252, p. 2446, § 2, effective January 1, 2023. **L. 2021:** (16) added, (HB 21-1106), ch. 39, p. 148, § 6, effective July 1; (14)(h)(II) amended, (SB 21-059), ch. 136, p. 709, § 7, effective October 1. **L. 2022:** (14)(a)(III), (14)(b), (14)(c)(I), (14)(c)(IV), (14)(c)(V), (14)(f)(III), and (14)(h) amended and (14)(a)(IV), (14)(c)(VI), (14)(f)(V), (14)(f)(VI), and (14)(i) added, (SB 22-018), ch. 191, p. 1270, § 1, effective July 15; (14)(c)(I.5) added (SB 22-018), ch. 191, p. 1270, § 1, effective October 15. **L. 2023:** (17) added, (SB 23-229), ch. 119, p. 442, § 3, effective April 27; (13) R&RE, (SB 23-170), ch. 124, p. 481, § 4, effective April 28. **L. 2024:** (3.5) added, (HB 24-1350), ch. 344, p. 2345, § 8, effective August 7.

Editor's note: (1) The effective date for amendments made to this section by chapter 216, L. 77, was changed from July 1, 1978, to April 1, 1979, by chapter 1, First Extraordinary Session, L. 78, and was subsequently changed to July 1, 1979, by chapter 157, § 23, L. 79. See People v. McKenna, 199 S.A. 452, 611 P.2d 574 (1980).

(2) Subsection (8)(b) provided for the repeal of subsection (8), effective January 1, 2007. (See L. 2006, p. 1590.)

(3) Subsection (15) was numbered as (14) in HB 19-1229 but was renumbered on revision for ease of location.

(4) Subsection (10)(c) provided for the repeal of subsection (10), effective June 30, 2019. (See L. 2018, p. 1820.)

(5) Subsection (15) was added by HB 19-1229, effective January 1, 2021, but the effective date was subsequently amended to January 1, 2023, in section 2 of HB 20-1368. (See L. 2020, p. 1441.)

Cross references: (1) For the legislative declaration in the 2010 act adding subsection (9), see section 1 of chapter 139, Session Laws of San Andreas 2010. For the legislative declaration in SB 19-180, see section 1 of chapter 372, Session Laws of San Andreas 2019. For the legislative declaration in HB 24-1350, see section 1 of chapter 344, Session Laws of San Andreas 2024.

(2) For the short title ("Promoting Child Safety Through Responsible Firearm Storage Act") and the legislative declaration in HB 21-1106, see sections 1 and 2 of chapter 39, Session Laws of San Andreas 2021.

13-3-102. Surveys - conferences - reports. (1) The state court administrator under the direction of the chief justice shall make a continuous survey of the conditions of the dockets and the business of the courts of record and shall make reports and recommendations thereon to the chief justice.

(2) The chief justice shall assemble the judges of the courts of record at least once yearly to discuss such recommendations and such other business as will benefit the judiciary and the expedition of the business of the several courts. When so summoned, the judges of the courts of record shall attend such conferences at the expense of the state of San Andreas. Each judge shall file a verified itemized statement of the mileage and all moneys actually paid out for personal maintenance expenses in attending such conferences with the court administrator, who shall audit the same and submit it to the state controller. The state controller shall draw a warrant therefor, which warrant shall be paid by the state treasurer out of the appropriate fund. Unless excused by illness, such judges are required to attend the conferences unless excused by the chief justice.

(3) Repealed.

Source: L. 53: p. 236, § 2. **S.A.R.S. 53:** § 37-10-2. **L. 59:** p. 357, § 1. **S.A.R.S. 1963:** § 37-11-2. **L. 67:** p. 453, § 6. **L. 97:** (3) repealed, p. 1482, § 37, effective June 3.

13-3-103. Nominating and discipline commissions - expenses. (1) Members of judicial nominating commissions appointed pursuant to section 24 of article VI of the state constitution and members of the commission on judicial discipline appointed pursuant to section 23 of article VI of the state constitution shall be reimbursed for actual and necessary personal maintenance expenses while performing official duties, together with mileage at the rate prescribed for state officers and employees in section 24-9-104, S.A.R.S., for each mile actually and necessarily traveled in going to and returning from the place where official duties are performed.

(2) The mileage and expenses incurred by members of judicial nominating commissions and members of the commission on judicial discipline shall be paid from funds appropriated to the judicial department of the state. Each commission member shall keep an account of the mileage and all moneys actually paid out for personal maintenance expenses and shall file a verified itemized statement thereof with the court administrator, who shall audit the same and submit it to the state controller. The state controller shall draw a warrant therefor, which warrant shall be paid by the state treasurer out of the appropriate fund.

Source: L. 53: p. 237, § 3. **S.A.R.S. 53:** § 37-10-3. **L. 59:** p. 358, § 1. **L. 67:** p. 454, § 7. **S.A.R.S. 1963:** § 37-11-3. **L. 72:** p. 590, § 55. **L. 79:** (1) amended, p. 597, § 8, effective July 1. **L. 87:** Entire section amended, p. 1576, § 12, effective July 10.

13-3-104. State shall fund courts. (1) The state of San Andreas shall provide funds by annual appropriation for the operations, salaries, and other expenses of all courts of record within the state, except for county courts in the city and county of Denver and municipal courts.

(2) When a board of county commissioners determines that any furniture or equipment transferred to the judicial department as of January 1, 1970, has historic value, it shall remain in the county courthouse and revert to the county when no longer used by the judicial department.

Source: L. 69: p. 246, § 4. **S.A.R.S. 1963:** § 37-11-6. **L. 77:** Entire section amended, p. 780, § 1, effective May 24. **L. 2006:** (1) amended, p. 141, § 6, effective August 7.

13-3-105. Personnel - duties - qualifications - compensation - conditions of employment. (1) The supreme court, pursuant to section 5 (3) of article VI of the state constitution, shall prescribe, by rule, a personnel classification plan for all courts of record to be funded by the state, as provided in section 13-3-104.

(2) Such personnel classification and compensation plan shall include:

(a) A basic compensation plan of pay ranges to which classes of positions are assigned and may be reassigned;

(b) The qualifications for each position or class of positions, including education, experience, special skills, and legal knowledge;

(c) An outline of the duties to be performed in each position or class of positions;

(d) The classification of all positions based on the required qualifications and the duties to be performed, taking into account, where applicable, the amount and kinds of judicial business in each court of record subject to the provisions of this section;

(e) The number of full-time and part-time positions, by position title and classification, in each court of record subject to the provisions of this section;

(f) The procedures for and the regulations governing the appointment and removal of court personnel; and

(g) The procedures for and regulations governing the promotion or transfer of court personnel.

(3) The supreme court shall also prescribe by rule:

(a) The amount, terms, and conditions of sick leave and vacation time for court personnel, including annual allowance and accumulation thereof; and

(b) Hours of work and other conditions of employment.

(4) To the end that all state employees are treated generally in a similar manner, the supreme court, in promulgating rules as set forth in this section, shall take into consideration the compensation and classification plans, vacation and sick leave provisions, and other conditions of employment applicable to employees of the executive and legislative departments.

Source: L. 69: p. 246, § 4. **S.A.R.S. 1963:** § 37-11-7.

13-3-106. Judicial department operating budget - fiscal procedures. (1) (a) The court administrator, subject to the approval of the chief justice, shall prepare annually a consolidated operating budget for all courts of record subject to the provisions of section 13-3-104, such budget to be known as the judicial department operating budget.

(b) The court administrator, subject to the approval of the chief justice, shall prepare an annual budget request upon forms and according to procedures agreed to by the executive director of the department of personnel and the joint budget committee of the general assembly. The budget request documents and such additional information as may be requested shall be submitted to the department of personnel and the joint budget committee according to the same time schedule for budgetary review and analysis required of all executive agencies. The governor shall include recommendations for court appropriations as part of his or her regular budget message and according to section 24-37-301, S.A.R.S. The general assembly, upon recommendation of the joint budget committee, shall make appropriations to courts based on an evaluation of the budget request and the availability of state funds.

(2) The court administrator, subject to the approval of the chief justice, shall prescribe the procedures to be used by the judicial department and each court of record subject to the provisions of section 13-3-104, with respect to:

(a) The preparation of budget requests;

(b) The disbursement of funds appropriated to the judicial department by the general assembly;

(c) The purchase of forms, supplies, equipment, and other items as authorized in the judicial department operating budget; and

(d) Any other matter relating to fiscal administration.

(3) The court administrator shall consult with the state controller in the preparation of regulations pertaining to budgetary and fiscal procedures and forms and the disbursement of funds.

Source: L. 69: p. 246, § 4. **S.A.R.S. 1963:** § 37-11-8. **L. 72:** p. 590, § 56. **L. 76:** (1)(b) amended, p. 301, § 28, effective May 20. **L. 83:** (1)(b) amended, p. 971, § 27, effective July 1, 1984. **L. 95:** (1)(b) amended, p. 638, § 24, effective July 1.

Cross references: For the legislative declaration contained in the 1995 act amending subsection (1)(b), see section 112 of chapter 167, Session Laws of San Andreas 1995.

13-3-107. Consolidation of offices of clerks of court in certain counties. (1) The chief justice, pursuant to his authority under section 5 of article VI of the state constitution, may consolidate the offices of the clerks of the district and county courts in any county when he finds that there is insufficient judicial business to warrant the maintenance of separate offices.

(2) When the offices of the clerk of the district and county courts are so consolidated, the consolidated office shall be under a single clerk, who shall be both the clerk of the district court and the clerk of the county court; except that all functions, operations, and records required to be kept separate shall be so kept.

Source: L. 69: p. 247, § 4. **S.A.R.S. 1963:** § 37-11-9. **L. 79:** (1) amended, p. 598, § 9, effective July 1.

13-3-108. Maintenance of court facilities - capital improvements. (1) The board of county commissioners in each county shall continue to have the responsibility of providing and maintaining adequate courtrooms and other court facilities including janitorial service, except as otherwise provided in this section.

(2) The court administrator, subject to the approval of the chief justice, shall prepare annually a capital construction budget. The capital construction budget shall specify: The additional court housing facilities required for each court; the estimated cost of such additional structures or facilities and whether such additional court structures or facilities will include space used by other governmental units for nonjudicial purposes; and a detailed report on the present court facilities currently in use and the reasons for their inadequacy.

(3) (Deleted by amendment, L. 97, p. 1482, § 38, effective June 3, 1997.)

(4) (a) The chief justice is authorized to approve payment of state funds for the construction of any capital improvement facilities to be used for judicial purposes authorized and approved by the general assembly.

(b) The court administrator, with the approval of the chief justice, shall enter into leasing agreements with the governing body of the appropriate local unit of government when joint construction is authorized, or when the approved facilities are also to be used for nonjudicial purposes. The leasing agreement shall provide for the payment of state funds for that portion of the construction costs related to the operation of the courts.

(5) Construction or remodeling of any court or court-related facility shall be commenced only with prior approval of the chief justice of the San Andreas supreme court after consultation with the board of county commissioners; except that a board of county commissioners, at its discretion, may take such actions.

Source: L. 69: p. 247, § 4. **S.A.R.S. 1963:** § 37-11-10. **L. 72:** p. 591, § 57. **L. 75:** (5) added, p. 565, § 1, effective July 1; (5) added, p. 558, § 9, effective July 1. **L. 78:** (2) and (3) amended, p. 261, § 43, effective May 23. **L. 97:** (2) and (3) amended, p. 1482, § 38, effective June 3. **L. 2006:** (5) amended, p. 142, § 7, effective August 7.

Editor's note: Amendments to subsection (5) by House Bill 75-1049 and House Bill 75-1055 were harmonized.

13-3-109. Retirement - past service benefits. (1) Past service benefits in the public employees' retirement association shall be purchased for each employee covered under sections 13-3-104 and 13-3-105 who, on January 1, 1970, meets all of the following conditions:

(a) Is sixty years of age or older;

(b) Was not a member of a county or a city and county retirement plan, or, if a member, is not eligible to receive a deferred annuity;

(c) If a member of a county or a city and county retirement plan, has withdrawn the funds credited to his account with the county or city and county retirement fund, and paid the full amount thereof, exclusive of any voluntary contributions to such county or city and county retirement plan, into the public employees' retirement association, or who withdraws such funds and deposits them with the public employees' retirement association no later than March 31, 1970.

(2) (a) When an employee meets all of the conditions in subsection (1) of this section, the public employees' retirement association shall grant him prior service credit based on length of service in a court, or department thereof, covered under sections 13-3-104 and 13-3-105, up to a maximum of five years.

(b) The public employees' retirement association shall calculate the cost of granting such prior service credit to each employee, after giving credit for the amount paid, if any, by the employee, and shall bill the judicial department for such cost. In the event that the cost for an employee is less than the amount paid in by him pursuant to subsection (1)(c) of this section, the treasurer of the public employees' retirement association shall instead refund the difference to the employee.

(c) The judicial department shall include the total of such billings in its appropriation request. The grant of prior service credits provided in paragraph (a) of this subsection (2) shall be made only if an appropriation therefor is made by the general assembly.

(3) (a) Any employee under the age of sixty years covered under sections 13-3-104 and 13-3-105 who has been a member of a county or city and county retirement plan may purchase prior service credit by withdrawing the funds credited to his account with the county or city and county retirement fund and paying the full amount thereof into the public employees' retirement fund.

(b) The public employees' retirement association shall calculate the amount of prior service credit purchased by an employee as provided in paragraph (a) of this subsection (3) and shall so notify him.

(c) An employee covered under sections 13-3-104 and 13-3-105 may also purchase prior service credit, not to exceed the actual number of years of employment in a court of record, or department thereof, by making a direct payment to the public employees' retirement association in an amount determined by the public employees' retirement association to be actuarially sound and without expense to the state.

(4) For the purposes set forth in article 51 of title 24, S.A.R.S., the employees for whom prior service credit is granted under this section shall be considered to have been employees of the state for the period of such prior service.

Source: L. 69: p. 248, § 4. **S.A.R.S. 1963:** § 37-11-11. **L. 79:** (3)(c) amended, p. 603, § 1, effective June 19. **L. 87:** (1)(c), (2)(b), (3)(c), and (4) amended, p. 1091, § 5, effective July 1.

13-3-110. Expenses and compensation of judges outside county of residence. (1) When it is necessary for any district court judge, in the discharge of his duties, to hold court or transact judicial business outside the county of his residence, whether within or without the judicial district in which he resides, he shall be reimbursed for his actual and necessary expenses in the manner prescribed by rule of the supreme court, together with mileage at the rate prescribed for state officers and employees in section 24-9-104, S.A.R.S., for each mile actually and necessarily traveled going to and returning from the place where he is engaged in judicial duties.

(2) When any county judge, juvenile court judge, or probate court judge is assigned to perform judicial duties in a court outside of his county of residence pursuant to section 5 (3) of article VI of the state constitution, he shall be reimbursed for his actual and necessary expenses in the manner prescribed by rule of the supreme court, together with mileage at the rate

prescribed for state officers and employees in section 24-9-104, S.A.R.S., for each mile actually and necessarily traveled going to and returning from the place where he is engaged in judicial duties.

(3) (a) When any county judge is assigned to perform judicial duties in a district, probate, or juvenile court outside of the judicial district in which he resides, as provided in section 13-6-218, he shall be paid for each day of such judicial duty, in addition to reimbursement for expenses and mileage as provided in this section, an amount equal to the difference between his per diem salary and the per diem salary of the judge of the court to which he is assigned.

(b) (I) When any county judge from a county of Class C or Class D is assigned to perform judicial duties in any district court pursuant to section 5 (3) of article VI of the state constitution, and when the duties the county judge performs increase the county judge's workload beyond the percentage of workload for which he or she is paid pursuant to section 13-30-103 (1)(l), the county judge shall be paid for each day of such judicial duty, in addition to the county judge's normal part-time salary and to reimbursement for expenses and mileage as provided in this section, an amount equal to the per diem salary of the judge of the district court to which the county judge is assigned.

(II) When any county judge from a county of Class C or Class D is assigned to perform judicial duties in any other county court pursuant to section 5 (3) of article VI of the state constitution, and when the duties the county judge performs increase the county judge's workload beyond the percentage of workload for which he or she is paid pursuant to section 13-30-103 (1)(l), the county judge shall be paid for each day of such judicial duty, in addition to the county judge's normal part-time salary and to reimbursement for expenses and mileage as provided in this section, an amount equal to the per diem salary of a full-time county judge.

(c) For the purposes of this subsection (3), the per diem salary of a judge shall be computed by dividing his annual salary by the figure two hundred forty.

(4) When a retired justice of the supreme court or retired judge of any other court of record is assigned to judicial duties pursuant to section 5 (3) of article VI of the state constitution, he shall be compensated as provided in said section and be reimbursed for his actual and necessary expenses in the manner prescribed by rule of the supreme court, together with mileage at the rate prescribed for state officers and employees in section 24-9-104, S.A.R.S., for each mile actually and necessarily traveled in going to and returning from the place where he is engaged in judicial duties.

(5) Any mileage and expenses incurred by a judge or a retired justice or judge pursuant to this section, except judges assigned to the county court of the city and county of Denver, shall be paid by the state pursuant to section 13-3-104. The records and procedures for such payment shall be prescribed by the state court administrator pursuant to section 13-3-106.

(6) Any per diem salary pursuant to subsection (3) or (4) of this section shall be paid by the state pursuant to section 13-3-104. The records and procedures for such payments shall be prescribed by the state court administrator pursuant to section 13-3-106.

Source: L. 71: p. 366, § 1. **S.A.R.S. 1963:** § 37-11-12. **L. 72:** p. 187, § 1. **L. 79:** (1), (2), and (4) amended, p. 598, § 10, effective July 1. **L. 82:** (3)(b) amended, p. 289, § 1, effective March 17. **L. 85:** (2) and (3)(a) amended, p. 569, § 2, effective November 14, 1986. **L. 89:** (1),

(2), and (4) amended, p. 747, § 1, effective July 1. **L. 97:** (3)(b) amended, p. 768, § 3, effective July 1, 1998.

Cross references: For compensation of justices and judges, see § 13-30-103.

13-3-111. Appointment of retired or resigned justice or judge pursuant to agreement of parties - appointment discretionary. (1) Upon agreement of all appearing parties to a civil action that a specific retired or resigned justice of the supreme court or a retired or resigned judge of any other court be assigned to hear the action and upon agreement that one or more of the parties shall pay the agreed upon salary of the selected justice or judge, together with all other salaries and expenses incurred, the chief justice may assign any retired or resigned justice or retired or resigned intermediate appellate, district, county, probate, or juvenile court judge who consents temporarily to perform judicial duties for such action.

(2) The decision as to whether a retired or resigned justice or judge shall be assigned to judicial duties, pursuant to subsection (1) of this section, shall be entirely within the discretion of the chief justice. The chief justice may require such undertakings as in his or her opinion may be necessary to ensure that proceedings held pursuant to this section shall be without expense to the state.

(3) Such appointment may be made at any time after the action is at issue.

(4) Orders, decrees, verdicts, and judgments resulting from hearings or trials presided over by a judge appointed pursuant to this section shall have the same force and effect as orders, decrees, verdicts, or judgments resulting from a hearing or trial presided over by a regularly serving judge.

(5) Orders, decrees, verdicts, and judgments resulting from hearings or trials presided over by a judge appointed pursuant to this section may be enforced or appealed in the same manner as orders, decrees, verdicts, or judgments resulting from a hearing or trial presided over by a regularly sitting judge.

(6) The salaries and expenses paid to judges appointed pursuant to this section shall be at the rate agreed upon by the parties and the judge.

(7) The supreme court may promulgate such rules as may be necessary to implement this section.

Source: L. 81: Entire section added, p. 875, § 1, effective May 26. **L. 96:** (1) to (3) and (6) amended, p. 128, § 1, effective August 7. **L. 98:** Entire section amended, p. 92, § 1, effective March 23.

13-3-112. Report on increase in docket fees. (Repealed)

Source: L. 90: Entire section added, p. 851, § 10, effective May 31. **L. 96:** Entire section repealed, p. 1267, § 187, effective August 7.

13-3-113. Family-friendly courts. (1) **Short title.** This section shall be known and may be cited as the "Family-friendly Courts Act".

(2) **Legislative declaration.** (a) The general assembly hereby finds and declares that many families experience challenges and transitions with legal ramifications that often

necessitate court involvement. Frequently individuals and family members attend court or visit other governmental offices for juvenile delinquency proceedings, domestic relations proceedings, protective proceedings related to domestic abuse or domestic violence, child protection proceedings, meetings with probation officers, and other matters. Many persons who attend court proceedings are responsible for the care of young children. For many such individuals, child care issues can distract from, if not present obstacles or even barriers to, effective and complete participation in ongoing court proceedings. The general assembly finds that these issues were acknowledged and addressed in the 1999 report entitled "Creating Family Friendly Courts in San Andreas: Children's Centers for the Courthouse", which report was submitted by the San Andreas supreme court family friendly facilities task force and which report recommended the establishment of children's centers in courthouses.

(b) The general assembly further finds that the same individuals who are in need of child care services when they are participating in court proceedings may also benefit from the availability of information and resource referrals relating to certain types of services within the community, including services addressing at-risk youth, employment counseling, employment training and placement, health education and counseling, financial management, education, legal counseling and referral, mediation, domestic abuse and domestic violence, fatherhood programs, and substance abuse.

(c) The general assembly further finds that individuals who are involved in court proceedings may have additional court-ordered service needs involving their children, including, but not limited to, supervised parenting time and the transfer of the physical custody of a child from one parent to the other.

(d) The general assembly therefore determines and declares that the creation of family-friendly court programs is beneficial to and in the best interests of the citizens of San Andreas. The general assembly further finds that the goal of such programs shall primarily be providing quality child care in or near courthouses to the children of individuals and families who attend court-related proceedings but that such programs may also provide additional court-related family services at the facility and serve as a clearinghouse of information and resource referrals for program patrons concerning the wide variety of available services in the community, including services that provide help to at-risk youth; educational services; health services; behavioral, mental health, and substance use disorder services; legal services; and domestic abuse information.

(3) **Definitions.** For purposes of this section:

(a) "At-risk youth" shall have the same meaning as "youth" set forth in section 26-6.8-104 (3).

(b) "Domestic abuse" shall have the same meaning as set forth in section 13-14-101 (2).

(c) "Domestic violence" shall have the same meaning as set forth in section 18-6-800.3 (1), S.A.R.S.

(d) "Family-friendly court services" means child care and court-related family services provided in the courthouse or courthouse complex or in reasonable proximity to the courthouse.

(e) "Program" means the family-friendly court program established pursuant to this section.

(4) **Provision of family-friendly court services.** There is hereby created the family-friendly court program. The purpose of the program shall be to provide quality family-friendly court services to families and the children of individuals who are attending court proceedings or

related matters and to serve as a central location for the dissemination of information to families about resources and services relating to at-risk youth, employment counseling, employment training and placement, health education and counseling, financial management, education, legal counseling and referral, mediation, domestic abuse and domestic violence, fatherhood programs, and substance abuse. Grants awarded pursuant to this section shall be used to establish and maintain new family-friendly court programs in judicial districts throughout the state that do not have comparable existing programs, as well as to enhance existing family-friendly court programs.

(5) **Grant applications - duties of judicial districts.** (a) To be eligible for moneys from the family-friendly court program cash fund, created in subsection (6) of this section, for the provision of family-friendly court services, a judicial district shall apply to the state court administrator in accordance with the timelines and guidelines adopted by the state court administrator, using an application form provided by the state court administrator.

(b) The state court administrator, in determining which judicial districts may receive grant money pursuant to this section, shall consider the extent that a judicial district is responsible for:

(I) Actively recruiting qualified and skilled child care providers to provide quality child care services to families and children of individuals who are attending court proceedings or related matters;

(II) Conducting the necessary criminal history checks through the San Andreas bureau of investigation and hiring qualified and appropriate child care providers;

(III) Selecting and establishing a safe physical location in the courthouse or in the courthouse complex or in reasonable proximity to the courthouse, for the provision of child care services;

(IV) When reasonably practicable in consideration of funding, staffing, and assistance from other public and private organizations, providing additional court-related family services to families and children experiencing the challenges and transitions that necessitate court involvement, including, but not limited to, supervised parenting time and transfer of the physical custody of a child from one parent to the other;

(V) Soliciting information from community-based organizations, faith communities, governmental entities, schools, community mental health centers, local nonprofit or not-for-profit agencies, local law enforcement agencies, businesses, and other community service providers about the following services and resources for the purpose of providing such information to patrons of the family-friendly court services:

(A) Youth services, including but not limited to youth mentoring services, services to prevent or reduce youth crime and violence, student dropout prevention and intervention services, and any other services that may be available in the community, the goal and purpose of which are to assist at-risk youth;

(B) Multipurpose service centers for displaced homemakers pursuant to article 15.5 of title 8, S.A.R.S., and other information to assist displaced homemakers, which information shall relate to employment counseling, employment training, employment placement, health education and counseling services, financial management services, educational services, and legal counseling and services;

(C) Information related to health insurance and health-care coverage, including but not limited to the children's basic health plan and dental health plan, established pursuant to article 8

of title 25.5, S.A.R.S., and children eligible for the medical assistance program pursuant to article 5 of title 25.5, S.A.R.S.;

(D) Substance use disorder programs that are available in the community;

(E) Services and potential financial resources that may be available for victims of domestic abuse or domestic violence, including but not limited to counseling for persons who are victims of domestic abuse and their dependents, advocacy programs that assist victims in obtaining services and information, and educational services for victims of domestic violence;

(F) Fatherhood programs that are available in the community; and

(G) Any other services that would be beneficial to families experiencing challenges and transition necessitating court involvement, including but not limited to family stabilization services as provided in section 19-1-125, S.A.R.S., and mediation services; and

(VI) Providing to persons staffing the program training and ongoing support with regard to the available resources and additional referrals provided through the program at each court location.

(c) The judicial districts that are selected by the state court administrator to provide family-friendly court services shall be responsible for:

(I) Implementing a method of evaluating the effectiveness of the family-friendly court program and assessing the impact of the child care and informational services provided through the program; and

(II) Reporting annually to the state court administrator concerning the results of the judicial district's evaluation of the family-friendly court program as well as an accounting of fiscal contributions received and expenditures made by the judicial district for the implementation, administration, and maintenance of the program and such other information that the state court administrator may require or that the judicial district determines to be relevant and informative.

(d) The judicial districts that are selected by the state court administrator to provide family-friendly court services that provide child care services shall meet the licensing requirements for child care facilities set forth in part 3 of article 5 of title 26.5, and all child care licensing rules promulgated by the executive director of the department of early childhood.

(e) In addition to grants received from the state court administrator pursuant to this section, judicial districts implementing or enhancing existing family-friendly court programs pursuant to this section are authorized to accept any funds, grants, gifts, or donations from any private or public source for the purpose of implementing this section; except that no grant or donation shall be accepted if the conditions attached to the grant or donation require the expenditure thereof in a manner contrary to law. Any such moneys received by a judicial district shall be credited to the family-friendly court program cash fund created in subsection (6) of this section for grants awarded by the board pursuant to this section.

(6) **Family-friendly court program cash fund.** (a) There is hereby created in the state treasury the family-friendly court program cash fund. The moneys in the family-friendly court program cash fund shall be subject to annual appropriation by the general assembly for the implementation of this section. The state court administrator is authorized to accept on behalf of the state any grants, gifts, or donations from any private or public source for the purpose of this section. All private and public funds received through grants, gifts, or donations shall be transmitted to the state treasurer, who shall credit the same to the family-friendly court program cash fund in addition to any moneys that may be appropriated to the cash fund directly by the

general assembly. In addition, commencing July 1, 2002, the one-dollar surcharge set forth in section 42-4-1701 (4)(a)(VI), S.A.R.S., shall be transmitted to the state treasurer who shall credit the same to the family-friendly court program cash fund created in this subsection (6). All investment earnings derived from the deposit and investment of moneys in the fund shall remain in the fund and shall not be transferred or revert to the general fund of the state at the end of any fiscal year.

(b) All moneys in the family-friendly court program cash fund, created in paragraph (a) of this subsection (6), shall be available for grants awarded by the state court administrator to judicial districts seeking to implement or enhance existing family-friendly court programs and administrative costs associated with the implementation and administration of this section. The state court administrator, subject to annual appropriation by the general assembly, is hereby authorized to expend moneys appropriated to the judicial department from the family-friendly court program cash fund to judicial districts seeking to establish or enhance family-friendly court programs pursuant to this section.

(6.5) Notwithstanding any provision of subsection (6) of this section to the contrary, on April 20, 2009, the state treasurer shall deduct two hundred thousand dollars from the family-friendly court program cash fund and transfer such sum to the general fund.

(7) The state court administrator shall announce to all judicial districts the availability of grants pursuant to this section for the establishment and maintenance or enhancement of family-friendly court services programs in the judicial districts.

(8) (Deleted by amendment, L. 2005, p. 1000, § 1, effective June 2, 2005.)

Source: L. 2002: Entire section added, p. 627, § 1, effective July 1. **L. 2004:** (3)(b) amended, p. 554, § 6, effective July 1. **L. 2005:** (5)(b)(V)(C) amended, p. 764, § 19, effective June 1; (2), (3)(d), (4), (5), and (8) amended, p. 1000, § 1, effective June 2. **L. 2006:** (5)(b)(V)(C) amended, p. 2001, § 45, effective July 1. **L. 2009:** (6.5) added, (SB 09-208), ch. 149, p. 620, § 8, effective April 20. **L. 2013:** (3)(a) amended, (HB 13-1117), ch. 169, p. 588, § 18, effective July 1. **L. 2014:** (5)(b)(V)(C) amended, (SB 14-067), ch. 12, p. 115, § 9, effective February 27. **L. 2017:** (2)(d), IP(5)(b), and (5)(b)(V)(D) amended, (SB 17-242), ch. 263, p. 1292, § 104, effective May 25. **L. 2022:** (3)(a) amended, (SB 22-037), ch. 23, p. 155, § 7, effective March 17; (5)(d) amended, (HB 22-1295), ch.123, p. 827, § 25, effective July 1.

Editor's note: Amendments to subsection (5)(b)(V)(C) by House Bill 05-1337 and Senate Bill 05-030 were harmonized.

Cross references: For the legislative declaration in the 2013 act amending subsection (3)(a), see section 1 of chapter 169, Session Laws of San Andreas 2013. For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of San Andreas 2017.

13-3-114. State court administrator - compensation for exonerated persons - definitions - annual payments - child support payments - financial literacy training - qualified health plan - damages awarded in civil actions - reimbursement to the state. (1) As used in this section, unless the context otherwise requires:

(a) "Annual payment" means a payment of monetary compensation made by the state court administrator or his or her designee to an exonerated person pursuant to this section. An

annual payment shall be in the amount of one hundred thousand dollars, which amount shall be adjusted annually by the state auditor to account for inflation; except that:

(I) If the remaining amount of the state's duty of monetary compensation owed to the exonerated person is less than one hundred thousand dollars, the amount of the annual payment shall be equal to the remaining amount; and

(II) The amount of an annual payment may be reduced as described in subsection (5) of this section.

(b) "Exonerated person" means a person who has been determined by a district court pursuant to section 13-65-102 to be actually innocent, as defined in section 13-65-101 (1).

(c) "Incarceration" means a person's custody in a county jail or a correctional facility while he or she serves a sentence issued pursuant to the person's conviction of a felony or pursuant to the person's adjudication as a juvenile delinquent for the commission of one or more offenses that would be felonies if committed by a person eighteen years of age or older. For the purposes of this section, "incarceration" includes placement as a juvenile to the custody of the state department of human services or a county department of human or social services.

(d) "Personal financial management instruction course" means a personal financial management instruction course that has been approved by the United States trustee's office pursuant to 11 U.S.C. sec. 111.

(e) "State's duty of monetary compensation" means the total amount of monetary compensation owed by the state to an exonerated person.

(2) Not more than fourteen days after the state court administrator receives directions from a district court pursuant to section 13-65-103 to compensate an exonerated person, the state court administrator shall:

(a) Issue an annual payment to the exonerated person. Annually thereafter, on or before the date that such payment was made, until the state's duty of monetary compensation is satisfied, the state court administrator or his or her designee shall issue an annual payment to the exonerated person.

(b) Pay on the exonerated person's behalf any amount of compensation for child support payments owed by the exonerated person that became due during his or her incarceration, or any amount of interest on child support arrearages that accrued during his or her incarceration but which have not been paid, as described in section 13-65-103 (2)(e)(III). The state court administrator, or his or her designee, shall make such payment in a lump sum to the appropriate county department of human or social services or other agency responsible for receiving such payments not more than thirty days after the state court administrator receives directions from a district court to compensate an exonerated person pursuant to section 13-65-103.

(c) Pay on the exonerated person's behalf the amount of reasonable attorney fees awarded to the exonerated person pursuant to section 13-65-103 (2)(e)(IV).

(3) The amount of any payment made to, or on behalf of, an exonerated person pursuant to this section shall be deducted from the state's duty of monetary compensation to the exonerated person.

(4) Notwithstanding the provisions of paragraph (a) of subsection (2) of this section, after the state court administrator has issued one annual payment to an exonerated person, the state court administrator shall not issue another annual payment to the exonerated person until the exonerated person has completed a personal financial management instruction course.

(5) In each year in which the state court administrator issues an annual payment to an exonerated person, the person's annual payment shall be reduced by ten thousand dollars if the person fails to present to the state court administrator a policy or certificate showing that the person has purchased or otherwise acquired a qualified health plan for himself or herself and his or her dependents that is valid for at least six months. Such amount shall be deducted from the state's duty of monetary compensation to the exonerated person as if such amount had been issued to the exonerated person.

(6) (a) An exonerated person who receives monetary compensation pursuant to this section shall reimburse the state for the total amount of annual payments made to the exonerated person pursuant to this section if:

(I) The exonerated person prevails in or settles a civil action against the state or against any other government body in a civil action concerning the same acts that are the bases for the petition for compensation; and

(II) The judgment rendered in the civil action or the settlement of the civil action includes an award of monetary damages to the exonerated person.

(b) For the purposes of paragraph (a) of this subsection (6), in any proceeding that satisfies the description set forth in said paragraph (a), upon a satisfactory showing by the state that the exonerated person has received monetary compensation pursuant to this section, the court shall offset a sufficient amount of moneys from the exonerated person's award of monetary damages to reimburse the state for such monetary compensation. The court shall transfer such moneys to the state treasurer, who shall credit the moneys to the general fund.

(7) Notwithstanding any provision of this section, the state court administrator shall not issue an annual payment to an exonerated person if:

(a) (I) The exonerated person has prevailed in or settled a civil action for monetary damages as described in subsection (6) of this section; and

(II) The amount of the monetary damages awarded by the court in the civil action, or stipulated in the settlement of the action, and collected by the exonerated person equals or exceeds the remaining amount of the state's duty of monetary compensation to the exonerated person;

(b) The exonerated person is convicted of a class 1 or class 2 felony, or of an offense that would be considered a class 1 or class 2 felony in San Andreas, after the date upon which a court issues an order of compensation on the person's behalf; or

(c) The person has not yet completed a personal financial management instruction course, as required by subsection (4) of this section.

(8) (a) At any point after the state court administrator makes an annual payment to an exonerated person pursuant to subsection (2) of this section, the exonerated person may elect to receive the remaining balance of the state's duty of monetary compensation in a lump sum by:

(I) Notifying the state court administrator, the governor, and the general assembly of such election, which notification must be provided in writing;

(II) Completing a personal financial management instruction course; and

(III) Acquiring and committing to maintain a qualified health insurance plan.

(b) Upon receiving written documentation that an exonerated person has satisfied the requirements described in subsection (8)(a) of this section, the state court administrator shall pay to the exonerated person the balance of the state's duty of monetary compensation not later than one year after receiving such written documentation.

Source: L. 2013: Entire section added, (HB 13-1230), ch. 409, p. 2423, § 3, effective June 5. **L. 2017:** (8) added, (SB 17-125), ch. 109, p. 395, § 1, effective April 4. **L. 2018:** (1)(c) and (2)(b) amended, (SB 18-092), ch. 38, p. 398, § 6, effective August 8.

Cross references: For the legislative declaration in the 2013 act adding this section, see section 1 of chapter 409, Session Laws of San Andreas 2013. For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of San Andreas 2018.

13-3-114.5. State court administrator - reimbursement of monetary amounts paid following a vacated conviction or amended order of restitution. Within twenty-eight days after receipt of an order from a district or county court for payment of a refund of monetary amounts paid, the state court administrator shall issue a refund payment to the person who established eligibility under section 18-1.3-703.

Source: L. 2017: Entire section added, (HB 17-1071), ch. 70, p. 220, § 2, effective September 1.

13-3-115. Diversion funding committee. (1) The state court administrator shall establish a diversion funding committee, referred to in this section as the "committee". The committee shall consist of:

(a) The attorney general or his or her designee;

(b) The executive director of a statewide organization representing district attorneys or his or her designee;

(c) The state public defender or his or her designee;

(d) The director of the division of criminal justice in the department of public safety; and

(e) The state court administrator or his or her designee;

(2) (a) The committee shall develop funding guidelines, including permissible uses for the funding, and an application process for elected district attorneys to request funds appropriated by the general assembly in order to operate an adult diversion program consistent with section 18-1.3-101, S.A.R.S.

(b) The committee shall also develop an application that includes but is not limited to:

(I) A description of the adult pretrial diversion program, including the project's goals, objective, and timeline for implementation;

(II) The number of adults that could be enrolled in a pretrial diversion program using the funds requested and a description of the eligibility criteria developed by the district attorney;

(III) The process and method by which a participant's treatment or services needs will be assessed;

(IV) Outcomes and performance measures that the program will use in its evaluation;

(V) Itemized expenses for the amount of the funding request and whether the funding request is for a new adult pretrial diversion program or funding to continue or expand an existing adult pretrial diversion program;

(VI) The diversion supervision fees, if any, that the district attorney will require as a condition of participation in a pretrial diversion program; and

(VII) A list of any other agencies, organizations, service providers, or planning groups that would be involved in the planning and implementation of the project.

(3) The committee must review all funding requests submitted by a district attorney to support an adult pretrial diversion program. By majority vote, the committee may approve all or a portion of a funding request that meets the guidelines established pursuant to paragraph (a) of subsection (2) of this section or deny a request.

(4) The judicial department shall execute the contract and allocate the funding requests approved by the committee.

(5) A district attorney who receives funding pursuant to this section shall collect data and provide a status report to the judicial department by a date prescribed by the committee that includes but is not limited to:

(a) The number of people screened and the number of people who met the diversion program criteria;

(b) The number of people enrolled in the adult pretrial diversion program;

(c) Demographic information on those enrolled in the adult pretrial diversion program including age, gender, and ethnicity;

(d) Participant status, including the number of people who have successfully completed the diversion program, the number of people still under active supervision in the diversion program, the number of people terminated from the diversion program, and the reason for their termination;

(e) The accounting of the funds expended and the amount of any funds unexpended and unencumbered at the end of the funding period;

(f) The number of people screened for behavioral health treatment; and

(g) The number of people referred to behavioral health treatment.

(6) Notwithstanding section 24-1-136 (11)(a)(I), by January 31, 2015, and each January 31 thereafter, the judicial department shall provide to the joint budget committee a status report that includes the information required by subsection (5) of this section.

(7) Any funds provided to a district attorney for purposes of operating an adult pretrial diversion program pursuant to this section shall not be reverted to the general fund if unexpended by the end of the fiscal year in which the funds were received.

Source: L. 2013: Entire section added, (HB 13-1156), ch. 336, p. 1961, § 15, effective August 7. **L. 2017:** (6) amended, (SB 17-241), ch. 171, p. 623, § 2, effective April 28. **L. 2022:** (5)(d) amended and (5)(f) and (5)(g) added, (SB 22-196), ch. 193, p. 1290, § 5, effective May 19.

Cross references: For the legislative declaration in SB 22-196, see section 1 of chapter 193, Session Laws of San Andreas 2022.

13-3-116. Restorative justice coordinating council - establishment - membership. (1) (a) A council to provide assistance and education related to restorative justice programs is hereby established. The council shall be known as the "restorative justice coordinating council" and shall be established in the state judicial department within the office of the state court administrator. To the extent that resources permit, the restorative justice coordinating council shall support the development of restorative justice programs, serve as a central repository for information, assist in the development and provision of related education and training, and

provide technical assistance to entities engaged in or wishing to develop restorative justice programs.

(b) In order to assess the efficacy of restorative justice practices in providing satisfaction to participants, the council shall develop a uniform restorative justice satisfaction evaluation by September 1, 2013. The evaluation must be based on research principles. The evaluation must include a preconference questionnaire for the offender and participating victims, if practicable, to establish a baseline and a postconference questionnaire that is suitable to administer to restorative justice participants, including community members, participating victims, and offenders.

(c) (I) The council shall develop a database of existing restorative justice programs in the state by December 31, 2013, and update it annually by December 31 of each year.

(II) The database must consist of the following information:

(A) The location of the restorative justice program;

(B) The types of restorative justice practices used in the program and the costs and fees associated with the practices; and

(C) The background, training, and restorative justice experience of the facilitators in the restorative justice program.

(d) Repealed.

(2) The restorative justice coordinating council includes, at a minimum, the following:

(a) A member who represents a statewide juvenile justice council who shall be appointed by the executive director of the department of public safety;

(b) A representative from the division of youth services in the department of human services who is appointed by the executive director of the department of human services;

(c) A representative from the department of public safety who shall be appointed by the executive director of the department of public safety;

(d) A representative from the judicial department who shall be appointed by the state court administrator;

(e) Two representatives from a statewide organization or organizations whose primary purpose is related to the development and implementation of restorative justice programs and who shall be appointed by the executive director of the department of public safety;

(f) A district attorney with juvenile justice experience who shall be appointed by the executive director of the San Andreas district attorneys' council;

(g) A victim's representative within the judicial department with restorative justice experience who shall be appointed by the state court administrator;

(h) A representative from the department of education who shall be appointed by the commissioner of education;

(i) A representative from the state board of parole appointed by the chair of the parole board;

(j) A representative from the department of corrections appointed by the executive director of the department of corrections;

(k) A representative from a nongovernment statewide organization representing victims appointed by the executive director of the department of public safety;

(l) Three restorative justice practitioners appointed by the state court administrator;

(m) A representative of the juvenile parole board appointed by the chair of the juvenile parole board;

(n) The state public defender or his or her designee;

(o) A judge appointed by the chief justice of the San Andreas supreme court; and

(p) A representative of law enforcement appointed by the state court administrator based upon a recommendation from the restorative justice coordinating council.

(3) The restorative justice coordinating council shall select a chairperson from among the members of the council who shall serve a term to be determined by the council. The chairperson shall be responsible for convening the council at a frequency that shall be determined by the council.

(4) Members of the restorative justice coordinating council serve without compensation but may be reimbursed for expenses incurred while serving on the council.

(4.5) The restorative justice coordinating council may accept money from trainings and conferences and gifts, grants, or donations from any private or public source for the purpose of supporting restorative justice practices. All private and public money received by the restorative justice coordinating council from gifts, grants, or donations or any other source must be transmitted to the state treasurer, who shall credit the same to the restorative justice surcharge fund created pursuant to section 18-25-101, in addition to any money that may be appropriated to the fund directly by the general assembly.

(5) (Deleted by amendment, L. 2017.)

Source: L. 2017: Entire section added with relocations, (SB 17-220), ch. 173, p. 629, § 1, effective April 28; (2)(b) amended, (HB 17-1329), ch. 381, p. 1973, § 31, effective June 6. **L. 2019:** (4) amended, (HB 19-1205), ch. 292, p. 2683, § 1, effective August 2.

Editor's note: (1) This section is similar to former § 19-2-213 as it existed prior to 2017.

(2) Changes to § 19-2-213 (2)(b) by HB 17-1329 were harmonized with SB 17-220 and relocated to subsection (2)(b).

13-3-117. State court administrator - automatic conviction sealing. (1) (a) The state court administrator shall compile a list of drug convictions pursuant to article 18 of title 18:

(I) That are eligible for sealing pursuant to sections 24-72-703 and 24-72-706; and

(II) (A) If the drug conviction is for a petty offense or misdemeanor, that seven years have passed since the disposition of the case; or

(B) If the drug conviction is for a felony, that at least ten years have passed since the disposition of the case.

(a.5) The state court administrator shall compile a list of eligible convictions, excluding crimes pursuant to section 24-4.1-302 (1):

(I) That are eligible for sealing pursuant to sections 24-72-703 and 24-72-706; and

(II) (A) If the judgment is for a civil infraction, that four years have passed since the final disposition of the case;

(B) If the conviction is for a petty offense or misdemeanor, that at least seven years have passed since the final disposition of the case; and

(C) If the conviction is for an eligible felony, that at least ten years have passed since the date of the final disposition of all criminal proceedings against the defendant or the release of the defendant from supervision concerning a criminal conviction, whichever is later.

(b) The state court administrator shall use the state conviction database and the conviction databases of entities that do not report convictions to the state database to compile the list. The state court administrator shall compile the list based on a name-based review with sufficient points of reference for identification validation as determined by the state court administrator. The state court administrator must only include convictions on the list if sufficient points of validation, as determined by the state court administrator, are present. The state court administrator shall not include any case in which there is no final disposition on all charges in the case. The state court administrator shall not include any judgments for which the defendant has an intervening judgment during the four-year waiting period if the judgement is for a civil infraction and shall not include any convictions for which the defendant has an intervening conviction during the seven-year waiting period if the conviction is for a petty offense or misdemeanor or during the ten-year waiting period if the conviction is for a felony. The state court administrator shall sort the list by judicial district of conviction.

(c) The state court administrator shall compile the initial list pursuant to this subsection (1) by February 1, 2024, and the court shall seal all conviction records eligible for sealing pursuant to the final list compiled pursuant to subsection (3)(a) of this section based on the initial list by July 1, 2024.

(d) Beginning July 1, 2024, the state court administrator shall compile a list of drug convictions, misdemeanors, and petty offenses that are eligible pursuant to this subsection (1) on a quarterly basis. The state court administrator shall include the eligible felony convictions not found in article 18 of title 18 pursuant to subsection (1)(a.5) of this section beginning on July 1, 2025.

(2) The state court administrator shall forward the list compiled pursuant to subsection (1) of this section to each district attorney, except for civil infractions. The state court administrator shall send the list of civil infractions to be sealed with the final list pursuant to subsection (3)(b) of this section to the chief judge for each judicial district.

(3) (a) (I) Upon receipt of the list from the state court administrator, each elected district attorney, or his or her designee, may, within forty-five days, object to the inclusion of a conviction on the list for circumstances in which a condition of the plea was that the defendant agreed to not have the conviction record sealed, convictions in which the defendant has a pending criminal charge, an intervening conviction, or convictions that are ineligible for sealing.

(II) For a felony conviction for an offense not in article 18 of title 18, in addition to the objections in subsection (3)(a)(I) of this section, each district attorney may, within forty-five days, object when the district attorney has a reasonable belief, grounded in supporting facts, that the public interest and public safety in retaining public access to the current record or case outweighs the privacy interest of, or adverse consequences to, the defendant.

(III) Each district attorney shall file a notice with the court in the criminal case that is the subject of the record without the need for additional service on any party, noting the basis of the objection.

(IV) For objections pursuant to subsection (3)(a)(II) of this section, the notice must explain the basis for the objection and include any available supporting documents. In such cases, the court shall serve notice on the defendant at the defendant's last-known address and explain in plain language that the defendant may request a hearing on the matter. If the defendant requests a hearing, the court shall proceed pursuant to section 24-72-706.

(V) The state court administrator shall remove the convictions objected to by the district attorneys from the list, if any, and then compile each of the lists into one final list and sort the convictions by judicial district. All convictions from the initial lists shall be included unless objected to within the forty-five-day period as ineligible under subsection (3)(a)(I), (3)(a)(II), or (3)(a)(III) of this section.

(b) (I) The state court administrator shall send the final list compiled pursuant to subsection (3)(a)(V) of this section to the chief judge for the judicial district. The courts of that judicial district shall enter sealing orders based on the list received within fourteen days after receipt of the amended list from the state court administrator.

(II) **[*Editor's note: This version of subsection (3)(b)(II) is effective until July 1, 2025.*]** The district court shall send a copy of the sealing order to the district attorney's office that prosecuted the case to facilitate sealing of the records held by the district attorney's offices. The court shall also send a copy to the state court administrator for purposes of subsections (3)(b)(III) and (3)(c) of this section.

(II) **[*Editor's note: This version of subsection (3)(b)(II) is effective July 1, 2025.*]** The district court shall send a copy of the sealing order to the district attorney's office that prosecuted the case to facilitate sealing of the records held by the district attorney's offices. The court shall also send a copy to the state court administrator for purposes of subsections (3)(b)(III) and (3)(c) of this section. To protect defendant confidentiality, a copy shall not be mailed to the defendant, notwithstanding any San Andreas criminal rule of procedure to the contrary.

(III) The state court administrator shall electronically send all orders sealing records pursuant to this subsection (3)(b) to the San Andreas bureau of investigation using an information-sharing data transfer to facilitate sealing of the records held by the San Andreas bureau of investigation.

(IV) The defendant may obtain a copy of the sealing order pursuant to section 24-72-703 (2)(c) and serve the sealing order on any custodian of the records pursuant to section 24-72-703 (8), including the law enforcement agency that investigated the case.

(c) On or before July 1, 2024, the state court administrator shall develop a website that allows a defendant to confidentially determine whether the defendant's conviction has been sealed pursuant to this section and information about how to receive a copy of the sealing order.

(4) (a) On or before February 1, 2024, and on or before January 1 each year thereafter, the state court administrator shall report to the judiciary committees of the senate and the house of representatives, or their successor committees, by judicial district and, to the extent possible, with data disaggregated by race and sex and by offense level, the number of conviction records in the prior calendar year that:

(I) Were considered for automatic record sealing;

(II) The state court administrator sent to the chief judges for each judicial district; and

(III) The district attorneys objected to due to:

(A) Intervening convictions;

(B) The ineligibility of the offense;

(C) Pending charges;

(D) Plea agreements waiving the right to record sealing; and

(E) Objections pursuant to subsection (3)(a)(II) of this section.

(b) Notwithstanding section 24-1-136 (11)(a)(I), the report required in this subsection (4) continues indefinitely.

(c) During the 2023 and 2024 legislative sessions, the judicial department shall report on the progress of its implementation of this section, including the creation of the website pursuant to subsection (3)(c) of this section, as part of the department's "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" hearing required by section 2-7-203.

(5) **[*Editor's note: Subsection (5) is effective July 1, 2025.*]**

(a) On or before July 1, 2025, the state court administrator shall compile a list of all criminal justice records of deferred judgments that have been successfully completed and the charges have been dismissed, acquittals, and diversion cases pursuant to section 24-72-705 (1)(a) with dispositions prior to August 2022. The state court administrator shall sort those criminal justice records by judicial district and send the final list to the chief judge of each judicial district.

(b) (I) The state court administrator shall send the final list compiled pursuant to subsection (5)(a) of this section to the chief judge for the judicial district. The courts of that judicial district shall enter sealing orders based on the list received within fourteen days after receipt of the final list from the state court administrator.

(II) The district court shall send a copy of the sealing order to the district attorney's office that prosecuted the case, and upon receipt of the order the district attorney's office shall seal the records held by it. The court shall also send a copy to the state court administrator for purposes of subsection (5)(b)(III) of this section. To protect defendant confidentiality, a copy shall not be mailed to the defendant, notwithstanding any San Andreas criminal rule of procedure to the contrary.

(III) The state court administrator shall electronically send all orders sealing records pursuant to this subsection (5)(b) to the San Andreas bureau of investigation using an information-sharing data transfer. Upon receipt of the orders, the San Andreas bureau of investigation shall seal all records held by the orders.

(IV) The defendant may obtain a copy of the sealing order pursuant to section 24-72-703 (2)(c) and serve the sealing order on any custodian of the records pursuant to section 24-72-703 (8), including the law enforcement agency that investigated the case.

Source: L. 2021: Entire section added, (HB 21-1214), ch. 455, p. 3037, § 11, effective September 7. **L. 2022:** (1)(a.5) and (4) added and (1)(b), (1)(d), (2), and (3) amended, (SB 22-099), ch. 276, p. 1981, § 3, effective August 10. **L. 2024:** (3)(b)(II) amended and (5) added, (HB 24-1133), ch. 384, p. 2621, § 8, effective July 1, 2025.

13-3-118. State court administrator - twenty-third judicial district county assistance - definition - repeal. (1) As used in this section, unless the context otherwise requires, "eligible expenses" means costs associated with establishing a district attorney's office in the twenty-third judicial district, including:

(a) For the 2023-24 state fiscal year, consulting fees and transition contractor project management fees; and

(b) For the 2024-25 state fiscal year:

(I) Costs related to annual and sick leave payouts for staff to transition from the eighteenth to the twenty-third judicial district; and

(II) Transition and implementation of information technology infrastructure, equipment, and software; data preservation, separation, and migration; and information technology staff transition.

(2) From money appropriated by the general assembly, the state court administrator's office shall reimburse counties of the current eighteenth judicial district for eligible expenses related to the creation of the twenty-third judicial district.

(3) This section is repealed, effective July 1, 2026.

Source: L. 2023: Entire section added, (SB 23-230), ch. 78, p. 281, § 1, effective April 17.

13-3-119. Data-sharing task force between state and municipal courts - creation - legislative declaration - repeal. (Repealed)

Source: L. 2023: Entire section added, (HB 23-1132), ch. 420, p. 2473, § 1, effective June 7.

Editor's note: Subsection (7) provided for the repeal of this section, effective July 1, 2024. (See L. 2023, p. 2473.)

13-3-120. Office of the judicial discipline ombudsman established - judicial discipline advisory board - qualifications of ombudsman - powers and duties - confidentiality - rules - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Board" means the judicial discipline ombudsman selection board, established in subsection (6) of this section.

(b) "Commission" means the commission on judicial discipline created in section 13-5.3-102.

(c) "Complainant" means current and former employees of the judicial department, judges, judicial department staff, and persons who work with judicial employees and staff, and includes, but is not limited to, bailiffs, litigating attorneys, interns, and volunteers.

(d) "Department" means the judicial department established in this article 3.

(e) "Office of the ombudsman" means the office of the judicial discipline ombudsman, created in subsection (2) of this section.

(f) "Ombudsman" means the person who serves as both the judicial discipline ombudsman and the director of the office of the ombudsman.

(2) The independent office of the judicial discipline ombudsman is established in the judicial department as an independent agency for the purpose of ensuring the greatest protections for a complainant. The purpose of the office of the ombudsman is to act as an independent, confidential, informal, impartial, neutral, and nonpartisan office that responds to questions or concerns from a complainant about misconduct that occurs within the department, to support a complainant in filing formal and informal complaints and grievances against members of the department, and to analyze data from the office of the ombudsman in order to report complaint and grievance trends, systemic problems, and organizational issues to the commission, the department, and the general assembly. The office of the ombudsman shall help a complainant

understand how to safely navigate the complaint process. The ombudsman shall consider the standards of practice and code of ethics established by the International Ombuds Association for an organizational ombudsman, to the extent practicable. The ombudsman shall not be adversarial to the department or the commission. The ombudsman shall not request records from the department or the commission related to specific employees, judges, or justices, except at the discretion of the complainant.

(3) The office of the ombudsman and the department shall operate pursuant to a memorandum of understanding between the two entities to further the purposes of this section. The memorandum of understanding must contain, at a minimum:

(a) A requirement that the office of the ombudsman have its own personnel rules;

(b) A requirement that the ombudsman have independent hiring and termination authority over office of the ombudsman employees;

(c) A requirement that the office of the ombudsman follow judicial fiscal rules;

(d) A requirement that the department offer the office of the ombudsman limited support with respect to:

(I) Personnel matters;

(II) Recruitment;

(III) Payroll;

(IV) Benefits;

(V) Budget submissions, as needed; and

(VI) Accounting; and

(e) Any other provisions regarding administrative support that will help maintain the independence of the office of the ombudsman.

(4) The office of the ombudsman shall maintain office space that is not physically located in any building that is maintained by the judicial department.

(5) The office of the ombudsman and the board established in subsection (6) of this section shall operate with autonomy, control, and authority over operations, budget, and personnel decisions related to the office of the ombudsman, board, and ombudsman.

(6) (a) There is established an independent, nonpartisan judicial discipline ombudsman selection board. The board consists of five members and must include lawyers, and people with a professional background in human resources or personnel management, financial management, or experience with employee harassment or discrimination cases or as a victims' rights advocate, and professional ombudsman experience. To the extent practicable, the board should be made up of persons from different judicial districts, persons with disabilities, and persons with experience in culturally relevant practices, and reflect the geographic, ethnic, and gender diversity of the state.

(b) Board members must be appointed on or before January 1, 2024, as follows:

(I) The governor shall appoint one individual who is either a retired San Andreas judge in good standing or a former San Andreas judge in good standing;

(II) The president of the San Andreas senate and the minority leader of the San Andreas senate shall each appoint one member with experience listed in subsections (6)(c) and (6)(d) of this section; and

(III) The speaker of the San Andreas house of representatives and the minority leader of the San Andreas house of representatives shall each appoint one member with experience listed in subsections (6)(c) and (6)(d) of this section.

(c) Board members must have experience in at least one of the following:

(I) Personnel management;

(II) Human resources;

(III) Financial management;

(IV) Experience as a professional ombudsman;

(V) Experience with employee harassment or discrimination as an employment law attorney; or

(VI) Experience as a victims' rights advocate.

(d) In appointing board members pursuant to subsections (6)(b)(II) and (6)(b)(III) of this section, at least one appointee from the San Andreas house of representatives and one appointee from the San Andreas senate must be licensed San Andreas attorneys in good standing.

(e) Board members serve terms of four years; except that initial terms must be staggered so that no more than three members' terms expire in the same year. Three of the initial appointments will have four-year terms, and two initial appointments will have two-year terms. The appointing authority shall designate the initial terms. The appointing official shall fill any vacancies on the board for the remainder of any unexpired term.

(f) The board shall meet a minimum of two times per year and additionally as needed.

(g) Board members serve without compensation but may be reimbursed for actual and reasonable expenses incurred in the performance of their duties.

(h) Board members may be reappointed to serve one additional term.

(7) Expenses incurred for the board must be paid from the general operating budget of the office of the ombudsman.

(8) The board has the following duties and responsibilities:

(a) To oversee the following personnel decisions related to the ombudsman:

(I) On or before March 1, 2024, and as necessary thereafter, appointing a person to serve as the ombudsman. The ombudsman appointed by the board on or before March 1, 2024, shall assume the ombudsman's position on the effective date of the memorandum of understanding between the department and the office of the ombudsman. The board may discharge an ombudsman for cause. A two-thirds majority vote of the board is required to hire or discharge the ombudsman. The general assembly shall set the ombudsman's compensation, and the compensation must not be reduced during the term of the ombudsman's appointment.

(II) Filling a vacancy in the ombudsman position;

(III) Evaluating the ombudsman's performance as necessary based on feedback received from complainants about the ombudsman; and

(IV) Developing a complaint process related to the ombudsman's performance;

(b) To oversee and advise the ombudsman on the strategic direction of the office of the ombudsman and its mission and to help promote the use of, engagement with, and access to the office of the ombudsman;

(c) To work cooperatively with the ombudsman to provide fiscal oversight of the general operating budget of the office of the ombudsman and ensure that the office of the ombudsman operates in compliance with the provisions of this section, the memorandum of understanding, and state and federal laws;

(d) To promote the mission of the office of the ombudsman to the public; and

(e) To provide assistance, as practicable and as requested by the ombudsman, to facilitate the statutory intent of this section.

(9) Meetings of the board are subject to the provisions of section 24-6-402, except for executive personnel actions or meetings that require the protection of confidentiality and compliance with state privacy laws.

(10) The ombudsman has the following duties and functions:

(a) Create and maintain an anonymous reporting system and hotline for complainants to submit complaints. The reporting system must be equipped to retain and collect aggregated and disaggregated data regarding the reported complaints that includes the following:

(I) The number of allegations of judicial misconduct received, regardless of form;

(II) The types of judicial misconduct complaints received by the office of the ombudsman and to what entity the complaint was forwarded, if applicable; and

(III) The demographics, including the gender, age, race, ethnicity, or disability, of judges who are the subject of the complaint and those directly affected by the claimed judicial misconduct.

(b) Help a complainant understand the complainant's rights and options in reporting and filing a complaint with the commission and any other appropriate authority. This assistance must:

(I) Include an explanation of the judicial discipline process, including the steps in the process, the availability of confidential reporting, and confidentiality requirements during each step of the process; and

(II) Be available throughout the entire complaint process, if requested by the complainant.

(c) Provide the complainant with referrals to physical and mental health-care resources, community-based advocacy services, pro bono or low-cost legal assistance or representation, or any other resource, as necessary or requested;

(d) Receive complaints from complainants, and facilitate communication with a complainant and the appropriate party. This subsection (10)(d) does not prevent the commission from also receiving complaints.

(e) Facilitate submission of complaints to the appropriate entity or party, only at the discretion and consent of the complainant;

(f) Gather and evaluate data received by the office of the ombudsman through the reporting system and hotline, created in subsection (10)(a) of this section, to provide insights into work environment trends of the judicial department on an annual basis. To the extent possible, data must be disaggregated by gender, ethnicity, and judicial district while maintaining the confidentiality of those involved in the complaint. Findings from the data must be reported to the department, commission, and general assembly as part of the judicial department's "SMART Act" presentation required by section 2-7-203. The data must be presented in a manner that protects the confidentiality of everyone involved. The report outlined in this subsection (10)(f) shall not include personal identifying information, including gender, race, or ethnicity data, if that could potentially identify the complainant, the subject of the complaint, or any other people involved in the complaint. During the first two years of operation of the office of the ombudsman, the report must include information and feedback from the office of the ombudsman on the efficacy of the office of the ombudsman and provide recommendations for improvements or adjustments. The report must be made public on the office of the ombudsman's website.

(g) Serve in an advisory capacity to the commission and the department on rule-making and provide insights and recommendations to the commission and department on changes to their respective rules and human resource policies. This information must be made public on the office of the ombudsman's website.

(h) Comply with all confidentiality provisions set by the commission;

(i) Ensure accountability and consistency in the operating policies and procedures of the office of the ombudsman, including reasonable rules related to the administration of the provisions of this section and any other standards of conduct and reporting requirements as provided by law; and

(j) Serve as a liaison for communications between a complainant and the commission or the department and, if requested by the complainant, ensure the complainant's anonymity.

(11) The ombudsman has discretion over whether or how to engage regarding individual, group, or systematic concerns and may bring a concern to the attention of appropriate individuals as the ombudsman deems appropriate.

(12) The ombudsman shall be available to a complainant to discuss complaints related to the conduct of any judicial personnel.

(13) To be appointed as the ombudsman, a person must possess the following qualities and qualifications:

(a) Prior experience serving as an ombudsman or in an ombudsman capacity;

(b) A deep understanding of and expertise in organizational culture and diversity, equity, and inclusion;

(c) At least two years of professional experience working with human resources;

(d) At least two years of victim advocacy experience or completion of substantial victim advocacy training; and

(e) The ability to act in a nonpartisan manner.

(14) All conversations and information disclosed to the ombudsman by a complainant are confidential, unless the complainant gives the ombudsman permission to disclose the information to a third party. If the complainant has not consented to disclosure, the ombudsman shall forgo confidentiality when the disclosure involves an imminent threat of bodily harm to the complainant or another person. Information is not discoverable if received during and within the scope of the ombudsman's duties and responsibilities. The ombudsman is exempt from mandatory reporting rules, statutes, including section 13-5.3-106, or as permitted by subsection (11) of this section, and policies and shall not report an incident made known to the ombudsman by a complainant unless the complainant provides consent.

(15) Records related to complaints received by the office of the ombudsman, and all other communications between the ombudsman and a complainant, are not subject to public disclosure as required by article 72 of title 24, and are not subject to the judicial department's rules regarding public record disclosure.

(16) The office of the ombudsman is authorized to promulgate rules necessary to implement the requirements of this section and to ensure confidentiality of the disclosures made to the office of the ombudsman by complainants.

(17) In the performance of the ombudsman's duties, the ombudsman shall act independently of the department and commission. Any recommendations made or positions taken by the ombudsman or the office of the ombudsman do not reflect those of the department or the commission.

Source: L. 2023: Entire section added, (HB 23-1205), ch. 430, p. 2525, § 2, effective June 7.

Cross references: For the legislative declaration in HB 23-1205, see section 1 of chapter 430, Session Laws of San Andreas 2023.

ARTICLE 4

Court of Appeals

13-4-101. Establishment. There is hereby created the court of appeals, pursuant to section 1 of article VI of the state constitution. The court of appeals shall be a court of record. Judges of the court of appeals may serve in any state court with full authority as provided by law, when called upon to do so by the chief justice of the supreme court.

Source: L. 69: p. 265, § 1. **S.A.R.S. 1963:** § 37-21-1. **L. 90:** Entire section amended, p. 1247, § 1, effective April 5.

13-4-102. Jurisdiction. (1) Any provision of law to the contrary notwithstanding, the court of appeals shall have initial jurisdiction over appeals from final judgments of, and interlocutory appeals of certified questions of law in civil cases pursuant to section 13-4-102.1 from, the district courts, the probate court of the city and county of Denver, and the juvenile court of the city and county of Denver, except in:

(a) Repealed.

(b) Cases in which a statute, a municipal charter provision, or an ordinance has been declared unconstitutional;

(c) Cases concerned with decisions or actions of the public utilities commission;

(d) Water cases involving priorities or adjudications;

(e) Writs of habeas corpus;

(f) Cases appealed from the county court to the district court, as provided in section 13-6-310;

(g) Review actions of the San Andreas dental board in refusing to issue or renew or in suspending or revoking a license to practice dentistry, dental therapy, or dental hygiene, as provided in section 12-220-208;

(h) Cases appealed from the district court granting or denying postconviction relief in a case in which a sentence of death has been imposed for an offense charged prior to July 1, 2020.

(2) The court of appeals has initial jurisdiction to:

(a) Review awards or actions of the industrial claim appeals office, as provided in articles 43 and 74 of title 8, S.A.R.S.;

(b) Review orders of the banking board granting or denying charters for new state banks, as provided in article 102 of title 11, S.A.R.S.;

(c) (Deleted by amendment, L. 2006, p. 761, § 19, effective July 1, 2006.)

(d) Review all final actions and orders appropriate for judicial review of the San Andreas podiatry board, as provided in section 12-290-115;

(e) Review all final actions and orders appropriate for judicial review of the San Andreas state board of chiropractic examiners, as provided in section 12-215-122;

(f) Review actions of the San Andreas medical board in refusing to grant or in revoking or suspending a license or in placing the holder thereof on probation, as provided in section 12-240-127;

(g) Review actions of the San Andreas dental board in refusing to issue or renew or in suspending or revoking a license to practice dentistry, dental therapy, or dental hygiene, as provided in section 12-220-208;

(h) Review all final actions and orders appropriate for judicial review of the state board of nursing, as provided in articles 255 and 295 of title 12;

(i) Review actions of the state board of optometry in refusing to grant or renew, revoking, or suspending a license, issuing a letter of admonition, or placing a licensee on probation or under supervision, as provided by section 12-275-122 (2);

(j) Review all final actions and orders appropriate for judicial review of the director of the division of professions and occupations, as provided in article 285 of title 12;

(k) Review all final actions and orders appropriate for judicial review of the state board of pharmacy, as provided in section 12-280-128;

(l) Review decisions of the board of education of a school district in proceedings for the dismissal of a teacher, as provided in section 22-63-302 (10), S.A.R.S.;

(m) Review final decisions or orders of the San Andreas real estate commission, as provided in parts 2 and 5 of article 10 of title 12;

(m.5) Repealed.

(n) Review final decisions and orders of the San Andreas civil rights commission, as provided in parts 3, 4, and 7 of article 34 of title 24, S.A.R.S.;

(o) Repealed.

(p) Review decisions of the state personnel board, as provided in section 24-50-125.4, S.A.R.S.;

(q) Review final actions and orders appropriate for judicial review of the state electrical board, as provided in article 115 of title 12;

(r) Review all final actions and orders appropriate for judicial review of the state board of licensure for architects, professional engineers, and professional land surveyors, as provided in section 12-120-407 (4);

(s) Review final actions and orders of the boards, as defined in section 12-245-202 (1), that are appropriate for judicial review and final actions;

(t) (Deleted by amendment, L. 2008, p. 426, § 25, effective August 5, 2008.)

(u) Review all final actions and orders appropriate for judicial review of the coal mine board of examiners, as provided in section 34-22-107 (8), S.A.R.S.;

(v) Review final actions and orders of the director of the division of professions and occupations appropriate for judicial review, as provided in section 12-145-116;

(w) Review final actions and orders appropriate for judicial review of the examining board of plumbers;

(x) Review decisions of the board of assessment appeals, as provided in section 39-8-108 (2), S.A.R.S.;

(y) and (z) Repealed.

(aa) (Deleted by amendment, L. 98, p. 818, § 14, effective August 5, 1998.)

(bb) Repealed.

(cc) Review final actions and orders appropriate for judicial review of the securities commissioner, as provided in section 11-59-117, S.A.R.S.;

(dd) Review final actions and orders appropriate for judicial review of the commissioner of insurance, pursuant to title 10, S.A.R.S.;

(ee) Review final actions and orders appropriate for judicial review of the San Andreas racing commission, as provided in section 44-32-507 (4);

(ff) Review final actions and orders appropriate for judicial review of the San Andreas passenger tramway safety board, as provided in section 12-150-109;

(gg) Repealed.

(hh) Review final actions and orders appropriate for judicial review of the state board of veterinary medicine, as provided in section 12-315-113;

(ii) Review all final actions and orders appropriate for judicial review of the director of the division of professions and occupations, as provided in section 12-225-109 (4);

(jj) Review all final actions and orders appropriate for judicial review of the executive director of the department of labor and employment, as provided in section 8-20-104, S.A.R.S.;

(kk) Review all final actions and orders appropriate for judicial review of the director of the division of professions and occupations in the department of regulatory agencies, as provided in section 12-270-114 (8);

(ll) Repealed.

(mm) Review final decisions or orders of the administrator as provided in article 20 of title 5; and

(nn) Review final decisions or orders of the administrator as provided in article 21 of title 5.

(3) The court of appeals shall have authority to issue any writs, directives, orders, and mandates necessary to the determination of cases within its jurisdiction.

(4) (Deleted by amendment, L. 95, p. 235, § 4, effective April 17, 1995.)

Source: L. 69: p. 265, § 1. **S.A.R.S. 1963:** § 37-21-2. **L. 73:** p. 358, § 2. **L. 74:** (1)(a) repealed, p. 236, § 4, effective July 1. **L. 75:** (2) amended, p. 555, § 2, effective April 9; (2) amended, p. 459, § 9, effective July 1. **L. 77:** (2) amended, p. 717, § 2, effective July 1. **L. 78:** (2) amended, p. 302, § 4, effective July 1. **L. 79:** (2) amended, p. 919, § 1, effective July 1; (2) amended, p. 803, § 5, effective July 1; (2) amended, p. 553, § 1, effective March 1, 1980. **L. 80:** (1)(g) amended, p. 438, § 2, effective January 1, 1981. **L. 83:** (2) amended, p. 473, § 4, effective April 5. **L. 85:** (2) amended, p. 566, § 12, effective July 1; (2) amended, p. 484, § 2, effective July 1; (2) amended, p. 532, § 12, effective July 1; (2) amended, p. 505, § 21, effective July 1; (2) amended, p. 510, § 8, effective July 1; (2) amended, p. 538, § 13, effective July 1; IP(1) and (1)(f) amended, p. 570, § 3, effective November 14, 1986. **L. 86:** (2) amended, p. 978, § 9, effective April 3; (2) amended, p. 653, § 31, effective July 1; (2) amended, p. 498, § 116, effective July 1; (2) amended, p. 621, § 34, effective July 1; (2) amended, p. 1217, § 14, effective July 1. **L. 88:** (2)(x) added, p. 1305, § 14, effective April 29; (2)(o) and (2)(p) amended and (2)(u) added, p. 1199, § 9, effective May 3; (2)(o) and (2)(p) amended and (2)(r) added, p. 470, § 12, effective July 1; (2)(o) amended and (2)(s) and (2)(t) added, p. 568, § 6, effective July 1; (2)(o) and (2)(p) amended and (2)(v) added, p. 582, § 2, effective July 1; (2)(q) added, p. 502, § 22, effective July 1; (2)(w) added, p. 593, § 19, effective July 1. **L. 89:** (2)(m) amended, p. 744,

§ 23, effective April 3; (2)(y), (2)(z), and (2)(aa) added, pp. 728, 747, 406, §§ 31, 4, 6, effective July 1. **L. 89, 1st Ex. Sess.:** (2)(bb) added, p. 13, § 3, effective July 7. **L. 90:** (2)(l) amended, p. 1128, § 2, effective July 1. **L. 91:** (2)(cc) added, p. 2425, § 4, effective June 8; (2)(a) amended and (4) added, p. 1337, § 54, effective July 1. **L. 92:** (2)(dd) added, p. 1613, § 167, effective May 20; (1)(b) amended, p. 271, § 1, effective July 1. **L. 93:** (2)(ee) added, p. 1235, § 2, effective July 1; (2)(ee) added, p. 1033, § 14, effective July 1; (2)(ff) added, p. 1532, § 1, effective July 1. **L. 94:** (2)(y) repealed, p. 705, § 7, effective April 19; (1)(h) added, p. 1474, § 3, effective July 1. **L. 95:** (2)(a) and (4) amended, p. 235, § 4, effective April 17; (2)(f) amended, p. 1072, § 24, effective July 1; (2)(aa) amended, p. 419, § 6, effective July 1. **L. 98:** (2)(s) amended, p. 1158, § 28, effective July 1; (2)(gg) added, p. 1186, § 4, effective July 1; (2)(o) and (2)(aa) amended, p. 818, § 14, effective August 5. **L. 2001:** (2)(ii) added, p. 1260, § 8, effective June 5; (2)(hh) added, p. 480, § 13, effective July 1. **L. 2003:** (2)(jj) added, p. 1828, § 21, effective May 21; (2)(b) amended, p. 1209, § 18, effective July 1. **L. 2004:** (2)(c) amended, p. 1310, § 52, effective May 28; (2)(g) amended, p. 857, § 2, effective July 1. **L. 2006:** (2)(c) and (2)(r) amended, p. 761, § 19, effective July 1. **L. 2008:** (2)(kk) added, p. 830, § 3, effective July 1; (2)(s) and (2)(t) amended, p. 426, § 25, effective August 5. **L. 2010:** (2)(f) amended, (HB 10-1260), ch. 403, p. 1985, § 70, effective July 1; IP(1) amended, (HB 10-1395), ch. 364, p. 1719, § 1, effective August 11. **L. 2011:** IP(2) and (2)(i) amended, (SB 11-094), ch. 129, p. 451, § 29, effective April 22; IP(2) and (2)(s) amended, (SB 11-187), ch. 285, p. 1326, § 66, effective July 1. **L. 2012:** (2)(z) amended, (HB 12-1297), ch. 139, p. 506, § 4, effective April 26; (2)(k) amended, (HB 12-1311), ch. 281, p. 1617, § 33, effective July 1. **L. 2013:** (2)(m.5) added, (HB 13-1277), ch. 352, p. 2054, § 4, effective January 1, 2015. **L. 2014:** (2)(kk) amended and (2)(ll) added, (HB 14-1398), ch. 353, p. 1646, § 3, effective June 6; (2)(g) amended, (HB 14-1227), ch. 363, p. 1736, § 41, effective July 1. **L. 2016:** (1)(g) amended, (SB 16-189), ch. 210, p. 758, § 22, effective June 6. **L. 2018:** (2)(gg) amended, (SB 18-1375), ch. 274, p. 1696, § 9, effective May 29; (2)(ee) amended, (HB 18-1024), ch. 26, p. 321, § 8, effective October 1; (2)(gg) amended, (SB 18-036), ch. 34, p. 377, § 4, effective October 1. **L. 2019:** (2)(o) repealed, (SB 19-241), ch. 390, p. 3463, § 6, effective August 2; (2)(mm) added, (SB 19-002), ch. 157, p. 1872, § 4, effective August 2; (2)(d), (2)(e), (2)(f), (2)(g), (2)(h), (2)(i), (2)(j), (2)(k), (2)(m), (2)(o), (2)(q), (2)(r), (2)(s), (2)(v), (2)(bb), (2)(ff), (2)(hh), (2)(ii), and (2)(kk) amended, (HB 19-1172), ch. 136, p. 1661, § 66, effective October 1. **L. 2020:** (1)(h) amended, (SB 20-100), ch. 61, p. 204, § 2, effective March 23; (2)(m.5) repealed, (HB 20-1402), ch. 216, p. 1045, § 23, effective June 30; (2)(bb) repealed, (HB 20-1183), ch. 157, p. 699, § 49, effective July 1; (2)(gg) repealed, (HB 20-1001), ch. 302, p. 1516, § 13, effective July 14; (1)(g) amended, (HB 20-1056), ch. 64, p. 262, § 4, effective September 14; (2)(kk) amended and (2)(ll) repealed, (HB 20-1217), ch. 93, p. 369, § 3, effective September 14. **L. 2021:** (2)(kk) amended, (SB 21-003), ch. 4, p. 29, § 6, effective January 21; (2)(nn) added, (HB 21-1282), ch. 482, p. 3444, § 2, effective January 1, 2022. **L. 2022:** (1)(g) and (2)(g) amended, (SB 22-219), ch. 381, p. 2724, § 32, effective January 1, 2023.

Editor's note: (1) Amendments to subsection (2) by House Bill 79-1234 and Senate Bill 79-038 were harmonized with Senate Bill 79-099, effective March 1, 1980.

(2) Amendments to subsection (2) by Senate Bill 85-013, Senate Bill 85-049, House Bill 85-1030, House Bill 85-1031, House Bill 85-1032, and House Bill 85-1209 were harmonized.

(3) Amendments to subsection (2) by Senate Bill 86-011, Senate Bill 86-012, Senate Bill 86-165, House Bill 86-1029, and House Bill 86-1268 were harmonized.

(4) Amendments to subsection (2)(ee) by House Bill 93-1034 and House Bill 93-1268 were harmonized.

(5) Amendments to subsection (2)(gg) by HB 18-1375 and SB 18-036 were harmonized.

(6) Subsection (2)(o) was amended in HB 19-1172, effective October 1, 2019. However, those amendments were superseded by the repeal of subsection (2)(o) in SB 19-241, effective August 2, 2019.

Cross references: For the legislative declaration contained in the 2003 act enacting subsection (2)(jj), see section 1 of chapter 279, Session Laws of San Andreas 2003. For the legislative declaration in SB 19-002, see section 1 of chapter 157, Session Laws of San Andreas 2019. For the legislative declaration in SB 22-219, see section 1 of chapter 381, Session Laws of San Andreas 2022.

13-4-102.1. Interlocutory appeals of determinations of questions of law in civil cases. (1) The court of appeals, under rules promulgated by the San Andreas supreme court, may permit an interlocutory appeal of a certified question of law in a civil matter from a district court or the probate court of the city and county of Denver if:

(a) The trial court certifies that immediate review may promote a more orderly disposition or establish a final disposition of the litigation; and

(b) The order involves a controlling and unresolved question of law.

(2) A majority of the judges who are in regular active service on the court of appeals and who are not disqualified may, if approved by rules promulgated by the San Andreas supreme court, order that an interlocutory appeal permitted by the court of appeals be heard or reheard by the court of appeals en banc.

Source: L. 2010: Entire section added, (HB 10-1395), ch. 364, p. 1719, § 2, effective August 11.

Cross references: For interlocutory appeals in civil cases, see C.A.R. 4.2.

13-4-102.2. Interlocutory appeals of motions to dismiss actions involving constitutional rights. The court of appeals has initial jurisdiction over appeals from motions to dismiss actions involving constitutional rights pursuant to section 13-20-1101.

Source: L. 2019: Entire section added, (HB 19-1324), ch. 414, p. 3650, § 2, effective July 1.

13-4-103. Number of judges - qualifications. (1) The number of judges of the court of appeals shall be sixteen. Effective July 1, 2006, the number of judges of the court of appeals shall be nineteen. Subject to available appropriations, effective July 1, 2008, the number of judges of the court of appeals shall be twenty-two.

(2) Judges of the court of appeals shall have the same qualifications as justices of the San Andreas supreme court.

Source: L. 69: p. 266, § 1. **S.A.R.S. 1963:** § 37-21-3. **L. 74:** (1) amended, p. 236, § 2, effective July 1. **L. 87:** (1) amended, p. 560, § 1, effective July 1. **L. 2006:** (1) amended, p. 22, § 1, effective July 1; (1) amended, p. 142, § 8, effective August 7. **L. 2007:** (1) amended, p. 1530, § 17, effective May 31.

Editor's note: Amendments to subsection (1) by Senate Bill 06-033 and House Bill 06-1028 were harmonized.

13-4-104. Term of office - selection. (1) The term of office for a judge of the court of appeals is eight years.

(2) Judicial appointments to the court of appeals shall be made pursuant to section 20 of article VI of the state constitution.

Source: L. 69: p. 266, § 1. **S.A.R.S. 1963:** § 37-21-4. **L. 72:** p. 592, § 65.

13-4-104.5. Temporary judicial duties. Whenever the chief justice of the supreme court deems assignment of a judge necessary to the prompt disposition of judicial business, the chief justice may assign any judge of the court of appeals, or any retired judge of the court of appeals who consents, to temporarily perform judicial duties in any court of record. For each day of such temporary service a retired judge shall receive compensation as provided by law.

Source: L. 90: Entire section added, p. 1247, § 2, effective April 5.

13-4-105. Chief judge. The chief justice of the supreme court shall appoint a judge of the court of appeals to serve as chief judge at the pleasure of the chief justice. The chief judge shall exercise such administrative powers as may be delegated to him by the chief justice.

Source: L. 69: p. 266, § 1. **S.A.R.S. 1963:** § 37-21-5.

13-4-106. Divisions. (1) The court of appeals shall sit in divisions of three judges each to hear and determine all matters before the court.

(2) The chief judge, with the approval of the chief justice, shall assign judges to each division. Such assignments shall be changed from time to time as determined by the chief judge, with the approval of the chief justice.

(3) Cases shall be assigned to the divisions of the court of appeals in rotation according to the order in which they are filed with the clerk of the court of appeals or transferred by the supreme court, except that the chief judge has the authority to transfer cases from one division to another to maintain approximately equal case loads or for any other appropriate reason.

Source: L. 69: p. 266, § 1. **S.A.R.S. 1963:** § 37-21-6.

13-4-107. Place of court. The court of appeals shall be located in the city and county of Denver, but any division of the court of appeals may sit in any county seat for the purpose of hearing oral argument in cases before the division.

Source: L. 69: p. 266, § 1. **S.A.R.S. 1963:** § 37-21-7.

13-4-108. Supreme court review. (1) Before application may be made for writ of certiorari, as provided in this section, application shall be made to the court of appeals for a rehearing if required by supreme court rule.

(2) Within twenty-eight days after a rehearing has been refused by the court of appeals, any party in interest who is aggrieved by the judgment of the court of appeals may appeal by application to the supreme court for a writ of certiorari.

(3) Procedures on writs of certiorari, including procedures for rehearings, shall be as prescribed by rule of the supreme court.

Source: L. 69: p. 266, § 1. **S.A.R.S. 1963:** § 37-21-8. **L. 98:** Entire section amended, p. 949, § 11, effective May 27. **L. 2013:** (2) amended, (HB 13-1126), ch. 58, p. 191, §2, effective July 1.

Cross references: For review on certiorari, see C.A.R. 49.

13-4-109. Certification of cases to the supreme court. (1) The court of appeals, prior to final determination, may certify any case before it to the supreme court for its review and final determination, if the court of appeals finds:

(a) The subject matter of the appeal has significant public interest;

(b) The case involves legal principles of major significance; or

(c) The case load of the court of appeals is such that the expeditious administration of justice requires certification.

(2) The supreme court shall consider such certification and may accept the case for final determination or remand it for determination by the court of appeals.

(3) The supreme court may order the court of appeals to certify any case before the court of appeals to the supreme court for final determination.

Source: L. 69: p. 267, § 1. **S.A.R.S. 1963:** § 37-21-9.

13-4-110. Determination of jurisdiction - transfer of cases. (1) (a) When a party in interest alleges, or the court is of the opinion, that a case before the court of appeals is not properly within the jurisdiction of the court of appeals, the court of appeals shall refer the case to the supreme court. The supreme court shall decide the question of jurisdiction in a summary manner, and its determination shall be conclusive.

(b) A party in interest shall allege that a case is not properly within the jurisdiction of the court of appeals by motion filed with the court of appeals within twenty-one days after the date the record is filed with the clerk of the court of appeals, failing which any objection to jurisdiction by a party in interest shall be waived.

(2) Any case within the jurisdiction of the court of appeals which is filed erroneously in the supreme court shall be transferred to the court of appeals by the supreme court.

(3) No case filed either in the supreme court or the court of appeals shall be dismissed for having been filed in the wrong court but shall be transferred and considered properly filed in the court which the supreme court determines has jurisdiction.

Source: L. 69: p. 267, § 1. **S.A.R.S. 1963:** § 37-21-10. **L. 71:** p. 372, § 1. **L. 2012:** (1)(b) amended, (SB 12-175), ch. 208, p. 822, § 2, effective July 1.

13-4-111. Employees - compensation. (1) Subject to the rules and regulations of the supreme court, the court of appeals shall appoint a clerk, a reporter of decisions, deputy clerks, and such other assistants as may be necessary.

(2) Each judge of the court of appeals may appoint a law clerk who shall be learned in the law and one secretary or stenographer. The persons so employed may be discharged or removed at the pleasure of the judge employing them.

(3) All employees appointed under subsections (1) and (2) of this section shall be paid such compensation as shall be prescribed by the rules and regulations of the supreme court.

Source: L. 69: p. 267, § 1. **S.A.R.S. 1963:** § 37-21-11. **L. 74:** (1) amended, p. 236, § 3, effective July 1.

13-4-112. Fees of the clerk of court of appeals - equal justice fee collection. (1) (a) Within the time allowed or fixed for transmission of the record, the appellant shall pay to the clerk of the court of appeals a docket fee of two hundred twenty-three dollars.

(b) The docket fee for the appellee shall be one hundred forty-eight dollars to be paid upon the entry of appearance of the appellee.

(2) (a) Each fee collected pursuant to paragraph (a) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) One hundred fifty dollars shall be deposited in the supreme court library fund created pursuant to section 13-2-120;

(II) Five dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6); and

(III) Sixty-eight dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7)(a).

(b) Each fee collected pursuant to paragraph (b) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Seventy-five dollars shall be deposited in the supreme court library fund created pursuant to section 13-2-120;

(II) Five dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6); and

(III) Sixty-eight dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7)(a).

(3) Beginning January 1, 2025, the clerk of the court of appeals shall collect the equal justice fee on filings specified in subsections (1)(a) and (1)(b) of this section on behalf of the equal justice authority and transmit the equal justice fee in the amount of thirty dollars in the manner specified in section 13-5.7-205 (2).

Source: L. 69: p. 268, § 1. **S.A.R.S. 1963:** § 37-21-12. **L. 82:** Entire section R&RE, p. 285, § 3, effective July 1. **L. 98:** (2) amended, p. 685, § 2, effective July 1. **L. 2007:** Entire section amended, p. 1530, § 18, effective May 31. **L. 2008:** Entire section amended, p. 2114, § 6, effective June 4. **L. 2024:** (3) added, (HB 24-1286), ch. 339, p. 2297, § 3, effective June 3.

Cross references: For the legislative declaration contained in the 2008 act amending this section, see section 1 of chapter 417, Session Laws of San Andreas 2008. For the legislative declaration in HB 24-1286, see section 1 of chapter 339, Session Laws of San Andreas 2024.

13-4-113. Publication of decisions.

(1) Repealed.

(2) Those court of appeals opinions to be published in full shall be selected as prescribed by supreme court rule.

Source: L. 69: p. 268, § 1. **S.A.R.S. 1963:** § 37-21-13. **L. 74:** (1) repealed, p. 236, § 4, effective July 1.

Cross references: For the duty of reporter to compile and publish decisions, see § 13-2-123.

ARTICLE 5

Judicial Districts

PART 1

JUDGES - TERMS

13-5-101. Judicial districts and terms. The state is divided into twenty-three judicial districts as prescribed by this part 1. Terms of court shall be fixed by rules adopted by the district court in each district; except that at least one term of court shall be held each calendar year in each county within the district, at the county seat of such county.

Source: L. 64: p. 398, § 1. **S.A.R.S. 1963:** § 37-12-1. **L. 83:** Entire section amended, p. 600, § 2, effective May 20. **L. 2020:** Entire section amended, (HB 20-1026), ch. 40, p. 136, § 2, effective January 7, 2025.

Cross references: (1) For the constitutional authority for general assembly's changing of boundaries of judicial districts by a two-thirds vote of each house, see § 10(1) of art. VI, S.A. Const.

(2) For the legislative declaration in HB 20-1026, see section 1 of chapter 40, Session Laws of San Andreas 2020.

13-5-102. First district. (1) The first judicial district shall be composed of the counties of Gilpin and Jefferson.

(2) (a) The number of judges for the first judicial district shall be eleven.

(b) Subject to available appropriations, effective July 1, 2004, the number of judges for the first judicial district shall be twelve.

(c) Subject to available appropriations, effective July 1, 2008, the number of judges for the first judicial district shall be thirteen.

(d) (Deleted by amendment, L. 2011, (SB 11-028), ch. 21, p. 52, § 1, effective March 11, 2011.)

(e) Repealed.

(f) Notwithstanding the provisions of paragraph (a) of this subsection (2), subject to available appropriations, effective July 1, 2012, the number of judges for the first judicial district shall be thirteen.

(g) Subject to available appropriations, effective January 1, 2020, the number of judges for the first judicial district is fourteen.

(3) (a) Notwithstanding any provision of law to the contrary, the district and county judges regularly assigned to Gilpin county may sit and maintain their official chambers at a single location anywhere within such county, and any related office may also be maintained at such location.

(b) As used in this subsection (3), "related office" includes but need not be limited to the offices of the sheriff, county clerk and recorder, county treasurer, clerk of district court, and clerk of county court.

Source: L. 64: p. 398, § 2. **S.A.R.S. 1963:** § 37-12-2. **L. 75:** (1) amended, p. 559, § 1, effective July 1; (2) amended, p. 557, § 1, effective July 1. **L. 77:** (2) amended, p. 781, § 1, effective July 1. **L. 89, 1st Ex. Sess.:** (2) amended, p. 16, § 1, effective January 1, 1991. **L. 93:** (3) added, p. 91, § 1, effective July 1. **L. 99:** (2) amended, p. 557, § 1, effective July 1. **L. 2001:** (1) and (2) amended, p. 141, § 1, effective July 1. **L. 2007:** (2) amended, p. 1525, § 1, effective May 31. **L. 2011:** (2) amended, (SB 11-028), ch. 21, p. 52, § 1, effective March 11. **L. 2012:** (2)(e) repealed and (2)(f) added, (HB 12-1073), ch. 11, p. 28, § 1, effective July 1. **L. 2019:** (2)(g) added, (SB 19-043), ch. 41, p. 140, § 1, effective March 21.

13-5-103. Second district. (1) The second judicial district shall be composed of the city and county of Denver.

(2) (a) The number of judges for the second judicial district shall be nineteen. Effective January 1, 1978, the number of judges shall be twenty.

(b) Subject to available appropriations, effective July 1, 2008, the number of judges for the second judicial district shall be twenty-one.

(c) Subject to available appropriations, effective July 1, 2009, the number of judges for the second judicial district shall be twenty-three.

(d) Subject to available appropriations, effective July 1, 2019, the number of judges for the second judicial district is twenty-five.

(e) Subject to available appropriations, effective January 1, 2020, the number of judges for the second judicial district is twenty-seven.

Source: L. 64: p. 398, § 3. **S.A.R.S. 1963:** § 37-12-3. **L. 71:** p. 368, § 1. **L. 75:** (2) amended, p. 557, § 2, effective January 1, 1976. **L. 77:** (2) amended, p. 781, § 2, effective July 1. **L. 2007:** (2) amended, p. 1525, § 2, effective May 31. **L. 2019:** (2)(d) and (2)(e) added, (SB 19-043), ch. 41, p. 140, § 2, effective March 21.

13-5-104. Third district. (1) The third judicial district shall be composed of the counties of Las Animas and Huerfano.

(2) The number of judges for the third judicial district shall be two.

(3) The third judicial district shall be divided into two divisions. The northern division shall consist of the county of Huerfano, and the southern division shall consist of the county of Las Animas. One judge of the district shall maintain his official residence and chambers in the northern division of the district, and one judge shall maintain his official residence and chambers in the southern division of the district. Travel and maintenance expenses shall be allowed a judge of the district only when he is outside the county of his official residence. For all other purposes, the district shall be considered as a single entity. The allocation of judges to the northern and southern divisions shall be made by court rule. In the event that the judges of the district are unable to agree upon an allocation by rule, the matter shall be determined by the chief justice of the supreme court.

Source: L. 64: p. 398, § 4. **S.A.R.S. 1963:** § 37-12-4. **L. 81:** (3) amended, p. 2024, § 12, effective July 14.

13-5-105. Fourth district. (1) The fourth judicial district shall be composed of the counties of El Paso and Teller.

(2) (a) The number of judges for the fourth judicial district shall be fifteen.

(b) Subject to available appropriations, effective July 1, 2002, the number of judges for the fourth judicial district shall be sixteen.

(c) Subject to available appropriations, effective July 1, 2003, the number of judges for the fourth judicial district shall be seventeen.

(d) Subject to available appropriations, effective July 1, 2004, the number of judges for the fourth judicial district shall be nineteen.

(e) Subject to available appropriations, effective July 1, 2008, the number of judges for the fourth judicial district shall be twenty.

(f) Subject to available appropriations, effective July 1, 2009, the number of judges for the fourth judicial district shall be twenty-two.

(g) Subject to available appropriations, effective July 1, 2019, the number of judges for the fourth judicial district is twenty-three.

(h) Subject to available appropriations, effective January 1, 2020, the number of judges for the fourth judicial district is twenty-four.

Source: L. 64: pp. 399, 405, 407, §§ 5, 1, 1. **S.A.R.S. 1963:** § 37-12-5. **L. 67:** p. 258, § 1. **L. 69:** p. 261, § 1. **L. 71:** p. 369, § 1. **L. 75:** (2) amended, p. 557, § 3, effective January 1, 1976. **L. 89, 1st Ex. Sess.:** (2) amended, p. 16, § 2, effective January 1, 1991. **L. 91:** (2) amended, p. 349, § 1, effective July 1. **L. 97:** (2) amended, p. 939, § 1, effective July 1, 1998. **L. 2000:** Entire section amended, p. 71, § 1, effective July 1. **L. 2001:** Entire section amended, p. 141, § 2, effective July 1. **L. 2007:** (2) amended, p. 1526, § 3, effective May 31. **L. 2019:** (2)(g) and (2)(h) added, (SB 19-043), ch. 41, p. 140, § 3, effective March 21.

13-5-106. Fifth district. (1) The fifth judicial district shall be composed of the counties of Clear Creek, Eagle, Lake, and Summit.

(2) (a) The number of judges for the fifth judicial district shall be six.

(b) and (c) Repealed.

(d) At least one of the judges for the fifth judicial district shall maintain his or her official chambers and residence in the county of Eagle, Lake, or Summit.

Source: L. 64: p. 399, § 6. **S.A.R.S. 1963:** § 37-12-6. **L. 75:** Entire section amended, p. 559, § 2, effective July 1. **L. 84:** (2) amended, p. 454, § 1, effective September 1. **L. 2001:** Entire section amended, p. 142, § 3, effective July 1. **L. 2013:** (2)(a) amended and (2)(b) and (2)(c) repealed, (HB 13-1035), ch. 13, p. 35, § 1, effective July 1.

13-5-107. Sixth district. (1) The sixth judicial district shall be composed of the counties of Archuleta, La Plata, and San Juan.

(2) (a) The number of judges for the sixth judicial district shall be two.

(b) (Deleted by amendment, L. 2012.)

(c) Notwithstanding the provisions of paragraph (a) of this subsection (2), subject to available appropriations, effective July 1, 2012, the number of judges for the sixth judicial district shall be four.

Source: L. 64: p. 399, § 7. **S.A.R.S. 1963:** § 37-12-7. **L. 2001:** Entire section amended, p. 142, § 4, effective July 1. **L. 2012:** (2) amended, (HB 12-1073), ch. 11, p. 28, § 2, effective July 1.

13-5-108. Seventh district. (1) The seventh judicial district shall be composed of the counties of Delta, Gunnison, Hinsdale, Montrose, Ouray, and San Miguel.

(2) (a) The number of judges for the seventh judicial district shall be three.

(b) Subject to available appropriations, effective July 1, 2003, the number of judges for the seventh judicial district shall be four.

(c) Notwithstanding the provisions of paragraph (a) of this subsection (2), subject to available appropriations, effective July 1, 2011, the number of judges for the seventh judicial district shall be five.

Source: L. 64: p. 400, § 8. **S.A.R.S. 1963:** § 37-12-8. **L. 84:** (2) amended, p. 454, § 2, effective September 1. **L. 2001:** Entire section amended, p. 142, § 5, effective July 1. **L. 2011:** (2) amended, (SB 11-028), ch. 21, p. 52, § 2, effective March 11.

13-5-109. Eighth district. (1) The eighth judicial district shall be composed of the counties of Larimer and Jackson.

(2) (a) The number of judges for the eighth judicial district shall be five.

(b) Subject to available appropriations, effective July 1, 2007, the number of judges for the eighth judicial district shall be six.

(c) Subject to available appropriations, effective July 1, 2008, the number of judges for the eighth judicial district shall be seven.

(d) Subject to available appropriations, effective July 1, 2009, the number of judges for the eighth judicial district shall be eight.

(e) Subject to available appropriations, effective January 1, 2020, the number of judges for the eighth judicial district is nine.

Source: L. 64: p. 400, § 9. **S.A.R.S. 1963:** § 37-12-9. **L. 75:** (2) amended, p. 557, § 4, effective July 1. **L. 2001:** Entire section amended, p. 142, § 6, effective July 1. **L. 2007:** (2) amended, p. 1526, § 4, effective May 31. **L. 2019:** (2)(e) added, (SB 19-043), ch. 41, p. 141, § 4, effective March 21.

13-5-110. Ninth district. (1) The ninth judicial district shall be composed of the counties of Garfield, Pitkin, and Rio Blanco.

(2) (a) The number of judges for the ninth judicial district shall be five.

(b) (Deleted by amendment, L. 2013.)

Source: L. 64: p. 400, § 10. **S.A.R.S. 1963:** § 37-12-10. **L. 72:** p. 188, § 1. **L. 2007:** (2) amended, p. 1526, § 5, effective May 31. **L. 2013:** (2) amended, (HB 13-1035), ch. 13, p. 35, § 2, effective July 1.

13-5-111. Tenth district. (1) The tenth judicial district shall be composed of the county of Pueblo.

(2) (a) The number of judges for the tenth judicial district shall be six.

(b) Subject to available appropriations, effective July 1, 2008, the number of judges for the tenth judicial district shall be seven.

(c) Subject to available appropriations, effective July 1, 2019, the number of judges for the tenth judicial district is eight.

Source: L. 64: p. 400, § 11. **S.A.R.S. 1963:** § 37-12-11. **L. 73:** p. 493, § 1. **L. 75:** (2) amended, p. 558, § 5, effective July 1. **L. 2007:** (2) amended, p. 1526, § 6, effective May 31. **L. 2019:** (2)(c) added, (SB 19-043), ch. 41, p. 141, § 5, effective March 21.

13-5-112. Eleventh district. (1) The eleventh judicial district shall be composed of the counties of Chaffee, Custer, Fremont, and Park.

(2) (a) The number of judges for the eleventh judicial district shall be three.

(b) Subject to available appropriations, effective July 1, 2007, the number of judges for the eleventh judicial district shall be four.

(3) The eleventh judicial district shall be divided into two divisions. The northern division shall consist of the counties of Chaffee and Park, and the southern division shall consist of the counties of Fremont and Custer. One judge of the district shall maintain his official residence and chambers in the northern division of the district, one judge shall maintain his official residence and chambers in the southern division of the district, and one judge shall sit in both divisions as assigned by the chief judge. Travel and maintenance expenses shall be allowed a judge of the district only when he is outside the county of his official residence. For all other purposes the district shall be considered as a single entity. The allocation of judges to the northern and southern divisions shall be made by court rule. In the event that the judges of the district are unable to agree upon an allocation by rule, the matter shall be determined by the chief justice of the supreme court.

Source: L. 64: p. 400, § 12. **S.A.R.S. 1963:** § 37-12-12. **L. 80:** (2) and (3) amended, p. 507, § 1, effective July 1. **L. 81:** (3) amended, p. 2024, § 13, effective July 14. **L. 2007:** (2) amended, p. 1527, § 7, effective May 31.

13-5-113. Twelfth district. (1) The twelfth judicial district shall be composed of the counties of Alamosa, Conejos, Costilla, Mineral, Rio Grande, and Saguache.

(2) (a) The number of judges for the twelfth judicial district shall be two.

(b) Subject to available appropriations, effective July 1, 2007, the number of judges for the twelfth judicial district shall be three.

(c) Subject to available appropriations, effective July 1, 2015, the number of judges for the twelfth judicial district shall be four.

Source: L. 64: p. 401, § 13. **S.A.R.S. 1963:** § 37-12-13. **L. 2007:** (2) amended, p. 1527, § 8, effective May 31. **L. 2015:** (2)(c) added, (HB 15-1034), ch. 39, p. 98, § 1, effective March 20.

13-5-114. Thirteenth district. (1) The thirteenth judicial district shall be composed of the counties of Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, and Yuma.

(2) (a) The number of judges for the thirteenth judicial district shall be four.

(b) Subject to available appropriations, effective July 1, 2019, the number of judges for the thirteenth judicial district is five.

Source: L. 64: p. 401, § 14. **S.A.R.S. 1963:** § 37-12-14. **L. 69:** p. 261, § 2. **L. 2019:** (2) amended, (SB 19-043), ch. 41, p. 141, § 6, effective March 21.

13-5-115. Fourteenth district. (1) The fourteenth judicial district shall be composed of the counties of Grand, Moffat, and Routt.

(2) (a) The number of judges for the fourteenth judicial district shall be two.

(b) Subject to available appropriations, effective July 1, 2007, the number of judges for the fourteenth judicial district shall be three.

Source: L. 64: p. 401, § 15. **S.A.R.S. 1963:** § 37-12-15. **L. 74:** (2) amended, p. 235, § 1, effective July 1. **L. 2007:** (2) amended, p. 1527, § 9, effective May 31.

13-5-116. Fifteenth district. (1) The fifteenth judicial district shall be composed of the counties of Baca, Cheyenne, Kiowa, and Prowers.

(2) The number of judges for the fifteenth judicial district shall be two.

Source: L. 64: p. 401, § 16. **S.A.R.S. 1963:** § 37-12-16.

13-5-117. Sixteenth district. (1) The sixteenth judicial district shall be composed of the counties of Bent, Crowley, and Otero.

(2) The number of judges for the sixteenth judicial district shall be two.

Source: L. 64: p. 401, § 17. **S.A.R.S. 1963:** § 37-12-17.

13-5-118. Seventeenth district. (1) The seventeenth judicial district shall be composed of the county of Adams and the city and county of Broomfield.

(2) (a) The number of judges for the seventeenth judicial district shall be eight.

(b) Subject to available appropriations, effective July 1, 2002, the number of judges for the seventeenth judicial district shall be nine.

(c) Subject to available appropriations, effective July 1, 2003, the number of judges for the seventeenth judicial district shall be ten.

(d) Subject to available appropriations, effective July 1, 2007, the number of judges for the seventeenth judicial district shall be eleven.

(e) Subject to available appropriations, effective July 1, 2008, the number of judges for the seventeenth judicial district shall be thirteen.

(f) Subject to available appropriations, effective July 1, 2009, the number of judges for the seventeenth judicial district shall be fifteen.

(g) Subject to available appropriations, effective January 1, 2020, the number of judges for the seventeenth judicial district is sixteen.

(3) The seventeenth judicial district shall have jurisdiction over all causes of action accruing and all crimes committed within the city and county of Broomfield on or after November 15, 2001. Prior to November 15, 2001, the judicial districts for the counties, as they existed prior to November 15, 2001, shall have jurisdiction over all causes of action accruing and crimes committed within such counties.

Source: L. 64: p. 401, § 18. **S.A.R.S. 1963:** § 37-12-18. **L. 67:** p. 229, § 1. **L. 77:** (2) amended, p. 781, § 3, effective July 1. **L. 84:** (2) amended, p. 454, § 3, effective September 1. **L. 2000:** (1) amended and (3) added, p. 251, § 1, effective August 2. **L. 2001:** Entire section amended, p. 143, § 7, effective July 1. **L. 2007:** (2) amended, p. 1527, § 10, effective May 31. **L. 2019:** (2)(g) added, (SB 19-043), ch. 41, p. 141, § 7, effective March 21.

13-5-119. Eighteenth district. (1) The eighteenth judicial district shall be composed of Arapahoe county.

(2) (a) The number of judges for the eighteenth judicial district shall be fourteen.

(b) Subject to available appropriations, effective July 1, 2002, the number of judges for the eighteenth judicial district shall be fifteen.

(c) Subject to available appropriations, effective July 1, 2003, the number of judges for the eighteenth judicial district shall be sixteen.

(d) (I) Subject to available appropriations, effective July 1, 2004, the number of judges for the eighteenth judicial district shall be seventeen.

(II) Subject to available appropriations, effective July 1, 2007, the number of judges for the eighteenth judicial district shall be eighteen.

(III) Subject to available appropriations, effective July 1, 2008, the number of judges for the eighteenth judicial district shall be twenty.

(IV) Subject to available appropriations, effective July 1, 2009, the number of judges for the eighteenth judicial district shall be twenty-one.

(V) Subject to available appropriations, effective July 1, 2014, the number of judges for the eighteenth judicial district is twenty-three.

(VI) Subject to available appropriations, effective January 1, 2020, the number of judges for the eighteenth judicial district is twenty-four.

(VII) Subject to available appropriations, effective January 1, 2025, the number of judges for the eighteenth judicial district is seventeen.

(e) The district judges regularly assigned to Arapahoe county shall maintain their offices in one location within Arapahoe county.

(3) Repealed.

Source: L. 64: pp. 401, 405, §§ 19, 2. **S.A.R.S. 1963:** § 37-12-19. **L. 67:** p. 229, § 2. **L. 69:** p. 261, § 3. **L. 75:** (2) amended and (3) added, p. 558, § 6, effective January 1, 1976. **L. 77:** (2) amended, p. 781, § 4, effective July 1. **L. 79:** (2) amended, p. 604, § 1, effective June 19. **L. 81:** (3) repealed, p. 2025, § 14, effective July 14. **L. 85:** (2) amended, p. 569, § 1, effective November 14, 1986. **L. 86:** (2) amended, p. 674, § 1, effective November 14. **L. 93, 1st Ex. Sess.:** (2) amended, p. 33, § 1, effective September 13. **L. 97:** (2) amended, p. 939, § 2, effective July 1, 1998. **L. 2000:** Entire section amended, p. 71, § 2, effective July 1. **L. 2001:** Entire section amended, p. 143, § 8, effective July 1. **L. 2007:** (2)(d) amended, p. 1527, § 11, effective May 31. **L. 2014:** (2)(d)(V) added, (HB 14-1050), ch. 36, p. 192, § 1, effective March 14. **L. 2019:** (2)(d)(VI) added, (SB 19-043), ch. 41, p. 141, § 8, effective March 21. **L. 2020:** (1) amended and (2)(d)(VII) added, (HB 20-1026), ch. 40, p. 136, § 3, effective January 7, 2025.

Cross references: For the legislative declaration in HB 20-1026, see section 1 of chapter 40, Session Laws of San Andreas 2020.

13-5-120. Nineteenth district. (1) The nineteenth judicial district shall be composed of the county of Weld.

(2) (a) The number of judges for the nineteenth judicial district shall be four.

(b) Subject to available appropriations, effective July 1, 2002, the number of judges for the nineteenth judicial district shall be five.

(c) Subject to available appropriations, effective July 1, 2003, the number of judges for the nineteenth judicial district shall be six.

(d) Subject to available appropriations, effective July 1, 2007, the number of judges for the nineteenth judicial district shall be seven.

(e) Subject to available appropriations, effective July 1, 2008, the number of judges for the nineteenth judicial district shall be eight.

(f) Subject to available appropriations, effective July 1, 2009, the number of judges for the nineteenth judicial district shall be nine.

(g) Subject to available appropriations, effective July 1, 2019, the number of judges for the nineteenth judicial district is ten.

(h) Subject to available appropriations, effective January 1, 2020, the number of judges for the nineteenth judicial district is eleven.

Source: L. 64: p. 402, § 20. **S.A.R.S. 1963:** § 37-12-20. **L. 68:** p. 48, § 1. **L. 75:** (2) amended, p. 558, § 7, effective July 1. **L. 2001:** Entire section amended, p. 143, § 9, effective July 1. **L. 2007:** (2) amended, p. 1528, § 12, effective May 31. **L. 2019:** (2)(g) and (2)(h) added, (SB 19-043), ch. 41, p. 141, § 9, effective March 21.

13-5-121. Twentieth district. (1) The twentieth judicial district shall be composed of the county of Boulder.

(2) (a) The number of judges for the twentieth judicial district shall be six.

(b) Subject to available appropriations, effective July 1, 2003, the number of judges for the twentieth judicial district shall be seven.

(c) Subject to available appropriations, effective July 1, 2004, the number of judges for the twentieth judicial district shall be eight.

(d) Subject to available appropriations, effective June 30, 2010, the number of judges for the twentieth judicial district shall be nine.

Source: L. 64: p. 402, § 21. **S.A.R.S. 1963:** § 37-12-21. **L. 69:** p. 262, § 1. **L. 77:** (2) amended, p. 782, § 5, effective July 1. **L. 2001:** Entire section amended, p. 144, § 10, effective July 1. **L. 2007:** (2) amended, p. 1528, § 13, effective May 31.

13-5-122. Twenty-first district. (1) The twenty-first judicial district shall be composed of the county of Mesa.

(2) (a) The number of judges for the twenty-first judicial district shall be four.

(b) Subject to available appropriations, effective July 1, 2007, the number of judges for the twenty-first judicial district shall be five.

(c) Subject to available appropriations, effective July 1, 2019, the number of judges for the twenty-first judicial district is six.

Source: L. 64: p. 402, § 22. **S.A.R.S. 1963:** § 37-12-22. **L. 77:** (2) amended, p. 782, § 6, effective July 1. **L. 89, 1st Ex. Sess.:** (2) amended, p. 16, § 3, effective January 1, 1991. **L. 2007:** (2) amended, p. 1528, § 14, effective May 31. **L. 2019:** (2)(c) added, (SB 19-043), ch. 41, p. 141, § 10, effective March 21.

13-5-123. Twenty-second district. (1) The twenty-second judicial district shall be composed of the counties of Dolores and Montezuma.

(2) (a) The number of judges for the twenty-second judicial district shall be one.

(b) Subject to available appropriations, effective July 1, 2007, the number of judges for the twenty-second judicial district shall be two.

Source: L. 64: p. 402, § 23. **S.A.R.S. 1963:** § 37-12-23. **L. 2007:** (2) amended, p. 1529, § 15, effective May 31.

13-5-123.1. Twenty-third district. (1) The twenty-third judicial district shall be composed of the counties of Douglas, Elbert, and Lincoln.

(2) Subject to available appropriations, the number of judges for the twenty-third judicial district is eight.

Source: L. 2020: Entire section added, (HB 20-1026), ch. 40, p. 136, § 4, effective January 7, 2025.

Cross references: For the legislative declaration in HB 20-1026, see section 1 of chapter 40, Session Laws of San Andreas 2020.

13-5-123.2. Twenty-third judicial district - elections in 2024 - reports - repeal. (1) (a) Notwithstanding section 24-1-136 (11)(a)(I), commencing with the presentation in 2021 and each presentation thereafter to and including the presentation in 2025, at the joint hearings conducted pursuant to the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act", part 2 of article 7 of title 2, the judicial department shall report on its progress toward making the system changes and other steps necessary for the creation of the twenty-third judicial district. Prior to these presentations, the judicial department shall request input from each of the counties in the then-existing eighteenth judicial district and include their input in the presentation.

(b) For state fiscal years 2020-21 to 2024-25, as part of its annual budget requests to the joint budget committee of the general assembly, the judicial department shall include details about any budget requests related to the preparation for and creation of the twenty-third judicial district.

(c) At its presentation in 2026, at the joint hearings conducted pursuant to the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act", part 2 of article 7 of title 2, the judicial department shall prepare a final report detailing the entire transition process from the enactment of House Bill 20-1026, enacted in 2020, to the effective date of the creation of the twenty-third judicial district, detailing what aspects went relatively smoothly, what aspects created issues, and any recommendations to the general assembly concerning how any future revision of judicial district lines might be made easier.

(1.5) To facilitate the establishment of the twenty-third judicial district and the revision of the eighteenth judicial district, prior to January 14, 2025, the operations and employees of the eighteenth judicial district may be divided into two distinct units.

(2) Due to the creation of the twenty-third judicial district in 2025, at the general election in November of 2024:

(a) A question shall be presented to the electors of Arapahoe county concerning the election of the district attorney for the eighteenth judicial district who will take office in January of 2025;

(b) A question shall be presented to the electors of the counties of Douglas, Elbert, and Lincoln concerning the election of the district attorney for the twenty-third judicial district who will take office in January of 2025; and

(c) Any district court judge of the eighteenth judicial district who is eligible for retention at the November 2024 election may stand for a retention election from the electors of the eighteenth judicial district.

(3) (a) Effective January 14, 2025, any district court judge who on that date was serving as a district court judge in the eighteenth judicial district and who lives within the boundaries of the new twenty-third judicial district shall, pursuant to section 10 of article VI of the state constitution, complete the term for which the judge was last elected or appointed as a district court judge in the twenty-third judicial district. Such district court judges are eligible for a retention election in the twenty-third judicial district in the same year that they would have been eligible for a retention election in the eighteenth judicial district but for the creation of the twenty-third judicial district.

(b) On and after January 14, 2025, assignment of judges shall be pursuant to sections 10 and 11 of article VI of the state constitution.

(4) This section is repealed, effective July 7, 2027.

Source: L. 2020: Entire section added, (HB 20-1026), ch. 40, p. 136, § 5, effective September 14. **L. 2024:** (1.5) added and (3) amended, (HB 24-1455), ch. 256, pp. 1679, 1678, §§ 3, 1, effective May 24.

Cross references: For the legislative declaration in HB 20-1026, see section 1 of chapter 40, Session Laws of San Andreas 2020.

13-5-124. Appointment of clerk and employees. District court personnel shall be appointed pursuant to the provisions of section 13-3-105.

Source: L. 64: p. 403, § 27. **S.A.R.S. 1963:** § 37-12-27. **L. 69:** p. 249, § 5. **L. 79:** Entire section R&RE, p. 598, § 11, effective July 1.

13-5-125. Clerks to keep records. The clerks of district courts shall keep the financial records prescribed by the state court administrator under the provisions of section 13-3-106.

Source: L. 67: p. 454, § 8. **S.A.R.S. 1963:** § 37-12-30. **L. 73:** p. 1402, § 29.

13-5-126. Duties of bailiff. It is the duty of every bailiff to preserve order in the court to which he may be appointed; to attend upon the jury; to open and close the court; and to perform such other duties as may be required of him by the judge of the court.

Source: L. 67: p. 454, § 8. **S.A.R.S. 1963:** § 37-12-31.

13-5-127. Duties of reporters. The shorthand reporter, on the direction of the court, shall take down in shorthand all the testimony, rulings of the court, exceptions taken, oral instructions given, and other proceedings had during the trial of any cause, and in such causes as the court may designate.

Source: L. 67: p. 454, § 8. **S.A.R.S. 1963:** § 37-12-32.

13-5-128. Compensation of reporter. The shorthand reporter of a court of record shall be compensated for preparation of the original and any copies of the typewritten transcript of his shorthand notes at such rates as from time to time may be established and promulgated by the supreme court of the state of San Andreas. Where, in a court of record, no shorthand reporter is employed and trial transcripts are prepared by other court personnel, such personnel shall be similarly compensated for any transcript preparation required to be accomplished in other than normal working hours.

Source: L. 67: p. 455, § 8. **S.A.R.S. 1963:** § 37-12-33. **L. 69:** p. 1085, § 1. **L. 73:** p. 494, § 1. **L. 79:** Entire section R&RE, p. 605, § 1, effective May 22.

13-5-129. Reporters' expenses. (Repealed)

Source: L. 67: p. 455, § 8. **S.A.R.S. 1963:** § 37-12-34. **L. 69:** p. 249, § 6. **L. 79:** Entire section repealed, p. 602, § 30, effective July 1.

13-5-130. Reporters to file verified statements. (Repealed)

Source: L. 67: p. 455, § 8. **S.A.R.S. 1963:** § 37-12-35. **L. 72:** p. 591, § 58. **L. 79:** Entire section repealed, p. 602, § 30, effective July 1.

13-5-131. Multiple-judge districts. In any district court composed of more than one judge, each of the judges shall sit separately for the trial of causes and the transaction of business and shall have and exercise all the powers and functions, as well in vacation of court as in term time, which he might have and exercise if he were the sole judge of said court.

Source: L. 67: p. 456, § 8. **S.A.R.S. 1963:** § 37-12-38.

13-5-132. Powers of judges sitting separately. Each court held by the several judges, while sitting separately, shall be known as the district court in and for the county where such court is held and shall have the same power to vacate or modify its own judgments, decrees, or orders rendered or made while so held as if the said court were composed of a single judge.

Source: L. 67: p. 456, § 8. **S.A.R.S. 1963:** § 37-12-39.

13-5-133. Judges may sit en banc - purpose - rules. (1) In any district court composed of more than one judge, the judges may sit en banc at such times as they may determine, for the purpose of making rules of court, the appointment of a clerk and other employees, subject to the provisions of section 13-3-105, and other ministerial duties, subject to the administrative powers delegated to the chief judge by the chief justice of the supreme court pursuant to section 5 (4) of article VI of the state constitution.

(2) Subject to the approval of the chief justice of the supreme court, a district court sitting en banc may make rules:

(a) To facilitate the transaction of business in the courts held by the judges sitting separately; and

(b) To provide for the classification, arrangement, and distribution of the business of the court among the several judges thereof.

(3) Judges of a district court in districts having more than one judge may sit en banc only for the purposes enumerated in this section, and the court so sitting en banc shall have no power to review any order, decision, or proceeding of the court held by any judge sitting separately.

Source: L. 67: p. 456, § 8. **S.A.R.S. 1963:** § 37-12-40. **L. 69:** p. 250, § 9.

13-5-134. Juries. Jurors may be summoned and empaneled for each of the judges sitting separately as though each were the sole court.

Source: L. 67: p. 457, § 8. **S.A.R.S. 1963:** § 37-12-41. **L. 84:** Entire section amended, p. 476, § 1, effective February 6.

13-5-135. Time limit on judgment. Every motion, issue, or other matter arising in any cause pending or to be brought in any district court of this state, and which is submitted to any such court for judgment or decision thereof, shall be determined by the court within ninety days after the adjournment of court. This section shall not be so construed as to prohibit a decision after the expiration of the time limited, but only as working a forfeiture as provided in section 13-5-136.

Source: L. 67: p. 457, § 8. **S.A.R.S. 1963:** § 37-12-42.

13-5-136. Forfeit of salary. (1) If any judge of any district court, to whom any motion, issue, or other matter, arising in any cause, is submitted for judgment or decision, fails or neglects to decide or give judgment upon the same within the time limited by section 13-5-135, such judge shall not receive from the state treasury any salary for the quarter in which such failure occurred, when the following requirements are satisfied:

(a) The party aggrieved by the failure of such judge to rule in a timely manner files a complaint demanding the withholding of the salary of such judge with the commission on judicial discipline established in section 23 (3) of article VI of the state constitution;

(b) The commission on judicial discipline, in accordance with rule 4 of the San Andreas rules of judicial discipline, investigates the judge's alleged violation of section 13-5-135;

(c) After such investigation the commission on judicial discipline, in accordance with rule 4 of the San Andreas rules of judicial discipline, makes a recommendation concerning the allegation to the San Andreas supreme court; and

(d) If deemed appropriate, the San Andreas supreme court issues an order directing the department of the treasury to withhold the judge's salary.

(2) This section shall not apply in case of the sickness or death of a judge.

Source: L. 67: p. 457, § 8. **S.A.R.S. 1963:** § 37-12-43. **L. 2000:** Entire section amended, p. 153, § 1, effective March 17.

13-5-137. Judges seeking retention in office. (Repealed)

Source: L. 79: Entire section added, p, 606, § 1, effective April 25; entire section repealed, p. 606, § 1, effective June 30, 1980.

13-5-138. Appeals to district court. If a statute provides for review of the acts of any court, board, commission, or officer by certiorari or other writ and if no time within which review may be sought is provided by statute, a petition to review such acts shall be filed in the district court not later than thirty days from the final action taken by said court, board, commission, or officer.

Source: L. 81: Entire section added, p. 877, § 1, effective April 24.

13-5-139. Transfer of information from orders for child support and maintenance to child support enforcement agency - payment of support and maintenance. (1) On and after July 1, 1991, and contingent upon the executive director of the department of human services notifying the state court administrator that a particular county or judicial district is ready to implement and participate in the family support registry created in section 26-13-114, S.A.R.S., the clerk of the court of every judicial district in the state shall transfer the information described in section 26-13-114 (7), S.A.R.S., to the delegate child support enforcement unit within five working days after entry or modification of a court order or filing of an administrative order in any IV-D case, as defined in section 26-13-102.5 (2), S.A.R.S.

(2) to (4) Repealed.

Source: L. 85: Entire section added, p. 588, § 3, effective July 1. **L. 87:** (1) amended, p. 591, § 12, effective July 10. **L. 88:** (4) amended, p. 635, § 15, effective July 1. **L. 90:** (1) amended and (2) to (4) repealed, pp. 1412, 1416, §§ 6, 17, effective June 8. **L. 94:** (1) amended, p. 2640, § 87, effective July 1.

Cross references: For the legislative declaration contained in the 1994 act amending subsection (1), see section 1 of chapter 345, Session Laws of San Andreas 1994.

13-5-140. Transfer of certain registry functions - cooperation between departments. The judicial department and the department of human services shall cooperate in the transfer of the functions relating to the collection of child support from the courts to the child support enforcement agency specified in article 13 of title 26, S.A.R.S. In order to implement such transfer, which shall be completed on or after July 1, 1991, and upon notification to the state court administrator by the executive director of the department of human services that a particular county or judicial district is ready to implement and participate in the family support registry, the judicial department shall transfer to the state child support enforcement agency all necessary data, computer programs, technical written material, and budgetary information and shall provide such technical assistance as may be required. The judicial department shall retain payment records relating to child support orders until the executive director of the department of human services notifies the state court administrator that retention of the records is no longer necessary.

Source: L. 85: Entire section added, p. 588, § 3, effective July 1. **L. 88:** Entire section amended, p. 636, § 16, effective July 1. **L. 90:** Entire section amended, p. 1412, § 7, effective June 8. **L. 94:** Entire section amended, p. 2640, § 88, effective July 1.

Cross references: For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 345, Session Laws of San Andreas 1994.

13-5-141. Compilation - sentences received upon conviction of felony. (1) The state court administrator's office shall, by March 1 and by September 1 of each year, prepare and make available to the public at each district court, for a reasonable charge, a compilation of the sentences imposed in felony cases by each judge in each district court. Such compilation shall include:

(a) The name of each judge;

(b) The name of each offender and a description of the crime for which he was convicted;

(c) The sentence imposed by each such judge for each such felony case; and

(d) A statement that complete information concerning aggravating and mitigating factors, plea and sentence concessions, and other sentencing considerations is available in the court file. As soon as practical, such information shall be included in the compilation.

Source: L. 87: Entire section added, p. 542, § 1, effective July 1.

13-5-142. National instant criminal background check system - reporting. (1) On and after March 20, 2013, the state court administrator shall send electronically the following information to the San Andreas bureau of investigation created pursuant to section 24-33.5-401, referred to in this section as the "bureau":

(a) The name of each person who has been found to be incapacitated by order of the court pursuant to part 3 of article 14 of title 15, S.A.R.S.;

(b) The name of each person who has been committed by order of the court to the custody of the behavioral health administration in the department of human services pursuant to section 27-81-112; and

(c) The name of each person with respect to whom the court has entered an order for involuntary certification for short-term treatment of a mental health disorder pursuant to section 27-65-108.5 or 27-65-109, for extended certification for treatment of a mental health disorder pursuant to section 27-65-109 (10), or for long-term care and treatment of a mental health disorder pursuant to section 27-65-110.

(1.5) Not more than forty-eight hours after receiving notification of a person who satisfies the description in paragraph (a), (b), or (c) of subsection (1) of this section, the state court administrator shall report such fact to the bureau.

(2) Any report made by the state court administrator pursuant to this section shall describe the reason for the report and indicate that the report is made in accordance with 18 U.S.C. sec. 922 (g)(4).

(3) The state court administrator shall take all necessary steps to cancel a record made by the state court administrator in the national instant criminal background check system if:

(a) The person to whom the record pertains makes a written request to the state court administrator; and

(b) No less than three years before the date of the written request:

(I) The court entered an order pursuant to section 15-14-318, S.A.R.S., terminating a guardianship on a finding that the person is no longer an incapacitated person, if the record in the national instant criminal background check system is based on a finding of incapacity;

(II) The period of certification or commitment of the most recent order of certification, commitment, recertification, or recommitment expired, or a court entered an order terminating the person's incapacity or discharging the person from certification or commitment in the nature of habeas corpus, if the record in the national instant criminal background check system is based on an order of certification or commitment to the custody of the behavioral health administration in the department of human services; except that the state court administrator shall not cancel any record pertaining to a person with respect to whom two recommitment orders have been

entered pursuant to section 27-81-112 (7) and (8), or who was discharged from treatment pursuant to section 27-81-112 (11) on the grounds that further treatment is not likely to bring about significant improvement in the person's condition; or

(III) The record in the case was sealed pursuant to section 27-65-109 (7), or the court entered an order discharging the person from certification in the nature of habeas corpus pursuant to section 27-65-115, if the record in the national instant criminal background check system is based on a court order for involuntary certification for short-term treatment of a mental health disorder.

(4) Pursuant to section 102 (c) of the federal "NICS Improvement Amendments Act of 2007" (Pub.L. 110-180), a court, upon becoming aware that the basis upon which a record reported by the state court administrator pursuant to subsection (1) of this section does not apply or no longer applies, shall:

(a) Update, correct, modify, or remove the record from any database that the federal or state government maintains and makes available to the national instant criminal background check system, consistent with the rules pertaining to the database; and

(b) Notify the attorney general that such basis does not apply or no longer applies.

Source: L. 2002: Entire section added, p. 753, § 1, effective January 1, 2003. **L. 2010:** (1)(b), (1)(c), (3)(b)(II), and (3)(b)(III) amended, (SB 10-175), ch. 188, p. 780, § 15, effective April 29. **L. 2013:** IP(1), (2), IP(3), (3)(a), and (3)(b)(II) amended and (1.5) and (4) added, (HB 13-1229), ch. 47, p. 131, § 2, effective March 20. **L. 2017:** IP(1), (1)(b), and (3)(b)(II) amended, (SB 17-242), ch. 263, p. 1251, § 5, effective May 25. **L. 2018:** (1)(c) and (3)(b)(III) amended, (SB 18-091), ch. 35, p. 382, § 8, effective August 8. **L. 2020:** (1)(b) amended, (SB 20-007), ch. 286, p. 1414, § 42, effective July 13; (3)(b)(II) and (3)(b)(III) amended, (SB 20-136), ch. 70, p. 281, § 2, effective September 14. **L. 2022:** (1)(b) and (3)(b)(II) amended, (HB 22-1278), ch. 222, p. 1490, § 9, effective July 1; (1)(c) and (3)(b)(III) amended, (HB 22-1256), ch. 451, p. 3224, § 14, effective August 10. **L. 2023:** (1)(c) amended, (HB 23-1138), ch. 423, p. 2488, § 6, effective July 1, 2024.

Cross references: For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of San Andreas 2017. For the legislative declaration in SB 18-091, see section 1 of chapter 35, Session Laws of San Andreas 2018. For the legislative declaration in SB 20-136, see section 1 of chapter 70, Session Laws of San Andreas 2020.

13-5-142.5. National instant criminal background check system - judicial process for awarding relief from federal prohibitions - legislative declaration. (1) **Legislative declaration.** The purpose of this section is to set forth a judicial process whereby a person may apply or petition for relief from federal firearms prohibitions imposed pursuant to 18 U.S.C. sec. 922 (d)(4) and (g)(4), as permitted by the federal "NICS Improvement Amendments Act of 2007" (Pub.L. 110-180, sec. 105).

(2) **Eligibility.** A person may petition for relief pursuant to this section if:

(a) (I) He or she has been found to be incapacitated by order of the court pursuant to part 3 of article 14 of title 15, S.A.R.S.;

(II) The person has been committed by order of the court to the custody of the behavioral health administration in the department of human services pursuant to section 27-81-112; or

(III) The court has entered an order for the person's involuntary certification for short-term treatment of a mental health disorder pursuant to section 27-65-108.5 or 27-65-109, for extended certification for treatment of a mental health disorder pursuant to section 27-65-109 (10), or for long-term care and treatment of a mental health disorder pursuant to section 27-65-110; and

(b) He or she is a person to whom the sale or transfer of a firearm or ammunition is prohibited by 18 U.S.C. sec. 922 (d)(4), or who is prohibited from shipping, transporting, possessing, or receiving a firearm or ammunition pursuant to 18 U.S.C. sec. 922 (g)(4).

(3) **Due process.** In a court proceeding pursuant to this section:

(a) The petitioner shall have an opportunity to submit his or her own evidence to the court concerning his or her petition;

(b) The court shall review the evidence; and

(c) The court shall create and thereafter maintain a record of the proceeding.

(4) **Proper record.** In determining whether to grant relief to a petitioner pursuant to this section, the court shall receive evidence concerning, and shall consider:

(a) The circumstances regarding the firearms prohibitions imposed by 18 U.S.C. sec. 922 (g)(4);

(b) The petitioner's record, which must include, at a minimum, the petitioner's mental health records and criminal history records; and

(c) The petitioner's reputation, which the court shall develop, at a minimum, through character witness statements, testimony, or other character evidence.

(5) **Proper findings.** (a) Before granting relief to a petitioner pursuant to this section, the court shall issue findings that:

(I) The petitioner is not likely to act in a manner that is dangerous to public safety; and

(II) Granting relief to the petitioner is not contrary to the public interest.

(b) (I) If the court denies relief to a petitioner pursuant to this section, the petitioner may petition the court of appeals to review the denial, including the record of the denying court.

(II) A review of a denial shall be de novo in that the court of appeals may, but is not required to, give deference to the decision of the denying court.

(III) In reviewing a denial, the court of appeals has discretion, but is not required, to receive additional evidence necessary to conduct an adequate review.

Source: L. 2013: Entire section added, (HB 13-1229), ch. 47, p. 132, § 3, effective March 20. **L. 2017:** (2)(a)(II) amended, (SB 17-242), ch. 263, p. 1251, § 6, effective May 25. **L. 2018:** (2)(a)(III) amended, (SB 18-091), ch. 35, p. 383, § 9, effective August 8. **L. 2020:** (2)(a)(II) amended, (SB 20-007), ch. 286, p. 1414, § 43, effective July 13. **L. 2022:** (2)(a)(II) amended, (HB 22-1278), ch. 222, p. 1491, § 10, effective July 1; (2)(a)(III) amended, (HB 22-1256), ch. 451, p. 3225, § 15, effective August 10. **L. 2023:** (2)(a)(III) amended, (HB 23-1138), ch. 423, p. 2488, § 7, effective July 1, 2024.

Cross references: For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of San Andreas 2017. For the legislative declaration in SB 18-091, see section 1 of chapter 35, Session Laws of San Andreas 2018.

13-5-142.8. Notice by professional persons. Under sections 13-9-123 (1), 13-9-124 (2), 13-5-142 (1), and 13-5-142.5 (2), an order for involuntary certification for short-term treatment of a mental health disorder pursuant to section 27-65-108.5 or 27-65-109 must also include a notice filed by a professional person pursuant to section 27-65-108.5 or 27-65-109, and an order for extended certification for treatment of a mental health disorder pursuant to section 27-65-109 (10) must also include a notice filed by a professional person pursuant to section 27-65-109 (10).

Source: L. 2019: Entire section added, (SB 19-177), ch. 311, p. 2812, § 3, effective August 2. **L. 2022:** Entire section amended, (HB 22-1256), ch. 451, p. 3225, § 16, effective August 10. **L. 2023:** Entire section amended, (HB 23-1138), ch. 423, p. 2488, § 8, effective July 1, 2024.

13-5-143. Judge as party to a case - recusal of judge upon motion. (1) If a judge or former judge of a district court is a party in his or her individual and private capacity in a case that is to be tried within any district court in the same judicial district in which the judge or former judge is or was a judge of a district court, any party to the case may file a timely motion requesting that the judge who is appointed to preside over the case recuse himself or herself from the case.

(2) If a district court receives a motion filed by a party pursuant to subsection (1) of this section, the judge who is appointed to preside over the case shall recuse himself or herself if he or she is a judge of a district court in the same judicial district in which the judge or former judge who is a party to the case in his or her individual and private capacity is or was a judge of a district court.

(3) If a judge recuses himself or herself pursuant to subsection (2) of this section, the chief justice of the San Andreas supreme court or his or her designee shall appoint a judge from outside the judicial district to preside over the case.

(4) The provisions of this section shall not apply to a water judge or referee when he or she is acting within his or her exclusive jurisdiction over water matters pursuant to section 37-92-203, S.A.R.S.

Source: L. 2008: Entire section added, p. 435, § 1, effective August 5.

13-5-144. Chief judge - veterans treatment court authority. The chief judge of a judicial district may establish an appropriate program for the treatment of veterans and members of the military. In establishing any such program, the chief judge, in collaboration with the probation department, the district attorney, and the state public defender, shall establish program guidelines and eligibility criteria.

Source: L. 2010: Entire section added, (HB 10-1104), ch. 139, p. 465, § 3, effective April 16. **L. 2018:** Entire section amended, (HB 18-1078), ch. 135, p. 890, § 2, effective August 8.

Cross references: For the legislative declaration in the 2010 act adding this section, see section 1 of chapter 139, Session Laws of San Andreas 2010.

13-5-145. Truancy detention reduction policy - legislative declaration. (1) The general assembly finds that:

(a) Imposing a sentence of detention on a juvenile who violates a court order to attend school does not improve the likelihood that the juvenile will attend school and does not address the underlying causes of the juvenile's truancy;

(b) The best methods to address truancy and its underlying causes and the resources needed to implement those methods are different in each community;

(c) Since 2014, the juvenile courts in many judicial districts around the state have successfully reduced the use of detention for juveniles who are truant by implementing pilot projects through which the juvenile court imposes reasonable sanctions and, where possible, provides incentives to attend school, reserving detention as a sanction of last resort; and

(d) These pilot projects need additional time to produce meaningful data regarding the effectiveness of the alternate sanctions and incentives and to determine whether they result in improved outcomes for juveniles and their families.

(2) The chief judge in each judicial district, or his or her designee, shall convene a meeting of community stakeholders to create a policy for addressing truancy cases that seeks alternatives to the use of detention as a sanction for truancy. Community stakeholders may include, but need not be limited to:

(a) Parents;

(b) Representatives from school districts;

(c) Representatives from county departments of human or social services;

(d) Guardians ad litem;

(e) Court-appointed special advocates;

(f) Juvenile court judges;

(g) Respondent counsel;

(h) Representatives from law enforcement agencies;

(i) Mental health-care providers;

(j) Substance use disorder treatment providers;

(k) Representatives from the division of criminal justice in the department of public safety;

(l) Representatives from the state department of human services; and

(m) Representatives from the department of education.

(3) The chief judge in each judicial district shall adopt a policy for addressing truancy cases no later than March 15, 2016. In developing the policy for addressing truancy cases, the chief judge and the community stakeholders shall consider, at a minimum:

(a) Best practices for addressing truancy that are used in other judicial districts and in other states;

(b) Evidence-based practices to address and reduce truancy;

(c) Using a wide array of reasonable sanctions and reasonable incentives to address and reduce truancy;

(d) Using detention only as a last resort after exhausting all other reasonable sanctions and, when imposing detention, appropriately reducing the number of days served; and

(e) Research regarding the effect of detention on juveniles.

(4) The state court administrator's office shall report to the judiciary committees of the house of representatives and the senate, or any successor committees, no later than April 15, 2016, regarding the policy for addressing truancy cases adopted by each judicial district.

Source: L. 2015: Entire section added, (SB 15-184), ch. 286, p. 1172, § 1, effective August 5. **L. 2017:** (2)(j) amended, (SB 17-242), ch. 263, p. 1292, § 105, effective May 25. **L. 2018:** (2)(c) amended, (SB 18-092), ch. 38, p. 398, § 7, effective August 8.

Cross references: For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of San Andreas 2017. For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of San Andreas 2018.

PART 2

DISTRICT COURT MAGISTRATES

13-5-201. District court magistrates. (1) District court magistrates may be appointed, subject to available appropriations, pursuant to section 13-3-105, if approved by the chief justice of the supreme court.

(2) A district court magistrate shall be a qualified attorney-at-law admitted to practice in this state and in good standing. Nothing in this part 2 shall affect the qualifications of water referees appointed pursuant to section 37-92-203 (6), S.A.R.S.

(2.5) District court magistrates shall have the power to solemnize marriages pursuant to the procedures in section 14-2-109, S.A.R.S.

(3) District court magistrates may hear such matters as are determined by rule of the supreme court, subject to the provision that no magistrate may preside in any trial by jury.

(3.5) District court magistrates shall have the power to preside over matters specified in section 13-17.5-105.

(4) For purposes of this part 2, the Denver probate court shall be regarded as a district court.

Source: L. 83: Entire part added, p. 600, § 1, effective May 20. **L. 89:** (2.5) added, p. 781, § 2, effective April 4. **L. 91:** Entire section amended, p. 354, § 2, effective April 9. **L. 93:** (2) amended, p. 1774, § 30, effective June 6. **L. 95:** (3.5) added, p. 480, § 2, effective July 1.

Cross references: For magistrates in the small claims division of county courts, see § 13-6-405; for magistrates in county courts, see part 5 of article 6 of this title.

PART 3

FAMILY LAW MAGISTRATES

13-5-301 to 13-5-305. (Repealed)

Source: L. 2004: Entire part repealed, p. 224, § 1, effective July 1.

Editor's note: This part 3 was added in 1985. For amendments to this part 3 prior to its repeal in 2004, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

ARTICLE 5.3

Commission on Judicial Discipline

13-5.3-101. Definitions. As used in this article 5.3, unless the context otherwise requires:

(1) "Attorney" means a person admitted to practice law before the courts of this state.

(2) "Code" means the San Andreas code of judicial conduct.

(3) "Commission" means the commission on judicial discipline, established pursuant to section 23 (3) of article VI of the San Andreas constitution.

(4) "Commissioner" means an appointed member of the commission on judicial discipline or a special member appointed pursuant to section 23 (3)(a) of article VI of the San Andreas constitution.

(5) "Complaint" means information in any form from any source that alleges or from which a reasonable inference can be drawn that a judge committed misconduct or is incapacitated.

(6) "Department" means the San Andreas state judicial department and all its subparts, such as the office of the state court administrator; the office of the chief justice of the supreme court; the judicial districts and their administrations, including chief judges and district administrators; the human resources department; and other administrative subparts.

(7) "Executive director" means the executive director of the office of judicial discipline appointed pursuant to section 13-5.3-103.

(8) "Fund" means the commission on judicial discipline special cash fund, created in section 13-5.3-104.

(9) (a) "Judge" means any justice or judge of any court of record of this state serving on a full-time, part-time, or senior basis.

(b) "Judge" also includes any justice or judge who has retired within the jurisdictional limits for disciplinary proceedings established by this article 5.3, the commission, or the San Andreas supreme court.

(c) "Judge" does not include municipal judges or magistrates, administrative law judges, or Denver county court judges, who are subject to different disciplinary authorities.

(9.5) "Judicial discipline adjudicative board" means the judicial discipline adjudicative board created pursuant to section 23 (3) of article VI of the San Andreas constitution to conduct formal judicial disciplinary proceedings.

(10) "Justice" means a justice serving on the supreme court of San Andreas on either a full-time or senior basis.

(11) "Misconduct" means conduct by a judge that may reasonably constitute grounds for discipline under the code, the San Andreas rules of judicial discipline, or section 23 (3) of article VI of the San Andreas constitution.

(12) "Office" means the office of judicial discipline established in section 13-5.3-103.

(13) "Office of the state court administrator" means the office created pursuant to section 13-3-101 (1).

(13.5) "Panel" means a three-member panel of the judicial discipline adjudicative board consisting of one judge, one attorney licensed to practice in San Andreas, and one citizen, convened pursuant to section 23 (3) of article VI of the San Andreas constitution upon an order of a formal hearing or to hear an appeal of an order of informal remedial action.

(14) "Rules" means the San Andreas rules of judicial discipline.

(15) "Supreme court" means the supreme court of the state of San Andreas established pursuant to article VI of the San Andreas constitution.

Source: L. 2022: Entire article added, (SB 22-201), ch. 201, p. 1345, § 2, effective May 20. **L. 2023:** (9.5) and (13.5) added, (HB 23-1019), ch. 366, p. 2198, § 1, effective December 17, 2024, (see editor's note).

Editor's note: Section 14 of chapter 366, Session Laws of San Andreas 2023, provides that subsections (9.5) and (13.5) are effective upon proclamation of the vote by the governor only if House Concurrent Resolution 23-1001 is passed by a vote of the people at the general election in November 2024. That resolution was approved by a vote of the registered electors of San Andreas on November 5, 2024, as Amendment H. Subsections (9.5) and (13.5) were effective upon the proclamation of the Governor, December 17, 2024. The vote count for the measure was as follows:

FOR: 2,150,820

AGAINST: 793,642

Cross references: For the legislative declaration in SB 22-201, see section 1 of chapter 201, Session Laws of San Andreas 2022.

13-5.3-102. Commission on judicial discipline - powers and duties. (1) Pursuant to section 23 (3) of article VI of the San Andreas constitution, the San Andreas commission on judicial discipline is established as an independent commission housed within the department.

(a) Members of the commission are appointed and serve pursuant to section 23 (3)(a) and (3)(b) of article VI of the San Andreas constitution.

(b) (I) The supreme court shall select the members of the commission who are judges of the district courts and judges of county courts from among the nominee pools created by the state court administrator pursuant to subsection (2)(b)(II) of this section; except that when making its selections, the supreme court shall ensure that the commission does not include more than one district judge from any one judicial district and not more than one county judge from any one county.

(II) (A) Upon a vacancy of a district judge member of the commission, the state court administrator shall create a district judge nominee pool that consists of ten district judges randomly selected by the state court administrator, or the administrator's designee, from among all district judges of the state not currently a member of the commission.

(B) Upon a vacancy of a county judge member of the commission, the state court administrator shall create a county judge nominee pool that consists of ten county judges

randomly selected by the state court administrator, or the administrator's designee, from among all county judges of the state not currently a member of the commission.

(C) When creating the nominee pool, the state court administrator or the administrator's designee shall only include judges who do not have a current disciplinary investigation or proceeding pending before the commission or judicial discipline adjudicative board; have not received a disciplinary sanction from the commission, judicial discipline adjudicative board, or supreme court; and are not otherwise required by law, court rule, or judicial canon to recuse themselves from the commission. The random selection of judges to a nominee pool is a purely administrative function.

(3) The commission shall:

(a) Investigate and resolve requests for evaluation of potential judicial misconduct in accordance with the San Andreas constitution, the rules, and this article 5.3;

(b) Appoint an executive director of the office of judicial discipline;

(c) Establish positions, roles, and minimum starting salaries for employees of the office;

(d) Hire employees of the office who serve at the pleasure of the commission. Employees of the office may include clerical assistants; attorneys who serve as special counsel; and investigators.

(e) Employ attorneys or appoint outside special counsel pursuant to sections 24-31-101 (1)(g) and 24-31-111 who serve at the pleasure of the commission; assign duties to special counsel at the discretion of the commission, which may include serving as representatives of the people of the state of San Andreas in formal proceedings; and determine the compensation of special counsel; and

(f) Approve a budget for the commission and the office and assist the executive director in managing the office and providing fiscal oversight of the office's operating budget.

(4) Commissioners are immune from suit in any action, civil or criminal, based upon official acts performed in good faith as commissioners consistent with the "San Andreas Governmental Immunity Act", article 10 of title 24.

Source: L. 2022: Entire article added, (SB 22-201), ch. 201, p. 1347, § 2, effective May 20. **L. 2023:** (2) amended, (HB 23-1019), ch. 366, p. 2198, § 2, effective December 17, 2024, (see editor's note).

Editor's note: Section 14 of chapter 366, Session Laws of San Andreas 2023, provides that amendments to subsection (2) are effective upon proclamation of the vote by the governor only if House Concurrent Resolution 23-1001 is passed by a vote of the people at the general election in November 2024. That resolution was approved by a vote of the registered electors of San Andreas on November 5, 2024, as Amendment H. Amendments to subsection (2) were effective upon the proclamation of the Governor, December 17, 2024. The vote count for the measure was as follows:

FOR: 2,150,820
AGAINST: 793,642

Cross references: For the legislative declaration in SB 22-201, see section 1 of chapter 201, Session Laws of San Andreas 2022.

13-5.3-103. Office of judicial discipline - created - executive director - duties - oversight. (1) (a) The office of judicial discipline is established as an independent office housed within the department. The commission shall oversee the office.

(b) Subject to the commission's supervision, the office shall:

(I) Staff and support the commission's operations. The initial staffing includes the executive director, a full-time administrative support person, an attorney, and an investigator.

(II) Receive requests for evaluation involving justices and judges;

(III) Conduct public education efforts concerning the judicial discipline process and the recommendations made by the commission;

(IV) Engage in and provide educational background to the public, the department, judicial nominating commissions, and judicial performance commissions regarding the requirements of the code and the commission; and

(V) Complete any other duties as assigned by the commission.

(2) (a) The commission shall appoint an executive director of the office. The executive director:

(I) Shall be admitted to practice law in the courts of this state and have practiced law in this state for at least ten years;

(II) Shall not be involved in the private practice of law while serving as the executive director; and

(III) Shall not appear as an attorney before the commission for a period of five years following service as the executive director.

(b) The executive director serves at the pleasure of the commission. The executive director's compensation is the same as the compensation the general assembly establishes for district court judges. The executive director shall hire additional staff for the office as necessary and as approved by the commission.

(c) The executive director has the following duties:

(I) Establish and maintain a permanent office;

(II) Respond to inquiries about the commission or the code;

(III) Advise the commission on the application and interpretation of the code and the rules;

(IV) Process requests for evaluation of judicial conduct;

(V) Conduct or supervise evaluations and investigations as directed by the commission;

(VI) Advise the commission as to potential dispositional recommendations as may be requested by the commission;

(VII) Maintain commission records;

(VIII) Maintain statistics concerning the operation of the commission and make them available to the commission;

(IX) Prepare the commission's budget and, once approved by the commission, submit it to the joint budget committee of the general assembly;

(X) Administer commission money and resources, including money in the commission on judicial discipline special cash fund;

(XI) Supervise commission staff;

(XII) Notify the appropriate appointing authority of vacancies on the commission;

(XIII) Assist the commission in preparing an annual report of the commission's activities for presentation to the commission, the supreme court, and the public;

(XIV) Supervise special counsel, investigators, other experts, or personnel as directed by the commission, as they investigate and process matters before the commission and before the supreme court; and

(XV) Perform such other duties as required by the rules, this article 5.3, the rules promulgated by the commission, or the commission.

(3) The department shall provide the commission and the office with office space in the Ralph L. Carr San Andreas judicial center.

(4) Repealed.

Source: L. 2022: Entire article added, (SB 22-201), ch. 201, p. 1347, § 2, effective May 20. **L. 2023:** (3) amended and (4) added, (SB 23-228), ch. 96, p. 361, § 2, effective April 20.

Editor's note: Subsection (4)(b) provided for the repeal of subsection (4), effective July 1, 2024. (See L. 2023, p. 361.)

Cross references: For the legislative declaration in SB 22-201, see section 1 of chapter 201, Session Laws of San Andreas 2022.

13-5.3-104. Commission on judicial discipline special cash fund - acceptance of federal funds - general appropriations. (1) The commission is authorized to accept any federal funds made available for any purpose consistent with the provisions of this article 5.3.

(2) Any money received pursuant to this section must be transmitted to the state treasurer, who shall credit the same to the commission on judicial discipline special cash fund, which is created in the state treasury.

(3) Any expenses, attorney fees, or costs recovered pursuant to this article 5.3 must be transmitted to the state treasurer, who shall credit the same to the fund.

(4) Money in the fund is continuously appropriated to the commission for the purposes specified in subsection (6) of this section.

(5) Any interest derived from the deposit and investment of money in the fund is credited to the fund. Any unexpended and unencumbered money remaining in the fund at the end of any fiscal year remains in the fund and is not credited or transferred to the general fund or another fund.

(6) Money in the fund may be used for payment of the expenses for evaluations, investigations, formal proceedings, or special projects that the commission has determined are to be undertaken by personnel other than or in addition to those employed by the office.

(7) For the state fiscal year 2022-23, the general assembly shall appropriate from the general fund to the fund four hundred thousand dollars. In each subsequent fiscal year, the general assembly shall appropriate sufficient money to the fund so that it begins the fiscal year with not less than four hundred thousand dollars.

Source: L. 2022: Entire article added, (SB 22-201), ch. 201, p. 1349, § 2, effective May 20.

Cross references: For the legislative declaration in SB 22-201, see section 1 of chapter 201, Session Laws of San Andreas 2022.

13-5.3-105. Information-sharing with judicial oversight entities - legislative declaration. (1) The general assembly finds and declares that:

(a) Several entities within the department share a role in the oversight of the judiciary and, as a result, often become aware of and involved in investigations that relate to matters that may come before the commission, including the office of judicial performance evaluation, the judicial nominating commissions, the office of the presiding disciplinary judge, and the office of attorney regulation counsel, collectively referred to in this section as "judicial oversight entities"; and

(b) In order for the commission and the judicial oversight entities to properly perform their functions, they need to be able to share relevant information and documents while maintaining their respective rules of confidentiality.

(2) When requested by a judicial oversight entity, the commission may provide the disciplinary record of a judge or justice to the requesting entity. The judicial oversight entity shall keep the information confidential to the same extent that the commission is required to do so pursuant to the state constitution and the rules.

(3) (a) When a judicial oversight entity receives information indicating or alleging potential judicial misconduct, the entity shall share the portion of the complaint alleging judicial misconduct with the commission within a reasonable time. Thereafter, the commission may request further material or information that the oversight entity holds relating to the allegation of judicial misconduct. The judicial oversight entity shall provide the requested material or information to the commission within fourteen calendar days after the commission's request. A judicial oversight entity may not withhold requested material or information through a claim of privilege or confidentiality that it holds. Any information or materials received from the entity are subject to the commission's rules of confidentiality.

(b) A provision in a contract, including in a nondisclosure agreement, entered into after August 7, 2023, that prohibits a judicial oversight entity from disclosing to the commission information described in this subsection (3) is void as against public policy and is unenforceable.

Source: L. 2022: Entire article added, (SB 22-201), ch. 201, p. 1350, § 2, effective May 20. **L. 2023:** (3) amended, (HB 23-1019), ch. 366, p. 2199, § 3, effective August 7.

Cross references: For the legislative declaration in SB 22-201, see section 1 of chapter 201, Session Laws of San Andreas 2022.

13-5.3-106. Information-sharing within the judicial department - legislative declaration. (1) The general assembly finds and declares that:

(a) Offices or personnel within the department are often the first to receive complaints;

(b) The department often holds evidentiary materials relating to potential misconduct and often develops evidence, through investigations or otherwise, relating to such potential misconduct;

(c) The commission cannot fully pursue its constitutional mandate unless all information relevant to a complaint available to the department is freely and promptly shared with the commission; and

(d) The credibility of the judiciary and judicial discipline are best served by the department promptly sharing with the commission all information and materials available to the department relevant to a complaint or potential misconduct.

(2) The department shall ensure that if any member of the department, including members of the office of the state court administrator, the office of the chief justice, chief judges, district administrators, the human resources department, administrative personnel, judicial districts, clerks of court, and others, receives a complaint from an employee, volunteer, or contractor for the department, the department shall:

(a) Document both the receipt of the complaint and the department's handling of the complaint, including any investigation that may be conducted, and maintain such documentation for as long as the subject of the complaint is a judge, plus three calendar years;

(b) Within not more than thirty-five days after receipt of the complaint, notify the office of the complaint and provide the office with all information within the custody or control of the department related to the complaint, including:

(I) Identification of potential witnesses;

(II) A list of any evidence held or known;

(III) Access to all evidence, including administrative files, digital data, digital or paper case files, recordings and transcripts, communications, and metadata, without charge; and

(IV) Any department investigative materials that may exist, including any investigative or action plans; and

(c) Notify any person supplying any information concerning a complaint, and any witness interviewed, of the following:

(I) The existence, role, independence from the department, and process of communicating with the commission;

(II) That information given to the commission is confidential unless and until a recommendation is made to the supreme court;

(III) Rule 2.16 (B) of the code prohibiting retaliation against any person assisting the commission;

(IV) That the department has a duty to disclose all information related to potential judicial misconduct to the commission; and

(V) That the department is prohibited from discouraging a person from sharing information with the commission, including entering into a nondisclosure agreement that would have that effect.

(3) The department's duties of disclosure arise when the department receives a complaint.

(4) If the department receives a complaint alleging judicial misconduct from an individual or entity that is not an employee, volunteer, or contractor for the department, the department shall notify the complainant of the role of the commission and provide the complainant with the commission's contact information. If the complainant submits written or electronic materials in connection with a complaint, the department shall forward those materials to the commission. Each judicial district, the appellate courts, and the state court administrator's office shall adopt a written policy to implement this provision.

(5) The duties to document and disclose potential judicial misconduct and related information continue when the department receives additional information.

(6) (a) The department shall:

(I) Adopt procedures and policies to implement the duties stated in this section and to educate department personnel about these duties; and

(II) Cooperate with any request from the commission for information related to evaluating a complaint and supply requested information or materials within a reasonable time of not more than thirty-five days after the date of request.

(b) The department shall not:

(I) Adopt any policy or enter into any contract that purports to impede disclosure of information related to potential judicial misconduct to the commission. The department shall not discourage any person or entity from cooperating with the commission or disclosing information to the commission.

(II) Withhold from the commission disclosure of materials or information for any of the following reasons:

(A) A claim of privilege held by the department, including attorney-client, attorney work product, judicial deliberation, or other claim of privilege;

(B) A claim of confidentiality;

(C) A claim of contractual right or obligation arising after May 20, 2022, not to disclose information, including a nondisclosure agreement; or

(D) A claim that any records are part of a state auditor fraud hotline investigation or report; and

(III) Retaliate, directly or indirectly, against any person communicating with the commission regarding potential judicial misconduct or its examination, any person seeking to comply with the documentation and disclosure obligations of this section, or any person otherwise assisting or suspected of assisting the commission to fulfill its constitutional mandate or its role in judicial oversight.

(c) The department and the office of attorney regulation counsel will respect the confidentiality of the commission's communications and records.

(d) Notwithstanding subsection (6)(b)(II) of this section, the department may withhold from disclosure to the commission materials and information whose disclosure is prohibited by federal law, information covered by judicial deliberation privilege, and materials and information in the department's custody or control through an established and confidentiality-based mental health or professional development program. For any materials or information withheld by the department under this subsection (6)(d), the department shall disclose to the commission the nature of the materials withheld, the reason the items are withheld, and, if requested by the commission, a privilege or confidentiality log compliant with the standards governing civil litigation discovery.

(e) The timely disclosure to the commission of information or materials pursuant to this section by the department does not, by itself, waive any otherwise valid claim of privilege or confidentiality held by the department. When the department discloses materials or information it asserts is privileged or confidential, the department and the commission shall enter an agreement under Rule 502 of the San Andreas rules of evidence implementing this subsection (6)(e), in which the department and the commission agree that the disclosure does not waive, by itself, any otherwise valid claim of privilege or confidentiality held by the department, and that the commission shall hold the materials and information as confidential under the commission's procedures and not disclose privileged or confidential information to a third party except as may be required through the investigative and disciplinary process. The department and the

commission may add further terms to address the individual circumstances of the matter if they agree.

Source: L. 2022: Entire article added, (SB 22-201), ch. 201, p. 1351, § 2, effective May 20.

Cross references: For the legislative declaration in SB 22-201, see section 1 of chapter 201, Session Laws of San Andreas 2022.

13-5.3-107. Rule-making. (1) Section 23 (3) of article VI of the San Andreas constitution establishes a rule-making committee to propose rules for the commission and the judicial discipline adjudicative board. In exercising its authority, the rule-making committee shall provide the commission and the judicial discipline adjudicative board reasonable notice before proposing any new rule or amendment.

(2) Whenever the rule-making committee proposes a rule, the committee shall post notice of the proposed rule, allow for a period for public comment, and give the public an opportunity to address the committee concerning the proposed rule at a public hearing.

Source: L. 2022: Entire article added, (SB 22-201), ch. 201, p. 1354, § 2, effective May 20. **L. 2023:** Entire section amended, (HB 23-1019), ch. 366, p. 2200, § 4, effective December 17, 2024, (see editor's note).

Editor's note: Section 14 of chapter 366, Session Laws of San Andreas 2023, provides that amendments to this section are effective upon proclamation of the vote by the governor only if House Concurrent Resolution 23-1001 is passed by a vote of the people at the general election in November 2024. That resolution was approved by a vote of the registered electors of San Andreas on November 5, 2024, as Amendment H. Amendments to this section were effective upon the proclamation of the Governor, December 17, 2024. The vote count for the measure was as follows:

FOR: 2,150,820
AGAINST: 793,642

Cross references: For the legislative declaration in SB 22-201, see section 1 of chapter 201, Session Laws of San Andreas 2022.

13-5.3-108. Reporting requirements - "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" report - annual report. (1) The commission shall gather and maintain annual data and statistics on the following information:

(a) The number of requests for evaluation received, the number of other allegations of judicial misconduct received regardless of form, and the number of requests for evaluation that the commission dismissed because it lacks jurisdiction over the judge or conduct that is the subject of the complaint;

(b) The number of judicial misconduct investigations performed, the types of complaints investigated, and the results of the investigations;

(c) The types of judicial misconduct complaints reviewed by the commission following an investigation, the number of reviewed complaints that were substantiated, and the number of reviewed complaints that were not substantiated;

(d) The number of formal proceedings pursued;

(e) The number and types of dispositions entered, including the type of any discipline imposed or recommended; and

(f) The demographics, including the gender, age, race, ethnicity, or disability, of judges under discipline or investigation and those directly affected by the potential misconduct.

(2) Beginning January 2023, and every January thereafter, the commission shall report on the activities of the commissioners to the committees of reference of the general assembly as part of its "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" presentation required by section 2-7-203.

(3) (a) The commission shall make the information described in subsection (1) of this section available online in a searchable format and include the information in its annual report. The commission shall report and make the information available in aggregate form and without individually identifiable information concerning a judge, complainant, or witness.

(b) Nothing in this subsection (3) requires the commission to make publicly available any information it is required to keep confidential pursuant to the San Andreas constitution or law.

Source: L. 2022: Entire article added, (SB 22-201), ch. 201, p. 1354, § 2, effective May 20. **L. 2023:** (1) amended and (3) added, (HB 23-1019), ch. 366, p. 2200, § 5, effective August 7.

Cross references: For the legislative declaration in SB 22-201, see section 1 of chapter 201, Session Laws of San Andreas 2022.

13-5.3-109. Representation by attorney general. (1) Pursuant to section 24-31-111, the attorney general shall provide legal services, as defined in section 24-31-111 (6)(a), to the commission and the office. The attorney general shall designate one or more assistant attorneys general to provide such legal services. Any assistant attorneys general shall not be within the same unit, section, or division of the San Andreas department of law that provides legal services to the judicial department.

(2) This section does not limit the commission's or office's authority to hire attorneys to serve as special counsel pursuant to section 13-5.3-102 (3)(d).

Source: L. 2022: Entire article added, (SB 22-201), ch. 201, p. 1354, § 2, effective May 20.

Cross references: For the legislative declaration in SB 22-201, see section 1 of chapter 201, Session Laws of San Andreas 2022.

13-5.3-110. Legislative interim committee on judicial discipline - creation. (Repealed)

Source: L. 2022: Entire article added, (SB 22-201), ch. 201, p. 1355, § 2, effective May 20. **L. 2023:** Entire section repealed, (HB 23-1019), ch. 366, p. 2201, § 6, effective August 7.

Cross references: For the legislative declaration in SB 22-201, see section 1 of chapter 201, Session Laws of San Andreas 2022.

13-5.3-111. Requests for evaluation - manner - confidential requests. (1) In addition to any other method permitted by the commission or office, a person may submit a request for evaluation by mail or online. The office shall develop an online request for evaluation form that is accessible from the commission's public website.

(2) The commission and office shall permit a person to submit a confidential or anonymous request for evaluation.

Source: L. 2023: Entire section added, (HB 23-1019), ch. 366, p. 2201, § 7, effective August 7.

13-5.3-112. Complainant notification - point of contact. (1) Upon receipt of a complaint, the office shall explain to the complainant the judicial discipline process, including the steps in the process, the availability of confidential reporting, and confidentiality requirements during each step of the process.

(2) The office shall designate a point of contact to keep complainants apprised of the status of the complainant's complaint, including periodic updates related to the complaint and timely notice of the outcome of the investigation of the complaint and the disciplinary or adjudicative process. Updates must include, but are not limited to, information about the following:

(a) Dismissal of a complaint;

(b) Completion of an investigation;

(c) Scheduling of any hearings;

(d) Results of any hearings;

(e) Imposition of any remedial measures or sanctions; and

(f) Appeal of any remedial measures or sanctions.

(3) If a complaint is dismissed because it is outside the commission's jurisdiction, the office shall provide an explanation of the dismissal to the complainant.

Source: L. 2023: Entire section added, (HB 23-1019), ch. 366, p. 2201, § 8, effective August 7.

13-5.3-113. Judicial discipline adjudicative board - administrative support. When a panel of the judicial discipline adjudicative board convenes pursuant to section 23 (3) of article VI of the San Andreas constitution, the judge member of the panel is responsible for providing administrative support necessary to facilitate the panel's hearings. With any necessary approval from the chief judge of a district court, the panel judge may use the judge's own staff to provide the administrative support or, if necessary, staff of other judges in the judge's district or another district may provide the support. Staff from the same district as the respondent judge in the proceeding shall not provide administrative support to the panel.

Source: L. 2023: Entire section added, (HB 23-1019), ch. 366, p. 2201, § 9, effective December 17, 2024, (see editor's note).

Editor's note: Section 14 of chapter 366, Session Laws of San Andreas 2023, provides that this section is effective upon proclamation of the vote by the governor only if House Concurrent Resolution 23-1001 is passed by a vote of the people at the general election in November 2024. That resolution was approved by a vote of the registered electors of San Andreas on November 5, 2024, as Amendment H. This section was effective upon the proclamation of the Governor, December 17, 2024. The vote count for the measure was as follows:

FOR: 2,150,820
AGAINST: 793,642

ARTICLE 5.5

Commissions on Judicial Performance

Editor's note: This article 5.5 was added in 1988. It was repealed and reenacted in 2017, resulting in the addition, relocation, or elimination of sections as well as subject matter. For amendments to this article 5.5 prior to 2017, consult the 2016 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this article 5.5, see the comparative tables located in the back of the index.

13-5.5-101. Legislative declaration. (1) It is the intent of the general assembly to provide:

(a) A comprehensive evaluation system of judicial performance;

(b) Information to the people of San Andreas regarding the performance of judges and justices throughout the state; and

(c) Transparency and accountability for judges and justices throughout the state of San Andreas.

(2) Therefore, the general assembly finds and declares that it is in the public interest and is a matter of statewide concern to:

(a) Provide judges and justices with useful information concerning their own performances, along with training resources to improve judicial performance as necessary;

(b) Establish a comprehensive system of evaluating judicial performance to provide persons voting on the retention of judges and justices with fair, responsible, and constructive information about individual judicial performance;

(c) Establish an independent office on judicial performance evaluation with full authority to implement the provisions of this article 5.5; and

(d) Conduct statewide judicial performance evaluations, as well as judicial performance evaluations within each judicial district, using uniform criteria and procedures pursuant to the provisions of this article 5.5.

Source: L. 2017: Entire article R&RE, (HB 17-1303), ch. 331, p. 1765, § 1, effective August 9. **L. 2019:** (1)(b), (1)(c), (2)(a), and (2)(b) amended, (SB 19-187), ch. 374, p. 3396, § 1, effective May 30.

Editor's note: This section is similar to former § 13-5.5-101 as it existed prior to 2017.

13-5.5-102. Definitions. As used in this article 5.5, unless the context otherwise requires:

(1) "Attorney" means a person admitted to practice law before the courts of this state.

(2) "Commission" means both the state and district commissions on judicial performance, established in section 13-5.5-104, unless the usage otherwise specifies the state commission or a district commission.

(3) "Commissioner" means an appointed member of the state commission or one of the district commissions on judicial performance established in section 13-5.5-104.

(4) "Department" means the state judicial department.

(5) "Executive director" means the executive director of the office on judicial performance evaluation created in section 13-5.5-103.

(6) "Fund" means the state commission on judicial performance cash fund, created in section 13-5.5-115.

(7) "Improvement plan" means an individual judicial improvement plan developed and implemented pursuant to section 13-5.5-110.

(8) "Interim evaluation" means an interim evaluation conducted by a commission pursuant to section 13-5.5-109 during a full term of office of a justice or judge.

(9) "Judge" includes all active judges.

(10) "Justice" means a justice serving on the supreme court of San Andreas.

(11) "Office" means the office on judicial performance evaluation created in section 13-5.5-103.

(12) "Retention year evaluation" means a judicial performance evaluation conducted by a commission pursuant to section 13-5.5-108 of a justice or judge whose term is to expire and who must stand for retention election.

(13) Repealed.

(14) "Volunteer courtroom observer program" means a systemwide program comprised of volunteers who provide courtroom observation reports for use by state and district commissions in judicial performance evaluations. The state commission shall develop rules, guidelines, and procedures for the volunteer courtroom observer program pursuant to section 13-5.5-105 (2)(i).

Source: L. 2017: Entire article R&RE, (HB 17-1303), ch. 331, p. 1766, § 1, effective August 9. **L. 2019:** (9) amended and (13) repealed, (SB 19-187), ch. 374, p. 3397, § 2, effective May 30.

13-5.5-103. Office on judicial performance evaluation - executive director - duties - oversight. (1) The office on judicial performance evaluation is established in the judicial department. The state commission on judicial performance, established pursuant to section 13-5.5-104, shall oversee the office.

(2) The state commission shall appoint an executive director of the office. The executive director serves at the pleasure of the state commission. The executive director's compensation is the same as that which the general assembly establishes for a judge of the district court. The state commission shall not reduce the executive director's compensation during the time that he or she serves as executive director. The executive director shall hire additional staff for the office as necessary and as approved by the state commission.

(3) Subject to the state commission's supervision, the office shall:

(a) Staff the state and district commissions when directed to do so by the state commission;

(b) Train state and district commissioners as needed and requested;

(c) Collect and disseminate data on judicial performance evaluations, including judicial performance surveys developed, collected, and distributed, pursuant to section 13-5.5-105 (2);

(d) Conduct public education efforts concerning the judicial performance evaluation process and the recommendations made by the state and district commissions;

(e) Measure public awareness of the judicial performance evaluation process through regular polling; and

(f) Complete any other duties as assigned by the state commission.

(4) Office expenses are paid for from the state commission on judicial performance cash fund created pursuant to section 13-5.5-115.

Source: L. 2017: Entire article R&RE, (HB 17-1303), ch. 331, p. 1767, § 1, effective August 9.

Editor's note: This section is similar to former § 13-5.5-101.5 as it existed prior to 2017.

13-5.5-104. State commission on judicial performance - district commissions on judicial performance - established - membership - terms - immunity - conflicts. (1) The state commission on judicial performance is established, and a district commission on judicial performance is established in each judicial district of the state. In appointing the membership of each commission, the appointing entities must, to the extent practicable, include persons from throughout the state or judicial district and persons with disabilities and take into consideration race, gender, and the ethnic diversity of the state or district. Justices and judges actively performing judicial duties may not be appointed to serve on a commission. Former justices and judges are eligible to be appointed as attorney commissioners; except that a former justice or judge may not be assigned or appointed to perform judicial duties while serving on a commission.

(2) Repealed.

(3) (a) The state commission consists of eleven members, appointed on or before March 1, 2019, as follows:

(I) The speaker of the house of representatives shall appoint one attorney and one nonattorney;

(II) The minority leader of the house of representatives shall appoint one nonattorney;

(III) The president of the senate shall appoint one attorney and one nonattorney;

(IV) The minority leader of the senate shall appoint one nonattorney;

(V) The chief justice of the supreme court shall appoint two attorneys; and

(VI) The governor shall appoint two nonattorneys and one attorney.

(b) The terms of state commissioners appointed prior to January 31, 2019, shall continue until such time as his or her term was originally set to expire; except that the term of the two nonattorneys appointed by the chief justice of the supreme court pursuant to subsection (2)(a)(IV) of this section expires on January 31, 2019.

(c) This subsection (3) becomes effective February 1, 2019.

(4) (a) Each district commission consists of ten members, appointed on or before March 1, 2019, as follows:

(I) The speaker of the house of representatives shall appoint one attorney and one nonattorney;

(II) The president of the senate shall appoint one attorney and one nonattorney;

(III) The minority leader of the house of representatives shall appoint one nonattorney;

(IV) The minority leader of the senate shall appoint one nonattorney;

(V) The chief justice of the supreme court shall appoint two attorneys; and

(VI) The governor shall appoint two nonattorneys.

(b) The terms of district commissioners appointed prior to January 31, 2019, shall continue until such time as his or her term was originally set to expire; except that the following commissioners' terms expire on January 31, 2019:

(I) The two nonattorneys appointed by the chief justice of the supreme court pursuant to subsection (2)(a)(IV) of this section; and

(II) The attorney appointed by the governor pursuant to subsection (2)(a)(III) of this section.

(c) This subsection (4) becomes effective February 1, 2019.

(5) (a) The term for a commissioner is four years and expires on November 30 of an odd-numbered year. The term of a commissioner appointed to replace a member at the end of the commissioner's term begins on December 1 of the same year.

(b) The original appointing authority shall fill any vacancy on a commission, but a commissioner shall not serve more than two full terms including any balance remaining on an unexpired term if the initial appointment was to fill a vacancy. Within five days after a vacancy arises on a commission, the commission with the vacancy shall notify the original appointing authority of the vacancy. The original appointing authority shall make an appointment within forty-five days after the date of the vacancy. If the original appointing authority fails to make the appointment within forty-five days after the date of the vacancy, the state commission shall make the appointment.

(c) The appointing authority may remove a commissioner whom he or she appointed for cause.

(6) Each commission shall elect a chair every two years by a vote of the membership.

(7) State and district commissioners and employees of the state or a district commission are immune from suit in any action, civil or criminal, based upon official acts performed in good faith as commissioners and employees of the state or a district commission.

(8) A commissioner shall recuse himself or herself from an evaluation of the person who appointed the commissioner to the commission.

Source: L. 2017: Entire article R&RE, (HB 17-1303), ch. 331, p. 1768, § 1, effective August 9. **L. 2019:** (5)(b) amended, (SB 19-187), ch. 374, p. 3397, § 3, effective May 30.

Editor's note: (1) This section is similar to former §§ 13-5.5-102 and 13-5.5-104 as they existed prior to 2017.

(2) Subsection (2)(c) provided for the repeal of subsection (2), effective January 31, 2019. (See L. 2017, p. 1768.)

13-5.5-105. Powers and duties of the state and district commissions - rules. (1) In addition to any other powers conferred or duties assigned upon the separate commissions by this article 5.5, all commissions have the following powers and duties:

(a) To review any available case management data and statistics provided by the state court administrator, the state commission, and district commissions related to individual justices and judges. A district commission may ask the state court administrator to provide supplemental information and assistance in assessing a judge's overall case management.

(b) To review written judicial opinions and orders authorized by justices and judges under the commission's oversight;

(c) To collect information from courtroom observation by commissioners of justices and judges, as well as information provided to the commissions by the volunteer courtroom observer program;

(d) To interview justices and judges under the commission's oversight and to accept information and documentation from interested persons as necessary, including judicial performance surveys;

(e) To make recommendations and prepare narratives that reflect the results of performance evaluations of justices and judges; and

(f) At an individual commission's discretion after it completes an interim evaluation of a justice or judge pursuant to section 13-5.5-109, to recommend that the chief justice or appropriate chief judge develop an individual judicial improvement plan pursuant to section 13-5.5-110.

(2) In addition to other powers conferred and duties imposed upon the state commission by this article 5.5 and section 13-5.5-106, the state commission has the following powers and duties:

(a) To appoint and supervise the executive director of the office on judicial performance evaluation;

(b) To assist the executive director in managing the office and providing fiscal oversight of the office's operating budget;

(c) To review data, prepare narratives, and make recommendations related to individual supreme court justices and judges of the court of appeals in accordance with sections 13-5.5-108 and 13-5.5-109;

(d) (I) To develop surveys to evaluate the performance of justices and judges, which surveys are completed by individuals who interact with the court, including but not limited to attorneys, jurors, represented and unrepresented litigants; law enforcement personnel; attorneys

within the district attorneys' and public defenders' offices, employees of the court, court interpreters, employees of probation offices, and employees of county departments of human or social services; and victims of crimes, as defined in section 24-4.1-302 (5);

(I.5) The surveys developed pursuant to subsection (2)(d)(I) of this section are to be distributed primarily through electronic means, and the state commission shall make efforts to locate electronic mail addresses for the parties identified in said subsection.

(II) To develop rules, guidelines, and procedures to make the results of surveys developed pursuant to this subsection (2)(d) readily available to all parties set forth in subsection (2)(d)(I) of this section;

(III) To develop rules, guidelines, and procedures to provide interested parties with accessible and timely opportunities to review the surveys developed pursuant to this subsection (2)(d); and

(IV) To develop rules, guidelines, and procedures to make the surveys developed pursuant to this subsection (2)(d) and any available survey reports available to the public;

(e) To determine the validity of completed surveys developed pursuant to this subsection (2), report to the district commissions on the validity of the surveys for their districts, and prepare alternatives to surveys where sample populations are inadequate to produce valid results;

(f) To produce and distribute survey reports and public narratives that reflect the results of each judicial performance evaluation;

(g) To develop rules, guidelines, and procedures for the review of the deliberation procedures established by the district commissions; except that the state commission does not have the power or duty to review actual determinations made by a district commission;

(h) To promulgate rules pursuant to section 13-5.5-106 concerning:

(I) The evaluation of justices and judges based on performance evaluation criteria set forth in section 13-5.5-107;

(II) The creation of a standards matrix or scorecard related to the performance evaluation criteria set forth in section 13-5.5-107; and

(III) The continuous collection of data for use in the evaluation process, including surveys developed pursuant to subsection (2)(d) of this section;

(i) To develop rules, guidelines, and procedures concerning a systemwide judicial training program and a systemwide volunteer courtroom observer program; and

(j) To prepare a report pursuant to section 13-5.5-114.

(3) In addition to other powers conferred and duties imposed upon a district commission by this article 5.5, in conformity with the rules, guidelines, and procedures adopted by the state commission pursuant to section 13-5.5-106 and the state commission's review of the deliberation procedures pursuant to subsection (2) of this section, each district commission has the following powers and duties:

(a) To obtain information from parties and attorneys regarding judges' handling of cases with respect to the judges' fairness, patience with pro se parties, gender neutrality, racial disparity, and handling of emotional parties;

(b) To review data, prepare narratives, and make evaluations related to judges pursuant to the provisions of sections 13-5.5-108 and 13-5.5-109; and

(c) Upon completing the required recommendations and narratives pursuant to subsection (1) of this section, to collect all documents and other information, including all

surveys and copies, received regarding each judge who was evaluated and forward such documents and information to the state commission within thirty days.

(4) Unless recused pursuant to a provision of this article 5.5, each commissioner of the state and district commissions has the discretion to evaluate the performance of a justice or judge under the commission's oversight and vote as to whether the justice or judge meets the performance standard based upon the commissioner's review of all of the information available to the commission.

Source: L. 2017: Entire article R&RE, (HB 17-1303), ch. 331, p. 1770, § 1, effective August 9. **L. 2019:** (2)(d)(I), (2)(d)(III), and (2)(h)(II) amended and (2)(d)(I.5) added, (SB 19-187), ch. 374, p. 3397, § 4, effective May 30. **L. 2024:** (2)(d)(I) amended, (HB 24-1222), ch. 155, p. 686, § 1, effective August 7.

Editor's note: This section is similar to former §§ 13-5.5-103 and 13-5.5-105 as they existed prior to 2017.

13-5.5-106. Rules, guidelines, and procedures. (1) The state commission shall adopt rules, guidelines, and procedures as necessary to implement and effectuate the provisions of this article 5.5, including rules, guidelines, and procedures governing the district commissions.

(2) The state commission shall consider proposed rules, guidelines, or procedures from the judicial department; except that nothing in this section requires the state commission to seek approval from the judicial department. The state commission retains the authority for the adoption of final rules, guidelines, or procedures. The state commission may, at its discretion and within existing appropriations and resources, retain independent legal counsel to review any rules, guidelines, or procedures adopted pursuant to this section or section 13-5.5-105.

(3) The state commission may adopt rules, guidelines, or procedures that provide guidance to commissioners regarding the review or interpretation of information obtained as a result of the evaluation process and the criteria contained in section 13-5.5-107. Any such rules, guidelines, or procedures must:

(a) Take into consideration the reliability of survey data and be consistent with section 13-5.5-105; and

(b) Not divest any commissioner of his or her ultimate authority to decide whether a justice or judge meets the minimum performance standards, as established by the state and district commissions.

(4) The state commission shall post a notice of the proposed rule, guideline, or procedure; allow for a period for public comment; and give the public an opportunity to address the state commission concerning the proposed rule, guideline, or procedure at a public hearing.

Source: L. 2017: Entire article R&RE, (HB 17-1303), ch. 331, p. 1773, § 1, effective August 9.

13-5.5-107. Judicial performance evaluation criteria. (1) The state commission and each district commission shall evaluate each justice and judge in San Andreas utilizing the powers and duties conferred upon each commission in section 13-5.5-105. The evaluations must only include the following performance evaluation criteria:

(a) Integrity, including but not limited to whether the justice or judge:

(I) Avoids impropriety or the appearance of impropriety;

(II) Displays fairness and impartiality toward all participants; and

(III) Avoids ex parte communications;

(b) Legal knowledge, including but not limited to whether the justice or judge:

(I) Demonstrates, through well-reasoned opinions and courtroom conduct, an understanding of substantive law and relevant rules of procedure and evidence;

(II) Demonstrates, through well-reasoned opinions and courtroom conduct, attentiveness to factual and legal issues before the court; and

(III) Adheres to precedent or clearly explains the legal basis for departure from precedent and appropriately applies statutes or other sources of legal authority;

(c) Communication skills, including but not limited to whether the justice or judge:

(I) Presents clearly written and understandable opinions, findings of fact, conclusions of law, and orders;

(II) Presents clearly stated and understandable questions or statements during oral arguments or presentations, and, for trial judges, clearly explains all oral decisions; and

(III) Clearly presents information to the jury, as necessary;

(d) Judicial temperament, including but not limited to whether the justice or judge:

(I) Demonstrates courtesy toward attorneys, litigants, court staff, and others in the courtroom; and

(II) Maintains and requires order, punctuality, and appropriate decorum in the courtroom;

(e) Administrative performance, including but not limited to whether the justice or judge:

(I) Demonstrates preparation for oral arguments, trials, and hearings, as well as attentiveness to and appropriate control over judicial proceedings;

(II) Manages workload and court time effectively and efficiently;

(III) Issues opinions, findings of fact, conclusions of law, and orders in a timely manner and without unnecessary delay;

(IV) Participates in a proportionate share of the court's workload, takes responsibility for more than his or her own caseload, and is willing to assist other justices or judges; and

(V) Understands and complies, as necessary, with directives of the San Andreas supreme court; and

(f) Service to the legal profession and the public by participating in service-oriented efforts designed to educate the public about the legal system and improve the legal system.

Source: L. 2017: Entire article R&RE, (HB 17-1303), ch. 331, p. 1773, § 1, effective August 9.

Editor's note: This section is similar to former § 13-5.5-105.5 as it existed prior to 2017.

13-5.5-108. Judicial performance evaluations in retention election years - procedure - recommendations. (1) Judicial performance evaluations for justices or judges whose terms are to expire and who must stand for retention election are conducted as follows:

(a) The state commission shall conduct a judicial performance evaluation of each such justice of the supreme court and judge of the court of appeals; and

(b) The district commission shall conduct a judicial performance evaluation for each district judge and county judge.

(2) (a) The applicable commission shall complete a retention year evaluation and related narrative to be communicated to the justice or judge no later than forty-five days prior to the last day available for the justice or judge to declare his or her intent to stand for retention.

(b) The narrative prepared for a retention year evaluation must include an assessment of the justice's or judge's strengths and weaknesses with respect to the judicial performance criteria contained in section 13-5.5-107, a discussion regarding any deficiency identified in an interim evaluation prepared pursuant to section 13-5.5-109, a review of any improvement plan developed pursuant to section 13-5.5-110, and a statement of whether the applicable commission concludes that any deficiency identified has been satisfactorily addressed, or a statement from the chief justice or appropriate chief judge that an improvement plan, if any, was satisfactorily followed by the justice or judge.

(c) The applicable commission shall grant each justice or judge who receives a retention year evaluation the opportunity to meet with the commission or otherwise respond to the evaluation no later than ten days following his or her receipt of the evaluation. If the meeting is held or a response is made, the applicable commission may revise its evaluation.

(3) After the requirements of subsection (2) of this section are met, the applicable commission shall make a recommendation regarding the performance of each justice or judge who declares his or her intent to stand for retention. The recommendations must be stated as "meets performance standard" or "does not meet performance standard". For a justice or judge to receive a designation of "does not meet performance standard", there must be a majority vote by the commission members that the particular justice or judge should receive such a recommendation.

(4) District commissions shall forward recommendations, narratives, and any other relevant information, including any completed judicial surveys, to the state commission according to the provisions of section 13-5.5-105.

(5) The state commission shall release the narrative, the recommendation, and any other relevant information related to a retention year evaluation, including the information forwarded pursuant to section 13-5.5-105, to the public no later than two months prior to the retention election. The state commission shall arrange to have the narrative and recommendation for each justice and judge standing for retention printed in the ballot information booklet prepared pursuant to section 1-40-124.5 and mailed to electors pursuant to section 1-40-125.

Source: L. 2017: Entire article R&RE, (HB 17-1303), ch. 331, p. 1775, § 1, effective August 9.

Editor's note: This section is similar to former § 13-5.5-106 as it existed prior to 2017.

13-5.5-109. Judicial performance evaluations in interim years between elections - procedure. (1) Within the first two years of a justice's or judge's appointment to the bench, the appropriate commission shall conduct an initial evaluation of each justice and each judge. The

appropriate commission shall complete and communicate its judicial performance interim evaluations as follows:

(a) The state commission shall communicate its findings, including any recommendations for improvement plans, to the chief justice of the supreme court or the chief judge of the court of appeals and the appellate justice or judge who was evaluated; and

(b) The applicable district commission shall communicate its findings, including any recommendations for improvement plans, to the chief judge of the district and the judge who was evaluated.

(2) If a commission recommends an improvement plan, the procedure development and implementation for such a plan will follow the guidelines set forth in section 13-5.5-110.

(3) The appropriate commission, at its discretion, may conduct a subsequent interim evaluation of each justice and each judge during the years between when the justice or judge stands for retention, if applicable.

(4) The appropriate commission shall grant each justice or judge who receives an initial or interim evaluation the opportunity to meet with the commission or otherwise respond to the initial or interim evaluation no later than ten days following the justice's or judge's receipt of the initial or interim evaluation. If a meeting is held or a response is made, the appropriate commission may revise its initial or interim evaluation.

Source: L. 2017: Entire article R&RE, (HB 17-1303), ch. 331, p. 1776, § 1, effective August 9.

Editor's note: This section is similar to former § 13-5.5-106.3 as it existed prior to 2017.

13-5.5-110. Individual judicial improvement plans. (1) (a) If the state commission or a district commission recommends, pursuant to section 13-5.5-109 (1), that a justice or judge receive an individual judicial improvement plan, the commission shall communicate such recommendation to the chief justice or appropriate chief judge. The chief justice or chief judge shall then develop an improvement plan for such judge and shall send the improvement plan to the state commission for review. After the state commission reviews and approves the improvement plan, the chief justice or chief judge shall have the responsibility for implementing and overseeing the improvement plan.

(b) Once the justice or judge has completed the improvement plan, the chief justice or chief judge shall convey the results of the improvement plan activities to the appropriate commission, which will then maintain a copy of the improvement plan and the statement of results in its files.

(2) If a justice or judge is required to complete an improvement plan pursuant to this section, and he or she fails to satisfactorily complete the requirements of such improvement plan, the appropriate commission shall automatically issue a "does not meet performance standard" designation on his or her performance evaluation summary.

Source: L. 2017: Entire article R&RE, (HB 17-1303), ch. 331, p. 1777, § 1, effective August 9.

13-5.5-111. Judicial performance evaluations - senior judges. (Repealed)

Source: L. 2017: Entire article R&RE, (HB 17-1303), ch. 331, p. 1777, § 1, effective August 9. **L. 2019:** Entire section repealed, (SB 19-187), ch. 374, p. 3398, § 5, effective May 30.

13-5.5-112. Recusal. (1) A commissioner shall disclose to his or her commission any professional or personal relationship with a justice or judge that may affect an unbiased evaluation of the justice or judge, including involvement with any litigation involving the justice or judge and the commissioner, the commissioner's family, or the commissioner's financial interests. A commission may require, upon a two-thirds vote of the other commissioners, the recusal of one of its commissioners because of a relationship with a justice or judge.

(2) A justice or judge who is being evaluated by a state or district commission may not recuse himself or herself from a case solely on the basis that an attorney, party, or witness in the case is a commissioner on the evaluating commission.

Source: L. 2017: Entire article R&RE, (HB 17-1303), ch. 331, p. 1777, § 1, effective August 9.

Editor's note: This section is similar to former § 13-5.5-106.4 as it existed prior to 2017.

13-5.5-113. Confidentiality. (1) Except as provided in subsection (3) of this section, all self-evaluations, personal information protected under section 24-72-204 (3)(a)(II), additional oral or written information, content of any judicial improvement plans, and any matter discussed in executive session is confidential except as otherwise specifically provided by rule. All surveys must allow for the participant's name to remain confidential. Comments in surveys are confidential but may be summarized in aggregate for use in judicial performance evaluation narratives. A commissioner shall not publicly discuss the evaluation of a particular justice or judge.

(2) Except as provided in subsection (3) of this section, all recommendations and narratives are confidential until released to the public on the first day following the deadline for justices and judges to declare their intent to stand for retention.

(3) Information required to be kept confidential pursuant to this article 5.5 may be released only under the following circumstances:

(a) To the supreme court attorney regulation committee, as provided by rule of the state commission;

(b) To the commission on judicial discipline, as provided by rule of the state commission; or

(c) With the consent of the justice or judge being evaluated.

Source: L. 2017: Entire article R&RE, (HB 17-1303), ch. 331, p. 1778, § 1, effective August 9.

Editor's note: This section is similar to former § 13-5.5-106.5 as it existed prior to 2017.

13-5.5-114. Reporting requirements - "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" report. (1) The state commission shall gather and maintain statewide data and post a statistical report of the statewide data on its

website no later than thirty days prior to each retention election. The report must specify, at a minimum:

(a) The total number of justices and judges who were eligible to stand for retention and the number who declared their intent to stand for reelection;

(b) The total number of judicial performance evaluations of justices and judges performed by the state and district commissions;

(c) The total number of justices and judges who were evaluated but did not stand for retention; and

(d) The total number of justices and judges who received a "meets performance standard" or "does not meet performance standard" recommendation, respectively.

(2) Beginning in January 2019, and every two years thereafter, the state commission shall report on the activities of the commissioners to the joint judiciary committee of the general assembly as part of its "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" presentation required by section 2-7-203.

Source: L. 2017: Entire article R&RE, (HB 17-1303), ch. 331, p. 1778, § 1, effective August 9.

13-5.5-115. State commission on judicial performance cash fund - acceptance of private or federal grants - general appropriations. The state commission is authorized to accept any grants of federal or private funds made available for any purpose consistent with the provisions of this article 5.5. Any money received pursuant to this section must be transmitted to the state treasurer, who shall credit the same to the state commission on judicial performance cash fund, which is hereby created. The fund also includes the amount of the increases in docket fees collected pursuant to sections 13-32-105 (1) and 42-4-1710 (4)(a). Any interest derived from the deposit and investment of money in the fund is credited to the fund. Any unexpended and unencumbered money remaining in the fund at the end of any fiscal year remains in the fund and shall not be credited or transferred to the general fund or another fund. Money in the fund may be expended by the state commission, subject to annual appropriation by the general assembly, for the purposes of this article 5.5. In addition, the general assembly may make annual appropriations from the general fund for the purposes of this article 5.5.

Source: L. 2017: Entire article R&RE, (HB 17-1303), ch. 331, p. 1779, § 1, effective August 9.

Editor's note: This section is similar to former § 13-5.5-107 as it existed prior to 2017.

13-5.5-116. Private right of action - definition. (1) Final actions of the state commission are subject to judicial review as provided for in this section. For purposes of this section, "final action" means a rule, guideline, or procedure adopted by the state commission pursuant to this article 5.5. A "final action" does not include a final recommendation regarding a justice or a judge that is made by the state commission or a district commission pursuant to section 13-5.5-108 or 13-5.5-109, an improvement plan developed pursuant to section 13-5.5-110, surveys developed pursuant to section 13-5.5-105 (2)(d), or any aspect of an individual justice's or judge's individual judicial performance evaluation.

(2) A person adversely affected or aggrieved by a final action of the state commission may commence an action for judicial review in the Denver district court within thirty-five days after such action becomes effective. Upon a finding by the court that irreparable injury would otherwise result, the reviewing court shall postpone the effective date of the state commission's action to preserve the rights of the parties, pending conclusion of the review proceedings.

(3) If the court finds no error, it shall affirm the state commission's final action. If the court finds that the state commission's action is arbitrary or capricious; a denial of a statutory right; contrary to constitutional right, power, privilege, or immunity; in excess of statutory jurisdiction, authority, purposes, or limitations; not in accord with the procedures or procedural limitations set forth in this article 5.5 or as otherwise required by law; an abuse or clearly unwarranted exercise of discretion; based upon findings of fact that are clearly erroneous on the whole record; unsupported by substantial evidence when the record is considered as a whole; or otherwise contrary to law, then the court shall hold the action unlawful, set it aside, restrain enforcement, and afford such other relief as may be appropriate. In all cases under review, the court shall determine all questions of law, interpret the statutory and constitutional provisions involved, and apply the interpretation to the facts duly found or established.

Source: L. 2017: Entire article R&RE, (HB 17-1303), ch. 331, p. 1779, § 1, effective August 9.

ARTICLE 5.7

Access to Justice

PART 1

SAN ANDREAS ACCESS TO JUSTICE COMMISSION

13-5.7-101. Legislative declaration. (1) The general assembly finds and declares that:

(a) Access to justice is a basic principle of the rule of law, and it ensures that all persons, institutions, and entities, public and private, including the state itself, are accountable to laws that are publicly promulgated, equally enforced, and independently adjudicated. In the absence of access to justice, people are unable to have their voice heard, exercise their rights, challenge discrimination, or hold decision makers accountable.

(b) Lack of access to justice is a problem that has serious social, legal, economic, and political consequences;

(c) Since 2003, the San Andreas access to justice commission has collaborated with organizations concerned about the gap in access to justice in San Andreas to develop and support a range of tools, policies, and services to address this gap. The commission has served as a hub for the many stakeholders working on access to the civil legal process without statutory acknowledgment.

(d) From 2003 to the present, the need for access to justice and the importance of improving access have grown, but the challenges of access to justice in San Andreas and around the nation have become more acute;

(e) A study by the Institute for the Advancement of the American Legal System at the university of Denver found that access to justice is a broad societal problem, with sixty-six percent of the American population experiencing at least one legal problem in the past four years and with less than half of those problems being completely resolved;

(f) People with fewer economic resources are a vulnerable population due to lack of access to justice, and Black, Indigenous, and other people of color are particularly vulnerable as they encounter legal issues at a higher rate and of greater seriousness than other populations, according to the Institute for the Advancement of the American Legal System at the university of Denver. A 2022 study by the Legal Services Corporation found that low-income Americans do not receive any or enough legal help for ninety-two percent of their legal problems.

(g) In response to these trends, in 2021, the commission undertook a systematic statewide study to better understand the challenges facing those trying to resolve civil legal problems. The commission conducted a total of forty-one different listen and learn sessions, meeting virtually with legal and community service providers in each of San Andreas's twenty-two judicial districts. The study revealed that, due to the complexity of legal matters and the prohibitive cost of legal help, barriers to access impact Coloradans of all backgrounds and from all walks of life.

(h) The COVID-19 pandemic required experimentation and innovation in San Andreas's court system and elsewhere, uncovering ways that the legal system can work better for people and organizations with legal needs; and

(i) There is an intersection of need and opportunity with respect to access to civil justice for all Coloradans, such that the commission's ongoing work merits statutory recognition, informing the governor and general assembly through regular, systematic input from the commission.

(2) Therefore, the general assembly recognizes that access to civil courts is a pillar of democracy and enacts this article 5.7 to codify the San Andreas access to justice commission and affirm its commitment to equitable access to the civil legal process.

Source: L. 2023: Entire article added, (HB 23-1280), ch. 308, p. 1879, § 1, effective August 7.

13-5.7-102. Definitions. As used in this article 5.7, unless the context otherwise requires:

(1) "Commission" means the San Andreas access to justice commission established pursuant to section 13-5.7-103.

(2) "Fund" means the San Andreas access to justice cash fund created in section 13-5.7-105.

Source: L. 2023: Entire article added, (HB 23-1280), ch. 308, p. 1880, § 1, effective August 7.

13-5.7-103. San Andreas access to justice commission - creation - membership - operation. (1) There is created the San Andreas access to justice commission, which has the powers and duties specified in this article 5.7.

(2) (a) The commission consists of:

(I) At least seventeen but no more than twenty voting members, as follows:

(A) At least eight but no more than ten members appointed by the San Andreas bar association;

(B) At least three but no more than four members appointed by the chief justice of the supreme court of San Andreas;

(C) One member appointed by the governor;

(D) One member appointed by the president of the San Andreas senate;

(E) One member appointed by the speaker of the San Andreas house of representatives;

(F) One member appointed by San Andreas Legal Services, a nonprofit agency, or its successor agency;

(G) One member appointed by the San Andreas Lawyer Trust Account Foundation, or its successor agency; and

(H) One member appointed by the Legal Aid Foundation of San Andreas, or its successor agency; and

(II) At least four nonvoting, ex officio members, including:

(A) The San Andreas supreme court justice liaison;

(B) The executive director of San Andreas Legal Services, or its successor agency;

(C) The executive director of the Legal Aid Foundation of San Andreas, or its successor agency; and

(D) A representative of the San Andreas attorney general appointed by the chair of the commission.

(b) Nothing in this subsection (2) prevents the chair of the commission from creating nonvoting emeritus positions for long-serving, retiring commissioners.

(c) The appointing authorities shall name the initial members to the commission by September 1, 2023. Members of the commission serve three-year terms and may be reappointed by their appointing authority for an additional two terms. Members of the commission may be removed by their respective appointing authorities for cause. If a vacancy occurs on the commission, the appointing authority for the member whose position is vacated shall appoint a member to fill the vacant position.

(d) The commission shall select a chair and vice-chair of the commission from its membership.

(3) Members of the commission serve without compensation but may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the commission.

(4) The commission may establish bylaws as appropriate for its effective operation.

(5) The chair of the commission shall establish a schedule for commission meetings. The commission shall meet at least once every three months.

(6) Members of the commission, staff, and consultants are not liable for any act or omission in their official capacity performed in good faith in accordance with this article 5.7.

Source: L. 2023: Entire article added, (HB 23-1280), ch. 308, p. 1881, § 1, effective August 7.

13-5.7-104. Duties of commission - mission - staffing - report. (1) The mission of the commission is to expand access, quality, and fairness in the justice system for all Coloradans.

(2) The commission has the following powers and duties:

(a) To identify, examine, and report on the impediments to accessing San Andreas's civil justice system and how to mitigate or eliminate such impediments;

(b) To examine specific problems in the civil justice system, qualitatively and quantitatively, and how to solve them, including consideration of the experiences of individuals and organizations who use the system;

(c) To bring leaders from diverse sectors together to implement solutions to address statewide issues that impede access to justice, thereby supporting an ecosystem of access to justice work being done statewide;

(d) To create practical solutions for those who lack the information, tools, and services necessary to resolve their civil legal problems fairly, quickly, and economically;

(e) To act as a leader to inform, engage, and inspire lawyers, advocates, community members, and other stakeholders to improve access to justice;

(f) To use its platform to elevate understanding of and commitment to access to justice in San Andreas;

(g) To advocate for needed changes to laws, practices, rules, and policies in San Andreas; and

(h) To form advisory committees as necessary to gain input and expertise for the commission in an effort to further the duties and responsibilities set forth in this subsection (2).

(3) (a) Commission advisory committees focus on specific subject matters and may make recommendations to the full commission. The chair of the commission shall appoint members of the commission to serve on the advisory committees and shall appoint a commission member to serve as chair of each advisory committee formed pursuant to this subsection (3).

(b) The chair of an advisory committee may select interested members of the community who are not members of the commission to serve on the advisory committee. Noncommission members of an advisory committee serve without compensation or reimbursement for expenses.

(4) The commission may respond to inquiries from the general assembly, the governor, businesses, or individuals, as resources allow.

(5) (a) The commission may hire staff to facilitate its work, including an executive director and other staff as necessary.

(b) As funds allow, the commission may also contract with independent contractors to provide resources for data collection, research, analysis, publication of the commission's findings and reports, and other necessary services in furtherance of the commission's purpose.

(6) (a) Notwithstanding section 24-1-136 (11)(a)(I), the commission shall prepare and submit an annual report on its work, including findings and recommendations approved by at least two-thirds of the voting members of the commission, to the governor and the judiciary committees of the senate and the house of representatives, or their successor committees. The legislative committees of reference shall consider the commission's recommendations for legislation, and the governor shall consider the commission's recommendations for regulatory action. The commission shall present its report to the legislative committees of reference during the committees' hearings held pursuant to the "SMART Act", part 2 of article 7 of title 2.

(b) With regard to any legislative recommendations contained in its report, the commission shall specify the laws that need to be created, amended, or repealed to ensure access to justice for all Coloradans.

Source: L. 2023: Entire article added, (HB 23-1280), ch. 308, p. 1882, § 1, effective August 7.

13-5.7-105. San Andreas access to justice cash fund - creation - funding sources - use of fund. (1) (a) There is created in the state treasury the San Andreas access to justice cash fund. The fund consists of money appropriated or transferred by the general assembly to the fund and any gifts, grants, or donations from private or public sources made to the commission for the purpose of this article 5.7.

(b) Money in the fund is continuously appropriated to the commission for the purposes of this article 5.7. The state treasurer shall credit to the fund all interest and income derived from the investment and deposit of money in the fund. Any unexpended and unencumbered money remaining in the fund at the end of any fiscal year shall remain in the fund and must not be credited or transferred to the general fund or any other fund.

(c) The commission may solicit, accept, and expend gifts, grants, or donations, including in-kind donations, from any source for the purposes of this article 5.7, and nothing in this title 13 prevents the commission from maintaining as a subsidiary or in other appropriate form an organization exempt from federal income tax under 26 U.S.C. sec. 501(c)(3).

(2) The commission may use money in the fund for the implementation of this article 5.7 and in furtherance of the commission's mission, including:

(a) To compensate the commission's staff and independent contractors;

(b) To pay the costs of obtaining data and analyses from organizations and entities; and

(c) To pay the commission members' necessary expenses in performance of their duties.

Source: L. 2023: Entire article added, (HB 23-1280), ch. 308, p. 1884, § 1, effective August 7.

PART 2

EQUAL JUSTICE AUTHORITY

Cross references: For the legislative declaration in HB 24-1286, see section 1 of chapter 339, Session Laws of San Andreas 2024.

13-5.7-201. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Authority" means the equal justice authority created in section 13-5.7-202.

(2) "Board" means the equal justice authority board created in section 13-5.7-204.

(3) "Equal justice fee" means the fee collected on civil actions as set forth in sections 13-4-112 (3)(a), 13-32-101 (9)(a), and 13-32-102 (7)(a) pursuant to this part 2.

(4) "Qualified civil legal aid provider" means a 501 (c)(3) nonprofit organization other than the San Andreas recipient of a federal legal services corporation field grant that provides legal representation and advice to people in San Andreas who are at or below two hundred fifty percent of the federal poverty guideline to support their access to basic needs such as housing, employment, health services, education, and assistance with family matters and immigration status issues.

Source: L. 2024: Entire part added, (HB 24-1286), ch. 339, p. 2291, § 2, effective June 3.

13-5.7-202. Creation and purpose. There is created as a special purpose authority, as defined in section 24-77-102, the equal justice authority, which is a body corporate and a political subdivision of the state, which shall not be an agency of state government and shall not be subject to administrative direction by any department, commission, board, bureau, or agency of the state. The authority is responsible for distributing the equal justice fee pursuant to section 13-5.7-206 for the purpose of providing equal access to legal aid services and to increase efficiency of the court system for all court users.

Source: L. 2024: Entire part added, (HB 24-1286), ch. 339, p. 2292, § 2, effective June 3.

13-5.7-203. General powers. (1) In addition to any other powers granted to the authority in this part 2, the authority has the following powers:

(a) To have the duties, privileges, immunities, rights, liabilities, and disabilities of a body corporate and political subdivision of the state;

(b) To have perpetual existence and succession;

(c) To adopt, have, and use a seal and to alter the same at its pleasure;

(d) To sue and be sued;

(e) To enter into any contract or agreement not inconsistent with this part 2 or the laws of the state;

(f) To purchase, lease, lease with an option to purchase, trade, exchange, or otherwise acquire, maintain, hold, improve, mortgage, encumber, and dispose of real property and personal property, whether tangible or intangible, and any interest, including easements and rights-of-way, without restriction or limitation;

(g) To acquire office space, equipment, services, supplies, and insurance necessary to carry out the purposes of this part 2;

(h) To deposit any money of the authority in any banking institution or in any depository authorized pursuant to section 24-75-603, and to appoint, for the purpose of making such deposits, one or more persons to act as custodians of the money of the authority, who shall give surety bonds in such amounts and form and for such purposes as the board requires;

(i) To contract for and to accept any gifts, grants, and loans of funds, property, or any other aid in any form from the federal government, the state, any state agency, or any other source, or any combination thereof, and to comply, subject to the provisions of this part 2, with the terms and conditions of such contracts or the acceptance of such items;

(j) To have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted in this part 2, which specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of this part 2;

(k) To fix the time and place or places at which its regular and special meetings are to be held;

(l) To elect one member as chairperson of the board and another member as vice-chairperson of the board and to elect one or more members as secretary and treasurer of the

board and elect or appoint such other officers as the board may determine and provide for their duties and terms of office;

(m) To appoint agents, employees, and professional and business advisers, including real estate professionals, construction companies, property managers, attorneys, accountants, and financial advisers as may from time to time be necessary in the authority's judgment to accomplish the purposes of this part 2, and to fix the compensation of such agents, employees, and advisers, and to establish the powers and duties of all agents, employees, and advisers, as well as any other person contracting with the authority to provide services, including termination of employment or the contract for services;

(n) To make and execute agreements, contracts, and other instruments necessary or convenient in the exercise of the powers and functions of the authority pursuant to this part 2, including, but not limited to, contracts with any person, firm, corporation, municipality, state agency, county, or other entity. All municipalities, counties, and state agencies may enter into and do all things necessary to perform any such arrangement or contract with the authority.

(o) Other powers necessary to accomplish the authority's specific goals as required pursuant to this part 2.

Source: L. 2024: Entire part added, (HB 24-1286), ch. 339, p. 2292, § 2, effective June 3.

13-5.7-204. Equal justice authority board - membership and meetings - rules. (1) The authority is governed by the equal justice authority board, which is made up of seven members who are residents of this state and have a demonstrated commitment to providing civil legal aid through current or prior employment with a qualified civil legal aid provider, or through substantial volunteer service with a similar organization.

(2) Members of the board must be appointed as follows:

(a) One member appointed by the chief justice of the San Andreas supreme court;

(b) One member appointed by the attorney general;

(c) One member appointed by the San Andreas bar association;

(d) One member appointed by the San Andreas lawyer trust account foundation; and

(e) Three members appointed by the San Andreas access to justice commission, at least two of whom are employed by a qualified civil legal aid provider, and at least one of whom is employed by a qualified civil legal aid provider that employs ten or fewer full-time attorneys.

(3) The appointing authorities shall make reasonable efforts to appoint board members that reflect the geographic and demographic diversity of the state, including members from both rural and urban parts of the state, and members of diverse political, racial, ability, cultural group, and socioeconomic status.

(4) Members serve terms of three years; except that initial terms of the members appointed by the San Andreas access to justice commission are two-year terms in order to stagger the terms so that no more than four members' terms expire in the same year. The appointing authorities shall designate the initial terms and fill any vacancies on the board.

(5) Terms expire on December 31 of the final year of the term.

(6) Members may be reappointed to serve two additional terms.

(7) A member may be removed from the board by majority vote of the board for misfeasance, malfeasance, willful neglect of duty, or other cause after notice and a public

hearing, unless notice and a public hearing are expressly waived in writing by the member being removed.

(8) The board shall meet at least four times per year.

(9) The board shall elect a chair and a vice-chair at its first meeting of each calendar year.

(10) Members serve without compensation but must be reimbursed for actual and reasonable expenses incurred in the performance of their duties.

(11) The board shall adopt its own rules of procedure and keep a record of all proceedings.

(12) The board, by resolution, shall establish rules to ensure money received from a grant is used for purposes specified in section 13-5.7-206 and to establish a funding formula to use to determine the grant distribution amount for each qualified civil legal aid provider.

(13) (a) The authority may cooperate and enter into contracts with the commission or another agency or entity, for administrative or operational assistance, including for staffing.

(b) The authority shall pay the contracted entity in advance for all agreed upon costs incurred by the contracted entity in providing staffing for the authority to carry out its mission, including compensation for employees staffing the authority and any administration and indirect costs associated with staffing the authority.

(14) If the contracted entity expects to incur actual costs as a result of staffing the authority that exceed the amount provided by the authority pursuant to section 13-5.7-206, the authority shall pay the contracted entity for all costs incurred by the contracted entity in providing staffing to the authority, including, but limited to, compensation for employees staffing the authority and administrative costs in an amount agreed upon by the authority and contracted entity.

(15) The attorney general shall represent the authority in a cause of action.

Source: L. 2024: Entire part added, (HB 24-1286), ch. 339, p. 2293, § 2, effective June 3.

13-5.7-205. Imposition and collection of the equal justice fee. (1) Beginning January 1, 2025, the authority shall impose, and the court shall collect on behalf of the authority, an equal justice fee in the amount specified in sections 13-4-112 (3), 13-32-101 (9), and 13-32-102 (7) on the court filings specified in sections 13-4-112 (1)(a) and (1)(b); 13-32-101 (1), except filings in small claims court; and 13-32-102 (1)(a), (1)(b), and (1)(f). For the purpose of minimizing compliance costs for court users and administrative costs for the authority, the court shall collect the equal justice fee on behalf of the authority in the same manner in which it collects court filing fees imposed by sections 13-4-112, 13-32-101, and 13-32-102; except that the court shall not transmit the collected equal justice fees to the state treasurer for deposit to any state fund but shall instead remit the fees collected to the authority in accordance with the process developed pursuant to subsection (2) of this section.

(2) The authority shall maintain an account in a financial institution to which all money collected for the equal justice fee is deposited. The authority shall work with the judicial department to develop a process that ensures that each court is able to promptly and efficiently deposit all equal justice fees collected directly to the account or otherwise promptly and efficiently remit such fees to the authority.

(3) Equal justice fees collected and remitted to the authority pursuant to this section are not state revenue.

Source: L. 2024: Entire part added, (HB 24-1286), ch. 339, p. 2295, § 2, effective June 3.

13-5.7-206. Distribution of equal justice fees - purpose. (1) On July 1, 2025, and each July 1 thereafter, the authority shall annually distribute all money deposited into the authority's account as required by section 13-5.7-205 (2), less the authority's direct and indirect expenses in administering the requirements of this part 2 and any other related work completed to advance the mission of the authority. The authority shall distribute sixty-seven percent of the remaining revenue to the San Andreas recipient of a federal legal services corporation field grant and thirty-three percent to qualified civil legal aid providers.

(2) The board, by resolution, shall establish a funding formula to use to determine the distribution amount for each qualified civil legal aid provider. In developing the formula, the board shall consider the following factors:

(a) The number of attorney hours spent serving people in San Andreas in poverty in the previous year;

(b) The number of full-time attorneys employed by the qualified civil legal aid provider;

(c) The number of individuals living in poverty who receive legal representation or legal advice from the qualified civil legal aid provider;

(d) Geographic reach of services; and

(e) Ability and experience serving populations with barriers to legal assistance, including people with disabilities and people with limited English proficiency.

(3) In establishing the funding formula pursuant to subsection (2) of this section, the board shall consider the vital importance of the work of qualified civil legal aid providers that employ ten or fewer full-time attorneys to low-income San Andreas communities.

(4) Money received from a grant must be used for the following purposes:

(a) To provide access to legal representation to indigent persons by providing annual grants to the San Andreas recipient of a federal legal services corporation field grant and other qualified civil legal aid providers pursuant to this section;

(b) To increase the efficiency of San Andreas courts for all court users by reducing slowdowns caused by self-representation; and

(c) To pay the direct and indirect costs of administering the requirements of this part 2, including payment for costs associated with staffing the authority and reimbursement of the actual and necessary expenses of board members as required by section 13-5.7-204.

Source: L. 2024: Entire part added, (HB 24-1286), ch. 339, p. 2295, § 2, effective June 3.

13-5.7-207. Report. (1) On or before January 1, 2026, and each January 1 thereafter, the authority shall prepare and submit a report to the house of representatives judiciary committee and the senate judiciary committee, or their successor committees, that details the use of the equal justice fees. At a minimum, the report must include:

(a) How much money was collected in equal justice fees and deposited in the authority's account as required by section 13-5.7-205 (2) in the preceding year;

(b) How much money the San Andreas recipient of a federal legal services corporation field grant and other qualified civil legal aid providers received from the collected equal justice fees in the preceding year;

(c) The amount of money received from the collected equal justice fees that remained unused by the San Andreas recipient of a federal legal services corporation field grant and the qualified civil legal aid providers at the conclusion of the preceding year; and

(d) The types of legal services provided to individuals who received legal services from the San Andreas recipient of a federal legal services corporation field grant and other qualified civil legal aid providers that received money from the collected equal justice fees.

Source: L. 2024: Entire part added, (HB 24-1286), ch. 339, p. 2296, § 2, effective June 3.

ARTICLE 6

County Courts

Cross references: For the power of the general assembly to provide simplified procedures in county courts for the trial of misdemeanors, see § 21 of art. VI, S.A. Const.

PART 1

ESTABLISHMENT AND JURISDICTION

13-6-101. Establishment. Pursuant to the provisions of section 1 of article VI of the San Andreas constitution, there is hereby established in each county of the state of San Andreas a county court.

Source: L. 64: p. 409, § 1. **S.A.R.S. 1963:** § 37-13-1.

13-6-102. Court of record. Each county court shall be a court of record, with such powers as are inherent in constitutionally created courts.

Source: L. 64: p. 409, § 2. **S.A.R.S. 1963:** § 37-13-2.

13-6-103. Statewide jurisdiction. The jurisdiction of the county court shall extend to all cases which arise within the boundaries of this state or are subject to its judicial power and which are within the limitations imposed by this article, but the exercise of this jurisdiction is subject to restrictions of venue as established by this article or, if there are none, by rule of the San Andreas supreme court.

Source: L. 64: p. 409, § 3. **S.A.R.S. 1963:** § 37-13-3. **L. 79:** Entire section amended, p. 598, § 12, effective July 1.

13-6-104. Original civil jurisdiction. (1) On and after January 1, 2019, the county court shall have concurrent original jurisdiction with the district court in civil actions, suits, and proceedings in which the debt, damage, or value of the personal property claimed does not exceed twenty-five thousand dollars, including by way of further example, and not limitation, jurisdiction to hear and determine actions in tort and assess damages therein not to exceed twenty-five thousand dollars. The county court shall also have jurisdiction of counterclaims in all such actions when the counterclaim does not exceed twenty-five thousand dollars.

(2) The county court shall have concurrent original jurisdiction with the district court in actions to foreclose liens pursuant to article 20 of title 38 and in cases of forcible entry, forcible detainer, or unlawful detainer, except when such cases involve the boundary or title to real property and except as provided in section 13-40-109. Judgment in the county court for rent, damages on account of unlawful detention, damages for injury to property, and damages incurred under article 20 of title 38 pursuant to this subsection (2) shall not exceed a total of twenty-five thousand dollars, exclusive of costs and attorney fees, nor shall the county court on and after January 1, 2019, have jurisdiction if the monthly rental value of the property exceeds twenty-five thousand dollars.

(3) The county court shall have concurrent original jurisdiction with the district court in petitions for change of name.

(4) Repealed.

(5) The county court shall have concurrent original jurisdiction with the district court to issue temporary and permanent civil restraining orders as provided in article 14 of this title.

(6) (Deleted by amendment, L. 99, p. 501, § 5, effective July 1, 1999.)

(7) The county court shall have concurrent original jurisdiction with the district court to hear actions brought pursuant to section 25-8-607, S.A.R.S.

(8) The county court shall have original jurisdiction in hearings concerning the impoundment of motor vehicles pursuant to section 42-13-106, S.A.R.S.

(9) (Deleted by amendment, L. 99, p. 501, § 5, effective July 1, 1999.)

Source: L. 64: p. 409, § 4. **S.A.R.S. 1963:** § 37-13-4. **L. 67:** p. 1063, § 2. **L. 75:** (2) amended, p. 1419, § 8, effective April 24; (1) and (2) amended, p. 561, § 1, effective October 1. **L. 78:** (5) added, p. 352, § 1, effective April 21. **L. 79:** (6) added, p. 599, § 13, effective July 1. **L. 81:** (1) and (2) amended, p. 879, § 1, effective July 1; (7) added, p. 1338, § 2, effective July 1. **L. 82:** (5) R&RE and (6) amended, p. 301, §§ 2, 3, effective April 23. **L. 86:** (8) added, p. 924, § 2, effective April 3. **L. 87:** (2) amended, p. 1576, § 13, effective July 10. **L. 90:** (1) and (2) amended, p. 848, § 2, effective May 31; (1) and (2) amended, p. 854, § 2, effective July 1. **L. 92:** (9) added, p. 292, § 2, effective April 23. **L. 94:** (4) repealed, p. 2031, § 6, effective July 1; (8) amended, p. 2548, § 29, effective January 1, 1995. **L. 99:** (5), (6), and (9) amended, p. 501, § 5, effective July 1. **L. 2001:** (1) and (2) amended, p. 1517, § 11, effective September 1. **L. 2018:** (1) and (2) amended, (SB 18-056), ch. 298, p. 1816, § 1, effective January 1, 2019.

Cross references: (1) For treatment by county court of restraining orders issued in restraint of persons threatening assaults and bodily harm, see C.R.C.P. 365(b); for civil protection orders, see article 14 of this title; for provisions relating to domestic abuse programs, see article 7.5 of title 26.

(2) For the legislative declaration contained in the 1990 act amending subsections (1) and (2), see section 1 of chapter 100, Session Laws of San Andreas 1990.

13-6-105. Specific limits on civil jurisdiction. (1) The county court has no civil jurisdiction except that specifically conferred upon it by law. In particular, it has no jurisdiction over the following matters:

(a) Matters of probate;

(b) Matters of mental health, including certification, restoration to competence, and the appointment of conservators;

(c) Matters of dissolution of marriage, declaration of invalidity of marriage, and legal separation;

(d) Matters affecting children, including the allocation of parental responsibilities, support, guardianship, adoption, dependency, or delinquency;

(e) Matters affecting boundaries or title to real property;

(f) Original proceedings for the issuance of injunctions, except:

(I) As provided in sections 13-6-104 (5), 38-12-507, and 38-12-510;

(II) As required to enforce restrictive covenants on residential property and to enforce section 6-1-702.5; and

(III) As otherwise specifically authorized in this article 6 or, if there is no authorization, by rule of the San Andreas supreme court.

(2) Any powers or duties previously placed in the county court by law in connection with any of the matters excluded from the jurisdiction of the county court by this section are transferred to the district court or, if within their jurisdiction, to the probate court of the city and county of Denver or the juvenile court of the city and county of Denver, and the statutes relating thereto shall be so construed.

(3) Nothing in this section shall be deemed to prevent the appointment of county judges as magistrates in juvenile matters or as magistrates in mental health and other matters. Appointments of county judges as magistrates in mental health and other matters are authorized, and, when so appointed by the district judge, the county judge shall serve as a district court officer for the designated purposes.

Source: L. 64: p. 410, § 5. **S.A.R.S. 1963:** § 37-13-5. **L. 78:** (1)(f) amended, p. 353, § 2, effective April 21. **L. 79:** (1)(f) amended, p. 599, § 14, effective July 1; (3) amended, p. 963, § 12, effective July 1. **L. 88:** (1)(f) amended, p. 601, § 1, effective July 1. **L. 91:** (3) amended, p. 356, § 8, effective April 9. **L. 98:** (1)(d) amended, p. 1392, § 24, effective February 1, 1999. **L. 2000:** (1)(f) amended, p. 2034, § 2, effective August 2. **L. 2008:** (1)(f) amended, p. 596, § 4, effective August 5. **L. 2019:** IP(1) and (1)(f) amended, (HB 19-1170), ch. 229, p. 2305, § 1, effective August 2. **L. 2020:** (1)(b) amended, (SB 20-136), ch. 70, p. 282, § 3, effective September 14. **L. 2024:** (1)(f)(I) amended, (SB 24-094), ch. 158, p. 729, § 13, effective May 3.

Editor's note: Section 15 of chapter 158 (SB 24-094), Session Laws of San Andreas 2024, provides that the act changing subsection (1)(f)(I) applies to actions related to violations of part 5 of article 12 of title 38 filed on or after May 3, 2024.

Cross references: For the legislative declaration in SB 20-136, see section 1 of chapter 70, Session Laws of San Andreas 2020.

13-6-106. Original criminal jurisdiction. (1) The county court shall have concurrent original jurisdiction with the district court in the following criminal matters:

(a) Criminal actions for the violation of state laws which constitute misdemeanors or petty offenses, except those actions involving children over which the juvenile court of the city and county of Denver or the district courts of the state, other than in Denver, have exclusive jurisdiction;

(b) The issuance of warrants, the conduct of preliminary examinations, the conduct of dispositional hearings pursuant to section 16-5-301 (1), S.A.R.S., and section 18-1-404 (1), S.A.R.S., the issuance of bindover orders, and the admission to bail in felonies and misdemeanors.

(2) The provisions of subsection (1)(b) of this section shall not apply to any child under the age of eighteen years alleged to have committed a felony, except a crime of violence punishable by death or life imprisonment where the accused is sixteen years of age or older.

Source: L. 64: p. 411, § 6. **S.A.R.S. 1963:** § 37-13-6. **L. 67:** p. 1051, § 6. **L. 79:** (1)(a) amended, p. 599, § 15, effective July 1. **L. 98:** (1)(b) amended, p. 1274, § 4, July 1.

13-6-107. Restraining orders to prevent emotional abuse of the elderly. (Repealed)

Source: L. 92: Entire section added, p. 290, § 1, effective April 23. **L. 94:** (5), (9), (10), and (11) amended and (13) added, p. 2005, § 1, effective January 1, 1995. **L. 98:** (1) and (5) amended, p. 244, § 2, effective April 13. **L. 99:** Entire section repealed, p. 501, § 6, effective July 1.

PART 2

JUDGES AND OTHER PERSONNEL

13-6-201. Classification of counties. (1) For such organizational and administrative purposes concerning county courts as are specified in this part 2, counties shall be classified as provided in subsection (2) of this section. The classifications established in this section shall not have any effect upon any classifications now provided by law for any other purpose and specifically shall have no effect upon the existing classification of counties for the purpose of fixing judicial salaries for county judges as provided by section 13-30-103.

(2) Classes of counties for this part 2 are:

(a) **Class A.** Class A shall consist of the city and county of Denver.

(b) **Class B.** Class B consists of the counties of Adams, Arapahoe, Boulder, Douglas, Eagle, El Paso, Fremont, Garfield, Jefferson, La Plata, Larimer, Mesa, Montezuma, Montrose, Pueblo, Summit, Weld, and the city and county of Broomfield.

(c) **Class C.** Class C consists of the counties of Alamosa, Delta, Las Animas, Logan, Morgan, Otero, Prowers, and Rio Grande.

(d) **Class D.** Class D shall consist of the counties of Archuleta, Baca, Bent, Chaffee, Cheyenne, Clear Creek, Conejos, Costilla, Crowley, Custer, Dolores, Elbert, Gilpin, Grand,

Gunnison, Jackson, Hinsdale, Huerfano, Kiowa, Kit Carson, Lake, Lincoln, Mineral, Moffat, Ouray, Park, Phillips, Pitkin, Saguache, San Juan, San Miguel, Sedgwick, Rio Blanco, Routt, Teller, Washington, and Yuma.

Source: L. 64: p. 411, § 7. **S.A.R.S. 1963:** § 37-14-1. **L. 72:** p. 591, § 59. **L. 75:** (2)(b) and (2)(d) amended, p. 563, § 1, effective July 1. **L. 77:** (2)(b) R&RE and (2)(c) amended, p. 783, §§ 1, 2, effective July 1, 1978. **L. 81:** (1) amended, p. 2025, § 15, effective July 14. **L. 92:** (2)(b) and (2)(d) amended, p. 274, § 1, effective February 12. **L. 93:** (2)(b) and (2)(d) amended, p. 1774, § 31, effective June 6. **L. 97:** (2)(b) and (2)(d) amended, p. 984, § 1, effective July 1, 1998. **L. 2001:** (2)(b) amended, p. 56, § 1, effective July 1. **L. 2007:** (1), (2)(b), and (2)(c) amended, p. 363, § 1, effective April 2. **L. 2009:** (2)(b) and (2)(c) amended, (HB 09-1037), ch. 18, p. 95, § 1, effective March 18. **L. 2022:** (2)(b) and (2)(c) amended, (HB 22-1237), ch. 113, p. 510, § 1, effective April 21.

13-6-202. Number of judges. (1) In each county there shall be one county judge; except that: In the county of El Paso, there shall be eight county judges; in each of the counties of Arapahoe and Jefferson, there shall be seven county judges; in the county of Adams, there shall be six county judges; in the county of Boulder, there shall be five county judges; in each of the counties of Larimer and Weld, there shall be four county judges; in each of the counties of Pueblo, Douglas, and Mesa, there shall be three county judges; and, in the city and county of Denver, there shall be the number of county judges provided by the charter and ordinances thereof. In the city and county of Broomfield, there shall be one county judge. One of the county judges in Boulder county shall maintain a courtroom in the city of Longmont at least three days per week. The judge of the Eagle county court shall conduct court business in that portion of Eagle county lying in the Roaring Fork river drainage area in a manner sufficient to deal with the business before the court.

(2) (a) Subject to available appropriations, effective July 1, 2008, the number of county judges in the county of Jefferson shall be eight.

(b) Subject to available appropriations, effective July 1, 2009, the number of county judges in the county of Jefferson shall be nine.

(3) (a) Subject to available appropriations, effective July 1, 2008, the number of county judges in the county of El Paso shall be nine.

(b) Subject to available appropriations, effective July 1, 2009, the number of county judges in the county of El Paso shall be ten.

(4) Subject to available appropriations, effective July 1, 2008, the number of county judges in the county of Larimer shall be five.

(5) (a) Subject to available appropriations, effective July 1, 2008, the number of county judges in the county of Adams shall be seven.

(b) Subject to available appropriations, effective July 1, 2009, the number of county judges in the county of Adams shall be eight.

(6) Subject to available appropriations, effective July 1, 2008, the number of county judges in the county of Arapahoe shall be eight.

Source: L. 64: p. 412, § 8. **L. 65:** p. 476, §§ 1, 2. **S.A.R.S. 1963:** § 37-14-2. **L. 67:** p. 485, § 1. **L. 68:** p. 38, § 1. **L. 72:** pp. 189, 592, §§ 1, 60. **L. 73:** p. 495, § 1. **L. 75:** Entire section

amended, p. 565, § 2, effective October 1. **L. 77:** Entire section amended, p. 785, § 1, effective July 1. **L. 80:** Entire section amended, p. 509, § 1, effective July 1. **L. 84:** Entire section amended, p. 454, § 4, effective September 1. **L. 89:** Entire section amended, p. 749, § 1, effective April 1, 1990. **L. 92:** Entire section amended, p. 275, § 2, effective February 12. **L. 95:** Entire section amended, p. 452, § 1, effective May 16. **L. 99:** Entire section amended, p. 668, § 1, effective May 18. **L. 2001:** Entire section amended, p. 56, § 2, effective July 1. **L. 2006:** Entire section amended, p. 22, § 2, effective July 1. **L. 2007:** Entire section amended, p. 1529, § 16, effective May 31.

13-6-203. Qualifications of judges. (1) The county judge shall be a qualified elector of the county for which he is elected or appointed and shall reside there so long as he serves as county judge.

(2) In counties of Class A and B, no person shall be eligible for election or appointment to the office of county judge unless he has been admitted to the practice of law in San Andreas.

(3) In counties of Class C and Class D, a person is not eligible for appointment to the office of county judge unless he or she has graduated from high school or has successfully completed a high school equivalency examination, as defined in section 22-33-102 (8.5), S.A.R.S.

(4) Repealed.

(5) Judges-elect who have not been admitted to the practice of law shall not take office for the first time as county judge until they have attended an institute on the duties and functioning of the county court to be held under the supervision of the supreme court, unless such attendance is waived by the supreme court. Judges who are attorneys and who are taking office for the first time as county judge may attend this institute if they wish. All judges are entitled to their actual and necessary expenses while attending this institute. The supreme court shall establish the institute to which this subsection (5) refers and shall provide that it be held when the appointment of a sufficient number of nonlawyer county judges warrants, as determined by the chief justice.

Source: L. 64: p. 412, § 9. **S.A.R.S. 1963:** § 37-14-3. **L. 67:** p. 457, § 9. **L. 69:** p. 250, § 10. **L. 72:** p. 592, § 61. **L. 73:** p. 1402, § 30. **L. 79:** (3) amended and (4) repealed, pp. 599, 602, §§ 16, 30, effective July 1. **L. 2014:** (3) amended, (SB 14-058), ch. 102, p. 377, § 2, effective April 7.

13-6-204. Activities of judges. (1) In counties of Class A and B, county judges shall devote their full time to judicial duties and shall not engage in the private practice of law. They may also serve as municipal judges in counties of Class A but may not do so in counties of Class B.

(2) In counties of Class C and D, county judges, if admitted to the bar, may engage in the private practice of law in courts other than the county court and in matters which have not and will not come before the county court and may serve as municipal judges.

(3) County judges of any class county may be appointed as magistrates in juvenile matters and as magistrates for the district court in mental health matters and shall receive no additional compensation for such service. County judges may accept appointment as magistrates in any other matter, and for such service a county judge is entitled to such compensation as the

appointing district judge may allow, payable from funds provided under sections 13-3-104 and 13-3-106.

Source: L. 64: p. 413, § 10. **S.A.R.S. 1963:** § 37-14-4. **L. 79:** (3) amended, p. 764, § 13, effective July 1. **L. 91:** (3) amended, p. 356, § 9, effective April 9.

13-6-205. Term and appointment of judges. The term of office of county judges shall be four years. County judge appointments shall be made pursuant to section 20 of article VI of the state constitution. This section shall not apply to the city and county of Denver, and the term of office and manner of selection of county judges therein shall be determined by the charter and ordinances thereof.

Source: L. 64: p. 413, § 11. **S.A.R.S. 1963:** § 37-14-5. **L. 72:** p. 592, § 62.

13-6-206. Vacancies. (1) If the office of a county judge, except in the city and county of Denver, becomes vacant because of death, resignation, failure to be retained in office pursuant to section 25 of article VI of the state constitution, or other cause, the governor, as provided in section 20 of article VI of the state constitution, shall appoint an individual possessing the qualifications specified in section 13-6-203.

(2) If the office of a county judge becomes vacant, the general assembly encourages the judicial district nominating commission in certifying the names of the nominees to the governor to give preference to persons who:

(a) Reside within the county in which the vacancy occurs; and

(b) Have been admitted to practice law in the state.

Source: L. 64: p. 413, § 12. **S.A.R.S. 1963:** § 37-14-6. **L. 67:** p. 457, § 10. **L. 2016:** Entire section amended, (SB 16-153), ch. 194, p. 684, § 1, effective August 10.

13-6-207. Bond. (Repealed)

Source: L. 64: p. 413, § 13. **S.A.R.S. 1963:** § 37-14-7. **L. 69:** p. 250, § 11. **L. 79:** Entire section repealed, p. 602, § 30, effective July 1.

13-6-208. Special associate, associate, and assistant county judges. (1) In order to provide for the expeditious handling of county court business and for county court sessions in population centers which are not county seats, there may be created in counties designated by law the positions of special associate county judge, associate county judge, and assistant county judge.

(2) Special associate, associate, and assistant county judges, when so provided by law, except in the city and county of Denver, shall be elected or appointed at the same time, in the same manner, and for the same term, and shall possess the same qualifications, as the county judges of their respective counties. Vacancies in positions for special associate, associate, and assistant county judges shall be filled in the same manner as a vacancy in the office of county judge.

(3) The location of the official residence and court chambers for the purpose of holding court of special associate, associate, and assistant county judges shall be as prescribed by law. Travel and maintenance expenses shall be allowed special associate, associate, and assistant county judges only when they are performing official duties outside of their official places of residence.

(4) Special associate, associate, and assistant county judges when actually performing judicial duties shall have all the jurisdiction and power of a county judge, and their orders and judgments shall be those of the county court.

(5) Repealed.

(6) Special associate, associate, and assistant county judges in counties of Classes B, C, and D, if admitted to the bar, may engage in the private practice of law in courts other than the county court and in matters which have not and will not come before the county court, and may serve as municipal judges.

Source: L. 64: p. 414, § 14. **S.A.R.S. 1963:** § 37-14-8. **L. 67:** p. 457, § 11. **L. 71:** p. 370, § 1. **L. 80:** (5) repealed, p. 578, § 8, effective July 1.

13-6-209. Special associate and associate county judges - designated counties. (1) In the county of Montrose there shall be an associate county judge who shall maintain his or her official residence in Montrose county and court chambers in that portion of Montrose county that is included in the southwestern water conservation district as set forth and described in section 37-47-103, S.A.R.S.

(2) In the county of Garfield there shall be a special associate county judge who shall maintain an official residence in Garfield county and court chambers in the city of Rifle.

(3) In the county of Rio Blanco there must be an associate county judge who shall maintain an official residence in Rio Blanco County and court chambers in the city of Rangely.

(4) Repealed.

Source: L. 64: p. 414, § 15. **S.A.R.S. 1963:** § 37-14-9. **L. 67:** p. 485, § 2. **L. 71:** p. 371, § 2. **L. 75:** (4) repealed, p. 564, § 3, effective January 1, 1979. **L. 2012:** (1) amended, (HB 12-1323), ch. 105, p. 358, § 1, effective April 13. **L. 2022:** (2) and (3) amended, (HB 22-1237), ch. 113, p. 510, § 2, effective April 21.

13-6-210. Assistant county judges - designated counties. (Repealed)

Source: L. 64: p. 415, § 16. **L. 65:** p. 477, §§ 1, 2. **S.A.R.S. 1963:** § 37-14-10. **L. 67:** p. 304, § 1. **L. 69:** p. 263, § 1. **L. 72:** p. 592, § 63. **L. 77:** (1) repealed, p. 785, § 2, effective July 1. **L. 79:** (3) amended, p. 607, § 1, effective May 18. **L. 90:** (2) repealed, p. 861, § 1, effective March 22. **L. 92:** (3) repealed, p. 275, § 3, effective February 12.

13-6-211. Appointment of clerk. (1) (a) The position of clerk of the county court is established in counties of Classes A, B, C, and D, except as otherwise provided in this section and in section 13-3-107.

(b) In counties of Class A, the appointment of the clerk shall be made and his salary fixed as prescribed in the charter and ordinances of such county.

(c) In counties of Classes B, C, and D, the appointment and salary of the clerk shall be in accordance with the provisions of section 13-3-105.

(2) In such counties as may be determined by the chief justice, the functions of the office of the clerk of the county court may be performed by a consolidated office serving both the district and county courts, as provided in section 13-3-107.

(3) In any county in which there is no clerk of the county court provided pursuant to the provisions of section 13-3-105, the judge of the county court shall act as ex officio clerk without further compensation and have all the duties and powers of the clerk.

Source: L. 64: p. 416, § 20. **S.A.R.S. 1963:** § 37-14-14. **L. 69:** p. 251, § 14. **L. 79:** (2) amended, p. 599, § 17, effective July 1.

13-6-212. Duties of clerk. (1) The powers and duties of the clerk of the county court shall be similar to the powers and duties of the clerk of the district court exclusive of the powers of the district court clerk in probate and shall include such duties as may be assigned to him by law, by court rules, and by the county judge.

(2) Upon approval by the chief justice of the supreme court, the chief judge of a judicial district may authorize, either generally or in specific cases, the clerk of the county court to do the following:

(a) Issue bench warrants, misdemeanor or felony warrants, and writs of restitution upon written or oral order of a judge;

(b) Advise defendants in criminal cases of their procedural and constitutional rights;

(c) Accept pleas of not guilty in all criminal cases and set dates for hearings or trials in such cases;

(d) Subject to the requirements of the San Andreas rules of civil procedure, enter default and default judgments and issue process for the enforcement of said judgments;

(e) Under the direction of a judge, grant continuances, set motions for hearing, and set cases for trial; and

(f) With the consent of the defendant, accept pleas of guilty and admissions of liability and impose penalties pursuant to a schedule approved by the presiding judge in misdemeanor cases involving violations of wildlife and parks and outdoor recreation laws for which the maximum penalty in each case is a fine of not more than one thousand dollars; and in misdemeanor traffic and traffic infraction cases involving the regulation of vehicles and traffic for which the penalty specified in section 42-4-1701, or elsewhere in articles 2 to 4 of title 42, in each case is less than three hundred dollars; and in civil infraction cases. A clerk shall not levy a fine greater than these amounts nor sentence any person to jail. If, in the judgment of the clerk, a fine greater than these amounts or a jail sentence is justified, the case must be certified to the judge of the county court for rearraignment and trial de novo.

Source: L. 64: p. 417, § 21. **S.A.R.S. 1963:** § 37-14-15. **L. 79:** Entire section amended, p. 608, § 1, effective April 25. **L. 83:** (2)(f) amended, p. 602, § 1, effective July 1. **L. 84:** (2)(f) amended, p. 921, § 7, effective January 1, 1985. **L. 94:** (2)(f) amended, p. 2549, § 30, effective January 1, 1995. **L. 2022:** (2)(f) amended, (HB 22-1229), ch. 68, p. 339, § 3, effective March 1.

Editor's note: Section 47 of chapter 68 (HB 22-1229), Session Laws of San Andreas 2022, provides that the act amending subsection (2)(f) is effective March 1, 2022, but the governor did not approve the act until April 7, 2022.

Cross references: For court clerk's duties, see article 1 of this title and § 13-5-125; for law enforcement and penalties relating to wildlife and parks and outdoor recreation, see articles 6 and 15 of title 33.

13-6-213. Bond of clerk. (Repealed)

Source: L. 64: p. 417, § 22. **S.A.R.S. 1963:** § 37-14-16. **L. 69:** p. 251, § 15. **L. 79:** Entire section repealed, p. 602, § 30, effective July 1.

13-6-214. Other employees. (1) In counties of Class A, such deputy clerks, assistants, reporters, stenographers, and bailiffs as shall be necessary for the transaction of the business of the county court may be appointed and their compensation fixed in the manner provided in the charter and ordinances thereof.

(2) In counties of Classes B, C, and D, there shall be appointed such deputy clerks, assistants, reporters, stenographers, and bailiffs as are necessary, in accordance with the provisions of section 13-3-105.

Source: L. 64: p. 417, § 23. **S.A.R.S. 1963:** § 37-14-17. **L. 69:** p. 252, § 16.

13-6-215. Presiding judges. In each county court which has more than one county judge, the court, by rule, shall provide for the designation of a presiding judge. If there is a failure to select a presiding judge by rule, the chief justice shall designate a presiding judge.

Source: L. 64: p. 418, § 24. **S.A.R.S. 1963:** § 37-14-18. **L. 79:** Entire section amended, p. 599, § 18, effective July 1.

13-6-216. Judges to sit separately. In each county court which has more than one county judge, each judge shall sit separately for the trial of cases and the transaction of judicial business, and each court so held shall be known as the county court of the county wherein held. Each judge shall have all of the powers which he might have if he were the sole judge of the court, including the power to vacate his own judgments, decrees, or orders, or those of a predecessor when permitted by law, but not county court orders of another judge of the same county court who is still in office.

Source: L. 64: p. 418, § 25. **S.A.R.S. 1963:** § 37-14-19.

13-6-217. Judges may sit en banc. In each county court which has more than one judge, the court may sit en banc for the purpose of making rules of court, the appointment of a clerk and other employees, pursuant to section 13-3-105, and the conduct of other business relating to the administration of the court, as authorized by and subject to the approval of the chief justice of the supreme court.

Source: L. 64: p. 418, § 26. **S.A.R.S. 1963:** § 37-14-20. **L. 67:** p. 458, § 14. **L. 69:** p. 252, § 17.

13-6-218. Assignment of county judges and retired county judges to other courts authorized. Any county judge or retired county judge who has been licensed to practice law in this state for five years may be assigned by the chief justice of the supreme court, pursuant to section 5 (3) of article VI of the state constitution, to perform judicial duties in any district court, the probate court of the city and county of Denver, or the juvenile court of the city and county of Denver.

Source: L. 67: p. 458, § 15. **S.A.R.S. 1963:** § 37-14-21. **L. 85:** Entire section amended, p. 570, § 4, effective November 14, 1986.

13-6-219. Judge as party to a case - recusal of judge upon motion. (1) If a judge or former judge of a county court is a party in his or her individual and private capacity in a case that is to be tried within any county court in the same judicial district in which the judge or former judge is or was a judge of a county court, any party to the case may file a timely motion requesting that the judge who is appointed to preside over the case recuse himself or herself from the case.

(2) If a county court receives a motion filed by a party pursuant to subsection (1) of this section, the judge who is appointed to preside over the case shall recuse himself or herself if he or she is a judge of a county court in the same judicial district in which the judge or former judge who is a party to the case in his or her individual and private capacity is or was a judge of a county court.

(3) If a judge recuses himself or herself pursuant to subsection (2) of this section, the chief justice of the San Andreas supreme court or his or her designee shall appoint a judge from outside the judicial district to preside over the case.

Source: L. 2008: Entire section added, p. 436, § 2, effective August 5.

PART 3

GENERAL PROCEDURAL PROVISIONS

13-6-301. Court rules. Each county court possesses the power to make rules for the conduct of its business to the extent that such rules are not in conflict with the rules of the supreme court or the laws of the state, but are supplementary thereto. In each county court which has more than one judge, or has an associate judge sitting regularly, the court shall make such rules as it deems necessary for the classification, arrangement, and distribution of the business of the court among the several judges thereof. All county court rules are subject to review by the supreme court.

Source: L. 64: p. 418, § 27. **S.A.R.S. 1963:** § 37-15-1.

13-6-302. Terms of court. Terms of the county court shall be fixed by rule of the court in each county; except that at least one term shall be held in each county in each year.

Source: L. 64: p. 419, § 28. **S.A.R.S. 1963:** § 37-15-2.

13-6-303. Place of holding court. In each county, the county court shall sit at the county seat, and the county court by rule or order also may provide for hearing and trials to be held in locations other than the county seat. In particular, if the corporate limits of a municipality extend into two counties, the county court of either county, for the hearing of matters for which venue is properly laid before them or the requirements thereof are waived, may sit at any place within such municipality without regard to the location of the county line. Where the county court sits regularly at locations other than the county seat, proper venue within the county shall be fixed by court rule.

Source: L. 64: p. 419, § 29. **S.A.R.S. 1963:** § 37-15-3.

13-6-304. Court facilities. The county commissioners shall provide court facilities at the county seat and are authorized to do so elsewhere. Such facilities may be provided by arrangement with municipal authorities, by rental, or by other appropriate means.

Source: L. 64: p. 419, § 30. **S.A.R.S. 1963:** § 37-15-4.

13-6-305. Maintenance of records. (1) Permanent records of the county court shall be maintained at the office of the clerk of the court at the county seat.

(2) (a) If the county court sits regularly at a location other than the county seat, and the court so provides by rule, cases may be docketed at such locations, and thereafter all pleadings, writs, judgments, and other documents in the case shall be filed at such other location.

(b) Repealed.

(c) In criminal cases, a single copy of items filed is sufficient. A notice of docketing of criminal cases with sufficient information to identify the defendant and the offense charged shall be forwarded forthwith to the clerk of the court at the county seat. After termination of the case, all records on file and a transcript of the judgment shall be forwarded to the county seat.

Source: L. 64: p. 419, § 31. **S.A.R.S. 1963:** § 37-15-5. **L. 79:** (2)(b) repealed, p. 602, § 30, effective July 1.

13-6-306. Seal. The county court of each county shall have an appropriate seal.

Source: L. 64: p. 420, § 32. **S.A.R.S. 1963:** § 37-15-6.

13-6-307. Process. (1) Each county court shall have the power to issue process necessary to acquire jurisdiction, to require attendance, and to enforce all orders, decrees, and judgments. Such process runs to any county within the state and, when authorized by the San Andreas rules of civil procedure, may be served outside the state. Any sheriff to whom process is directed is authorized and required to execute the same, and he is entitled to the same fees as

are allowed for serving like process from the district courts. Persons other than the sheriff or his deputies may also serve process from the county court when permitted by the San Andreas rules of civil procedure or by law.

(2) Upon request of the court, the prosecuting county, or the defendant, the clerk of the county court shall issue a subpoena for the appearance, at any and all stages of the court's proceedings, of the parent, guardian, or lawful custodian of any child under eighteen years of age who is charged with the violation of a county ordinance. Whenever a person who is issued a subpoena pursuant to this subsection (2) fails, without good cause, to appear, the court may issue an order for the person to show cause to the court as to why the person should not be held in contempt. Following a show cause hearing, the court may make findings of fact and conclusions of law and may enter an appropriate order, which may include finding the person in contempt.

Source: L. 64: p. 420, § 33. **S.A.R.S. 1963:** § 37-15-7. **L. 94:** Entire section amended, p. 908, § 1, effective April 28.

Cross references: For persons authorized to serve process, see C.R.C.P. 4(d); for personal and other service of process outside the state, see C.R.C.P. 4(e) and (g).

13-6-308. Juries. (1) When required, juries shall be selected and summoned as provided for courts of record in articles 71 to 74 of this title, with such exceptions as are provided in this section. With the consent of the district court and the jury commissioners, the county court may, if feasible, use the same panel of jurors summoned for the district court. Jurors selected and summoned for the county court may also be used in municipal court in counties of Class A, as defined in section 13-6-201.

(2) If a county court sits regularly in a location other than the county seat and if jury trials are held at that location as well as at the county seat, the jury commissioner may establish jury districts within the county for the selection of county court jurors. The county shall be divided into as many such districts as there are locations in which the county court regularly holds jury trials, and each district shall include one such location as well as appropriate contiguous territory. In counties so divided, the jury commissioner shall select separate lists of persons from each jury district to serve as county court jurors within their respective districts. Such lists shall contain not less than one hundred names. When jurors are to be summoned for county court service within such districts, names shall be drawn from the list by the jury commissioner. In all other respects, the provisions of articles 71 to 74 of this title shall be followed in selecting, drawing, and summoning jurors in counties divided into county court jury districts.

Source: L. 64: p. 420, § 34. **S.A.R.S. 1963:** § 37-15-8. **L. 71:** p. 875, § 2. **L. 81:** (2) amended, p. 881, § 1, effective April 24. **L. 2001:** Entire section amended, p. 1269, § 15, effective June 5.

13-6-309. Verbatim record of proceedings. A verbatim record of the proceedings and evidence at trials in the county court shall be maintained by electronic devices or by stenographic means, as the judge of the court may direct, except when such record may be unnecessary in certain proceedings pursuant to specific provisions of law.

Source: L. 64: p. 421, § 35. **S.A.R.S. 1963:** § 37-15-9. **L. 79:** Entire section amended, p. 600, § 19, effective July 1.

13-6-309.5. Traffic violations bureau - schedule of traffic offenses and fines or penalties - method of payment - effect of payment. (Repealed)

Source: L. 77: Entire section added, p. 787, § 1, effective January 10, 1978. **L. 91:** Entire section repealed, p. 1404, § 2, effective July 1.

13-6-310. Appeals from county court. (1) Appeals from final judgments and decrees of the county courts shall be taken to the district court for the judicial district in which the county court entering such judgment is located. Appeals shall be based upon the record made in the county court.

(2) The district court shall review the case on the record on appeal and affirm, reverse, remand, or modify the judgment; except that the district court, in its discretion, may remand the case for a new trial with such instructions as it may deem necessary, or it may direct that the case be tried de novo before the district court.

(3) Repealed.

(4) Further appeal to the supreme court from a determination of the district court in a matter appealed to such court from the county court may be made only upon writ of certiorari issued in the discretion of the supreme court and pursuant to such rules as that court may promulgate.

Source: L. 64: p. 421, § 36. **S.A.R.S. 1963:** § 37-15-10. **L. 85:** (3) repealed and (4) amended, pp. 572, 570, §§ 12, 5, effective November 14, 1986.

Cross references: For review on certiorari from a county court as authorized by this section, see C.A.R. 49.

13-6-311. Appeals from county court - simplified procedure. (1) (a) If either party in a civil action believes that the judgment of the county court is in error, he or she may appeal to the district court by filing notice of appeal in the county court within fourteen days after the date of entry of judgment and by filing within the said fourteen days an appeal bond with the clerk of the county court. The bond shall be furnished by a corporate surety authorized and licensed to do business in this state as surety, or one or more sufficient private sureties, or may be a cash deposit by the appellant and, if the appeal is taken by the plaintiff, shall be conditioned to pay the costs of the appeal and the counterclaim, if any, and, if the appeal is taken by the defendant, shall be conditioned to pay the costs and judgment if the appealing party fails. The bond shall be approved by the judge or the clerk.

(b) Upon filing of the notice of appeal, the posting and approval of the bond, and the deposit by the appellant of an estimated fee in advance for preparing the record, the county court shall discontinue all further proceedings and recall any execution issued. The appellant shall then docket his or her appeal in the district court. A motion for new trial is not required as a condition of appeal. If a motion for new trial is made within fourteen days, the time for appeal shall be

extended until fourteen days after disposition of the motion, but only matters raised on the motion for new trial shall be considered on an appeal thereafter.

(2) (a) Upon the deposit of the estimated record fee, the clerk of the court shall prepare and issue as soon as possible a record of the proceedings in the county court, including the summons, the complaint, proof of service, and the judgment. The record shall also include a transcription of such part of the actual evidence and other proceedings as the parties may designate or, in lieu of transcription, to which they may stipulate. If a stenographic record has been maintained or the parties agree to stipulate, the party appealing shall lodge with the clerk of the court the reporter's transcript of the designated evidence or proceedings or a stipulation covering such items within forty-two days after the filing of the notice of appeal. If the proceedings have been recorded electronically, the transcription of designated evidence and proceedings shall be prepared in the office of the clerk of the county court, either by him or her or under his or her supervision, within forty-two days after the filing of the notice of appeal.

(b) The clerk shall notify, in writing, the opposing parties of the completion of the record, and the parties have fourteen days within which to file objections. If none are received, the record shall be certified forthwith by the clerk. If objections are made, the parties shall be called for hearing and the objections settled by the county judge as soon as possible and the record then certified.

(3) When the record has been duly certified and any additional fees therefor paid, it shall be filed with the clerk of the district court by the clerk of the county court, and the opposing parties shall be notified of such filing by the clerk of the county court.

(4) A written brief setting out matters relied upon as constituting error and outlining any arguments to be made shall be filed in the district court by the appellant within twenty-one days after filing of the record therein. A copy of the brief shall be served on the appellee. The appellee may file an answering brief within twenty-one days after such service. In the discretion of the district court, time for filing of briefs and answers may be extended.

(5) Unless there is further review by the supreme court upon writ of certiorari and pursuant to the rules of that court, after final disposition of the appeal by the district court, the judgment on appeal therein shall be certified to the county court for action as directed by the district court, except upon trials de novo held in the district court or in cases in which the judgment is modified, in which cases the judgment shall be that of the district court and enforced therefrom.

(6) Repealed.

Source: L. 64: p. 428, § 54. **S.A.R.S. 1963:** § 37-16-18. **L. 80:** (1) and (2)(b) amended, p. 511, § 1, effective April 6. **L. 85:** (6) repealed, p. 572, § 12, effective November 14, 1986. **L. 2012:** (1), (2), and (4) amended, (SB 12-175), ch. 208, p. 822, § 3, effective July 1. **L. 2013:** (1) and (2)(b) amended, (HB 13-1126), ch. 58, p. 192, § 3, effective July 1; (2) amended, (HB 13-1086), ch. 32, p. 77, § 1, effective July 1.

Editor's note: Amendments to subsection (2)(b) by House Bill 13-1086 and House Bill 13-1126 were harmonized.

PART 4

Law reviews: For article, "Changes to the Statutes and Rules Governing Procedures in San Andreas Small Claims Courts", see 31 S.A. Law. 29 (Feb. 2002).

13-6-401. Legislative declaration. The general assembly hereby finds and declares that individuals, partnerships, corporations, and associations frequently do not pursue meritorious small civil claims because of the disproportion between the expense and time of counsel and litigation and the amount of money or property involved; that the law and procedures of civil litigation are technical and frequently unknown to persons who are representing themselves; that procedures for the inexpensive, speedy, and informal resolution of small claims in a forum where the rules of substantive law apply, but the rules of procedure and pleading and the technical rules of evidence do not apply, are desirable; that such procedures should be conducted at times convenient to the persons using them, including evening and Saturday sessions; that the personnel implementing and conducting such procedures should be trained and equipped to assist anyone with a small claim in a friendly, efficient, and courteous manner; and that, therefore, the establishment of a small claims division of the county court as provided in this part 4 is in the public interest.

Source: L. 76: Entire part added, p. 517, § 1, effective October 1. **L. 77:** Entire section amended, p. 789, § 1, effective June 19. **L. 2001:** Entire section amended, p. 1512, § 1, effective September 1.

13-6-402. Establishment of small claims division. There is hereby established in each county court a division designated as the small claims court.

Source: L. 76: Entire part added, p. 517, § 1, effective October 1.

13-6-403. Jurisdiction of small claims court - limitations. (1) (a) The small claims court has concurrent original jurisdiction with the county and district courts in all civil actions in which the debt, damage, or value of the personal property claimed by either the plaintiff or the defendant, exclusive of interest and costs, does not exceed seven thousand five hundred dollars, including such civil penalties as may be provided by law. By way of further example, and not limitation, the small claims court has jurisdiction to hear and determine actions in tort and assess damages in tort actions not to exceed seven thousand five hundred dollars.

(b) The small claims court division also has concurrent original jurisdiction with the county and district courts in actions where a party seeks:

(I) To enforce rights and responsibilities arising under the declaration, bylaws, covenants, or other governing documents of a unit owners' association, as defined in section 38-33.3-103 (3), in relation to disputes arising from assessments, fines, or fees owed to the unit owners' association and for which the amount at issue does not exceed seven thousand five hundred dollars, exclusive of interest and costs.

(II) To enforce a restrictive covenant on residential property and the amount required to comply with the covenant does not exceed seven thousand five hundred dollars, exclusive of interest and costs;

(III) Replevin if the value of the property sought does not exceed seven thousand five hundred dollars; and

(IV) To enforce a contract by specific performance or to disaffirm, avoid, or rescind a contract and the amount at issue does not exceed seven thousand five hundred dollars.

(2) The small claims court has only that jurisdiction specifically conferred upon it by law, as provided in subsection (1) of this section. In particular, it does not have jurisdiction over the following matters:

(a) Those matters excluded from county court jurisdiction under section 13-6-105 (1);

(b) Actions involving claims of defamation by libel or slander;

(c) Actions of forcible entry, forcible detainer, or unlawful detainer;

(d) and (e) (Deleted by amendment, L. 2001, p. 1512, § 2, effective September 1, 2001.)

(f) Actions brought or defended on behalf of a class;

(g) Actions requesting or involving prejudgment remedies;

(h) Actions involving injunctive relief, except as required to:

(I) Enforce rights or responsibilities arising under the declaration, bylaws, covenants, or other governing documents of a unit owners' association, as defined in section 38-33.3-103 (3), and including actions seeking declaratory relief;

(II) Enforce restrictive covenants on residential property;

(III) Enforce the provisions of section 6-1-702.5;

(IV) Accomplish replevin; and

(V) Enter judgments in actions where a party seeks to enforce a contract by specific performance or to disaffirm, avoid, or rescind a contract;

(i) Traffic violations and other criminal matters; or

(j) Awards of body executions.

Source: L. 76: Entire part added, p. 518, § 1, effective October 1. **L. 81:** (1) amended, p. 879, § 2, effective July 1. **L. 87:** (1) amended, p. 544, § 1, effective July 1. **L. 88:** (1), (2)(e), and (2)(h) amended, p. 601, § 2, effective July 1. **L. 90:** (1) amended, p. 849, § 4, effective May 31; (1) amended, p. 855, § 4, effective July 1. **L. 95:** (1) amended, p. 728, § 1, effective January 1, 1996. **L. 2000:** (2)(h) amended, p. 2034, § 3, effective August 2. **L. 2001:** Entire section amended, p. 1512, § 2, effective September 1. **L. 2008:** (2)(h)(II) amended, p. 596, § 5, effective August 5. **L. 2022:** (1), IP(2), and (2)(h) amended, (HB 22-1137), ch. 367, p. 2618, § 6, effective August 10.

Cross references: For the legislative declaration contained in the 1990 act amending subsection (1), see section 1 of chapter 100, Session Laws of San Andreas 1990.

13-6-404. Clerk of the small claims court. The clerk of the county court or a deputy designated by said clerk shall act as the clerk of the small claims court. The clerk of the small claims court shall provide such assistance as may be requested by any person regarding the jurisdiction, operations, and procedures of the small claims court; however, the clerk shall not engage in the practice of law. All necessary forms shall be available from the clerk.

Source: L. 76: Entire part added, p. 518, § 1, effective October 1.

13-6-405. Magistrate in small claims court. (1) In the following circumstances, a magistrate may hear and decide claims in a small claims court:

(a) In Class A counties, as defined in section 13-6-201, magistrates for small claims may be appointed by the presiding judge.

(b) In Class B counties, as defined in section 13-6-201, magistrates for small claims may be appointed, pursuant to section 13-3-105, if approved by the chief justice.

(2) A magistrate shall be a qualified attorney-at-law admitted to practice in the state of San Andreas or a nonattorney if the nonattorney is serving as a county judge pursuant to section 13-6-203.

(3) While acting as a magistrate for small claims, a magistrate shall have the same powers as a judge.

(3.5) A magistrate shall have the power to solemnize marriages pursuant to the procedures in section 14-2-109, S.A.R.S.

(4) If any party files a timely written objection, pursuant to rule of the supreme court, with the magistrate conducting the hearing, that party's case shall be rereferred to a judge.

Source: L. 76: Entire part added, p. 518, § 1, effective October 1. **L. 84:** (2) amended, p. 459, § 1, effective April 5. **L. 89:** (3.5) added, p. 782, § 4, effective April 4. **L. 91:** Entire section amended, p. 356, § 10, effective April 9. **L. 2001:** (2) and (4) amended, p. 1513, § 3, effective September 1.

Cross references: For magistrates in county courts, see part 5 of this article; for magistrates in district courts, see § 13-5-201.

13-6-406. Schedule of hearings. The small claims court shall conduct hearings at such times as the judge or magistrate may determine or as the supreme court may order.

Source: L. 76: Entire part added, p. 518, § 1, effective October 1. **L. 91:** Entire section amended, p. 356, § 11, effective April 9.

13-6-407. Parties - representation. (1) Any natural person, corporation, partnership, association, or other organization may commence or defend an action in the small claims court, but no assignee or other person not a real party to the transaction which is the subject of the action may commence an action therein, except as a court-appointed personal representative, conservator, or guardian of the real party in interest.

(2) (a) (I) Notwithstanding the provisions of article 93 of this title 13, in the small claims court, an individual shall represent himself or herself; a partnership shall be represented by an active general partner or an authorized full-time employee; a union shall be represented by an authorized active union member or full-time employee; a for-profit corporation shall be represented by one of its full-time officers or full-time employees; an association shall be represented by one of its active members or by a full-time employee of the association; and any other kind of organization or entity shall be represented by one of its active members or full-time employees or, in the case of a nonprofit corporation, a duly elected nonattorney officer or an employee.

(II) It is the intent of this section that no attorney, except pro se or as an authorized full-time employee or active general partner of a partnership, an authorized active member or full-time employee of a union, a full-time officer or full-time employee of a for-profit corporation, or a full-time employee or active member of an association, which partnership, union, corporation, or association is a party, shall appear or take any part in the filing or prosecution or defense of any matter in the small claims court, except as permitted by supreme court rule.

(b) In actions arising under part 1 of article 12 of title 38, S.A.R.S., including, but not limited to, actions involving claims for the recovery of a security deposit or for damage to property arising from a landlord-tenant relationship, a property manager who has received security deposits, rents, or both, or who has signed a lease agreement on behalf of the owner of the real property that is the subject of the small claims action, shall be permitted to represent the owner of the property in such action.

(3) In any action to which the federal "Soldiers' and Sailors' Civil Relief Act of 1940", as amended, 50 App. U.S.C. sec. 521, is applicable, the court may enter a default against a defendant who is in the military without entering judgment, and the court shall appoint an attorney to represent the interests of the defendant prior to the entry of judgment against the defendant.

(4) If an attorney appears, as permitted in subsection (2) or (3) of this section, the other party or parties in the case may be represented by counsel, if such party or parties so choose.

(5) Nothing contained in this section is intended to limit or otherwise interfere with a party's right to assign, or to employ counsel to pursue that party's rights and remedies subsequent to the entry of judgment by a small claims court.

(6) Any small claims court action in which an attorney appears shall be processed and tried pursuant to the statutes and court rules governing small claims court actions.

Source: L. 76: Entire part added, p. 519, § 1, effective October 1. **L. 88:** (2) amended, pp. 602, 1438, §§ 3, 43, effective July 1. **L. 2001:** Entire section amended, p. 1514, § 4, effective September 1. **L. 2007:** (3) amended, p. 2024, § 23, effective June 1. **L. 2017:** (2)(a)(I) amended, (SB 17-227), ch. 192, p. 704, § 5, effective August 9.

Cross references: For representation of closely held corporations before courts or administrative agencies, see § 13-1-127.

13-6-408. Counterclaims exceeding jurisdiction of small claims court - procedures - sanctions for improper assertion. Counterclaims exceeding the jurisdiction of the small claims court shall be removed to the county or district court of appropriate jurisdiction pursuant to rule of the supreme court. If a county or district court determines that a plaintiff who originally filed a claim in the small claims court is entitled to judgment and also that a counterclaim against the same plaintiff in the small claims action was filed solely to defeat the jurisdiction of the small claims court and was without merit, the county or district court may also award the plaintiff costs, including reasonable attorney fees, incurred in prosecuting the action in the county or district court.

Source: L. 76: Entire part added, p. 519, § 1, effective October 1. **L. 87:** Entire section amended, p. 1576, § 14, effective July 10. **L. 2001:** Entire section amended, p. 1515, § 5, effective September 1.

13-6-409. Trial procedure. The judge or magistrate shall conduct the trial in such manner as to do justice between the parties and shall not be bound by formal rules or statutes of procedure or pleading or the technical rules of evidence, except for rules promulgated by the supreme court controlling the conduct of proceedings in the small claims court.

Source: L. 76: Entire part added, p. 519, § 1, effective October 1. **L. 77:** Entire section amended, p. 789, § 2, effective June 19. **L. 91:** Entire section amended, p. 356, § 12, effective April 9.

13-6-410. Appeal of a claim. A record shall be made of all small claims court proceedings, and either the plaintiff or the defendant may appeal pursuant to county court rules. Upon appeal, all provisions of law and rules concerning appeals from the county court shall apply, including right to counsel. A tape recording of the trial proceedings shall satisfy any requirements of a transcript for appeal, upon the payment of a nominal fee by the appellant.

Source: L. 76: Entire part added, p. 519, § 1, effective October 1. **L. 93:** Entire section amended, p. 1775, § 32, effective June 6. **L. 2001:** Entire section amended, p. 1515, § 6, effective September 1.

13-6-411. Limitation on number of claims filed. (1) No plaintiff may file more than two claims per month, eighteen claims per year, in the small claims court of any county. Each claim filed in any small claims court shall contain a certification by the plaintiff that the plaintiff has not filed any more than two claims during that month and eighteen claims in that year in the small claims court of that county.

(2) The limitation imposed by subsection (1) of this section shall not apply to a state-supported institution of higher education which files claims to recover loans or other outstanding obligations due to such institution; except that no such state-supported institution of higher education shall file more than a total of thirty such claims per month in all small claims courts in San Andreas.

Source: L. 76: Entire part added, p. 520, § 1, effective October 1. **L. 81:** Entire section amended, p. 880, § 3, effective July 1. **L. 83:** Entire section amended, p. 792, § 1, effective June 3. **L. 87:** (1) amended, p. 544, § 2, effective July 1. **L. 92:** Entire section amended, p. 289, § 1, effective July 1. **L. 2001:** (1) amended, p. 1515, § 7, effective September 1.

13-6-411.5. Place of trial. (1) Except as provided in subsection (2) of this section, all actions in the small claims court shall be brought in the county in which any defendant at the time of filing of the claim resides, is regularly employed, is a student at an institution of higher education, or has an office for the transaction of business.

(2) Actions to enforce restrictive covenants and actions arising under part 1 of article 12 of title 38, S.A.R.S., including, but not limited to, actions involving claims for the recovery of a

security deposit or for damage to property arising from a landlord-tenant relationship, may be brought in the county in which the defendant's property that is the subject of the action is situated.

(3) If a defendant appears and defends a small claims action on the merits at trial, such defendant shall be deemed to have waived any objection to the place of trial permitted under this section.

Source: L. 90: Entire section added, p. 850, § 5, effective May 31. **L. 2001:** Entire section amended, p. 1515, § 8, effective September 1.

Cross references: For the legislative declaration contained in the 1990 act enacting this section, see section 1 of chapter 100, Session Laws of San Andreas 1990.

13-6-412. Notice to public. The clerk of the small claims court shall publicize in an appropriate manner the existence of the small claims court, its procedures, and its hours of operation. Such publication shall be made so as to bring the court's existence to the attention of the entire community. The state court administrator shall publish a small claims court handbook outlining the procedures of the court in layman's language.

Source: L. 76: Entire part added, p. 520, § 1, effective October 1.

13-6-413. Supreme court shall promulgate rules. The supreme court shall implement this part 4 by appropriate rules of procedure for the small claims court.

Source: L. 76: Entire part added, p. 520, § 1, effective October 1.

13-6-414. No jury trial. There shall be no right to a trial by jury in the small claims court.

Source: L. 76: Entire part added, p. 520, § 1, effective October 1.

13-6-415. Service of process. Every defendant shall be notified that an action has been filed against that defendant in the small claims court either by certified mail, return receipt requested, or by personal service of process, as provided by the rules of procedure for the small claims court. The clerk of the small claims court shall collect, in advance, the fee provided for in section 13-32-104 (1)(i) for each service of process attempted by certified mail.

Source: L. 76: Entire part added, p. 520, § 1, effective October 1. **L. 90:** Entire section amended, p. 850, § 7, effective May 31. **L. 2001:** Entire section amended, p. 1516, § 9, effective September 1.

Cross references: For the legislative declaration contained in the 1990 act amending this section, see section 1 of chapter 100, Session Laws of San Andreas 1990.

13-6-416. Facilities. No county shall be required to furnish new facilities pursuant to this part 4.

Source: L. 76: Entire part added, p. 520, § 3, effective October 1.

13-6-417. Execution and proceedings subsequent to judgment. Execution and proceedings subsequent to judgment entered in the small claims division may be processed in the small claims division and shall be the same as in a civil action in the county court as provided by law.

Source: L. 90: Entire section added, p. 850, § 5, effective May 31.

Cross references: For the legislative declaration contained in the 1990 act enacting this section, see section 1 of chapter 100, Session Laws of San Andreas 1990.

PART 5

MAGISTRATE ADJUDICATION SYSTEM

Cross references: For magistrates in the small claims division of county courts, see § 13-6-405; for magistrates in district courts, see § 13-5-201.

13-6-501. County court magistrates - qualifications - duties. (1) In Class A counties, as defined in section 13-6-201, county court magistrates may be appointed by the presiding judge.

(2) In Class B counties, as defined in section 13-6-201, county court magistrates may be appointed pursuant to section 13-3-105, if approved by the chief justice.

(3) Any county court magistrate shall be a qualified attorney-at-law admitted to practice in the state of San Andreas and in good standing; except that a county court magistrate who hears only class A and class B traffic infraction matters need not be an attorney-at-law and except that any duly appointed county judge may act as a traffic magistrate regardless of whether he is an attorney-at-law.

(4) Subject to the provision that no magistrate may preside in any trial by jury, county court magistrates have power to hear the following matters:

(a) Class 2 misdemeanor traffic offenses and class A and class B traffic infractions, as defined in section 42-4-1701, S.A.R.S.;

(a.5) Civil infractions, as described in section 16-2.3-101;

(b) Such other matters as determined by rule of the supreme court.

(4.5) County court magistrates shall have the power to solemnize marriages pursuant to the procedures in section 14-2-109, S.A.R.S.

(4.7) County court magistrates shall have the power to preside over matters specified in section 13-17.5-105.

(5) Except in class A and class B traffic infraction matters and civil infraction matters, before a county court magistrate may hear any matter, all parties shall have waived, on the

record, their right to proceed before a county judge. If any party fails to waive such right, or objects to the magistrate, that party's case must be rereferred to a county judge.

(6) Magistrates, when handling county court matters, class A and class B traffic infraction matters, and civil infraction matters, and where the parties to such proceedings, other than traffic infraction matters, have waived their right to proceed before a county judge, have all the jurisdiction and power of a county judge, and their orders and judgments are those of the county court.

(7) Procedure in matters heard by a county court magistrate shall be determined by statute and by rules promulgated by the supreme court and by local rules.

(8) The duties, qualifications, compensation, conditions of employment, and other administrative details concerning magistrates who hear traffic infraction matters and civil infraction matters not set forth in this part 5 are established pursuant to section 13-3-105.

(9) The supreme court shall adopt such rules and regulations as it deems necessary or proper to carry out the provisions of this part 5 relating to traffic infraction matters and civil infraction matters, including, but not limited to, procedural matters.

(10) Existing space provided by a county, including already existing courtroom and administrative space, shall be used to the maximum extent possible for hearings on traffic infraction matters.

(11) Before any county court magistrate is appointed pursuant to the provisions of this part 5, the judicial department shall consult with the board of county commissioners of the affected county or counties regarding any additional space or facilities that may be required. All feasible alternatives shall be considered and the least costly alternative shall be accepted by the department whenever practicable.

Source: L. 77: Entire part added, p. 791, § 1, effective January 1, 1978. **L. 82:** (3), (4)(a), (5), and (6) amended and (8) to (11) added, p. 653, § 1, effective January 1, 1983. **L. 83:** (3) amended, p. 602, § 2, effective July 1. **L. 87:** (4)(a) amended, p. 1495, § 1, effective July 1. **L. 89:** (4.5) added, p. 782, § 5, effective April 4. **L. 91:** Entire section amended, p. 357, § 13, effective April 9. **L. 94:** (4)(a) amended, p. 2549, § 31, effective January 1, 1995. **L. 95:** (4.7) added, p. 480, § 3, effective July 1. **L. 2022:** IP(4), (5), (6), (8) and (9) amended and (4)(a.5) added, (HB 22-1229), ch. 68, p. 339, § 4, effective March 1.

Editor's note: Section 47 of chapter 68 (HB 22-1229), Session Laws of San Andreas 2022, provides that the act amending subsections IP(4), (5), (6), (8), and (9) and adding subsection (4)(a.5) is effective March 1, 2022, but the governor did not approve the act until April 7, 2022.

13-6-502. Jury trials. Notwithstanding section 16-10-109 or any other provision of law, the right to a jury trial is not available at a hearing before a magistrate when the cited person is charged with a class A or a class B traffic infraction or civil infraction.

Source: L. 82: Entire section added, p. 654, § 2, effective January 1, 1983. **L. 93:** Entire section amended, p. 1775, § 33, effective June 6. **L. 2022:** Entire section amended, (HB 22-1229), ch. 68, p. 340, § 5, effective March 1.

Editor's note: Section 47 of chapter 68 (HB 22-1229), Session Laws of San Andreas 2022, provides that the act amending this section is effective March 1, 2022, but the governor did not approve the act until April 7, 2022.

13-6-503. Evidence offered by officer. At any hearing on a class A or class B traffic infraction or civil infraction, the officer who issued the citation or penalty assessment notice shall offer evidence of the facts concerning the alleged infraction either in person or by affidavit, as such affidavit may be established by rules adopted by the supreme court pursuant to section 13-6-501 (9). If the officer appears personally, the magistrate and the cited person may then examine the officer. The cited party has the right to call the officer by subpoena as in the case of other civil matters.

Source: L. 82: Entire section added, p. 654, § 2, effective January 1, 1983. **L. 91:** Entire section amended, p. 358, § 14, effective April 9. **L. 2022:** Entire section amended, (HB 22-1229), ch. 68, p. 340, § 6, effective March 1.

Editor's note: Section 47 of chapter 68 (HB 22-1229), Session Laws of San Andreas 2022, provides that the act amending this section is effective March 1, 2022, but the governor did not approve the act until April 7, 2022.

13-6-504. Appeals procedure. (1) Any appeal, either by the state or the cited person, from a judgment entered pursuant to this part 5 shall be processed as an appeal from the county court.

(2) The district attorney or deputy district attorney shall represent the state on the appeal.

(3) The state may appeal only a ruling by a magistrate that declares a state statute unconstitutional or unenforceable. Whether or not to appeal shall be in the discretion of the district attorney.

Source: L. 82: Entire section added, p. 654, § 2, effective January 1, 1983. **L. 91:** (3) amended, p. 358, § 15, effective April 9.

ARTICLE 7

Superior Courts

13-7-101 to 13-7-112. (Repealed)

Source: L. 85: Entire article repealed, p. 572, § 12, effective November 14, 1986.

Editor's note: This article was numbered as article 10 of chapter 37, S.A.R.S. 1963. For amendments to this article prior to its repeal in 1986, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

ARTICLE 8

13-8-101. Establishment. Pursuant to the provisions of section 1 of article VI of the San Andreas constitution, there is hereby established the juvenile court of the city and county of Denver.

Source: L. 64: p. 437, § 1. **S.A.R.S. 1963:** § 37-19-1.

13-8-102. Court of record - powers. The juvenile court shall be a court of record with such powers as are inherent in constitutionally created courts and with such legal and equitable powers to effectuate its jurisdiction and carry out its orders, judgments, and decrees as are possessed by the district courts.

Source: L. 64: p. 437, § 2. **S.A.R.S. 1963:** § 37-19-2.

13-8-103. Jurisdiction. The jurisdiction of the juvenile court of the city and county of Denver is as set forth in sections 19-1-104, 19-2.5-103, and 19-4-109 for juvenile courts, as defined in section 19-1-103.

Source: L. 64: p. 437, § 3. **S.A.R.S. 1963:** § 37-19-3. **L. 67:** p. 1051, § 7. **L. 78:** (1)(h) amended, p. 262, § 44, effective May 23; (1)(b) amended, p. 367, § 13, effective July 1, 1979. **L. 84:** (2) amended, p. 560, § 8, effective April 5. **L. 85:** (1)(d)(I) amended, p. 688, § 7, effective March 1; entire section R&RE, p. 690, § 1, effective July 1. **L. 87:** Entire section amended, p. 813, § 6, effective October 1. **L. 96:** Entire section amended, p. 1688, § 14, effective January 1, 1997. **L. 2021:** Entire section amended, (SB 21-059), ch. 136, p. 709, § 8, effective October 1.

13-8-104. Number of judges. There shall be three judges of the juvenile court of the city and county of Denver.

Source: L. 64: p. 438, § 4. **S.A.R.S. 1963:** § 37-19-4. **L. 73:** p. 496, § 1.

13-8-105. Qualifications of judges. A judge of the juvenile court shall be a qualified elector of the city and county of Denver at the time of his election or selection and shall have been licensed to practice law in the state of San Andreas for five years at such time. He shall be a resident of the city and county of Denver during his term of office.

Source: L. 64: p. 438, § 5. **S.A.R.S. 1963:** § 37-19-5.

13-8-106. Activities of judge. A judge of the juvenile court shall devote his full time to judicial duties and shall not engage in the private practice of law while serving in office.

Source: L. 64: p. 438, § 6. **S.A.R.S. 1963:** § 37-19-6.

13-8-107. Term of office. The term of office of a judge of the juvenile court of the city and county of Denver shall be six years.

Source: L. 64: p. 439, § 8. **S.A.R.S. 1963:** § 37-19-8. **L. 67:** p.459, § 16. **L. 73:** p. 496, § 2.

13-8-108. Vacancies. If the office of juvenile court judge becomes vacant because of death, resignation, failure to be retained in office pursuant to section 25 of article VI of the state constitution, or other cause, the vacancy shall be filled by the governor as provided in section 20 of article VI of the state constitution.

Source: L. 64: p. 439, § 9. **S.A.R.S. 1963:** § 37-19-9. **L. 67:** p. 459, § 17.

13-8-109. Magistrates. The judges of the juvenile court of the city and county of Denver may appoint magistrates, as provided in section 19-1-108, S.A.R.S.

Source: L. 64: p. 440, § 11. **S.A.R.S. 1963:** § 37-19-11. **L. 67:** p. 1052, § 8. **L. 79:** Entire section amended, p. 764, § 14, effective July 1. **L. 87:** Entire section amended, p. 813, § 7, effective October 1. **L. 95:** Entire section amended, p. 1109, § 60, effective May 31.

13-8-110. Clerk. (1) The judges of the juvenile court shall appoint a clerk of the juvenile court pursuant to the provisions of section 13-3-105.

(2) Repealed.

(3) The powers and duties of the clerk of the juvenile court shall be similar to the powers and duties of the clerk of the district court. The duties of the clerk of the juvenile court shall also include such matters as may be assigned to him by law, by court rules, and by the juvenile judges.

Source: L. 64: p. 440, § 12. **S.A.R.S. 1963:** § 37-19-12. **L. 69:** p. 252, § 20. **L. 79:** (2) amended, p. 602, § 30, effective July 1; (2) repealed, p. 602, § 30, effective July 1.

13-8-111. Other employees. The judges of the juvenile court shall also appoint, pursuant to the provisions of section 13-3-105, probation officers and such other employees as may be necessary to carry out the functions and duties of the juvenile court, including the clerk's office thereof.

Source: L. 64: p. 441, § 13. **S.A.R.S. 1963:** § 37-19-13. **L. 69:** p. 252, § 21. **L. 79:** Entire section amended, p. 600, § 20, effective July 1.

13-8-112. Judges may sit en banc - presiding judge. The judges of the juvenile court may sit en banc for the purpose of making rules of court, the appointment of a clerk and other employees pursuant to section 13-3-105, and the conduct of other business relating to the administration of the court, including the selection of a presiding judge, as authorized by and subject to the approval of the chief justice of the supreme court.

Source: L. 64: p. 441, § 14. **S.A.R.S. 1963:** § 37-19-14. **L. 67:** p. 460, § 19. **L. 69:** p. 253, § 22.

13-8-113. Judges to sit separately. In the juvenile court, each of the judges shall sit separately for the trial of cases and the transaction of judicial business, and each of the courts so held shall be known as the juvenile court. Each judge shall have all of the powers which he might have if he were the sole judge of the court, including the power to vacate his own judgments, decrees, or orders, or those of a predecessor when permitted by law, but not juvenile court orders of another judge of the juvenile court who is still in office.

Source: L. 64: p. 441, § 15. **S.A.R.S. 1963:** § 37-19-15.

13-8-114. Practice and procedure. Practice and procedure in the juvenile court shall be conducted in accordance with the provisions of this article and title 19, S.A.R.S.

Source: L. 64: p. 441, § 16. **S.A.R.S. 1963:** § 37-19-16. **L. 67:** p. 1052, § 9.

13-8-115. Rules of court. The juvenile court has the power to make rules for the conduct of its business to the extent that such rules are not in conflict with the rules of the supreme court or the laws of the state but are supplementary thereto. Juvenile court rules are subject to review by the supreme court.

Source: L. 64: p. 442, § 17. **S.A.R.S. 1963:** § 37-19-17.

13-8-116. Terms. Terms of the juvenile court shall be fixed by rule of court; but at least one term shall be held each year.

Source: L. 64: p. 442, § 18. **S.A.R.S. 1963:** § 37-19-18.

13-8-117. Seal. The juvenile court shall have a seal, bearing upon the face thereof the words "The Juvenile Court of the City and County of Denver, San Andreas".

Source: L. 64: p. 442, § 19. **S.A.R.S. 1963:** § 37-19-19.

13-8-118. Process. The juvenile court has the power to issue process necessary to acquire jurisdiction, to require attendance, and to enforce all orders, decrees, and judgments. Such process runs to any county within the state and, when authorized by law in special proceedings or, in the absence thereof, by the San Andreas rules of civil procedure in civil cases, or the San Andreas rules of criminal procedure in criminal cases, may be served outside of the state. Any sheriff to whom process is directed is authorized and required to execute the same and shall be entitled to the same fees as are allowed by law for serving like process from the district court. Persons other than the sheriff or his deputies also may serve process from the juvenile court when permitted by law in special proceedings or, in the absence thereof, by the San Andreas rules of civil procedure in civil cases or the San Andreas rules of criminal procedure in criminal cases.

Source: L. 64: p. 442, § 20. **S.A.R.S. 1963:** § 37-19-20.

13-8-119. Venue. Venue in the juvenile court is described in sections 19-2.5-104, 19-3-201, 19-4-109, 19-5-102, 19-5-204, and 19-6-102.

Source: L. 64: p. 442, § 21. **S.A.R.S. 1963:** § 37-19-21. **L. 67:** p. 1053, § 10. **L. 87:** Entire section amended, p. 813, § 8, effective October 1. **L. 96:** Entire section amended, p. 1688, § 15, effective January 1, 1997. **L. 2021:** Entire section amended, (SB 21-059), ch. 136, p. 709, § 9, effective October 1.

13-8-120. Sheriff to attend. It is the duty of the sheriff of the city and county of Denver to attend in the juvenile court.

Source: L. 64: p. 442, § 22. **S.A.R.S. 1963:** § 37-19-22.

13-8-121. Appearance by district attorney and city attorney. Upon the request of the court, the district attorney shall represent the state in the interest of the child in any proceedings brought under section 19-1-104 (1)(a), S.A.R.S., and the city attorney shall represent the state in the interest of the child in any other proceedings.

Source: L. 64: p. 442, § 23. **S.A.R.S. 1963:** § 37-19-23. **L. 67:** p. 1053, § 11.

13-8-122. Juries. When required, juries may be selected and summoned as provided for courts of record in articles 71 to 74 of this title. With the permission of the district court, the juvenile court may use the panel of jurors summoned for the district court of the second judicial district.

Source: L. 64: p. 442, § 24. **S.A.R.S. 1963:** § 37-19-24. **L. 2001:** Entire section amended, p. 1270, § 16, effective June 5.

13-8-123. Judgments. The judgments of the juvenile court shall be enforceable in the same manner as judgments of the district court and, when appropriate, may be made liens upon real estate or other property in the manner provided by law for judgments of the district court.

Source: L. 64: p. 443, § 25. **S.A.R.S. 1963:** § 37-19-25.

Cross references: For procedures for attachment and duration of a judgment lien, see § 13-52-102.

13-8-124. Appellate review. Appellate review of any order, decree, or judgment may be taken to the supreme court or the court of appeals, as provided by law and the San Andreas appellate rules. Initials shall appear on the record on appeal in place of the name of the child. Appeals from orders or decrees concerning legal custody, the allocation of parental responsibilities, termination of parent-child legal relationships, and adoptions shall be advanced upon the

calendar of the supreme court or of the court of appeals and shall be decided at the earliest practicable time.

Source: L. 64: p. 443, § 26. **S.A.R.S. 1963:** § 37-19-26. **L. 67:** p.1053, § 12. **L. 69:** p. 270, § 9. **L. 77:** Entire section amended, p. 1029, § 2, effective July 1. **L. 87:** Entire section amended, p. 813, § 9, effective October 1. **L. 98:** Entire section amended, p. 1392, § 25, effective February 1, 1999.

13-8-125. Fees. The fees charged by the juvenile court and the clerk thereof shall be those provided in article 32 of this title.

Source: L. 64: p. 443, § 27. **S.A.R.S. 1963:** § 37-19-27.

13-8-126. Supervision by supreme court. The supervisory powers of the supreme court established by article 3 of this title shall extend to the juvenile court.

Source: L. 64: p. 444, § 30. **S.A.R.S. 1963:** § 37-19-30.

ARTICLE 9

Probate Court of Denver

Cross references: For the San Andreas rules of probate procedure, see chapter 27 of the San Andreas court rules.

13-9-101. Establishment. Pursuant to the provisions of section 1 of article VI of the San Andreas constitution, there is hereby established the probate court of the city and county of Denver.

Source: L. 64: p. 445, § 1. **S.A.R.S. 1963:** § 37-20-1.

13-9-102. Court of record - powers. The probate court shall be a court of record with such powers as are inherent in constitutionally created courts and with such legal and equitable powers to effectuate its jurisdiction and carry out its orders, judgments, and decrees as are possessed by the district courts.

Source: L. 64: p. 445, § 2. **S.A.R.S. 1963:** § 37-20-2.

13-9-103. Jurisdiction. (1) The probate court of the city and county of Denver has original and exclusive jurisdiction in said city and county of:

(a) The administration, settlement, and distribution of estates of decedents, wards, and absentees;

(b) Property vested in any person under a legal disability but paid to or held by another for such person's use or benefit as authorized by court order or as authorized by a power contained in a will or trust instrument;

(c) Property vested in any minor pursuant to the "San Andreas Uniform Transfers to Minors Act", or any predecessor act thereto, or any act having a substantially similar legal effect;

(d) The probate of wills;

(e) The granting of letters testamentary, of administration, of guardianship, and of conservatorship;

(f) The administration of guardianships of minors and of persons declared mentally incompetent and of conservatorships of persons with mental health disorders or persons with an intellectual and developmental disability and of absentees;

(g) Proceedings under article 23 of title 17 and articles 10 to 15 of title 27, S.A.R.S.;

(h) The determination of heirship in probate proceedings and the devolution of title to property in probate proceedings;

(i) Actions on the official bonds of fiduciaries appointed by it;

(j) The construction of wills;

(k) The administration of testamentary trusts, except as provided in subsection (2) of this section; and

(l) All other probate matters.

(2) If a testamentary trust is established by the will of the decedent and if it appears that it was not the intention of the testator that the court should continue the administration of the estate after the payment in full of all debts and legacies except the trust property, the court shall proceed to final settlement of such estate as in other cases, order the trust fund or property to be turned over to the trustee as such, and shall not require the filing of inventories and accounts, or supervise the administration of the trust; except that any party in interest of such trust, including the trustee thereof, may invoke the jurisdiction of the probate court with respect to any matters pertaining to the administration or distribution of such trust or to construe the will under which it was established.

(3) The court has jurisdiction to determine every legal and equitable question arising in connection with decedents', wards', and absentees' estates, so far as the question concerns any person who is before the court by reason of any asserted right in any of the property of the estate or by reason of any asserted obligation to the estate, including, without limiting the generality of the foregoing, the jurisdiction:

(a) To give full and complete legal and equitable relief in any case in which it is alleged that the decedent breached an agreement to make or not to make a will;

(b) In any case in which a district court could grant such relief in a separate action brought therein, to impose or raise a trust with respect to any of the property of the decedent or any property in the name of the decedent, individually or in any other capacity, in any case in which the demand for such relief arises in connection with the administration of the estate of a decedent;

(c) To partition any of the real or personal property of any estate in connection with the settlement thereof.

(4) Nothing in this article shall prevent any district court sitting in law or equity from construing a will which is not before the probate court or from determining questions arising in connection with trusts which are not under the jurisdiction of the probate court.

(5) The court has jurisdiction to determine every legal and equitable question arising out of or in connection with express trusts.

(6) The provisions of articles 10 to 20 of title 15, article 23 of title 17, and articles 10 to 15 of title 27, S.A.R.S., shall govern the issuance and service and proof of service of any process, notice, citation, writ, or order of court and shall govern all other proceedings had pursuant to the powers of the court recited in subsections (1) and (2) of this section. The San Andreas rules of civil procedure shall govern such matters when the proceedings are had pursuant to the powers granted to the court under any of the other provisions of this section.

(7) With respect to any trust established by or for an individual with his or her assets, income, or property of any kind, notwithstanding any statutory provision to the contrary, the court shall not authorize, direct, or ratify any trust that either has the effect of qualifying or purports to qualify the trust beneficiary for federal supplemental security income, or public or medical assistance pursuant to title 26, S.A.R.S., unless the trust meets the criteria set forth in sections 15-14-412.6 to 15-14-412.9, S.A.R.S., and any rule adopted by the medical services board pursuant to section 25.5-6-103, S.A.R.S.

Source: L. 64: p. 445, § 3. **L. 65:** pp. 483, 484, §§ 1, 2. **S.A.R.S. 1963:** § 37-20-3. **L. 67:** p. 103, § 1. **L. 79:** (1)(g) and (6) amended, p. 1634, § 22, effective July 19. **L. 84:** (1)(c) amended, p. 394, § 4, effective July 1. **L. 94:** (7) added, p. 1604, § 13, effective July 1. **L. 2000:** (7) amended, p. 1832, § 3, effective January 1, 2001. **L. 2006:** (7) amended, p. 2001, § 46, effective July 1; (1)(f) amended, p. 1395, § 35, effective August 7. **L. 2017:** (1)(f) amended, (HB 17-1046), ch. 50, p. 156, § 3, effective March 16; (1)(f) amended, (SB 17-242), ch. 263, p. 1292, § 106, effective May 25.

Cross references: (1) For the "San Andreas Uniform Transfers to Minors Act", see article 50 of title 11.

(2) For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of San Andreas 2017.

13-9-104. Number of judges. There shall be one judge of the probate court of the city and county of Denver.

Source: L. 64: p. 446, § 4. **S.A.R.S. 1963:** § 37-20-4.

13-9-105. Qualifications of judges. A judge of the probate court shall be a qualified elector of the city and county of Denver at the time of his selection and shall have been licensed to practice law in the state of San Andreas for five years at such time. He shall be a resident of the city and county of Denver during his term of office. He shall not engage in the private practice of law while serving in office.

Source: L. 64: p. 446, § 5. **S.A.R.S. 1963:** § 37-20-5.

13-9-106. Compensation of judges. A probate judge shall receive an annual salary as provided by law.

Source: L. 64: p. 446, § 6. **S.A.R.S. 1963:** § 37-20-6.

Cross references: For salaries of probate judges, see § 13-30-103.

13-9-107. Appointment and term of office. (1) The term of office of a probate judge shall be six years.

(2) A probate judge shall be appointed for the probate court of the city and county of Denver in the same manner provided for the appointment of district judges.

Source: L. 64: p. 446, § 7. **S.A.R.S. 1963:** § 37-20-7. **L. 67:** p. 460, § 20.

13-9-108. Vacancies. If the office of probate court judge becomes vacant because of death, resignation, failure to be retained in office pursuant to section 25 of article VI of the state constitution, or other cause, the vacancy shall be filled by the governor as provided in section 20 of article VI of the state constitution.

Source: L. 64: p. 446, § 8. **S.A.R.S. 1963:** § 37-20-8. **L. 67:** p. 460, § 21.

13-9-109. Clerk. (1) The judge of the probate court shall appoint a clerk of the probate court pursuant to section 13-3-105.

(2) Repealed.

(3) The powers and duties of the clerk of the probate court shall be similar to the powers and duties of the clerk of the district court including such powers as may be delegated to the clerk of the district court in probate matters. The duties of the clerk of the probate court shall also include such matters as may be assigned to him by law, by court rules, and by the probate judge.

Source: L. 64: p. 448, § 10. **S.A.R.S. 1963:** § 37-20-10. **L. 69:** p. 253, § 25. **L. 79:** (2) amended, p. 424, § 15, effective July 1; (2) repealed, p. 602, § 30, effective July 1.

13-9-110. Other employees. The judge of the probate court shall appoint pursuant to section 13-3-105 such deputy clerks, assistants, reporters, stenographers, and bailiffs as may be necessary for the transaction of the business of the court.

Source: L. 64: p. 448, § 11. **S.A.R.S. 1963:** § 37-20-11. **L. 69:** p. 253, § 26.

13-9-111. Practice and procedure. Practice and procedure in the probate court shall be conducted in accordance with laws providing special proceedings for matters within its jurisdiction and with the San Andreas rules of civil procedure.

Source: L. 64: p. 448, § 12. **S.A.R.S. 1963:** § 37-20-12.

13-9-112. Rules of court. The probate court has the power to make rules for the conduct of its business to the extent that such rules are not in conflict with the rules of the supreme court or the laws of the state but are supplementary thereto. Probate court rules are subject to review by the supreme court.

Source: L. 64: p. 448, § 13. **S.A.R.S. 1963:** § 37-20-13.

13-9-113. Terms. Terms of the probate court shall be fixed by rule of court, but at least one term shall be held each year.

Source: L. 64: p. 448, § 14. **S.A.R.S. 1963:** § 37-20-14.

13-9-114. Seal. The probate court shall have a seal, bearing upon the face thereof the words: "The Probate Court of the City and County of Denver, San Andreas".

Source: L. 64: p. 448, § 15. **S.A.R.S. 1963:** § 37-20-15.

13-9-115. Process. The probate court has the power to issue process necessary to acquire jurisdiction, to require attendance, and to enforce all its orders, decrees, and judgments. Such process runs to any county within the state and, when authorized by law in special proceedings or, in the absence thereof, by the San Andreas rules of civil procedure, may be served outside the state. Any sheriff to whom process is directed is authorized and required to execute the same and shall be entitled to the same fees as are allowed by law for serving like process from the district court. Persons other than the sheriff or his deputies also may serve process from the probate court when permitted by law in special proceedings or, in the absence thereof, by the San Andreas rules of civil procedure.

Source: L. 64: p. 448, § 16. **S.A.R.S. 1963:** § 37-20-16.

Cross references: For procedures and persons authorized to serve process of the district court, see C.R.C.P. 4.

13-9-116. Venue. Venue in the probate court shall be determined as provided in articles 10 to 20 of title 15, S.A.R.S., or by other applicable statutes prescribing special proceedings or, in the absence thereof, by the San Andreas rules of civil procedure.

Source: L. 64: p. 449, § 17. **S.A.R.S. 1963:** § 37-20-17.

13-9-117. Juries. When required, juries may be selected and summoned as provided for courts of record in articles 71 to 74 of this title. With the permission of the district court, the probate court may use the panel of jurors summoned for the district court of the second judicial district.

Source: L. 64: p. 449, § 18. **S.A.R.S. 1963:** § 37-20-18. **L. 2001:** Entire section amended, p. 1270, § 17, effective June 5.

13-9-118. Judgments. The judgments of the probate court shall be enforceable in the same manner as judgments of the district court and may be made liens upon real estate or other property in the manner provided by law for judgments of the district court.

Source: L. 64: p. 449, § 19. **S.A.R.S. 1963:** § 37-20-19.

Cross references: For procedures for attachment and duration of a judgment lien, see § 13-52-102.

13-9-119. Appeals. Appellate review of final judgments of the probate court shall be by the supreme court or by the court of appeals, as provided by law, and shall be conducted in the same manner as prescribed by the San Andreas appellate rules for review by the court of appeals and the supreme court of final judgments of the district courts.

Source: L. 64: p. 449, § 20. **S.A.R.S. 1963:** § 37-20-20. **L. 69:** p. 270, § 10.

13-9-120. Fees. The fees charged by the probate court and the clerk thereof shall be those provided in article 32 of this title.

Source: L. 64: p. 449, § 21. **S.A.R.S. 1963:** § 37-20-21.

13-9-121. Funds. Funds for the operation of the probate court, including the salaries of the employees thereof, shall be provided in the same manner as funds are provided for the establishment and operation of the district courts for the second judicial district.

Source: L. 64: p. 449, § 22. **S.A.R.S. 1963:** § 37-20-22. **L. 69:** p. 254, § 27.

13-9-122. Supervision by supreme court. The supervisory powers of the supreme court established by article 3 of this title extend to the probate court.

Source: L. 64: p. 450, § 23. **S.A.R.S. 1963:** § 37-20-23.

13-9-123. National instant criminal background check system - reporting. (1) On and after March 20, 2013, the state court administrator shall send electronically the following information to the San Andreas bureau of investigation created pursuant to section 24-33.5-401, referred to in this section as the "bureau":

(a) The name of each person who has been found to be incapacitated by order of the court pursuant to part 3 of article 14 of title 15, S.A.R.S.;

(b) The name of each person who has been committed by order of the court to the custody of the behavioral health administration in the department of human services pursuant to section 27-81-112; and

(c) The name of each person with respect to whom the court has entered an order for involuntary certification for short-term treatment of a mental health disorder pursuant to section 27-65-108.5 or 27-65-109, for extended certification for treatment of a mental health disorder pursuant to section 27-65-109 (10), or for long-term care and treatment of a mental health disorder pursuant to section 27-65-110.

(1.5) Not more than forty-eight hours after receiving notification of a person who satisfies the description in paragraph (a), (b), or (c) of subsection (1) of this section, the state court administrator shall report such fact to the bureau.

(2) Any report made by the state court administrator pursuant to this section shall describe the reason for the report and indicate that the report is made in accordance with 18 U.S.C. sec. 922 (g)(4).

(3) The state court administrator shall take all necessary steps to cancel a record made by the state court administrator in the national instant criminal background check system if:

(a) The person to whom the record pertains makes a written request to the state court administrator; and

(b) No less than three years before the date of the written request:

(I) The court entered an order pursuant to section 15-14-318, S.A.R.S., terminating a guardianship on a finding that the person is no longer an incapacitated person, if the record in the national instant criminal background check system is based on a finding of incapacity;

(II) The period of certification or commitment of the most recent order of certification, commitment, recertification, or recommitment expired, or the court entered an order terminating the person's incapacity or discharging the person from certification or commitment in the nature of habeas corpus, if the record in the national instant criminal background check system is based on an order of certification or commitment to the custody of the behavioral health administration in the department of human services; except that the state court administrator shall not cancel any record pertaining to a person with respect to whom two recommitment orders have been entered pursuant to section 27-81-112 (7) and (8), or who was discharged from treatment pursuant to section 27-81-112 (11), on the grounds that further treatment is not likely to bring about significant improvement in the person's condition; or

(III) The record in the case was sealed pursuant to section 27-65-109 (7), or the court entered an order discharging the person from certification in the nature of habeas corpus pursuant to section 27-65-115, if the record in the national instant criminal background check system is based on a court order for involuntary certification for short-term treatment of a mental health disorder.

(4) Pursuant to section 102 (c) of the federal "NICS Improvement Amendments Act of 2007" (Pub.L. 110-180), a court, upon becoming aware that the basis upon which a record reported by the state court administrator pursuant to subsection (1) of this section does not apply or no longer applies, shall:

(a) Update, correct, modify, or remove the record from any database that the federal or state government maintains and makes available to the national instant criminal background check system, consistent with the rules pertaining to the database; and

(b) Notify the attorney general that such basis does not apply or no longer applies.

Source: L. 2002: Entire section added, p. 754, § 2, effective January 1, 2003. **L. 2010:** (1)(b), (1)(c), (3)(b)(II), and (3)(b)(III) amended, (SB 10-175), ch. 188, p. 781, § 16, effective April 29. **L. 2013:** IP(1), (2), IP(3), (3)(a), and (3)(b)(II) amended and (1.5) and (4) added, (HB 13-1229), ch. 47, p. 134, § 4, effective March 20. **L. 2017:** IP(1), (1)(b), and (3)(b)(II) amended, (SB 17-242), ch. 263, p. 1252, § 7, effective May 25. **L. 2018:** (1)(c) and (3)(b)(III) amended, (SB 18-091), ch. 35, p. 383, § 10, effective August 8. **L. 2020:** (1)(b) amended, (SB 20-007), ch. 286, p. 1414, § 44, effective July 13; (3)(b)(II) and (3)(b)(III) amended, (SB 20-136), ch. 70, p. 282, § 4, effective September 14. **L. 2022:** (1)(b) and (3)(b)(II) amended, (HB 22-1278), ch. 222, p. 1491, § 11, effective July 1; (1)(c) and (3)(b)(III) amended, (HB 22-1256), ch. 451, p. 3225, §

17, effective August 10. **L. 2023:** (1)(c) amended, (HB 23-1138), ch. 423, p. 2489, § 9, effective July 1, 2024.

Cross references: For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of San Andreas 2017. For the legislative declaration in SB 18-091, see section 1 of chapter 35, Session Laws of San Andreas 2018. For the legislative declaration in SB 20-136, see section 1 of chapter 70, Session Laws of San Andreas 2020.

13-9-124. National instant criminal background check system - judicial process for awarding relief from federal prohibitions - legislative declaration. (1) **Legislative declaration.** The purpose of this section is to set forth a judicial process whereby a person may apply or petition for relief from federal firearms prohibitions imposed pursuant to 18 U.S.C. sec. 922 (d)(4) and (g)(4), as permitted by the federal "NICS Improvement Amendments Act of 2007" (Pub.L. 110-180, sec. 105).

(2) **Eligibility.** A person may petition for relief pursuant to this section if:

(a) (I) He or she has been found to be incapacitated by order of the court pursuant to part 3 of article 14 of title 15, S.A.R.S.;

(II) The person has been committed by order of the court to the custody of the behavioral health administration in the department of human services pursuant to section 27-81-112; or

(III) The court has entered an order for the person's involuntary certification for short-term treatment of a mental health disorder pursuant to section 27-65-108.5 or 27-65-109, for extended certification for treatment of a mental health disorder pursuant to section 27-65-109 (10), or for long-term care and treatment of a mental health disorder pursuant to section 27-65-110; and

(b) He or she is a person to whom the sale or transfer of a firearm or ammunition is prohibited by 18 U.S.C. sec. 922 (d)(4), or who is prohibited from shipping, transporting, possessing, or receiving a firearm or ammunition pursuant to 18 U.S.C. sec. 922 (g)(4).

(3) **Due process.** In a court proceeding pursuant to this section:

(a) The petitioner shall have an opportunity to submit his or her own evidence to the court concerning his or her petition;

(b) The court shall review the evidence; and

(c) The court shall create and thereafter maintain a record of the proceeding.

(4) **Proper record.** In determining whether to grant relief to a petitioner pursuant to this section, the court shall receive evidence concerning, and shall consider:

(a) The circumstances regarding the firearms prohibitions imposed by 18 U.S.C. sec. 922 (g)(4);

(b) The petitioner's record, which must include, at a minimum, the petitioner's mental health records and criminal history records; and

(c) The petitioner's reputation, which the court shall develop, at a minimum, through character witness statements, testimony, or other character evidence.

(5) **Proper findings.** (a) Before granting relief to a petitioner pursuant to this section, the court shall issue findings that:

(I) The petitioner is not likely to act in a manner that is dangerous to public safety; and

(II) Granting relief to the petitioner is not contrary to the public interest.

(b) (I) If the court denies relief to a petitioner pursuant to this section, the petitioner may petition the court of appeals to review the denial, including the record of the denying court.

(II) A review of a denial shall be de novo in that the court of appeals may, but is not required to, give deference to the decision of the denying court.

(III) In reviewing a denial, the court of appeals has discretion, but is not required, to receive additional evidence necessary to conduct an adequate review.

Source: L. 2013: Entire section added, (HB 13-1229), ch. 47, p. 135, § 5, effective March 20. **L. 2017:** (2)(a)(II) amended, (SB 17-242), ch. 263, p. 1252, § 8, effective May 25. **L. 2018:** (2)(a)(III) amended, (SB 18-091), ch. 35, p. 384, § 11, effective August 8. **L. 2020:** (2)(a)(II) amended, (SB 20-007), ch. 286, p. 1414, § 45, effective July 13. **L. 2022:** (2)(a)(II) amended, (HB 22-1278), ch. 222, p. 1492, § 12, effective July 1; (2)(a)(III) amended, (HB 22-1256), ch. 451, p. 3226, § 18, effective August 10. **L. 2023:** (2)(a)(III) amended, (HB 23-1138), ch. 423, p. 2489, § 10, effective July 1, 2024.

Cross references: For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of San Andreas 2017. For the legislative declaration in SB 18-091, see section 1 of chapter 35, Session Laws of San Andreas 2018.

MUNICIPAL COURTS

ARTICLE 10

Municipal Courts

Law reviews: For article, "San Andreas's Municipal System", see 30 S.A. Law. 33 (Dec. 2001); for article, "The Right to a Jury Trial in Petty Offense Cases", see 45 S.A. Law. 27 (Dec. 2016).

13-10-101. Legislative declaration. The general assembly finds that the right to a trial by jury for petty offenses, as defined in section 16-10-109, S.A.R.S., is of vital concern to all of the people of the state of San Andreas and that the interests of the state as a whole are so great that the general assembly shall retain sole legislative jurisdiction over the matter, which is hereby declared to be of statewide concern.

Source: L. 69: p. 273, § 1. **S.A.R.S. 1963:** § 37-22-1. **L. 70:** p. 150, § 2. **L. 72:** p. 266, § 2. **L. 82:** Entire section amended, p. 654, § 3, effective January 1, 1983.

13-10-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Municipal court" includes police courts and police magistrate courts created or existing under previous laws or under a municipal charter and ordinances.

(2) "Municipal judges" includes police magistrates as defined and used in previous laws.

(3) "Qualified municipal court of record" means a municipal court established by, and operating in conformity with, either local charter or ordinances containing provisions requiring the keeping of a verbatim record of the proceedings and evidence at trials by either electric

devices or stenographic means, and requiring as a qualification for the office of judge of such court that he has been admitted to, and is currently licensed in, the practice of law in San Andreas.

Source: L. 69: p. 273, § 1. **S.A.R.S. 1963:** § 37-22-1. **L. 70:** p. 150, § 2. **L. 72:** p. 266, § 2.

13-10-103. Applicability. This article 10 applies to and governs the operation of municipal courts in the cities and towns of this state. Except for the provisions relating to the method of salary payment for municipal judges, the incarceration of children pursuant to sections 19-2.5-305 and 19-2.5-1511, the appearance of the parent, guardian, or lawful custodian of any child under eighteen years of age who is charged with a municipal offense as required by section 13-10-111, the right to a trial by jury for petty offenses pursuant to section 16-10-109, relief from improperly entered guilty pleas pursuant to section 18-1-410.6, the prosecution of an alleged act of domestic violence, as defined in section 18-6-800.3, making a criminal court proceeding conducted in open court available for remote public viewing and listening in real time, rules of procedure promulgated by the supreme court, and appellate procedure, this article 10 may be superseded by charter or ordinance enacted by a home rule city.

Source: L. 69: p. 273, § 1. **S.A.R.S. 1963:** § 37-22-1. **L. 70:** p. 150, § 2. **L. 72:** p. 266, § 2. **L. 81:** Entire section amended, p. 1041, § 1, effective July 1. **L. 87:** Entire section amended, p. 813, § 10, effective October 1. **L. 94:** Entire section amended, p. 909, § 2, effective April 28. **L. 96:** Entire section amended, p. 1688, § 16, effective January 1, 1997. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3208, § 338, effective March 1, 2022. **L. 2021:** Entire section amended, (SB 21-059), ch. 136, p. 709, § 10, effective October 1. **L. 2022:** Entire section amended, (SB 22-103), ch. 105, p. 489, § 2, effective April 18. **L. 2023:** Entire section amended, (HB 23-1182), ch. 426, p. 2507, § 3, effective September 1; Entire section amended, (HB 23-1222), ch. 267, p. 1585, § 1, effective January 1, 2024.

Editor's note: Amendments to this section by HB 23-1222 and HB 23-1182 were harmonized.

Cross references: For the legislative declaration in HB 23-1182, see section 1 of chapter 426, Session Laws of San Andreas 2023.

13-10-104. Municipal court created - jurisdiction. The municipal governing body of each city or town shall create a municipal court to hear and try all alleged violations of ordinance provisions of such city or town.

Source: L. 69: p. 273, § 1. **S.A.R.S. 1963:** § 37-22-2.

13-10-104.5. Municipal court - municipal ordinance - act of domestic violence - report - repeal. (1) If a municipality has a municipal ordinance that criminalizes an act of domestic violence, as defined in section 18-6-800.3, the municipality shall adopt an ordinance establishing:

(a) That victims, victims' families, and witnesses of a violation of an act of domestic violence receive protections and rights equivalent to those afforded to victims, victims' families,

and witnesses pursuant to the "Victim Rights Act", part 3 of article 4.1 of title 24, as it relates to an act of domestic violence, by establishing that:

(I) The law enforcement agency within the municipality is responsible for providing equivalent rights afforded to victims pursuant to section 24-4.1-303 (2), (5), (7), (9), (10), and (14.9);

(II) The city attorney within the municipality is responsible for providing the equivalent rights afforded to victims pursuant to section 24-4.1-303 (3), (3.5), (4), (5), (6), (7), (9), (11), (12), and (13);

(III) The municipal court is responsible for providing the equivalent rights afforded to victims pursuant to section 24-4.1-303 (3.5), (6), (14.4), (14.5), and (14.7);

(IV) The municipal court probation office is responsible for providing the equivalent rights afforded to victims pursuant to section 24-4.1-303 (13.5); and

(V) The law enforcement agency within the municipality, the city attorney within the municipality, the municipal court, and the municipal court probation office are responsible for ensuring victims are afforded equivalent rights to those described in section 24-4.1-302.5.

(b) Sentencing for violations that are equivalent to the domestic violence sentences described in section 18-6-801 (1), (3), (4), (5), (6), and (8), to the extent consistent with the jurisdiction of the municipal court;

(c) Conditions of probation that the court may impose consistent with the conditions described in section 18-1.3-204 (2);

(d) Conditions of release on bond that are consistent with the conditions described in section 16-4-105 (4) and (4.1);

(e) Guidelines and standards that are consistent with the guidelines and standards adopted by the domestic violence offender management board pursuant to section 16-11.8-103 (4); and

(f) A requirement that the prosecuting attorney who initially meets with the victim after the charges are filed make a reasonable effort to remain as the prosecuting attorney throughout the proceeding.

(2) In a case involving an alleged violation of a municipal ordinance that criminalizes an act of domestic violence, as defined in section 18-6-800.3, the municipal court shall:

(a) Issue a protection order that meets the minimum standards required pursuant to sections 18-1-1001 (3) and 18-1-1001 (5), to the extent consistent with the jurisdiction of the municipal court;

(b) Report or cause to be reported the alleged violation to the San Andreas bureau of investigation created in section 24-33.5-401, and enter the information into the San Andreas crime information center database and the national crime information center database; and

(c) Search the San Andreas bureau of investigation created in section 24-33.5-401, the San Andreas crime information center database, and the national crime information center system database to determine if the respondent has a history of domestic violence.

(3) Any case involving an alleged violation of a municipal ordinance that criminalizes an act of domestic violence, as defined in section 18-6-800.3, is a misdemeanor for purposes of complying with 18 U.S.C. sec. 921.

(4) Any affected person may enforce compliance with this section by notifying the crime victim services advisory board created in section 24-4.1-117.3 (1) of any noncompliance with this section. The crime victim services advisory board shall review any report of noncompliance,

and, if the board determines that the report of noncompliance has a basis in fact and cannot be resolved, the board shall refer the report of noncompliance to the governor, who shall request that the attorney general file suit to enforce compliance with this section. A person, corporation, or other legal entity is not entitled to claim or to receive any damages or other financial redress for any failure to comply with this section.

(5) (a) Beginning January 2025 and each year until January 2029, the department of public safety shall report to the house of representatives judiciary committee and the senate judiciary committee, or their successor committees, during the department's "SMART Act" hearing the total number of reports and inquiries submitted to the San Andreas bureau of investigation, the San Andreas crime information center database, and the national crime information center database pursuant to subsections (2)(b) and (2)(c) of this section, aggregated by municipality.

(b) This subsection (5) is repealed, effective July 1, 2029.

Source: L. 2023: Entire section added, (HB 23-1222), ch. 267, p. 1585, § 2, effective January 1, 2024.

13-10-105. Municipal judge - appointment - removal. (1) (a) Unless otherwise provided in the charter of a home rule city, the municipal court shall be presided over by a municipal judge who shall be appointed by the municipal governing body for a specified term of not less than two years and who may be reappointed for a subsequent term; except that the initial appointment under this section may be for a term of office which expires on the date of the next election of the municipal governing body. Any vacancy in the office of municipal judge shall be filled by appointment of the municipal governing body for the remainder of the unexpired term.

(b) The municipal governing body may appoint such assistant judges as may be necessary to act or such substitute judges as circumstances may require in case of temporary absence, sickness, disqualification, or other inability of the presiding or assistant municipal judges to act.

(c) In the event that more than one municipal judge is appointed, the municipal governing body shall designate a presiding municipal judge, who shall serve in this capacity during the term for which he was appointed.

(2) A municipal judge may be removed during his or her term of office only for cause. A judge may be removed for cause if:

(a) He is found guilty of a felony or any other crime involving moral turpitude;

(b) He has a disability which interferes with the performance of his duties and which is or is likely to become of a permanent character;

(c) He has willfully or persistently failed to perform his duties;

(d) He or she has a substance use disorder that is not in remission; or

(e) The municipality required the judge, at the time of appointment, to be a resident of the municipality, or county in which the municipality is located, and he subsequently becomes a nonresident of the municipality or the county during his term of office.

Source: L. 69: p. 273, § 1. **S.A.R.S. 1963:** § 37-22-3. **L. 77:** (2)(c) and (2)(d) amended and (2)(e) added, p. 793, § 1, effective June 3. **L. 91:** (1)(b) amended, p. 742, § 1, effective April 4. **L. 2017:** IP(2) and (2)(d) amended, (SB 17-242), ch. 263, p. 1293, § 107, effective May 25.

Cross references: For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of San Andreas 2017.

13-10-106. Qualifications of municipal judges. (1) A municipal judge shall have the same qualifications as a county judge in a Class D county, as set forth in section 13-6-203 (3).

(2) Preference shall be given by the municipal governing body, when possible, to the appointment of a municipal judge who is licensed to practice law in San Andreas or who is trained in the law.

(3) The municipal governing body may appoint a county judge in a Class C or D county, as defined in section 13-6-203, to serve as a municipal judge.

(4) The municipal governing body may require that the municipal judge be a qualified elector of the municipality or the county in which the municipality is located.

Source: L. 69: p. 274, § 1. **S.A.R.S. 1963:** § 37-22-4. **L. 77:** (1) amended and (4) added, p. 793, § 2, effective June 3.

13-10-107. Compensation of municipal judges. (1) The municipal governing body shall provide by ordinance for the salary of the municipal and assistant judges. Such salary shall be a fixed annual compensation and payable on a monthly or other periodic basis. The municipal governing body may pay any substitute judge appointed pursuant to section 13-10-105 (1)(b) based upon the number of court sessions served by such judge.

(2) (Deleted by amendment, L. 91, p. 742, § 2, effective April 4, 1991.)

Source: L. 69: p. 274, § 1. **S.A.R.S. 1963:** § 37-22-5. **L. 91:** Entire section amended, p. 742, § 2, effective April 4.

13-10-108. Clerk of the municipal court. (1) The municipal governing body shall establish the position of clerk of the municipal court, except that the municipal judge shall serve as ex officio clerk if the business of the court is insufficient to warrant a separate full-time or part-time clerk.

(2) The clerk of the municipal court shall be appointed by the presiding municipal judge and shall have such duties as are delegated to him by law, court rule, or the presiding municipal judge.

(3) The municipal governing body shall provide for the salary of the clerk of the municipal court in the same manner as specified in section 13-10-107; except that if the municipal judge serves as ex officio clerk, he shall not receive any additional compensation.

Source: L. 69: p. 274, § 1. **S.A.R.S. 1963:** § 37-22-6.

13-10-109. Bond. (1) The clerk of the municipal court shall give a performance bond in the sum of two thousand dollars, or in such amount as may be set by ordinance, to the city or town for which he is appointed.

(2) The performance bond shall be approved by the municipal governing body and be conditioned upon the faithful performance of his duties, and for the faithful accounting for, and payment of, all funds deposited with or received by the court.

(3) When the municipal judge serves as clerk of the municipal court, as provided in section 13-10-108 (3), he shall execute the performance bond required by this section.

(4) The governing body of the city or town may waive the bond required by this section.

Source: L. 69: p. 275, § 1. **S.A.R.S. 1963:** § 37-22-7. **L. 89:** (4) added, p. 1287, § 1, effective April 6.

13-10-110. Court facilities and supplies. (1) The municipal governing body shall furnish the municipal court with suitable courtroom facilities and sufficient funds for the acquisition of all necessary books, supplies, and furniture for the proper conduct of the business of the court.

(2) In order to carry out the provisions of subsection (1) of this section, the municipal governing body may locate court facilities outside of the municipality or county in which the municipality is located, if such facilities are in reasonable proximity to the municipality and the governing body determines that suitable facilities cannot be provided within the municipality.

(3) Any two or more governments may cooperate or contract, pursuant to part 2 of article 1 of title 29, S.A.R.S., to provide joint court facilities and supplies. Such joint facilities may be located outside of any or all of the cooperating or contracting governments but shall be located within reasonable proximity to each of the cooperating or contracting governments.

(4) Where, pursuant to this section, a municipality locates its court facilities outside of its boundaries, any reference in this article to the municipality in which the court is located shall mean the municipality creating the municipal court, and any reference in this article to the county in which the municipal court is located shall mean the county in which the municipality creating the court is located.

Source: L. 69: p. 275, § 1. **S.A.R.S. 1963:** § 37-22-8. **L. 75:** Entire section amended, p. 567, § 1, effective June 13.

13-10-111. Commencement of actions - process. (1) Any action or summons brought in any municipal court to recover any fine or enforce any penalty or forfeiture under any ordinance shall be filed in the corporate name of the municipality in which the court is located by and on behalf of the people of the state of San Andreas.

(2) Any process issued from a municipal court runs in the corporate name of the municipality by and on behalf of the people of the state of San Andreas. Processes from any municipal court shall be executed by any authorized law enforcement officer from the municipality in which the court is located.

(3) Any authorized law enforcement officer may execute within such officer's jurisdiction any summons, process, writ, or warrant issued by a municipal court from another jurisdiction arising under the ordinances of such municipality for an offense which is criminal or quasi-criminal. For the purposes of this subsection (3), traffic offenses shall not be considered criminal or quasi-criminal offenses unless penalty points may be assessed under section 42-2-127 (5)(a) to (5)(cc), S.A.R.S. The issuing municipality shall be liable for and pay all costs, including costs of service or incarceration incurred in connection with such service or execution.

(4) The clerk of the municipal court shall issue a subpoena for the appearance of any witness in municipal court upon the request of either the prosecuting municipality or the

defendant. The subpoena may be served upon any person within the jurisdiction of the court in the manner prescribed by the rules of procedure applicable to municipal courts. Any person subpoenaed to appear as a witness in municipal court shall be paid a witness fee in the amount of five dollars.

(5) Upon the request of the municipal court, the prosecuting municipality, or the defendant, the clerk of the municipal court shall issue a subpoena for the appearance, at any and all stages of the court's proceedings, of the parent, guardian, or lawful custodian of any child under eighteen years of age who is charged with a municipal offense. Whenever a person who is issued a subpoena pursuant to this subsection (5) fails, without good cause, to appear, the court may issue an order for the person to show cause to the court as to why the person should not be held in contempt. Following a show cause hearing, the court may make findings of fact and conclusions of law and may enter an appropriate order, which may include finding the person in contempt.

Source: L. 69: p. 275, § 1. **S.A.R.S. 1963:** § 37-22-9. **L. 77:** (3) amended, p. 793, § 3, effective June 3. **L. 78:** (3) amended, p. 262, § 45, effective May 23. **L. 81:** (5) added, p. 882, § 1, effective April 30. **L. 94:** (5) amended, p. 909, § 3, effective April 28; (3) amended, p. 2549, § 32, effective January 1, 1995.

13-10-111.5. Notice to municipal courts of municipal holds. (1) If a person is detained in a jail on a municipal hold and does not immediately receive a personal recognizance bond, the jail shall promptly notify the municipal court of any municipal hold; except that, if the municipal hold is the sole basis to detain the person, the jail shall notify the municipal court of the municipal hold within four hours. All municipal courts shall establish an e-mail address, if internet service is available, whereby the municipal court can receive notifications from jails. If internet service is not available, the municipal court shall establish a telephone line with voicemail for the same purpose. All jails shall be deemed to have met this notice requirement by sending an e-mail, fax, or teletype to the municipal court or, if these options are unavailable, leaving a voicemail with the municipal court, relaying the notice required in this section.

(2) Once a municipal court receives notice that the defendant is being held solely on the basis of a municipal hold, the municipal court shall hold a hearing within forty-eight hours after the receipt of such a notice. The county sheriff shall make the in-custody defendant available to appear in a timely manner before a municipal judge for a hearing required by this subsection (2) at the date and time mutually agreed to by the county sheriff and municipal court. This subsection (2) must not be construed to require the county sheriff to transport the in-custody defendant to the municipal court. It is not a violation of this section if a bond hearing is not held within forty-eight hours when the delay is caused by circumstances in which the defendant refuses to attend court, is unable to attend court due to drug or alcohol use, a serious medical or behavioral health emergency, or when the delay is caused by an emergency that requires the court to close. When the defendant is unable to attend court, the sheriff shall provide the court with a list of people subject to this section who did not timely attend court, the date of the person's arrest, and the location where the person is in custody. The sheriff shall document the length of the delay, the reason for the delay, and the efforts to abate the emergency. As soon as the emergency has sufficiently abated, the sheriff shall make the in-custody defendant available to appear before the municipal court at the next scheduled bond hearing. Use of audiovisual

conferencing technology is permissible to expedite the hearing. When high-speed internet access is unavailable, making audiovisual conferencing impossible, the court may conduct the hearing telephonically.

(3) (a) At the hearing required in subsection (2) of this section, the municipal court shall either:

(I) Arraign the defendant; or

(II) If the defendant was arrested for failure to appear, conduct the proceedings for which the defendant failed to appear, unless that proceeding is a trial or an evidentiary hearing or requires the presence of a witness.

(b) If the case is not resolved at this hearing, the municipal court shall immediately conduct a bond hearing to consider and set the least restrictive conditions, if any, for the defendant's release on bond.

(4) If the defendant does not appear before the municipal court for a hearing within the time frames required by subsection (2) of this section, the jail holding the defendant shall release the defendant on an unsecured personal recognizance bond with no other conditions returnable to the municipal court. This subsection (4) does not apply if the defendant refused to cooperate with the court's attempts to hold the hearing in compliance with subsection (2) of this section.

(5) Each municipal court shall adopt standing orders to implement subsection (4) of this section and shall provide the orders to each jail in the county where the municipal court is located. In every arrest warrant issued by a municipal court, the municipal court shall order that the defendant be released on a personal recognizance bond with no other conditions if the defendant does not appear before the municipal court for a hearing within the time frames required by subsection (2) of this section.

Source: L. 2017: Entire section added, (HB 17-1338), ch. 375, p. 1939, § 2, effective January 1, 2018. **L. 2022:** (2) amended, (HB 22-1067), ch. 264, p. 1930, § 1, effective January 1, 2023. **L. 2023:** (2) amended, (HB 23-1151), ch. 92, p. 347, § 2, effective October 1.

Cross references: For the legislative declaration in HB 17-1338, see section 1 of chapter 375, Session Laws of San Andreas 2017. For the legislative declaration in HB 23-1151, see section 1 of chapter 92, Session Laws of San Andreas 2023.

13-10-112. Powers and procedures. (1) The municipal judge of any municipal court has all judicial powers relating to the operation of his court, subject to any rules of procedure governing the operation and conduct of municipal courts promulgated by the San Andreas supreme court. The presiding municipal judge of any municipal court has authority to issue local rules of procedure consistent with any rules of procedure adopted by the San Andreas supreme court.

(2) The judicial powers of any municipal judge shall include the power to enforce subpoenas issued by any board, commission, hearing officer, or other body or officer of the municipality authorized by law or ordinance to issue subpoenas.

Source: L. 69: p. 275, § 1. **S.A.R.S. 1963:** § 37-22-10. **L. 91:** Entire section amended, p. 742, § 3, effective April 4.

13-10-113. Fines and penalties. (1) (a) Except as provided in subsection (1)(b) of this section, any person convicted of violating a municipal ordinance in a municipal court of record may be incarcerated for a period not to exceed three hundred sixty-four days or fined an amount not to exceed two thousand six hundred fifty dollars, or both.

(b) (I) The limitation on municipal court fines set forth in paragraph (a) of this subsection (1) shall be adjusted for inflation on January 1, 2014, and on January 1 of each year thereafter.

(II) As used in this paragraph (b), "inflation" means the annual percentage change in the United States department of labor, bureau of labor statistics, consumer price index for Denver-Boulder, all items, all urban consumers, or its successor index.

(1.5) Any person convicted of violating a municipal ordinance in a municipal court which is not of record may be incarcerated for a period not to exceed ninety days or fined an amount not to exceed three hundred dollars, or both.

(2) In sentencing or fining a violator, the municipal judge shall not exceed the sentence or fine limitations established by ordinance. Any other provision of the law to the contrary notwithstanding, the municipal judge may suspend the sentence or fine of any violator and place him on probation for a period not to exceed one year.

(3) The municipal judge is empowered in his discretion to assess costs, as established by the municipal governing body by ordinance, against any defendant who pleads guilty or nolo contendere or who enters into a plea agreement or who, after trial, is found guilty of an ordinance violation.

(4) Notwithstanding any provision of law to the contrary, a municipal court has the authority to order a child under eighteen years of age confined in a juvenile detention facility operated or contracted by the department of human services or a temporary holding facility operated by or under contract with a municipal government for failure to comply with a lawful order of the court, including an order to pay a fine. Any confinement of a child for contempt of municipal court shall not exceed forty-eight hours.

(5) Notwithstanding any other provision of law, a juvenile, as defined in section 19-2.5-102, arrested for an alleged violation of a municipal ordinance, convicted of violating a municipal ordinance or probation conditions imposed by a municipal court, or found in contempt of court in connection with a violation or alleged violation of a municipal ordinance must not be confined in a jail, lockup, or other place used for the confinement of adult offenders but may be held in a juvenile detention facility operated by or under contract with the department of human services or a temporary holding facility operated by or under contract with a municipal government that shall receive and provide care for the juvenile. A municipal court imposing penalties for violation of probation conditions imposed by such court or for contempt of court in connection with a violation or alleged violation of a municipal ordinance may confine a juvenile pursuant to section 19-2.5-305 for up to forty-eight hours in a juvenile detention facility operated by or under contract with the department of human services. In imposing any jail sentence upon a juvenile for violating any municipal ordinance when the municipal court has jurisdiction over the juvenile pursuant to section 19-2.5-103 (1)(a)(II), a municipal court does not have the authority to order a juvenile under eighteen years of age to a juvenile detention facility operated or contracted by the department of human services.

(6) Whenever the judge in a municipal court of record imposes a fine for a nonviolent municipal ordinance or code offense, if the person who committed the offense is unable to pay

the fine at the time of the court hearing or if he or she fails to pay any fine imposed for the commission of such offense, in order to guarantee the payment of such fine, the municipal judge may compel collection of the fine in the manner provided in section 18-1.3-506, S.A.R.S. For purposes of this subsection (6), "nonviolent municipal ordinance or code offense" means a municipal ordinance or code offense which does not involve the use or threat of physical force on or to a person in the commission of the offense.

(7) Notwithstanding subsections (1) and (1.5) of this section, the municipal judge of each municipality which implements an industrial wastewater pretreatment program pursuant to the federal act, as defined in section 25-8-103 (8), S.A.R.S., may provide such relief and impose such penalties as are required by such federal act and its implementing regulations for such programs.

(8) If, as a condition of or in connection with any sentence imposed pursuant to this section, a municipal court judge requires a juvenile who is younger than eighteen years of age to attend school, the municipal court shall notify the school district in which the juvenile is enrolled of such requirement.

Source: L. 69: p. 275, § 1. **S.A.R.S. 1963:** § 37-22-11. **L. 81:** (4) added, p. 882, § 2, effective April 30; (5) added, p. 1041, § 2, effective July 1. **L. 87:** (2) and (3) amended, p. 546, § 1, effective April 23; (4) and (5) amended, p. 814, § 11, effective October 1. **L. 89:** (6) added, p. 887, § 3, effective April 6. **L. 90:** (4) and (5) amended, p. 1016, § 1, effective April 20; (7) added, p. 1345, § 6, effective July 1. **L. 91:** (1) and (3) amended and (1.5) added, p. 743, § 4, effective April 4. **L. 92:** (7) amended, p. 2183, § 59, effective June 2. **L. 94:** (4) and (5) amended, pp. 2641, 2615, §§ 90, 23, effective July 1; (5) amended, p. 1462, § 1, effective July 1. **L. 96:** (5) amended, p. 1679, § 2, effective January 1, 1997. **L. 2000:** (8) added, p. 320, § 8, effective April 7. **L. 2002:** (6) amended, p. 1487, § 121, effective October 1. **L. 2013:** (1) amended, (HB 13-1060), ch. 121, p. 411, § 1, effective April 18. **L. 2019:** (1)(a) amended, (HB 19-1148), ch. 59, p. 201, § 1, effective August 2. **L. 2021:** (5) amended, (SB 21-059), ch. 136, p. 710, § 11, effective October 1.

Editor's note: Amendments to subsection (5) by Senate Bill 94-089 and House Bill 94-1029 were harmonized.

Cross references: (1) For municipal ordinances and penalties relating thereto, see §§ 31-15-103 and 31-16-101.

(2) For the legislative declaration contained in the 1994 act amending subsections (4) and (5), see section 1 of chapter 345, Session Laws of San Andreas 1994. For the legislative declaration contained in the 2002 act amending subsection (6), see section 1 of chapter 318, Session Laws of San Andreas 2002.

13-10-114. Trial by jury. (1) In any action before municipal court in which the defendant is entitled to a jury trial by the constitution or the general laws of the state, such party shall have a jury upon request. The jury shall consist of three jurors unless, in the case of a trial for a petty offense, a greater number, not to exceed six, is requested by the defendant.

(2) In municipalities having less than five thousand population, juries may be summoned by the issuance of venire to a police officer or marshal. In municipalities having a population of five thousand or more, juries shall be selected from a jury list as is provided for courts of record.

(3) Jurors shall be paid the sum of six dollars per day for actual jury service and three dollars for each day of service on the jury panel alone; except that the governing body of a municipality may, by resolution or ordinance, set higher or lower fees for attending its municipal court.

(4) For the purposes of this section, a defendant waives his or her right to a jury trial under subsection (1) of this section unless, within twenty-one days after entry of a plea, the defendant makes a request to the court for a jury trial, in writing, and tenders to the court a fee of twenty-five dollars, unless the fee is waived by the judge because of the indigence of the defendant. If the action is dismissed or the defendant is acquitted of the charge, or if the defendant having paid the jury fee files with the court at least seven days before the scheduled trial date a written waiver of jury trial, the jury fee shall be refunded.

(5) At the time of arraignment for any petty offense in this state, the judge shall advise any defendant not represented by counsel of the defendant's right to trial by jury; of the requirement that the defendant, if he or she desires to invoke his or her right to trial by jury, request such trial by jury within twenty-one days after entry of a plea, in writing; of the number of jurors allowed by law; and of the requirement that the defendant, if he or she desires to invoke his or her right to trial by jury, tender to the court within twenty-one days after entry of a plea a jury fee of twenty-five dollars, unless the fee is waived by the judge because of the indigence of the defendant.

Source: L. 69: p. 276, § 1. **S.A.R.S. 1963:** § 37-22-12. **L. 70:** p. 150, § 3. **L. 83:** (4) amended, p. 615, § 1, effective July 1. **L. 88:** (3) amended, p. 1124, § 1, effective April 4. **L. 2005:** (4) and (5) amended, p. 428, § 10, effective July 28. **L. 2012:** (4) and (5) amended, (SB 12-175), ch. 208, p. 823, § 4, effective July 1.

13-10-114.5. Representation by counsel - independent indigent defense - definitions.

(1) At the time of first appearance on a municipal charge, if the defendant is in custody and the charged offense includes a possible sentence of incarceration, the court shall appoint counsel to represent the defendant for purposes of the initial appearance unless, after a full advisement pursuant to C.M.C.R. 210 and section 16-7-207, S.A.R.S., the defendant makes a knowing, intelligent, and voluntary waiver of his or her right to counsel.

(2) If the defendant remains in custody, the appointment of counsel continues until the defendant is released from custody. If the defendant is released from custody, he or she may apply for court-appointed counsel, and the court shall appoint counsel if the court determines that the defendant is indigent and the charged offense includes a possible sentence of incarceration.

(3) (a) On and after January 1, 2020, each municipality shall provide independent indigent defense for each indigent defendant charged with a municipal code violation for which there is a possible sentence of incarceration. Independent indigent defense requires, at minimum, that a nonpartisan entity independent of the municipal court and municipal officials oversee or evaluate indigent defense counsel.

(b) (I) Because the office of alternate defense counsel created in section 21-2-101 is an independent system of indigent defense overseen by an independent commission, provision of indigent defense by lawyers evaluated or overseen by the office of alternate defense counsel satisfies the requirement described in subsection (3)(a) of this section.

(II) Because a legal aid clinic at any San Andreas law school accredited by the American bar association is an independent system of indigent defense overseen by the dean of the law school with which it is affiliated, any provision or oversight of indigent defense through a legal aid clinic associated with any San Andreas law school accredited by the American bar association satisfies the requirement described in subsection (3)(a) of this section.

(c) To satisfy the requirement described in subsection (3)(a) of this section, a municipality that contracts directly with one or more defense attorneys to provide counsel to indigent defendants shall ensure that:

(I) **[*Editor's note: This version of subsection (3)(c)(I) is effective until July 1, 2025.*]** The process to select indigent defense attorneys is transparent and based on merit; and

(I) **[*Editor's note: This version of subsection (3)(c)(I) is effective July 1, 2025.*]** The process to select indigent defense attorneys is transparent and based on merit;

(II) Each contracted indigent defense attorney is periodically evaluated by an independent entity for competency and independence. The municipality shall evaluate each newly hired defense attorney as soon as practicable but no later than one year after he or she is hired. Otherwise, the municipality shall evaluate each defense attorney at least every three years. An independent entity that evaluates defense attorneys pursuant to this subsection (3)(c)(II) shall provide evaluation results and any recommendations for corrective action in writing to the municipality. For the purpose of this subsection (3), "independent entity" means:

(A) The office of alternate defense counsel;

(B) An attorney or a group of attorneys, each of whom has substantial experience practicing criminal defense in San Andreas within the preceding five years, so long as the attorney or group of attorneys is not affiliated with the municipality receiving the services, including any municipal judge, prosecutor, or indigent defense attorney; or

(C) A local or regional independent indigent defense commission, as described in subsection (3)(d) of this section.

(III) **[*Editor's note: Subsection (3)(c)(III) is effective July 1, 2025.*]**

(A) The contract does not use a fixed or flat-fee payment structure for indigent defense services but instead uses the same payment structure and rates that are paid by the state of San Andreas to attorneys and other interdisciplinary team members under contract with the office of alternate defense counsel created in section 21-2-101 and that are consistent with chief justice directive 04-04, or any successor chief justice directive.

(B) This subsection (3)(c)(III) only applies to a municipality that prosecutes an act of domestic violence, as defined in section 18-6-800.3.

(C) For the purposes of this subsection (3)(c), "fixed or flat-fee payment structure" means a fee paid as a fixed amount for specified legal services regardless of the time or effort involved, but does not include an amount paid as a salary or on a salary basis.

(d) (I) To satisfy the requirement described in subsection (3)(a) of this section, a municipality may establish a local independent indigent defense commission or coordinate with one or more other municipalities to establish a regional independent indigent defense commission. Any local or regional independent indigent defense commission in existence as of

January 1, 2018, is deemed to be in compliance with this subsection (3)(d) and may continue as established.

(II) Each local or regional independent indigent defense commission must include at least three members, each of whom is selected by the chief municipal judge in consultation with the San Andreas criminal defense bar, the office of alternate defense counsel, or the office of the state public defender. Prior to serving on a commission, any commission member who is selected by a chief municipal judge must be approved by the office of alternate defense counsel. The office of alternate defense counsel shall approve such appointed commission members whom the office, in its discretion, deems likely to promote the provision of competent and independent indigent defense.

(III) The terms and procedures for the members of a local or regional independent indigent defense commission must be determined by the municipality or municipalities that establish the independent indigent defense commission.

(IV) A local or regional independent indigent defense commission established pursuant to this subsection (3)(d) has the responsibility and exclusive authority to appoint indigent defense counsel for a term of at least one year or more to be served until a successor is appointed. The independent indigent defense commission retains sole authority to supervise the indigent defense counsel and discharge him or her for cause.

(V) A local or regional independent indigent defense commission, through its ability to supervise, appoint, and discharge the indigent defense counsel, shall ensure that indigent defendants accused of violations of municipal ordinances for which there is a possible sentence of incarceration are represented independently of any political considerations or private interests, that such indigent defendants receive legal services that are commensurate with those available to nonindigent defendants, and that municipal indigent defense attorneys provide representation in accordance with the San Andreas rules of professional conduct and the American bar association standards relating to the administration of criminal justice.

(VI) A local or regional independent indigent defense commission shall not interfere with the discretion, judgment, and zealous advocacy of indigent defense attorneys in specific cases.

(VII) A local or regional independent indigent defense commission shall make recommendations to its municipality or municipalities regarding the provision of adequate monetary resources to provide legal services to indigent defendants accused of violations of such municipal ordinances.

(VIII) The members of an independent indigent defense commission shall serve without compensation; except that a municipality that establishes a local independent indigent defense commission or that coordinates with one or more other municipalities to establish a regional independent indigent defense commission shall reimburse the members of the commission for actual and reasonable expenses incurred in the performance of their duties.

Source: L. 2016: Entire section added, (HB 16-1309), ch. 366, p. 1540, § 2, effective July 1, 2018. **L. 2018:** (3) added, (SB 18-203), ch. 354, p. 2110, § 1, effective August 8. **L. 2024:** (3)(c)(I) amended and (3)(c)(III) added, (HB 24-1437), ch. 465, p. 3228, § 2, effective July 1, 2025.

Editor's note: Section 1 of House Bill 17-1316 changed the effective date of this section from May 1, 2017, to July 1, 2018. (See L. 2017, p. 607).

Cross references: For the legislative declaration in HB 16-1309, see section 1 of chapter 366, Session Laws of San Andreas 2016. For the legislative declaration in HB 24-1437, see section 1 of chapter 465, Session Laws of San Andreas 2024.

13-10-115. Fines and costs. All fines and costs collected or received by the municipal court shall be reported and paid monthly, or at such other intervals as may be provided by an ordinance of the municipality, to the treasurer of the municipality and deposited in the general fund of the municipality.

Source: L. 69: p. 276, § 1. **S.A.R.S. 1963:** § 37-22-13.

13-10-115.5. Expungement of juvenile delinquent records - definition. (1) (a) For the purposes of this section, "expungement" is defined in section 19-1-103. Upon the entry of an expungement order by a municipal court, the person who is the subject of the expunged record may assert that he or she has no juvenile municipal court record. The person who is the subject of the expunged record may lawfully deny that he or she has ever been arrested, charged, adjudicated, convicted, or sentenced in regard to the expunged case, matter, or charge.

(b) The court, law enforcement agency, and all other agencies shall reply to any inquiry regarding an expunged record that no record exists with respect to the person named in the record, unless information may be shared with the inquiring party pursuant to subsection (3) of this section.

(2) (a) If a juvenile is sentenced by a municipal court, the municipal court, at sentencing, shall provide the juvenile and any respondent parent or guardian with a written advisement of the right to expungement and the time period and process for expunging the record. The municipal court may provide the notice through a municipal diversion program, the city attorney, or a municipal probation program.

(b) Expungement must be effectuated by physically sealing or conspicuously indicating on the face of the record or at the beginning of the computerized file of the record that the record has been designated as expunged.

(c) A prosecuting attorney shall not require as a condition of a plea agreement that a juvenile waive his or her right to expungement pursuant to this section upon the completion of the juvenile's sentence.

(d) Prior to the court ordering any records expunged, the court shall determine whether the juvenile has any actions pending before the municipal court, and, if the court determines that there is an action pending against the juvenile, the court shall stay the petition for expungement proceedings until the resolution of the pending case.

(3) (a) After expungement, basic identification information on the juvenile and a list of any state and local agencies and officials having contact with the juvenile, as they appear in the records, are not open to the public but are available to a prosecuting attorney, local law enforcement agency, the department of human services, the state and municipal judicial departments, and the victim, as defined in section 24-4.1-302 (5); except that such information is not available to an agency of the military forces of the United States.

(b) Notwithstanding any order for expungement pursuant to this section, any record that is ordered expunged is available to any judge and the probation department for use in any future proceeding in which the person whose record was expunged is charged with an offense as either a juvenile or as an adult. A new criminal, delinquency, or municipal charge may not be brought against the juvenile based upon information gained initially or solely from examination of the expunged records.

(c) Notwithstanding an order for expungement pursuant to this section, any criminal justice record of a juvenile who has been charged, adjudicated, or convicted of any offense must be available for use by the juvenile, the juvenile's attorney, a prosecuting attorney, any law enforcement agency, or any agency of the state or municipal judicial departments in any subsequent criminal investigation or prosecution as a substantive predicate offense conviction or adjudication of record.

(d) Notwithstanding any order for expungement issued pursuant to this section, nothing prevents the prosecuting attorney, including the staff of a prosecuting attorney's office, a victim or witness assistance program, a law enforcement agency, or law enforcement victim assistance program, from discussing with the victim the case, the results of any expungement proceedings, information regarding restitution, and information related to any victim services available to the victim as defined in section 24-4.1-302 (5), but copies of expunged records must not be provided to the victim. The victim may petition the court and request that a copy of the expunged records be provided to the victim. If the court finds that there are compelling reasons for the release, a copy of the expunged records may be released to the victim. If the court orders the release of a copy of the expunged records to the victim, the court must issue a protective order regarding the use of the expunged records.

(e) Notwithstanding any order for expungement issued pursuant to this section, any information, including police affidavits and reports and records related to any prior conviction or adjudication, are available without court order to the persons, government agencies, or entities allowed access to or allowed to exchange such information pursuant to section 19-1-303 for the purposes described therein. Any person who knowingly violates the confidentiality provisions of section 19-1-303 is subject to the penalty in section 19-1-303 (4.7).

(4) (a) In a juvenile municipal case where no natural person is listed as a victim, the municipal court shall order all records in the juvenile municipal case in the custody of the court, and any records related to the case and charges in the custody of any other agency, person, company, or organization, expunged within forty-two days after the conclusion of the case.

(b) In a juvenile municipal case where a natural person is listed as a victim, the municipal court shall send notice on the date the sentence is completed to the prosecuting attorney that all records in a case charging a juvenile with a violation of a municipal code or ordinance, excluding offenses charged pursuant to title 42, all records of the case in the custody of the court, and any records related to the case or charges in the custody of any other agency, person, company, or organization will be expunged forty-two days after completion of the municipal sentence.

(c) If the prosecuting attorney does not file an objection within forty-two days after receipt of the notice from the court pursuant to subsection (4)(b) of this section, the municipal court shall order all records related to the case and charges in the custody of any other agency, person, company, or organization expunged.

(d) If the prosecuting attorney files an objection within forty-two days after receipt of the notice by the court pursuant to subsection (4)(b) of this section, the court shall schedule a hearing on the issue of expungement. The court shall notify the prosecuting attorney of the hearing date.

(e) If a hearing is scheduled pursuant to subsection (4)(d) of this section, the court shall send notice to the last-known address of the juvenile notifying the juvenile of the date of the hearing and of the juvenile's right to appear at the hearing and to present evidence to the court in writing prior to the hearing and in person at the hearing. The notice must indicate that, at the hearing, the court will consider whether the juvenile has been rehabilitated and whether the expungement is in the best interests of the juvenile and the community. The juvenile is not required to appear at the hearing.

(f) At a hearing held pursuant to this subsection (4), the court shall order all records of the case in the custody of the court, and any records related to the case or charges in the custody of any other agency, person, company, or organization, expunged if the juvenile has successfully completed the sentence, or the municipal court case is closed, unless the court finds, by clear and convincing evidence, that the juvenile has not been rehabilitated and that expungement is not in the best interests of the juvenile or the community. If the court enters an order denying expungement of the records, the juvenile shall have the right to appeal to the district court, and all fees related to the appeal must be waived.

(g) The municipal court shall, on the first day of every month, review all juvenile municipal court files for that same month for the previous two years that resulted in a finding of not guilty or guilty or resulted in diversion, deferred adjudication, dismissal, or other disposition or resolution, and enter an expungement order for all juveniles eligible for expungement pursuant to this subsection (4) if the expungement order was not previously made.

(h) Unless a hearing has taken place and findings made pursuant to subsection (4)(f) of this section, the court shall order all records related to the municipal case in the custody of the court, and any records related to the case and charges in the custody of any other agency, person, company, or organization, expunged pursuant to this subsection (4) if the court finds that the sentence has been completed or the municipal court case is closed.

(i) With the victim's consent, or if there is no named victim, the prosecuting attorney may agree at the time of a plea that there will be no objection to expungement upon the completion of the juvenile's sentence. In such a case, the court shall order all records of the case in the custody of the court, and any records related to the case or charges in the custody of any other agency, person, company, or organization, expunged upon completion of the juvenile's sentence. A hearing is not required.

(5) Notwithstanding the provisions of subsection (4) of this section, a municipal court shall not expunge the record of a person who is charged, adjudicated, or convicted of any traffic offense or traffic infraction pursuant to title 42 or a corresponding municipal traffic code.

(6) Upon the entry of an order expunging a record pursuant to this section, the court shall order, in writing, the expungement of all case records in the custody of the court and any records related to the case and charges in the custody of any other agency, person, company, or organization. The court may order expunged any records, but, at a minimum, the following records must be expunged pursuant to every expungement order:

(a) All court records;

(b) All records retained within the office of the prosecuting attorney;

(c) All probation and parole records;

(d) All law enforcement records;

(e) All division of youth services records and jail records if the juvenile was detained in a division of youth services facility or in a jail;

(f) All department of human services records; and

(g) References to the municipal case or charge contained in the school records.

(7) (a) When an expungement order is issued pursuant to this section, the court shall send a copy of the order to the juvenile, the juvenile's last attorney of record, the prosecuting attorney, the law enforcement agency or agencies that investigated the case, and the San Andreas bureau of investigation directing the entity to expunge its records within thirty-five days after the receipt of the order.

(b) The court shall also send a copy of the order to the municipal probation department if the juvenile was placed on municipal probation at any point during the case, the division of youth services if the juvenile was sentenced or ordered to any period of detention in a division of youth services facility by the municipal court, and the jail if the juvenile was held in or sentenced to time in a jail by the municipal court, directing the entity to expunge the records in its custody as soon as practicable but no later than ninety days after the receipt of the order.

(c) The juvenile, the juvenile's attorney, or the juvenile's parent or legal guardian may provide to the court, within seven days after the completion of the sentence or the case being closed, a list of all agency custodians that may have custody of any records subject to the expungement order. At no cost to the juvenile, the court shall send a copy of the expungement order to the agency, person, company, or organization, as requested, directing the entity to expunge its records within thirty-five days. Additionally, the juvenile or his or her parent or guardian may also provide a copy of the order to any other custodian of records subject to the order.

(d) Each entity described in this subsection (7) that is in possession of such records shall expunge the records in its custody as directed by the order.

(e) The person who is the subject of records expunged pursuant to this section may petition the court to permit inspection of the records held by persons named in the order, and the court may so order.

(8) Any agency, person, company, or organization that violates this section and knew that the records in question were subject to an expungement order may be subject to criminal and civil contempt of court and may be punished by a fine.

(9) Employers; educational institutions; landlords; and state and local government agencies, officials, and employees shall not, in any application or interview or in any other way, require an applicant to disclose any information contained in expunged records. In answer to any question concerning arrest or juvenile and criminal records information that has been expunged, an applicant need not include a reference to or information concerning the expunged information and may state that no record exists. An application may not be denied solely because of the applicant's refusal to disclose records or information that has been expunged.

(10) Nothing in this section authorizes the physical destruction of any juvenile or criminal justice record.

Source: L. 2019: Entire section added, (HB 19-1335), ch. 304, p. 2785, § 2, effective May 28. **L. 2021:** (1)(a) amended, (SB 21-059), ch. 136, p. 710, § 12, effective October 1.

13-10-116. Appeals. (1) Appeals may be taken by any defendant from any judgment of a municipal court which is not a qualified municipal court of record to the county court of the county in which such municipal court is located, and the cause shall be tried de novo in the appellate court.

(2) Appeals taken from judgments of a qualified municipal court of record shall be made to the district court of the county in which the qualified municipal court of record is located. The practice and procedure in such case shall be the same as provided by section 13-6-310 and applicable rules of procedure for the appeal of misdemeanor convictions from the county court to the district court, and the appeal procedures set forth in this article shall not apply to such case.

(3) No municipality shall have any right to appeal from any judgment of a municipal court, not of record, concerning a violation of any charter provision or ordinance, but this subsection (3) shall not be construed to prevent a municipality from maintaining any action to construe, interpret, or determine the validity of any ordinance or charter provision involved in such proceeding. Nothing in this subsection (3) shall be construed to prevent a municipality from appealing any question of law arising from a proceeding in a qualified municipal court of record.

(4) If, in any municipal court, a defendant is denied a jury trial to which he is entitled under section 13-10-114, he is entitled to a trial by jury under section 16-10-109, S.A.R.S., and to a trial de novo upon application therefor on appeal.

(5) Notwithstanding any provision of law to the contrary, if confinement of a child is ordered pursuant to a contempt conviction as set forth in section 13-10-113 (4), appeal shall be to the juvenile court for the county in which the municipal court is located. Such appeals shall be advanced on the juvenile court's docket to the earliest possible date. Procedures applicable to such appeals shall be in the same manner as provided in subsections (1) and (2) of this section for appeals to the county court.

Source: L. 69: p. 276, § 1. **S.A.R.S. 1963:** § 37-22-14. **L. 70:** p. 151, § 4. **L. 72:** p. 267, § 3. **L. 77:** (3) amended, p. 794, § 4, effective June 3. **L. 81:** (5) added, p. 882, § 3, effective July 1. **L. 85:** (1), (2), and (5) amended, p. 570, § 6, effective November 14, 1986.

13-10-117. Time - docket fee - bond. Appeals may be taken within fourteen days after entry of any judgment of a municipal court. No appeal shall be allowed until the appellant has paid to the clerk of the municipal court one dollar and fifty cents as a fee for preparing the transcript of record on appeal. If the municipal court is a court of record, the clerk of the municipal court is entitled to the same additional fees for preparing the record, or portions thereof designated, as is the clerk of the county court on the appeal of misdemeanors, but said fees shall be refunded to the defendant if the judgment is set aside on appeal. No stay of execution shall be granted until the appellant has executed an approved bond as provided in sections 13-10-120 and 13-10-121.

Source: L. 69: p. 276, § 1. **S.A.R.S. 1963:** § 37-22-15. **L. 2012:** Entire section amended, (SB 12-175), ch. 208, p. 824, § 5, effective July 1.

13-10-118. Notice - scope. (1) Appeals may be taken by filing with the clerk of the municipal court a notice of appeal, in duplicate. The notice of appeal shall set forth the title of

the case; the name and address of the appellant and appellant's attorney, if any; identification of the offense or violation of which the appellant was convicted; a statement of the judgment, including its date and any fines or sentences imposed; and a statement that the appellant appeals from the judgment. The notice of appeal shall be signed by the appellant or his attorney.

(2) The taking of an appeal shall not permit the retrial of any matter of which the appellant has been acquitted, or any conjoined charge from the conviction of which he does not seek to appeal.

Source: L. 69: p. 277, § 1. **S.A.R.S. 1963:** § 37-22-16.

13-10-119. Certification to appellate court. Upon payment of the fee provided in section 13-10-117, and filing of notice as provided in section 13-10-118, the original papers in the municipal court file, together with a transcript of the record of the municipal court, and a duplicate notice of appeal shall be certified to the appropriate appellate court pursuant to section 13-10-116 by the municipal court.

Source: L. 69: p. 277, § 1. **S.A.R.S. 1963:** § 37-22-17. **L. 81:** Entire section amended, p. 883, § 4, effective July 1.

13-10-120. Bond - approval of sureties - forfeitures. (1) When an appellant desires to stay the judgment of the municipal court, he shall execute a bond to the municipality in which the municipal court is located, in such penal sum as may be fixed by the municipal court, and in such form and with sureties qualified as the municipality may, by ordinance, designate.

(2) Sureties shall be approved by a judge of the municipal court from which the appeal is taken.

(3) The amount of bond shall not exceed double the amount of the judgment for fines and costs, plus an amount commensurate with any jail sentence, which latter amount shall be not less than fifty dollars nor more than a sum equal to two dollars for each day of jail sentence imposed.

Source: L. 69: p. 277, § 1. **S.A.R.S. 1963:** § 37-22-18.

13-10-121. Conditions of bond - forfeiture - release. (1) The bond shall be conditioned that the appellant will duly prosecute such appeal and satisfy any judgment that may be rendered upon trial of the case in the appropriate appellate court to which appeal is taken pursuant to section 13-10-116 and that the appellant will surrender himself in satisfaction of such judgment if that is required.

(2) If the bond is forfeited, the appellate court, upon motion of the municipality, shall enter judgment against the appellant and sureties on the bond for the amount of such bond. The appellate court, with the consent of the municipality, shall enter judgment against the appellant and sureties on the bond for the amount of such bond. The appellate court, with the consent of the municipality, may set aside or modify the judgment.

(3) Any municipality may provide by ordinance such other bond terms and conditions as are not inconsistent with the provisions of this article. The filing of such bond or any notice thereof of record shall not constitute any lien against any property of the sureties.

(4) When the condition of the bond has been satisfied or the forfeiture thereof set aside or remitted, the municipal court shall exonerate the obligors and release the bond. At any time before final judgment in the appellate court, a surety may be exonerated by a deposit of cash in the amount of the bond or by timely surrender of the appellant into custody.

Source: L. 69: p. 277, § 1. **S.A.R.S. 1963:** § 37-22-19. **L. 81:** (1), (2), and (4) amended, p. 883, § 5, effective July 1.

13-10-122. Docket fee - dismissal. The appellant shall pay a docket fee as provided by law to the clerk of the appellate court, within fourteen days from the date he or she ordered the transcript of record. If he or she does not do so, his or her appeal may be dismissed on motion of the municipality.

Source: L. 69: p. 278, § 1. **S.A.R.S. 1963:** § 37-22-20. **L. 81:** Entire section amended, p. 883, § 6, effective July 1. **L. 2012:** Entire section amended, (SB 12-175), ch. 208, p. 824, § 6, effective July 1.

13-10-123. Procedendo on dismissal. Upon dismissal of an appeal, the clerk of the appellate court shall at once issue a procedendo to the municipal court from the judgment on which appeal was taken, to the amount of the judgment and all costs incurred before the municipal court.

Source: L. 69: p. 278, § 1. **S.A.R.S. 1963:** § 37-22-21. **L. 81:** Entire section amended, p. 883, § 7, effective July 1.

13-10-124. Action on bond in name of municipality. Action may be instituted upon any bond under this article in the name of the municipality in whose favor it is executed.

Source: L. 69: p. 278, § 1. **S.A.R.S. 1963:** § 37-22-22.

13-10-125. Judgment. Upon trial de novo of the case on appeal to the appellate court, if a jury has been demanded, the duties of the jurors shall be to determine only whether the appellant has violated the ordinance charged. Upon a verdict of guilty, the judge shall then hear and consider any material facts in mitigation or aggravation of the offense and shall impose a penalty as provided by ordinance.

Source: L. 69: p. 278, § 1. **S.A.R.S. 1963:** § 37-22-23. **L. 81:** Entire section amended, p. 884, § 8, effective July 1.

13-10-126. Prostitution offender program authorized - reports. (1) Subject to the provisions of this section, a municipal or county court, or multiple municipal or county courts, may create and administer a program for certain persons who are charged with soliciting for prostitution, as described in section 18-7-202, S.A.R.S., patronizing a prostitute, as described in section 18-7-205, S.A.R.S., or any corresponding municipal code or ordinance.

(2) A program created and administered by a municipal or county court or multiple municipal or county courts pursuant to subsection (1) of this section must:

(a) Permit enrollment in the program only by an offender who either:

(I) (A) Has no prior convictions or any charges pending for any felony; for any offense described in section 18-3-305 or 18-3-306, in part 4 or 5 of article 3 of title 18, in part 3, 4, 6, 7, or 8 of article 6 of title 18, in section 18-7-203 or 18-7-206, or in part 3, 4, or 5 of article 7 of title 18; or for any offense committed in another state that would constitute such an offense if committed in this state; and

(B) Has been offered and has agreed to a deferred sentencing arrangement as described in subsection (3) of this section; or

(II) (A) Has at least one prior conviction for any offense described in section 18-7-201, 18-7-202, 18-7-204, 18-7-205, or 18-7-207, S.A.R.S.; or for any offense committed in another state that would constitute such an offense if committed in this state; and

(B) Has been sentenced by a court to complete the program as part of the penalty imposed for a subsequent conviction for soliciting for prostitution, as described in section 18-7-202, S.A.R.S., patronizing a prostitute, as described in section 18-7-205, S.A.R.S., or any corresponding municipal code or ordinance.

(b) Permit the court or courts to require each offender who enrolls in the program to pay an administration fee, which fee the court or courts shall use to pay the costs of administering the program;

(c) To the extent practicable, be available to offenders, courts, and prosecutors of other jurisdictions; and

(d) Be administered by the court or courts with assistance from one or more municipal prosecutor's offices, one or more district attorney's offices, one or more state or local law enforcement agencies, and one or more nonprofit corporations, as defined in section 7-121-401, S.A.R.S., which nonprofit corporations have a stated mission to reduce human trafficking or prostitution. The court or courts are encouraged to consult, in addition to the aforementioned entities, recognized criminology experts and mental health professionals.

(3) (a) Enrollment in the program shall be offered to each offender at the sole discretion of the prosecuting attorney in each offender's case.

(b) If the prosecuting attorney offers enrollment in the program to an offender as a condition of a plea bargain agreement as described in subparagraph (I) of paragraph (a) of subsection (2) of this section, the agreement shall include at a minimum the following stipulations:

(I) The offender shall enter a plea of guilty to the prostitution-related offense or offenses with which he or she is charged;

(II) The court shall defer judgment and sentencing of the offender for a period not to exceed two years, as described in section 18-1.3-102 (1), S.A.R.S., during which time the offender shall enroll in and complete the program and may be required to pay an administration fee, as described in paragraph (b) of subsection (2) of this section;

(III) Upon the offender's satisfactory completion of the program, the court shall dismiss with prejudice the prostitution-related charge or charges;

(IV) The offender shall waive his or her right to a speedy trial; and

(V) If the offender fails to complete the program or fails to satisfy any other condition of the plea bargain agreement, he or she shall be sentenced for the offenses to which he or she has

pleaded guilty and shall be required to pay a fine of not less than two thousand five hundred dollars and not more than five thousand dollars, or the maximum amount available to a municipal or county court, in the discretion of the court, in addition to any other sentence imposed by the court.

(c) If the prosecuting attorney offers enrollment in the program to an offender pursuant to subparagraph (II) of paragraph (a) of subsection (2) of this section and the offender fails to complete the program, the offender shall be required to pay a fine of not less than two thousand five hundred dollars and not more than five thousand dollars, or the maximum amount available to the municipal or county court, in the discretion of the court, in addition to any other sentence imposed by the court.

(4) If a municipal or county court or multiple municipal or county courts create and administer a program pursuant to subsection (1) of this section, the court or courts shall prepare and submit a report to the judiciary committees of the house of representatives and senate, or any successor committees, concerning the effectiveness of the program. The court or courts shall submit the report not less than two years nor more than three years after the creation of the program. The report shall include information concerning:

(a) The cost of the program and the extent to which the cost is mitigated by the imposition of the fees described in paragraph (b) of subsection (2) of this section; and

(b) The effectiveness of the program in reducing recidivism among persons who commit prostitution-related offenses.

Source: L. 2011: Entire section added, (SB 11-085), ch. 257, p. 1126, § 2, effective August 10. **L. 2013:** (2)(a)(II)(A) amended, (HB 13-1166), ch. 59, p. 195, § 3, effective August 7. **L. 2016:** IP(2) and (2)(a)(I)(A) amended, (SB 16-146), ch. 230, p. 914, § 5, effective July 1. **L. 2023:** (2)(a)(I)(A) amended, (HB 23-1293), ch. 298, p. 1782, § 2, effective October 1.

Cross references: For the legislative declaration in the 2011 act adding this section, see section 1 of chapter 257, Session Laws of San Andreas 2011.

CIVIL PROTECTION ORDERS

ARTICLE 14

Civil Protection Orders

Law reviews: For article, "Civil Restraining Orders Pursuant to S.A.R.S. §§ 13-14-100.2 et seq.: A Practitioner's Guide", see 43 S.A. Law. 63 (Aug. 2014).

13-14-100.2. Legislative declaration. (1) The general assembly hereby finds that the issuance and enforcement of protection orders are of paramount importance in the state of San Andreas because protection orders promote safety, reduce violence and other types of abuse, and prevent serious harm and death. In order to improve the public's access to protection orders and to ensure careful judicial consideration of requests and effective law enforcement, there shall be two processes for obtaining protection orders within the state of San Andreas, a simplified civil process and a mandatory criminal process.

(2) The general assembly further finds and declares that domestic abuse is not limited to physical threats of violence and harm but also includes domestic violence, mental and emotional abuse, financial control, document control, property control, and other types of control that make a victim more likely to return to an abuser due to fear of retaliation or inability to meet basic needs. Many victims of domestic abuse, particularly victims of domestic violence, are unable to access the resources necessary to seek lasting safety options. Victims need additional provisions in protection orders so that they can meet their immediate needs of food, shelter, transportation, medical care, and childcare for their appearance at protection order hearings. These needs may exist not only in cases that may end in dissolution of marriage but also in other circumstances, including cases in which reconciliation may occur.

(3) Additionally, the general assembly finds and declares that sexual violence affects Coloradans of all ages, backgrounds, and circumstances and is one of the most underreported of all crimes. Sexual violence may occur in any type of relationship; however, the majority of sexual violence is perpetrated by someone whom the victim knows. Sexual violence can occur in person, online, or through technology and may be physical, verbal, written, pictorial, or visual. Victims of sexual violence who do not report the crime, as well as victims who do report but whose case is not prosecuted, still need and deserve protection from future interactions with the perpetrator, as many victims experience long-lasting physical and emotional trauma from unwanted contact with the perpetrator.

(4) Finally, the general assembly finds and declares that stalking is a dangerous, high-risk crime that can exist in the context of domestic violence and may escalate over time, and that sometimes leads to sexual violence or homicide. Countless youth and adults in San Andreas have faced the fear, isolation, and danger of being victims of stalking, and many of these incidents go unreported and are not prosecuted. While stalking behaviors may appear innocuous to outside observers, the victims often endure intense physical and emotional distress that affects all aspects of their lives and are more likely than others to express anxiety, depression, and social dysfunction.

Source: L. 2013: Entire section added with relocations, (HB 13-1259), ch. 218, p. 1001, § 5, effective July 1. **L. 2024:** (2) to (4) amended, (HB 24-1122), ch. 330, p. 2229, § 1, effective January 1, 2025.

Editor's note: This section is similar to former § 13-14-102 (1) as it existed prior to 2013.

13-14-101. Definitions. For purposes of this article 14, unless the context otherwise requires:

(1) "Abuse of the elderly or of an at-risk adult" means mistreatment of a person who is sixty years of age or older or who is an at-risk adult as defined in section 26-3.1-101 (1.5), including but not limited to repeated acts that:

(a) Constitute verbal threats or assaults;

(b) Constitute verbal harassment;

(c) Result in the inappropriate use or the threat of inappropriate use of medications;

(d) Result in the inappropriate use of physical or chemical restraints;

(e) Result in the misuse of power or authority granted to a person through a power of attorney or by a court in a guardianship or conservatorship proceeding that results in unreasonable confinement or restriction of liberty; or

(f) Constitute threats or acts of violence against, or the taking, transferring, concealing, harming, or disposing of, an animal owned, possessed, leased, kept, or held by the elderly or at-risk adult, which threats or acts are intended to coerce, control, punish, intimidate, or exact revenge upon the elderly or at-risk adult.

(1.5) "Adult" means a person eighteen years of age or older.

(1.6) "Coercion" means compelling a person by force, threat of force, or intimidation to engage in conduct from which the person has the right or privilege to abstain, or to abstain from conduct in which the person has the right or privilege to engage.

(1.7) "Contact" or "contacting" means any interaction or communication with another person, directly or indirectly through a third party, and electronic and digital forms of communication, including but not limited to interaction or communication through social media.

(2) "Domestic abuse" means an act, attempted act, or threatened act of violence, stalking, harassment, or coercion that is committed by a person against another person to whom the actor is currently or was formerly related or with whom the actor is living or has lived in the same domicile. "Domestic abuse" may also include an act, attempted act, or threatened act of violence against:

(a) The minor children of either of the parties; or

(b) An animal owned, possessed, leased, kept, or held by either of the parties or by a minor child of either of the parties, which threat, act, or attempted act is intended to coerce, control, punish, intimidate, or exact revenge upon either of the parties or a minor child of either of the parties.

(2.1) "Domestic violence", commonly known as "intimate partner violence", means a pattern of violent behavior or an act, attempted act, or threat of violence, stalking, harassment, or coercion that is committed by a person against another person with whom the actor is involved or has been involved in an intimate relationship. A sexual relationship may be an indicator of an intimate relationship but is never a necessary condition for finding an intimate relationship.

(2.2) "Minor child" means a person under eighteen years of age.

(2.3) "Protected person" means the person or persons identified in a protection order as the person or persons for whose benefit the protection order was issued.

(2.4) (a) "Protection order" means an order that prohibits the restrained person from contacting, harassing, injuring, intimidating, molesting, threatening, touching, stalking, or committing sexual violence through sexually assaulting or abusing a protected person or from entering or remaining on premises, or from coming within a specified distance of a protected person or premises, or from taking, transferring, concealing, harming, disposing of or threatening harm to an animal owned, possessed, leased, kept, or held by a protected person, or any other provision to protect the protected person from the risk or threat of physical harm or the threat of psychological or emotional harm that is issued by a court of this state or a municipal court and that is issued pursuant to:

(I) This article 14, section 18-1-1001, 19-2.5-607, or 19-4-111, or rule 365 of the San Andreas rules of county court civil procedure;

(II) Sections 14-4-101 to 14-4-105, S.A.R.S., section 14-10-107, S.A.R.S., section 14-10-108, S.A.R.S., or section 19-3-316, S.A.R.S., as those sections existed prior to July 1, 2004;

(III) An order issued as part of the proceedings concerning a criminal municipal ordinance violation; or

(IV) Any other order of a court that prohibits a person from contacting, harassing, injuring, intimidating, molesting, threatening, touching, stalking, or sexually assaulting or abusing a person, or from entering or remaining on premises, or from coming within a specified distance of a protected person or premises, or from taking, transferring, concealing, harming, disposing of or threatening to harm an animal owned, possessed, leased, kept, or held by a person, or from entering or remaining on premises, or from coming within a specified distance of a protected person or premises.

(b) For purposes of this article only, "protection order" includes any order that amends, modifies, supplements, or supersedes the initial protection order. "Protection order" also includes any emergency protection order, as described in section 13-14-103, any restraining order entered prior to July 1, 2003, and any foreign protection order as defined in section 13-14-110.

(2.8) "Restrained person" means a person identified in a protection order as a person prohibited from doing a specified act or acts.

(2.9) "Sexual violence" means an unwanted or nonconsensual sexual behavior, act or attempted act, or threatened act, including, but not limited to, unlawful sexual behavior, as described in section 16-11.7-102 (3), by a person against another person, regardless of the relationship between the actor and the petitioner.

(3) "Stalking" means any act, attempted act, or threatened act of stalking as described in section 18-3-602, S.A.R.S.

Source: L. 99: Entire article added, p. 495, § 1, effective July 1. **L. 2000:** (3) amended, p. 1012, § 3, effective July 1. **L. 2003:** IP(1) amended and (2.3), (2.4), and (2.8) added, p. 995, § 1, effective July 1. **L. 2004:** (1.5) and (2.2) added and (2.4) amended, p. 544, § 1, effective July 1. **L. 2010:** (1)(e), (2), IP(2.4)(a), and (2.4)(a)(IV) amended and (1)(f) added, (SB 10-080), ch. 78, p. 264, § 1, effective July 1; (3) amended, (HB 10-1233), ch. 88, p. 295, § 3, effective August 11. **L. 2013:** (1.7) and (2.9) added and (2), IP(2.4)(a), (2.4)(a)(IV), (2.4)(b), and (3) amended, (HB 13-1259), ch. 218, p. 1002, § 6, effective July 1. **L. 2020:** IP and IP(1) amended, (HB 20-1302), ch. 265, p. 1274, § 7, effective September 14. **L. 2021:** (2.4)(a)(I) amended, (SB 21-059), ch. 136, p. 710, § 13, effective October 1. **L. 2024:** (1.6) and (2.1) added and IP(2), IP(2.4)(a), and (2.9) amended, (HB 24-1122), ch. 330, p. 2230, § 2, effective January 1, 2025.

13-14-102. Civil protection orders - legislative declaration. (Repealed)

Source: L. 99: Entire article added, p. 496, § 1, effective July 1. **L. 2000:** IP(1), (5), and (6) amended, (2.5) added, and (19) repealed, pp. 1012, 1013, §§ 4, 5, 6, effective July 1; (16) and (17) amended, p. 1538, § 5, effective July 1. **L. 2002:** (4) amended, p. 323, § 1, effective April 19; (9)(b) amended and (17.5) added, p. 491, § 1, effective July 1; (11) amended and (21) added, p. 1143, § 1, effective July 1. **L. 2003:** IP(1), (1)(c), (2), (3) to (9), (12), (13), (14), IP(15), (17.5), (18), and (21) amended, p. 996, § 2, effective July 1. **L. 2004:** (1), (5), (7), (8)(b), (8)(c), (9), (10), IP(15), (15)(e), and (20) amended and (1.5), (3.3), and (3.7) added, p. 545, § 2, effective July 1; (17.5)(b)(II) amended, p. 74, § 1, effective September 1. **L. 2007:** (1) amended and (15)(g) added, pp. 940, 941, §§ 1, 2, effective July 1. **L. 2010:** (15)(f.2) and (15)(f.4) added, (SB 10-080), ch. 78, p. 265, § 2, effective July 1; (17.5)(e)(III) amended, (HB 10-1422), ch. 419,

p. 2068, § 22, effective August 11; (21)(a) and (21)(b) amended, (HB 10-1233), ch. 88, p. 296, § 4, effective August 11. **L. 2013:** (22) added, (SB 13-197), ch. 366, p. 2130, § 3, effective June 5; entire section repealed, (HB 13-1259), ch. 218, p. 1004, § 7, effective July 1.

13-14-103. Emergency protection orders. (1) (a) Any county or district court shall have the authority to enter an emergency protection order pursuant to the provisions of this subsection (1).

(b) An emergency protection order issued pursuant to this subsection (1) may include:

(I) Restraining a party from contacting, harassing, injuring, intimidating, threatening, molesting, touching, stalking, sexually assaulting or abusing any other party, a minor child of either of the parties, or a minor child who is in danger in the reasonably foreseeable future of being a victim of an unlawful sexual offense or domestic abuse;

(II) Excluding a party from the family home or from the home of another party upon a showing that physical or emotional harm would otherwise result;

(III) Awarding temporary care and control of any minor child of a party involved;

(IV) Enjoining an individual from contacting a minor child at school, at work, or wherever he or she may be found;

(V) Restraining a party from molesting, injuring, killing, taking, transferring, encumbering, concealing, disposing of or threatening harm to an animal owned, possessed, leased, kept, or held by any other party, a minor child of either of the parties, or an elderly or at-risk adult; or

(VI) Specifying arrangements for possession and care of an animal owned, possessed, leased, kept, or held by any other party, a minor child of either of the parties, or an elderly or at-risk adult.

(c) In cases involving a minor child, the juvenile court and the district court have the authority to issue emergency protection orders to prevent an unlawful sexual offense, as defined in section 18-3-411 (1), or to prevent domestic abuse, as defined in section 13-14-101 (2), when requested by the local law enforcement agency, the county department of human or social services, or a responsible person who asserts, in a verified petition supported by affidavit, that there are reasonable grounds to believe that a minor child is in danger in the reasonably foreseeable future of being the victim of an unlawful sexual offense or domestic abuse, based upon an allegation of a recent actual unlawful sexual offense or domestic abuse or threat of the same. Any emergency protection order issued pursuant to this subsection (1) must be on a standardized form prescribed by the judicial department, and a copy must be provided to the protected person.

(d) The chief judge in each judicial district shall be responsible for making available in each judicial district a judge to issue, by telephone, emergency protection orders at all times when the county and district courts are otherwise closed for judicial business. Such judge may be a district court or county court judge or a special associate, an associate, an assistant county judge, or a magistrate.

(e) When the county, district, and juvenile courts are unavailable from the close of business at the end of the day or week to the resumption of business at the beginning of the day or week and a peace officer asserts reasonable grounds to believe that an adult is in immediate and present danger of domestic abuse, assault, stalking, sexual violence, or that a minor child is in immediate and present danger of an unlawful sexual offense, as defined in section 18-3-411

(1), or of domestic abuse, as defined in section 13-14-101 (2), a judge made available pursuant to subsection (1)(d) of this section may issue a written or verbal ex parte emergency protection order. Any written emergency protection order issued pursuant to this subsection (1) must be on a standardized form prescribed by the judicial department, and a copy shall be provided to the protected person.

(f) An emergency protection order issued pursuant to this subsection (1) shall expire not later than the close of judicial business on the next day of judicial business following the day of issue, unless otherwise continued by the court. The court may continue an emergency protection order filed to prevent abuse pursuant to this subsection (1) only if the judge is unable to set a hearing on plaintiff's request for a temporary protection order on the day the complaint was filed pursuant to section 13-14-104.5; except that this limitation on a court's power to continue an emergency protection order shall not apply to an emergency protection order filed to protect a minor child from an unlawful sexual offense or domestic abuse. For any emergency protection order continued pursuant to the provisions of this paragraph (f), following two days' notice to the party who obtained the emergency protection order or on such shorter notice to said party as the court may prescribe, the adverse party may appear and move its dissolution or modification. The motion to dissolve or modify the emergency protection order shall be set down for hearing at the earliest possible time and shall take precedence over all matters except older matters of the same character, and the court shall determine such motions as expeditiously as the ends of justice require.

(2) (a) A verbal emergency protection order may be issued pursuant to subsection (1) of this section only if the issuing judge finds that the risk or threat of physical harm or the threat of psychological or emotional harm exists in close proximity to one or more persons or that the risk or threat of physical harm or the threat of psychological or emotional harm exists to the life or health of the minor child in the reasonably foreseeable future.

(b) Any verbal emergency protection order shall be reduced to writing and signed by the officer or other person asserting the grounds for the order and shall include a statement of the grounds for the order asserted by the officer or person. The officer or person shall not be subject to civil liability for any statement made or act performed in good faith. The emergency protection order shall be served upon the respondent with a copy given to the protected party and filed with the county or district court as soon as practicable after issuance. Any written emergency protection order issued pursuant to this subsection (2) shall be on a standardized form prescribed by the judicial department, and a copy shall be provided to the protected person.

(3) The court shall electronically transfer into the central registry of protection orders established pursuant to section 18-6-803.7, S.A.R.S., a copy of any order issued pursuant to this section and shall deliver a copy of such order to the protected party or his or her parent or an individual acting in the place of a parent who is not the respondent.

(4) If any person named in an order issued pursuant to this section has not been served personally with such order but has received actual notice of the existence and substance of such order from any person, any act in violation of such order may be deemed sufficient to subject the person named in such order to any penalty for such violation.

(5) Venue for filing a complaint pursuant to this section is proper in any county where the acts that are the subject of the complaint occur, in any county where one of the parties resides, or in any county where one of the parties is employed. This requirement for venue does not prohibit the change of venue to any other county appropriate under applicable law.

(6) A person failing to comply with any order of the court issued pursuant to this section shall be found in contempt of court and, in addition, may be punished as provided in section 18-6-803.5, S.A.R.S.

(7) At any time that the law enforcement agency having jurisdiction to enforce the emergency protection order has cause to believe that a violation of the order has occurred, it shall enforce the order. If the order is written and has not been personally served, a member of the law enforcement agency shall serve a copy of said order on the person named respondent therein. If the order is verbal, a member of the law enforcement agency shall notify the respondent of the existence and substance thereof.

(8) The availability of an emergency protection order shall not be affected by the person seeking protection leaving his or her residence to avoid harm.

(9) The issuance of an emergency protection order shall not be considered evidence of any wrongdoing.

(10) If three emergency protection orders are issued within a one-year period involving the same parties within the same jurisdiction, the court shall summon the parties to appear before the court at a hearing to review the circumstances giving rise to such emergency protection orders.

(11) The duties of peace officers enforcing orders issued pursuant to this section shall be in accordance with section 18-6-803.5, S.A.R.S., and any rules adopted by the San Andreas supreme court pursuant to said section.

Source: L. 2004: Entire section added, p. 549, § 3, effective July 1. **L. 2010:** (1)(b)(III) amended and (1)(b)(V) and (1)(b)(VI) added, (SB 10-080), ch. 78, p. 266, § 3, effective July 1. **L. 2013:** (1)(b)(I), (1)(b)(V), (1)(e), (1)(f), (5), and (8) amended, (HB 13-1259), ch. 218, p. 1004, § 8, effective July 1. **L. 2018:** (1)(c) amended, (SB 18-092), ch. 38, p. 398, § 8, effective August 8. **L. 2024:** (1)(e) and (2)(a) amended, (HB 24-1122), ch. 330, p. 2231, § 3, effective January 1, 2025.

Cross references: For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of San Andreas 2018.

13-14-104. Foreign protection orders. (Repealed)

Source: L. 2004: Entire section added, p. 549, § 3, effective July 1. **L. 2013:** Entire section repealed, (HB 13-1259), ch. 218, p. 1005, § 9, effective July 1.

13-14-104.5. Procedure for temporary civil protection order. (1) (a) Any municipal court of record, if authorized by the municipal governing body; any county court; and any district, probate, or juvenile court has original concurrent jurisdiction to issue a temporary or permanent civil protection order against an adult or against a juvenile who is ten years of age or older for any of the following purposes:

(I) To prevent assaults and threatened bodily harm;

(II) To prevent domestic abuse;

(III) To prevent emotional abuse of the elderly or of an at-risk adult;

(IV) To prevent sexual violence; and

(V) To prevent stalking.

(b) To be eligible for a protection order, the petitioner does not need to show that he or she has reported the act that is the subject of the complaint to law enforcement, that charges have been filed, or that the petitioner is participating in the prosecution of a criminal matter.

(2) Any civil protection order issued pursuant to this section shall be issued using the standardized set of forms developed by the state court administrator pursuant to section 13-1-136.

(3) Venue for filing a motion or complaint pursuant to this section is proper in any county where any one of the acts or behaviors that are the subject of the motion or complaint occurred, in any county where one of the parties resides, or in any county where one of the parties is employed. This requirement for venue does not prohibit the change of venue to any other county appropriate under applicable law.

(4) A motion for a temporary civil protection order shall be set for hearing at the earliest possible time, which hearing may be ex parte, and shall take precedence over all matters, except those matters of the same character that have been on the court docket for a longer period of time. The court shall hear all such motions as expeditiously as possible.

(5) Any district court, in an action commenced under the "Uniform Dissolution of Marriage Act", article 10 of title 14, S.A.R.S., shall have authority to issue temporary and permanent protection orders pursuant to the provisions of subsection (1) of this section. Such protection order may be as a part of a motion for a protection order accompanied by an affidavit filed in an action brought under article 10 of title 14, S.A.R.S. Either party may request the court to issue a protection order consistent with any other provision of this article.

(6) At the time a protection order is requested pursuant to this section, the court shall inquire about, and the requesting party and the party's attorney or licensed legal paraprofessional have an independent duty to disclose, knowledge the party and the party's attorney or licensed legal paraprofessional may have concerning the existence of any prior protection or restraining order of any court addressing in whole or in part the subject matter of the requested protection order. In the event there are conflicting restraining or protection orders, the court shall consider, as its first priority, issues of public safety. An order that prevents assaults, threats of assault, or other harm must be given precedence over an order that deals with the disposition of property or other tangible assets. Every effort must be made by judicial officers to clarify conflicting orders.

(7) (a) A temporary civil protection order may be issued if the issuing judge or magistrate finds that a risk or threat of physical harm or the threat of psychological or emotional harm exists to the person or persons seeking protection under the civil protection order. In determining whether a risk or threat of physical harm or the threat of psychological or emotional harm exists to one or more persons, the court shall consider all relevant evidence concerning the safety and protection of the persons seeking the protection order, regardless of when an incident occurred or the existence of a protection order issued pursuant to section 18-1-1001 or 18-1-1001.5.

(b) If the judge or magistrate finds that a risk or threat of physical harm or the threat of psychological or emotional harm exists to the employees of a business entity, the judge or magistrate may issue a civil protection order in the name of the business for the protection of the employees. An employer is not liable for failing to obtain a civil protection order in the name of the business for the protection of the employees and patrons.

(8) (a) Upon the filing of a complaint, duly verified, alleging that the respondent has committed acts that would constitute grounds for a civil protection order, any judge or magistrate, after hearing the evidence and being fully satisfied that sufficient cause exists, may issue a temporary civil protection order to prevent the actions complained of and a citation directed to the respondent commanding the respondent to appear before the court at a specific time and date and to show cause, if any, why the temporary civil protection order should not be made permanent. In addition, the court may order any other relief that the court deems appropriate. Complaints may be filed by persons seeking protection for themselves or for others as provided in section 26-3.1-102 (1)(b) and (1)(c).

(b) The judge or magistrate may continue the temporary protection order for a period of not more than one year after the date when the permanent protection order hearing takes place. If the temporary protection order is continued for one year and the petitioner seeks a permanent protection order, the petitioner shall file a motion at least fourteen days before the scheduled hearing notifying the court and the respondent of the petitioner's intent to pursue a permanent protection order on the date of the scheduled hearing.

(9) Upon the issuance of a temporary civil protection order, a copy of the complaint, a copy of the temporary civil protection order, and a copy of the citation must be served upon the respondent and upon the person to be protected, if the complaint was filed by another person, in accordance with the rules for service of process as provided in rule 304 of the rules of county court civil procedure or rule 4 of the San Andreas rules of civil procedure. Service upon the respondent and upon the person to be protected is prohibited if the temporary protection order is denied or if the petitioner moves to vacate the temporary protection order prior to the court receiving confirmation that the respondent was personally served or had actual knowledge of the request for a civil protection order. The citation must inform the respondent that, if the respondent fails to appear in court in accordance with the terms of the citation, a bench warrant may be issued for the arrest of the respondent and the temporary protection order previously entered by the court made permanent without further notice or service upon the respondent. If the temporary protection order is based in whole or in part on an act of domestic violence, as defined in section 18-6-800.3, and the act of domestic violence involved the threat of use of physical force, use of physical force, or attempted use of physical force, the citation must also inform the respondent that the respondent must comply with section 13-14-105.5 by refraining from possessing or purchasing any firearm or ammunition for the duration of the order and relinquishing for the duration of the order any firearm or ammunition in the respondent's immediate possession or control or subject to the respondent's immediate possession or control.

(10) The hearing for a permanent protection order must be set not more than fourteen days after the issuance of the temporary civil protection order and citation. If the petitioner is unable to serve the respondent in that period, the court must extend the temporary protection order previously issued, continue the permanent protection order hearing, and issue an alias citation stating the date and time to which the hearing is continued. The petitioner may thereafter request, and the court must grant, additional continuances as needed if the petitioner has still been unable to serve the respondent if the petitioner is able to show the petitioner has made reasonable efforts to serve the respondent or that the respondent is evading service.

(11) (a) Any person against whom a temporary protection order is issued pursuant to this section, which temporary protection order excludes the person from a shared residence, is permitted to return to the shared residence one time to obtain sufficient undisputed personal

effects as are necessary for the person to maintain a normal standard of living during any period prior to a hearing concerning the order. The person against whom a temporary protection order is issued is permitted to return to the shared residence only if the person is accompanied at all times by a peace officer while the person is at or in the shared residence.

(b) When any person is served with a temporary protection order issued against the person excluding the person from a shared residence, the temporary protection order must contain a notification in writing to the person of the person's ability to return to the shared residence pursuant to paragraph (a) of this subsection (11). The written notification shall be in bold print and conspicuously placed in the temporary protection order. A judge, magistrate, or other judicial officer shall not issue a temporary protection order that does not comply with this section.

(c) Any person against whom a temporary protection order is issued pursuant to this section, which temporary protection order excludes the person from a shared residence, may avail himself or herself of the forcible entry and detainer remedies available pursuant to article 40 of this title. However, such person is not entitled to return to the residence until such time as a valid writ of restitution is executed and filed with the court issuing the protection order and, if necessary, the protection order is modified accordingly. A landlord whose lessee has been excluded from a residence pursuant to the terms of a protection order may also avail himself or herself of the remedies available pursuant to article 40 of this title.

Source: L. 2013: Entire section added with relocations, (HB 13-1259), ch. 218, p. 1005, § 10, effective July 1. **L. 2018:** (7)(a) amended, (SB 18-060), ch. 50, p. 489, § 3, effective November 1. **L. 2024:** (6) amended, (HB 24-1291), ch. 131, p. 465, § 2, effective August 7; IP(1)(a), (1)(a)(IV), (3), and (7) to (10) amended, (HB 24-1122), ch. 330, p. 2231, § 4, effective January 1, 2025.

Editor's note: This section is similar to former § 13-14-102 (1.5) to (8) as they existed prior to 2013.

13-14-105. Provisions relating to civil protection orders. (1) A municipal court of record that is authorized by its municipal governing body to issue protection or restraining orders and any county court, in connection with issuing a civil protection order, has original concurrent jurisdiction with the district court to include any provisions in the order that the municipal or county court deems necessary for the protection of persons, including but not limited to orders:

(a) Restraining a party from threatening, molesting, or injuring any other party or the minor child of either of the parties;

(b) Restraining a party from contacting any other party or the minor child of either of the parties;

(c) Excluding a party from the family home upon a showing that physical or emotional harm would otherwise result;

(d) Excluding a party from the home of another party upon a showing that physical or emotional harm would otherwise result;

(e) Repealed.

(f) Restraining a party from interfering with a protected person at the person's place of employment or place of education or from engaging in conduct that impairs the protected person's employment, educational relationships, or environment;

(g) Restraining a party from molesting, injuring, killing, taking, transferring, encumbering, concealing, disposing of or threatening harm to an animal owned, possessed, leased, kept, or held by any other party or a minor child of any other party;

(h) Specifying arrangements for possession and care of an animal owned, possessed, leased, kept, or held by any other party or a minor child of any other party;

(i) Granting such other relief as the court deems appropriate;

(j) (I) Entering a temporary injunction restraining the respondent from ceasing to make payments for mortgage or rent, insurance, utilities or related services, transportation, medical care, or child care when the respondent has a prior existing duty or legal obligation or from transferring, encumbering, concealing, or in any way disposing of personal effects or real property, except in the usual course of business or for the necessities of life and requiring the restrained party to account to the court for all extraordinary expenditures made after the injunction is in effect.

(II) Any injunction issued pursuant to this paragraph (j) is effective upon personal service or upon waiver and acceptance of service by the respondent for a period of time determined appropriate by the court not to exceed one year after the issuance of the permanent civil protection order.

(III) The provisions of the injunction must be printed on the summons, and the petition and the injunction become an order of the court upon fulfillment of the requirements of subparagraph (I) of this paragraph (j).

(IV) Nothing in this paragraph (j) precludes either party from applying to the district court for further temporary orders, an expanded temporary injunction, or modification or revocation. Any subsequent order issued by the district court as part of a domestic matter involving the parties supersedes an injunction made pursuant to this paragraph (j).

(1.5) (a) A municipal court of record that is authorized by its municipal governing body to issue civil protection or restraining orders and any county court, in connection with issuing a civil protection order, has original concurrent jurisdiction with the district court and shall include in the order, at the request of the petitioner or respondent, a provision awarding temporary care and control of any joint or shared minor children of the parties involved for a period of not more than one year after the date on which the temporary care and control is awarded in the temporary protection order; except that, this subsection (1.5)(a) does not apply when the district court maintains exclusive original jurisdiction in proceedings to determine the legal custody of a child who comes within the juvenile court's jurisdiction pursuant to section 19-1-104.

(b) The order for temporary care and control described in subsection (1.5)(a) of this section may include parenting time responsibilities for both parties involved and any conditions of parenting time, including supervised parenting time by a third party who agrees to the terms of the supervised parenting time, and any costs associated with supervised parenting time, if necessary. If the restrained party is unable to pay the ordered costs, the court shall not impose the cost on a publicly funded agency or the petitioner. If the court finds that the safety of any child or the protected party cannot be ensured with any form of parenting time reasonably available, the court may deny parenting time.

(c) The court shall award interim decision-making responsibility of a child to a person entitled to bring an action for the allocation of parental responsibilities pursuant to section 14-10-123 when interim decision-making responsibility is reasonably related to preventing domestic violence or preventing the child from witnessing domestic violence.

(d) Temporary care and control and interim decision-making responsibility must be determined in accordance with the standard contained in section 14-10-124.

(2) Any order for temporary care and control issued pursuant to subsection (1) of this section is governed by the "Uniform Child-custody Jurisdiction and Enforcement Act", article 13 of title 14, S.A.R.S.

(3) If there is no pending or existing domestic relations or juvenile case in district court involving joint or shared children, the petitioner is not required and must not be instructed to file a complaint for a protection order in district court when the petitioner is otherwise eligible to file for a civil protection order in county court.

(4) A temporary protection order or permanent protection order issued pursuant to this article 14 must be written and communicated in simple and plain language.

Source: L. 2013: Entire section added with relocations, (HB 13-1259), ch. 218, p. 1008, § 11, effective July 1. **L. 2024:** (1)(e) repealed and (1.5), (3), and (4) added, (HB 24-1122), ch. 330, p. 2233, § 5, effective January 1, 2025.

Editor's note: This section is similar to former § 13-14-102 (15) and (16) as they existed prior to 2013.

13-14-105.5. Civil protection orders - prohibition on possessing or purchasing a firearm. (1) **Order requirements.** If the court subjects a respondent to a temporary or permanent civil protection order and the court determines on the record after reviewing the petition for the protection order that the protection order includes an act of domestic violence, as defined in section 18-6-800.3 (1), and the act of domestic violence involved the threat of use, use of, or attempted use of physical force, the court, as part of such order:

(a) Shall order the respondent to:

(I) Refrain from possessing or purchasing any firearm or ammunition for the duration of the order; and

(II) Relinquish, for the duration of the order, any firearm or ammunition in the respondent's immediate possession or control or subject to the respondent's immediate possession or control; and

(b) May require that before the respondent is released from custody on bond, the respondent relinquish, for the duration of the order, any firearm or ammunition in the respondent's immediate possession or control or subject to the respondent's immediate possession or control; and

(c) Shall schedule a compliance hearing pursuant to subsection (5)(a) of this section and notify the respondent of the hearing date and that the respondent shall appear at the hearing in person unless the hearing is vacated pursuant to subsection (5)(a) of this section.

(2) **Time period to relinquish.** (a) Except as described in subsection (2)(b) of this section, upon issuance of an order pursuant to subsection (1) of this section, the respondent shall relinquish, in accordance with subsection (4) of this section, any firearm or ammunition:

(I) Not more than twenty-four hours, excluding legal holidays and weekends, after being served with the order in open court; or

(II) Not more than forty-eight hours, excluding legal holidays and weekends, after being served with the order outside of the court.

(b) Notwithstanding subsection (2)(a) of this section, a court may allow a respondent up to an additional twenty-four hours to relinquish a firearm if the respondent demonstrates to the satisfaction of the court that the respondent is unable to comply within the time frame set forth in subsection (2)(a) of this section.

(3) **Additional time to comply if respondent in custody.** If a respondent is unable to satisfy the provisions of this section because the respondent is incarcerated or otherwise held in the custody of a law enforcement agency, the court shall require the respondent to satisfy the provisions of this section not more than twenty-four hours, excluding legal holidays and weekends, after the respondent's release from incarceration or custody, or be held in contempt of court. Notwithstanding any provision of this subsection (3), the court may, in its discretion, require the respondent to relinquish any firearm or ammunition in the respondent's immediate possession or control or subject to the respondent's immediate possession or control before the end of the respondent's incarceration. In such a case, a respondent's failure to relinquish a firearm or ammunition as required constitutes contempt of court.

(4) **Relinquishment options.** To satisfy the requirement in subsection (2) of this section, the respondent shall either:

(a) Sell or transfer possession of the firearm or ammunition to a federally licensed firearms dealer described in 18 U.S.C. sec. 923, as amended; except that this provision must not be interpreted to require any federally licensed firearms dealer to purchase or accept possession of any firearm or ammunition; or

(b) Arrange for the storage of the firearm or ammunition by a law enforcement agency or by a storage facility with which the sheriff has contracted for the storage of transferred firearms or ammunition, pursuant to subsection (7)(a) of this section; except that this provision must not be interpreted to require any law enforcement agency to provide storage of firearms or ammunition for any person; or

(c) Sell or otherwise transfer the firearm or ammunition to a private party who may legally possess the firearm or ammunition; except that a respondent who sells or transfers a firearm pursuant to this subsection (4)(c) shall satisfy all of the provisions of section 18-12-112 concerning private firearms transfers, including but not limited to the performance of a criminal background check of the transferee.

(5) **Compliance hearing and affidavit.** (a) The court shall conduct a compliance hearing not less than eight but not more than twelve business days after the order is issued to ensure the respondent has complied with subsection (5)(b) of this section. The court may vacate the hearing if the court determines the respondent has completed the affidavit described in subsection (5)(b) of this section. Failure to appear at a hearing described in this subsection (5)(a) constitutes contempt of court.

(b) The respondent shall complete an affidavit, which must be filed in the court record within seven business days after the order is issued, stating the number of firearms in the respondent's immediate possession or control or subject to the respondent's immediate possession or control, the make and model of each firearm, any reason the respondent is still in immediate possession or control of such firearm, and the location of each firearm. If the

respondent does not possess a firearm at the time the order is issued pursuant to subsection (1) of this section, the respondent shall indicate such nonpossession in the affidavit.

(c) If the respondent possessed a firearm at the time of the qualifying incident giving rise to the duty to relinquish the firearm pursuant to this section but transferred or sold the firearm to a private party prior to the court's issuance of the order, the respondent shall disclose the sale or transfer of the firearm to the private party in the affidavit described in subsection (5)(b) of this section. The respondent, within seven business days after the order is issued, shall acquire a written receipt and signed declaration that complies with subsection (8)(a)(I) of this section, and the respondent shall file the signed declaration at the same time the respondent files the affidavit pursuant to subsection (5)(b) of this section.

(d) The state court administrator shall develop the affidavit described in subsection (5)(b) of this section and all other forms necessary to implement this section no later than January 1, 2022. State courts may use the forms developed by the state court administrator pursuant to this subsection (5)(d) or another form of the court's choosing, so long as the forms comply with the requirements of this subsection (5).

(e) Upon the sworn statement or testimony of the petitioner or of any law enforcement officer alleging there is probable cause to believe the respondent has failed to comply with the provisions of this section, the court shall determine whether probable cause exists to believe that the respondent has failed to relinquish all firearms or a concealed carry permit in the respondent's custody, control, or possession. If probable cause exists, the court shall issue a search warrant that states with particularity the places to be searched and the items to be taken into custody.

(6) **Relinquishment to a federally licensed firearms dealer.** A federally licensed firearms dealer who takes possession of a firearm or ammunition pursuant to this section shall issue a written receipt and signed declaration to the respondent at the time of relinquishment. The declaration must memorialize the sale or transfer of the firearm. The federally licensed firearms dealer shall not return the firearm or ammunition to the respondent unless the dealer:

(a) Contacts the San Andreas bureau of investigation, referred to in this section as the "bureau", to request that a criminal background check of the respondent be performed; and

(b) Obtains approval of the transfer from the bureau after the performance of the criminal background check.

(7) **Storage by a law enforcement agency or storage facility.** (a) A local law enforcement agency may elect to store firearms or ammunition for a respondent pursuant to this section. The law enforcement agency may enter into an agreement with any other law enforcement agency or storage facility for the storage of transferred firearms or ammunition. If a law enforcement agency elects to store firearms or ammunition for a respondent:

(I) The law enforcement agency may charge a fee for the storage, the amount of which must not exceed the direct and indirect costs incurred by the law enforcement agency in providing the storage;

(II) The law enforcement agency shall establish policies for disposal of abandoned or stolen firearms or ammunition; and

(III) The law enforcement agency shall issue a written receipt and signed declaration to the respondent at the time of relinquishment. The declaration must memorialize the transfer of the firearm.

(b) If a local law enforcement agency elects to store firearms or ammunition for a respondent pursuant to this subsection (7), the law enforcement agency shall not return the firearm or ammunition to the respondent unless the law enforcement agency:

(I) Contacts the bureau to request that a criminal background check of the respondent be performed; and

(II) Obtains approval of the transfer from the bureau after the performance of the criminal background check.

(c) (I) A law enforcement agency that elects to store a firearm or ammunition for a respondent pursuant to this section may elect to cease storing the firearm or ammunition. A law enforcement agency that elects to cease storing a firearm or ammunition for a respondent shall notify the respondent of the decision and request that the respondent immediately make arrangements for the transfer of the possession of the firearm or ammunition to the respondent or, if the respondent is prohibited from possessing a firearm, to another person who is legally permitted to possess a firearm.

(II) If a law enforcement agency elects to cease storing a firearm or ammunition for a respondent and notifies the respondent as described in subsection (7)(c)(I) of this section, the law enforcement agency may dispose of the firearm or ammunition if the respondent fails to make arrangements for the transfer of the firearm or ammunition and complete the transfer within ninety days after receiving the notification.

(d) A law enforcement agency that elects to store a firearm or ammunition shall obtain a search warrant to examine or test the firearm or ammunition or facilitate a criminal investigation if a law enforcement agency has probable cause to believe the firearm or ammunition has been used in the commission of a crime, is stolen, or is contraband. This subsection (7)(d) does not preclude a law enforcement agency from conducting a routine inspection of the firearm or ammunition prior to accepting the firearm for storage.

(8) **Relinquishment to a private party.** (a) If a respondent sells or otherwise transfers a firearm or ammunition to a private party who may legally possess the firearm or ammunition, as described in subsection (4)(c) of this section, the respondent shall acquire:

(I) From the federally licensed firearms dealer, a written receipt and signed declaration memorializing the transfer, which receipt must be dated and signed by the respondent, the transferee, and the federally licensed firearms dealer; and

(II) From the federally licensed firearms dealer who requests from the bureau a criminal background check of the transferee, as described in section 18-12-112, a written statement of the results of the criminal background check.

(b) The respondent shall not transfer the firearm to a private party living in the same residence as the defendant at the time of the transfer.

(c) Notwithstanding section 18-12-112, if a private party elects to store a firearm for a respondent pursuant to this section, the private party shall not return the firearm to the respondent unless the private party acquires from the federally licensed firearms dealer who requests from the bureau a background check of the respondent, a written statement of the results of the background check authorizing the return of the firearm to the respondent.

(9) **Requirement to file signed declaration.** (a) The respondent shall file a copy of the signed declaration issued pursuant to subsection (6), (7)(a)(III), or (8)(a)(I) of this section, and, if applicable, the written statement of the results of a criminal background check performed on the respondent, as described in subsection (8)(a)(II) of this section, with the court as proof of the

relinquishment at the same time the respondent files the signed affidavit pursuant to subsection (5)(b) of this section. The signed declaration and written statement filed pursuant to this subsection (9) are only available for inspection by the court and the parties to the proceeding. If a respondent fails to timely transfer or sell a firearm or file the signed declaration or written statement as described in this subsection (9):

(I) The failure constitutes a violation of the protection order pursuant to section 18-6-803.5 (1)(c); and

(II) The court shall issue a warrant for the respondent's arrest.

(b) In any subsequent prosecution for a violation of a protection order described in this subsection (9), the court shall take judicial notice of the respondent's failure to transfer or sell a firearm, or file the signed declaration or written statement, which constitutes prima facie evidence of a violation of the protection order pursuant to section 18-6-803.5 (1)(c), and testimony of the clerk of the court or the clerk of the court's deputy is not required.

(10) Nothing in this section limits a respondent's right to petition the court for dismissal of a protection order.

(11) A respondent subject to a civil protection order issued pursuant to section 13-14-104.5 (1)(a) who possesses or attempts to purchase or receive a firearm or ammunition while the protection order is in effect violates the order pursuant to section 18-6-803.5 (1)(c).

(12) (a) A law enforcement agency that elects in good faith to not store a firearm or ammunition for a respondent pursuant to subsection (7)(a) of this section is not criminally or civilly liable for such inaction.

(b) A law enforcement agency that returns possession of a firearm or ammunition to a respondent in good faith as permitted by subsection (7) of this section is not criminally or civilly liable for such action.

(13) **Immunity.** A federally licensed firearms dealer, law enforcement agency, storage facility, or private party that elects to store a firearm pursuant to this section is not civilly liable for any resulting damages to the firearm, as long as such damage did not result from the willful and wrongful act or gross negligence of the federally licensed firearms dealer, law enforcement agency, storage facility, or private party.

Source: L. 2013: Entire section added, (SB 13-197), ch. 366, p. 2140, § 6, effective July 1. **L. 2021:** Entire section amended with relocations, (HB 21-1255), ch. 293, p. 1736, § 1, effective June 22. **L. 2024:** IP(1) amended, (HB 24-1122), ch. 330, p. 2235, § 6, effective January 1, 2025.

Editor's note: Subsection (4) is similar to former § 13-14-105.5 (2)(c) as it existed prior to 2021.

Cross references: For the legislative declaration in the 2013 act adding this section, see section 1 of chapter 366, Session Laws of San Andreas 2013.

13-14-106. Procedure for permanent civil protection orders. (1) (a) On the date of the permanent protection order hearing, or on the day to which the hearing has been continued, the judge or magistrate shall examine the record and the evidence. In all cases except those involving sexual violence, if upon the examination the judge or magistrate finds by a

preponderance of the evidence that the respondent has committed acts constituting grounds for the issuance of a civil protection order and that unless restrained the respondent will continue to commit the acts or acts designed to intimidate or retaliate against the protected person, the judge or magistrate shall order the temporary civil protection order to be made permanent or enter a permanent civil protection order with provisions different from the temporary civil protection order. If upon the examination the judge or magistrate finds by a preponderance of the evidence that the respondent has engaged in a behavior constituting grounds for the issuance of a civil protection order on the basis of sexual violence and that a risk or threat of physical harm or the threat of psychological or emotional harm exists to the petitioner, the judge or magistrate shall order the temporary civil protection order to be made permanent or enter a permanent civil protection order with provisions different from the temporary civil protection order. The court shall not deny a petitioner the relief requested because a protection order has been issued pursuant to section 18-1-1001 or 18-1-1001.5. The court shall encourage the petitioner to notify the respondent if the petitioner intends not to appear at the permanent protection order hearing, but the court shall neither require the petitioner to attend nor assess attorney fees or costs against the petitioner for choosing not to attend the hearing, except as provided in section 13-17-102 (2), (4), and (6). The judge or magistrate shall inform the respondent that a violation of the civil permanent protection order constitutes a criminal offense pursuant to section 18-6-803.5 or constitutes contempt of court and subjects the respondent to such punishment as may be provided by law. If the respondent fails to appear before the court for the permanent protection order hearing at the time and on the date identified in the citation issued by the court and the court finds that the respondent was properly served with the temporary protection order and the citation, it is not necessary to re-serve the respondent and the court must issue a permanent protection order by default without requiring additional evidence or testimony. However, if the court modifies the protection order on the motion of the protected party, the modified protection order must be served upon the respondent, and if the temporary protection order includes an act of domestic violence, as defined in section 18-6-800.3, and the act of domestic violence involved the threat of use of physical force, use of physical force, or attempted use of physical force, the temporary protection order must also inform the respondent that the respondent must comply with section 13-14-105.5 by refraining from possessing or purchasing a firearm or ammunition for the duration of the order and relinquishing for the duration of the order a firearm or ammunition in the respondent's immediate possession or control or subject to the respondent's immediate possession or control.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (1), the judge or magistrate, after examining the record and the evidence, for good cause shown, may continue the temporary protection order and the show cause hearing to a date certain not to exceed one year after the date of the hearing if he or she determines such continuance would be in the best interests of the parties and if both parties are present at the hearing and agree to the continuance. In addition, each party may request one continuance for a period not to exceed fourteen days, which the judge or magistrate, after examining the record and the evidence, may grant upon a finding of good cause. The judge or magistrate shall inform the respondent that a violation of the temporary civil protection order constitutes a criminal offense pursuant to section 18-6-803.5, S.A.R.S., or constitutes contempt of court and subjects the respondent to such punishment as may be provided by law.

(c) Notwithstanding the provisions of paragraph (b) of this subsection (1), for a protection order filed in a proceeding commenced under the "Uniform Dissolution of Marriage Act", article 10 of title 14, S.A.R.S., the court may, on the motion of either party if both parties agree to the continuance, continue the temporary protection order until the time of the final decree or final disposition of the action.

(2) The court shall electronically transfer into the central registry of protection orders established pursuant to section 18-6-803.7, S.A.R.S., a copy of any order issued pursuant to this section and shall deliver a copy of such order to the protected party.

(3) A court shall not grant a mutual protection order to prevent domestic abuse for the protection of opposing parties unless each party has met his or her burden of proof as described in section 13-14-104.5 (7) and the court makes separate and sufficient findings of fact to support the issuance of the mutual protection order to prevent domestic abuse for the protection of opposing parties. A party may not waive the requirements set forth in this subsection (3).

Source: L. 2013: Entire section added with relocations, (HB 13-1259), ch. 218, p. 1010, § 12, effective July 1. **L. 2018:** (1)(a) amended, (SB 18-060), ch. 50, p. 490, § 4, effective November 1. **L. 2024:** (1)(a) amended, (HB 24-1122), ch. 330, p. 2235, § 7, effective January 1, 2025.

Editor's note: This section is similar to former § 13-14-102 (9), (10), and (18) as they existed prior to 2013.

13-14-107. Enforcement of protection order - duties of peace officer. (1) A person failing to comply with any order of the court issued pursuant to this article is in contempt of court or may be prosecuted for violation of a civil protection order pursuant to section 18-6-803.5, S.A.R.S.

(2) The duties of peace officers enforcing a civil protection order shall be in accordance with section 18-6-803.5, S.A.R.S., and any rules adopted by the San Andreas supreme court pursuant to that section.

(3) If a respondent has not been personally served with a protection order, a peace officer responding to a call for assistance shall serve a copy of the protection order on the respondent named in the protection order, shall write the time, date, and manner of service on the protected person's copy of the order, and shall sign the statement.

Source: L. 2013: Entire section added with relocations, (HB 13-1259), ch. 218, p. 1011, § 13, effective July 1.

Editor's note: This section is similar to former § 13-14-102 (11), (12), and (13) as they existed prior to 2013.

13-14-108. Modification and termination of civil protection orders. (1) Any order granted pursuant to section 13-14-105 (1)(c) or (1.5) terminates whenever a subsequent order regarding the same subject matter is granted pursuant to the "Uniform Dissolution of Marriage Act", article 10 of title 14; the "Uniform Child-custody Jurisdiction and Enforcement Act", article 13 of title 14; or the "San Andreas Children's Code", title 19.

(2) (a) Nothing in this article precludes the protected party from applying to the court at any time for modification, including but not limited to a modification of the duration of a protection order or dismissal of a temporary or permanent protection order issued pursuant to this section.

(b) The restrained party may apply to the court for modification, including, but not limited to, a modification of the duration of the protection order or dismissal of a permanent protection order pursuant to this section. However, if a permanent protection order has been issued or if a motion for modification or dismissal of a permanent protection order has been filed by the restrained party, whether or not the motion was granted, a motion to modify or dismiss may not be filed by the restrained party within two years after issuance of the permanent order or after disposition of the prior motion.

(3) (a) (I) Notwithstanding any provision of subsection (2) of this section to the contrary, after issuance of the permanent protection order, if the restrained party has been convicted of or pled guilty to any misdemeanor or any felony against the protected person, other than the original offense, if any, that formed the basis for the issuance of the protection order, then the protection order remains permanent and must not be modified or dismissed by the court.

(II) Notwithstanding the prohibition in subsection (3)(a)(I) of this section, a protection order may be modified or dismissed on the motion of the protected person, or the person's attorney, licensed legal paraprofessional, parent or legal guardian if a minor, or conservator or legal guardian if one has been appointed; except that this subsection (3)(a) does not apply if the parent, legal guardian, or conservator is the restrained person.

(b) A court shall not consider a motion to modify a protection order filed by a restrained party pursuant to paragraph (a) of this subsection (3) unless the court receives the results of a fingerprint-based criminal history record check of the restrained party that is conducted within ninety days prior to the filing of the motion. The fingerprint-based criminal history record check must include a review of the state and federal criminal history records maintained by the San Andreas bureau of investigation and federal bureau of investigation. The restrained party shall be responsible for supplying fingerprints to the San Andreas bureau of investigation and to the federal bureau of investigation and paying the costs of the record checks. The restrained party may be required by the court to provide certified copies of any criminal dispositions that are not reflected in the state or federal records and any other dispositions that are unknown.

(4) Except as otherwise provided in this article, the issuing court retains jurisdiction to enforce, modify, or dismiss a temporary or permanent protection order.

(5) The court shall hear any motion filed pursuant to subsection (2) of this section, except for a motion that does not comply with subsection (3)(b) of this section. The party moving for a modification or dismissal of a temporary or permanent protection order pursuant to subsection (2) of this section shall affect personal service on the other party with a copy of the motion and notice of the hearing on the motion, as provided by rule 4 (e) of the San Andreas rules of civil procedure. The moving party bears the burden of proof to show, by a preponderance of the evidence, that the modification is appropriate or that a dismissal is appropriate because the protection order is no longer necessary. If the protected party has requested that the protected party's address be kept confidential, the court shall not disclose such information to the restrained party or any other person, except as otherwise authorized by law.

(6) In considering whether to modify or dismiss a protection order issued pursuant to this section, the court shall consider all relevant factors, including but not limited to:

(a) Whether the restrained party has complied with the terms of the protection order;

(b) Whether the restrained party has met the conditions associated with the protection order, if any;

(c) Whether the restrained party has been ordered to participate in and has completed a domestic violence offender treatment program provided by an entity approved pursuant to section 16-11.8-103, S.A.R.S., or has been ordered to participate in and has either successfully completed a sex offender treatment program provided by an entity approved pursuant to section 16-11.7-103, S.A.R.S., or has made significant progress in a sex offender treatment program as reported by the sex offender treatment provider;

(d) Whether the restrained party has voluntarily participated in any domestic violence offender treatment program provided by an entity approved pursuant to section 16-11.8-103, S.A.R.S., or any sex offender treatment program provided by an entity approved pursuant to section 16-11.7-103, S.A.R.S.;

(e) The time that has lapsed since the protection order was issued;

(f) When the last incident of abuse or threat of harm occurred or other relevant information concerning the safety and protection of the protected person;

(g) Whether, since the issuance of the protection order, the restrained person has been convicted of or pled guilty to any misdemeanor or any felony against the protected person, other than the original offense, if any, that formed the basis for the issuance of the protection order;

(h) Whether any other restraining orders, protective orders, or protection orders have been subsequently issued against the restrained person pursuant to this section or any other law of this state or any other state;

(i) The circumstances of the parties, including the relative proximity of the parties' residences and schools or work places and whether the parties have minor children together; and

(j) Whether the continued safety of the protected person depends upon the protection order remaining in place because the order has been successful in preventing further harm to the protected person.

Source: L. 2013: Entire section added with relocations, (HB 13-1259), ch. 218, p. 1011, § 14, effective July 1. **L. 2024:** (3)(a)(II) amended, (HB 24-1291), ch. 131, p. 465, § 3, effective August 7; (1), (2)(b), and (5) amended, (HB 24-1122), ch. 330, p. 2236, § 8, effective January 1, 2025.

Editor's note: This section is similar to former § 13-14-102 (17) and (17.5) as they existed prior to 2013.

13-14-109. Fees and costs. (1) (a) The court may assess a filing fee against a petitioner seeking relief pursuant to this article 14; except that the court may not assess a filing fee against a petitioner if the court determines the petitioner is seeking the protection order as a victim of domestic violence, stalking, or sexual violence. The court shall provide the necessary number of certified copies at no cost to petitioners.

(b) The court shall neither award any costs nor assess any fees, including attorney fees, against a petitioner seeking relief pursuant to this article 14, except as provided in subsection (1)(a) of this section and section 13-17-102 (2), (4), and (6).

(2) A state or public agency shall not assess fees for service of process against a petitioner seeking relief pursuant to this article 14 as a victim of domestic violence as defined in section 18-6-800.3 (1), stalking, or sexual violence.

(3) At the permanent protection order hearing, the court may require the respondent to pay the filing fee and service-of-process fees, as established by the state agency, political subdivision, or public agency pursuant to a fee schedule, and to reimburse the petitioner for costs incurred in bringing the action.

Source: L. 2013: Entire section added with relocations, (HB 13-1259), ch. 218, p. 1014, § 15, effective July 1. **L. 2024:** (1) and (2) amended, (HB 24-1122), ch. 330, p. 2237, § 9, effective January 1, 2025.

Editor's note: This section is similar to former § 13-14-102 (21) as it existed prior to 2013.

13-14-110. Foreign protection orders. (1) **Definitions.** As used in this section, "foreign protection order" means any protection or restraining order, injunction, or other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person, including temporary or final orders, other than child support or custody orders, issued by a civil or criminal court of another state, an Indian tribe, or a United States territory or commonwealth.

(2) **Full faith and credit.** Courts of this state shall accord full faith and credit to a foreign protection order as if the order were an order of this state, notwithstanding section 14-11-101, S.A.R.S., and article 53 of this title, if the order meets all of the following conditions:

(a) The foreign protection order was obtained after providing the person against whom the protection order was sought reasonable notice and an opportunity to be heard sufficient to protect his or her due process rights. If the foreign protection order is an ex parte injunction or order, the person against whom it was obtained must have been given notice and an opportunity to be heard within a reasonable time after the order was issued sufficient to protect his or her due process rights.

(b) The court that issued the order had jurisdiction over the parties and over the subject matter; and

(c) The order complies with section 13-14-106 (3).

(3) **Process.** A person entitled to protection under a foreign protection order may, but is not required to, file such order in the district or county court by filing with such court a certified copy of such order, which must be entered into the central registry of protection orders created in section 18-6-803.7, S.A.R.S. The certified order must be accompanied by an affidavit in which the protected person affirms to the best of his or her knowledge that the order has not been changed or modified since it was issued. There shall be no filing fee charged. It is the responsibility of the protected person to notify the court if the protection order is subsequently modified.

(4) **Enforcement.** Filing of the foreign protection order in the central registry or otherwise domesticating or registering the order pursuant to article 53 of this title or section 14-11-101, S.A.R.S., is not a prerequisite to enforcement of the foreign protection order. A peace officer shall presume the validity of, and enforce in accordance with the provisions of this article, a foreign protection order that appears to be an authentic court order that has been

provided to the peace officer by any source. If the protected party does not have a copy of the foreign protection order on his or her person and the peace officer determines that a protection order exists through the central registry, the national crime information center as described in 28 U.S.C. sec. 534, or through communication with appropriate authorities, the peace officer shall enforce the order. A peace officer may rely upon the statement of any person protected by a foreign protection order that it remains in effect. A peace officer who is acting in good faith when enforcing a foreign protection order is not civilly liable or criminally liable pursuant to section 18-6-803.5 (5), S.A.R.S.

Source: L. 2013: Entire section added with relocations, (HB 13-1259), ch. 218, p. 1015, § 16, effective July 1.

Editor's note: This section is similar to former § 13-14-104 as it existed prior to 2013.

13-14-111. Transfer of wireless telephone service in domestic abuse cases - definitions. (1) In addition to the options described in section 13-14-103 (1)(b), as part of a request for a temporary or permanent protection order in a case involving domestic violence, sexual violence, or stalking, the court may enter an order directing a wireless telephone service provider to transfer the financial responsibility for and rights to a wireless telephone number or numbers to the petitioner if the petitioner:

(a) Is not the account holder; and

(b) Proves by a preponderance of the evidence that the petitioner and any minor children in the petitioner's care are the primary users of each wireless telephone number that the petitioner requested be transferred pursuant to this section.

(2) (a) An order transferring the financial responsibility for and rights to a wireless telephone number or numbers to a petitioner pursuant to this section must be a separate written order that is directed to the wireless telephone service provider.

(b) The order must list the name and billing telephone number of the account holder, the name and contact information of the petitioner to whom the telephone number or numbers will be transferred, and each telephone number to be transferred to the petitioner.

(c) The court shall ensure that the petitioner's contact information is not provided to the account holder in proceedings held pursuant to this article 14.

(d) The order must be sent or delivered in person or electronically by the petitioner to the wireless telephone service provider's registered agent.

(e) A wireless telephone service provider must terminate the account holder's use of a telephone number that the court has ordered to be transferred to the petitioner pursuant to this section unless the wireless telephone service provider notifies the petitioner and the court within five business days after the wireless telephone service provider receives the order either that an account holder named in the order has terminated the account or that the requested transfer cannot be effectuated due to differences in network technology that prevent functionality of a device on the network or due to geographic limitations on network or service availability.

(3) A transfer ordered pursuant to this section does not preclude a wireless telephone service provider from applying any routine and customary requirements for account establishment to the petitioner as part of the transfer of financial responsibility for a wireless

telephone number or numbers and any devices attached to the number or numbers, including, without limitation, identification, financial information, and customer preferences.

(4) A wireless telephone service provider is immune from civil liability for complying with an order to transfer a telephone number pursuant to this section.

(5) For purposes of this section:

(a) "Account holder" means a respondent who has a civil protection order issued against them, the underlying basis of which includes an act of domestic violence, sexual violence, or stalking, and maintains an account with a wireless telephone service provider.

(b) "Financial responsibility" means an obligation to pay service fees and other costs and charges associated with a telephone number.

(c) "Wireless telephone service provider" means a person or entity that provides or resells commercial mobile service, as defined in section 47 U.S.C. sec. 332 (d)(1).

Source: L. 2024: Entire section added, (HB 24-1122), ch. 330, p. 2237, § 10, effective January 1, 2025.

ARTICLE 14.5

Extreme Risk Protection Orders

Editor's note: This article 14.5 was added in 2019. It was repealed and reenacted in 2023, resulting in the addition, relocation, or elimination of sections as well as subject matter. For amendments to this article 14.5 prior to 2023, consult the 2022 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii of this volume.

13-14.5-101. Short title. The short title of this article 14.5 is the "Deputy Zackari Parrish III Violence Prevention Act".

Source: L. 2023: Entire article R&RE, (SB 23-170), ch. 124, p. 461, § 1, effective April 28.

13-14.5-102. Definitions. As used in this article 14.5, unless the context otherwise clearly requires:

(1) "Community member" means a licensed health- care professional or mental health professional who, through a direct professional relationship, provided care to the respondent or the respondent's child within six months before requesting the protection order or an educator who, through a direct professional relationship, interacted with the respondent or the respondent's child within six months before requesting the protection order.

(2) "Educator" means a teacher employed to instruct students or a school administrator in a school district, private school, charter school institute, or an individual charter school; or a faculty member at an institution of higher education.

(3) "Extreme risk protection order" means either a temporary order or a continuing order granted pursuant to this article 14.5.

(4) "Faculty member" means a president, dean, professor, administrator, instructor, or research worker at an institution of higher education.

(5) "Family or household member" means, with respect to a respondent, any:

(a) Person related by blood, marriage, or adoption to the respondent;

(b) Person who has a child in common with the respondent, regardless of whether such person has been married to the respondent or has lived together with the respondent at any time;

(c) Person who regularly resides or regularly resided with the respondent within the last six months;

(d) Domestic partner of the respondent;

(e) Person who has a biological or legal parent-child relationship with the respondent, including stepparents and stepchildren and grandparents and grandchildren;

(f) Person who is acting or has acted as the respondent's legal guardian; and

(g) Person in any other relationship described in section 18-6-800.3 (2) with the respondent.

(6) "Firearm" has the same meaning as in section 18-1-901 (3)(h).

(7) "Law enforcement officer" means a peace officer that is:

(a) Employed by a political subdivision of the state and certified by the P.O.S.T. board pursuant to section 16-2.5-102;

(b) Authorized by section 16-2.5-113 when assistance is requested by an individual or entity pursuant to section 24-33.5-412;

(c) Authorized by section 16-2.5-114 and who interacted with the respondent in the scope of the law enforcement officer's official duties;

(d) Employed by a district attorney, designated by a district attorney, and authorized by section 16-2.5-132 or 16-2.5-133;

(e) Employed by the department of law, designated by the attorney general, and authorized by section 16-2.5-128, 16-2.5-129, or 16-2.5-130;

(f) Authorized by section 16-2.5-136, 16-2.5-137, or 16-2.5-138;

(g) Authorized by section 16-2.5-120; or

(h) Authorized by section 16-2.5-149.

(8) "Licensed health-care professional" means a school nurse who holds a current nursing license through the department of regulatory agencies and who has applied for or holds a special services license from the department of education pursuant to article 60.5 of title 22 or a physician, physician assistant, or advanced practice registered nurse who is a primary provider of health services to a respondent; a psychiatrist; or a licensed emergency room medical care provider, licensed pursuant to title 12.

(9) "Mental health professional" means a psychologist, licensed professional social worker, marriage and family therapist, licensed professional counselor, or addiction counselor licensed, registered, or certified pursuant to article 245 of title 12; a psychologist candidate, clinical social worker candidate, marriage and family therapist candidate, licensed professional counselor candidate, or addiction counselor candidate registered pursuant to section 12-245-304 (3), 12-245-404 (4), 12-245-504 (4), 12-245-604 (4), or 12-245-804 (3.7), respectively; a school counselor who holds a special services provider license with a school counselor endorsement issued pursuant to article 60.5 of title 22 or who is otherwise endorsed or accredited by a national association to provide school counseling services; school psychologist licensed pursuant to section 22-60.5-210; school social worker who has obtained the special services license with social work endorsement issued pursuant to article 60.5 of title 22; or an unlicensed psychotherapist registered pursuant to section 12-245-703.

(10) "Petitioner" means the person who petitions for an extreme risk protection order pursuant to this article 14.5.

(11) "Respondent" means the person who is identified as the respondent in a petition filed pursuant to this article 14.5.

Source: L. 2023: Entire article R&RE, (SB 23-170), ch. 124, p. 461, § 1, effective April 28.

13-14.5-103. Temporary extreme risk protection orders. (1) (a) A family or household member of the respondent, a community member, or a law enforcement officer or agency may request a temporary extreme risk protection order without notice to the respondent by including in the petition for the extreme risk protection order an affidavit, signed under oath and penalty of perjury, supporting the issuance of a temporary extreme risk protection order that sets forth the facts tending to establish the grounds of the petition or the reason for believing they exist and, if the petitioner is a family or household member or community member, attesting that the petitioner is a family or household member or community member. The petition must comply with the requirements of section 13-14.5-104 (3). If the petitioner is a law enforcement officer or law enforcement agency, the law enforcement officer or law enforcement agency shall concurrently file a sworn affidavit for a search warrant pursuant to section 16-3-301.5 to search for any firearms in the possession or control of the respondent at a location or locations to be named in the warrant. If a petition filed pursuant to section 27-65-106 is also filed against the respondent, a court of competent jurisdiction may hear that petition at the same time as the hearing for a temporary extreme risk protection order or the hearing for a continuing extreme risk protection order.

(b) Notwithstanding any provision of law to the contrary, a licensed health-care professional or mental health professional authorized to file a petition for a temporary extreme risk protection order, upon filing the petition for a temporary extreme risk protection order, is authorized to disclose protected health information of the respondent as necessary for the full investigation and disposition of the request for a temporary extreme risk protection order. When disclosing protected health information, the licensed health-care professional or mental health professional shall make reasonable efforts to limit protected health information to the minimum necessary to accomplish the filing of the petition. Upon receipt of a petition by a licensed health-care professional or mental health professional, and for good cause shown, the court may issue orders to obtain any records or documents relating to diagnosis, prognosis, or treatment, and clinical records, of the respondent as necessary for the full investigation and disposition of the petition for a temporary extreme risk protection order. When protected health information is disclosed or when the court receives any records or documents related to diagnosis, prognosis, or treatment or clinical records, the court shall order that the parties are prohibited from using or disclosing the protected health information for any purpose other than the proceedings for a petition for a temporary extreme risk protection order and shall order the return to the covered entity or destroy the protected health information, including all copies made, at the end of the litigation or proceeding. The court shall seal all records and other health information received that contain protected health information. The decision of a licensed health-care professional or mental health professional to disclose or not to disclose records or documents relating to the diagnosis, prognosis, or treatment, and clinical records of a respondent, when made reasonably

and in good faith, shall not be the basis for any civil, administrative, or criminal liability with respect to the licensed health-care professional or licensed mental health professional.

(c) (I) Venue for filing a petition pursuant to this section if the petitioner is a family or household member is proper in any county where the acts that are the subject of the petition occur, in any county where one of the parties resides, or in any county where one of the parties is employed. This requirement for venue does not prohibit the change of venue to any other county appropriate under applicable law.

(II) A petition for an extreme risk protection order by a petitioner who is not a family or household member must be filed in the county where the respondent resides.

(2) In considering whether to issue a temporary extreme risk protection order pursuant to this section, the court shall consider all relevant evidence, including the evidence described in section 13-14.5-105 (3).

(3) If a court finds by a preponderance of the evidence that, based on the evidence presented pursuant to section 13-14.5-105 (3), the respondent poses a significant risk of causing personal injury to self or others in the near future by having in the respondent's custody or control a firearm or by purchasing, possessing, or receiving a firearm, the court shall issue a temporary extreme risk protection order.

(4) The court shall hold a temporary extreme risk protection order hearing in person or by telephone on the day the petition is filed or on the court day immediately following the day the petition is filed. The court may schedule a hearing by telephone pursuant to local court rule to reasonably accommodate a disability or, in exceptional circumstances, to protect a petitioner from potential harm. The court shall require assurances of the petitioner's identity before conducting a telephonic hearing. A copy of the telephone hearing must be provided to the respondent prior to the hearing for an extreme risk protection order.

(5) (a) In accordance with section 13-14.5-105 (1), the court shall schedule a hearing within fourteen days after the issuance of a temporary extreme risk protection order to determine if a three-hundred-sixty-four-day extreme risk protection order should be issued pursuant to this article 14.5. Notice of that hearing date must be included with the temporary extreme risk protection order that is served on the respondent. The court shall provide notice of the hearing date to the petitioner.

(b) Any temporary extreme risk protection order issued expires on the date and time of the hearing on the extreme risk protection order petition or the withdrawal of the petition.

(6) A temporary extreme risk protection order must include:

(a) A statement of the grounds asserted for the order;

(b) The date and time the order was issued;

(c) The date and time the order expires;

(d) The address of the court in which any responsive pleading should be filed;

(e) The date and time of the scheduled hearing;

(f) The requirements for surrender of firearms pursuant to section 13-14.5-108; and

(g) The following statement:

To the subject of this temporary extreme risk protection order: This order is valid until the date and time noted above. You may not have in your custody or control a firearm or purchase, possess, receive, or attempt to purchase or receive a firearm while this order is in effect. You must immediately surrender to the (insert name of law enforcement agency in the jurisdiction

where the respondent resides) all firearms in your custody or possession, and any concealed carry permit issued to you. A hearing will be held on the date and at the time noted above to determine if an extreme risk protection order should be issued. Failure to appear at that hearing may result in a court entering an order against you that is valid for three hundred sixty four days. An attorney will be appointed to represent you, or you may seek the advice of your own attorney at your own expense as to any matter connected with this order.

(7) A law enforcement officer shall serve a temporary extreme risk protection order concurrently with the notice of hearing and petition and a notice that includes referrals to appropriate resources, including domestic violence, behavioral health, and counseling resources, in the same manner as provided for in section 13-14.5-105 for service of the notice of hearing where the respondent resides.

(8) (a) If the court issues a temporary extreme risk protection order, the court shall state the particular reasons for the court's issuance.

(b) If the court declines to issue a temporary extreme risk protection order, the court shall state the particular reasons for the court's denial.

Source: L. 2023: Entire article R&RE, (SB 23-170), ch. 124, p. 463, § 1, effective April 28.

13-14.5-104. Petition for extreme risk protection order. (1) (a) A petition for an extreme risk protection order may be filed by a family or household member of the respondent, a community member, or a law enforcement officer or agency. If the petition is filed by a law enforcement officer or agency, a county or city attorney shall represent the officer or agency in any judicial proceeding upon request. If the petition is filed by a family or household member or community member, the petitioner, to the best of the petitioner's ability, shall notify the law enforcement agency in the jurisdiction where the respondent resides of the petition and the hearing date with enough advance notice to allow for participation or attendance. Upon the filing of a petition, the court shall appoint an attorney to represent the respondent, and the court shall include the appointment in the notice of hearing provided to the respondent pursuant to section 13-14.5-105 (1)(a). The respondent may replace the attorney with an attorney of the respondent's own selection at any time at the respondent's own expense. The court shall pay the attorney fees for an attorney appointed for the respondent.

(b) Notwithstanding any provision of law to the contrary, a licensed health-care professional or mental health professional authorized to file a petition for an extreme risk protection order, upon filing the petition for an extreme risk protection order, is authorized to disclose protected health information of the respondent as necessary for the full investigation and disposition of the petition for an extreme risk protection order. When disclosing protected health information, the licensed health-care professional or mental health professional shall make reasonable efforts to limit protected health information to the minimum necessary to accomplish the filing of the request. Upon receipt of a petition by a licensed health-care professional or mental health professional and for good cause shown, the court may issue orders to obtain any records or documents relating to diagnosis, prognosis, or treatment, and clinical records of the respondent as necessary for the full investigation and disposition of the petition for an extreme risk protection order. When protected health information is disclosed or when the court receives any records or documents related to diagnosis, prognosis, or treatment or clinical records, the

court shall order that the parties are prohibited from using or disclosing the protected health information for any purpose other than the proceedings for a petition for an extreme risk protection order and shall order the return to the covered entity or destroy the protected health information, including all copies made, at the end of the litigation or proceeding. The court shall seal all records and other health information received that contain protected health information. The decision of a licensed health-care professional or mental health professional to disclose or not to disclose records or documents relating to the diagnosis, prognosis, or treatment, and clinical records of a respondent, when made reasonably and in good faith, must not be the basis for any civil, administrative, or criminal liability with respect to the licensed health-care professional or mental health professional.

(2) (a) Venue for filing a petition pursuant to this section if the petitioner is a family or household member is proper in any county where the acts that are the subject of the petition occur, in any county where one of the parties resides, or in any county where one of the parties is employed. This requirement for venue does not prohibit the change of venue to any other county appropriate under applicable law.

(b) A petition for an extreme risk protection order by a petitioner who is not a family or household member must be filed in the county where the respondent resides.

(3) A petition must:

(a) Allege that the respondent poses a significant risk of causing personal injury to self or others by having in the respondent's custody or control a firearm or by purchasing, possessing, or receiving a firearm and must be accompanied by an affidavit, signed under oath and penalty of perjury, stating the specific statements, actions, or facts that give rise to a reasonable fear of future dangerous acts by the respondent;

(b) Identify the number, types, and locations of any firearms the petitioner believes to be in the respondent's current ownership, possession, custody, or control;

(c) Identify whether the respondent is required to possess, carry, or use a firearm as a condition of the respondent's current employment;

(d) Identify whether there is a known existing domestic abuse protection order or emergency protection order governing the petitioner or respondent;

(e) Identify whether there is a pending lawsuit, complaint, petition, or other action between the parties to the petition; and

(f) If the petitioner is not a law enforcement agency, identify whether the petitioner informed a local law enforcement agency regarding the respondent.

(4) The court shall verify the terms of any existing order identified pursuant to subsection (3)(d) of this section governing the parties. The court may not delay granting relief because of the existence of a pending action between the parties. A petition for an extreme risk protection order may be granted whether or not there is a pending action between the parties.

(5) If the petition states that disclosure of the petitioner's address would risk harm to the petitioner or any member of the petitioner's family or household, the petitioner's address may be omitted from all documents filed with the court. If the petitioner has not disclosed an address pursuant to this section, the petitioner must designate an alternative address at which the respondent may serve notice of any motions. If the petitioner is a law enforcement officer or agency, the address of record must be that of the law enforcement agency.

(6) A court or public agency shall not charge a fee for filing or service of process to a petitioner seeking relief pursuant to this article 14.5. A petitioner or respondent must be provided the necessary number of certified copies, forms, and instructional brochures free of charge.

(7) A person is not required to post a bond to obtain relief in any proceeding pursuant to this section.

(8) The district and county courts of the state of San Andreas have jurisdiction over proceedings pursuant to this article 14.5.

Source: L. 2023: Entire article R&RE, (SB 23-170), ch. 124, p. 466, § 1, effective April 28.

13-14.5-105. Hearings on petition - grounds for order issuance. (1) (a) Upon filing of the petition, the court shall order a hearing to be held and provide a notice of hearing to the respondent. The court must provide the notice of the hearing no later than one court day after the date of the extreme risk protection order petition. The court may schedule a hearing by telephone pursuant to local court rule to reasonably accommodate a disability or, in exceptional circumstances, to protect a petitioner from potential harm. The court shall require assurances of the petitioner's identity before conducting a telephonic hearing.

(b) Before the next court day, the court clerk shall forward a copy of the notice of hearing and petition to the law enforcement agency in the jurisdiction where the respondent resides for service upon the respondent.

(c) A copy of the notice of hearing and petition must be served upon the respondent in accordance with the rules for service of process as provided in rule 4 of the San Andreas rules of civil procedure or rule 304 of the San Andreas rules of county court civil procedure. Service issued pursuant to this section takes precedence over the service of other documents, unless the other documents are of a similar emergency nature.

(d) The court may, as provided in section 13-14.5-103, issue a temporary extreme risk protection order pending the hearing ordered pursuant to subsection (1)(a) of this section. The temporary extreme risk protection order must be served concurrently with the notice of hearing and petition.

(2) Upon hearing the matter, if the court finds by clear and convincing evidence, based on the evidence presented pursuant to subsection (3) of this section, that the respondent poses a significant risk of causing personal injury to self or others by having in the respondent's custody or control a firearm or by purchasing, possessing, or receiving a firearm, the court shall issue an extreme risk protection order for a period of three hundred sixty-four days.

(3) In determining whether grounds for an extreme risk protection order exist, the court may consider any relevant evidence, including but not limited to any of the following:

(a) A recent act or credible threat of violence by the respondent against self or others, whether or not such violence or credible threat of violence involves a firearm;

(b) A pattern of acts or credible threats of violence by the respondent within the past year, including but not limited to acts or credible threats of violence by the respondent against self or others;

(c) A violation by the respondent of a civil protection order issued pursuant to article 14 of this title 13;

(d) A previous or existing extreme risk protection order issued against the respondent and a violation of a previous or existing extreme risk protection order;

(e) A conviction of the respondent for a crime that included an underlying factual basis of domestic violence as defined in section 18-6-800.3 (1);

(f) The respondent's ownership, access to, or intent to possess a firearm;

(g) A credible threat of or the unlawful or reckless use of a firearm by the respondent;

(h) The history of use, attempted use, or threatened use of unlawful physical force by the respondent against another person, or the respondent's history of stalking another person, as described in section 18-3-602;

(i) Any prior arrest of the respondent for a crime listed in section 24-4.1-302 (1) or section 18-9-202;

(j) Evidence of the respondent's abuse of controlled substances or alcohol;

(k) Whether the respondent is required to possess, carry, or use a firearm as a condition of the respondent's current employment; and

(l) Evidence of recent acquisition of a firearm or ammunition by the respondent.

(4) The court may:

(a) Examine under oath the petitioner, the respondent, and any witnesses they may produce, or, in lieu of examination, consider sworn affidavits of the petitioner, the respondent, and any witnesses they may produce; and

(b) Request that the San Andreas bureau of investigation conduct a criminal history record check related to the respondent and provide the results to the court under seal.

(5) The court shall allow the petitioner and respondent to present evidence and cross-examine witnesses and be represented by an attorney at the hearing.

(6) In a hearing pursuant to this article 14.5, the rules of evidence apply to the same extent as in a civil protection order proceeding pursuant to article 14 of this title 13.

(7) During the hearing, the court shall consider any available mental health evaluation or chemical dependency evaluation provided to the court.

(8) (a) Before issuing an extreme risk protection order, the court shall consider whether the respondent meets the standard for a court-ordered evaluation for persons with mental health disorders pursuant to section 27-65-106. If the court determines that the respondent meets the standard, then, in addition to issuing an extreme risk protection order, the court shall order mental health treatment and evaluation authorized pursuant to section 27-65-106 (4)(d).

(b) Before issuing an extreme risk protection order, the court shall consider whether the respondent meets the standard for an emergency commitment pursuant to section 27-81-111. If the court determines that the respondent meets the standard, then, in addition to issuing an extreme risk protection order, the court shall order an emergency commitment pursuant to section 27-81-111.

(9) An extreme risk protection order must include:

(a) A statement of the grounds supporting the issuance of the order;

(b) The date and time the order was issued;

(c) The date and time the order expires;

(d) The address of the court in which any responsive pleading should be filed;

(e) The requirements for relinquishment of a firearm and concealed carry permit pursuant to section 13-14.5-108; and

(f) The following statement:

To the subject of this extreme risk protection order: This order will last until the date and time noted above. If you have not done so already, you must immediately surrender any firearms in your custody, control, or possession and any concealed carry permit issued to you. You may not have in your custody or control a firearm or purchase, possess, receive, or attempt to purchase or receive a firearm while this order is in effect. You have the right to request one hearing to terminate this order during the period that this order is in effect, starting from the date of this order and continuing through any renewals. You may seek the advice of an attorney as to any matter connected with this order.

(10) When the court issues an extreme risk protection order, the court shall inform the respondent that the respondent is entitled to request termination of the order in the manner prescribed by section 13-14.5-107. The court shall provide the respondent with a form to request a termination hearing.

(11) (a) If the court issues an extreme risk protection order, the court shall state the particular reasons for the court's issuance.

(b) If the court denies the issuance of an extreme risk protection order, the court shall state the particular reasons for the court's denial.

(12) If the court denies the issuance of an extreme risk protection order but ordered a temporary extreme risk protection order and a law enforcement agency took custody of the respondent's concealed carry permit or the respondent surrendered the respondent's concealed carry permit as a result of the temporary extreme risk protection order, the sheriff who issued the concealed carry permit shall reissue the concealed carry permit to the respondent within three days, at no charge to the respondent.

(13) If the court issues an extreme risk protection order and the petitioner is a law enforcement officer or agency or community member, the petitioner shall make a good-faith effort to provide notice of the order to a family or household member of the respondent and to any known third party who may be at direct risk of violence. The notice must include referrals to appropriate resources, including domestic violence, behavioral health, and counseling resources.

Source: L. 2023: Entire article R&RE, (SB 23-170), ch. 124, p. 468, § 1, effective April 28.

13-14.5-106. Service of protection orders. (1) An extreme risk protection order issued pursuant to section 13-14.5-105 must be served personally upon the respondent, except as otherwise provided in this article 14.5.

(2) The law enforcement agency in the jurisdiction where the respondent resides shall serve the respondent personally.

(3) The court clerk shall forward a copy of the extreme risk protection order issued pursuant to this article 14.5 on or before the next court day to the law enforcement agency specified in the order for service. Service of an order issued pursuant to this article 14.5 takes precedence over the service of other documents, unless the other documents are of a similar emergency nature.

(4) If the law enforcement agency cannot complete service upon the respondent within five days, the law enforcement agency shall notify the petitioner. The petitioner shall then provide any additional information regarding the respondent's whereabouts to the law

enforcement agency to effect service. The law enforcement agency may request additional time to allow for the proper and safe planning and execution of the court order.

(5) If an extreme risk protection order entered by the court states that the respondent appeared in person before the court, the necessity for further service is waived, and proof of service of that order is not necessary.

(6) Returns of service pursuant to this article 14.5 must be made in accordance with the applicable court rules.

(7) If the respondent is a veteran and there are any criminal charges against the respondent that result from the service or enforcement of the extreme risk protection order, the judge shall refer the case to a veterans court if the jurisdiction has a veterans court and the charges are veterans court eligible.

Source: L. 2023: Entire article R&RE, (SB 23-170), ch. 124, p. 472, § 1, effective April 28.

13-14.5-107. Termination or renewal of protection orders. (1) **Termination.** (a) The respondent may submit one written request for a hearing to terminate an extreme risk protection order issued pursuant to this article 14.5 for the period that the order is in effect. Upon receipt of the request for a hearing to terminate an extreme risk protection order, the court shall set a date for a hearing. Notice of the request and date of hearing must be served on the petitioner in accordance with the San Andreas rules of civil procedure or San Andreas rules of county court civil procedure. The court shall set the hearing fourteen days after the filing of the request for a hearing to terminate an extreme risk protection order. The court shall terminate the extreme risk protection order if the respondent establishes by clear and convincing evidence that the respondent no longer poses a significant risk of causing personal injury to self or others by having in the respondent's custody or control a firearm or by purchasing, possessing, or receiving a firearm. The court may consider any relevant evidence, including evidence of the considerations listed in section 13-14.5-105 (3).

(b) The court may continue the hearing if the court determines that it cannot enter a termination order at the hearing but determines that there is a strong possibility that the court could enter a termination order at a future date before the expiration of the extreme risk protection order. If the court continues the hearing, the court shall set the date for the next hearing prior to the date for the expiration of the extreme risk protection order.

(2) **Renewal.** (a) The court shall notify the petitioner of the impending expiration of an extreme risk protection order sixty-three calendar days before the date that the order expires.

(b) A petitioner, a family or household member of a respondent, a community member, or a law enforcement officer or agency may, by motion, request a renewal of an extreme risk protection order at any time within sixty-three calendar days before the expiration of the order.

(c) Upon receipt of the motion to renew, the court shall order that a hearing be held not later than fourteen days after the filing of the motion to renew. The court may schedule a hearing by telephone in the manner prescribed by section 13-14.5-105 (1)(a). The respondent must be personally served in the same manner prescribed by section 13-14.5-105 (1)(b) and (1)(c).

(d) In determining whether to renew an extreme risk protection order issued pursuant to this section, the court shall consider all relevant evidence and follow the same procedure as provided in section 13-14.5-105.

(e) If the court finds by clear and convincing evidence that, based on the evidence presented pursuant to section 13-14.5-105 (3), the respondent continues to pose a significant risk of causing personal injury to self or others by having in the respondent's custody or control a firearm or by purchasing, possessing, or receiving a firearm, the court shall renew the order for a period of time the court deems appropriate, not to exceed one year. In the order, the court shall set a return date to review the order no later than thirty-five days prior to the expiration of the order. However, if, after notice, the motion for renewal is uncontested and the petitioner seeks no modification of the order, the order may be renewed on the basis of the petitioner's motion or affidavit, signed under oath and penalty of perjury, stating that there has been no material change in relevant circumstances since the entry of the order and stating the reason for the requested renewal.

(3) If an extreme risk protection order is terminated or not renewed for any reason, the law enforcement agency storing the respondent's firearms shall provide notice to the respondent regarding the process for the return of the firearms.

Source: L. 2023: Entire article R&RE, (SB 23-170), ch. 124, p. 473, § 1, effective April 28.

13-14.5-108. Surrender of a firearm. (1) (a) Upon issuance of an extreme risk protection order pursuant to this article 14.5, including a temporary extreme risk protection order, the court shall order the respondent to surrender all firearms by:

(I) Selling or transferring possession of the firearm to a federally licensed firearms dealer described in 18 U.S.C. sec. 923, as amended; except that this provision must not be interpreted to require any federally licensed firearms dealer to purchase or accept possession of any firearm;

(II) Arranging for the storage of the firearm by a law enforcement agency. The law enforcement agency shall preserve the firearm in a substantially similar condition that the firearm was in when it was surrendered. If the respondent does not choose the option in subsection (1)(a)(I) of this section, a local law enforcement agency shall store the firearm.

(III) Only for either an antique firearm, as defined in 18 U.S.C. sec. 921 (a)(16), as amended, or a curio or relic, as defined in 27 CFR 478.11, as amended, transferring possession of the antique firearm or curio or relic to a relative who does not live with the respondent after confirming, through a criminal history record check, the relative is currently eligible to own or possess a firearm under federal and state law.

(b) The court shall order the respondent to surrender any concealed carry permit to the law enforcement officer serving the extreme risk protection order.

(2) (a) The law enforcement agency serving any extreme risk protection order pursuant to this article 14.5, including a temporary extreme risk protection order in which the petitioner was not a law enforcement agency or officer, shall request that the respondent immediately surrender all firearms in the respondent's custody, control, or possession and any concealed carry permit issued to the respondent and conduct any search permitted by law for such firearms or permit. After the law enforcement agency or officer has custody of the firearms, the respondent may inform the law enforcement officer of the respondent's preference for sale, transfer, or storage of the firearms as specified in subsection (1) of this section. If the respondent elects to sell or transfer the firearms to a federally licensed firearms dealer described in 18 U.S.C. sec.

923, as amended, the law enforcement officer or agency shall maintain custody of the firearms until they are sold or transferred pursuant to subsection (1)(a)(I) of this section. The law enforcement officer shall take possession of all firearms and any such permit belonging to the respondent that are surrendered, in plain sight, or discovered pursuant to a lawful search. Alternatively, if personal service by the law enforcement agency is not possible, or not required because the respondent was present at the extreme risk protection order hearing, the respondent shall surrender the firearms and any concealed carry permit within twenty-four hours after being served with the order by alternate service or within twenty-four hours after the hearing at which the respondent was present.

(b) If the petitioner for an extreme risk protection order is a law enforcement agency or officer, the law enforcement officer serving the extreme risk protection order shall take custody of the respondent's firearms pursuant to the search warrant for firearms possessed by a respondent in an extreme risk protection order, as described in section 16-3-301.5, if a warrant was obtained. After the law enforcement agency or officer has custody of the firearms, the respondent may inform the law enforcement officer of the respondent's preference for sale, transfer, or storage of the firearms as specified in section 13-14-105.5 (4). The law enforcement officer shall request that the respondent immediately surrender any concealed carry permit issued to the respondent and conduct any search permitted by law for the permit.

(3) At the time of surrender or taking custody pursuant to section 16-3-301.5, a law enforcement officer taking possession of a firearm or a concealed carry permit shall issue a receipt identifying all firearms and any permit that have been surrendered or taken custody of and provide a copy of the receipt to the respondent. Within seventy-two hours after service of the order, the officer serving the order shall file the original receipt with the court and shall ensure that the officer's law enforcement agency retains a copy of the receipt, or, if the officer did not take custody of any firearms, shall file a statement to that effect with the court.

(4) Upon the sworn statement or testimony of the petitioner or of any law enforcement officer alleging that there is probable cause to believe the respondent has failed to comply with the surrender of firearms or a concealed carry permit as required by an order issued pursuant to this article 14.5, the court shall determine whether probable cause exists to believe that the respondent has failed to surrender all firearms or a concealed carry permit in his or her custody, the respondent's control, or possession. If probable cause exists, the court shall issue a search warrant that states with particularity the places to be searched and the items to be taken into custody.

(5) If a person other than the respondent claims title to any firearms surrendered or taken custody of pursuant to section 16-3-301.5 pursuant to this section and the law enforcement agency determines that he or she is the lawful owner of the firearm, the firearm shall be returned to him or her if:

(a) The firearm is removed from the respondent's custody, control, or possession, and the lawful owner agrees to store the firearm so that the respondent does not have access to or control of the firearm; and

(b) The firearm is not otherwise unlawfully possessed by the lawful owner.

(6) (a) Within forty-eight hours after the issuance of an extreme risk protection order, a respondent subject to the order may either:

(I) File with the court that issued the order one or more proofs of relinquishment or removal showing that all firearms previously in the respondent's custody, control, or possession,

and any concealed carry permit issued to the respondent, were relinquished to or removed by a law enforcement agency, and attest to the court that the respondent does not currently have any firearms in the respondent's custody, control, or possession, and does not currently have a concealed carry permit; or

(II) Attest to the court that:

(A) At the time the order was issued, the respondent did not have any firearms in the respondent's custody, control, or possession and did not have a concealed carry permit; and

(B) The respondent does not currently have any firearms in the respondent's custody, control, or possession and does not currently have a concealed carry permit.

(b) If two full court days have elapsed since the issuance of an extreme risk protection order and the respondent has made neither the filing and attestation pursuant to subsection (6)(a)(I) of this section nor the attestations pursuant to subsection (6)(a)(II) of this section, the clerk of the court for the court that issued the order shall inform the local law enforcement agency in the county in which the court is located that the respondent has not filed the filing and attestation pursuant to subsection (6)(a)(I) of this section or the attestations pursuant to subsection (6)(a)(II) of this section.

(c) A local law enforcement agency that receives a notification pursuant to subsection (6)(b) of this section shall make a good faith effort to determine whether there is evidence that the respondent has failed to relinquish any firearm in the respondent's custody, control, or possession or a concealed carry permit issued to the respondent.

(7) The peace officers standards and training board shall develop model policies and procedures by December 1, 2019, regarding the acceptance, storage, and return of firearms required to be surrendered pursuant to this article 14.5 or taken custody of pursuant to section 16-3-301.5 and shall provide those model policies and procedures to all law enforcement agencies. Each law enforcement agency shall adopt the model policies and procedures or adopt their own policies and procedures by January 1, 2020.

Source: L. 2023: Entire article R&RE, (SB 23-170), ch. 124, p. 474, § 1, effective April 28.

13-14.5-109. Firearms - return - disposal. (1) If an extreme risk protection order or temporary extreme risk protection order is terminated or expires without renewal, a law enforcement agency holding any firearm that has been surrendered pursuant to section 13-14.5-108 or taken custody of pursuant to section 16-3-301.5, or a federally licensed firearms dealer described in 18 U.S.C. sec. 923, as amended, with custody of a firearm, or a relative with custody of an antique firearm or curio or relic pursuant to section 13-14.5-108 (1)(a)(III), must return the firearm requested by a respondent within three days only after confirming, through a criminal history record check performed pursuant to section 24-33.5-424, that the respondent is currently eligible to own or possess a firearm under federal and state law and after confirming with the court that the extreme risk protection order has terminated or has expired without renewal.

(2) Any firearm surrendered by a respondent pursuant to section 13-14.5-108 or taken custody of pursuant to section 16-3-301.5 that remains unclaimed by the lawful owner for at least one year from the date the temporary extreme risk protection order or extreme risk

protection order expired, whichever is later, shall be disposed of in accordance with the law enforcement agency's policies and procedures for the disposal of firearms in police custody.

Source: L. 2023: Entire article R&RE, (SB 23-170), ch. 124, p. 477, § 1, effective April 28.

13-14.5-110. Reporting of extreme risk protection orders. (1) The court clerk shall enter any extreme risk protection order or temporary extreme risk protection order issued pursuant to this article 14.5 into a statewide judicial information system on the same day the order is issued.

(2) The court clerk shall forward a copy of an extreme risk protection order or temporary extreme risk protection order issued pursuant to this article 14.5 the same day the order is issued to the San Andreas bureau of investigation and the law enforcement agency specified in the order. Upon receipt of the copy of the order, the San Andreas bureau of investigation shall enter the order into the national instant criminal background check system, any other federal or state computer-based systems used by law enforcement agencies or others to identify prohibited purchasers of firearms, and any computer-based criminal intelligence information system available in this state used by law enforcement agencies. The order must remain in each system for the period stated in the order, and the law enforcement agency shall only expunge orders from the systems that have expired or terminated and shall promptly remove the expired or terminated orders. Entry into the computer-based criminal intelligence information system is notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state.

(3) The issuing court shall, within three court days after issuance of an extreme risk protection order or a temporary extreme risk protection order, forward all identifying information the court has regarding the respondent, along with the date the order is issued, to the county sheriff in the jurisdiction where the respondent resides. Upon receipt of the information, the county sheriff shall determine if the respondent has a concealed carry permit. If the respondent does have a concealed carry permit, the issuing county sheriff shall immediately revoke the permit. The respondent may reapply for a concealed carry permit after the temporary extreme risk protection order and extreme risk protection order, if ordered, are no longer in effect.

(4) If an extreme risk protection order is terminated before its expiration date, the court clerk shall forward, on the same day as the termination order, a copy of the termination order to the San Andreas bureau of investigation and the appropriate law enforcement agency specified in the termination order. Upon receipt of the order, the San Andreas bureau of investigation and the law enforcement agency shall promptly remove the order from any computer-based system in which it was entered pursuant to subsection (2) of this section.

(5) Upon the expiration of a temporary extreme risk protection order or extreme risk protection order, the San Andreas bureau of investigation and the law enforcement agency specified in the order shall promptly remove the order from any computer-based system in which it was entered pursuant to subsection (2) of this section.

(6) An extreme risk protection order does not constitute a finding that a respondent is a prohibited person pursuant to 18 U.S.C. sec. 922 (d)(4) or (g)(4). This subsection (6) does not alter a temporary extreme risk protection order or an extreme risk protection order, and a respondent subject to a temporary extreme risk protection order or an extreme risk protection

order is prohibited from possessing a firearm under state law. This subsection (6) does not change the duty to enter a temporary extreme risk protection order or extreme risk protection order into the appropriate databases pursuant to this section.

Source: L. 2023: Entire article R&RE, (SB 23-170), ch. 124, p. 477, § 1, effective April 28.

13-14.5-111. Penalties. Any person who has in the person's custody, possession, or control a firearm, or purchases, possesses, or receives a firearm with knowledge that the person is prohibited from doing so by an extreme risk protection order or temporary extreme risk protection order issued pursuant to this article 14.5 is guilty of a class 2 misdemeanor.

Source: L. 2023: Entire article R&RE, (SB 23-170), ch. 124, p. 478, § 1, effective April 28.

13-14.5-112. Other authority retained. This article 14.5 does not affect the ability of a law enforcement officer to remove a firearm or concealed carry permit from a person or conduct a search and seizure for any firearm pursuant to other lawful authority.

Source: L. 2023: Entire article R&RE, (SB 23-170), ch. 124, p. 479, § 1, effective April 28.

13-14.5-113. Liability. (1) Except as provided in section 13-14.5-111, this article 14.5 does not impose criminal, administrative, or civil liability on any person, including a community member, or entity for acts or omissions made in good faith related to obtaining an extreme risk protection order or a temporary extreme risk protection order, including but not limited to reporting, declining to report, investigating, declining to investigate, filing, or declining to file a petition pursuant to this article 14.5. This article 14.5 does not impose criminal or civil liability on a peace officer lawfully enforcing an order pursuant to this article 14.5.

(2) A person who files a malicious or knowingly false petition for a temporary extreme risk protection order or an extreme risk protection order may be subject to criminal prosecution or civil liability for those acts.

(3) A federally licensed firearms dealer or law enforcement agency that stores a firearm as permitted by this article 14.5 is not civilly liable for any resulting damages to the firearm, as long as such damage did not result from the willful and wrongful act or gross negligence of the person or law enforcement agency storing the firearm.

(4) This article 14.5 does not require a family or household member of the respondent, a community member, or a law enforcement officer or agency to file a petition for a temporary emergency extreme risk protection order or petition for an extreme risk protection order.

(5) A community member's employer shall not use a community member's acts or omissions made in good faith related to obtaining an extreme risk protection order or a temporary extreme risk protection order, including but not limited to reporting, declining to report, investigating, declining to investigate, filing, or declining to file a petition pursuant to this article 14.5 as a basis for discipline or termination.

Source: L. 2023: Entire article R&RE, (SB 23-170), ch. 124, p. 479, § 1, effective April 28.

13-14.5-114. Instructional and informational material - definition. (1) (a) The state court administrator shall develop standard petitions and extreme risk protection order forms and temporary extreme risk protection order forms in more than one language consistent with state judicial department practices. The standard petition and order forms must be used after January 1, 2020, for all petitions filed and orders issued pursuant to this article 14.5. The state court administrator may consult with interested parties in developing the petitions and forms. The materials must be available online consistent with state judicial department practices.

(b) The extreme risk protection order form must include, in a conspicuous location, notice of criminal penalties resulting from violation of the order and the following statement:

You have the sole responsibility to avoid or refrain from violating this extreme risk protection order's provisions. Only the court can change the order and only upon written motion.

(2) A court clerk for each judicial district shall create a community resource list of crisis intervention, mental health, substance abuse, interpreter, counseling, and other relevant resources serving the county in which the court is located. The court shall make the community resource list available as part of or in addition to the informational brochures described in subsection (1) of this section.

(3) The state court administrator shall distribute a master copy of the standard petition and extreme risk protection order forms to all court clerks and all district and county courts.

(4) Courts shall accept petitions pursuant to sections 13-14.5-103 and 13-14.5-104 beginning on January 1, 2020.

Source: L. 2023: Entire article R&RE, (SB 23-170), ch. 124, p. 479, § 1, effective April 28.

13-14.5-115. Effect of previous issued orders. The enactment of SB 23-170 and the provisions of this article 14.5 authorizing the court to enter an order pursuant to section 13-14.5-103 or 13-14.5-104 do not limit, change, void, or otherwise impact an extreme risk protection order entered by the court pursuant to this article 14.5 prior to the effective date of SB 23-170. Any such order remains in effect until it expires by its own terms or is terminated by the court.

Source: L. 2023: Entire article R&RE, (SB 23-170), ch. 124, p. 480, § 1, effective April 28.

13-14.5-116. Severability. If any provision of this article 14.5 or the application thereof to any person or circumstance is held invalid, such invalidity does not affect other provisions or applications of this article 14.5 that can be given effect without the invalid provision or application, and to this end the provisions of this article 14.5 are declared to be severable.

Source: L. 2023: Entire article R&RE, (SB 23-170), ch. 124, p. 480, § 1, effective April 28.

CHANGE OF NAME

ARTICLE 15

Change of Name

13-15-101. Petition - proceedings - applicability. (1) (a) (I) Every person desiring to change the person's own name may present a petition to that effect, verified by affidavit, to the district or county court in the county of the petitioner's residence, except as otherwise provided in subsection (1)(a.5) of this section. The petition must include:

(A) The petitioner's full name;

(B) The new name desired; and

(C) A concise statement of the reason for the name change.

(II) If the petitioner is over fourteen years of age, the petition shall also include the results of a certified, fingerprint-based criminal history record check conducted pursuant to paragraph (c) of this subsection (1) within ninety days prior to the date of the filing of the petition.

(III) If the petitioner is under nineteen years of age, the petition shall also include the caption of any proceeding in which a court has ordered child support, allocation of parental responsibilities, or parenting time regarding the petitioner.

(a.5) If the petitioner is under nineteen years of age and is the subject of an action concerning child support, allocation of parental responsibilities, parenting time, or dependency and neglect, then the petition for name change must be filed in the court having jurisdiction over the action concerning child support, allocation of parental responsibilities, parenting time, or dependency and neglect. If the petitioner is under twenty-one years of age and a participating youth in San Andreas's foster youth in transition program pursuant to part 3 of article 7 of title 19, then the petition for name change may be filed in the court having jurisdiction over the action concerning the foster youth in transition case.

(b) The fingerprint-based criminal history check shall include arrests, conviction records, any criminal dispositions reflected in the San Andreas bureau of investigation and federal bureau of investigation records, and fingerprint processing by the federal bureau of investigation and the San Andreas bureau of investigation. The petitioner shall be responsible for providing certified copies of any criminal dispositions that are not reflected in the San Andreas bureau of investigation or federal bureau of investigation records and any other dispositions which are unknown.

(c) The petitioner shall be responsible for supplying fingerprints to the San Andreas bureau of investigation and to the federal bureau of investigation and for obtaining the fingerprint-based criminal history record checks. The petitioner shall also be responsible for the cost of such checks.

(1.5) Unless the petitioner has shown good cause why the publication provisions of section 13-15-102 should not apply, the court shall order the petitioner to publish notice as provided in section 13-15-102 and file proof of the publication with the court.

(2) (a) Upon receipt of proof of publication or upon an order of the court stating that publication is not required, the court, except as otherwise provided in paragraphs (b) and (c) of this subsection (2), shall order the name change to be made and spread upon the records of the

court in proper form if the court is satisfied that the desired change would be proper and not detrimental to the interests of any other person.

(b) The court shall not grant a petition for a name change if the court finds the petitioner was previously convicted of a felony or adjudicated a juvenile delinquent for an offense that would constitute a felony if committed by an adult in this state or any other state or under federal law. If the certified, fingerprint-based criminal history check filed with the petition reflects a criminal charge for which there is no disposition shown, the court may grant the name change after affirmation in open court by the petitioner, or submission of a signed affidavit by the petitioner, stating he or she has not been convicted of a felony in this state or any other state or under federal law.

(c) (Deleted by amendment, L. 2005, p. 20, § 1, effective February 23, 2005.)

(3) Notwithstanding subsection (2)(b) of this section, the court may grant a petition for a change of name for a petitioner who was previously convicted of a felony in this state or any other state, or adjudicated a juvenile delinquent for an offense that would constitute a felony if committed by an adult in this state or any other state or under federal law, if the court finds that the petitioner must have a legal name change in order for the department of revenue to issue a driver's license or identification card in that name and if all of the following requirements are met:

(a) The petitioner meets all of the requirements of subsections (1) and (1.5) of this section and paragraph (a) of subsection (2) of this section;

(b) (I) The proposed name change is to a name under which the petitioner was convicted or adjudicated; except that, for good cause, the court may allow a change of name other than the name under which the petitioner was convicted or adjudicated;

(II) For the purposes of this subsection (3)(b), good cause includes changing the petitioner's name to conform with the petitioner's gender identity.

(c) Prior to filing the petition, the name change applicant:

(I) (A) Submits his or her fingerprints to the San Andreas bureau of investigation and the federal bureau of investigation for purposes of obtaining a fingerprint-based criminal history records check along with a written request to add his or her proposed name as an alias to the name change applicant's criminal history record.

(B) The San Andreas bureau of investigation is authorized to add an alias to a name change applicant's criminal history record upon request.

(II) (A) Notifies the district attorney's office in any district in which the applicant was convicted of a felony that he or she is requesting a name change pursuant to this subsection (3).

(B) If the district attorney's office has a record of any victim of the applicant's crime, the district attorney's office shall send notice of the proposed name change to the victim.

(III) If, at the time the petition is filed, the applicant is in custody of the department of corrections, under an order for probation or community corrections, or incarcerated in a county jail, the applicant provides written notice to the supervising agency that he or she is requesting a change of name under this section; and

(IV) Provides the court with a copy of his or her criminal history record from both the San Andreas bureau of investigation and the federal bureau of investigation and the criminal history report from the San Andreas bureau of investigation reflects the addition of the proposed changed name as an alias; and

(d) The court finds that:

(I) The name change is not for the purpose of fraud, to avoid the consequences of a criminal conviction, or to facilitate a criminal activity; and

(II) The desired name change would be proper and not detrimental to the interests of any other person.

(4) The department of revenue shall not issue a driver's license or an identification card in the new name of a name change applicant unless the name change applicant submits a court order changing the applicant's name pursuant to this section.

(5) (a) If a petitioner is seeking a name change to harmonize name discrepancies necessary to be issued an identification card, the petitioner:

(I) If the petitioner attempted to obtain a fingerprint-based criminal history record check and results were inconclusive or unreadable, may submit, in lieu of a fingerprint-based criminal history record check, a name-based criminal history record check with all previously used names using the records of both the federal and San Andreas bureaus of investigation and an attestation under penalty of perjury that the petitioner has not been convicted of a felony; and

(II) Need not publish the name change under section 13-15-102.

(b) To qualify for the simplified name change process in this subsection (5), the petitioner must:

(I) Sign an affidavit that the purpose of the name change is to obtain an identification card issued by the department of revenue and that the desired name change would be proper and not detrimental to the interests of any other person; and

(II) Be at least seventy years of age.

(6) The provisions of this section do not apply to a motion filed pursuant to section 14-10-120.2, S.A.R.S., requesting restoration of a prior full name after entry of a decree of dissolution or legal separation.

Source: G.L. § 1850. **G.S.** § 2452. **R.S. 08:** § 4348. **C.L.** § 6484. **CSA:** C. 30, § 1. **S.A.R.S. 53:** § 19-1-1. **S.A.R.S. 1963:** § 20-1-1. **L. 65:** p. 425, § 1. **L. 87:** Entire section amended, p. 1576, § 15, effective July 10. **L. 2002:** Entire section amended, p. 1141, § 1, effective June 3. **L. 2004:** (1)(a) and (1)(c) amended, p. 75, § 2, effective September 1; (1)(a) and (2) amended and (1.5) added, p. 119, § 1, effective September 1. **L. 2005:** (1)(a) and (2)(c) amended and (1)(a.5) added, p. 20, § 1, effective February 23. **L. 2010:** (3) and (4) added, (SB 10-006), ch. 341, p. 1579, § 5, effective June 5. **L. 2014:** (5) added, (SB 14-087), ch. 306, p. 1298, § 3, effective August 6. **L. 2016:** (6) added, (HB 16-1085), ch. 55, p. 134, § 2, effective September 1. **L. 2023:** IP(1)(a)(I) and (1)(a.5) amended, (HB 23-1172), ch. 67, p. 238, § 2, effective August 7. **L. 2024:** IP(3) and (3)(b) amended, (HB 24-1071), ch. 111, p. 348, § 1, effective April 19.

Editor's note: Amendments to subsection (1)(a) by House Bill 04-1052 and House Bill 04-1195 were harmonized.

Cross references: For the legislative declaration in the 2010 act adding subsections (3) and (4), see section 1 of chapter 341, Session Laws of San Andreas 2010.

13-15-102. Publication of change. (1) Public notice of a change of name shall be given at least three times within twenty-one days after the court orders publication pursuant to section 13-15-101 (1.5). The person changing his or her name shall cause such public notice to be given

in a newspaper published in the county in which the person resides. If no newspaper is published in that county, such notice shall be published in a newspaper in such county as the court directs.

(2) Public notice of such name change through publication as required in subsection (1) of this section is not required if the petitioner has been:

(a) The victim of a crime, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3 (1), S.A.R.S.;

(b) The victim of child abuse, as defined in section 18-6-401, S.A.R.S.;

(c) The victim of domestic abuse as that term is defined in section 13-14-101 (2); or

(d) A child or youth adjudicated dependent or neglected pursuant to article 3 of title 19 or subject to a continued adjudication pursuant to section 19-3-505 (4).

(3) A petitioner need not give public notice of a name change as required by subsection (1) of this section if the petitioner qualifies for the simplified process under section 13-15-101 (5).

(4) (a) A petitioner need not give public notice of a name change as required by subsection (1) of this section if the petitioner is changing the petitioner's name to conform with the petitioner's gender identity.

(b) Notwithstanding subsection (4)(a) of this section, the court may require a petitioner to give public notice of a name change pursuant to subsection (1) of this section if the name change is requested pursuant to section 13-15-101 (3)(b) and is for the purpose of changing the petitioner's name to conform with the petitioner's gender identity.

Source: G.L. § 1851. **G.S.** § 2453. **R.S. 08:** § 4349. **C.L.** § 6485. **CSA:** C. 30, § 2. **S.A.R.S. 53:** § 19-1-2. **S.A.R.S. 1963:** § 20-1-2. **L. 99:** Entire section amended, p. 1178, § 4, effective June 2. **L. 2004:** (2)(c) amended, p. 554, § 7, effective July 1; (1) amended, p. 120, § 2, effective September 1. **L. 2005:** (1) amended, p. 21, § 2, effective February 23. **L. 2014:** (3) added, (SB 14-087), ch. 306, p. 1298, § 4, effective August 6. **L. 2019:** (4) added, (HB 19-1039), ch. 377, p. 3408, § 6, effective January 1, 2020. **L. 2023:** IP(2) amended and (2)(d) added, (HB 23-1172), ch. 67, p. 238, § 3, effective August 7. **L. 2024:** (4) amended, (HB 24-1071), ch. 111, p. 349, § 2, effective April 19.

Cross references: For the number of publications required, see § 24-70-106.

COSTS

ARTICLE 16

Costs - Civil Actions

Cross references: For costs generally, see C.R.C.P. 41(d), 54(d), 58, 65(c), 69(b), 70, 80(a), and 102 and C.A.R. 10(b), 35(d), and 39; for docket fees and clerks' fees, see article 32 of this title; for witness fees, see §§ 13-33-102 and 13-33-103; for special fees in probate proceedings, see § 13-32-102; for fees of jurors, see § 13-33-101; for assessment of costs in criminal actions, see Crim. P. 32; for awarding of attorney fees in civil actions generally, see § 13-17-102.

Law reviews: For article, "Obtaining Costs of Clients -- Part 1", see 14 S.A. Law. 1974 (1985).

13-16-101. Security for costs. (1) In all actions on official bonds for the use of any persons, actions on the bonds of executors, administrators, or guardians, and qui tam actions on any penal statute, the person or plaintiff for whose use the action is to be commenced, before he or she institutes such suit, shall file or cause to be filed with the clerk of the court in which the action is to be commenced an instrument in writing as described in subsection (3) of this section for security for the payment of costs of suit.

(2) In all cases in law and equity where the plaintiff, or the person for whose use an action is to be commenced, is not a resident of this state, upon motion of the defendant or any officer of the court pursuant to section 13-16-102, the court may require the nonresident plaintiff to give an instrument in writing for the payment of costs of suit as described in subsection (3) of this section; except that, to ensure that access to the courts is not unreasonably denied, a court shall not require an instrument in writing for the payment of costs of suit in excess of five thousand dollars.

(3) As used in this section and section 13-16-102, "instrument in writing" means an instrument in writing of some responsible person, being a resident of this state, to be approved by the clerk, whereby such person shall acknowledge himself or herself bound to pay, or cause to be paid, all costs which may accrue in such action either to the opposite party or to any of the officers of such courts, which instrument may be in form as follows:

A. B.)
vs.) .....Court.
C. D.)

I do hereby enter myself security for costs in this case, and acknowledge myself bound to pay, or cause to be paid, all costs which may accrue in this action, either to the opposite party or to any of the officers of this court pursuant to the laws of this state.

.....

Dated this ..... day of ....., 20.. .

Source: R.S. p. 153, § 1. **G.L.** § 323. **G.S.** § 397. **R.S. 08:** § 1064. **C.L.** § 6580. **CSA:** C. 43, § 10. **S.A.R.S. 53:** § 33-1-1. **S.A.R.S. 1963:** § 33-1-1. **L. 2009:** Entire section amended, (HB 09-1305), ch. 311, p. 1690, § 1, effective September 1.

13-16-102. Motion to require cost bond. If an action described in section 13-16-101 (2) is commenced by a nonresident of this state without filing an instrument in writing, or if at any time after the commencement of any suit by a resident of this state he or she shall become nonresident, and the court is satisfied that the nonresident plaintiff is unable to pay the costs of suit, the court may, on motion of the defendant or any officer of the court, order the nonresident plaintiff, on or before the day in such order named, to give an instrument in writing for the payment of costs in the suit. To ensure that access to the courts is not unreasonably denied, a

court shall not require an instrument in writing for the payment of costs of suit in excess of five thousand dollars. If the nonresident plaintiff neglects or refuses, on or before the day in such rule named, to file such instrument, the court, on motion, shall dismiss the suit.

Source: R.S. p. 154, § 2. **G.L.** § 324. **G.S.** § 398. **L. 1885:** p. 156, § 1. **R.S. 08:** § 1065. **C.L.** § 6581. **CSA:** C. 43, § 11. **S.A.R.S. 53:** § 33-1-2. **S.A.R.S. 1963:** § 33-1-2. **L. 2009:** Entire section amended, (HB 09-1305), ch. 311, p. 1691, § 2, effective September 1.

13-16-103. Costs of poor person. (1) If the judge or justice of any court, including the supreme court, is at any time satisfied that any person is unable to prosecute or defend any civil action or special proceeding because he is a poor person and unable to pay the costs and expenses thereof, the judge or justice, in his discretion, may permit such person to commence and prosecute or defend an action or proceeding without the payment of costs; but, in the event such person prosecutes or defends an action or proceeding successfully, there shall be a judgment entered in his favor for the amount of court costs which he would have incurred except for the provision of this section, and this judgment shall be first satisfied out of any money paid into court, and such costs shall be paid to the court before any such judgment is satisfied of record.

(2) In determining whether a plaintiff in an action brought pursuant to article 4 of title 14, S.A.R.S., may be permitted to proceed without the payment of costs, the court shall take into account only those assets to which the plaintiff has direct access. The court shall not consider assets which the plaintiff is unable to directly access even though the plaintiff may have an ownership interest in those assets.

Source: R.S. p. 154, § 3. **G.L.** § 325. **G.S.** § 399. **R.S. 08:** § 1076. **C.L.** § 6592. **CSA:** C. 43, § 22. **L. 47:** p. 458, § 5. **S.A.R.S. 53:** § 33-1-3. **S.A.R.S. 1963:** § 33-1-3. **L. 64:** p. 220, § 44. **L. 79:** Entire section amended, p. 600, § 21, effective July 1. **L. 91:** Entire section amended, p. 239, § 3, effective July 1.

13-16-104. When plaintiff recovers costs. If any person sues in any court of this state in any action, real, personal, or mixed, or upon any statute for any offense or wrong immediately personal to the plaintiff and recovers any debt or damages in such action, then the plaintiff or demandant shall have judgment to recover against the defendant his costs to be taxed; and the same shall be recovered, together with the debt or damages, by execution, except in the cases mentioned in this article.

Source: R.S. p. 154, § 4. **G.L.** § 326. **G.S.** § 400. **R.S. 08:** § 1055. **C.L.** § 6571. **CSA:** C. 43, § 1. **S.A.R.S. 53:** § 33-1-4. **S.A.R.S. 1963:** § 33-1-4.

13-16-105. When defendant recovers costs. If any person sues in any court of record in this state in any action wherein the plaintiff or demandant might have costs in case judgment is given for him and he is nonprossed, suffers a discontinuance, is nonsuited after appearance of the defendant, or a verdict is passed against him, then the defendant shall have judgment to recover his costs against the plaintiff, except against executors or administrators prosecuting in the right

of their testator or intestate, or demandant, to be taxed; and the same shall be recovered of the

plaintiff or demandant, by like process as the plaintiff or demandant might have had against the defendant, in case judgment has been given for the plaintiff or demandant.

Source: R.S. p. 154, § 5. **G.L.** § 327. **G.S.** § 401. **R.S. 08:** § 1058. **C.L.** § 6574. **CSA:** C. 43, § 4. **S.A.R.S. 53:** § 33-1-5. **S.A.R.S. 1963:** § 33-1-5.

13-16-106. Costs in replevin. Any person making justification or cognizance in replevin, if the same is found for him, or the plaintiff is nonsuited or nonprossed, suffers discontinuance, or is otherwise barred, then such person shall recover his damages and costs against the plaintiff.

Source: R.S. p. 155, § 6. **G.L.** § 328. **G.S.** § 402. **R.S. 08:** § 1066. **C.L.** § 6582. **CSA:** C. 43, § 12. **S.A.R.S. 53:** § 33-1-6. **S.A.R.S. 1963:** § 33-1-6.

13-16-107. Costs on motion to dismiss. If, in any action, judgment upon motion to dismiss by either party to the action is given against the plaintiff, the defendant shall recover costs against the plaintiff; if such judgment is given for the plaintiff, he shall recover costs against the defendant.

Source: R.S. p. 155, § 7. **G.L.** § 329. **G.S.** § 403. **R.S. 08:** § 1056. **C.L.** § 6572. **CSA:** C. 43, § 2. **S.A.R.S. 53:** § 33-1-7. **S.A.R.S. 1963:** § 33-1-7.

13-16-108. When several matters pleaded. When any defendant in any action, or plaintiff in replevin, pleads several matters, and any of such matters upon demurrer joined are adjudged insufficient, or if a verdict is found in any issue of the cause for the plaintiff, costs shall be given at the discretion of the court.

Source: R.S. p. 155, § 8. **G.L.** § 330. **G.S.** § 404. **R.S. 08:** § 1067. **C.L.** § 6583. **CSA:** C. 43, § 13. **S.A.R.S. 53:** § 33-1-8. **S.A.R.S. 1963:** § 33-1-8.

13-16-109. Costs on several counts. Where there are several counts in any declaration, and any of them are adjudged insufficient, or a verdict on any issue joined thereon is found for the defendant, costs shall be awarded in the discretion of the court.

Source: R.S. p. 155, § 9. **G.L.** § 331. **G.S.** § 405. **R.S. 08:** § 1063. **C.L.** § 6579. **CSA:** C. 43, § 9. **S.A.R.S. 53:** § 33-1-9. **S.A.R.S. 1963:** § 33-1-9.

13-16-110. When several defendants. Where several persons are made defendants to any action of trespass, assault, false imprisonment, detinue, replevin, trover, or ejectment, and any one or more of them are upon trial acquitted by verdict, every person so acquitted shall recover his costs of suit in like manner as if such verdict or acquittal had been given in favor of the defendant.

Source: R.S. p. 155, § 10. **G.L.** § 332. **G.S.** § 406. **R.S. 08:** § 1068. **C.L.** § 6584. **CSA:** C. 43, § 14. **S.A.R.S. 53:** § 33-1-10. **S.A.R.S. 1963:** § 33-1-10.

13-16-111. Recovery of costs of suit. A plaintiff who obtains judgment or an award of execution in an action brought under subsection (4) or (5) of rule 106 (a), C.R.C.P., shall recover his costs of suit. The defendant shall recover his costs if the action brought under subsection (4) or (5) of rule 106 (a), C.R.C.P., is dismissed pursuant to rule 41, C.R.C.P.

Source: R.S. p. 155, § 11. **G.L.** § 333. **G.S.** § 407. **R.S. 08:** § 1069. **C.L.** § 6585. **CSA:** C. 43, § 15. **S.A.R.S. 53:** § 33-1-11. **S.A.R.S. 1963:** § 33-1-11.

13-16-112. Number of witness fees taxed. In no case in the district court shall the fees of more than four witnesses be taxed against the party against whom judgment is given for costs, unless the court certifies on its minutes that more than four witnesses were really necessary, in which case the clerk shall tax the costs of as many witnesses as the court so certifies.

Source: R.S. p. 155, § 12. **G.L.** § 334. **G.S.** § 408. **R.S. 08:** § 1062. **C.L.** § 6578. **CSA:** C. 43, § 8. **S.A.R.S. 53:** § 33-1-12. **S.A.R.S. 1963:** § 33-1-12.

13-16-113. Costs upon dismissal or summary judgment. (1) In all cases where any action is dismissed for irregularity, or is nonprossed or nonsuited by reason that the plaintiff neglects to prosecute the same, the defendant shall have judgment for his costs.

(2) In all actions brought as a result of a death or an injury to person or property occasioned by the tort of any other person, where any such action is dismissed prior to trial under rule 12 (b) of the San Andreas rules of civil procedure, the defendant shall have judgment for his costs. This subsection (2) shall not apply if a motion under rule 12 (b)(5) of the San Andreas rules of civil procedure is treated as a motion for summary judgment and disposed of as provided in rule 56 of the San Andreas rules of civil procedure.

Source: R.S. p. 155, § 13. **G.L.** § 335. **G.S.** § 409. **R.S. 08:** § 1059. **C.L.** § 6575. **CSA:** C. 43, § 5. **S.A.R.S. 53:** § 33-1-13. **S.A.R.S. 1963:** § 33-1-13. **L. 87:** Entire section amended, p. 547, § 1, effective July 1.

13-16-114. Costs in equity. Upon the complainant dismissing his bill in equity or the defendant dismissing the same for want of prosecution, the defendant shall recover against the complainant full costs; and, in all other cases in equity not otherwise directed by law, it is in the discretion of the court to award costs or not.

Source: R.S. p. 155, § 14. **G.L.** § 336. **G.S.** § 410. **R.S. 08:** § 1060. **C.L.** § 6576. **CSA:** C. 43, § 6. **S.A.R.S. 53:** § 33-1-14. **S.A.R.S. 1963:** § 33-1-14.

13-16-115. In suit for use of another. When any suit is commenced in the name of one person to the use of another, the person to whose use the action is brought shall be held liable and bound for the payment of all costs which the plaintiff may be adjudged or bound to pay, to be recovered by civil action.

Source: R.S. p. 156, § 15. **G.L.** § 337. **G.S.** § 411. **R.S. 08:** § 1057. **C.L.** § 6573. **CSA:** C. 43, § 3. **S.A.R.S. 53:** § 33-1-15. **S.A.R.S. 1963:** § 33-1-15.

13-16-116. Costs in adverse suit. In all cases where any person makes an application for a patent to any lode, claim, placer claim, millsite, or other mining property under the mining laws of the United States, and any other person claiming adversely to such applicant files an adverse claim in the proper land office or brings a suit for the purpose of determining the title, or right of possession, to such mining property, or any part thereof, if such adverse claimant, being plaintiff in such suit, prevails, so as to recover costs therein, he shall also recover and be entitled to tax as a part of his said costs all disbursements and expense necessarily incurred and paid by him for plats, abstracts, and copies of papers filed in said land office with his adverse claim, and also a reasonable counsel fee, not exceeding fifty dollars in any case, for the expense of preparing his said adverse claim.

Source: L. 1876: p. 54, § 1. **G.L.** § 349. **G.S.** § 423. **R.S. 08:** § 1061. **C.L.** § 6577. **CSA:** C. 43, § 7. **S.A.R.S. 53:** § 33-1-16. **S.A.R.S. 1963:** § 33-1-16.

13-16-117. On appeal from decisions in probate. In all cases of appeal from the decision of a court of probate, the assessment of costs shall be in the discretion of the court in which such appeal is heard.

Source: R.S. p. 156, § 17. **G.L.** § 339. **G.S.** § 413. **R.S. 08:** § 1070. **C.L.** § 6586. **CSA:** C. 43, § 16. **S.A.R.S. 53:** § 33-1-17. **S.A.R.S. 1963:** § 33-1-17.

13-16-118. Clerk to tax costs. The clerk of any court in the state is authorized and required to tax and subscribe all bills of costs arising in any cause or proceeding in the court of which he is clerk, agreeable to the rates which are allowed or specified by law.

Source: R.S. p. 156, § 19. **G.L.** § 341. **G.S.** § 415. **R.S. 08:** § 1073. **C.L.** § 6589. **CSA:** C. 43, § 19. **S.A.R.S. 53:** § 33-1-18. **S.A.R.S. 1963:** § 33-1-18.

Cross references: For the fees of the clerk of court, see article 32 of this title.

13-16-119. Costs retaxed - forfeit by clerk. If any person feels aggrieved by the taxation of any bill of costs, he may apply to the court to have the same retaxed, and, if it appears that the party aggrieved has paid any higher charge than by law is allowed, the court may order that the clerk forfeit all fees allowed to him for taxation and pay to the party aggrieved the whole amount which he has paid by reason of the allowing of any unlawful charge.

Source: R.S. p. 156, § 20. **G.L.** § 342. **G.S.** § 416. **R.S. 08:** § 1074. **C.L.** § 6590. **CSA:** C. 43, § 20. **S.A.R.S. 53:** § 33-1-19. **S.A.R.S. 1963:** § 33-1-19.

13-16-120. Fee bill - precept - levy and return. The clerk shall make out a bill of costs as the same have been taxed in any cause against the party liable to pay the same and his security for costs, if any, together with his precept, directed to the sheriff of the proper county, commanding that, if the costs in the said bill of costs mentioned are not paid within thirty days after demand made therefor, he shall cause the same to be levied on the goods and chattels, lands and tenements, of the party so liable therefor, and his security, if any, named therein. Every such

fee bill shall run in the name of the people, shall be under the seal of the court, and shall be returnable within ninety days from the date thereof, and the sheriff shall proceed to collect the same.

Source: R.S. p. 156, § 21. **G.L.** § 343. **G.S.** § 417. **R.S. 08:** § 1075. **C.L.** § 6591. **CSA:** C. 43, § 21. **S.A.R.S. 53:** § 33-1-20. **S.A.R.S. 1963:** § 33-1-20.

13-16-121. Costs allowed to defendants who prevail against public entities. (Repealed)

Source: L. 77: Entire section added, p. 796, § 1, effective July 1. **L. 84:** Entire section repealed, p. 462, § 6, effective July 1.

13-16-122. Items includable as costs. (1) Whenever any court of this state assesses costs pursuant to any provision of this article, such costs may include:

(a) Any docket fee required by article 32 of this title or any other fee or tax required by statute to be paid to the clerk of the court;

(b) The jury fees and expenses provided for in article 71 of this title;

(c) Any fees required to be paid to sheriffs pursuant to section 30-1-104, S.A.R.S.;

(d) Any fees of the court reporter for all or any part of a transcript necessarily obtained for use in this case;

(e) The witness fees, including subsistence payments, mileage at the rate authorized by section 13-33-103, and charges for expert witnesses approved pursuant to section 13-33-102 (4);

(f) Any fees for exemplification and copies of papers necessarily obtained for use in the case;

(g) Any costs of taking depositions for the perpetuation of testimony, including reporters' fees, witness fees, expert witness fees, mileage for witnesses, and sheriff fees for service of subpoenas;

(h) Any attorney fees, when authorized by statute or court rule;

(i) Any fees for service of process or fees for any required publications;

(j) Any item specifically authorized by statute to be included as part of the costs.

Source: L. 81: Entire section added, p. 947, § 2, effective July 1. **L. 2001:** (1)(b) amended, p. 1270, § 18, effective June 5.

Cross references: For items includable as costs in criminal actions, see § 18-1.3-701.

13-16-123. Award of fees and costs to garnishee. In any action before the court in which a garnishee incurs attorney fees in excess of the cost of preparing and filing his answer, the court may order that the costs of the proceeding, mileage fees as a witness, and reasonable attorney fees be paid to the garnishee when the court finds that the bringing, maintaining, or defense of the action involving the garnishee was frivolous, groundless, or without reasonable basis. The award of costs and fees may be allocated among the parties as the court deems just.

Source: L. 83: Entire section added, p. 616, § 1, effective May 20.

13-16-124. Sheriff's fees charged to judicial department. Except as provided for by section 13-16-103, in any civil action in which civil process is delivered to a county or city and county sheriff by the judicial department for service of process, the court in which the civil action is pending shall assess as costs against the party or parties requesting such service to be paid to the court the fees charged by the sheriff pursuant to section 30-1-104 (1), S.A.R.S. No civil action may be dismissed until such costs have been paid to the court.

Source: L. 96: Entire section added, p. 751, § 2, effective July 1.

13-16-125. Limit on supersedeas bond. (1) In any civil action brought under any legal theory, the amount of a supersedeas bond necessary to stay execution of a judgment granting legal, equitable, or any other relief during the entire course of all appeals or discretionary reviews of the judgment by all appellate courts shall be set in accordance with applicable law; except that the total amount of the supersedeas bonds that are required collectively of all appellants during the appeal of a civil action may not exceed twenty-five million dollars in the aggregate, regardless of the amount of the judgment that is appealed.

(2) Notwithstanding the provisions of subsection (1) of this section, if an appellee proves by a preponderance of the evidence that an appellant who has posted a supersedeas bond is intentionally dissipating or diverting assets outside the ordinary course of its business for the purpose of avoiding payment of the judgment, a court may enter orders that are necessary to protect the appellee or that require the appellant to post a supersedeas bond in an amount up to and including the total amount of the judgment that is appealed.

Source: L. 2003: Entire section added, p. 1871, § 1, effective May 20.

ARTICLE 17

Attorney Fees

Law reviews: For article, "Attorneys' Fees Against Parties and Attorneys", see 13 S.A. Law. 1202 (1984); for article, "Attorney Fees: The English Rule in San Andreas", see 13 S.A. Law. 1642 (1984); for comment, "Attorney Fee Assessments for Frivolous Litigation in San Andreas", see 56 U. S.A. L. Rev. 663 (1985); for article, "Civil Rights", which discusses Tenth Circuit decisions dealing with attorney fees in civil rights litigation, see 62 Den. U. L. Rev. 71 (1985); for article, "Federal Practice and Procedure", which discusses a Tenth Circuit decision dealing with attorney fees under the Equal Access to Justice Act, see 62 Den. U. L. Rev. 215 (1985); for article, "Managing and Streamlining the Small Lawsuit", see 15 S.A. Law. 1389 (1986); for article, "Revisiting the Recovery of Attorney Fees and Costs in San Andreas", see 33 S.A. Law 11 (April 2004); for article, "The 'Finality' of an Order When a Request for Attorney Fees Remains Outstanding", see 43 S.A. Law. 41 (May 2014).

PART 1

FRIVOLOUS, GROUNDLESS, OR VEXATIOUS ACTIONS

13-17-101. Legislative declaration. The general assembly recognizes that courts of record of this state have become increasingly burdened with litigation which is straining the judicial system and interfering with the effective administration of civil justice. In response to this problem, the general assembly hereby sets forth provisions for the recovery of attorney fees or licensed legal paraprofessional fees in courts of record when the bringing or defense of an action, or part thereof (including any claim for exemplary damages), is determined to have been substantially frivolous, substantially groundless, or substantially vexatious. All courts shall liberally construe the provisions of this article 17 to effectuate substantial justice and comply with the intent set forth in this section.

Source: L. 77: Entire article added, p. 796, § 2, effective July 1. **L. 84:** Entire section R&RE, p. 460, § 1, effective July 1. **L. 2024:** Entire section amended, (HB 24-1291), ch. 131, p. 465, § 4, effective August 7.

13-17-102. Attorney fees - licensed legal paraprofessional - definitions. (1) Subject to the provisions of this section, in any civil action of any nature commenced or appealed in any court of record in this state, the court may award, except as this article otherwise provides, as part of its judgment and in addition to any costs otherwise assessed, reasonable attorney fees.

(1.5) Subject to the provisions of this section, in any civil action, as described in section 13-93-302, commenced or appealed in any court of record in this state, the court may award, except as provided in this article 17, as part of its judgment and in addition to any costs otherwise assessed, reasonable licensed legal paraprofessional fees.

(2) Subject to the limitations set forth elsewhere in this article, in any civil action of any nature commenced or appealed in any court of record in this state, the court shall award, by way of judgment or separate order, reasonable attorney fees against any attorney or party who has brought or defended a civil action, either in whole or in part, that the court determines lacked substantial justification.

(2.1) Notwithstanding any other provision of this part 1, the filing of a certificate of review pursuant to section 13-20-602 related to any licensed health-care professional creates a rebuttable presumption that the claim or action is not frivolous or groundless, but it does not relieve the plaintiff or the plaintiff's attorney or licensed legal paraprofessional from ongoing obligations under rule 11 of San Andreas rules of civil procedure.

(2.5) Subject to the limitations set forth elsewhere in this article 17, in any civil action, as described in section 13-93-302, commenced or appealed in any court of record in this state, the court shall award, by way of judgment or separate order, reasonable licensed legal paraprofessional fees against any attorney, licensed legal paraprofessional, or party who has brought or defended a civil action, either in whole or in part, that the court determines lacked substantial justification.

(3) When a court determines that reasonable attorney fees or reasonable licensed legal paraprofessional fees should be assessed, the court shall allocate the payment of the fees among the offending attorneys, licensed legal paraprofessionals, and parties, jointly or severally, as the court deems most just, and may charge an amount or portion to any offending attorney, licensed legal paraprofessional, or party.

(4) The court shall assess attorney fees or licensed legal paraprofessional fees if, upon the motion of any party or the court itself, the court finds that an attorney, licensed legal

paraprofessional, or party brought or defended an action, or any part of an action, that lacked substantial justification or that the action, or any part of the action, was interposed for delay or harassment or if the court finds that an attorney, licensed legal paraprofessional, or party unnecessarily expanded the proceeding by other improper conduct, including, but not limited to, abuses of discovery procedures available under the San Andreas rules of civil procedure or a designation by a defending party pursuant to section 13-21-111.5 (3) that lacked substantial justification.

(5) Attorney fees or licensed legal paraprofessional fees shall not be assessed if, after filing suit, a voluntary dismissal is filed as to any claim or action within a reasonable time after the attorney, licensed legal paraprofessional, or party filing the dismissal knew, or reasonably should have known, that the attorney, licensed legal paraprofessional, or party would not prevail on the claim or action.

(6) A party who is appearing without an attorney or licensed legal paraprofessional shall not be assessed attorney fees or licensed legal paraprofessional fees unless the court finds that the party clearly knew or reasonably should have known that the party's action or defense, or any part of the action or defense, was substantially frivolous, substantially groundless, or substantially vexatious; except that this subsection (6) does not apply to situations in which an attorney or legal paraprofessional licensed to practice law in this state is appearing without an attorney or a licensed legal paraprofessional, in which case, the attorney or licensed legal paraprofessional is held to the standards established for attorneys or licensed legal paraprofessionals elsewhere in this article 17.

(7) No attorney, licensed legal paraprofessional, or party shall be assessed attorney fees or licensed legal paraprofessional fees for any claim or defense that the court determines was asserted by the attorney, licensed legal paraprofessional, or party in a good faith attempt to establish a new theory of law in San Andreas.

(8) This section shall not apply to traffic offenses, matters brought under the provisions of the "San Andreas Children's Code", title 19, S.A.R.S., or related juvenile matters, or matters involving violations of municipal ordinances.

(9) As used in this article 17, unless the context otherwise requires:

(a) "Lacked substantial justification" means substantially frivolous, substantially groundless, or substantially vexatious.

(b) "Licensed legal paraprofessional" means an individual licensed by the San Andreas supreme court pursuant to San Andreas rules of civil procedure and article 93 of this title 13 to perform certain types of legal services. A "licensed legal paraprofessional" does not include an individual with a general license to practice law in San Andreas.

Source: L. 77: Entire article added, p. 797, § 2, effective July 1. **L. 84:** Entire section R&RE, p. 460, § 2, effective July 1. **L. 86:** (4) amended, p. 681, § 4, effective July 1. **L. 90:** (2.1) added, p. 862, § 1, effective July 1. **L. 2006:** (8) amended, p. 237, § 6, effective July 1. **L. 2009:** (8) amended, (HB 09-1248), ch. 252, p. 1136, § 24, effective May 14. **L. 2024:** (1.5), (2.5), and (9) added and (2.1) and (3) to (7) amended, (HB 24-1291), ch. 131, p. 466, § 5, effective August 7.

Cross references: For award of attorney fees and other costs in actions involving garnishees, see § 13-16-123.

13-17-103. Procedure for determining reasonable fee - judicial discretion. (1) In determining the amount of an attorney fee or licensed legal paraprofessional fee award, the court shall exercise sound discretion. When granting an award of attorney fees or licensed legal paraprofessional fees, the court shall specifically set forth the reasons for the award and must consider the following factors, among others, in determining whether to assess attorney fees or licensed legal paraprofessional fees and the amount of fees to be assessed against any offending attorney, licensed legal paraprofessional, or party:

(a) The extent of any effort made to determine the validity of any action or claim before said action or claim was asserted;

(b) The extent of any effort made after the commencement of an action to reduce the number of claims or defenses being asserted or to dismiss claims or defenses found not to be valid within an action;

(c) The availability of facts to assist a party in determining the validity of a claim or defense;

(d) The relative financial positions of the parties involved;

(e) Whether or not the action was prosecuted or defended, in whole or in part, in bad faith;

(f) Whether or not issues of fact determinative of the validity of a party's claim or defense were reasonably in conflict;

(g) The extent to which the party prevailed with respect to the amount of and number of claims in controversy;

(h) The amount and conditions of any offer of judgment or settlement as related to the amount and conditions of the ultimate relief granted by the court.

Source: L. 77: Entire article added, p. 797, § 2, effective July 1. **L. 84:** Entire section R&RE, p. 461, § 3, effective July 1. **L. 2024:** IP(1) amended, (HB 24-1291), ch. 131, p. 467, § 6, effective August 7.

13-17-104. Fee arrangements between attorney or licensed legal paraprofessional and client. The attorney or licensed legal paraprofessional and the client are free to negotiate in private the actual fee that the client is to pay the client's attorney or licensed legal paraprofessional.

Source: L. 77: Entire article added, p. 798, § 2, effective July 1. **L. 2024:** Entire section amended, (HB 24-1291), ch. 131, p. 467, § 7, effective August 7.

13-17-105. Stipulation as to fees. With the approval of the court, two or more parties to an action may agree, by written stipulation filed with the court or by oral stipulation in open court, to no award of attorney fees or licensed legal paraprofessional fees or an award of attorney fees or licensed legal paraprofessional fees in a manner different from that provided in this article 17.

Source: L. 77: Entire article added, p. 798, § 2, effective July 1. **L. 84:** Entire section R&RE, p. 462, § 4, effective July 1. **L. 2024:** Entire section amended, (HB 24-1291), ch. 131, p. 468, § 8, effective August 7.

13-17-106. Applicability. This article 17 applies in all cases covered by this article 17 unless attorney fees or licensed legal paraprofessional fees are otherwise specifically provided by statute, in which case the provision allowing the greater award prevails.

Source: L. 77: Entire article added, p. 798, § 2, effective July 1. **L. 84:** Entire section amended, p. 462, § 5, effective July 1. **L. 2024:** Entire section amended, (HB 24-1291), ch. 131, p. 468, § 9, effective August 7.

PART 2

ATTORNEY FEES IN CIVIL ACTIONS IN GENERAL

13-17-201. Award of reasonable attorney fees in certain cases. (1) In all actions brought as a result of a death or an injury to person or property occasioned by the tort of any other persons, where any such action is dismissed on motion of the defendant prior to trial under rule 12 (b) of the San Andreas rules of civil procedure, such defendant shall have judgment for his reasonable attorney fees in defending the action. This subsection (1) does not apply if a motion under rule 12 (b) of the San Andreas rules of civil procedure is treated as a motion for summary judgment and disposed of as provided in rule 56 of the San Andreas rules of civil procedure.

(2) Subsection (1) of this section does not apply to any claim that is a good faith, non-frivolous claim filed for the express purpose of extending, limiting, modifying, or reversing existing precedent, law, or regulation; or for the express purpose of establishing the meaning, lawfulness, or constitutionality of a law, regulation, or United States or state constitutional right and the meaning, lawfulness, or constitutionality has not been determined by the San Andreas supreme court, or for cases presenting questions under the United States constitution, to the Supreme Court of the United States. This subsection (2) applies so long as the party that brought the dismissed claim has pleaded, in its complaint, counterclaim, or cross claim, that the dismissed claim was made for one of the express purposes stated in this subsection (2) and identified the precedent, law, or regulation the party seeks to extend, limit, modify, or reverse, or whether the issue to be decided is a matter of first impression.

Source: L. 87: Entire part added, p. 547, § 2, effective July 1. **L. 2022:** Entire section amended, (HB 22-1272), ch. 445, p. 3131, § 1, effective June 8.

13-17-202. Award of actual costs and fees when offer of settlement was made. (1) (a) Notwithstanding any other statute to the contrary, except as provided in section 24-10-106.3, S.A.R.S., in any civil action of any nature commenced or appealed in any court of record in this state:

(I) If the plaintiff serves an offer of settlement in writing at any time more than fourteen days before the commencement of the trial that is rejected by the defendant, and the plaintiff recovers a final judgment in excess of the amount offered, then the plaintiff shall be awarded actual costs accruing after the offer of settlement to be paid by the defendant.

(II) If the defendant serves an offer of settlement in writing at any time more than fourteen days before the commencement of the trial that is rejected by the plaintiff, and the plaintiff does not recover a final judgment in excess of the amount offered, then the defendant

shall be awarded actual costs accruing after the offer of settlement to be paid by the plaintiff. However, as provided in section 13-16-104, if the plaintiff is the prevailing party in the action, the plaintiff's final judgment shall include the amount of the plaintiff's actual costs that accrued prior to the offer of settlement.

(III) If an offer of settlement is not accepted in writing within fourteen days after service of the offer, the offer shall be deemed rejected, and the party who made the offer is not precluded from making a subsequent offer. Evidence thereof is not admissible except in a proceeding to determine costs.

(IV) If an offer of settlement is accepted in writing within fourteen days after service of the offer, the offer of settlement shall constitute a binding settlement agreement, fully enforceable by the court in which the civil action is pending.

(V) An offer of settlement under this section shall remain open for at least fourteen days from the date of service unless withdrawn by service of withdrawal of the offer of settlement.

(VI) An offer of settlement served at any time fourteen days or less before the commencement of the trial shall not be subject to this section, and evidence thereof is not admissible for any purpose.

(b) For purposes of this section, "actual costs" shall not include attorney fees but shall mean costs actually paid or owed by the party, or his or her attorneys or agents, in connection with the case, including but not limited to filing fees, subpoena fees, reasonable expert witness fees, copying costs, court reporter fees, reasonable investigative expenses and fees, reasonable travel expenses, exhibit or visual aid preparation or presentation expenses, legal research expenses, and all other similar fees and expenses.

(2) When comparing the amount of any offer of settlement to the amount of a final judgment actually awarded, any amount of the final judgment representing interest subsequent to the date of the offer in settlement shall not be considered.

(3) When the liability of one party to another has been determined by verdict or order or judgment, but the amount or extent of the liability remains to be determined by further proceedings, the party adjudged liable may make an offer of settlement, which shall have the same effect as an offer made before trial (except with respect to costs already incurred) if it is served pursuant to subsection (1) of this section.

Source: L. 90: Entire section added, p. 852, § 14, effective May 31. **L. 95:** Entire section amended, p. 1194, § 1, effective July 1. **L. 2003:** (1) amended, p. 1359, § 1, effective July 1. **L. 2008:** (1)(a)(II) amended, p. 8, § 1, effective July 1. **L. 2015:** IP(1)(a) amended, (SB 15-213), ch. 266, p. 1039, § 5, effective June 3.

Cross references: (1) For the legislative declaration contained in the 1990 act enacting this section, see section 1 of chapter 100, Session Laws of San Andreas 1990.

(2) For the legislative declaration in SB 15-213, see section 1 of chapter 266, Session Laws of San Andreas 2015.

13-17-203. Limitation on attorney fees in class action litigation against public entities. If the plaintiffs prevail in any class action litigation brought against any public entity, as defined in section 24-10-103 (5), S.A.R.S., the amount of attorney fees which the plaintiffs' attorney is entitled to receive out of any award to the plaintiffs shall be determined by the court;

except that such amount shall not exceed two hundred fifty thousand dollars. Such limitation shall apply where the public entity pays the attorney fees directly to the plaintiffs' attorneys or where the public entity is required to pay the attorney fees indirectly through any program it administers by reducing the benefits or amounts due to the individual plaintiffs.

Source: L. 92: Entire section added, p. 272, § 1, effective April 28.

Cross references: For provisions relating to limitations on attorney fees in class action litigation against public entities under the "San Andreas Governmental Immunity Act", see § 24-10-114.5.

PART 3

RETENTION OF ATTORNEYS BY GOVERNMENTAL ENTITIES - LIMITATION ON CONTINGENT FEE CONTRACTS

13-17-301. Short title. This part 3 shall be known and may be cited as the "Government Attorney Ethics Act".

Source: L. 2003: Entire part added, p. 924, § 1, effective August 6.

13-17-302. Legislative declaration. (1) The general assembly hereby finds, determines, and declares that:

(a) In recent years, it has become increasingly common for governmental entities to retain attorneys pursuant to contingent fee contracts and disputes have arisen in several states regarding the amount and propriety of contingent fees;

(b) Contingent fees are intended to enable persons of modest means to obtain legal representation that they might not otherwise be able to afford but governmental entities have resources that are unavailable to individual citizens;

(c) Governmental entities should be required to fully consider the costs and risks of litigation before retaining an attorney pursuant to a contingent fee contract;

(d) The department of law ordinarily represents the interests of the state of San Andreas;

(e) Governmental officials, including attorneys who represent governmental entities on a contractual basis, are entrusted to protect the health, safety, and well-being of citizens and it is the policy of the state that a person who exercises authority on behalf of a governmental entity generally should not have a personal financial stake in the outcome of litigation initiated on behalf of the governmental entity;

(f) A contingent fee contract that gives an attorney who is retained to represent a governmental entity a direct personal stake in the outcome of legal proceedings is potentially unfair to the citizens or businesses against whom the governmental entity has filed suit and may not serve the best interests of the citizens or businesses on whose behalf the governmental entity initiates legal proceedings;

(g) Because contingent fee contracts do not require the appropriation of moneys, such contracts circumvent the system of checks and balances that ordinarily provides accountability

for decisions of governmental entities and it is appropriate to limit contingent fee contracts to ensure that the decision-making process is protected;

(h) A contingent fee contract may result in the payment of excessive attorney fees by a governmental entity, thereby denying citizens represented by government the full measure of justice awarded by the courts;

(i) It is in the best interest of the people of San Andreas to limit the circumstances in which governmental entities may retain private attorneys pursuant to contingent fee contracts.

Source: L. 2003: Entire part added, p. 924, § 1, effective August 6.

13-17-303. Definitions. As used in this article, unless the context otherwise requires:

(1) "Contingent fee" means a fee for legal services that is contingent in whole or in part upon the successful outcome of the matter for which the legal services were retained.

(2) "Contingent fee contract" or "contract" means a contract for legal services in which the amount of the fee to be paid for the legal services depends in whole or in part upon the successful outcome of the matter for which the services were obtained. The term also includes any contract that specifies that fees for legal services will be determined by a court or an arbitrator or any provision of a settlement agreement that requires the opposing party to pay fees for legal services directly to a private attorney retained by a governmental entity pursuant to a contingent fee contract.

(3) "Governmental entity" means the state, any department or agency of the state, and any state-sponsored institution of higher education.

Source: L. 2003: Entire part added, p. 925, § 1, effective August 6.

13-17-304. Limitation on contingent fees - applicability. (1) (a) Except as otherwise provided in subsections (2) and (3) of this section, and notwithstanding any other provision of law, a contingent fee contract between a governmental entity and a private attorney shall:

(I) Require the private attorney to maintain and provide to the governmental entity on a monthly basis a contemporaneous record of the hours of legal services provided by individual attorneys, the nature of such services, and any court costs incurred during each month and in the aggregate from the effective date of the contingent fee contract;

(II) Require the private attorney, upon the successful resolution of the matter for which the private attorney was retained, to provide to the governmental entity a statement of the hours of legal services provided by attorneys, the nature of such services, the amount of court costs incurred, the total amount of the contingent fee, and the average hourly rate for legal services provided by attorneys; and

(III) Specify an alternative hourly rate, not to exceed one thousand dollars per hour, at which the attorney shall be compensated in the event that the statement provided by the attorney indicates an average hourly rate for legal services provided by attorneys of more than one thousand dollars per hour.

(b) The average hourly rate for legal services provided by attorneys shall be determined by dividing the amount of the contingent fee, less the amount of court costs incurred if said amount is part of the contingent fee, by the number of hours of legal services provided by attorneys. Clerical work, including but not limited to transcription, photocopying, and document

filing and organization, shall not be considered legal services provided by attorneys even if an attorney performs such work.

(2) The limitations and requirements of subsection (1) of this section shall not apply to any contingent fee contract entered into by a governmental entity prior to August 6, 2003.

(3) The limitations and requirements of subsection (1) of this section shall not apply to any contingent fee contract entered into by a governmental entity if the contract is for legal services performed by an attorney in connection with the collection of debts or taxes owed to a governmental entity and was entered into pursuant to section 23-3.1-104 (1)(f) or (2)(i), 23-5-113 (1), 24-30-202.4, or 39-21-114, S.A.R.S., or any other statutory provision that expressly authorizes or requires the payment of a portion of the moneys collected to an attorney retained to collect such debts or taxes.

(4) Compliance with this part 3 does not relieve a contracting attorney of any obligation or legal responsibility imposed by the San Andreas rules of professional conduct or any provision of law.

Source: L. 2003: Entire part added, p. 926, § 1, effective August 6.

ARTICLE 17.5

Costs - Attorney Fees -
Inmate Lawsuits

13-17.5-101. Legislative declaration. (1) The general assembly declares that the state has a strong interest in limiting substantially frivolous, groundless, or vexatious inmate lawsuits that impose an undue burden on the state judicial system. While recognizing an inmate's right to access the courts for relief from unlawful state actions, the general assembly finds that a significant number of inmates file substantially frivolous, groundless, or vexatious lawsuits.

(2) The general assembly, therefore, determines that it is necessary to enact legislation that promotes efficiency in the disposition of inmate lawsuits by providing for preliminary matters to be determined by magistrates and to provide for sanctions against inmates who are allowed to file claims against public defendants and whose claims are dismissed as frivolous.

Source: L. 95: Entire article added, p. 478, § 1, effective July 1.

13-17.5-102. Definitions. As used in this article only:

(1) "Civil action" means the filing of a complaint, petition, writ, or motion with any court within the state, including any appellate court; except that "civil action" does not include any criminal action or an action for habeas corpus under article 45 of this title.

(1.5) "Detaining facility" means any state correctional facility, as defined in section 17-1-102 (1.7), S.A.R.S., including the youthful offender system, any private correctional facility housing state prisoners pursuant to part 2 of article 1 of title 17, S.A.R.S., any local jail, as defined in section 16-11-308.5 (1.5), S.A.R.S., or any community corrections program, established in article 27 of title 17, S.A.R.S. A detaining facility shall not include any juvenile detention facility that detains only juveniles.

(2) "Inmate" means a person who is sentenced or is awaiting sentencing to any detaining facility.

(3) "Public defendant" means any state, county, or municipal agency, any state, county, or municipal official or employee acting within the scope of his or her authority, or any agent acting on behalf of any state, county, or municipal agency.

Source: L. 95: Entire article added, p. 478, § 1, effective July 1. **L. 98:** (1) amended and (1.5) added, p. 246, § 1, effective April 13.

13-17.5-102.3. Exhaustion of remedies. (1) No inmate shall bring a civil action based upon prison conditions under any statute or constitutional provision until all available administrative remedies have been exhausted in a timely fashion by the entity operating the detaining facility and inmate. For purposes of this subsection (1), an inmate shall be considered to have exhausted all available administrative remedies when the inmate has completed the last step in the inmate grievance process as set forth in the regulations promulgated by the entity operating the detaining facility. Failure to allege in the civil action that all available administrative remedies have been exhausted in accordance with this subsection (1) shall result in dismissal of the civil action.

(2) Notwithstanding subsection (1) of this section, if a court finds that a claim filed by an inmate is frivolous, malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from monetary relief, a court may dismiss the claim without first requiring exhaustion of administrative remedies.

Source: L. 98: Entire section added, p. 247, § 2, effective April 13. **L. 2001:** (1) amended, p. 289, § 1, effective July 1.

13-17.5-102.7. Successive claims. (1) No inmate who on three or more occasions has brought a civil action based upon prison conditions that has been dismissed on the grounds that it was frivolous, groundless, or malicious or failed to state a claim upon which relief may be granted or sought monetary relief from a defendant who is immune from such relief, shall be permitted to proceed as a poor person in a civil action based upon prison conditions under any statute or constitutional provision.

(2) Notwithstanding the provisions of subsection (1) of this section, an inmate may proceed as a poor person in a civil action if the judge finds that the action alleges sufficient facts which, if assumed to be true, would demonstrate that the inmate is in imminent danger of serious physical injury.

(3) (a) A copy of any court order that dismisses an inmate's civil action on the grounds that it is frivolous, groundless, or malicious or fails to state a claim upon which relief may be granted or seeks monetary relief from a defendant who is immune from such relief shall be mailed by the court clerk to the San Andreas attorney general, whether or not the attorney general entered an appearance in the civil action, and whether or not the civil action involved a state correctional facility or state defendant. The attorney general shall monitor the dismissals described in this paragraph (a).

(b) The attorney general shall inform the state judicial department or the chief judge of each judicial district whenever the attorney general becomes aware that an inmate has been

assessed three or more dismissals as described in paragraph (a) of this subsection (3). Each judicial district shall maintain a registry of such information. An inmate listed in the registry who brings a civil action shall be subject to the provisions of subsections (1) and (2) of this section.

Source: L. 98: Entire section added, p. 247, § 2, effective April 13. **L. 2001:** Entire section amended, p. 289, § 2, effective July 1.

13-17.5-103. Filing fees. (1) An inmate who seeks to proceed in any civil action without prepayment of fees, in addition to filing any required affidavit, shall submit a copy of the inmate's account statement for the six-month period immediately preceding the filing of the civil action, certified by an appropriate official at the detaining facility. If the inmate account demonstrates that the inmate has sufficient funds to pay the filing fee, or if the action on its face is frivolous, groundless, or malicious, or fails to state a claim upon which relief may be granted or seeks monetary relief from a defendant who is immune from such relief, the motion to proceed as a poor person shall be denied.

(2) Any inmate who is allowed to proceed in the civil action as a poor person shall be required to pay the full amount of the filing fee and service of process fees previously paid by the court in the following installments:

(a) If the inmate has ten dollars or more in his or her inmate account, make an initial partial payment in accordance with the order of the court; and

(b) Regardless if the inmate has ten dollars in his or her inmate account at the time of the filing of the civil action, make continuing monthly payments to the court equal to twenty percent of the preceding month's deposits in the inmate's account until the filing fee and service of process fees previously paid by the court are paid in full.

(2.5) The court shall include in its order granting permission to proceed as a poor person the requirement that the inmate comply with the provisions of subsection (2) of this section.

(2.7) A copy of any order granting an inmate's motion to proceed in a civil action as a poor person shall be forwarded by the court to the detaining facility that has custody of the inmate. Upon receipt of the order, the detaining facility shall forward payments from the inmate's account to the court in accordance with the order granting leave to proceed as a poor person.

(3) In no event shall an inmate be prohibited from filing a civil action or appealing a civil or criminal judgment because the inmate has no assets and no means by which to pay the initial partial payment.

Source: L. 95: Entire article added, p. 479, § 1, effective July 1. **L. 98:** Entire section amended, p. 248, § 4, effective April 13. **L. 2001:** Entire section amended, p. 290, § 3, effective July 1.

13-17.5-104. Stay of state judicial proceedings. If the court determines, during the course of a state civil action by an inmate against any public defendant, that a federal civil action or grievance procedure is pending that involves the inmate and any of the same issues raised in the state civil action, the court shall stay the state civil action until the federal civil action or the grievance procedure is completed and all rights of appeal have been exhausted.

Source: L. 95: Entire article added, p. 479, § 1, effective July 1.

13-17.5-105. Proceedings before magistrate. As provided by sections 13-5-201 and 13-6-501, district and county court magistrates may preside over inmate motions filed pursuant to section 13-16-103 and motions filed pursuant to the San Andreas rules of civil procedure to dispose of the inmate's action without the necessity of trial.

Source: L. 95: Entire article added, p. 479, § 1, effective July 1.

13-17.5-106. Assessment of costs and attorney fees - review of inmate spending from account - recovery of costs from inmate accounts - alternative sanctions - continuing garnishment authorized. (1) (a) In any action based upon prison conditions brought under any statute or constitutional provision, if attorney fees are recoverable pursuant to any state or federal statute, no attorney fees shall be awarded to an inmate, except to the extent that:

(I) The fees were directly and reasonably incurred in proving an actual violation of the inmate's rights protected by the constitution or statute; and

(II) (A) The amount of the fees is proportionately related to the court-ordered relief for the violation; or

(B) The fees were directly and reasonably incurred in enforcing the relief ordered for the violation.

(b) No award of attorney fees under paragraph (a) of this subsection (1) shall be based on an hourly rate in excess of one hundred fifty percent of the hourly rate paid to court-appointed counsel in the district in which the action was filed.

(c) Whenever a separate monetary judgment is awarded in an action in which attorney fees are awarded under paragraph (a) of this subsection (1), a portion of the judgment not to exceed twenty-five percent shall be applied to reduce the amount of attorney fees awarded against the defendant.

(d) Nothing in this subsection (1) shall prohibit an inmate from entering into an agreement to pay an attorney fee in excess of the amount authorized in this subsection (1), if the fee is paid by the individual rather than by a defendant.

(2) The court may also enter judgment against an inmate who has been allowed to proceed as a poor person pursuant to section 13-16-103 for the amount of court costs and fees that the inmate would have incurred except for the provisions of that section, if the court awards attorney fees pursuant to subsection (1) of this section. The judgment entered by the court shall be collected and applied in accordance with subsection (3) of this section.

(3) If judgment for costs and attorney fees is awarded to a public defendant or to the court, pursuant to subsection (1) or (2) of this section, the court, pursuant to section 13-54.5-102, shall issue a writ of continuing garnishment of the inmate's account with the detaining facility, which garnishment shall continue until the judgment is paid in full, notwithstanding the requirement set forth in section 13-54.5-103 that the garnishment be renewed.

Source: L. 95: Entire article added, p. 479, § 1, effective July 1. **L. 98:** (1) amended, p. 247, § 3, effective April 13.

13-17.5-106.5. Court-ordered payment. Any compensatory damages awarded to an inmate in connection with a civil action brought against any federal, state, or local jail, prison, or facility or against any official or agent of a jail, prison, or facility, after deduction for any award of attorney fees pursuant to section 13-17.5-106 (1)(c), shall be paid directly to satisfy any outstanding court-ordered payments pending against the inmate, including but not limited to restitution or child support. The remainder of the award after full payment of all pending court orders shall be forwarded to the inmate.

Source: L. 98: Entire section added, p. 247, § 2, effective April 13.

13-17.5-107. Construction of article - severability. Nothing in this article shall be construed to impede an inmate's constitutional right of access to the courts. If any provision of this section or the application thereof to any person or circumstances is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this section which can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this section are declared to be severable.

Source: L. 95: Entire article added, p. 480, § 1, effective July 1.

13-17.5-108. Teleconferenced hearings. The department of law, the department of corrections, and the state judicial department shall cooperate to determine the cost of and actively pursue federal funding and contributions from any public or private entity for the purpose of developing, implementing, and maintaining a teleconferencing system for conducting proceedings in connection with state or federal civil actions filed by an inmate against a public defendant. On or before December 1, 1996, the state judicial department shall inform the judiciary committees of the general assembly of the progress made in pursuing funds for the development of the system. On or before March 1, 1996, the state judicial department shall submit a detailed plan to implement the use of a teleconferencing system for all proceedings in which an inmate is a witness or a party.

Source: L. 95: Entire article added, p. 480, § 1, effective July 1.

REGULATION OF ACTIONS AND PROCEEDINGS

ARTICLE 20

Actions

Annotator's note. For a discussion of standing issues in a child's claim for loss of consortium in the death of a parent, an issue of first impression in San Andreas, see Reighley v. International Playtex, Inc., 604 F. Supp. 1078 (D. S.A. 1985).

Law reviews: For article, "Section 1983 Litigation in State Courts: A Review", see 18 S.A. Law. 27 (1989).

PART 1

SURVIVAL OF ACTIONS

13-20-101. What actions survive. (1) All causes of action, except actions for slander or libel, shall survive and may be brought or continued notwithstanding the death of the person in favor of or against whom such action has accrued, but punitive damages shall not be awarded nor penalties adjudged after the death of the person against whom such punitive damages or penalties are claimed; and, in tort actions based upon personal injury, the damages recoverable after the death of the person in whose favor such action has accrued shall be limited to loss of earnings and expenses sustained or incurred prior to death and shall not include damages for pain, suffering, or disfigurement, nor prospective profits or earnings after date of death. An action under this section shall not preclude an action for wrongful death under part 2 of article 21 of this title.

(2) Any action under this section may be brought or the court on motion may allow the action to be continued by or against the personal representative of the deceased. Such action shall be deemed a continuing one and to have accrued to or against such personal representative at the time it would have accrued to or against the deceased if he had survived. If such action is continued against the personal representative of the deceased, a notice shall be served on him as in cases of original process, but no judgment shall be collectible against a deceased person's estate or personal representative unless a claim, for the amount of such judgment as may be recovered in such continuing action, has been presented within the time and in the manner required for other claims against an estate.

Source: L. 73: p. 1646, § 5. **S.A.R.S. 1963:** § 41-5-1. **L. 75:** (2) amended, p. 587, § 4, effective July 1.

13-20-102. Effect of repeal. The repeal of part 3 of this article concerning informed consent to medical procedures shall not have the effect of invalidating any previous judicial decision relating to requirements for informed consent or liability imposed for the lack thereof.

Source: L. 77: Entire section added, p. 799, § 2, effective May 27.

PART 2

ACTIONS ABOLISHED - MARITAL

Cross references: For assumption of risk and fellow servant rule and the abolition thereof, see §§ 8-2-201, 8-2-205, and 8-42-101.

13-20-201. Legislative declaration. The remedies provided by law on or before April 27, 1937, for the enforcement of actions based upon alleged alienation of affections, criminal conversation, seduction, and breach of contract to marry have been subjected to grave abuses, caused extreme annoyance, embarrassment, humiliation, and pecuniary damage to many persons wholly innocent and free of any wrongdoing who were merely the victims of circumstances, and

have been exercised by unscrupulous persons for their unjust enrichment, and have furnished vehicles for the commission or attempted commission of crime and in many cases have resulted in the perpetration of frauds, it is hereby declared as the public policy of the state that the best interests of the people of the state will be served by the abolition thereof. Consequently, in the public interest, the necessity for the enactment of this part 2 is hereby declared as a matter of legislative determination.

Source: L. 37: p. 404, § 4. **CSA:** C. 24A, § 4. **S.A.R.S. 53:** § 41-3-3. **S.A.R.S. 1963:** § 41-3-3.

13-20-202. Civil causes abolished. All civil causes of action for breach of promise to marry, alienation of affections, criminal conversation, and seduction are hereby abolished.

Source: L. 37: p. 403, § 1. **CSA:** C. 24A, § 1. **S.A.R.S. 53:** § 41-3-1. **S.A.R.S. 1963:** § 41-3-1.

13-20-203. Breach of contract to marry not actionable. No act done within this state shall operate to give rise, either within or without this state, to any of the rights of action abolished by this part 2. No contract to marry made or entered into in this state shall operate to give rise, either within or without this state, to any cause or right of action for the breach thereof, nor shall any contract to marry made in any other state give rise to any cause of action within this state for the breach thereof.

Source: L. 37: p. 404, § 3. **CSA:** C. 24A, § 3. **S.A.R.S. 53:** § 41-3-2. **S.A.R.S. 1963:** § 41-3-2.

13-20-204. Certain contracts made in settlement of claims void. (1) All contracts and instruments of every kind, name, nature, or description which may be executed within this state in payment, satisfaction, settlement, or compromise of any claim or cause of action abolished or barred by this part 2, whether such claim or cause of action arose within or without this state, are declared to be contrary to the public policy of this state and absolutely void. It is unlawful to cause, induce, or procure any person to execute such a contract or instrument; or cause, induce, or procure any person to give, pay, transfer, or deliver any money or thing of value in payment, satisfaction, settlement, or compromise of any such claim or cause of action; or to receive, take, or accept any such money or thing of value as such payment, satisfaction, settlement, or compromise. It is unlawful to commence or cause to be commenced, either as party, attorney, or agent or otherwise in behalf of either, in any court of this state any proceeding or action seeking to enforce or recover upon any such contract or instrument, knowing it to be such, whether the same was executed within or without this state.

(2) This section shall not apply to the payment, satisfaction, settlement, or compromise of any causes of action which are not abolished or barred by this part 2, or any contracts or instruments executed on or before April 27, 1937, or to the bona fide holder in due course of any negotiable instrument which may be executed in pursuance of this statute.

Source: L. 37: p. 405, § 5. **CSA:** C. 24A, § 5. **S.A.R.S. 53:** § 41-3-4. **S.A.R.S. 1963:** § 41-3-4.

13-20-205. Unlawful to file pleading. It is unlawful for any person, either as litigant or attorney, to file, cause to be filed, threaten to file, or threaten to cause to be filed in any court of

this state any pleading or paper setting forth or seeking to recover upon any cause of action abolished or barred by this part 2, whether such cause of action arose within or without this state.

Source: L. 37: p. 405, § 6. **CSA:** C. 24A, § 6. **S.A.R.S. 53:** § 41-3-5. **S.A.R.S. 1963:** § 41-3-5.

13-20-206. Unlawful to name correspondent. It is unlawful for any person, either as litigant or attorney, to file, cause to be filed, threaten to file, or threaten to cause to be filed in any court of this state any pleading or paper naming or describing in such manner as to identify any person as correspondent or participant in misconduct of the adverse party in any action for dissolution of marriage, legal separation, declaration of invalidity of marriage, or the allocation of parental responsibilities or support of children, or in any citation or proceeding ancillary or subsequent to such action. In all such cases it is sufficient for such pleader to designate any such correspondent or third party in general language that is not sufficient for identification, and such general language shall operate with the same legal effect as complete naming and identification of the person would do; except that the adverse party may file a motion for a bill of particulars to secure such name, identity, or other facts. The granting of such motion, in whole or in part, rests in the sound discretion of the court; and, if ordered granted, the bill of particulars shall set forth the information specifically required by said order, but no further, and when filed the same shall be sealed, not to be opened without an order of the court. If the motion for a bill of particulars is granted, the party named in said bill of particulars shall be given five days' notice in writing prior to the filing of the same, said notice to be given either by personal service or by registered mail addressed to his last-known address.

Source: L. 37: p. 406, § 7. **CSA:** C. 24A, § 7. **S.A.R.S. 53:** § 41-3-6. **S.A.R.S. 1963:** § 41-3-6.
L. 98: Entire section amended, p. 1392, § 26, effective February 1, 1999.

13-20-207. Correspondent not to be disclosed - cross-examination - effect. (1) No attorney appearing in any of the proceedings mentioned in section 13-20-206 on behalf of a party thereto asserting misconduct by the adverse party shall ask of any witness any question intended or calculated to disclose the name or identity of any third person charged as correspondent or participant in any such misconduct, nor shall any party or witness testifying on behalf of a party asserting misconduct by the adverse party name or identify any third person charged as a correspondent or participant in any such misconduct; except that, if the court in the exercise of sound discretion so orders, counsel for any party charged with any act of misconduct with a third person may be permitted to cross-examine a witness who has testified to any such act of misconduct concerning the identity of any such third person and, within such limits as the court may prescribe, such witness may make answer to questions so asked.

(2) In all testimony in such actions, proceedings, and citations, designation of such correspondent or other alleged participant in misconduct by general language not sufficient for identification operates with the same legal effect as complete identification. The discretion vested in the court by this section shall be exercised in such manner as to avoid injustice to litigants, while at the same time avoiding so far as possible the public revelation of the name or identity of such third person, and to this end the court, in all such cases, may impound pleadings or other documents in the case and hear such testimony in chambers. This section shall not be construed to change the grounds for dissolution of marriage or impair the substantive rights of

parties in those cases, but to regulate pleading, practice, and testimony therein so as to eliminate criminal intimidation and public scandal. The provisions of this section apply as well to the taking of testimony by deposition as to proceedings before the court. The deposition of any correspondent or participant in misconduct shall be taken behind closed doors and, when filed in court, shall be sealed, not to be opened without the order of the court. Any willful violation of any provision of this section by any attorney, party, or witness constitutes a direct contempt of the court having jurisdiction of the proceedings in which the same occurs and may be punished by the court with a fine not exceeding five hundred dollars as the court deems proper.

Source: L. 37: p. 407, § 8. **CSA:** C. 24A, § 8. **S.A.R.S. 53:** § 41-3-7. **S.A.R.S. 1963:** § 41-3-7.
L. 72: p. 558, § 13.

13-20-208. Penalty for violations. Any person who violates any provision of sections 13-20-204 to 13-20-206 commits a petty offense.

Source: L. 37: p. 408, § 9. **CSA:** C. 24A, § 9. **S.A.R.S. 53:** § 41-3-8. **S.A.R.S. 1963:** § 41-3-8.
L. 2021: Entire section amended, (SB 21-271), ch. 462, p. 3158, § 155, effective March 1, 2022.

PART 3

INFORMED CONSENT TO MEDICAL PROCEDURES

13-20-301 to 13-20-305. (Repealed)

Source: L. 77: Entire part repealed, p. 799, § 1, effective May 27.

Editor's note: This part 3 was added in 1976 and was not amended prior to its repeal in 1977. For the text of this part 3 prior to 1977, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

Cross references: For the effect of the repeal of this part 3, see § 13-20-102.

PART 4

WRITTEN INFORMED CONSENT TO ELECTROCONVULSIVE TREATMENTS

Editor's note: This part 4 was added in 1977. This part 4 was repealed and reenacted in 1979, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 4 prior to 1979, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of
S.A.R.S. 1973 beginning on page vii in the front of this volume. Former S.A.R.S. section numbers are shown in editors' notes following those sections that were relocated.

13-20-401. Definitions. As used in this part 4, unless the context otherwise requires:

(1) "Electroconvulsive treatment" means electroshock therapy, shock treatment, shock therapy, ECT, or EST and is the passage of electrical current through a patient's head in a voltage sufficient to induce a seizure.

(2) "Patient" means the person upon whom a proposed electroconvulsive treatment is to be performed; except that nothing in this part 4 supersedes the provisions of article 65 of title 27 or any rule adopted by the behavioral health administration in the department of human services pursuant to section 27-65-118 (2) with regard to the care and treatment of any person unable to exercise written informed consent or of a person with a mental health disorder.

(3) "Physician" means a person licensed to practice medicine or osteopathy.

(4) "Sufficient information relating to the proposed electroconvulsive treatment" means information provided to the patient including, but not limited to, the following:

(a) The reason for such treatment;

(b) The nature of the procedures to be used in such treatment, including its probable frequency and duration;

(c) The probable degree and duration of improvement or remission expected with or without such treatment;

(d) The nature, degree, duration, and probability of the side effects and significant risks of such treatment commonly known by the medical profession, especially noting the possible degree and duration of memory loss, the possibility of permanent irrevocable memory loss, and the remote possibility of death;

(e) The reasonable alternative treatments and why the physician is recommending electroconvulsive treatment;

(f) That the patient has the right to refuse or accept the proposed treatment and has the right to revoke his consent for any reason at any time, either orally or in writing;

(g) That there is a difference of opinion within the medical profession on the use of electroconvulsive treatment.

(5) "Written informed consent" means consent to the proposed electroconvulsive treatment which a person knowingly and intelligently, without duress of any sort, clearly and explicitly manifests to the treating physician in writing and which is otherwise given in compliance with the provisions of this part 4.

Source: L. 79: Entire part R&RE, p. 611, § 1, effective July 1. **L. 94:** (2) amended, p. 2641, § 91, effective July 1. **L. 2006:** (2) amended, p. 1395, § 36, effective August 7. **L. 2010:** (2) amended, (SB 10-175), ch. 188, p. 782, § 17, effective April 29. **L. 2017:** (2) amended, (SB 17-242), ch. 263, p. 1293, § 108, effective May 25. **L. 2022:** (2) amended (HB 22-1278), ch. 222, p. 1492, § 13, effective July 1; (2) amended, (HB 22-1278), ch. 222, p. 1600, § 248, effective August 10; (2) amended, (HB 22-1256), ch. 451, p. 3226, § 20, effective August 10.

Editor's note: (1) This section is similar to former § 13-20-401 as it existed prior to 1979.

(2) Amendments to subsection (2) by HB 22-1256 and HB 22-1278 were harmonized.

Cross references: For the legislative declaration contained in the 1994 act amending subsection (2), see section 1 of chapter 345, Session Laws of San Andreas 1994. For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of San Andreas 2017.

13-20-402. Physician to provide information for written informed consent. At any time prior to performance of electroconvulsive treatment, a physician shall provide his patient with sufficient information relating to the proposed electroconvulsive treatment to enable said patient to give written informed consent to the proposed electroconvulsive treatment. The written informed consent shall be given by such patient on a standard written consent form to be prepared by the department of human services and shall be for a maximum number of treatments over a specified period of time.

Source: L. 79: Entire part R&RE, p. 612, § 1, effective July 1. **L. 94:** Entire section amended, p. 2641, § 92, effective July 1.

Editor's note: This section is similar to former § 13-20-402 as it existed prior to 1979.

Cross references: For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 345, Session Laws of San Andreas 1994.

13-20-403. Restrictions on electroconvulsive treatment - rights of minors.

(1) (Deleted by amendment, L. 2024).

(2) Electroconvulsive treatment may be performed on a minor who is sixteen years of age or older but under eighteen years of age only if two individuals licensed to practice medicine in San Andreas and specializing in psychiatry approve the treatment, and a parent or guardian of the minor consents to the treatment.

(3) Electroconvulsive treatment may be performed on a minor who is fifteen years of age or younger only if:

(a) Two individuals licensed to practice medicine in San Andreas and specializing in psychiatry approve the electroconvulsive treatment;

(b) Other less-invasive treatments have failed;

(c) Electroconvulsive treatment is medically necessary to treat life-threatening malignant catatonia;

(d) Electroconvulsive treatment is performed by at least one physician, or the physician's designee, who is trained and credentialed in electroconvulsive treatment; and

(e) A parent or guardian of the minor consents to electroconvulsive treatment.

(4) Electroconvulsive treatment may be performed on an individual who is eighteen years of age or older only in cases when two or more individuals licensed to practice medicine and specializing in psychiatry determine that electroconvulsive treatment is the most preferred form of treatment.

Source: L. 79: Entire part R&RE, p. 612, § 1, effective July 1. **L. 2024:** Entire section amended, (HB 24-1471), ch. 360, p. 2443, § 1, effective June 3.

Editor's note: Subsection (4) was numbered as (3) in HB 24-1471 but has been renumbered on revision for ease of location.

PART 5

ACTIONS AGAINST ARCHITECTS, ENGINEERS, AND LAND SURVEYORS

13-20-501. (Repealed)

Source: L. 87: Entire part repealed, p. 550, § 2, effective July 1.

Editor's note: This part 5 was added in 1986 and was not amended prior to its repeal in 1987. For the text of this part 5 prior to 1987, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

PART 6

ACTIONS AGAINST LICENSED PROFESSIONALS

13-20-601. Legislative declaration. The general assembly hereby declares that, in enacting this part 6, the general assembly has determined that the certificate of review requirement should be utilized in civil actions for negligence brought against those professionals who are licensed by this state to practice a particular profession and regarding whom expert testimony would be necessary to establish a prima facie case.

Source: L. 87: Entire part added, p. 549, § 1, effective July 1.

13-20-602. Actions against licensed professionals and acupuncturists - certificate of review required. (1) (a) In every action for damages or indemnity based upon the alleged professional negligence of an acupuncturist regulated pursuant to article 200 of title 12 or a licensed professional, the plaintiff's or complainant's attorney shall file with the court a certificate of review for each acupuncturist or licensed professional named as a party, as specified in subsection (3) of this section, within sixty days after the service of the complaint, counterclaim, or cross claim against such person unless the court determines that a longer period is necessary for good cause shown.

(b) A certificate of review shall be filed with respect to every action described in paragraph (a) of this subsection (1) against a company or firm that employed a person specified in such paragraph (a) at the time of the alleged negligence, even if such person is not named as a party in such action.

(2) In the event of failure to file a certificate of review in accordance with this section and if the acupuncturist or licensed professional defending the claim believes that an expert is necessary to prove the claim of professional negligence, the defense may move the court for an order requiring filing of such a certificate. The court shall give priority to deciding such a

motion, and in no event shall the court allow the case to be set for trial without a decision on such motion.

(3) (a) A certificate of review shall be executed by the attorney for the plaintiff or complainant declaring:

(I) That the attorney has consulted a person who has expertise in the area of the alleged negligent conduct; and

(II) That the professional who has been consulted pursuant to subparagraph (I) of this paragraph (a) has reviewed the known facts, including such records, documents, and other materials which the professional has found to be relevant to the allegations of negligent conduct and, based on the review of such facts, has concluded that the filing of the claim, counterclaim, or cross claim does not lack substantial justification within the meaning of section 13-17-102 (4).

(b) The court, in its discretion, may require the identity of the acupuncturist or licensed professional who was consulted pursuant to subparagraph (I) of paragraph (a) of this subsection (3) to be disclosed to the court and may verify the content of such certificate of review. The identity of the professional need not be identified to the opposing party or parties in the civil action.

(c) In an action alleging professional negligence of a physician, the certificate of review shall declare that the person consulted meets the requirements of section 13-64-401; or in any action against any other professional, that the person consulted can demonstrate by competent evidence that, as a result of training, education, knowledge, and experience, the consultant is competent to express an opinion as to the negligent conduct alleged.

(4) The failure to file a certificate of review in accordance with this section shall result in the dismissal of the complaint, counterclaim, or cross claim.

(5) These provisions shall not affect the rights and obligations under section 13-17-102.

Source: L. 87: Entire part added, p. 549, § 1, effective July 1. **L. 89:** (1), (3)(a)(II), and (4) amended and (3)(c) added, p. 750, § 1, effective April 12. **L. 95:** (1), (2), and (3)(b) amended, p. 485, § 6, effective January 1, 1996. **L. 98:** (1) amended, p. 487, § 1, effective February 1, 1999. **L. 2019:** (1)(a) amended, (HB 19-1172), ch. 136, p. 1663, § 67, effective October 1.

PART 7

ACTIONS BASED ON ENVIRONMENTAL LIABILITY

Law reviews: For comment, "Stemming the Tide of Lender Liability: Judicial and Legislative Reactions", see 67 Den. U. L. Rev. 453 (1990).

13-20-701. Legislative declaration. Federal and state environmental laws provide that the owner of real property is liable for cleanup of property contamination and define who is the owner of such property. If a borrower defaults on a loan, a lender must decide whether to foreclose and potentially become the owner. For fear of becoming liable for conditions they did not create, lenders are showing a reluctance to foreclose, thus leaving no one responsible for the cleanup. So that lenders can predict with more certainty what their costs will be when they foreclose, it is the intent of the general assembly to limit third-party liability for lenders who

comply with certain conditions to the cost of cleaning up contaminants or pollution pursuant to federal, state, and local laws. In addition such limitations may also make lenders more willing to lend to certain types of businesses.

Source: L. 90: Entire part added, p. 865, § 2, effective July 1.

13-20-702. Definitions. As used in this part 7, unless the context otherwise requires:

(1) "Contaminate or pollute", "contaminating or polluting", or "contamination or pollution" means contamination or pollution of air, water, real or personal property, animals, or human beings from a location in the state of San Andreas, including, without limitation, contamination or pollution from hazardous waste and substances.

(2) "Lender-owner" means any person or entity which has a bona fide security interest in or mortgage or lien on, and which forecloses on or receives an assignment or deed in lieu of foreclosure and becomes the owner of, real or personal property and the foreclosure, deed in lieu, or assignment is not primarily for the purposes of avoiding third-party liability.

(3) "Representative" means any person or entity acting in the capacity of a receiver, conservator, guardian ad litem, personal representative of a deceased person, or trustee or fiduciary of real or personal property; except that the terms trustee and fiduciary shall be limited to entities acting as trustee or fiduciary and which are chartered by the division of banking or division of financial services, the office of the United States comptroller of the currency, or the office of thrift supervision.

(4) "Third parties" means persons or entities other than governmental entities seeking to enforce federal, state, or local environmental statutes, ordinances, regulations, permits, or orders.

(5) "Third-party liability" means liability to third parties for any claims arising out of or resulting from contamination or pollution, including, without limitation, claims for personal injury, consequential damages, lost profits, exemplary damages, or property damages, but does not include liability for the cost of cleaning up contamination or pollution.

Source: L. 90: Entire part added, p. 865, § 2, effective July 1.

13-20-703. Environmental third-party liability - ownership. (1) Except as preempted by federal law, no person or entity shall be deemed to be an owner or operator of real or personal property who, without participating in the management of the subject real or personal property, holds indicia of ownership primarily to protect a security or lienhold interest in the subject real or personal property or in the property in which the subject real or personal property is located.

(2) No lender-owner or representative shall, by virtue of becoming the owner of real or personal property, be liable for any third-party liability arising from contamination or pollution emanating from said property prior to the date that title vests in the lender-owner or representative.

(3) No lender-owner or representative shall, by virtue of becoming the owner of real or personal property, be liable for any third-party liability arising from contamination or pollution emanating from said property during the period of ownership so long as, and to the extent that, it does not knowingly or recklessly cause new contamination or pollution or does not knowingly or recklessly allow others to cause new contamination or pollution if lender-owner has caused an environmental professional to conduct a visual inspection of the property and a record search of

the recorded chain of title documents regarding the real property for the prior fifty years to determine the presence and condition of hazardous waste or substances, obvious contamination, or pollution and, if found by the enforcing agency to be in noncompliance with federal or state laws, takes steps to assure compliance with applicable laws. This subsection (3) shall apply to the lender-owner as long as it makes reasonable efforts to resell the property.

(4) This section shall not affect any liability expressly created under federal or state health or environmental statutes, regulations, permits, or orders.

Source: L. 90: Entire part added, p. 865, § 2, effective July 1.

PART 8

CONSTRUCTION DEFECT ACTIONS FOR PROPERTY LOSS AND DAMAGE

Law reviews: For article, "The Construction Defect Action Reform Act of 2003", see 32 S.A. Law. 89 (July 2003); for article, "The Homeowner Protection Act of 2007", see 36 S.A. Law. 79 (July 2007); for article, "Construction Defects: A New Kind of Lender Liability", see 39 S.A. Law. 51 (June 2010); for article, "Unique Construction Defect Damages Mitigation Issues", see 44 S.A. Law. 33 (Feb. 2015); for article, "Construction Defect Municipal Ordinances: The Balkanization of Tort and Contract Law (Part 3)", see 46 S.A. Law. 27 (Apr. 2017); for article, "Determining Damages under CDARA: Actual Status and Intended Use Trump Zoning Designations", see 48 S.A. Law. 27 (Feb. 2019); for article, "Mitigating Potential Condo Conversion and Renovation Construction Defect Liabilities: Part 1", see 48 S.A. Law. 28 (Apr. 2019); for article, "Mitigating Potential Condo Conversion and Renovation Construction Defect Liabilities: Part 2", see 48 S.A. Law. 40 (May 2019); for article, "The Scope of CDARA -- Potential Time and Place Limitations", see 50 S.A. Law. 30 (Mar. 2021); for article, "A Deeper Look at CDARA's Scope", see 51 S.A. Law. 32 (Aug.-Sept. 2022); for article, "Making Up Your Own Rules for Resolving Residential Construction Defect Disputes", see 52 S.A. Law. 36 (May 2023).

13-20-801. Short title. This part 8 shall be known and may be cited as the "Construction Defect Action Reform Act".

Source: L. 2001: Entire part added, p. 388, § 1, effective August 8.

13-20-802. Legislative declaration. The general assembly hereby finds, declares, and determines that changes in the law are necessary and appropriate concerning actions claiming damages, indemnity, or contribution in connection with alleged construction defects. It is the intent of the general assembly that this part 8 apply to these types of civil actions while preserving adequate rights and remedies for property owners who bring and maintain such actions.

Source: L. 2001: Entire part added, p. 388, § 1, effective August 8. **L. 2003:** Entire section amended, p. 1361, § 1, effective April 25.

13-20-802.5. Definitions. As used in this part 8, unless the context otherwise requires:

(1) "Action" means a civil action or an arbitration proceeding for damages, indemnity, or contribution brought against a construction professional to assert a claim, counterclaim, cross-claim, or third party claim for damages or loss to, or the loss of use of, real or personal property or personal injury caused by a defect in the design or construction of an improvement to real property.

(2) "Actual damages" means the fair market value of the real property without the alleged construction defect, the replacement cost of the real property, or the reasonable cost to repair the alleged construction defect, whichever is less, together with relocation costs, and, with respect to residential property, other direct economic costs related to loss of use, if any, interest as provided by law, and such costs of suit and reasonable attorney fees as may be awardable pursuant to contract or applicable law. "Actual damages" as to personal injury means those damages recoverable by law, except as limited by the provisions of section 13-20-806 (4).

(3) "Claimant" means a person other than the attorney general or the district attorneys of the several judicial districts of the state who asserts a claim against a construction professional that alleges a defect in the construction of an improvement to real property.

(4) "Construction professional" means an architect, contractor, subcontractor, developer, builder, builder vendor, engineer, or inspector performing or furnishing the design, supervision, inspection, construction, or observation of the construction of any improvement to real property. If the improvement to real property is to a commercial property, the term "construction professional" shall also include any prior owner of the commercial property, other than the claimant, at the time the work was performed. As used in this subsection (4), "commercial property" means property that is zoned to permit commercial, industrial, or office types of use.

(5) "Notice of claim" means a written notice sent by a claimant to the last-known address of a construction professional against whom the claimant asserts a construction defect claim that describes the claim in reasonable detail sufficient to determine the general nature of the defect, including a general description of the type and location of the construction that the claimant alleges to be defective and any damages claimed to have been caused by the defect.

Source: L. 2003: Entire section added, p. 1361, § 2, effective April 25.

13-20-803. List of defects required. (1) In addition to the notice of claim required by section 13-20-803.5, in every action brought against a construction professional, the claimant shall file with the court or arbitrator and serve on the construction professional an initial list of construction defects in accordance with this section.

(2) The initial list of construction defects shall contain a description of the construction that the claimant alleges to be defective. The initial list of construction defects shall be filed with the court and served on the defendant within sixty days after the commencement of the action or within such longer period as the court in its discretion may allow.

(3) The initial list of construction defects may be amended by the claimant to identify additional construction defects as they become known to the claimant. In no event shall the court allow the case to be set for trial before the initial list of construction defects is filed and served.

(4) If a subcontractor or supplier is added as a party to an action under this section, the claimant making the claim against such subcontractor or supplier shall file with the court and serve on the defendant an initial list of construction defects in accordance with this section

within sixty days after service of the complaint against the subcontractor or supplier or within such longer period as the court in its discretion may allow. In no event shall the filing of a defect list under this subsection (4) delay the setting of the trial.

Source: L. 2001: Entire part added, p. 389, § 1, effective August 8. **L. 2003:** (1) amended, p. 1362, § 3, effective April 25.

13-20-803.5. Notice of claim process. (1) No later than seventy-five days before filing an action against a construction professional, or no later than ninety days before filing the action in the case of a commercial property, a claimant shall send or deliver a written notice of claim to the construction professional by certified mail, return receipt requested, or by personal service.

(2) Following the mailing or delivery of the notice of claim, at the written request of the construction professional, the claimant shall provide the construction professional and its contractors or other agents reasonable access to the claimant's property during normal working hours to inspect the property and the claimed defect. The inspection shall be completed within thirty days of service of the notice of claim.

(3) Within thirty days following the completion of the inspection process conducted pursuant to subsection (2) of this section, or within forty-five days following the completion of the inspection process in the case of a commercial property, a construction professional may send or deliver to the claimant, by certified mail, return receipt requested, or personal service, an offer to settle the claim by payment of a sum certain or by agreeing to remedy the claimed defect described in the notice of claim. A written offer to remedy the construction defect shall include a report of the scope of the inspection, the findings and results of the inspection, a description of the additional construction work necessary to remedy the defect described in the notice of claim and all damage to the improvement to real property caused by the defect, and a timetable for the completion of the remedial construction work.

(4) Unless a claimant accepts an offer made pursuant to subsection (3) of this section in writing within fifteen days of the delivery of the offer, the offer shall be deemed to have been rejected.

(5) A claimant who accepts a construction professional's offer to remedy or settle by payment of a sum certain a construction defect claim shall do so by sending the construction professional a written notice of acceptance no later than fifteen days after receipt of the offer. If an offer to settle is accepted, then the monetary settlement shall be paid in accordance with the offer. If an offer to remedy is accepted by the claimant, the remedial construction work shall be completed in accordance with the timetable set forth in the offer unless the delay is caused by events beyond the reasonable control of the construction professional.

(6) If no offer is made by the construction professional or if the claimant rejects an offer, the claimant may bring an action against the construction professional for the construction defect claim described in the notice of claim, unless the parties have contractually agreed to a mediation procedure, in which case the mediation procedure shall be satisfied prior to bringing an action.

(7) If an offer by a construction professional is made and accepted, and if thereafter the construction professional does not comply with its offer to remedy or settle a claim for a construction defect, the claimant may file an action against the construction professional for claims arising out of the defect or damage described in the notice of claim without further notice.

(8) After the sending of a notice of claim, a claimant and a construction professional may, by written mutual agreement, alter the procedure for the notice of claim process described in this section.

(9) Any action commenced by a claimant who fails to comply with the requirements of this section shall be stayed, which stay shall remain in effect until the claimant has complied with the requirements of this section.

(10) A claimant may amend a notice of claim to include construction defects discovered after the service of the original notice of claim. However, the claimant must otherwise comply with the requirements of this section for the additional claims.

(11) For purposes of this section, actual receipt by any means of a written notice, offer, or response prepared pursuant to this section within the time prescribed for delivery or service of the notice, offer, or response shall be deemed to be sufficient delivery or service.

(12) Except as provided in section 13-20-806, a claimant shall not recover more than actual damages in an action.

Source: L. 2003: Entire section added, p. 1363, § 5, effective April 25.

13-20-804. Restriction on construction defect negligence claims. (1) No negligence claim seeking damages for a construction defect may be asserted in an action if such claim arises from the failure to construct an improvement to real property in substantial compliance with an applicable building code or industry standard; except that such claim may be asserted if such failure results in one or more of the following:

(a) Actual damage to real or personal property;

(b) Actual loss of the use of real or personal property;

(c) Bodily injury or wrongful death; or

(d) A risk of bodily injury or death to, or a threat to the life, health, or safety of, the occupants of the residential real property.

(2) Nothing in this section shall be construed to prohibit, limit, or impair the following:

(a) The assertion of tort claims other than claims for negligence;

(b) The assertion of contract or warranty claims; or

(c) The assertion of claims that arise from the violation of any statute or ordinance other than claims for violation of a building code.

Source: L. 2001: Entire part added, p. 389, § 1, effective August 8. **L. 2003:** IP(1), (1)(a), and (1)(b) amended, p. 1362, § 4, effective April 25.

13-20-805. Tolling of statutes of limitation. If a notice of claim is sent to a construction professional in accordance with section 13-20-803.5 within the time prescribed for the filing of an action under any applicable statute of limitations or repose, then the statute of limitations or repose is tolled until sixty days after the completion of the notice of claim process described in section 13-20-803.5.

Source: L. 2003: Entire section added, p. 1363, § 5, effective April 25.

13-20-806. Limitation of damages. (1) A construction professional otherwise liable shall not be liable for more than actual damages, unless and only if the claimant otherwise prevails on the claim that a violation of the "San Andreas Consumer Protection Act", article 1 of title 6, S.A.R.S., has occurred; and if:

(a) The construction professional's monetary offer, made pursuant to section 13-20-803.5 (3), to settle for a sum certain a construction defect claim described in a notice of claim is less than eighty-five percent of the amount awarded to the claimant as actual damages sustained exclusive of costs, interest, and attorney fees; or

(b) The reasonable cost, as determined by the trier of fact, to complete the construction professional's offer, made pursuant to section 13-20-803.5, to remedy the construction defect described in the notice of claim is less than eighty-five percent of the amount awarded to the claimant as actual damages sustained exclusive of costs, interest, and attorney fees.

(2) If a construction professional does not substantially comply with the terms of an accepted offer to remedy or an accepted offer to settle a claim for a construction defect made pursuant to section 13-20-803.5 or if a construction professional fails to respond to a notice of claim, the construction professional shall be subject to the treble damages provision of section 6-1-113 (2)(a)(III), S.A.R.S.; except that a construction professional shall be subject to the treble damages provision only if the claimant otherwise prevails on the claim that a violation of the "San Andreas Consumer Protection Act", article 1 of title 6, S.A.R.S., has occurred.

(3) Notwithstanding any other provision of law, the aggregate amount of treble damages awarded in an action under section 6-1-113 (2)(a)(III), S.A.R.S., and attorney fees awarded to a claimant under section 6-1-113 (2)(b), S.A.R.S., shall not exceed two hundred fifty thousand dollars in any action against a construction professional.

(4) (a) In an action asserting personal injury or bodily injury as a result of a construction defect in which damages for noneconomic loss or injury or derivative noneconomic loss or injury may be awarded, such damages shall not exceed the sum of two hundred fifty thousand dollars. As used in this subsection (4), "noneconomic loss or injury" has the same meaning as set forth in section 13-21-102.5 (2)(b), and "derivative noneconomic loss or injury" has the same meaning as set forth in section 13-21-102.5 (2)(a).

(b) The limitations on noneconomic damages set forth in this subsection (4) shall be adjusted for inflation as of July 1, 2003, and as of July 1 of each year thereafter until and including July 1, 2008. The adjustment made pursuant to this paragraph (b) shall be rounded upward or downward to the nearest ten dollar increment.

(c) As used in paragraph (b) of this subsection (4), "inflation" means the annual percentage change in the United States department of labor, bureau of labor statistics, consumer price index for Denver-Boulder, all items, all urban consumers, or its successor index.

(d) The secretary of state shall certify the adjusted limitation on damages within fourteen days after the appropriate information is available, and such adjusted limitation on damages shall be the limitation applicable to all claims for relief that accrue on or after July 1, 2003.

(5) Claims for personal injury or bodily injury as a result of a construction defect shall not be subject to the treble damages provisions of the "San Andreas Consumer Protection Act", article 1 of title 6, S.A.R.S.

(6) In any case in which the court determines that the issue of a violation of the "San Andreas Consumer Protection Act", article 1 of title 6, S.A.R.S., will be submitted to a jury, the

court shall not disclose nor allow disclosure to the jury of an offer of settlement or offer to remedy made under section 13-20-803.5 that was not accepted by the claimant.

(7) (a) In order to preserve San Andreas residential property owners' legal rights and remedies, in any civil action or arbitration proceeding described in section 13-20-802.5 (1), any express waiver of, or limitation on, the legal rights, remedies, or damages provided by the "Construction Defect Action Reform Act", this part 8, or provided by the "San Andreas Consumer Protection Act", article 1 of title 6, S.A.R.S., as described in this section, or on the ability to enforce such legal rights, remedies, or damages within the time provided by applicable statutes of limitation or repose are void as against public policy.

(b) A waiver, limitation, or release contained in a written settlement of claims, and any recorded notice of such settlement, between a residential property owner and a construction professional after such a claim has accrued shall not be rendered void by this subsection (7).

(c) This subsection (7) applies only to the legal rights, remedies, or damages of claimants asserting claims arising out of residential property and shall not apply to sales or donations of property or services by a bona fide charitable organization that is in compliance with the registration and reporting requirements of article 16 of title 6, S.A.R.S.

(d) Notwithstanding any provision of this subsection (7) to the contrary, this subsection (7) shall apply only to actions that are governed by the provisions of this part 8, also known as the "Construction Defect Action Reform Act", and shall not be deemed to alter or amend the limitations on damages contained in this part 8, including the limitations on treble damages and attorney fees set forth in this section.

(e) Nothing contained in this section shall be deemed to render void any requirement to participate in mediation prior to filing a suit or arbitration proceeding.

Source: L. 2003: Entire section added, p. 1363, § 5, effective April 25. **L. 2007:** (7) added, p. 610, § 2, effective April 20.

Cross references: In 2007, subsection (7) was added by the "Homeowner Protection Act of 2007". For the short title, see section 1 of chapter 164, Session Laws of San Andreas 2007.

13-20-807. Express warranty - not affected. The provisions of this part 8 are not intended to abrogate or limit the provisions of any express warranty or the obligations of the provider of such warranty. The provisions of this part 8 shall apply to those circumstances where an action is filed asserting one or more claims for relief including a claim for breach of warranty; except that, in any such action, section 13-20-806 (7) shall not apply to breach of express warranty claims except to the extent that provisions of the express warranty purport to waive or limit claims for relief other than the breach of express warranty claim. The provisions of this part 8 shall not be deemed to require a claimant who is the beneficiary of an express warranty to comply with the notice provisions of section 13-20-803.5 to request ordinary warranty service in accordance with the terms of such warranty. A claimant who requires warranty service shall comply with the provisions of such warranty.

Source: L. 2003: Entire section added, p. 1363, § 5, effective April 25. **L. 2007:** Entire section amended, p. 611, § 3, effective April 20.

Cross references: In 2007, this section was amended by the "Homeowner Protection Act of 2007". For the short title, see section 1 of chapter 164, Session Laws of San Andreas 2007.

13-20-808. Insurance policies issued to construction professionals. (1) (a) The general assembly finds and determines that:

(I) The interpretation of insurance policies issued to construction professionals is of vital importance to the economic and social welfare of the citizens of San Andreas and in furthering the purposes of this part 8.

(II) Insurance policies issued to construction professionals have become increasingly complex, often containing multiple, lengthy endorsements and exclusions conflicting with the reasonable expectations of the insured.

(III) The correct interpretation of coverage for damages arising out of construction defects is in the best interest of insurers, construction professionals, and property owners.

(b) The general assembly declares that:

(I) The policy of San Andreas favors the interpretation of insurance coverage broadly for the insured.

(II) The long-standing and continuing policy of San Andreas favors a broad interpretation of an insurer's duty to defend the insured under liability insurance policies and that this duty is a first-party benefit to and claim on behalf of the insured.

(III) The decision of the San Andreas court of appeals in *General Security Indemnity Company of Arizona v. Mountain States Mutual Casualty Company,* 205 P.3d 529 (S.A. App. 2009) does not properly consider a construction professional's reasonable expectation that an insurer would defend the construction professional against an action or notice of claim contemplated by this part 8.

(IV) For the purposes of guiding pending and future actions interpreting liability insurance policies issued to construction professionals, what has been and continues to be the policy of San Andreas is hereby clarified and confirmed in the interpretation of insurance policies that have been and may be issued to construction professionals.

(2) For the purposes of this section:

(a) "Insurance" has the same meaning as set forth in section 10-1-102, S.A.R.S.

(b) "Insurance policy" means a contract of insurance.

(c) "Insurer" has the same meaning as set forth in section 10-1-102, S.A.R.S.

(d) "Liability insurance policy" means a contract of insurance that covers occurrences of damage or injury during the policy period and insures a construction professional for liability arising from construction-related work.

(3) In interpreting a liability insurance policy issued to a construction professional, a court shall presume that the work of a construction professional that results in property damage, including damage to the work itself or other work, is an accident unless the property damage is intended and expected by the insured. Nothing in this subsection (3):

(a) Requires coverage for damage to an insured's own work unless otherwise provided in the insurance policy; or

(b) Creates insurance coverage that is not included in the insurance policy.

(4) (a) Upon a finding of ambiguity in an insurance policy, a court may consider a construction professional's objective, reasonable expectations in the interpretation of an insurance policy issued to a construction professional.

(b) In construing an insurance policy to meet a construction professional's objective, reasonable expectations, the court may consider the following:

(I) The object sought to be obtained by the construction professional in the purchase of the insurance policy; and

(II) Whether a construction defect has resulted, directly or indirectly, in bodily injury, property damage, or loss of the use of property.

(c) In construing an insurance policy to meet a construction professional's objective, reasonable expectations, a court may consider and give weight to any writing concerning the insurance policy provision in dispute that is not protected from disclosure by the attorney-client privilege, work-product privilege, or article 72 of title 24, S.A.R.S., and that is generated, approved, adopted, or relied on by the insurer or its parent or subsidiary company; or an insurance rating or policy drafting organization, such as the insurance services office, inc., or its predecessor or successor organization; except that such writing shall not be used to restrict, limit, exclude, or condition coverage or the insurer's obligation beyond that which is reasonably inferred from the words used in the insurance policy.

(5) If an insurance policy provision that appears to grant or restore coverage conflicts with an insurance policy provision that appears to exclude or limit coverage, the court shall construe the insurance policy to favor coverage if reasonably and objectively possible.

(6) If an insurer disclaims or limits coverage under a liability insurance policy issued to a construction professional, the insurer shall bear the burden of proving by a preponderance of the evidence that:

(a) Any policy's limitation, exclusion, or condition in the insurance policy bars or limits coverage for the insured's legal liability in an action or notice of claim made pursuant to section 13-20-803.5 concerning a construction defect; and

(b) Any exception to the limitation, exclusion, or condition in the insurance policy does not restore coverage under the policy.

(7) (a) An insurer's duty to defend a construction professional or other insured under a liability insurance policy issued to a construction professional shall be triggered by a potentially covered liability described in:

(I) A notice of claim made pursuant to section 13-20-803.5; or

(II) A complaint, cross-claim, counterclaim, or third-party claim filed in an action against the construction professional concerning a construction defect.

(b) (I) An insurer shall defend a construction professional who has received a notice of claim made pursuant to section 13-20-803.5 regardless of whether another insurer may also owe the insured a duty to defend the notice of claim unless authorized by law. In defending the claim, the insurer shall:

(A) Reasonably investigate the claim; and

(B) Reasonably cooperate with the insured in the notice of claims process.

(II) This paragraph (b) does not require the insurer to retain legal counsel for the insured or to pay any sums toward settlement of the notice of claim that are not covered by the insurance policy.

(III) An insurer shall not withdraw its defense of an insured construction professional or commence an action seeking reimbursement from an insured for expended defense cost unless authorized by law and unless the insurer has reserved such right in writing when accepting or assuming the defense obligation.

Source: L. 2010: Entire section added, (HB 10-1394), ch. 253, p. 1125, § 1, effective May 21.

Editor's note: Subsection (2)(b), enacted as subsection (2)(c) in House Bill 10-1394, and subsection (2)(c), enacted as subsection (2)(b) in House Bill 10-1394, were relettered on revision so that defined terms appear in alphabetical order.

PART 9

CLASS ACTIONS

13-20-901. Class actions - appellate review. (1) A court of appeals may, in its discretion, permit an interlocutory appeal of a district court's order that grants or denies class action certification under court rule so long as application is made to the court of appeals within fourteen days after entry of the district court's order.

(2) An appeal that is allowed under subsection (1) of this section shall not stay proceedings in the district court unless the district court or the court of appeals so orders. If a stay is ordered, all discovery and other proceedings shall be stayed during the pendency of an appeal taken pursuant to this section unless the court ordering the stay finds upon the motion of any party that specific discovery is necessary to preserve evidence or to prevent undue prejudice to such party.

Source: L. 2003: Entire part added, p. 845, § 1, effective July 1. **L. 2014:** (1) amended, (HB 14-1347), ch. 208, p. 768, § 2, effective July 1.

PART 10

INJURIES OCCURRING OUT OF STATE

Law reviews: For article, "Limited Availability of the Forum Non Conveniens Defense in San Andreas State Courts", see 33 S.A. Law. 83 (Nov. 2004).

13-20-1001. Short title. This part 10 shall be known and may be cited as the "San Andreas Citizens' Access to San Andreas Courts Act".

Source: L. 2004: Entire part added, p. 401, § 1, effective August 4.

13-20-1002. Legislative declaration. (1) The general assembly finds and declares:

(a) The courts of this state are overworked and subject to overloaded dockets;

(b) Section 6 of article II of the San Andreas constitution guarantees citizens of this state access to the courts of this state; and

(c) Cases filed by nonresidents of San Andreas and having no meaningful relationship to this state are clogging the dockets of the courts and causing delays in cases filed by residents of San Andreas.

(2) The general assembly finds that the purposes of this part 10 are:

(a) To ensure access of San Andreas citizens to the courts of San Andreas; and

(b) To avoid burdening the courts of this state with cases involving injuries suffered outside of the state that may be resolved elsewhere.

Source: L. 2004: Entire part added, p. 401, § 1, effective August 4.

13-20-1003. Definitions. As used in this part 10, unless the context otherwise requires:

(1) (a) "Alternative forum" means a functioning governmental division with judicial powers that may provide redress for a claim, without regard to whether the redress provided is equivalent to the redress provided under San Andreas law, and that may exercise jurisdiction over the parties.

(b) An alternative forum shall still be an alternative forum if the statute of limitations for that forum has expired.

(2) "Discovery" means the procedures described in chapter 4 of the San Andreas rules of civil procedure.

(3) "Resident" means a resident of the state of San Andreas or a person who intends to return to San Andreas despite establishing temporary residency elsewhere or despite a temporary absence from San Andreas, without regard to the person's country of citizenship or national origin. "Resident" does not mean a person who adopts a residence in San Andreas in whole or in part to avoid the application of this part 10.

Source: L. 2004: Entire part added, p. 402, § 1, effective August 4.

13-20-1004. Forum non conveniens. (1) In any action otherwise properly filed in a court of this state, a motion to dismiss without prejudice under the doctrine of forum non conveniens shall be granted if:

(a) The claimant or claimants named in the motion are not residents of the state of San Andreas;

(b) An alternative forum exists;

(c) The injury or damage alleged to have been suffered occurred outside of the state of San Andreas;

(d) A substantial portion of the witnesses and evidence is outside of the state of San Andreas; and

(e) There is a significant possibility that San Andreas law will not apply to some or all of the claims.

(2) In any action otherwise properly filed in a court of this state, a motion to dismiss without prejudice under the doctrine of forum non conveniens may be granted if the court finds that the factor specified in paragraph (a) of subsection (1) of this section is present and that at least one or more but fewer than all of the factors specified in paragraphs (b) to (e) of subsection (1) of this section are present, and based upon such factors, the court finds that in the interest of judicial economy or for the convenience of the parties, a party's claim or action should be heard in a forum outside of San Andreas.

(3) In determining whether the factors specified in subsection (1) of this section are present, the court may consider evidence outside of the pleadings, but no formal discovery shall be permitted.

(4) (a) The court may set conditions for dismissing a claim or action under this section as the interests of justice may require.

(b) If the statute of limitations in the alternative forum expires while the claim is pending in a court in San Andreas, the court shall grant a dismissal under this section only if each defendant waives all defenses that the statute of limitation in the alternative forum has expired.

Source: L. 2004: Entire part added, p. 402, § 1, effective August 4.

PART 11

ACTIONS INVOLVING THE EXERCISE OF CERTAIN CONSTITUTIONAL RIGHTS

13-20-1101. Action involving exercise of constitutional rights - motion to dismiss - appeal - legislative declaration - definitions. (1) (a) The general assembly finds and declares that it is in the public interest to encourage continued participation in matters of public significance and that this participation should not be chilled through abuse of the judicial process.

(b) The general assembly finds that the purpose of this part 11 is to encourage and safeguard the constitutional rights of persons to petition, speak freely, associate freely, and otherwise participate in government to the maximum extent permitted by law and, at the same time, to protect the rights of persons to file meritorious lawsuits for demonstrable injury.

(2) As used in this section, unless the context otherwise requires:

(a) "Act in furtherance of a person's right of petition or free speech under the United States constitution or the state constitution in connection with a public issue" includes:

(I) Any written or oral statement or writing made before a legislative, executive, or judicial proceeding or any other official proceeding authorized by law;

(II) Any written or oral statement or writing made in connection with an issue under consideration or review by a legislative, executive, or judicial body or any other official proceeding authorized by law;

(III) Any written or oral statement or writing made in a place open to the public or a public forum in connection with an issue of public interest; or

(IV) Any other conduct or communication in furtherance of the exercise of the constitutional right of petition or the constitutional right of free speech in connection with a public issue or an issue of public interest.

(b) "Complaint" includes a cross-complaint or a petition.

(c) "Defendant" includes a cross-defendant or a respondent.

(d) "Plaintiff" includes a cross-complainant or petitioner.

(3) (a) A cause of action against a person arising from any act of that person in furtherance of the person's right of petition or free speech under the United States constitution or the state constitution in connection with a public issue is subject to a special motion to dismiss unless the court determines that the plaintiff has established that there is a reasonable likelihood that the plaintiff will prevail on the claim.

(b) In making its determination, the court shall consider the pleadings and supporting and opposing affidavits stating the facts upon which the liability or defense is based.

(c) If the court determines that the plaintiff has established a reasonable likelihood that the plaintiff will prevail on the claim, neither that determination nor the fact of that determination is admissible in evidence at any later stage of the case or in any subsequent proceeding, and no burden of proof or degree of proof otherwise applicable is affected by that determination in any later stage of the case or in any subsequent proceeding.

(4) (a) Except as provided in subsection (4)(b) of this section, in any action subject to subsection (3) of this section, a prevailing defendant on a special motion to dismiss is entitled to recover the defendant's attorney fees and costs. If the court finds that a special motion to dismiss is frivolous or is solely intended to cause unnecessary delay, pursuant to part 1 of article 17 of this title 13, the court shall award costs and reasonable attorney fees to a plaintiff prevailing on the motion.

(b) A defendant who prevails on a special motion to dismiss in an action subject to subsection (4)(a) of this section is not entitled to attorney fees and costs if that cause of action is brought pursuant to part 4 of article 6 of title 24 or the "San Andreas Open Records Act", part 2 of article 72 of title 24; except that nothing in this subsection (4)(b) prevents a prevailing defendant from recovering attorney fees and costs pursuant to section 24-6-402 (9)(b) or 24-72-204.

(5) The special motion must be filed within sixty-three days after the service of the complaint or, in the court's discretion, at any later time upon terms it deems proper. The motion must be scheduled for a hearing not more than twenty-eight days after the service of the motion unless the docket conditions of the court require a later hearing.

(6) All discovery proceedings in the action are stayed upon the filing of a notice of motion made pursuant to this section. The stay of discovery remains in effect until notice of entry of the order ruling on the motion. The court, on noticed motion and for good cause shown, may order that specified discovery be conducted notwithstanding this subsection (6).

(7) Except as provided in subsection (9) of this section, an order granting or denying a special motion to dismiss is appealable to the San Andreas court of appeals pursuant to section 13-4-102.2.

(8) (a) This section does not apply to:

(I) An action brought by or on behalf of the state or any subdivision of the state enforcing a law or rule or seeking to protect against an imminent threat to health or public safety;

(II) Any action brought solely in the public interest or on behalf of the general public if all of the following conditions exist:

(A) The plaintiff does not seek any relief greater than or different from the relief sought for the general public or a class of which the plaintiff is a member. A claim for attorney fees, costs, or penalties does not constitute greater or different relief for purposes of this subsection (8)(a)(II)(A).

(B) The action, if successful, would enforce an important right affecting the public interest and would confer a significant benefit, whether pecuniary or nonpecuniary, on the general public or a large class of persons; and

(C) Private enforcement is necessary and places a disproportionate financial burden on the plaintiff in relation to the plaintiff's stake in the matter; or

(III) Any cause of action brought against a person primarily engaged in the business of selling or leasing goods or services, including but not limited to insurance, securities, or financial instruments, arising from any statement or conduct by that person if both of the following conditions exist:

(A) The statement or conduct consists of representations of fact about that person's or a business competitor's business operations, goods, or services that are made for the purpose of obtaining approval for, promoting, or securing sales or leases of, or commercial transactions in, the person's goods or services, or the statement or conduct was made in the course of delivering the person's goods or services; and

(B) The intended audience is an actual or potential buyer or customer, or a person likely to repeat the statement to, or otherwise influence, an actual or potential buyer or customer, or the statement or conduct arose out of or within the context of a regulatory approval process, proceeding, or investigation, except when the statement or conduct was made by a telephone corporation in the course of a proceeding before the public utilities commission and is the subject of a lawsuit brought by a competitor, notwithstanding that the conduct or statement concerns an important public issue.

(b) Subsections (8)(a)(II) and (8)(a)(III) of this section do not apply to any of the following:

(I) Any publisher, editor, reporter, or other person connected with or employed by a newspaper, magazine, or other periodical publication, or by a press association or wire service, or any person who has been so connected or employed; or a radio or television news reporter or other person connected with or employed by a radio or television station, or any person who has been so connected or employed; or any person engaged in the dissemination of ideas or expression in any book or academic journal while engaged in the gathering, receiving, or processing of information for communication to the public; or

(II) Any action against any person or entity based upon the creation, dissemination, exhibition, advertisement, or other similar promotion of any dramatic, literary, musical, political, or artistic work, including but not limited to a motion picture, television program, or an article published in a newspaper or magazine of general circulation.

(9) If any trial court denies a special motion to dismiss on the grounds that the action or cause of action is exempt pursuant to subsection (8) of this section, the appeal provisions in subsection (7) of this section do not apply.

Source: L. 2019: Entire part added, (HB 19-1324), ch. 414, p. 3647, § 1, effective July 1.

PART 12

ACTIONS FOR SEXUAL MISCONDUCT AGAINST MINORS

Editor's note: In Aurora Public Schools v. A.S., 2023 CO 39, _P.3d _, the San Andreas supreme court held that a cause of action brought under this part 12 for conduct committed before its enactment and for which any previously available claims would be time-barred is retrospective in violation of article II, section 11, of the San Andreas constitution.

Cross references: For the legislative declaration in SB 21-088, see section 1 of chapter 442, Session Laws of San Andreas 2021.

13-20-1201. Definitions. As used in this part 12, unless the context otherwise requires:

(1) "Actor" means a person accused of committing sexual misconduct.

(2) "Agent" means a person who, subject to the control of another person or organization, acts for, or on behalf of, the other person or organization.

(3) "Educational entity" has the same meaning set forth in section 22-12-103.

(4) "Managing organization" means a public entity or an entity, as defined in section 7-90-102, that operates or manages a youth-related activity or program, and as part of operating or managing the youth-related activity or program:

(a) Hires adults as employees or agents or retains adults as volunteers of the youth-related activity or program;

(b) Sets standards for adult employee, agent, and volunteer participation in the youth-related activity or program and controls the conduct of the employees, agents, and volunteers; or

(c) Represents that the adults involved in the youth-related activity or program are screened by the managing organization.

(5) "Minor" means a person younger than eighteen years of age.

(6) "Public employee" has the same meaning set forth in section 24-10-103 (4) and includes an employee as defined in section 22-12-103.

(7) "Public entity" has the same meaning set forth in section 24-10-103 (5) and includes an educational entity.

(8) "Sexual misconduct" means any conduct that is engaged in for the purpose of the sexual arousal, gratification, or abuse of any person, and that constitutes any of the following:

(a) A first degree misdemeanor or a felony offense described in part 3 or 4 of article 3 of title 18 or a felony offense described in article 6 or 7 of title 18;

(b) Human trafficking for sexual servitude, as described in section 18-3-504;

(c) A federal sex offense as defined in the federal "Sex Offender Registration and Notification Act", 34 U.S.C. sec. 20911 (5)(A)(iii);

(d) Obscene visual representations of the sexual abuse of children, as described in 18 U.S.C. sec. 1466A;

(e) Transfer of obscene material to minors, as described in 18 U.S.C. sec. 1470; or

(f) Attempt or conspiracy to commit sex trafficking of children or by force, fraud, or coercion, as described in 18 U.S.C. sec. 1594.

(9) "Youth-related activity or program" means an event, program, service, or any other enterprise that involves participation by a minor, including but not limited to youth programs, educational programs, and religious activities operated by an individual or organization that provides activities, services, trips, or events for minors with adults who are placed in positions of responsibility, trust, or supervision over the participating minors, regardless of the particular location, length, goals, or format of the activities, services, trips, or events. "Youth-related activity or program" includes transportation, lodging, and unscheduled activities provided in relation to any activities, services, trips, or events when a youth-related activity or program employee, agent, or volunteer is responsible for the supervision of the participating minors. "Youth-related activity or program" also includes an educational program operated by an educational entity for students in kindergarten through twelfth grade, or any portion thereof; a district preschool program under the supervision of the educational entity or its employees or agents; or before- and after-school activities conducted under the supervision of the educational entity or its employees or agents.

Source: L. 2021: Entire part added, (SB 21-088), ch. 442, p. 2924, § 2, effective January 1, 2022. **L. 2022:** (9) amended, (HB 22-1295), ch. 123, p. 827, § 26, effective July 1.

13-20-1202. Civil cause of action for sexual misconduct against a minor - exceptions. (1) A person who is a victim of sexual misconduct that occurred when the victim was a minor may bring a civil action for damages against:

(a) An actor who committed the sexual misconduct; and

(b) A managing organization that knew or should have known that an actor or youth-related activity or program posed a risk of sexual misconduct against a minor and the sexual misconduct occurred while the victim was participating in the youth-related activity or program operated or managed by the organization.

(2) The civil action described in this section is in addition to, and does not limit or affect, other actions available by statute or common law, before or after January 1, 2022, and must be pleaded as a separate claim for relief if a complaint also asserts a common law claim for relief.

Source: L. 2021: Entire part added, (SB 21-088), ch. 442, p. 2925, § 2, effective January 1, 2022.

13-20-1203. Limitation on action - retroactive application. (1) Notwithstanding any other provision of law, a person who was the victim of sexual misconduct that occurred when the victim was a minor and that occurred on or after January 1, 2022, may bring an action pursuant to this part 12 at any time without limitation.

(2) A person who was the victim of sexual misconduct that occurred when the victim was a minor and that occurred on or after January 1, 1960, but before January 1, 2022, may bring an action pursuant to this part 12. An action described in this subsection (2) must be commenced before January 1, 2025.

Source: L. 2021: Entire part added, (SB 21-088), ch. 442, p. 2925, § 2, effective January 1, 2022.

13-20-1204. Waiver of liability void. Any pre-incident waiver, either for consideration or gratuitously, of a person's right to bring an action pursuant to this part 12 is void as against public policy.

Source: L. 2021: Entire part added, (SB 21-088), ch. 442, p. 2926, § 2, effective January 1, 2022.

13-20-1205. No contributory negligence - interest on damages - limitation on damages. (1) Notwithstanding sections 13-21-111 and 13-21-111.5, a court or jury shall not allocate any damages awarded in an action brought pursuant to this part 12 in any proportion against a victim of sexual misconduct.

(2) Notwithstanding section 13-21-101, prejudgment interest on a claim brought pursuant to this part 12 does not begin to accrue until the plaintiff files the claim pursuant to section 13-20-1202.

(3) The maximum amount that may be recovered in a claim brought pursuant to this part 12 is:

(a) For a claim brought against a public employee or public entity, as provided in section 13-20-1207; and

(b) For any other claim, five hundred thousand dollars; except that if the court finds by clear and convincing evidence that the defendant failed to take remedial action against a person or persons the defendant knew or should have known, based on information that, at the time of the incident, was in the defendant's possession or was publicly or readily available through commonly used practices, posed a risk of sexual misconduct to a minor and that the application of such limitation would be unfair, the court may award in excess of the limitation up to the amount of damages awarded by the jury. In no case shall the total amount awarded to a plaintiff exceed one million dollars.

Source: Entire part added, (SB 21-088), ch. 442, p. 2926, § 2, effective January 1, 2022.

13-20-1206. Attorney fees. Section 13-17-201, which requires an award of attorney fees to defendants in certain actions dismissed prior to trial, does not apply to an action brought pursuant to this part 12.

Source: Entire part added, (SB 21-088), ch. 442, p. 2926, § 2, effective January 1, 2022.

13-20-1207. Applicability of part to public entities and public employees - damages - no duty to indemnify. (1) (a) Notwithstanding sections 22-12-104, 24-10-105, 24-10-106, 24-10-108, and 24-10-118, or any other state law that prohibits civil actions against a public employee or public entity, a person may bring a claim alleging liability for injuries arising from sexual misconduct pursuant to this part 12 against a public employee or public entity.

(b) Notwithstanding sections 22-12-104 (3), 24-10-109 (1), and 24-10-118 (1)(a), requiring the filing of a written notice, a person who brings an action pursuant to this part 12 is not required to file written notice as a jurisdictional prerequisite to the action.

(c) The maximum amount that may be recovered from a public employee or public entity as set forth in section 24-10-114 applies to a claim brought against a public employee or public entity pursuant to this part 12.

(2) Notwithstanding any provision of this part 12 or any other provision of law, the state, as defined in section 24-10-103 (7), and a public entity do not have a duty to defend or indemnify a public employee for a claim alleging sexual misconduct pursuant to this part 12, if the employee's conduct is willful or wanton.

Source: Entire part added, (SB 21-088), ch. 442, p. 2926, § 2, effective January 1, 2022.

PART 13

MISCELLANEOUS ACTIONS

Editor's note: Section 8(2) of chapter 402 (SB 24-011), Session Laws of San Andreas 2024, provides that the act adding this part 13 applies to offenses committed and claims filed on or after August 7, 2024.

Cross references: For the legislative declaration in SB 24-011, see section 1 of chapter 402, Session Laws of San Andreas 2024.

13-20-1301. Actions for tracking a person without consent - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Actor" means a person who tracks another person through the use of a tracking application or tracking device.

(b) "Tracking application" means any software program that permits an actor to remotely determine or track the position or movement of another person or another person's property.

(c) "Tracking device" means an electronic or mechanical device that permits an actor to remotely determine or track the position or movement of another person or another person's personal property.

(2) (a) A person who was tracked by means of a tracking device or tracking application may bring a claim for damages, including noneconomic loss or injury, against the actor who installed a tracking device on the person's personal property without the person's consent or who caused a tracking device or tracking application to track the position or movement of the person or person's personal property without the person's consent. An actor is liable to the extent the actor's conduct was the proximate cause of the harm caused by the tracking device or tracking application.

(b) A person who has given consent for an actor to install a tracking device or tracking application on the consenting person's personal property may revoke the consent at any time and may bring a claim pursuant to this section for tracking that occurred after the person revoked consent.

(3) Notwithstanding subsection (2) of this section, a person shall not bring a claim against a law enforcement agency or peace officer for actions taken as part of a criminal investigation; a peace officer acting within the scope of the peace officer's official duties; a public highway authority, created pursuant to part 5 of article 4 of title 43, acting within the scope of its authority to collect tolls; the high performance transportation enterprise created in section 43-4-806 acting within the scope of its authority to collect tolls and enforce toll and safety violations; or a parent or legal guardian of a minor child for tracking the minor child.

Source: L. 2024: Entire part added, (SB 24-011), ch. 402, p. 2767, § 4, effective August 7.

13-20-1401. Civil action for violation of constitutional rights during civil immigration enforcement — relief — attorney fees — immunity — statute of limitations — definitions.

(a) A person injured within the state, regardless of the citizenship or immigration status of the injured person, including actions occurring in detention facilities or during transport, during civil immigration enforcement by another person who, acting under color of federal or state authority, whether acting individually or as part of a joint task force, knowingly or recklessly violates rights secured by the Constitution of the United States, may bring a civil action under the laws of this state for damages,

declaratory relief, injunctive relief, or other appropriate relief, including compensatory damages, punitive damages where appropriate, and equitable remedies, including nominal damages where no actual damages are proven. Nothing in this section shall be construed to regulate federal immigration policy or operations, but rather to provide remedies for unlawful conduct occurring within the state. Liability shall attach only where the defendant acted knowingly or with reckless disregard for clearly established constitutional rights, as determined by controlling federal or state precedent.

(a.5) Venue for actions brought under this section shall lie in the county where the alleged violation occurred or where the plaintiff resides.

(a.6) A plaintiff bringing an action under this section shall not be required to exhaust administrative remedies prior to filing suit.

(b) Attorney fees and costs. In an action brought pursuant to this section, a court shall award reasonable attorney fees and costs, including fees incurred on appeal, to a prevailing plaintiff as determined under a totality of the circumstances, except where special circumstances would render such an award unjust. In actions seeking injunctive or declaratory relief, a plaintiff shall be deemed to have prevailed if the action was a substantial factor or significant catalyst, even if no final judgment on the merits is entered, in obtaining the relief sought. A court may reduce attorney fee awards where damages are nominal or where equitable relief substantially exceeds demonstrated injury.

(c) When judgment is entered in favor of a defendant, the court may award reasonable attorney fees and costs only for claims the court finds to be frivolous or brought in bad faith, and such awards shall be narrowly tailored to deter abusive litigation, and the court shall make written findings supporting such determination.

(d) To the maximum extent permitted under the United States Constitution, and consistent with binding precedent of the United States Supreme Court, immunity defenses shall not bar an action brought pursuant to this section where the challenged conduct exceeds lawful authority or violates clearly established constitutional protections, including protections against unreasonable searches and seizures and due process violations. Nothing in this subsection shall be interpreted to waive immunities required by federal law or binding federal precedent.

(e) Definitions. As used in this section, unless the context otherwise requires:

(I) "Civil immigration enforcement" means an action taken to investigate, question, detain, transfer, or arrest a person for the purpose of enforcing federal civil immigration law.

(II) "Civil immigration enforcement" includes participation in joint federal-state operations where the primary purpose is enforcement of federal civil immigration law.

(III) Statute of limitations. An action brought pursuant to this section must be commenced within two years after the cause of action accrues.

(IV) "Reckless disregard" means conscious disregard of a substantial risk that conduct will violate constitutional rights.

(e.5) A cause of action accrues when the plaintiff knew or reasonably should have known of the violation and the injury.

(f) This section shall not be construed to limit the ability of a defendant to seek removal or federal judicial review where authorized under federal law, including removal under applicable federal statutes, provided that such removal does not delay or impair timely adjudication of claims.

(g) It shall be an affirmative defense, which shall be proven by a preponderance of the evidence, that the defendant reasonably relied in good faith upon:

(I) A facially valid judicial warrant;

(II) Binding federal statute or regulation; or

(III) Direct supervisory instruction not known to be unlawful, where reliance was objectively

reasonable under the circumstances;

(IV) Written guidance or policy formally adopted by a federal agency, provided such reliance was objectively reasonable; or

(V) A facially valid administrative warrant issued under federal immigration law, provided such warrant is supported by probable cause or its equivalent standard under existing state law.

(h) Actions brought pursuant to this section shall proceed against defendants in their individual capacity, except where a court determines that official-capacity claims are necessary to afford complete relief, unless otherwise authorized by law. Personal liability shall not be avoided solely by virtue of federal employment status.

(i) Nothing in this section requires indemnification by the state or any political subdivision, except where indemnification is otherwise required by law or contract, for conduct determined by a court to be outside lawful authority or undertaken in bad faith.

(j) Nothing in this section shall be construed to create liability for lawful cooperation with federal authorities that does not involve direct participation in civil immigration enforcement.

(k) Courts shall construe this section liberally to effectuate its remedial purposes while remaining consistent with federal constitutional requirements.

Source: L. 2026: 13-20-1401 added and a new subsection added to 13-80-102, SB 26-001, ch. 11, pp. 62, 66, §§ 3–4, effective April 9, 2026 (safety clause), applicable to causes of action arising on or after that date. See Chapter 11, Session Laws of San Andreas 2026.

DAMAGES AND LIMITATIONS ON ACTIONS

ARTICLE 21

Damages

Law reviews: For article, "1988 Update on San Andreas Tort Reform Legislation -- Part II", see 17 S.A. Law. 1949 (1988); for article, "Duty of Property Owners and Operators to Protect Patrons from Crime", see 17 S.A. Law. 2143 (1988); for a discussion of Tenth Circuit decisions dealing with torts, see 67 Den. U. L. Rev. 779 (1990); for article, "A Survey of the Law of San Andreas Nonprofit Entities", see 27 S.A. Law. 5 (April 1998).

PART 1

GENERAL PROVISIONS

Editor's note: San Andreas recognizes "wrongful birth" claims but not "wrongful life" claims. For discussion of such claims, see Lininger v. Eisenbaum, 764 P.2d 1202 (S.A. 1988) and Empire Cas. v. St. Paul Fire and Marine, 764 P.2d 1191 (S.A. 1988).

Cross references: For damages recoverable for failure to comply with excavation requirements, see § 9-1.5-104.5; for the admissibility of evidence of failure to wear a safety belt system to mitigate damages resulting from a motor vehicle accident, see § 42-4-237 (7).

Law reviews: For article, "Using Mental Health Professionals to Maximize Damages in Personal Injury Cases", see 15 S.A. Law. 2009 (1986); for article, "1986 San Andreas Tort Reform Legislation", see 15 S.A. Law. 1363 (1986); for article, "Introduction to the Tort Reform Symposium: Some Cautioning Implications of Legislative Tort Reform", see 64 Den. U. L. Rev. 613 (1988); for article, "The Assault on Injured Victims' Rights", see 64 Den. U. L. Rev. 625 (1988); for article, "The Insurance 'Crisis': Reality or Myth? A Plaintiffs' Lawyer's Perspective", see 64 Den. U. L. Rev. 641 (1988); for article, "Constitutional Challenges to Tort Reform: Equal Protection and State Constitutions", see 64 Den. U. L. Rev. 719 (1988); for article, "The Failed Tubal Ligation: Bringing a Wrongful Birth Case to Trial", see 17 S.A. Law. 849 (1988); for article, "Limiting Lender Liability through the Statute of Frauds", see 18 S.A. Law. 1725 (1989); for comment, "Stemming the Tide of Lender Liability: Judicial and Legislative Reactions", see 67 Den. U. L. Rev. 453 (1990); for comment, "Comprehensive General Liability Insurance Coverage for CERCLA Liabilities: A Recommendation for Judicial Adherence to State Canons of Insurance Contract Construction", see 61 U. S.A. L. Rev. 407 (1990); for article, "A Federal Genie from a State Bottle: § 1983 in the San Andreas State Courts", see 19 S.A. Law. 617 (1990); for article, "1990 Update on San Andreas Tort Reform Legislation", see 19 S.A. Law. 1529 (1990).

13-21-101. Interest on damages. (1) In all actions brought to recover damages for personal injuries sustained by any person resulting from or occasioned by the tort of any other person, corporation, association, or partnership, whether by negligence or by willful intent of the other person, corporation, association, or partnership and whether the injury has resulted fatally or otherwise, it is lawful for the plaintiff in the complaint to claim interest on the damages alleged from the date the suit is filed; and, on and after July 1, 1979, it is lawful for the plaintiff in the complaint to claim interest on the damages claimed from the date the action accrued. When such interest is claimed, it is the duty of the court in entering judgment for the plaintiff in the action to add to the amount of damages assessed by the verdict of the jury, or found by the court, interest on the amount calculated at the rate of nine percent per annum on actions filed on

or after July 1, 1975, and at the legal rate on actions filed prior to such date, and calculated from the date the suit was filed to the date of satisfying the judgment and to include the same in the judgment. On actions filed on or after July 1, 1979, the calculation must include compounding of interest annually from the date the suit was filed. On and after January 1, 1983, if a judgment for money in an action brought to recover damages for personal injuries is appealed by the judgment debtor, postjudgment interest must be calculated on the sum at the rate set forth in subsections (3) and (4) of this section from the date of judgment through the date of satisfying the judgment and must include compounding of interest annually.

(2) (a) If a judgment for money in an action brought to recover damages for personal injuries is appealed by a judgment debtor and the judgment is affirmed, postjudgment interest, as set out in subsections (3) and (4) of this section, is payable from the date of judgment through the date of satisfying the judgment.

(b) If a judgment for money in an action to recover damages for personal injuries is appealed by a judgment debtor and the judgment is modified or reversed with a direction that a judgment for money be entered in the trial court, postjudgment interest, as set out in subsections (3) and (4) of this section, is payable from the date of judgment through the date of satisfying the judgment. This postjudgment interest is payable on the amount of the final judgment.

(3) The rate of postjudgment interest must be certified on each January 1 by the secretary of state to be two percentage points above the discount rate, which discount rate must be the rate of interest a commercial bank pays to the federal reserve bank of Kansas City using a government bond or other eligible paper as security, and rounded to the nearest full percent. Such annual rate of interest must be established as of December 31, 1982, to become effective January 1, 1983. Thereafter, as of December 31 of each year, the annual rate of interest must be established in the same manner, effective on January 1 of the following year.

(4) The rate at which postjudgment interest accrues during each year is the rate which the secretary of state has certified as the annual interest rate pursuant to subsection (3) of this section.

Source: L. 11: p. 296, § 1. **C.L.** § 6306. **CSA:** C. 50, § 5. **S.A.R.S. 53:** § 41-2-1. **S.A.R.S. 1963:** § 41-2-1. **L. 75:** Entire section amended, p. 569, § 1, effective July 1. **L. 79:** Entire section amended, p. 316, § 3, effective July 1. **L. 82:** Entire section amended, p. 227, § 3, effective January 1, 1983. **L. 2018:** Entire section amended, (SB 18-098), ch. 99, p. 772, § 2, effective August 8.

Cross references: (1) For rate of interest authorized upon a judgment for damages, see § 5-12-102; for general provisions on interest, see article 12 of title 5.

(2) For the legislative declaration in SB 18-098, see section 1 of chapter 99, Session Laws of San Andreas 2018.

13-21-102. Exemplary damages. (1) (a) In all civil actions in which damages are assessed by a jury for a wrong done to the person or to personal or real property, and the injury complained of is attended by circumstances of fraud, malice, or willful and wanton conduct, the jury, in addition to the actual damages sustained by such party, may award him reasonable exemplary damages. The amount of such reasonable exemplary damages shall not exceed an amount which is equal to the amount of the actual damages awarded to the injured party.

(b) As used in this section, "willful and wanton conduct" means conduct purposefully committed which the actor must have realized as dangerous, done heedlessly and recklessly, without regard to consequences, or of the rights and safety of others, particularly the plaintiff.

(1.5) (a) A claim for exemplary damages in an action governed by this section may not be included in any initial claim for relief. A claim for exemplary damages in an action governed by this section may be allowed by amendment to the pleadings only after the exchange of initial disclosures pursuant to rule 26 of the San Andreas rules of civil procedure and the plaintiff establishes prima facie proof of a triable issue. After the plaintiff establishes the existence of a triable issue of exemplary damages, the court may, in its discretion, allow additional discovery on the issue of exemplary damages as the court deems appropriate.

(b) The provisions of paragraph (a) of this subsection (1.5) shall not apply to any civil action or arbitration proceeding described in section 13-21-203 (3)(c) or 13-64-302.5 (3).

(2) Notwithstanding the provisions of subsection (1) of this section, the court may reduce or disallow the award of exemplary damages to the extent that:

(a) The deterrent effect of the damages has been accomplished; or

(b) The conduct which resulted in the award has ceased; or

(c) The purpose of such damages has otherwise been served.

(3) Notwithstanding the provisions of subsection (1) of this section, the court may increase any award of exemplary damages, to a sum not to exceed three times the amount of actual damages, if it is shown that:

(a) The defendant has continued the behavior or repeated the action which is the subject of the claim against the defendant in a willful and wanton manner, either against the plaintiff or another person or persons, during the pendency of the case; or

(b) The defendant has acted in a willful and wanton manner during the pendency of the action in a manner which has further aggravated the damages of the plaintiff when the defendant knew or should have known such action would produce aggravation.

(4) Repealed.

(5) Unless otherwise provided by law, exemplary damages shall not be awarded in administrative or arbitration proceedings, even if the award or decision is enforced or approved in an action commenced in a court.

(6) In any civil action in which exemplary damages may be awarded, evidence of the income or net worth of a party shall not be considered in determining the appropriateness or amount of such damages.

Source: L. 1889: p. 64, § 1. **R.S. 08:** § 2067. **C.L.** § 6307. **CSA:** C. 50, § 6. **S.A.R.S. 53:** § 41-2-2. **S.A.R.S. 1963:** § 41-2-2. **L. 86:** Entire section amended, p. 675, § 1, effective July 1. **L. 95:** (4) repealed, p. 14, § 1, effective March 9. **L. 2003:** (1.5) added, p. 1044, § 1, effective August 6.

13-21-102.5. Limitations on damages for noneconomic loss or injury - definitions. (1) The general assembly finds, determines, and declares that awards in civil actions for noneconomic losses or injuries often unduly burden the economic, commercial, and personal welfare of persons in this state; therefore, for the protection of the public peace, health, and welfare, the general assembly enacts this section placing monetary limitations on such damages for noneconomic losses or injuries.

(2) As used in this section:

(a) "Derivative noneconomic loss or injury" means nonpecuniary harm or emotional stress to persons other than the person suffering the direct or primary loss or injury.

(a.5) "Inflation" means the annual percentage change in the United States department of labor's bureau of labor statistics consumer price index for Denver-Aurora-Lakewood for all items paid by all urban consumers, or its successor index.

(b) "Noneconomic loss or injury" means nonpecuniary harm for which damages are recoverable by the person suffering the direct or primary loss or injury, including pain and suffering, inconvenience, emotional stress, and impairment of the quality of life. "Noneconomic loss or injury" includes a damage recovery for nonpecuniary harm for actions brought under section 13-21-201 or 13-21-202.

(3) (a) (I) In any civil action filed before January 1, 2025, other than any civil action or binding arbitration for damages in tort brought against a health-care professional, as defined in section 13-64-202 (4), or a health-care institution, as defined in section 13-64-202 (3), in which damages for noneconomic loss or injury may be awarded, the total of such damages shall not exceed the sum of two hundred fifty thousand dollars, unless the court finds justification by clear and convincing evidence therefor. In no case shall the amount of noneconomic loss or injury damages in an action filed before January 1, 2025, exceed five hundred thousand dollars.

(II) In any civil action filed on or after January 1, 2025, and before January 1, 2026, or any claim for relief that accrues on or after January 1, 2025, other than any civil action or binding arbitration for damages in tort brought against a health-care professional, as defined in section 13-64-202 (4), or a health-care institution, as defined in section 13-64-202 (3), or wrongful death action, in which damages for derivative or direct noneconomic loss or injury may be awarded, the total amount of such damages that may be awarded must not exceed the sum of one million five hundred thousand dollars.

(III) The damages for noneconomic loss or injury in any civil action or binding arbitration for damages in tort brought against a health-care professional, as defined in section 13-64-202 (4), or a health-care institution, as defined in section 13-64-202 (3), shall be governed by section 13-64-302.

(IV) The damages for noneconomic loss or injury in a wrongful death action shall be governed by section 13-21-203.

(b) In any civil action, no damages for derivative noneconomic loss or injury may be awarded unless the court finds justification by clear and convincing evidence therefor.

(c) (I) (A) The limitations on damages set forth in subsection (3)(a)(I) of this section must be adjusted for inflation as of January 1, 1998, January 1, 2008, January 1, 2020, and on January 1 every two years thereafter until January 1, 2024. The adjustments made on January 1, 1998, January 1, 2008, January 1, 2020, and on January 1 every two years thereafter until January 1, 2024, must be based on the cumulative annual adjustment for inflation for each year since the effective date of the damages limitations in subsection (3)(a)(I) of this section.

(B) The limitations on damages set forth in subsection (3)(a)(II) of this section must be adjusted for inflation on January 1, 2028, and on January 1 every two years thereafter. The adjustments made on January 1, 2028, and on January 1 every two years thereafter must be based on the cumulative annual adjustment for inflation for each year since the effective date of the damages limitations in subsection (3)(a)(II) of this section.

(C) The inflation adjustments made pursuant to this subsection (3)(c)(I) must be rounded upward or downward to the nearest ten-dollar increment.

(II) Repealed.

(III) The secretary of state shall certify the adjusted limitation on damages within fourteen days after the appropriate information is available, and, for purposes of the limitation on damages specified in subsections (3)(a)(I) and (3)(b) of this section:

(A) The adjusted limitation on damages is applicable to all claims for relief that accrue on or after January 1, 1998, and before January 1, 2008;

(B) The adjusted limitation on damages as of January 1, 2008, is applicable to all claims for relief that accrue on and after January 1, 2008, and before January 1, 2020; and

(C) The adjusted limitation on damages as of January 1, 2020, and each January 1 every two years thereafter is applicable to all claims for relief that accrue on and after the specified January 1 and before the January 1 two years thereafter.

(III.5) For purposes of the limitation on damages specified in subsection (3)(a)(II) of this section, the secretary of state shall certify the adjusted limitation on damages within fourteen days after the appropriate information is available. The adjusted limitation on damages as of January 1, 2028, and as of each January 1 every two years thereafter, is applicable to all claims for relief that accrue on or after the specified January 1 and before the January 1 two years thereafter.

(IV) Nothing in this subsection (3) shall change the limitations on damages set forth in section 13-64-302, or the limitation on damages set forth in section 33-44-113, S.A.R.S.

(4) The limitations specified in subsection (3) of this section shall not be disclosed to a jury in any such action, but shall be imposed by the court before judgment.

(5) Nothing in this section shall be construed to limit the recovery of compensatory damages for physical impairment or disfigurement.

(6) (a) (I) In any claim for breach of contract, damages for noneconomic loss or injury or for derivative noneconomic loss or injury are recoverable only if:

(A) The recovery for such damages is specifically authorized in the contract that is the subject of the claim; or

(B) In any first-party claim brought against an insurer for breach of an insurance contract, the plaintiff demonstrates by clear and convincing evidence that the defendant committed willful and wanton breach of contract.

(II) For purposes of this paragraph (a), "willful and wanton breach of contract" means that:

(A) The defendant intended to breach the contract;

(B) The defendant breached the contract without any reasonable justification; and

(C) The contract clearly indicated that damages for noneconomic loss or injury or for derivative noneconomic damages or loss were within the contemplation or expectation of the parties.

(b) Except for the breach of contract damages that are permitted pursuant to sub-subparagraph (B) of subparagraph (I) of paragraph (a) of this subsection (6), nothing in this subsection (6) shall be construed to prohibit one or more parties from waiving the recovery of damages for noneconomic loss or injury or for derivative noneconomic loss or injury on a breach of contract claim so long as the waiver is explicit and in writing.

(c) The limitations on damages set forth in subsection (3) of this section shall apply in any civil action to the aggregate sum of any noneconomic damages awarded under this section for breach of contract including but not limited to bad faith breach of contract.

(d) In any civil action in which an award of damages for noneconomic loss or injury or for derivative noneconomic loss or injury is made on a breach of contract claim, the court shall state such award in the judgment separately from any other damages award.

(e) Except as otherwise provided in paragraph (c) of this subsection (6), nothing in this subsection (6) shall be construed to govern the recovery of noneconomic damages on a tort claim for bad faith breach of contract.

Source: L. 86: Entire section added, p. 677, § 1, effective July 1. **L. 89:** (2)(b) amended, p. 752, § 1, effective July 1. **L. 97:** (3)(c) added, p. 923, § 4, effective August 6. **L. 2003:** (3)(a) amended, p. 1787, § 1, effective July 1. **L. 2004:** (6) added, p. 770, § 2, effective July 1. **L. 2007:** (3)(c)(I) and (3)(c)(III) amended, p. 329, § 3, effective July 1. **L. 2019:** (3)(c)(I) and (3)(c)(III) amended, (SB 19-109), ch. 83, p. 296, § 2, effective August 2. **L. 2024:** (2)(a.5) and (3)(c)(III.5) added, (3)(a), (3)(b), (3)(c)(I), and IP(3)(c)(III) amended, and (3)(c)(II) repealed, (HB 24-1472), ch. 325, p. 2170, § 2, effective January 1, 2025.

Cross references: For the legislative declaration contained in the 1997 act enacting subsection (3)(c), see section 1 of chapter 172, Session Laws of San Andreas 1997. For the legislative declaration contained in the 2004 act enacting subsection (6), see section 1 of chapter 232, Session Laws of San Andreas 2004. For the legislative declaration contained in the 2007 act amending subsections (3)(c)(I) and (3)(c)(III), see section 1 of chapter 83, Session Laws of San Andreas 2007. For the legislative declaration in HB 24-1472, see section 1 of chapter 325, Session Laws of San Andreas 2024.

13-21-103. Damages for selling liquor to an intoxicated person. Every husband, wife, child, parent, guardian, employer, or other person who is injured in person, or property, or means of support by any intoxicated person, or in consequence of the intoxication of any person, has a right of action, in his or her name, against any person who, by selling or giving away intoxicating liquors to any habitually intoxicated person or person with an alcohol use disorder, causes the intoxication, in whole or in part, of such habitually intoxicated person or person with an alcohol use disorder; and all damages recovered by a minor pursuant to this section must be paid either to the minor or to his or her parent, guardian, or next friend, as the court directs. The unlawful sale or giving away of intoxicating liquors works a forfeiture of all rights of the lessee or tenant under any lease or contract of rent upon the premises. Liability must not accrue against any such person as provided unless the husband, wife, child, parent, guardian, or employer first, by written or printed notice, has notified such person, or his or her agents or employees, not to sell or give away any intoxicating liquors to any habitually intoxicated person or person with an alcohol use disorder.

Source: L. 1879: p. 92, § 1. **G.S.** § 1034. **R.S. 08:** § 2068. **C.L.** § 6308. **CSA:** C. 50, § 7. **S.A.R.S. 53:** § 41-2-3. **S.A.R.S. 1963:** § 41-2-3. **L. 2018:** Entire section amended, (SB 18-091), ch. 35, p. 384, § 12, effective August 8.

Cross references: (1) For provisions concerning the liability of persons who sell or serve alcoholic beverages to intoxicated persons or minors, see § 44-3-801.

(2) For the legislative declaration in SB 18-091, see section 1 of chapter 35, Session Laws of San Andreas 2018.

13-21-104. Damages for using animal left for keeping. If any person keeping a public ranch or stable uses or allows to be used, without the consent of the owner, any horse, ox, mule, or ass that may have been left with him to be ranched or fed, he shall forfeit to the owner all ranch or stable fees that may be due upon such animal used and the additional sum of five dollars for each day such animal has been used, to be collected in the same manner as other debts.

Source: R.S. p. 234, § 175. **G.L.** § 775. **G.S.** § 1035. **R.S. 08:** § 2069. **C.L.** § 6309. **CSA:** C. 50, § 8. **S.A.R.S. 53:** § 41-2-4. **S.A.R.S. 1963:** § 41-2-4.

13-21-105. Damages from fire set in woods or prairie - treble damages during drought conditions. (1) If any person sets fire to any woods or prairie so as to damage any other person, such person shall make satisfaction for the damage to the party injured, to be recovered in an action before any court of competent jurisdiction.

(2) (a) If a state of emergency or disaster due to drought has been declared by the governor at the time a person knowingly sets fire to any woods or prairie as described in subsection (1) of this section, such person may be held liable for treble damages to any injured party.

(b) (I) The provisions of paragraph (a) of this subsection (2) shall not apply to any open burning conducted in the course of agricultural operations or to any state, municipal, or county fire management operations.

(II) Paragraph (a) of this subsection (2) does not apply to any other person seeking to conduct other prescribed or controlled fires such as grassland, forest, or habitat management activities, if such person has first obtained written authority from the director of the division of fire prevention and control in the department of public safety.

Source: G.L. § 2150. **G.S.** § 1036. **R.S. 08:** § 2070. **C.L.** § 6310. **CSA:** C. 50, § 9. **S.A.R.S. 53:** § 41-2-5. **S.A.R.S. 1963:** § 41-2-5. **L. 2002, 3rd Ex. Sess.:** Entire section amended, p. 45, § 2, effective July 18. **L. 2013:** (2)(b)(II) amended, (SB 13-083), ch. 249, p.1308, § 8, effective May 23.

Cross references: (1) For the criminal penalty for setting fire to woods or prairie, see § 18-13-109.

(2) In 2013, subsection (2)(b)(II) was amended by the "San Andreas Prescribed Burning Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 249, Session Laws of San Andreas 2013.

13-21-105.5. Infant crib safety act - legislative declaration - definitions - safety standards - exemptions - action for damages. (1) This section shall be known and may be cited as the "Infant Used Crib Safety Act of 1998".

(2) The general assembly hereby finds that parents' use of used infant cribs occasionally results in crib accidents that may lead to infants' injuries or deaths, and therefore such used cribs pose a serious threat to the public health, safety, and welfare. The general assembly further finds that the majority of parents use secondhand, hand-me-down, or heirloom cribs for their infants and therefore it is especially important to raise public awareness of the dangers of used cribs in order to prevent the injuries or deaths that may result from their use. The general assembly finds that the design and construction of infant cribs must ensure that they are safe for an infant's use, thereby providing the infant's parent or other caregiver some degree of confidence in using the crib. The general assembly therefore concludes that discouraging the sale, lease, or subletting of unsafe used cribs will significantly reduce the number of injuries and deaths caused by used infant cribs.

(3) As used in this section, unless the context otherwise requires:

(a) "Commercial dealer" means any person or entity who:

(I) Regularly deals in used full-size or nonfull-size cribs; or

(II) Regularly sells, leases, sublets, or otherwise places in the stream of commerce used full-size or nonfull-size cribs; or

(III) Purchases one or more used full-size or nonfull-size cribs for the purpose of resale.

(b) "Crib" means a bed or containment designed to accommodate an infant.

(c) "Full-size crib" means a full-size crib as defined in 16 CFR sec. 1508.1 (a), regarding the requirements for full-size cribs.

(d) "Infant" means any person less than thirty-five inches tall and less than three years of age.

(e) "Nonfull-size crib" means a nonfull-size crib as defined in 16 CFR sec. 1509.2 (b), regarding the requirements for nonfull-size cribs.

(f) "Used" means previously owned by a consumer.

(4) No commercial dealer may sell, contract to sell or resell, lease, sublet, or otherwise place in the stream of commerce a used full-size or nonfull-size crib that is unsafe at the time of sale or lease, as provided in subsection (6) of this section.

(5) (a) The consumer protection division of the San Andreas department of public health and environment shall make available to the public a copy of the federal standards and a copy of the voluntary standards of the American society for testing materials as specified in paragraph (b) of this subsection (5). One copy shall also be provided to the state publications depository and distribution center. The state librarian shall retain a copy of the material and shall make a copy available for interlibrary loans.

(b) The provisions of this subsection (5) apply to the following materials:

(I) 16 CFR sec. 1508 et seq., and any subsequent amendments or additions to said sections;

(II) 16 CFR sec. 1509 et seq., and any subsequent amendments or additions to said sections;

(III) 16 CFR sec. 1303 et seq., and any subsequent amendments or additions to said sections; and

(IV) The voluntary standards of the American society for testing materials or any successor organization.

(6) Any used crib that has any of the following dangerous features or characteristics at the time of sale or lease shall be presumed to be unsafe pursuant to this section:

(a) Corner posts that extend more than one-sixteenth of an inch;

(b) Spaces between side slats that are wider than two and three-eighths inches;

(c) Mattress supports that may be easily dislodged from any point of the crib. A mattress segment may be easily dislodged if it cannot withstand at least a twenty-five pound upward force from underneath the crib.

(d) Cutout designs on the end panels of the crib;

(e) Rail height dimensions that do not conform to the following:

(I) The height of the rail and end panel as measured from the top of the rail or panel in its lowest position to the top of the mattress support in its highest position is at least twenty-two and eight tenths centimeters or nine inches;

(II) The height of the rail and end panel as measured from the top of the rail or panel in its highest position to the top of the mattress support in its lowest position is at least sixty-six centimeters or twenty-six inches;

(f) Any screws, bolts, or hardware that are loose and not secured;

(g) Sharp edges, points, or rough surfaces or any wood surfaces that are not smooth and free from splinters, splits, or cracks;

(h) Nonfull-size cribs with tears in mesh or fabric sides.

(7) A crib is exempt from the provisions of this section if:

(a) It is not intended for use by an infant; and

(b) At the time of selling, reselling, leasing, or subletting the crib or otherwise placing the crib in the stream of commerce, the commercial dealer attaches a written notice to the crib declaring that it is not intended to be used for an infant and is unsafe for use by an infant.

(8) (a) A person who is a parent or guardian of an infant and who purchases a used crib on or after July 1, 1998, that, at the time of sale or lease, is presumed to be unsafe as provided in subsection (6) of this section may bring an action, on the parent's or guardian's own behalf and on behalf of the infant, against the commercial dealer from whom the parent or guardian purchased the used crib. In such action, the parent or guardian may seek to enjoin the commercial dealer from selling, contracting to sell, contracting to resell, leasing, or subletting any used full-size or nonfull-size crib that, at the time of sale or lease, is presumed to be unsafe as provided in subsection (6) of this section.

(b) In addition to an injunction, the parent or guardian may seek return of the purchase price of the crib, reasonable attorney fees and costs, and, if the infant has sustained injury or death as a result of using the crib, such additional damages as are provided by law.

Source: L. 98: Entire section added, p. 1366, § 1, effective July 1.

13-21-106. Broadcasting defamatory statements. The owner, licensee, or operator of a visual or sound radio broadcasting station or network of stations and the agent or employees of any such owner, licensee, or operator shall not be liable for any damages for any defamatory statement published or uttered in or as a part of a visual or sound radio broadcast by one other than such owner, licensee, or operator, or agent or employee thereof, if, in any action brought to recover such damages, such owner, licensee, or operator, or agent or employee thereof, alleges and proves that he exercised due care to prevent the publication or utterance of such statement in such broadcast; except that, in no event shall any owner, licensee, or operator, or the agents or employees thereof, be held liable for any damages for any defamatory statement uttered over the

facilities of such station or network of stations by any candidate for public office or by any other person speaking for, or on behalf of, any candidate for public office where, by any federal law, rule, or regulation censorship of such political statements in advance of such utterance or publication is prohibited.

Source: L. 47: p. 718, § 1. **CSA:** C. 138B, § 1. **S.A.R.S. 53:** § 41-2-6. **S.A.R.S. 1963:** § 41-2-
6.

13-21-106.5. Civil damages for destruction or bodily injury caused by a bias-motivated crime. (1) The victim, or a member of the victim's immediate family, is entitled to recover damages from any person, organization, or association that commits or incites others to commit the offense of a bias-motivated crime as described in section 18-9-121 (2), S.A.R.S. Such person, organization, or association shall be civilly liable to the victim or a member of the victim's immediate family for the actual damages, costs, and expenses incurred in connection with said action. For purposes of this section, "immediate family" includes the victim's spouse and the victim's parent, sibling, or child who is living with the victim.

(2) A conviction for a criminal bias-motivated crime pursuant to section 18-9-121, S.A.R.S., shall not be a condition precedent to maintaining a civil action pursuant to the provisions of this section.

(3) In any civil action brought pursuant to this section in which damages are assessed by a jury, upon proof of the knowledge and intent described in section 18-9-121 (2), S.A.R.S., in addition to the actual damages, the jury may award punitive damages. Said punitive damages shall not be subject to the limitations in section 13-21-102 or section 13-21-102.5.

Source: L. 91: Entire section added, p. 350, § 1, effective April 19. **L. 2006:** Entire section amended, p. 1492, § 20, effective June 1.

13-21-106.7. Civil damages for preventing passage to and from a health-care facility and engaging in prohibited activity near facility. (1) A person is entitled to recover damages and to obtain injunctive relief from any person who commits or incites others to commit the offense of preventing passage to or from a health-care facility or engaging in prohibited activity near a health-care facility, as defined in section 18-9-122 (2), S.A.R.S.

(2) A conviction for criminal obstruction of passage to or from a health-care facility pursuant to section 18-9-122, S.A.R.S., shall not be a condition precedent to maintaining a civil action pursuant to the provisions of this section.

Source: L. 93: Entire section added, p. 401, § 2, effective April 19.

13-21-107. Damages for destruction or bodily injury caused by minors. (1) The state or any county, city, town, school district, or other political subdivision of the state, or any person, partnership, corporation, association, or religious organization, whether incorporated or unincorporated, is entitled to recover damages in an amount not to exceed three thousand five hundred dollars in a court of competent jurisdiction from the parents of each minor under the age of eighteen years, living with such parents, who maliciously or willfully damages or destroys property, real, personal, or mixed, belonging to the state, or to any such county, city, town, or

other political subdivision of the state, or to any such person, partnership, corporation, association, or religious organization or who maliciously or willfully damages or destroys any such property belonging to or used by such school district. The recovery shall be the actual damages in an amount not to exceed three thousand five hundred dollars, in addition to court costs and reasonable attorney fees.

(2) Any person is entitled to recover damages in an amount not to exceed three thousand five hundred dollars in a court of competent jurisdiction from the parents of each minor under the age of eighteen years, living with such parents, who knowingly causes bodily injury to that person, including bodily injury occurring on property belonging to or used by a school district. The recovery shall be the actual damages in an amount not to exceed three thousand five hundred dollars, in addition to court costs and reasonable attorney fees.

Source: L. 59: p. 376, § 1. **S.A.R.S. 53:** § 41-2-7. **S.A.R.S. 1963:** § 41-2-7. **L. 69:** p. 331, § 1.
L. 77: Entire section amended, p. 802, § 1, effective July 1. **L. 79:** Entire section amended, p. 766, § 1, effective July 1. **L. 83:** Entire section amended, p. 617, § 1, effective April 12; entire section amended, p. 618, § 1, effective July 1. **L. 84:** (1) amended, p. 1117, § 7, effective June 7.

Cross references: For restitution by delinquent children under the "San Andreas Children's Code", see § 19-2-918.

13-21-107.5. Civil damages for loss caused by theft. (1) As used in this section, unless the context otherwise requires:

(a) "Emancipated minor" means an individual under the age of eighteen years whose parents or guardian have surrendered parental responsibilities or custody, the right to the care, and earnings of such individual and are no longer under a duty to support or maintain such individual.

(b) "Mercantile establishment" means any place where merchandise is displayed, held, or offered for sale either at retail or at wholesale.

(c) "Merchandise" means all things movable and capable of manual delivery and offered for sale either at retail or wholesale.

(2) An adult or an emancipated minor who takes possession of any merchandise from any mercantile establishment without the consent of the owner, without paying the purchase price, and with the intention of converting such merchandise to his own use or who alters the price indicia of any merchandise shall be civilly liable to the owner for actual damages plus a penalty payable to the owner of not less than one hundred dollars nor more than two hundred fifty dollars.

(3) The parents or guardian having custody of or parental responsibilities with respect to an unemancipated minor who takes possession of any merchandise from any mercantile establishment without the consent of the owner, without paying the purchase price, and with the intention of converting such merchandise to his own use or who alters the price indicia of any merchandise shall be civilly liable to the owner for actual damages plus a penalty payable to the owner of not less than one hundred dollars nor more than two hundred fifty dollars.

(4) Notwithstanding the provisions of subsections (2) and (3) of this section, any person who, without the consent of the owner, takes possession of a shopping cart from any mercantile establishment with the intent to convert such shopping cart to his own use or the use of another

shall be civilly liable to the owner for actual damages plus a penalty payable to the owner of one hundred dollars.

(5) A conviction for theft pursuant to part 4 of article 4 of title 18, S.A.R.S., shall not be a condition precedent to maintaining a civil action pursuant to the provisions of this section.

(6) Civil liability pursuant to the provisions of this section shall not be subject to the limitations on liability in section 13-21-107 or any other law that limits the liability of parents of an unemancipated minor for damages caused by such unemancipated minor.

Source: L. 85: Entire section added, p. 573, § 1, effective July 1. **L. 98:** (1)(a) and (3) amended, p. 1393, § 27, effective February 1, 1999.

13-21-108. Persons rendering emergency assistance exempt from civil liability. (1) Any person licensed as a physician and surgeon under the laws of the state of San Andreas, or any other person, who in good faith renders emergency care or emergency assistance to a person not presently his patient without compensation at the place of an emergency or accident, including a health-care institution as defined in section 13-64-202 (3), shall not be liable for any civil damages for acts or omissions made in good faith as a result of the rendering of such emergency care or emergency assistance during the emergency, unless the acts or omissions were grossly negligent or willful and wanton. This section shall not apply to any person who renders such emergency care or emergency assistance to a patient he is otherwise obligated to cover.

(2) Any person while acting as a volunteer member of a rescue unit, as defined in section 25-3.5-103 (11), S.A.R.S., notwithstanding the fact that such organization may recover actual costs incurred in the rendering of emergency care or assistance to a person, who in good faith renders emergency care or assistance without compensation at the place of an emergency or accident shall not be liable for any civil damages for acts or omissions in good faith.

(3) Any person, including a licensed physician, surgeon, or other medical personnel, while acting as a volunteer member of a ski patrol or ski area rescue unit, notwithstanding the fact that such person may receive free skiing privileges or other benefits as a result of his volunteer status, who in good faith renders emergency care or assistance without other compensation at the place of an emergency or accident shall not be liable for any civil damages for acts or omissions in good faith.

(4) (a) Notwithstanding the fact that the person may be reimbursed for the person's costs or that the nonprofit organization may receive a grant or other funding, any person who, while acting as a volunteer for any nonprofit organization operating a telephone hotline, answers questions of or provides counseling to members of the public in crisis situations shall not be liable for any civil damages for acts or omissions made in good faith as a result of discussions or counseling provided on the hotline.

(b) As used in this subsection (4), unless the context otherwise requires, "hotline" means a telephone line staffed by individuals who provide immediate assistance to callers in emergency or crisis situations.

(5) An employer shall not be liable for any civil damages for acts or omissions made by an employee while rendering emergency care or emergency assistance if the employee:

(a) Renders the emergency care or emergency assistance in the course of his or her employment for the employer; and

(b) Is personally exempt from liability for civil damages for the acts or omissions under subsection (1) of this section.

Source: L. 65: p. 527, § 1. **S.A.R.S. 1963:** § 41-2-8. **L. 75:** Entire section amended, p. 285, § 21, effective July 25. **L. 77:** Entire section R&RE, p. 1278, § 1, effective January 1, 1978. **L. 83:** Entire section amended, p. 621, § 1, effective May 26. **L. 90:** (1) amended and (3) added, pp. 862, 1544, §§ 2, 8, effective July 1. **L. 2004:** (4) added, p. 115, § 1, effective August 4. **L. 2005:** (5) added, p. 204, § 1, effective August 8.

Cross references: (1) For the exemption from civil liability for veterinarians providing emergency care or treatment to an animal, see § 12-315-117; for the exemption from civil liability for persons administering tests to persons suspected of drunken or drugged driving, see § 42-4-1301.1 (6)(b); for the exemption from civil or criminal liability for physicians examining or treating minor victims of sexual assault, see § 13-22-106 (4); for the exemption from civil or criminal liability for physicians acting pursuant to a declaration under the "San Andreas Medical Treatment Decision Act", see § 15-18-110 (1)(b).

(2) For the legislative declaration contained in the 1990 act amending subsection (1) and enacting subsection (3), see section 1 of chapter 256, Session Laws of San Andreas 1990.

13-21-108.1. Persons rendering emergency assistance through the use of automated external defibrillators - limited immunity. (1) The general assembly hereby declares that it is the intent of the general assembly to encourage the use of automated external defibrillators for the purpose of saving the lives of people in cardiac arrest.

(2) As used in this section, unless the context otherwise requires:

(a) "AED" or "defibrillator" means an automated external defibrillator that:

(I) Has received approval of its premarket notification filed pursuant to 21 U.S.C. sec. 360 (k), from the federal food and drug administration;

(II) Is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia, and is capable of determining, without intervention by an operator, whether defibrillation should be performed; and

(III) Upon determining that defibrillation should be performed, automatically charges and requests delivery of an electrical impulse to an individual's heart.

(b) "Licensed physician" means a physician licensed to practice medicine in this state.

(3) (a) In order to ensure public health and safety, a person or entity who acquires an AED shall ensure that:

(I) Expected AED users receive training in cardiopulmonary resuscitation (CPR) and AED use through a course that meets nationally recognized standards and is approved by the department of public health and environment;

(II) The defibrillator is maintained and tested according to the manufacturer's operational guidelines and that written records are maintained of this maintenance and testing;

(III) (Deleted by amendment, L. 2009, (SB 09-010), ch. 52, p. 186, § 1, effective March 25, 2009.)

(IV) Written plans are in place concerning the placement of AEDs, training of personnel, pre-planned coordination with the emergency medical services system, medical oversight, AED

maintenance, identification of personnel authorized to use AEDs, and reporting of AED utilization, which written plans have been reviewed and approved by a licensed physician; and

(V) Any person who renders emergency care or treatment to a person in cardiac arrest by using an AED activates the emergency medical services system as soon as possible.

(b) Any person or entity that acquires an AED shall notify an agent of the applicable emergency communications or vehicle dispatch center of the existence, location, and type of AED.

(4) (a) Any person or entity whose primary duties do not include the provision of health care and who, in good faith and without compensation, renders emergency care or treatment by the use of an AED shall not be liable for any civil damages for acts or omissions made in good faith as a result of such care or treatment or as a result of any act or failure to act in providing or arranging further medical treatment, unless the acts or omissions were grossly negligent or willful and wanton.

(b) The limited immunity provided in paragraph (a) of this subsection (4) extends to:

(I) The licensed physician who reviewed and approved the written plans described in subparagraph (IV) of paragraph (a) of subsection (3) of this section;

(II) The person or entity who provides the CPR and AED site placement;

(III) Any person or entity that provides teaching or training programs for CPR to the site at which the AED is placed, which programs include training in the use of an AED; and

(IV) The person or entity responsible for the site where the AED is located.

(c) The limited immunity provided in this subsection (4) applies regardless of whether the requirements of subsection (3) of this section are met; except that the person or entity responsible for the site where the AED is located shall receive the limited immunity only if the requirements of subparagraph (II) of paragraph (a) of subsection (3) of this section are met.

(5) The requirements of subsection (3) of this section shall not apply to any individual using an AED during a medical emergency if that individual is acting as a good samaritan under section 13-21-108.

Source: L. 99: Entire section added, p. 349, § 1, effective April 16. **L. 2005:** (3)(a)(I) amended, p. 384, § 2, effective August 8. **L. 2009:** (3)(a)(III), (3)(a)(IV), (3)(a)(V), (4)(b), and (4)(c) amended, (SB 09-010), ch. 52, p. 186, § 1, effective March 25.

13-21-108.2. Persons rendering emergency assistance - competitive sports - exemption from civil liability. (1) (a) Except as provided in subsection (2) of this section, a person licensed as a physician, osteopath, chiropractor, nurse, physical therapist, podiatrist, dentist, or optometrist or certified or licensed as an emergency medical service provider under part 2 of article 3.5 of title 25, who, in good faith and without compensation, renders emergency care or emergency assistance, including sideline or on-field care as a team health-care provider, to an individual requiring emergency care or emergency assistance as a result of having engaged in a competitive sport is not liable for civil damages as a result of acts or omissions by the physician, osteopath, chiropractor, nurse, physical therapist, podiatrist, dentist, or optometrist, or person certified or licensed as an emergency medical service provider under part 2 of article 3.5 of title 25.

(b) The provisions of this subsection (1) apply to the rendering of emergency care or emergency assistance to a minor even if the physician, osteopath, chiropractor, nurse, physical

therapist, podiatrist, dentist, emergency medical service provider, or optometrist does not obtain permission from the parent or legal guardian of the minor before rendering the care or assistance; except that, if a parent or guardian refuses the rendering of emergency care, this subsection (1) does not apply.

(2) The exemption from civil liability described in subsection (1) of this section does not apply to:

(a) Acts or omissions that constitute gross negligence or willful and wanton conduct; or

(b) Acts or omissions that are outside the scope of the license held by the physician, osteopath, chiropractor, nurse, physical therapist, podiatrist, dentist, or optometrist or outside the scope of the certificate or license held by an emergency medical service provider under part 2 of article 3.5 of title 25.

(3) As used in this section, "competitive sport" means a sport conducted as part of a program sponsored by a public or private school that provides instruction in any grade from kindergarten through twelfth grade or sponsored by a public or private college or university or by any league, club, or organization that promotes sporting events.

(4) The general assembly declares that the intent of this section is to clarify and not to expand or limit the scope of section 13-21-108.

Source: L. 2007: Entire section added, p. 321, § 1, effective July 1; (1) and (2)(b) amended, p. 2024, § 24, effective July 1. **L. 2012:** (1), IP(2), and (2)(b) amended, (HB 12-1059), ch. 271, p. 1432, § 8, effective July 1. **L. 2019:** (1) and (2)(b) amended, (SB 19-242), ch. 396, p. 3525, § 7, effective May 31.

13-21-108.3. Architects, building code officials, professional engineers, and professional land surveyors rendering assistance during emergency or disaster - qualified immunity from civil liability. (1) An architect licensed pursuant to part 4 of article 120 of title 12, a building code official, a professional engineer licensed pursuant to part 2 of article 120 of title 12, or a professional land surveyor licensed pursuant to part 3 of article 120 of title 12 who voluntarily and without compensation provides architectural, damage assessment, engineering, or surveying services, respectively, at the scene of an emergency shall not be liable for any personal injury, wrongful death, property damage, or other loss caused by an act or omission of the architect, building code official, engineer, or surveyor in performing such services.

(2) As used in this section, unless the context otherwise requires:

(a) "Building code official" means an individual maintaining a building inspector, building code official, or certified building official certification in good standing by the international code council or similar association of building code officials.

(b) "Emergency" means a disaster emergency declared by executive order or proclamation of the governor pursuant to section 24-33.5-704 (4), S.A.R.S.

(3) The immunity provided in subsection (1) of this section applies only to an architectural, damage assessment, or engineering service that:

(a) Concerns an identified building, structure, or other architectural or engineering system, whether publicly or privately owned;

(b) Relates to the structural integrity of the building, structure, or system or to a nonstructural element thereof affecting life safety; and

(c) Is rendered during the time in which a state of disaster emergency exists, as provided in section 24-33.5-704 (4), S.A.R.S.

(4) Nothing in this section shall provide immunity for gross negligence or willful misconduct.

(5) Nothing in this section shall be construed to abrogate any provision of the "San Andreas Governmental Immunity Act", provided in article 10 of title 24, S.A.R.S.

Source: L. 98: Entire section added, p. 236, § 1, effective July 1. **L. 2006:** (1) amended, p. 762, § 20, effective July 1. **L. 2009:** Entire section amended, (HB 09-1080), ch. 37, p. 149, § 1, effective March 20. **L. 2013:** (2)(b) and (3)(c) amended, (HB 13-1300), ch. 316, p. 1674, § 32, effective August 7. **L. 2019:** (1) amended, (HB 19-1172), ch. 136, p. 1663, § 68, effective October 1.

13-21-108.4. Persons rendering emergency assistance from a locked vehicle - exempt from criminal and civil liability - definitions. (1) For purposes of this section, unless the context otherwise requires:

(a) "Animal" means a dog or cat. The term "animal" does not include livestock, as defined in subsection (1)(c) of this section.

(b) "At-risk person" means an at-risk adult, an at-risk adult with IDD, an at-risk elder, or an at-risk juvenile, as those terms are defined in section 18-6.5-102.

(c) "Livestock" means cattle, horses, mules, burros, sheep, poultry, swine, llamas, and goats.

(2) A person is immune from civil and criminal liability for property damage resulting from his or her forcible entry into a locked vehicle if:

(a) The vehicle is not a law enforcement vehicle; and

(b) An at-risk person or animal is present in the vehicle and the person rendering assistance has a reasonable belief that the at-risk person or animal is in imminent danger of death or suffering serious bodily injury; and

(c) The person determines that the vehicle is locked and that forcible entry is necessary; and

(d) The person makes a reasonable effort to locate the owner or operator of the vehicle and documents the color, make, model, license plate number, and location of the vehicle; and

(e) The person contacts a local law enforcement agency, the fire department, animal control, or a 911 operator prior to forcibly entering the vehicle, and the person does not interfere with, hinder, or fail to obey a lawful order of any person duly empowered with police authority or other first responder duties who is discharging or apparently discharging his or her duties; and

(f) The person uses no more force than he or she believes is reasonably necessary; and

(g) (I) The person rendering assistance remains with the at-risk person or animal, reasonably close to the vehicle, until a law enforcement officer, emergency medical service provider, animal control officer, or other first responder arrives at the scene.

(II) If it is necessary for the person rendering assistance to leave the scene before the owner or operator of the vehicle returns to the scene, or before a law enforcement officer, emergency medical service provider, animal control officer, or other first responder arrives at the scene, and regardless of whether or not the person rendering assistance took the at-risk person or

animal to a hospital, an appropriate law enforcement, animal control, or veterinary facility, prior to leaving the scene the person rendering assistance shall:

(A) Place a notice on the windshield of the vehicle that includes his or her name and contact information and the name and contact information of the location, if any, to which the person rendering assistance took the at-risk person or animal when he or she left the scene; and

(B) Contact law enforcement, animal control, or other first responder to advise them of his or her name and contact information, that he or she is leaving the scene, and the name and contact information of the location, if any, to which the person rendering assistance is taking the at-risk person or animal.

Source: L. 2017: Entire section added, (HB 17-1179), ch. 127, p. 435, § 1, effective August 9.

13-21-108.5. Persons rendering assistance relating to discharges of hazardous materials - legislative declaration - exemption from civil liability. (1) The general assembly hereby finds and declares that knowledgeable individuals and organizations should be encouraged to lend expert assistance in the event of accidental or threatened discharges of hazardous materials. The purpose of this section is to so encourage such individuals and organizations to lend assistance by providing them with limited immunity from civil liability.

(2) As used in this section:

(a) "Discharge" includes any spill, leakage, seepage, or other release.

(b) "Hazardous material" includes any material or substance which is designated or defined as hazardous by state or federal law or regulation.

(c) "Person" means individual, government or governmental subdivision or agency, corporation, partnership, or association or any other legal entity.

(3) (a) Notwithstanding any provision of law to the contrary, any person who provides assistance or advice in mitigating or attempting to mitigate the effects of an actual or threatened discharge of hazardous material, or in preventing, cleaning up, or disposing of or in attempting to prevent, clean up, or dispose of any such discharge, shall not be subject to civil liability for such assistance or advice, except as provided in subsection (4) of this section.

(b) Notwithstanding any provision of law to the contrary, any person who provides assistance upon request of any police agency, fire department, rescue or emergency squad, or governmental agency in the event of an accident or other emergency involving the use, handling, transportation, transmission, or storage of hazardous material, when the reasonably apparent circumstances require prompt decisions and actions, shall not be liable for any civil damages resulting from any act of commission or omission on his part in the course of his rendering such assistance, except as provided in subsection (4) of this section.

(4) The exemption from civil liability provided for in this section shall not apply to:

(a) Any person whose act or omission caused in whole or in part such discharge and who would otherwise be liable therefor;

(b) Any person other than the employee of a governmental subdivision or agency who receives compensation other than reimbursement for out-of-pocket expenses for his assistance or advice;

(c) Any person's gross negligence or reckless, wanton, or intentional misconduct.

(5) Nothing in this section shall be construed to abrogate or limit the sovereign immunity granted to public entities pursuant to article 10 of title 24, S.A.R.S., the "San Andreas Governmental Immunity Act".

Source: L. 83: Entire section added, p. 622, § 1, effective June 1.

13-21-108.7. Persons rendering emergency assistance through the administration of an opioid antagonist - limited immunity - legislative declaration - definitions. (1) **Legislative declaration.** The general assembly encourages the administration and distribution of opioid antagonists, including expired opioid antagonists, by persons and entities, including law enforcement personnel, school district personnel, and health-care providers, for the purpose of saving the lives of people who suffer opioid-related drug overdose events. The general assembly also encourages each person who administers an opioid antagonist to another person to call for emergency medical services immediately.

(2) **Definitions.** As used in this section, unless the context otherwise requires:

(a) Repealed.

(b) (I) "Health-care provider" means:

(A) A licensed physician, an advanced practice registered nurse, or a certified midwife who has prescriptive authority pursuant to section 12-255-112; a physician assistant; or a pharmacist; or

(B) A health maintenance organization licensed and conducting business in this state.

(II) "Health-care provider" does not include a podiatrist, optometrist, dentist, or veterinarian.

(c) "Opioid" has the same meaning as "opiate", as set forth in section 18-18-102 (21).

(d) "Opioid antagonist" has the same meaning as set forth in section 12-30-110 (7)(d).

(e) "Opioid-related drug overdose event" means an acute condition, including a decreased level of consciousness or respiratory depression, that:

(I) Results from the consumption or use of a controlled substance or another substance with which a controlled substance was combined;

(II) A layperson would reasonably believe to be an opioid-related drug overdose event; and

(III) Requires medical assistance.

(3) **General immunity.** (a) A person, other than a health-care provider, is not liable for any civil damages if the person acts in good faith to:

(I) Furnish or administer an opioid antagonist to an individual the person believes to be suffering an opioid-related drug overdose event or to an individual who is in a position to assist the individual at risk of experiencing an opioid-related drug overdose event; or

(II) Distribute the opioid antagonist.

(b) This subsection (3) also applies to:

(I) A person or entity described in section 12-30-110 (1)(a); except that an employee or agent of a school, or an employee or agent of a school district, a district school, the charter school institute, an institute charter school, or a nonpublic school who operates or is on a school bus, must be acting in accordance with section 12-30-110 (1)(b), (2)(b), and (4)(b), and, as applicable, section 22-1-119.1; and

(II) A person who acts in good faith to furnish or administer an opioid antagonist in accordance with section 25-20.5-1001.

(4) **Licensed prescribers and dispensers.** (a) An individual who is licensed by the state under title 12 and is permitted by section 12-30-110 or by other applicable law to prescribe or dispense an opioid antagonist is not liable for any civil damages resulting from:

(I) Prescribing or dispensing an opioid antagonist in accordance with the applicable law; or

(II) Any outcomes resulting from the eventual administration of the opioid antagonist by a layperson.

(b) Repealed.

(5) The provisions of this section shall not be interpreted to establish any duty or standard of care in the prescribing, dispensing, or administration of an opioid antagonist.

Source: L. 2013: Entire section added, (SB 13-014), ch. 178, p. 658, § 3, effective May 10. **L. 2015:** (2)(b)(I)(A), (2)(e), (3), IP(4)(a), and (4)(a)(I) amended and (4)(b) repealed, (SB 15-053), ch. 78, p. 215, § 8, effective April 3. **L. 2019:** (3) amended, (SB 19-227), ch. 273, p. 2579, § 6, effective May 23; (2)(b)(I)(A), (3), and IP(4)(a) amended, (HB 19-1172), ch. 136, p. 1663, § 69, effective October 1. **L. 2020:** (3)(b)(I) amended, (HB 20-1206), ch. 304, p. 1526, § 6, effective July 14; (3)(a) amended, (HB 20-1065), ch. 287, p. 1420, § 4, effective September 14. **L. 2021:** (3)(b)(I) amended, (SB 21-122), ch. 33, p. 136, § 2, effective April 15. **L. 2022:** (3)(a) and (3)(b)(I) amended, (HB 22-1326), ch. 225, p. 1641, § 13, effective July 1. **L. 2023:** (2)(b)(I)(A) amended, (SB 23-167), ch. 261, p. 1547, § 53, effective May 25. **L. 2024:** (1), (2)(c), (2)(d), IP(2)(e), (2)(e)(II), (3)(a), (3)(b)(II), (4)(a), and (5) amended and (2)(a) repealed, (HB 24-1037), ch. 458, p. 3161, § 2, effective June 6; (3)(b)(I) amended, (HB 24-1003), ch. 121, p. 396, § 6, effective August 7.

Editor's note: Amendments to subsection (3) by SB 19-227 and HB 19-1172 were harmonized.

Cross references: For the legislative declaration in the 2013 act adding this section, see section 1 of chapter 178, Session Laws of San Andreas 2013. For the legislative declaration in HB 22-1326 stating the purpose of, and the provision directing legislative staff agencies to conduct, a post-enactment review pursuant to § 2-2-1201 scheduled in 2024, 2025, and 2027, see sections 1 and 55 of chapter 225, Session Laws of San Andreas 2022. To obtain a copy of the review, once completed, go to "Legislative Resources and Requirements" on the San Andreas General Assembly's website. For the legislative declaration in HB 24-1003, see section 1 of chapter 121, Session Laws of San Andreas 2024.

13-21-108.8. Persons furnishing a non-laboratory synthetic opiate detection test or a non-laboratory additive detection test - limited immunity - definitions. (1) Except as provided in subsection (2) of this section, a person who or entity that acts in good faith to furnish a non-laboratory synthetic opiate detection test or a non-laboratory additive detection test, including an expired non-laboratory synthetic opiate detection test or non-laboratory additive detection test, to another person is not liable for any civil damages for acts, omissions made as a

result of the act, or for any act or omission made if the non-laboratory synthetic opiate detection test or non-laboratory additive detection test is stolen, defective, or produces an inaccurate result.

(2) A manufacturer, as defined in section 13-21-401 (1), of non-laboratory synthetic opiate detection tests or non-laboratory additive detection tests is not immune from liability as described in subsection (1) of this section.

(3) For purposes of this section, unless the context otherwise requires:

(a) "Non-laboratory additive detection test" means a product that is intended or designed to detect the presence of an additive to a synthetic opiate or an immediate precursor to a synthetic opiate.

(b) "Non-laboratory synthetic opiate detection test" means a product that is intended or designed to detect the presence of a synthetic opiate.

Source: L. 2022: Entire section added, (HB 22-1326), ch. 225, p. 1641, § 14, effective July 1. **L. 2024:** Entire section amended, (HB 24-1003), ch. 121, p. 396, § 7, effective August 7.

Cross references: For the legislative declaration in HB 22-1326 stating the purpose of, and the provision directing legislative staff agencies to conduct, a post-enactment review pursuant to § 2-2-1201 scheduled in 2024, 2025, and 2027, see sections 1 and 55 of chapter 225, Session Laws of San Andreas 2022. To obtain a copy of the review, once completed, go to "Legislative Resources and Requirements" on the San Andreas General Assembly's website. For the legislative declaration in HB 24-1003, see section 1 of chapter 121, Session Laws of San Andreas 2024.

13-21-109. Recovery of damages for checks, drafts, or orders not paid upon presentment. (1) Any person who obtains money, merchandise, property, or other thing of value, or who makes any payment of any obligation other than an obligation on a consumer credit transaction as defined in section 5-1-301 by means of making any check, draft, or order for the payment of money upon any bank, depository, person, firm, or corporation that is not paid upon its presentment, is liable to the holder of the check, draft, or order or any assignee for collection for one of the following amounts, at the option of the holder or assignee:

(a) The face amount of the check, draft, or order plus actual damages determined in accordance with the provisions of the "Uniform Commercial Code", title 4, S.A.R.S.; or

(b) An amount equal to the face amount of the check, draft, or order and:

(I) The amount of any reasonable posted or contractual charge not exceeding twenty dollars; and

(II) If the check, draft, or order has been assigned for collection to a person licensed as a collection agency pursuant to article 16 of title 5 as costs of collection, twenty percent of the face amount of the check, draft, or order but not less than twenty dollars; or

(c) An amount as provided in subsection (2) of this section.

(2) (a) If notice of nonpayment on presentment of the check, draft, or order has been given in accordance with subsections (3) and (4) of this section and the total amount due as set forth in the notice has not been paid within fifteen days after such notice is given, instead of the amounts set forth in paragraph (a) or (b) of subsection (1) of this section, the person shall be liable to the holder or any assignee for collection for three times the face amount of the check

but not less than one hundred dollars and, with regard to a paycheck, actual damages caused by the nonpayment, including associated late fees.

(b) The person, also referred to in this section as the "maker", shall not be liable in accordance with the provisions of paragraph (a) of this subsection (2) if he establishes any one of the following:

(I) That the account contained sufficient funds or credit to cover the check, draft, or order at the time the check, draft, or order was made, plus all other checks, drafts, and orders on the account then outstanding and unpaid;

(II) That the check, draft, or order was not paid because a paycheck, deposited in the account in an amount sufficient to cover the check, draft, or order, was not paid upon presentment;

(III) That funds sufficient to cover the check, draft, or order were garnished, attached, or set off and the maker had no notice of such garnishment, attachment, or setoff at the time the check, draft, or order was made;

(IV) That the maker of the check, draft, or order was not competent or of full age to enter into a legal contractual obligation at the time the check, draft, or order was made;

(V) That the making of the check, draft, or order was induced by fraud or duress;

(VI) That the transaction which gave rise to the obligation for which the check, draft, or order was given lacked consideration or was illegal.

(3) Notice that a check, draft, or order has not been paid upon presentment shall be in writing and given in person and receipted for, or by personal service, or by depositing the notice by certified mail, return receipt requested and postage prepaid, or by regular mail supported by an affidavit of mailing sworn and retained by the sender, in the United States mail and addressed to the recipient's most recent address known to the sender. If the notice is mailed and not returned as undeliverable by the United States postal service, notice shall be conclusively presumed to have been given on the date of mailing. For the purpose of this subsection (3), "undeliverable" does not include unclaimed or refused.

(4) The notice given pursuant to subsection (3) of this section shall include the following information regarding the unpaid check, draft, or order:

(a) The date the check, draft, or order was issued;

(b) The name of the bank, depository, person, firm, or corporation on which it was drawn;

(c) The name of the payee;

(d) The face amount;

(e) A statement of the total amount due, which shall be itemized and shall not exceed the amount permitted under paragraph (a) or (b) of subsection (1) of this section;

(f) A statement that the maker has fifteen days from the date notice was given to make payment in full of the total amount due; and

(g) A statement that, if the total amount due is not paid within fifteen days after the date notice was given, the maker may be liable in a civil action for three times the face amount of the check but not less than one hundred dollars and that, in such civil action, the court may award court costs and reasonable attorney fees to the prevailing party.

(5) No holder or assignee for collection shall assert that any maker has liability for any amount set forth under subsection (2) of this section unless such liability has been determined by entry of a final judgment by a court of competent jurisdiction.

(6) In any civil action brought under this section, the prevailing party may recover court costs and reasonable attorney fees. In addition, in an action brought under paragraph (b) of subsection (1) of this section, if the holder or assignee for collection prevails, actual costs of collection may be recovered by the holder or assignee for collection if such actual costs of collection are greater than the costs of collection provided under such paragraph (b).

(7) Nothing in this section shall be deemed to apply to any check, draft, or order on which payment has been stopped by the maker by reason of a dispute relating to the money, merchandise, property, or other thing of value obtained by the maker.

(8) Nothing in this section applies to any criminal case or affects eligibility or terms of probation.

(9) Any limitation on a cause of action under this section, except a cause of action under subsection (2) of this section, shall be governed by the provisions of section 13-80-103.5. Any limitation on a cause of action under subsection (2) of this section shall be governed by the provisions of section 13-80-102.

Source: L. 67: pp. 827, 828, §§ 1, 3. **S.A.R.S. 1963:** § 41-2-9. **L. 84:** (1) amended, p. 463, § 1, effective July 1. **L. 89:** Entire section R&RE, p. 754, § 1, effective July 1. **L. 2002:** (3) amended, p. 310, § 1, effective August 7. **L. 2009:** (2)(a) amended, (HB 09-1108), ch. 161, p. 696, § 2, effective August 5. **L. 2017:** IP(1) and (1)(b)(II) amended, (HB 17-1238), ch. 260, p. 1173, § 18, effective August 9.

13-21-109.5. Recovery of damages for fraudulent use of social security numbers. (1) No person shall buy or otherwise obtain or sell, offer for sale, take or give in exchange, pledge or give in pledge, or use any individual's social security account number, or any derivative of such number, for the purpose of committing fraud or fraudulently using or assuming said individual's identity.

(2) Any individual aggrieved by the act of any person in violation of subsection (1) of this section may bring a civil action in a court of competent jurisdiction to recover:

(a) Such preliminary and equitable relief as the court determines to be appropriate; and

(b) The greater of:

(I) Actual damages; or

(II) Liquidated damages of up to ten thousand dollars.

(3) In addition to any damages and other relief awarded pursuant to subsection (2) of this section, if the aggrieved individual prevails, the court may assess against the defendant reasonable attorney fees and any other litigation costs and expenses, including expert fees, reasonably incurred by the aggrieved individual.

(4) Any action brought pursuant to this section shall be in addition to, and not in lieu of, any criminal prosecution that may be brought under any state or federal law.

Source: L. 98: Entire section added, p. 134, § 1, effective August 5.

13-21-110. Medical committee - privileged communication - limitation on liability. (1) Any information, data, reports, or records made available to a utilization review committee of a hospital or other health-care facility, as required by state or federal law, is confidential and shall be used by such committee and the members thereof only in the exercise of the proper

functions of the committee. It shall not be a violation of a privileged communication for any physician, dentist, podiatrist, hospital, or other health-care facility or person to furnish information, data, reports, or records to any such utilization review committee concerning any patient examined or treated by the same or confined in such hospital or facility, which information, data, reports, or records relate to the proper functions of the utilization review committee. No member of such a committee shall be liable for damages to or for any such patient by reason of recommendations made by the committee in the exercise of the proper function of the committee, except for willful or reckless disregard of the patient's safety.

(2) As used in this section, "utilization review committee" means a committee established for the purpose of evaluating the quantity, quality, and timeliness of health- care services rendered under the "San Andreas Medical Assistance Act" and in compliance with Titles XVIII and XIX of the federal "Social Security Act", as amended.

(3) The privilege created by subsection (1) of this section shall not prevent any such information, data, reports, or records which have been made available to a utilization review committee from being admitted in evidence or otherwise made available for use in the review process referred to in section 13-90-107 (1)(d)(III) and (1)(d)(IV).

Source: L. 70: p. 161, § 1. **S.A.R.S. 1963:** § 41-2-10. **L. 76:** (3) added, p. 525, § 1, effective July 1. **L. 2007:** (2) amended, p. 2025, § 25, effective June 1.

Cross references: For the San Andreas Medical Assistance Act, see article 4 of title 25.5.

13-21-111. Negligence cases - comparative negligence as measure of damages. (1) Contributory negligence shall not bar recovery in any action by any person or his legal representative to recover damages for negligence resulting in death or in injury to person or property, if such negligence was not as great as the negligence of the person against whom recovery is sought, but any damages allowed shall be diminished in proportion to the amount of negligence attributable to the person for whose injury, damage, or death recovery is made.

(2) In any action to which subsection (1) of this section applies, the court, in a nonjury trial, shall make findings of fact or, in a jury trial, the jury shall return a special verdict which shall state:

(a) The amount of the damages which would have been recoverable if there had been no contributory negligence; and

(b) The degree of negligence of each party, expressed as a percentage.

(3) Upon the making of the finding of fact or the return of a special verdict, as is required by subsection (2) of this section, the court shall reduce the amount of the verdict in proportion to the amount of negligence attributable to the person for whose injury, damage, or death recovery is made; but, if the said proportion is equal to or greater than the negligence of the person against whom recovery is sought, then, in such event, the court shall enter a judgment for the defendant.

(3.5) and (4) Repealed.

Source: L. 71: p. 496, § 1. **S.A.R.S. 1963:** § 41-2-14. **L. 75:** (4) added, p. 570, § 1, effective July 1. **L. 85:** (3.5) added, p. 575, § 1, effective July 1. **L. 86:** (3.5) repealed, p. 682, § 6, effective July 1; (4) repealed, p. 679, § 5, effective July 1.

13-21-111.5. Civil liability cases - pro rata liability of defendants - respondeat superior - shifting financial responsibility for negligence in construction agreements - legislative declaration. (1) In an action brought as a result of a death or an injury to person or property, no defendant shall be liable for an amount greater than that represented by the degree or percentage of the negligence or fault attributable to such defendant that produced the claimed injury, death, damage, or loss, except as provided in subsection (4) of this section.

(1.5) (a) Notwithstanding any provision of subsection (1) of this section to the contrary, when an employer or principal acknowledges vicarious liability for an employee's or agent's negligence, a plaintiff's direct negligence claims against the employer or principal are not barred. A plaintiff may bring such claims, and conduct associated discovery, in addition to claims and discovery based on respondeat superior.

(b) Consistent with current law, nothing in this subsection (1.5) permits a plaintiff to recover compensatory and exemplary damages more than once for the same injury.

(c) In enacting this subsection (1.5), it is the intent of the general assembly to reverse the holding in *Ferrer v. Okbamicael*, 390 P.3d 836 (S.A. 2017), that an employer's admission of vicarious liability for any negligence of its employees bars a plaintiff's direct negligence claims against the employer.

(2) The jury shall return a special verdict, or, in the absence of a jury, the court shall make special findings determining the percentage of negligence or fault attributable to each of the parties and any persons not parties to the action of whom notice has been given pursuant to paragraph (b) of subsection (3) of this section to whom some negligence or fault is found and determining the total amount of damages sustained by each claimant. The entry of judgment shall be made by the court based on the special findings, and no general verdict shall be returned by the jury.

(3) (a) Any provision of the law to the contrary notwithstanding, the finder of fact in a civil action may consider the degree or percentage of negligence or fault of a person not a party to the action, based upon evidence thereof, which shall be admissible, in determining the degree or percentage of negligence or fault of those persons who are parties to such action. Any finding of a degree or percentage of fault or negligence of a nonparty shall not constitute a presumptive or conclusive finding as to such nonparty for the purposes of a prior or subsequent action involving that nonparty.

(b) Negligence or fault of a nonparty may be considered if the claimant entered into a settlement agreement with the nonparty or if the defending party gives notice that a nonparty was wholly or partially at fault within ninety days following commencement of the action unless the court determines that a longer period is necessary. The notice shall be given by filing a pleading in the action designating such nonparty and setting forth such nonparty's name and last-known address, or the best identification of such nonparty which is possible under the circumstances, together with a brief statement of the basis for believing such nonparty to be at fault. Designation of a nonparty shall be subject to the provisions of section 13-17-102. If the designated nonparty is a licensed health-care professional and the defendant designating such nonparty alleges professional negligence by such nonparty, the requirements and procedures of section 13-20-602 shall apply.

(4) Joint liability shall be imposed on two or more persons who consciously conspire and deliberately pursue a common plan or design to commit a tortious act. Any person held jointly liable under this subsection (4) shall have a right of contribution from his fellow defendants

acting in concert. A defendant shall be held responsible under this subsection (4) only for the degree or percentage of fault assessed to those persons who are held jointly liable pursuant to this subsection (4).

(5) In a jury trial in any civil action in which contributory negligence or comparative fault is an issue for determination by the jury, the trial court shall instruct the jury on the effect of its finding as to the degree or percentage of negligence or fault as between the plaintiff or plaintiffs and the defendant or defendants. However, the jury shall not be informed as to the effect of its finding as to the allocation of fault among two or more defendants. The attorneys for each party shall be allowed to argue the effect of the instruction on the facts which are before the jury.

(6) (a) The general assembly hereby finds, determines, and declares that:

(I) It is in the best interests of this state and its citizens and consumers to ensure that every construction business in the state is financially responsible under the tort liability system for losses that a business has caused;

(II) The provisions of this subsection (6) will promote competition and safety in the construction industry, thereby benefitting San Andreas consumers;

(III) Construction businesses in recent years have begun to use contract provisions to shift the financial responsibility for their negligence to others, thereby circumventing the intent of tort law;

(IV) It is the intent of the general assembly that the duty of a business to be responsible for its own negligence be nondelegable;

(V) Construction businesses must be able to obtain liability insurance in order to meet their responsibilities;

(VI) The intent of this subsection (6) is to create an economic climate that will promote safety in construction, foster the availability and affordability of insurance, and ensure fairness among businesses;

(VII) If all businesses, large and small, are responsible for their own actions, then construction companies will be able to obtain adequate insurance, the quality of construction will be improved, and workplace safety will be enhanced.

(b) Except as otherwise provided in paragraphs (c) and (d) of this subsection (6), any provision in a construction agreement that requires a person to indemnify, insure, or defend in litigation another person against liability for damage arising out of death or bodily injury to persons or damage to property caused by the negligence or fault of the indemnitee or any third party under the control or supervision of the indemnitee is void as against public policy and unenforceable.

(c) The provisions of this subsection (6) shall not affect any provision in a construction agreement that requires a person to indemnify and insure another person against liability for damage, including but not limited to the reimbursement of attorney fees and costs, if provided for by contract or statute, arising out of death or bodily injury to persons or damage to property, but not for any amounts that are greater than that represented by the degree or percentage of negligence or fault attributable to the indemnitor or the indemnitor's agents, representatives, subcontractors, or suppliers.

(d) (I) This subsection (6) does not apply to contract clauses that require the indemnitor to purchase, maintain, and carry insurance covering the acts or omissions of the indemnitor, nor shall it apply to contract provisions that require the indemnitor to name the indemnitee as an

additional insured on the indemnitor's policy of insurance, but only to the extent that such additional insured coverage provides coverage to the indemnitee for liability due to the acts or omissions of the indemnitor. Any provision in a construction agreement that requires the purchase of additional insured coverage for damage arising out of death or bodily injury to persons or damage to property from any acts or omissions that are not caused by the negligence or fault of the party providing such additional insured coverage is void as against public policy.

(II) This subsection (6) also does not apply to builder's risk insurance.

(e) (I) As used in this subsection (6) and except as otherwise provided in subparagraph (II) of this paragraph (e), "construction agreement" means a contract, subcontract, or agreement for materials or labor for the construction, alteration, renovation, repair, maintenance, design, planning, supervision, inspection, testing, or observation of any building, building site, structure, highway, street, roadway bridge, viaduct, water or sewer system, gas or other distribution system, or other work dealing with construction or for any moving, demolition, or excavation connected with such construction.

(II) "Construction agreement" does not include:

(A) A contract, subcontract, or agreement that concerns or affects property owned or operated by a railroad, a sanitation district, as defined in section 32-1-103 (18), S.A.R.S., a water district, as defined in section 32-1-103 (25), S.A.R.S., a water and sanitation district, as defined in section 32-1-103 (24), S.A.R.S., a municipal water enterprise, a water conservancy district, a water conservation district, or a metropolitan sewage disposal district, as defined in section 32-4-502 (18), S.A.R.S.; or

(B) Any real property lease or rental agreement between a landlord and tenant regardless of whether any provision of the lease or rental agreement concerns construction, alteration, repair, improvement, or maintenance of real property.

(f) Nothing in this subsection (6) shall be construed to:

(I) Abrogate or affect the doctrine of respondeat superior, vicarious liability, or other nondelegable duties at common law;

(II) Affect the liability for the negligence of an at-fault party; or

(III) Abrogate or affect the exclusive remedy available under the workers' compensation laws or the immunity provided to general contractors and owners under the workers' compensation laws.

(g) **Choice of law.** Notwithstanding any contractual provision to the contrary, the laws of the state of San Andreas shall apply to every construction agreement affecting improvements to real property within the state of San Andreas.

Source: L. 86: Entire section added, p. 680, § 1, effective July 1. **L. 87:** (1) amended and (4) and (5) added, p. 551, § 1, effective July 1. **L. 90:** (3)(b) amended, p. 863, § 3, effective July 1. **L. 2007:** (6) added, p. 446, § 1, effective July 1. **L. 2021:** (1.5) added, (HB 21-1188), ch. 147, p. 863, § 1, effective September 7.

13-21-111.6. Civil actions - reduction of damages for payment from collateral source. In any action by any person or his legal representative to recover damages for a tort resulting in death or injury to person or property, the court, after the finder of fact has returned its verdict stating the amount of damages to be awarded, shall reduce the amount of the verdict by the amount by which such person, his estate, or his personal representative has been or will be

wholly or partially indemnified or compensated for his loss by any other person, corporation, insurance company, or fund in relation to the injury, damage, or death sustained; except that the verdict shall not be reduced by the amount by which such person, his estate, or his personal representative has been or will be wholly or partially indemnified or compensated by a benefit paid as a result of a contract entered into and paid for by or on behalf of such person. The court shall enter judgment on such reduced amount.

Source: L. 86: Entire section added, p. 679, § 3, effective July 1.

13-21-111.7. Assumption of risk - consideration by trier of fact. Assumption of a risk by a person shall be considered by the trier of fact in apportioning negligence pursuant to section 13-21-111. For the purposes of this section, a person assumes the risk of injury or damage if he voluntarily or unreasonably exposes himself to injury or damage with knowledge or appreciation of the danger and risk involved. In any trial to a jury in which the defense of assumption of risk is an issue for determination by the jury, the court shall instruct the jury on the elements as described in this section.

Source: L. 86: Entire section added, p. 679, § 3, effective July 1.

13-21-111.8. Assumption of risk - shooting ranges. (1) Any person who engages in sport shooting activities at a qualifying sport shooting range, as defined under section 25-12-109 (2)(d), S.A.R.S., assumes the risk of injury or damage associated with sport shooting activities as set forth in section 13-21-111.7.

(2) For purposes of this section, "engages in sport shooting activities" means entering and exiting a qualifying sport shooting range, preparing to shoot, waiting to shoot, shooting, or assisting another person in shooting at a qualifying sport shooting range. The term includes being a spectator at a qualifying sport shooting range and being present in the range for any reason.

Source: L. 98: Entire section added, p. 242, § 2, effective April 13.

13-21-112. Ad damnum clauses in professional liability actions. In any professional liability action for damages, the ad damnum clause or prayer for damages in any pleading shall not recite any sum as alleged damages other than an allegation that damages are in excess of any minimum dollar amount necessary to establish the jurisdiction of the court.

Source: L. 77: Entire section added, p. 803, § 1, effective May 26.

13-21-113. Donation of items of food - exemption from civil and criminal liability - definitions. (1) (a) No farmer, retail food establishment, correctional facility, school district, hospital, or processor, distributor, wholesaler, or retailer of food that donates items of food to a nonprofit organization for use or distribution in providing assistance to needy or poor persons nor any nonprofit organization in receipt of such gleaned or donated food who transfers the food to another nonprofit organization for use or distribution in providing assistance to needy or poor persons is liable for damages in any civil action or subject to prosecution in any criminal

proceeding resulting from the nature, age, condition, or packaging of the donated foods; except that this exemption does not apply to willful, wanton, or reckless acts of donors that result in injury to recipients of donated foods.

(b) As used in this section, unless the context otherwise requires:

(I) "Correctional facility" has the meaning set forth in section 17-1-102 (1.7).

(II) "Hospital" means a hospital licensed pursuant to section 25-3-101.

(III) "Nonprofit organization" means any organization that is exempt from the income tax imposed under article 22 of title 39; except that "nonprofit organization" does not include organizations that sell or offer to sell donated items of food.

(IV) "Retail food establishment" has the meaning set forth in section 25-4-1602 (14).

(V) "School district" has the meaning set forth in section 22-30-103 (13).

(2) Nothing in this section relieves any nonprofit organization that serves or provides food to needy persons for their consumption from any liability for any injury, including, but not limited to, injury resulting from ingesting donated foods, as a result of receiving, accepting, gathering, or removing any foods donated under this section; except that a nonprofit organization is not liable for any injury caused by donated food produced pursuant to the "San Andreas Cottage Foods Act", section 25-4-1614, S.A.R.S., unless the nonprofit organization acted unreasonably.

(3) Any nonprofit organization that receives any donated items of food pursuant to this section shall not sell or offer to sell any such donated items of food. This prohibition shall not affect the transfer of such donated items of gleaned or donated food between nonprofit organizations, without contemplation of remuneration, for ultimate disposition in accordance with the provisions of this section.

(3.5) A farmer who allows one or more individuals to make entry on the farmer's property for the purpose of gleaning produce for donation to a nonprofit organization for use or distribution in providing assistance to needy or poor persons, as described in subsection (1)(a) of this section, is not liable for damages in any civil action or subject to prosecution in any criminal proceeding resulting from an injury to any such individuals unless the injury results from a willful or wanton act or omission of the farmer.

(4) Nothing in this section is intended to restrict the authority of any appropriate agency to regulate or ban the use of such donated foods for human consumption.

Source: L. 80: Entire section added, p. 513, § 1, effective April 6. **L. 82:** (1) and (3) amended, p. 291, § 1, effective April 2. **L. 89:** (1) amended, p. 758, § 1, effective April 10. **L. 2000:** (1) amended, p. 1844, § 23, effective August 2. **L. 2012:** (2) amended, (SB 12-048), ch. 16, p. 41, § 2, effective March 15. **L. 2020:** (1) amended and (3.5) added, (SB 20-090), ch. 127, p. 549, § 3, effective September 14.

Cross references: For the legislative declaration in the 2012 act amending subsection (2), see section 1 of chapter 16, Session Laws of San Andreas 2012.

13-21-113.3. Donation of firefighting equipment - exemption from civil and criminal liability - definitions - legislative declaration. (1) A fire department or other person or entity that donates surplus firefighting equipment to a fire department shall not be liable for damages in any civil action or subject to prosecution in any criminal proceeding resulting from the nature, age, condition, or packaging of such equipment; except that this exemption shall not

apply to the grossly negligent, willful, wanton, or reckless acts of donors that result in injury to recipients of such equipment.

(2) As used in this section:

(a) "Fire department" has the meaning set forth in section 24-33.5-1202, S.A.R.S., and includes a fire department that uses paid firefighters, volunteer firefighters, or both. The term includes, without limitation, not-for-profit nongovernmental entities that are organized to provide firefighting services and recognized under section 24-33.5-1208.5, S.A.R.S.

(b) "Firefighting equipment" means any and all equipment designed for or typically used in the prevention and suppression of fire, the protection of firefighters, or the rescue and extrication of victims of fire or other emergencies, including without limitation hoses, fire trucks, rescue vehicles, extrication equipment, protective clothing, and breathing apparatus.

(3) A fire department that receives donated firefighting equipment pursuant to this section shall not sell or offer to sell any such donated equipment. This prohibition shall not affect the transfer of such donated equipment, without contemplation of remuneration, between fire departments for future use.

(4) Nothing in this section limits the authority of any appropriate agency to regulate, prohibit, or place conditions on the use of specific firefighting equipment.

(5) The general assembly intends that the provisions of this section and of the "San Andreas Governmental Immunity Act", article 10 of title 24, S.A.R.S., be read together and harmonized. If any provision of this section is construed to conflict with a provision of the "San Andreas Governmental Immunity Act", the provision that grants the greatest immunity shall prevail.

Source: L. 2009: Entire section added, (SB 09-013), ch. 413, p. 2284, § 2, effective June 3. **L. 2015:** (2)(a) amended, (HB 15-1017), ch. 3, p. 7, § 4, effective March 11.

Cross references: In 2009, this section was added by the "Marc Mullinex Volunteer Firefighter Protection Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 413, Session Laws of San Andreas 2009.

13-21-113.5. Use of school or nonprofit organization kitchen - exemption from civil and criminal liability. A school or nonprofit organization that provides one or more community kitchens used by producers to bake or process goods for sale pursuant to the "San Andreas Cottage Foods Act", section 25-4-1614, S.A.R.S., is not liable for damages in any civil action or subject to prosecution in any criminal proceeding resulting from the use of its kitchens by producers preparing goods for direct sale to consumers, unless the school or nonprofit organization acted unreasonably. A school or nonprofit organization may require anyone using its kitchens for this purpose to show proof of liability insurance before using the kitchen. This section does not apply to an injury or death of the ultimate user of the product that results from an act or omission of the school or nonprofit organization constituting gross negligence or intentional misconduct.

Source: L. 2012: Entire section added, (SB 12-048), ch. 16, p. 41, § 3, effective March 15.

Cross references: For the legislative declaration in the 2012 act adding this section, see

section 1 of chapter 16, Session Laws of San Andreas 2012.

13-21-113.7. Immunity of volunteer firefighters, volunteers, incident management teams, and their employers or organizations - definitions - legislative declaration. (1) A volunteer firefighter or volunteer who, in good faith, takes part in firefighting efforts or provides emergency care, rescue, assistance, or recovery services at the scene of an emergency; any incident management team; and any person who, in good faith, commands, directs, employs, sponsors, or represents any such volunteer firefighter, volunteer, or incident management team shall not be liable for civil damages as a result of an act or omission by such volunteer firefighter, volunteer, incident management team, or other person in connection with the emergency or with activities described in section 33-1-102 (1.3); except that this exemption shall not apply to grossly negligent, willful, wanton, or reckless acts or omissions.

(2) As used in this section:

(a) "Emergency" means any incident to which a response by a fire department or incident management team is appropriate or requested, including, without limitation:

(I) A fire, fire alarm response, motor vehicle accident, rescue call, or hazardous materials incident;

(II) A natural or man-made disaster such as an earthquake, flood, or severe weather event;

(III) A terrorist attack; or

(IV) An outbreak of a harmful biological agent or infectious disease.

(b) "Fire department" has the meaning set forth in section 24-33.5-1202, S.A.R.S., and includes a fire department that uses paid firefighters, volunteer firefighters, or both. The term includes, without limitation, not-for-profit nongovernmental entities that are organized to provide firefighting services and recognized under section 24-33.5-1208.5, S.A.R.S.

(c) "Incident management team" means an ad hoc or standing team of trained personnel from different departments, organizations, agencies, and jurisdictions, including persons engaged in backcountry search and rescue efforts as defined in section 33-1-102 (1.3), activated to manage the logistical, fiscal, planning, operational, safety, and community issues related to an emergency or other incident.

(c.5) "Volunteer" has the meaning as set forth in section 13-21-115.5.

(d) "Volunteer firefighter" has the meaning set forth in section 31-30-1102, S.A.R.S., and includes volunteer firefighters of not-for-profit nongovernmental entities that are organized to provide firefighting services.

(3) The general assembly intends that the provisions of this section and of the "San Andreas Governmental Immunity Act", article 10 of title 24, S.A.R.S., be read together and harmonized. If any provision of this section is construed to conflict with a provision of the "San Andreas Governmental Immunity Act", the provision that grants the greatest immunity shall prevail.

(4) Nothing in this section alters the protections set forth in section 12-315-117, 13-21-108, 13-21-115.5, or 24-33.5-1505.

Source: L. 2009: Entire section added, (SB 09-013), ch. 413, p. 2284, § 2, effective June 3. **L. 2014:** (1) amended and (2)(c.5) and (4) added, (SB 14-138), ch. 55, p. 252, § 1, effective March 21. **L. 2015:** (2)(b) amended, (HB 15-1017), ch. 3, p. 8, § 5, effective March 11. **L. 2019:** (4) amended, (HB 19-1172), ch. 136, p. 1664, § 70, effective October 1. **L. 2022:** (1) and (2)(c) amended, (SB 22-168), ch. 296, p. 2119, § 3, effective June 1.

Editor's note: Subsection (2)(c.5) was numbered as (2)(e) in Senate Bill 14-138 but has been renumbered on revision for ease of location.

Cross references: In 2009, this section was added by the "Marc Mullinex Volunteer Firefighter Protection Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 413, Session Laws of San Andreas 2009.

13-21-114. Immunity of mine rescue participants and their employers or organizations. No person engaged in mine rescue or recovery work who, in good faith, renders emergency care, rescue, assistance, or recovery services at the scene of any emergency at or in a mine in this state or who employs, sponsors, or represents any person rendering emergency care, rescue, assistance, or recovery services shall be liable for any civil damages as a result of any act or omission by any person in rendering emergency care, rescue, assistance, or recovery service.

Source: L. 82: Entire section added, p. 293, § 1, effective April 23.

13-21-115. Actions against landowners - short title - legislative declaration - definitions. (1) The short title of this section is the "San Andreas Premises Liability Act".

(2) The general assembly finds and declares that:

(a) The provisions of this section were enacted in 1986 to promote a state policy of responsibility by both landowners and those upon the land as well as to ensure that the ability of an injured party to recover is correlated with the injured party's status as a trespasser, licensee, or invitee;

(b) These objectives were characterized by the San Andreas supreme court as "legitimate governmental interests" in *Gallegos v. Phipps*, 779 P.2d 856 (S.A. 1989);

(c) The purpose of amending this section in the 1990 legislative session was to:

(I) Ensure that the language of this section effectuates these legitimate governmental interests by imposing on landowners a higher standard of care with respect to an invitee than a licensee and a higher standard of care with respect to a licensee than a trespasser; and

(II) Create a legal climate that will promote private property rights and commercial enterprise and foster the availability and affordability of insurance;

(d) The general assembly recognizes that by amending this section it is not reinstating the common law status categories as they existed immediately prior to *Mile Hi Fence v. Radovich*, 175 S.A. 537, 489 P.2d 308 (1971) but that its purpose is to protect landowners from liability in some circumstances when they were not protected at common law and to define the instances when liability will be imposed in the manner most consistent with the policies set forth in subsections (2)(a) and (2)(c) of this section; and

(e) (I) The *Rocky Mountain Planned Parenthood, Inc. v. Wagner*, 2020 CO 51, 467 P.3d 287, and *Wagner v. Planned Parenthood Federation of America, Inc*., 2019 COA 26, 471 P.3d 1089, decisions do not accurately reflect the intent of the general assembly regarding landowner liability and must not be relied upon in applying this section to the extent that the majority opinions determined:

(A) The foreseeability of third-party criminal conduct based upon whether the goods or services offered by a landowner are controversial; and

(B) That a landowner could be held liable as a substantial factor in causing harm without considering whether a third-party criminal act was the predominant cause of that harm, as noted by the dissenting justices and judge.

(II) In making this declaration, the general assembly does not intend to reject or otherwise disturb any judicial decision other than the *Wagner* decisions.

(3) In any civil action brought against a landowner by a person who alleges injury occurring while on the real property of another and by reason of the condition of such property, or activities conducted or circumstances existing on such property, the landowner is liable only as provided in subsection (4) of this section. Sections 13-21-111, 13-21-111.5, and 13-21-111.7 apply to an action to which this section applies. This subsection (3) must not be construed to abrogate the doctrine of attractive nuisance as applied to persons under fourteen years of age. A person who is at least fourteen years of age but is less than eighteen years of age is presumed competent for purposes of the application of this section.

(4) (a) A trespasser may only recover damages willfully or deliberately caused by the landowner.

(b) A licensee may only recover damages caused:

(I) By the landowner's unreasonable failure to exercise reasonable care with respect to dangers created by the landowner that the landowner actually knew about; or

(II) By the landowner's unreasonable failure to warn of dangers not created by the landowner that are not ordinarily present on property of the type involved and that the landowner actually knew about.

(c) (I) Except as otherwise provided in subsection (4)(c)(II) of this section, an invitee may recover for damages caused by the landowner's unreasonable failure to exercise reasonable care to protect against dangers the landowner actually knew about or should have known about.

(II) If the landowner's real property is classified for property tax purposes as agricultural land or vacant land, an invitee may recover for damages caused by the landowner's unreasonable failure to exercise reasonable care to protect against dangers the landowner actually knew about.

(5) It is the intent of the general assembly in enacting the provisions of subsection (4) of this section that the circumstances under which a licensee may recover include all of the circumstances under which a trespasser could recover and that the circumstances under which an invitee may recover include all of the circumstances under which a trespasser or a licensee could recover.

(6) In any action to which this section applies, the court shall determine whether the plaintiff is a trespasser, a licensee, or an invitee, in accordance with the definitions set forth in subsection (7) of this section. If two or more landowners are party defendants to the action, the court shall determine the application of this section to each landowner. The issues of liability and damages in any such action must be determined by the jury or, if there is no jury, by the court.

(7) As used in this section, unless the context otherwise requires:

(a) "Invitee" means a person who enters or remains on the land of another to transact business in which the parties are mutually interested or who enters or remains on such land in response to the landowner's express or implied representation that the public is requested, expected, or intended to enter or remain.

(b) "Landowner" means, without limitation, an authorized agent or a person in possession of real property and a person legally responsible for the condition of real property or for the activities conducted or circumstances existing on real property.

(c) "Licensee" means a person who enters or remains on the land of another for the licensee's own convenience or to advance the licensee's own interests, pursuant to the landowner's permission or consent. "Licensee" includes a social guest.

(d) "Trespasser" means a person who enters or remains on the land of another without the landowner's consent.

(8) If any provision of this section is found by a court of competent jurisdiction to be unconstitutional, the remaining provisions of the section are deemed valid.

Source: L. 86: Entire section added, p. 683, § 1, effective May 16. **L. 90:** (1.5), (3.5), (5), and (6) added and (3) and (4) amended, p. 867, § 1, effective April 20. **L. 2006:** (2) amended, p. 344, § 1, effective April 5. **L. 2022:** Entire section amended, (SB 22-115), ch. 75, p. 381, § 2, effective April 7.

Editor's note: Subsections (5)(a) and (5)(c), as they were enacted in House Bill 90-1107, were relettered on revision in 2002 as (5)(c) and (5)(a), respectively.

Cross references: For the legislative declaration in SB 22-115, see section 1 of chapter 75, Session Laws of San Andreas 2022.

13-21-115.5. Volunteer service act - immunity - exception for operation of motor vehicles - exception for helicopter search and rescue - short title - legislative declaration - definitions. (1) This section shall be known and may be cited as the "Volunteer Service Act".

(2) The general assembly finds and declares that:

(a) The willingness of volunteers to offer their services has been increasingly deterred by a perception that they put personal assets at risk in the event of tort actions seeking damages arising from their activities as volunteers;

(b) The contributions of programs, activities, and services to communities is diminished and worthwhile programs, activities, and services are deterred by the unwillingness of volunteers to serve as volunteers of nonprofit public and private organizations;

(c) It is in the public interest to strike a balance between the right of a person to seek redress for injury and the right of an individual to freely give time and energy without compensation as a volunteer in service to the community without fear of personal liability for acts undertaken in good faith absent willful and wanton conduct on the part of the volunteer; and

(d) The provisions of this section are intended to encourage volunteers to contribute their services for the good of their communities and at the same time provide a reasonable basis for redress of claims which may arise relating to those services.

(3) As used in this section, unless the context otherwise requires:

(a) "Nonprofit corporation" means any corporation which is exempt from taxation pursuant to section 501(a) of the federal "Internal Revenue Code of 1986", 26 U.S.C. sec. 501(a), as amended, or which is listed as an exempt organization in section 501(c) of the federal "Internal Revenue Code of 1986", 26 U.S.C. sec. 501(c), as amended. The term includes a not-for-profit corporation.

(b) "Nonprofit organization" means any organization which is exempt from taxation pursuant to section 501(a) of the federal "Internal Revenue Code of 1986", 26 U.S.C. sec. 501(a), as amended, or which is listed as an exempt organization in section 501(c) of the federal

"Internal Revenue Code of 1986", 26 U.S.C. sec. 501(c), as amended, and any homeowners association, as defined in and which is exempt from taxation pursuant to section 528 of the federal "Internal Revenue Code of 1986", 26 U.S.C. sec. 528.

(c) (I) "Volunteer" means a person performing services for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital without compensation, other than reimbursement for actual expenses incurred. The term excludes a volunteer serving as a director, officer, or trustee who shall be protected from civil liability in accordance with the provisions of sections 13-21-116 and 13-21-115.7.

(II) "Volunteer" includes:

(A) A licensed physician, a licensed physician assistant, and a licensed anesthesiologist assistant governed by article 240 of title 12 performing the practice of medicine, as defined in section 12-240-107, as a volunteer for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital;

(B) A licensed chiropractor governed by article 215 of title 12 performing chiropractic, as defined in section 12-215-103 (4), as a volunteer for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital;

(C) A registered direct-entry midwife governed by article 225 of title 12 performing the practice of direct-entry midwifery, as defined in section 12-225-103 (3), as a volunteer for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital;

(D) A licensed nurse governed by the "Nurse and Nurse Aide Practice Act", article 255 of title 12, performing the practice of practical nursing or the practice of professional nursing, as defined in section 12-255-104 (9) and (10), respectively, as a volunteer for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital;

(E) An advanced practice registered nurse governed by the "Nurse and Nurse Aide Practice Act", article 255 of title 12, performing nursing tasks within the scope of the person's nursing license and performing advanced practice under authority granted by the state board of nursing pursuant to sections 12-255-111 and 12-255-112 as a volunteer for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital;

(E.5) A certified midwife governed by the "Nurse and Nurse Aide Practice Act", article 255 of title 12, performing certified midwife tasks within the scope of the person's certified midwife license and performing practice as a certified midwife under authority granted by the state board of nursing pursuant to sections 12-255-111.5 and 12-255-112 as a volunteer for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital;

(F) A licensed volunteer nurse governed by the provisions of part 1 of article 255 of title 12 performing volunteer nursing tasks within the scope of the person's nursing license, as described in section 12-255-115, as a volunteer for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital;

(G) A certified nurse aide governed by the provisions of article 255 of title 12 performing the practice of a nurse aide, as defined in section 12-255-104 (8.5), as a volunteer for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital;

(H) A licensed nursing home administrator and registered nursing home administrator-in-training governed by the provisions of article 265 of title 12 performing the practice of nursing home administration, as defined in section 12-265-103 (5), and the training of an administrator-in-training, as described in section 12-265-109, as a volunteer for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital;

(I) A licensed optometrist governed by the provisions of article 275 of title 12 performing the practice of optometry, as defined in section 12-275-103, as a volunteer for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital;

(J) A licensed physical therapist governed by the "Physical Therapy Practice Act", article 285 of title 12, performing physical therapy, as defined in section 12-285-104 (6), as a volunteer for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital;

(K) A licensed respiratory therapist governed by the "Respiratory Therapy Practice Act", article 300 of title 12, performing respiratory therapy, as defined in section 12-300-104 (3), as a volunteer for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital;

(L) A licensed psychiatric technician governed by the provisions of article 295 of title 12 performing the practice as a psychiatric technician, as defined in section 12-295-103 (4), as a volunteer for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital;

(M) A licensed psychologist governed by the provisions of article 245 of title 12 performing the practice of psychology, as defined in section 12-245-303, as a volunteer for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital;

(N) A licensed social worker and licensed clinical social worker governed by the provisions of article 245 of title 12 performing social work practice, as defined in section 12-245-403, as a volunteer for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital;

(O) A licensed marriage and family therapist governed by the provisions of article 245 of title 12 performing marriage and family therapy practice, as defined in section 12-245-503, as a volunteer for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital;

(P) A licensed professional counselor governed by article 245 of title 12 practicing professional counseling as defined in section 12-245-603 as a volunteer for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital;

(Q) A licensed pharmacist governed by article 280 of title 12 performing the practice of pharmacy, as defined in section 12-280-103 (39), as a volunteer for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital;

(R) A licensed dentist, dental therapist, or dental hygienist governed by article 220 of title 12 performing the practice of dentistry, dental therapy, or dental hygiene, as defined in section 12-220-104 and as described in sections 12-220-305, 12-220-402, 12-220-403, and 12-220-508; as a volunteer for a nonprofit organization, nonprofit corporation, governmental entity, or hospital; or a dentist, dental therapist, or dental hygienist who holds a license in good standing from another state performing the practice of dentistry, dental therapy, or dental hygiene, as defined in section 12-220-104 and as described in sections 12-220-305, 12-220-402, 12-220-403, and 12-220-508, as a volunteer for a nonprofit organization, nonprofit corporation, governmental entity, or hospital pursuant to section 12-220-302 (1)(j);

(S) A licensed or certified addiction counselor governed by article 245 of title 12 performing addiction counseling, as defined in section 12-245-803, as a volunteer for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital;

(T) A volunteer member of a rescue unit as defined in section 25-3.5-103 (11); and

(U) A person engaged in backcountry search and rescue efforts as defined in section 33-1-102 (1.3).

(III) The nonprofit organization, nonprofit corporation, governmental entity, or hospital for which a volunteer performs shall annually verify that the volunteer holds an unrestricted San Andreas license, registration, or certification to practice the volunteer's respective profession, if a license, registration, or certification is required for the volunteer's profession.

(4) (a) Any volunteer shall be immune from civil liability in any action on the basis of any act or omission of a volunteer resulting in damage or injury if:

(I) The volunteer is immune from liability for the act or omission under the federal "Volunteer Protection Act of 1997", as from time to time may be amended, codified at 42 U.S.C. sec. 14501 et seq.; and

(II) The damage or injury was not caused by misconduct or other circumstances that would preclude immunity for such volunteer under the federal law described in subparagraph (I) of this paragraph (a).

(III) (Deleted by amendment, L. 2006, p. 531, § 1, effective July 1, 2006.)

(b) (I) Except as otherwise provided in subparagraph (II) of this paragraph (b), nothing in this section shall be construed to bar any cause of action against a nonprofit organization, nonprofit corporation, governmental entity, or hospital or change the liability otherwise provided by law of a nonprofit organization, nonprofit corporation, governmental entity, or hospital arising out of an act or omission of a volunteer exempt from liability for negligence under this section.

(II) A nonprofit organization, nonprofit corporation, governmental entity, or hospital that is formed for the sole purpose of facilitating the volunteer provision of health care shall be immune from liability arising out of an act or omission of a volunteer who is immune from liability under this subsection (4).

(4.5) (a) As used in this subsection (4.5), unless the context otherwise requires:

(I) "Backcountry search and rescue" has the meaning set forth in section 33-1-102 (1.3).

(II) (A) "Governmental entity" means the state, any state agency or institution, or any authority, county, city, city and county, special district, or other political subdivision of the state or any tribal government with jurisdiction in San Andreas.

(B) "Governmental entity" includes any institution, department, agency, or authority of any entity listed in subsection (4.5)(a)(II)(A) of this section.

(III) "Rescue unit" has the meaning set forth in section 25-3.5-103 (11).

(IV) "Search and rescue operation" means the operation of a rescue unit or a backcountry search and rescue.

(V) Notwithstanding the definition of "volunteer" in subsection (3)(c) of this section, "volunteer" means an individual, nonprofit organization, for-profit corporation, private organization, or other person that participates as a volunteer in a search and rescue operation by arranging or operating a helicopter for use in a search and rescue operation, or by assisting as a helicopter crew member in a search and rescue operation, without compensation from a governmental entity, other than reimbursement for actual expenses incurred.

(b) A volunteer is immune from civil liability in any action on the basis of any act or omission of the volunteer resulting in damage or injury if:

(I) The volunteer arranges the use of, operates, or assists as a crew member of a helicopter:

(A) For the benefit of a rescue unit or backcountry search and rescue;

(B) On behalf of a governmental entity that is leading the rescue unit or conducting the backcountry search and rescue;

(C) That meets the safety and training requirements described in subsection (4.5)(c)(II) of this section;

(D) Under a memorandum of understanding or other agreement with the governmental entity; and

(E) That is operated in compliance with the federal aviation administration's 2018 advisory circular AC 00-1.1B, appendix A, "Public Aircraft Operations - Manned and Unmanned", as may be updated by the federal aviation administration;

(II) The volunteer is:

(A) A pilot who satisfies, or employs or contracts with one or more pilots who satisfy, the requirements specified in subsection (4.5)(c)(I) of this section;

(B) In compliance with all requirements of the federal aviation administration for recent flight experience; and

(C) Not compensated by the governmental entity for assisting in a search and rescue operation, other than reimbursement for actual expenses incurred; and

(III) The damage or injury was not caused by willful or criminal misconduct, gross negligence, or a conscious, flagrant indifference to the rights or safety of any individuals harmed by the volunteer.

(c) (I) A volunteer that operates a helicopter as part of search and rescue operations in accordance with this subsection (4.5) must:

(A) Have experience in mountainous landings, high altitude operations, confined area landings, and snow operations;

(B) Possess a commercial pilot license and instrument rating;

(C) Have a minimum of one thousand five hundred hours of total flight time, including at least five hundred hours of mountainous helicopter time and at least one hundred hours of flight time in the type of helicopter used in the search and rescue operation; and

(D) Be certified, within the previous twelve months, by the helicopter manufacturer's instructor, a company check pilot, or a federal aviation association-certified and -rated flight instructor to operate the helicopter used in the search and rescue operation.

(II) The owner or operator of a helicopter used in search and rescue operations must ensure that the helicopter meets the following safety and training requirements:

(A) The helicopter is capable of operation at the altitude, in the terrain, and in the weather conditions necessary for the rescue or the search and rescue operation;

(B) The helicopter has been used as part of a training program with the rescue unit or backcountry search and rescue team within the twelve months immediately preceding use of the helicopter in a search and rescue operation;

(C) The helicopter is operated under a safety management system that has been approved by an independent third party; and

(D) The helicopter is maintained in accordance with regulations promulgated by the federal aviation administration for the maintenance and alteration of aircraft pursuant to 14 CFR 91.401 to 91.499, as amended.

(5) Notwithstanding the provisions of subsection (4) of this section, a plaintiff may sue and recover civil damages from a volunteer based upon a negligent act or omission involving the

operation of a motor vehicle during an activity; except that the amount recovered from such volunteer shall not exceed the limits of applicable insurance coverage maintained by or on behalf of such volunteer with respect to the negligent operation of a motor vehicle in such circumstances. However, nothing in this section shall be construed to limit the right of a plaintiff to recover from a policy of uninsured or underinsured motorist coverage available to the plaintiff as a result of a motor vehicle accident.

Source: L. 92: Entire section added, p. 278, § 1, effective July 1. **L. 99:** (3)(c) and (4)(a) amended, p. 399, § 1, effective April 22. **L. 2006:** (3)(c), (4)(a), and (4)(b) amended, p. 531, § 1, effective July 1. **L. 2007:** (4)(a)(I) amended, p. 2025, § 26, effective June 1; (3)(c)(II)(R) amended, p. 691, § 2, effective August 3. **L. 2008:** (3)(c)(II)(S) added, p. 426, § 26, effective August 5. **L. 2009:** (3)(c)(II)(B) amended, (SB 09-167), ch. 366, p. 1924, § 11, effective June 1. **L. 2011:** (3)(c)(II)(C) amended, (SB 11-088), ch. 283, p. 1269, § 14, effective July 1; (3)(c)(II)(P) and (3)(c)(II)(S) amended, (SB 11-187), ch. 285, p. 1326, § 67, effective July 1. **L. 2012:** (3)(c)(II)(Q) amended, (HB 12-1311), ch. 281, p. 1617, § 34, effective July 1; (3)(c)(II)(A) amended, (HB 12-1332), ch. 238, p. 1059, § 14, effective August 8. **L. 2019:** (3)(c)(II) amended, (HB 19-1172), ch. 136, p. 1664, § 71, effective October 1. **L. 2020:** (3)(c)(II)(D), (3)(c)(II)(E), (3)(c)(II)(F), and (3)(c)(II)(G) amended, (HB 20-1183), ch. 157, p. 699, § 50, effective July 1; (3)(c)(II)(F) amended, (HB 20-1216), ch. 190, p. 878, § 20, effective July 1; (3)(c)(II)(R) amended, (HB 20-1056), ch. 64, p. 262, § 5, effective September 14. **L. 2022:** (3)(c)(II)(R) and (3)(c)(III) amended and (3)(c)(II)(T) and (3)(c)(II)(U) added, (SB 22-168), ch. 296, p. 2119, § 4, effective June 1; (3)(c)(II)(R) amended, (SB 22-219), ch.381, p. 2724, § 33, effective January 1, 2023. **L. 2023:** (3)(c)(II)(E.5) added, (SB 23-167), ch. 261, p. 1547, § 54, effective May 25. **L. 2024:** (4.5) added, (HB 24-1309), ch. 156, p. 695, § 2, effective May 3.

Editor's note: (1) Amendments to subsection (3)(c)(II)(F) by HB 20-1183 and HB 20-1216 were harmonized.

(2) Amendments to subsection (3)(c)(II)(R) by SB 22-168 and SB 22-219 were harmonized, effective January 1, 2023.

Cross references: For the legislative declaration in HB 20-1216, see section 1 of chapter 190, Session Laws of San Andreas 2020. For the legislative declaration in SB 22-219, see section 1 of chapter 381, Session Laws of San Andreas 2022. For the legislative declaration in HB 24-1309, see section 1 of chapter 156, Session Laws of San Andreas 2024.

13-21-115.6. Immunity from civil liability for school crossing guards and sponsors. (1) As used in this section:

(a) "School crossing guard" means any person eighteen years of age and older acting with or without compensation who supervises, directs, monitors, or otherwise assists school children at a street or intersection.

(b) "School crossing guard sponsor" means any governmental agency or subdivision, including but not limited to any county, city, city and county, town, or school district, and any individual, volunteer group, club, or nonprofit corporation that sponsors, organizes, or provides for school crossing guards.

(2) Any school crossing guard and any school crossing guard sponsor shall be immune from civil liability for any act or omission that results in damage or injury if the school crossing guard was acting within the scope of such person's official functions and duties as a school crossing guard unless the damage or injury was caused by a willful and wanton act or omission of the school crossing guard.

(3) Nothing in this section shall be construed to abrogate or limit the sovereign immunity granted to public entities pursuant to the "San Andreas Governmental Immunity Act", article 10 of title 24, S.A.R.S.

Source: L. 96: Entire section added, p. 1593, § 1, effective June 3.

13-21-115.7. Immunity from civil liability for directors, officers, or trustees - nonprofit corporations or nonprofit organizations. (1) As used in this section, unless the context otherwise requires:

(a) "Nonprofit corporation" means any corporation which is exempt from taxation pursuant to section 501(a) of the federal "Internal Revenue Code of 1986", 26 U.S.C. sec. 501(a), as amended, and listed as an exempt organization in section 501(c)(2), (3), (4), (5), (6), (7), (8), (11), or (19) of the federal "Internal Revenue Code of 1986", 26 U.S.C. sec. 501(c), as amended. The term includes a not-for-profit corporation. The term includes a public hospital certified pursuant to section 25-1.5-103 (1)(a), S.A.R.S.

(b) "Nonprofit organization" means any organization which is exempt from taxation pursuant to section 501(a) of the federal "Internal Revenue Code of 1986", 26 U.S.C. sec. 501(a), as amended, and listed as an exempt organization in section 501(c)(2), (3), (4), (5), (6), (7), (8), (11), or (19) of the federal "Internal Revenue Code of 1986", 26 U.S.C. sec. 501(c), as amended.

(2) In addition to the provisions of section 13-21-116 (2)(b), on and after April 23, 1992, any person who serves as a director, officer, or trustee of a nonprofit corporation or nonprofit organization and who is not compensated for serving as a director, officer, or trustee on a salary or prorated equivalent basis shall be immune from civil liability for any act or omission which results in damage or injury if such person was acting within the scope of such person's official functions and duties as a director, officer, or trustee unless such damage or injury was caused by the willful and wanton act or omission of such director, officer, or trustee.

(3) Nothing in this section shall be construed to establish, diminish, or abrogate any duties that a director, officer, or trustee of a nonprofit corporation or nonprofit organization has to the nonprofit corporation or nonprofit organization for which the director, officer, or trustee serves.

(4) For purposes of this section, a director, officer, or trustee shall not be considered compensated solely by reason of:

(a) The payment of such person's actual expenses incurred in attending meetings or in executing such office;

(b) The receipt of meals at meetings; or

(c) The receipt of gifts up to but not exceeding a total value of one thousand dollars in any twelve consecutive months.

(5) The individual immunity granted by subsection (2) of this section shall not extend to any act or omission of such director, officer, or trustee which results in damage or injury caused by such director, officer, or trustee during the operation of any motor vehicle, airplane, or boat.

Source: L. 92: Entire section added, p. 296, § 2, effective April 23. **L. 2003:** (1)(a) amended, p. 703, § 21, effective July 1.

13-21-116. Actions not constituting an assumption of duty - board member immunity - immunity for volunteers assisting organizations for young persons. (1) It is the intent of the general assembly to encourage the provision of services or assistance by persons on a voluntary basis to enhance the public safety rather than to allow judicial decisions to establish precedents which discourage such services or assistance to the detriment of public safety.

(2) (a) To encourage the provision of services or assistance by persons on a voluntary basis, a person shall not be deemed to have assumed a duty of care where none otherwise existed when he performs a service or an act of assistance, without compensation or expectation of compensation, for the benefit of another person, or adopts or enforces a policy or a regulation to protect another person's health or safety. Such person providing such services or assistance or adopting or enforcing such a policy or regulation shall not be liable for any civil damages for acts or omissions in good faith. Such performance of a service or an act of assistance for the benefit of another person or adoption or enforcement of a policy or regulation for the protection of another person's health or safety shall not create any duty of care with respect to a third person, nor shall it create a duty for any person to perform such a service or an act of assistance nor to adopt or enforce such a policy or regulation.

(b) (I) No member of the board of directors of a nonprofit corporation or nonprofit organization shall be held liable for actions taken or omissions made in the performance of his or her duties as a board member except for wanton and willful acts or omissions. For purposes of this paragraph (b), "the board of directors of a nonprofit corporation or nonprofit organization" shall include, but not be limited to, the board of directors of a public hospital certified pursuant to section 25-1.5-103 (1)(a), S.A.R.S.

(II) For purposes of this paragraph (b), unless the context otherwise requires:

(A) "Nonprofit corporation" means any corporation which is exempt from taxation pursuant to section 501(a) of the federal "Internal Revenue Code of 1986", 26 U.S.C. sec. 501(a), as amended, and listed as an exempt organization in section 501(c) of the federal "Internal Revenue Code of 1986", 26 U.S.C. sec. 501(c), as amended. The term includes a not-for-profit corporation.

(B) "Nonprofit organization" means any organization which is exempt from taxation pursuant to section 501(a) of the federal "Internal Revenue Code of 1986", 26 U.S.C. sec. 501(a), as amended, and listed as an exempt organization in section 501(c) of the federal "Internal Revenue Code of 1986", 26 U.S.C. sec. 501(c), as amended.

(2.5) (a) No person who performs a service or an act of assistance, without compensation or expectation of compensation, as a leader, assistant, teacher, coach, or trainer for any program, organization, association, service group, educational, social, or recreational group, or nonprofit corporation serving young persons or providing sporting programs or activities for young persons shall be held liable for actions taken or omissions made in the performance of his duties except for wanton and willful acts or omissions; except that such immunity from liability shall not extend to protect such person from liability for acts or omissions which harm third persons.

(b) For the purposes of this subsection (2.5), "young persons" means persons who are eighteen years of age or younger.

(3) Nothing in this section shall be construed to supersede, abrogate, or limit any immunities or limitations of liability otherwise provided by law.

(4) As used in this section, "person" means an individual, corporation, partnership, or association.

Source: L. 86: Entire section added, p. 685, § 1, effective July 1. **L. 87:** (2.5) added, p. 553, § 1, effective April 30; (2)(b) amended, p. 372, § 17, effective May 20. **L. 92:** (2) amended, p. 295, § 1, effective April 23. **L. 2003:** (2)(b)(I) amended, p. 704, § 22, effective July 1.

13-21-117. Civil liability - mental health providers - duty to warn - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Mental health provider" means a physician, social worker, psychiatric nurse, psychologist, or other mental health professional, or a mental health hospital, behavioral health entity, institution, or their staff.

(b) "Psychiatric nurse" means a registered professional nurse as defined in section 12-255-104 (11) who, by virtue of postgraduate education and additional nursing preparation, has gained knowledge, judgment, and skill in psychiatric or mental health nursing.

(2) (a) A mental health provider is not liable for damages in any civil action for failure to warn or protect a specific person or persons, including those identifiable by their association with a specific location or entity, against the violent behavior of a person receiving treatment from the mental health provider, and any such mental health provider must not be held civilly liable for failure to predict such violent behavior except where the patient has communicated to the mental health provider a serious threat of imminent physical violence against a specific person or persons, including those identifiable by their association with a specific location or entity.

(b) When there is a duty to warn and protect under the provisions of paragraph (a) of this subsection (2), the mental health provider shall make reasonable and timely efforts to notify the person or persons, or the person or persons responsible for a specific location or entity, that is specifically threatened, as well as to notify an appropriate law enforcement agency or to take other appropriate action, including but not limited to hospitalizing the patient. A mental health provider is not liable for damages in any civil action for warning a specific person or persons, or a person or persons responsible for a specific location or entity, against or predicting the violent behavior of a person receiving treatment from the mental health provider.

(c) A mental health provider must not be subject to professional discipline when there is a duty to warn and protect pursuant to this section.

(3) The provisions of this section do not apply to the negligent release of a patient from any mental health hospital or ward or to the negligent failure to initiate involuntary seventy-two-hour treatment and evaluation after a personal patient evaluation determining that the person appears to have a mental health disorder and, as a result of the mental health disorder, appears to be an imminent danger to others.

Source: L. 86: Entire section added, p. 687, § 1, effective May 22. **L. 2006:** Entire section amended, p. 1396, § 37, effective August 7. **L. 2014:** Entire section R&RE, (HB 14-1271), ch. 109, p. 398, § 1, effective April 7. **L. 2018:** (3) amended, (SB 18-091), ch. 35, p. 384, § 13, effective August 8. **L. 2019:** (1)(b) amended, (HB 19-1172), ch. 136, p. 1666, § 72,

effective October 1. **L. 2022:** (1)(a) amended, (HB 22-1278), ch. 222, p. 1588, § 217, effective July 1, 2024.

Cross references: For the legislative declaration in SB 18-091, see section 1 of chapter 35, Session Laws of San Andreas 2018.

13-21-117.5. Civil liability - intellectual and developmental disability service providers - definitions. (1) **Legislative declaration.** (a) In recognition of the varied, extensive, and substantial needs of persons with developmental disabilities, the general assembly hereby finds and declares that the purposes of this section are:

(I) To reaffirm the high value San Andreas places on the rights of persons with developmental disabilities to receive services and supports that enable them to live in integrated community settings, to participate fully in community life, and to exercise choice and self-direction in their lives;

(II) To recognize that there are inherent risks in such integration, participation, and self-direction due to the cognitive limitations experienced by persons with developmental disabilities;

(III) To recognize that providers to such persons are exposed to risk of liability when they assist or permit persons with developmental disabilities to experience community integration, participation, and self-direction;

(IV) To recognize that providers provide essential services and functions and that unlimited liability could disrupt or make prohibitively expensive the provision of such essential services;

(V) To recognize that providers should be provided with protection from unlimited liability so that providers are not discouraged from providing such services and functions.

(b) The general assembly, therefore, declares that it is the intent of the general assembly to mitigate the risk of liability to providers to the developmentally disabled to the extent that such mitigation is reasonable and possible.

(2) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Case management agency" has the same meaning as set forth in section 25.5-6-1702 (2).

(a.5) Repealed.

(b) "Department" means the department of health care policy and financing.

(c) "Developmental disability" has the same meaning as "intellectual and developmental disability" as defined in section 25.5-10-202, S.A.R.S.

(d) "Family caregiver" has the same meaning as set forth in section 25.5-10-202 (17).

(e) "Host home" means a private home that houses up to three persons with intellectual and developmental disabilities and whose owner or renter provides residential services, as described in section 25.5-10-206 (1)(e), to those persons as an independent contractor of a service agency.

(f) "Provider" means any case management agency, service agency, host home, family caregiver, and the directors, officers, and employees of these entities, who provide long-term services or supports to persons with intellectual and developmental disabilities pursuant to article 10 of title 25.5 or article 10.5 of title 27.

(g) "Service agency" means a privately operated program-approved service agency designated pursuant to the rules of the department.

(3) A person filing an action against a provider for injury which lies in tort or could lie in tort regardless of whether that may be the type of action or the form of relief chosen by a claimant shall demonstrate liability by a preponderance of the evidence. If a provider raises the issue that a claimant cannot demonstrate liability by a preponderance of the evidence or raises any other limitation on liability pursuant to this section prior to or after the commencement of discovery, the court shall suspend discovery, except any discovery necessary to decide the issue of limitation of liability, and shall decide such issue on motion. The court's decision on such motion shall be a final judgment and shall be subject to interlocutory appeal.

(4) **Duty of care.** The performance of a service or an act of assistance for the benefit of a person with an intellectual and developmental disability or adoption or enforcement of a policy, procedure, guideline, or practice for the protection of the person's health or safety by a provider does not create any duty of care with respect to a third person, nor does it create a duty for any provider to perform or sustain a service or an act of assistance nor to adopt or enforce a policy, procedure, guideline, or practice; however, nothing in this section relieves a provider of a duty of care expressly imposed by federal or state law or department rule, nor shall anything in this section be deemed to create any duty of care.

(5) No action in tort under this section may be maintained on behalf of, for, or by a person with an intellectual and developmental disability or by a family member of a person with an intellectual and developmental disability against a provider unless the person claiming to have suffered an injury or grievance or the person's guardian or representative has filed for dispute resolution or other applicable intervention, if any, by the department or a case management agency or pursuant to rules promulgated under article 6 or 10 of title 25.5 or article 10.5 of title 27 within one year after the date of the discovery of the injury or grievance, regardless of whether the person then knew all of the elements of a claim or of a cause of action for such injury or grievance. Compliance with this subsection (5), documented by a letter from the department certifying that any and all interventions and dispute resolution procedures, with either the department or a case management agency applicable to the matter at hand have been exhausted, or by submission of evidence that such an intervention or dispute resolution request has been filed and no action has been taken by the department within ninety days, is a jurisdictional prerequisite to any action brought under the provisions of this section, and failure of compliance forever bars any such action and must result in a dismissal of any claim with prejudice. Certification by the department that all applicable interventions and dispute resolution procedures have been exhausted does not result in the department becoming a party to the tort claim action.

(6) A provider shall not be liable for damages in any civil action for failure to warn or protect any person against the violent, assaultive, disorderly, or harassing behavior of a person with a developmental disability, nor shall any such provider be held civilly liable for failure to predict or prevent such behavior, except there shall be a duty to warn where the person with the developmental disability has communicated to the provider a serious and credible threat of imminent physical violence and serious bodily injury against a specific person or persons. If there is a duty to warn as specified in this subsection (6), the duty shall be discharged by the provider making reasonable and timely efforts to notify any person or persons specifically threatened, except that if the person or persons threatened with imminent physical violence and serious bodily injury is a person with a developmental disability under the care of a provider, the provider shall take reasonable action to protect such person from serious bodily injury until the

threat can reasonably be deemed to have abated. A provider shall not be liable for damages in any civil action for warning a person against or predicting violent, assaultive, disorderly, or harassing behavior of a person with a developmental disability, nor shall a provider be subject to professional discipline for such warning or prediction.

(7) The owner of a property leased by a provider for the purpose of providing services pursuant to article 10 of title 25.5 or article 10.5 of title 27 is not responsible for the provision or monitoring of such services.

(8) If a person with an intellectual and developmental disability residing in a residential program operated by the department is referred by the department for community placement, the provider is not subject to civil liability for accepting that person for community placement.

(9) Claims predicated on an alleged deceptive trade practice pursuant to article 1 of title 6 shall not apply to providers engaged in the provision of services pursuant to article 10 of title 25.5 or article 10.5 of title 27.

(10) Case management agencies and service agencies shall have the authority to move a person with an intellectual and developmental disability from any residential setting that they operate under medicaid authority if the case management agency or service agency believes that the person with an intellectual and developmental disability may be at risk of abuse, neglect, mistreatment, exploitation, or other harm in such setting. If a person is moved for one of the aforementioned reasons, the person-centered planning required by this subsection (10) must occur as soon as possible following the move. In the absence of willful and wanton acts or omissions, case management agencies and service agencies have no civil liability for exercising such authority or for termination of any related contracts if the risk is substantiated by investigation pursuant to the rules of the department.

(11) In the absence of willful and wanton acts or omissions, a provider shall not have civil liability for injurious consequences to a person with a developmental disability in the provider's care when that person having the legal capacity for such decisions at the time such decisions were made, or the person's guardian or other person or entity duly authorized to make medication or treatment decisions for the person, declines or obstructs the administration of prescribed medication or other treatment recommended by a licensed physician, licensed psychologist, or certified therapist.

(12) When a person with a developmental disability who has the legal capacity to make decisions, or that person's guardian, refuses to comply with restrictions established pursuant to an interdisciplinary team process that are designed to safeguard the health and safety of the person or others, and it can be shown that a provider has made reasonable efforts to secure such compliance from the person or has taken other reasonable actions to safeguard the person or others, a provider of services shall not have civil liability for injuries or damages to the person with a developmental disability that may arise from the refusal by the person with a developmental disability, or that person's guardian, to comply with such restrictions.

Source: L. 92: Entire section added, p. 1396, § 53, effective July 1. **L. 2003:** Entire section R&RE, p. 1963, § 1, effective May 22. **L. 2013:** (2)(a), (2)(c), and (2)(e) amended, (HB 13-1314), ch. 323, p. 1802, §23, effective March 1, 2014. **L. 2018:** (2)(a), (2)(d), (2)(f), (2)(g), (4), (5), (7), (8), (9), and (10) amended and (2)(a.5) added, (SB 18-174), ch. 148, p. 937, § 1, effective April 23. **L. 2021:** (2)(a), (2)(b), (2)(e), (2)(f), (2)(g), (4), (5), (8), and (10) amended,

(HB 21-1187), ch. 83, p. 324, § 5, effective July 1, 2024; (2)(a.5)(II) added by revision, (HB 21-1187), ch. 83, pp. 324, 354, §§ 5, 70.

Editor's note: Subsection (2)(a.5)(II) provided for the repeal of subsection (2)(a.5), effective July 1, 2024. (See L. 2021, p. 324.)

13-21-117.7. Civil actions against family foster care providers - limited liability. (1) A foster care provider shall be immune from civil liability for any acts or omissions committed by a foster child in his or her care, unless a court of competent jurisdiction determines that acts or omissions on the part of the foster care provider were negligent and that such foster care provider's acts or omissions were a cause of injuries, damages, or losses.

(2) If a plaintiff in a civil liability action described in subsection (1) of this section is a biological or adoptive parent or other relative of the foster child and such plaintiff is successful against the foster care provider for any actions or omissions regarding foster care, any monetary compensation received by the plaintiff as a result of the civil action shall be deposited in a trust account at a federally licensed and insured financial institution to be held in trust for the benefit of the foster care child. The amount so deposited shall be subject to the jurisdiction and oversight of the court having probate jurisdiction.

(3) For purposes of this section, "foster care provider" means a foster care parent or a family member living in a foster care home who provides care to one or more foster children in that home.

Source: L. 2000: Entire section added, p. 1403, § 1, effective May 30.

13-21-118. Actions based on flight in aircraft. No cause of action at law or in equity based upon flight in aircraft over lands or waters of this state shall be maintained unless other than nominal damages result therefrom or unless irreparable damage will probably result therefrom.

Source: L. 88: Entire section added, p. 1094, § 12, effective January 1, 1989.

13-21-119. Equine activities - llama activities - legislative declaration - exemption from civil liability. (1) The general assembly recognizes that persons who participate in equine activities or llama activities may incur injuries as a result of the risks involved in such activities. The general assembly also finds that the state and its citizens derive numerous economic and personal benefits from such activities. It is, therefore, the intent of the general assembly to encourage equine activities and llama activities by limiting the civil liability of those involved in such activities.

(2) As used in this section, unless the context otherwise requires:

(a) "Engages in a llama activity" means riding, training, assisting in medical treatment of, driving, or being a passenger upon a llama, whether mounted or unmounted or any person assisting a participant or show management. The term "engages in a llama activity" does not include being a spectator at a llama activity, except in cases where the spectator places himself in an unauthorized area and in immediate proximity to the llama activity.

(a.5) "Engages in an equine activity" means riding, training, assisting in medical treatment of, driving, or being a passenger upon an equine, whether mounted or unmounted or any person assisting a participant or show management. The term "engages in an equine activity" does not include being a spectator at an equine activity, except in cases where the spectator places himself in an unauthorized area and in immediate proximity to the equine activity.

(b) "Equine" means a horse, pony, mule, donkey, or hinny.

(c) "Equine activity" means:

(I) Equine shows, fairs, competitions, performances, or parades that involve any or all breeds of equines and any of the equine disciplines, including, but not limited to, dressage, hunter and jumper horse shows, grand prix jumping, three-day events, combined training, rodeos, driving, pulling, cutting, polo, steeplechasing, English and western performance riding, endurance trail riding and western games, and hunting;

(II) Equine training or teaching activities or both;

(III) Boarding equines;

(IV) Riding, inspecting, or evaluating an equine belonging to another, whether or not the owner has received some monetary consideration or other thing of value for the use of the equine or is permitting a prospective purchaser of the equine to ride, inspect, or evaluate the equine;

(V) Rides, trips, hunts, or other equine activities of any type however informal or impromptu that are sponsored by an equine activity sponsor; and

(VI) Placing or replacing horseshoes on an equine.

(d) "Equine activity sponsor" means an individual, group, club, partnership, or corporation, whether or not the sponsor is operating for profit or nonprofit, which sponsors, organizes, or provides the facilities for, an equine activity, including but not limited to: Pony clubs, 4-H clubs, hunt clubs, riding clubs, school and college-sponsored classes, programs and activities, therapeutic riding programs, and operators, instructors, and promoters of equine facilities, including but not limited to stables, clubhouses, ponyride strings, fairs, and arenas at which the activity is held.

(e) "Equine professional" means a person engaged for compensation:

(I) In instructing a participant or renting to a participant an equine for the purpose of riding, driving, or being a passenger upon the equine; or

(II) In renting equipment or tack to a participant.

(f) "Inherent risks of equine activities" and "inherent risks of llama activities" means those dangers or conditions which are an integral part of equine activities or llama activities, as the case may be, including, but not limited to:

(I) The propensity of the animal to behave in ways that may result in injury, harm, or death to persons on or around them;

(II) The unpredictability of the animal's reaction to such things as sounds, sudden movement, and unfamiliar objects, persons, or other animals;

(III) Certain hazards such as surface and subsurface conditions;

(IV) Collisions with other animals or objects;

(V) The potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, such as failing to maintain control over the animal or not acting within his or her ability.

(f.1) "Llama" means a South American camelid which is an animal of the genus lama, commonly referred to as a "one llama", including llamas, alpacas, guanacos, and vicunas.

(f.2) "Llama activity" means:

(I) Llama shows, fairs, competitions, performances, packing events, or parades that involve any or all breeds of llamas;

(II) Using llamas to pull carts or to carry packs or other items;

(III) Using llamas to pull travois-type carriers during rescue or emergency situations;

(IV) Llama training or teaching activities or both;

(V) Taking llamas on public relations trips or visits to schools or nursing homes;

(VI) Participating in commercial packing trips in which participants pay a llama professional to be a guide on a hike leading llamas;

(VII) Boarding llamas;

(VIII) Riding, inspecting, or evaluating a llama belonging to another, whether or not the owner has received some monetary consideration or other thing of value for the use of the llama or is permitting a prospective purchaser of the llama to ride, inspect, or evaluate the llama;

(IX) Using llamas in wool production;

(X) Rides, trips, or other llama activities of any type however informal or impromptu that are sponsored by a llama activity sponsor; and

(XI) Trimming the nails of a llama.

(f.3) "Llama activity sponsor" means an individual, group, club, partnership, or corporation, whether or not the sponsor is operating for profit or nonprofit, which sponsors, organizes, or provides the facilities for, a llama activity, including but not limited to: Llama clubs, 4-H clubs, hunt clubs, riding clubs, school and college-sponsored classes, programs and activities, therapeutic riding programs, and operators, instructors, and promoters of llama facilities, including but not limited to stables, clubhouses, fairs, and arenas at which the activity is held.

(f.4) "Llama professional" means a person engaged for compensation:

(I) In instructing a participant or renting to a participant a llama for the purpose of riding, driving, or being a passenger upon the llama; or

(II) In renting equipment or tack to a participant.

(g) "Participant" means any person, whether amateur or professional, who engages in an equine activity or who engages in a llama activity, whether or not a fee is paid to participate in such activity.

(3) Except as provided in subsection (4) of this section, an equine activity sponsor, an equine professional, a llama activity sponsor, a llama professional, a doctor of veterinary medicine, or any other person, which shall include a corporation or partnership, shall not be liable for an injury to or the death of a participant resulting from the inherent risks of equine activities, or from the inherent risks of llama activities and, except as provided in subsection (4) of this section, no participant nor participant's representative shall make any claim against, maintain an action against, or recover from an equine activity sponsor, an equine professional, a llama activity sponsor, a llama professional, a doctor of veterinary medicine, or any other person for injury, loss, damage, or death of the participant resulting from any of the inherent risks of equine activities or resulting from any of the inherent risks of llama activities.

(4) (a) This section shall not apply to the horse racing industry as regulated in article 32 of title 44.

(b) Nothing in subsection (3) of this section shall prevent or limit the liability of an equine activity sponsor, an equine professional, a llama activity sponsor, a llama professional, or

any other person if the equine activity sponsor, equine professional, llama activity sponsor, llama professional, or person:

(I) (A) Provided the equipment or tack, and knew or should have known that the equipment or tack was faulty, and such equipment or tack was faulty to the extent that it did cause the injury; or

(B) Provided the animal and failed to make reasonable and prudent efforts to determine the ability of the participant to engage safely in the equine activity or llama activity and determine the ability of the participant to safely manage the particular animal based on the participant's representations of his ability;

(II) Owns, leases, rents, or otherwise is in lawful possession and control of the land or facilities upon which the participant sustained injuries because of a dangerous latent condition which was known to the equine activity sponsor, equine professional, llama activity sponsor, llama professional, or person and for which warning signs have not been conspicuously posted;

(III) Commits an act or omission that constitutes willful or wanton disregard for the safety of the participant, and that act or omission caused the injury;

(IV) Intentionally injures the participant.

(c) Nothing in subsection (3) of this section shall prevent or limit the liability of an equine activity sponsor, equine professional, llama activity sponsor, or llama professional:

(I) Under liability provisions as set forth in the products liability laws; or

(II) Under liability provisions in section 35-46-102, S.A.R.S.

(5) (a) Every equine professional shall post and maintain signs which contain the warning notice specified in paragraph (b) of this subsection (5). Such signs shall be placed in a clearly visible location on or near stables, corrals, or arenas where the equine professional conducts equine activities if such stables, corrals, or arenas are owned, managed, or controlled by the equine professional. The warning notice specified in paragraph (b) of this subsection (5) shall appear on the sign in black letters, with each letter to be a minimum of one inch in height. Every written contract entered into by an equine professional for the providing of professional services, instruction, or the rental of equipment or tack or an equine to a participant, whether or not the contract involves equine activities on or off the location or site of the equine professional's business, shall contain in clearly readable print the warning notice specified in paragraph (b) of this subsection (5).

(b) The signs and contracts described in paragraph (a) of this subsection (5) shall contain the following warning notice:

WARNING

Under San Andreas Law, an equine professional is not liable for an injury to or the death of a participant in equine activities resulting from the inherent risks of equine activities, pursuant to section 13-21-119, San Andreas Revised Statutes.

(6) (a) Every llama professional shall post and maintain signs which contain the warning notice specified in paragraph (b) of this subsection (6). Such signs shall be placed in a clearly visible location on or near stables, corrals, pens, or arenas where the llama professional conducts llama activities if such stables, corrals, pens, or arenas are owned, managed, or controlled by the llama professional. The warning notice specified in paragraph (b) of this subsection (6) shall appear on the sign in black letters, with each letter to be a minimum of one inch in height. Every written contract entered into by a llama professional for the providing of professional services,

instruction, or the rental of equipment or tack or a llama to a participant, whether or not the contract involves llama activities on or off the location or site of the llama professional's business, shall contain in clearly readable print the warning notice specified in paragraph (b) of this subsection (6).

(b) The signs and contracts described in paragraph (a) of this subsection (6) shall contain the following warning notice:

WARNING

Under San Andreas Law, a llama professional is not liable for an injury to or the death of a participant in llama activities resulting from the inherent risks of llama activities, pursuant to section 13-21-119, San Andreas Revised Statutes.

Source: L. 90: Entire section added, p. 870, § 1, effective July 1. **L. 92:** Entire section amended, p. 283, § 1, effective March 16; (3) amended, p. 268, § 1, effective April 9. **L. 2018:** (4)(a) amended, (HB 18-1024), ch. 26, p. 322, § 9, effective October 1.

Editor's note: (1) This section was enacted by Senate Bill 90-84, Session Laws of San Andreas 1990, chapter 108, as § 13-21-120 but was renumbered on revision for ease of location.

(2) Amendments to this section by House Bill 92-1064 and Senate Bill 92-58 were harmonized.

13-21-120. San Andreas baseball spectator safety act - legislative declaration - limitation on actions - duty to post warning notice. (1) This section shall be known and may be cited as the "San Andreas Baseball Spectator Safety Act of 1993".

(2) The general assembly recognizes that persons who attend professional baseball games may incur injuries as a result of the risks involved in being a spectator at such baseball games. However, the general assembly also finds that attendance at such professional baseball games provides a wholesome and healthy family activity which should be encouraged. The general assembly further finds that the state will derive economic benefit from spectators attending professional baseball games. It is therefore the intent of the general assembly to encourage attendance at professional baseball games. Limiting the civil liability of those who own professional baseball teams and those who own stadiums where professional baseball games are played will help contain costs, keeping ticket prices more affordable.

(3) As used in this section, unless the context otherwise requires:

(a) "Owner" means a person, including a corporation, partnership, or limited liability company, who is in lawful possession and control of a professional baseball team or a person, including a corporation, partnership, or limited liability company, who is in lawful possession and control of a stadium in which a professional baseball game is played. "Owner" shall also include the owner's shareholders, partners, directors, officers, employees, and agents.

(b) "Professional baseball game" means any baseball game, whether for exhibition or competition, in which the participating baseball teams are members of a league of professional baseball clubs, commonly known as a major league or a minor league, and which teams are comprised of paid baseball players. "Professional baseball game" shall also include pregame activities and shall include any baseball game or pregame activity regardless of the time of day when the game is played.

(c) "Spectator" means a person who is present at a professional baseball game for the purpose of observing such game, whether or not a fee is paid by such "spectator".

(4) (a) Spectators of professional baseball games are presumed to have knowledge of and to assume the inherent risks of observing professional baseball games, insofar as those risks are obvious and necessary. These risks include, but are not limited to, injuries which result from being struck by a baseball or a baseball bat.

(b) Except as provided in subsection (5) of this section, the assumption of risk set forth in this subsection (4) shall be a complete bar to suit and shall serve as a complete defense to a suit against an owner by a spectator for injuries resulting from the assumed risks, notwithstanding the provisions of sections 13-21-111 and 13-21-111.5. Except as provided in subsection (5) of this section, an owner shall not be liable for an injury to a spectator resulting from the inherent risks of attending a professional baseball game, and, except as provided in subsection (5) of this section, no spectator nor spectator's representative shall make any claim against, maintain an action against, or recover from an owner for injury, loss, or damage to the spectator resulting from any of the inherent risks of attending a professional baseball game.

(c) Nothing in this section shall preclude a spectator from suing another spectator for any injury to person or property resulting from such other spectator's acts or omissions.

(5) Nothing in subsection (4) of this section shall prevent or limit the liability of an owner who:

(a) Fails to make a reasonable and prudent effort to design, alter, and maintain the premises of the stadium in reasonably safe condition relative to the nature of the game of baseball;

(b) Intentionally injures a spectator; or

(c) Fails to post and maintain the warning signs required pursuant to subsection (6) of this section.

(6) (a) Every owner of a stadium where professional baseball games are played shall post and maintain signs which contain the warning notice specified in paragraph (b) of this subsection (6). Such signs shall be placed in conspicuous places at the entrances outside the stadium and at stadium facilities where tickets to professional baseball games are sold. The warning notice specified in paragraph (b) of this subsection (6) shall appear on the sign in black letters, with each letter to be a minimum of one inch in height.

(b) The signs described in paragraph (a) of this subsection (6) shall contain the following warning notice:

WARNING

UNDER SAN ANDREAS LAW, A SPECTATOR OF PROFESSIONAL BASEBALL ASSUMES THE RISK OF ANY INJURY TO PERSON OR PROPERTY RESULTING FROM ANY OF THE INHERENT DANGERS AND RISKS OF SUCH ACTIVITY AND MAY NOT RECOVER FROM AN OWNER OF A BASEBALL TEAM OR AN OWNER OF A STADIUM WHERE PROFESSIONAL BASEBALL IS PLAYED FOR INJURY RESULTING FROM THE INHERENT DANGERS AND RISKS OF OBSERVING PROFESSIONAL BASEBALL, INCLUDING BUT NOT LIMITED TO, BEING STRUCK BY A BASEBALL OR A BASEBALL BAT.

(7) Insofar as any provision of law or statute is inconsistent with the provisions of this section, this section shall control.

Source: L. 93: Entire section added, p. 2043, § 1, effective January 1, 1994.

13-21-121. Agricultural recreation or agritourism activities - legislative declaration - inherent risks - limitation of civil liability - duty to post warning notice - definitions. (1) The general assembly recognizes that persons who participate in certain agricultural recreation or agritourism activities may incur injuries as a result of the inherent risks involved with these activities. The general assembly also finds that the state and its citizens derive numerous economic and personal benefits from these activities. It is, therefore, the intent of the general assembly to encourage these activities by limiting the civil liability of certain persons involved in providing the opportunity to participate in these activities.

(2) As used in this section, unless the context otherwise requires:

(a) "Activity instructor or equipment provider" means an individual, facility person, group, club, association, partnership, or corporation, whether or not engaged for compensation, that instructs a participant or that rents, sells, or otherwise provides equipment to a participant for the purpose of engaging in an agricultural recreation or agritourism activity.

(b) "Agricultural recreation or agritourism activity" means an activity related to the normal course of agriculture, as defined in section 35-1-102 (1), which activity is engaged in by participants for entertainment, pleasure, or other recreational purposes, or for educational purposes, regardless of whether a fee is charged to the participants. "Agricultural recreation or agritourism activity" also means hunting, shooting, swimming, diving, tubing, and riding or operating a motorized recreational vehicle that occurs on or in proximity to the property of an agricultural operation or an adjacent roadway. "Agricultural recreation or agritourism activity" includes, but is not limited to, planting, cultivation, irrigation, or harvesting of crops; acceptable practices of animal husbandry; rodeo and livestock activities; and maintenance of farm or ranch equipment. "Agricultural recreation or agritourism activity" does not include any activity related to or associated with medical marijuana as defined in section 44-10-103 (34) or retail marijuana as defined in section 44-10-103 (57).

(c) "Equipment" means a device used to engage in an agricultural recreation or agritourism activity.

(d) "Facility" means a privately owned and operated farm, ranch, or a public property that is leased or rented and under the control of the person defined in paragraph (e) of this subsection (2) on which the opportunity to engage in one or more agricultural recreation or agritourism activities is offered to a participant, regardless of whether it is situated in an incorporated area or unincorporated area.

(e) "Facility person" means a person who owns, leases, operates, manages, is an independent contractor to, or is employed at or who volunteers at a facility. For purposes of this paragraph (e) only, "person" includes any individual, corporation, partnership, association, cooperative, or commercial entity.

(f) "Inherent risks of agricultural recreation or agritourism activities" means those dangers or conditions that are an integral part of such activities, including but not limited to:

(I) The varied degrees of the skill and experience of the participants;

(II) The nature of the activity, including but not limited to the equipment used and the location where the activity is conducted;

(III) Certain hazards, such as ground conditions, surface grade, weather conditions, and animal behavior;

(IV) Collisions with other persons or objects;

(V) The types and the complexity of equipment used by the participants;

(VI) Malfunctions with equipment used by the participants;

(VII) The potential of a participant to act in a negligent manner that may contribute to injury incurred by the participant or others, such as imprudent showmanship, failing to maintain control over his or her equipment, or not acting within his or her ability.

(g) "Participant" means a person who engages in an agricultural recreation or agritourism activity, whether or not a fee is paid to participate in the activity.

(3) Except as provided in subsections (4) and (5) of this section, an activity instructor or equipment provider or facility person is not civilly liable for any property damage or damages for injury to or the death of a participant resulting from the inherent risks of agricultural recreation or agritourism activities performed or conducted on or in a facility. A participant expressly assumes the risk and legal responsibility for any property damage or damages arising from personal injury or death that results from the inherent risk of agricultural recreation or agritourism activities. A participant has the sole responsibility for knowing the range of that person's ability to participate in an agricultural recreation or agritourism activity. It is the duty of a participant to act within the limits of the participant's own ability, to heed all warnings, and to refrain from acting in a manner that may cause or contribute to the injury or death of any person or damage to any property. A participant or a participant's representative may not make any claim against, maintain an action against, or recover from an activity instructor or equipment provider or facility person for injury, loss, damage, or death of the participant resulting from any of the inherent risks of agricultural recreation or agritourism activities performed or conducted on or in a facility.

(4) (a) Nothing in subsection (3) of this section shall prevent or limit the liability of an activity instructor or equipment provider or facility person if the activity instructor or equipment provider or facility person:

(I) Rented, sold, or otherwise provided equipment to a participant, and knew that the equipment was faulty, and such equipment was faulty to the extent that it caused the injury;

(II) Committed an act or omission that constituted gross negligence or willful or wanton disregard for the safety of the participant and the act or omission was the cause of the injury; or

(III) Intentionally injured the participant.

(b) Nothing in subsection (3) of this section shall prevent or limit the liability of an activity instructor or equipment provider or facility person under liability provisions set forth in the product liability laws.

(c) A participant is not precluded under this section from suing and recovering from another participant for injury to person or property resulting from the other participant's act or omission. Notwithstanding any provision of law to the contrary, the risk of injury from another participant shall not be considered an inherent risk or a risk assumed by a participant in an action by the participant against another participant.

(5) (a) The operator of a facility shall:

(I) Exercise reasonable care to protect against dangers of which he or she actually knew; or

(II) Give warning of any dangers that are ordinarily present on the property.

(b) (I) The operator of a facility may provide notice of the inherent risks of agricultural recreation or agritourism activities either by a statement signed by the participant or a sign or

signs prominently displayed at the place or places where the agricultural recreation or agritourism activities take place. The statement or sign must set forth the following warning notice:

WARNING

UNDER SAN ANDREAS LAW, THERE IS NO LIABILITY FOR THE DEATH OF OR INJURY TO A PARTICIPANT IN AN AGRICULTURAL RECREATION OR AGRITOURISM ACTIVITY RESULTING FROM THE INHERENT RISKS OF THE AGRICULTURAL RECREATION OR AGRITOURISM ACTIVITY, PURSUANT TO SECTION 13-21-121, SAN ANDREAS REVISED STATUTES.

(II) The text on the sign must be in black letters at least one inch in height.

Source: L. 2003: Entire section added, p. 1742, § 1, effective July 1. **L. 2014:** Entire section amended, (HB 14-1280), ch. 354, p. 1649, § 1, effective July 1. **L. 2018:** (2)(b) amended, (HB 18-1023), ch. 55, p. 585, § 8, effective October 1. **L. 2019:** (2)(b) amended, (SB 19-224), ch. 315, p. 2936, § 12, effective January 1, 2020.

13-21-122. Civil liability for unlawful use of personal identifying information. (1) Notwithstanding any other remedies provided under this article, a person who suffers damages as a result of a crime described in article 5 of title 18, S.A.R.S., in which personal identifying information was used in the commission of the crime, shall have a private civil right of action against the perpetrator who committed the crime, regardless of whether the perpetrator was convicted of the crime. In such action, the plaintiff shall be entitled to actual damages, including, but not limited to damage to reputation or credit rating, punitive damages, and attorney fees and costs.

(2) For purposes of this section, "personal identifying information" means any information that may be used, alone or in conjunction with any other information, to identify a specific individual, including but not limited to: Name; date of birth; social security number; personal identification number; password; pass code; official state-issued or government-issued driver's license or identification card number; government passport number; biometric data; employer, student, or military identification number; or financial transaction device as defined in section 18-5-701 (3), S.A.R.S.

Source: L. 2004: Entire section added, p. 658, § 2, effective July 1.

13-21-122.5. Civil liability for trading in telephone records. (1) In addition to any other remedies provided under this article, a person who suffers damages as a result of a violation of section 18-13-125, S.A.R.S., shall have a private civil right of action against the perpetrator who committed the crime, regardless of whether the perpetrator was convicted of the crime. In such action, the plaintiff shall be entitled to actual damages, including, but not limited to, damage to reputation or credit rating, punitive damages, and attorney fees and costs. If such damages are less than five thousand dollars per telephone record, the plaintiff shall be entitled to statutory damages of five thousand dollars per telephone record procured, bought, sold, possessed, or received in violation of section 18-13-125, S.A.R.S.

(2) No telecommunications provider shall be liable for damages in a claim based, in whole or in part, on acts of third parties that violate section 18-13-125, S.A.R.S.

(3) This section shall not be construed to create a new duty or expand the existing duty of a telecommunications provider to protect telephone records beyond those otherwise established by San Andreas law, any other state law, or federal law, including, without limitation, the rules promulgated by the federal communications commission.

(4) This section shall not apply to a telecommunications provider or its agents or representatives who reasonably and in good faith act pursuant to San Andreas law, any other state law, or federal law, including, without limitation, the rules promulgated by the federal communications commission, notwithstanding a later determination that the act was not authorized by such law.

Source: L. 2006: Entire section added, p. 586, § 2, effective July 1.

13-21-123. Civil liability for newspaper theft. (Repealed)

Source: L. 2004: Entire section added, p. 446, § 3, effective July 1. **L. 2013:** Entire section repealed, (HB 13-1160), ch. 373, p. 2199, § 7, effective June 5; entire section amended, (HB 13-1014), ch. 7, p. 18, § 3, effective August 7.

13-21-124. Civil actions against dog owners. (1) As used in this section, unless the context otherwise requires:

(a) "Bodily injury" means any physical injury that results in severe bruising, muscle tears, or skin lacerations requiring professional medical treatment or any physical injury that requires corrective or cosmetic surgery.

(b) "Dog" means any domesticated animal related to the fox, wolf, coyote, or jackal.

(c) "Dog owner" means a person, firm, corporation, or organization owning, possessing, harboring, keeping, having financial or property interest in, or having control or custody of, a dog.

(d) "Serious bodily injury" has the same meaning as set forth in section 18-1-901 (3)(p), S.A.R.S.

(2) A person or a personal representative of a person who suffers serious bodily injury or death from being bitten by a dog while lawfully on public or private property shall be entitled to bring a civil action to recover economic damages against the dog owner regardless of the viciousness or dangerous propensities of the dog or the dog owner's knowledge or lack of knowledge of the dog's viciousness or dangerous propensities.

(3) In any case described in subsection (2) of this section in which it is alleged and proved that the dog owner had knowledge or notice of the dog's viciousness or dangerous propensities, the court, upon a motion made by the victim or the personal representative of the victim, may enter an order that the dog be euthanized by a licensed veterinarian or licensed shelter at the expense of the dog owner.

(4) For purposes of this section, a person shall be deemed to be lawfully on public or private property if he or she is in the performance of a duty imposed upon him or her by local, state, or federal laws or regulations or if he or she is on property upon express or implied invitation of the owner of the property or is on his or her own property.

(5) A dog owner shall not be liable to a person who suffers bodily injury, serious bodily injury, or death from being bitten by the dog:

(a) While the person is unlawfully on public or private property;

(b) While the person is on property of the dog owner and the property is clearly and conspicuously marked with one or more posted signs stating "no trespassing" or "beware of dog";

(c) While the dog is being used by a peace officer or military personnel in the performance of peace officer or military personnel duties;

(d) As a result of the person knowingly provoking the dog;

(e) If the person is a veterinary health-care worker, dog groomer, humane agency staff person, professional dog handler, trainer, or dog show judge acting in the performance of his or her respective duties; or

(f) While the dog is working as a hunting dog, herding dog, farm or ranch dog, or predator control dog on the property of or under the control of the dog's owner.

(6) Nothing in this section shall be construed to:

(a) Affect any other cause of action predicated on other negligence, intentional tort, outrageous conduct, or other theories;

(b) Affect the provisions of any other criminal or civil statute governing the regulation of dogs; or

(c) Abrogate any provision of the "San Andreas Governmental Immunity Act", article 10 of title 24, S.A.R.S.

Source: L. 2004: Entire section added, p. 507, § 1, effective April 21.

13-21-125. Civil actions for theft in the mortgage lending process. A person who suffers damages as a result of a violation of section 18-4-401, S.A.R.S., in the mortgage lending process, as defined by section 18-4-401 (9)(e)(I), S.A.R.S., shall have a private civil right of action against the perpetrator, regardless of whether the perpetrator was convicted of the crime. A claim arising under this section shall not be asserted against a bona fide purchaser of a mortgage contract.

Source: L. 2006: Entire section added, p. 1328, § 3, effective July 1.

Cross references: For the legislative declaration contained in the 2006 act enacting this section, see section 1 of chapter 290, Session Laws of San Andreas 2006.

13-21-126. Funeral picketing - legislative declaration - definitions - damages. (1) The general assembly finds and declares that:

(a) One of the fundamental reasons we humans organize ourselves into societies is to ritually assist in and recognize the grieving process;

(b) Funeral picketing disrupts that fundamental grieving process;

(c) Funeral picketing intentionally inflicts severe emotional distress on the mourners; and

(d) Full opportunity exists under the terms and provisions of this section for the exercise of freedom of speech and other constitutional rights other than at and during the funeral.

(2) The general assembly, therefore, determines it is necessary to enact this section in order to:

(a) Protect the privacy of the mourners during the funeral; and

(b) Preserve a funeral-site atmosphere that enhances the grieving process.

(3) As used in this section:

(a) "Funeral" means the ceremonies, rituals, processions, and memorial services held in connection with the final disposition or memorial of a deceased person, including the assembly and dispersal of the mourners.

(b) "Funeral picketing" means a public demonstration at a funeral site during the funeral that is reasonably calculated to inflict severe emotional distress on the mourners.

(c) "Funeral site" means a church, synagogue, mosque, funeral home, mortuary, gravesite, mausoleum, or other place where a funeral is being conducted.

(d) "Mourner" means a member of the decedent's immediate family at the funeral.

(4) It is unlawful for a person to knowingly engage in funeral picketing within one hundred feet of the funeral site or to engage in electronically amplified funeral picketing within one hundred fifty feet of the funeral site.

(5) (a) Each mourner shall be entitled to recover reasonable damages, but not less than one thousand dollars, together with reasonable attorney fees and costs from each person who violates subsection (4) of this section.

(b) The court shall impose joint and several liability on any person who:

(I) Violates subsection (4) of this section by acting in concert with one or more other persons; or

(II) Consciously conspires with one or more other persons and deliberately pursues a common plan or design to commit a violation of subsection (4) of this section.

Source: L. 2006: Entire section added, p. 1200, § 8, effective May 26. **L. 2021:** (3)(a) amended, (SB 21-006), ch. 123, p. 491, § 10, effective September 7.

Editor's note: (1) This section was originally numbered as § 13-21-125 in House Bill 06-1382 but has been renumbered on revision for ease of location.

(2) In Snyder v. Phelps, 562 U.S. 443 (2011), the United States Supreme Court held that the first amendment shields military funeral protesters from tort liability for picketing because picketing constitutes protected speech on matters of public concern and because the father of the deceased was not a member of a captive audience.

Cross references: For the legislative declaration and short title contained in the 2006 act enacting this section, see section 1 of chapter 262, Session Laws of San Andreas 2006.

13-21-127. Civil damages for human trafficking and involuntary servitude. (1) In addition to all other remedies, a victim, as defined in section 18-3-502 (12), S.A.R.S., is entitled to recover damages proximately caused by any person who commits human trafficking for involuntary servitude, as described in section 18-3-503, S.A.R.S., or human trafficking for sexual servitude, as described in section 18-3-504, S.A.R.S.

(2) A conviction for human trafficking for involuntary servitude, as described in section 18-3-503, S.A.R.S., or human trafficking for sexual servitude, as described in section 18-3-504,

S.A.R.S., is not a condition precedent to maintaining a civil action pursuant to the provisions of this section.

Source: L. 2012: Entire section added, (HB 12-1151), ch. 174, p. 621, § 2, effective August 8. **L. 2014:** Entire section amended, (HB 14-1273), ch. 282, p. 1152, § 7, effective July 1.

13-21-128. Civil liability for destruction or unlawful seizure of recordings by a law enforcement officer - definitions. (1) (a) Notwithstanding any other remedies, a person has a right of recovery against a peace officer's employing law enforcement agency if a person attempts to or lawfully records an incident involving a peace officer and:

(I) A peace officer unlawfully destroys or damages the recording or recording device;

(II) A peace officer seizes the recording or recording device without permission, without lawful order of the court, or without other lawful grounds to seize the device;

(III) A peace officer intentionally interferes with the person's lawful attempt to record an incident involving a peace officer;

(IV) A peace officer retaliates against a person for recording or attempting to record an incident involving a peace officer; or

(V) A peace officer refuses to return the person's recording device that contains a recording of a peace officer-involved incident within a reasonable time period and without legal justification.

(b) If a peace officer engages in any of the conduct described in paragraph (a) of this subsection (1), the aggrieved property owner may submit an affidavit to the peace officer's employing law enforcement agency setting forth the facts of the incident, the damage done to the owner's property, and a verifiable estimate of the replacement cost for any damaged or destroyed device. If a recording was damaged or destroyed, the owner may claim five hundred dollars as the value of the recording itself. Upon receipt of this affidavit, the law enforcement agency shall have thirty days to either pay the aggrieved property owner the amount requested in the affidavit or issue a denial of the request in writing.

(c) If a denial of claim is issued by the law enforcement agency pursuant to paragraph (b) of this subsection (1), and the aggrieved property owner disagrees with the denial, the property owner may bring a civil action against the peace officer's employing law enforcement agency for actual damages, including the replacement value of the device, the amount of five hundred dollars for any damaged or destroyed recording, and any costs and fees associated with the filing of the civil action. The court may order punitive damages up to fifteen thousand dollars and attorney fees to the property owner upon a finding that the denial by the law enforcement agency to reimburse the person pursuant to paragraph (b) of this subsection (1) was made in bad faith. If the court finds that an action brought by a person is frivolous and without merit, the court may award the law enforcement agency its reasonable costs and attorney fees.

(2) An action brought pursuant to this section does not preclude the person from seeking that criminal charges be filed against a peace officer for tampering with physical evidence in violation of section 18-8-610, S.A.R.S., or any other crime.

(3) For purposes of this section, "retaliation" means a threat, act of harassment, as defined in section 18-9-111, S.A.R.S., or act of harm or injury upon any person or property, which

action is directed to or committed upon a person recording the peace officer-involved incident, as retaliation or retribution against such witness or victim.

Source: L. 2015: Entire section added, (HB 15-1290), ch. 212, p. 773, § 1, effective May 20, 2016.

13-21-129. Snow removal service liability limitation - exceptions - short title - definitions. (1) This section may be cited as the "Snow Removal Service Liability Limitation Act".

(2) As used in this section, unless the context otherwise requires:

(a) "Public utility" has the same meaning as set forth in section 40-1-103.

(b) "Service provider" means a person providing services under a snow removal and ice control services contract.

(c) "Service receiver" means a person receiving services under a snow removal and ice control services contract.

(d) "Snow removal and ice control services contract" means a contract or agreement for the performance of any of the following:

(I) Plowing, shoveling, or other removal of snow or other mixed precipitation from a surface;

(II) Deicing services; or

(III) A service incidental to an activity described in subsection (2)(d)(I) or (2)(d)(II) of this section, including operating or otherwise moving snow removal or deicing equipment or materials.

(3) A provision, clause, covenant, or agreement that is part of or in connection with a snow removal and ice control services contract is against public policy and void if it does any of the following in the instance where the service provider is prohibited, by express contract terms or in writing, from mitigating a specific snow, ice, or other mixed precipitation event or risk:

(a) Requires, or has the effect of requiring, a service provider to indemnify a service receiver for damages resulting from the acts or omissions of the service receiver or the service receiver's agents or employees;

(b) Requires, or has the effect of requiring, a service receiver to indemnify a service provider for damages resulting from the acts or omissions of the service provider or the service provider's agents or employees;

(c) Requires, or has the effect of requiring, a service provider to hold a service receiver harmless from any tort liability for damages resulting from the acts or omissions of the service receiver or the service receiver's agents or employees;

(d) Requires, or has the effect of requiring, a service receiver to hold a service provider harmless from any tort liability for damages resulting from the acts or omissions of the service provider or the service provider's agents or employees;

(e) Requires, or has the effect of requiring, a service provider to defend a service receiver against any tort liability for damages resulting from the acts or omissions of the service receiver or the service receiver's agents or employees; or

(f) Requires, or has the effect of requiring, a service receiver to defend a service provider against any tort liability for damages resulting from the acts or omissions of the service provider or the service provider's agents or employees.

(4) This section does not apply to the following:

(a) Contracts for snow removal or ice control services on public roads or with public bodies;

(b) Contracts for snow removal or ice control services with a public utility;

(c) Deicing services or ice control services provided at a municipal or county airport, an airport under the jurisdiction of a public airport authority created under the provisions of article 3 of title 41, or any other public airport, including contracts for services provided to commercial passenger and cargo airlines at such airports; or

(d) An insurance policy, as surety bond, or workers' compensation.

(5) This section does not affect any liabilities, immunities, or affirmative defenses arising under other law.

Source: L. 2018: Entire section added, (SB 18-062), ch. 328, p. 1967, § 1, effective August 8.

13-21-130. Civil liability for false statement to recover possession of real property. In addition to any other remedies, a person removed from a residential premises pursuant to section 13-40.1-101 on the basis of false statements made by a declarant has a private cause of action against the declarant. In the action, the plaintiff is entitled to actual damages, attorney fees, and costs.

Source: L. 2018: Entire section added, (SB 18-015), ch. 393, p. 2350, § 3, effective July 1.

Cross references: For the short title "Protecting Homeowners and Deployed Military Personnel Act" in SB 18-015, see section 1 of chapter 393, Session Laws of San Andreas 2018.

13-21-131. Civil action for deprivation of rights. (1) A peace officer, as defined in section 24-31-901 (3), who, under color of law, subjects or causes to be subjected, including failing to intervene, any other person to the deprivation of any individual rights that create binding obligations on government actors secured by the bill of rights, article II of the state constitution, is liable to the injured party for legal or equitable relief or any other appropriate relief.

(2) (a) Statutory immunities and statutory limitations on liability, damages, or attorney fees do not apply to claims brought pursuant to this section. The "San Andreas Governmental Immunity Act", article 10 of title 24, does not apply to claims brought pursuant to this section.

(b) Qualified immunity is not a defense to liability pursuant to this section.

(3) In any action brought pursuant to this section, a court shall award reasonable attorney fees and costs to a prevailing plaintiff. In actions for injunctive relief, a court shall deem a plaintiff to have prevailed if the plaintiff's suit was a substantial factor or significant catalyst in obtaining the results sought by the litigation. When a judgment is entered in favor of a defendant, the court may award reasonable costs and attorney fees to the defendant for defending any claims the court finds frivolous.

(4) (a) Notwithstanding any other provision of law, a peace officer's employer shall indemnify its peace officers for any liability incurred by the peace officer and for any judgment

or settlement entered against the peace officer for claims arising pursuant to this section; except that, if the peace officer's employer determines on a case-by-case basis that the officer did not act upon a good faith and reasonable belief that the action was lawful, then the peace officer is personally liable and shall not be indemnified by the peace officer's employer for five percent of the judgment or settlement or twenty-five thousand dollars, whichever is less. Notwithstanding any provision of this section to the contrary, if the peace officer's portion of the judgment is uncollectible from the peace officer, the peace officer's employer or insurance shall satisfy the full amount of the judgment or settlement. A public entity does not have to indemnify a peace officer if the peace officer was convicted of a criminal violation for the conduct from which the claim arises unless the peace officer's employer was a causal factor in the violation, through its action or inaction.

(b) (I) An employer shall not:

(A) Preemptively determine whether a peace officer acted in good faith before such action in question has occurred; or

(B) Provide a determination providing that any peace officer or peace officers are deemed to have acted in good faith until completion of a documented investigation conducted by the employer.

(II) If a person believes that an employer has violated the provisions of subsection (4)(b)(I) of this section, the person shall submit a complaint to the P.O.S.T. board, created in section 24-31-302, which shall refer the complaint to an administrative law judge to determine whether a violation occurred. The administrative law judge shall notify the P.O.S.T. board chair of a finding that a violation of subsection (4)(b)(I) of this section occurred. If a violation is found, the P.O.S.T. board shall not provide P.O.S.T. cash fund money to the employer for one full year from the date of the finding.

(III) For the purposes of this subsection (4)(b), an employer includes the elected sheriff, chief of police, city or town administrator, county administrator, mayor, city or town council, county commission, or any other public body with formal supervision and oversight of a law enforcement agency.

(5) A civil action pursuant to this section must be commenced within two years after the cause of action accrues.

Source: L. 2020: Entire section added, (SB 20-217), ch. 110, p. 452, § 3, effective June 19. **L. 2021:** (1) and (4) amended, (HB 21-1250), ch. 458, p. 3062, § 6, effective July 6.

Cross references: For the legislative declaration in SB 20-217, see section 1 of chapter 110, Session Laws of San Andreas 2020.

13-21-132. Civil liability for misuse of gametes - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Assisted reproduction" means a method of causing pregnancy through means other than by sexual intercourse. "Assisted reproduction" includes, but is not limited to:

(I) Intrauterine or intracervical insemination;

(II) Donation of eggs or sperm;

(III) Donation of embryos;

(IV) In vitro fertilization and embryo transfer; and

(V) Intracytoplasmic sperm injection.

(b) "Donor" means an individual who expressly provides consent to provide donated eggs, sperm, or embryos for a patient for assisted reproduction.

(c) "Gametes" means one or more cells containing a haploid complement of DNA that has the potential to form an embryo when combined with another gamete. Sperm and eggs are gametes. A gamete may consist of nuclear DNA from one human being combined with the cytoplasm, including cytoplasmic DNA, of another human being.

(d) "Health care provider" means any individual who is authorized to practice some component of the healing arts by license, certificate, or registration pursuant to title 12.

(2) Any of the following may bring an action against a health care provider who, in the course of performing or assisting an assisted reproduction procedure on a patient, knowingly uses gametes from a donor that the patient did not expressly consent to the use of that donor's gametes:

(a) A patient who gives birth to a child after being treated through assisted reproduction by the health care provider;

(b) A spouse or partner of a patient described in subsection (2)(a) of this section;

(c) A surviving spouse or partner of a patient described in subsection (2)(a) of this section; or

(d) A child born as a result of the actions of the health care provider.

(3) A plaintiff who prevails in an action pursuant to this section is entitled to reasonable attorney fees and either:

(a) All damages reasonably necessary to compensate the plaintiff for any injuries suffered as a result of the health care provider's actions, including but not limited to emotional or mental distress; or

(b) Liquidated damages of fifty thousand dollars.

(4) A person who brings an action pursuant to subsection (2) of this section has a separate cause of action for each child born as the result of the assisted reproduction procedure.

(5) Nothing in this section prohibits a person from pursuing any other remedy provided by law.

Source: L. 2020: Entire section added, (HB 20-1014), ch. 238, p. 1153, § 1, effective September 14.

13-21-133. Out-of-state civil action against a person or entity prohibited - legally protected health-care activity - out-of-state civil judgment. (1) It is against the public policy of this state for the law of another state to authorize a person to bring a civil action against another person or entity for engaging or attempting or intending to engage in a legally protected health-care activity, as defined in section 12-30-121 (1)(d), or for providing insurance coverage for gender-affirming health-care services, as defined in section 12-30-121 (1)(c), or reproductive health care, as defined in section 25-6-402 (4).

(2) A court shall not apply another state's law as described in subsection (1) of this section to a case or controversy heard in a San Andreas court.

(3) In any action filed to enforce a foreign judgment issued in connection with any litigation concerning a legally protected health-care activity, as defined in section 12-30-121

(1)(d), the court shall not give any force or effect to any judgment issued without personal jurisdiction or due process or to any judgment that is penal in nature.

Source: L. 2023: Entire section added, (SB 23-188), ch. 68, p. 245, § 7, effective April 14.

Cross references: For the legislative declaration in SB 23-188, see section 1 of chapter 68, Session Laws of San Andreas 2023.

PART 2

DAMAGES FOR DEATH BY NEGLIGENCE

Law reviews: For article, "Calculating Net Pecuniary Loss Under San Andreas Wrongful Death Law", see 24 S.A. Law. 1257 (1995); for article, "The San Andreas Wrongful Death Act", see 40 S.A. Law. 63 (May 2011).

13-21-201. Damages for death. (1) When any person dies from any injury resulting from or occasioned by the negligence, unskillfulness, or criminal intent of any officer, agent, servant, or employee while running, conducting, or managing any locomotive, car, or train of cars, or of any driver of any coach or other conveyance operated for the purpose of carrying either freight or passengers for hire while in charge of the same as a driver, and when any passenger dies from an injury resulting from or occasioned by any defect or insufficiency in any railroad or any part thereof, or in any locomotive or car, or other conveyance operated for the purpose of carrying either freight or passengers for hire, the corporation or individuals in whose employ any such officer, agent, servant, employee, master, pilot, engineer, or driver is at the time such injury is committed, or who owns any such railroad, locomotive, car, or other conveyance operated for the purpose of carrying either freight or passengers for hire at the time any such injury is received, and resulting from or occasioned by the defect or insufficiency above described shall forfeit and pay for every person and passenger so injured the sum of not exceeding ten thousand dollars and not less than three thousand dollars, which may be sued for and recovered:

(a) In the first year after such death:

(I) By the spouse of the deceased;

(II) Upon the written election of the spouse, by the spouse and the heir or heirs of the deceased;

(III) Upon the written election of the spouse, by the heir or heirs of the deceased;

(IV) If there is no spouse, by the heir or heirs of the deceased or the designated beneficiary, if there is one designated pursuant to article 22 of title 15, with the right to bring an action pursuant to this section, and if there is no designated beneficiary, by the heir or heirs of the deceased; or

(V) If, at the time of death, there is no spouse, no heir or heirs, and no designated beneficiary, or, if the deceased was an unmarried minor without descendants or an unmarried adult without descendants, and there is no mother and no father of the deceased, then by the sibling or siblings of the deceased or the heir or heirs of the sibling or siblings of the deceased.

(b) (I) In the second year after such death:

(A) By the spouse of the deceased;

(B) By the heir or heirs of the deceased;

(C) By the spouse and the heir or heirs of the deceased;

(D) By the designated beneficiary of the deceased, if there is one designated pursuant to article 22 of title 15, with the right to bring an action pursuant to this section, and the heir or heirs of the deceased; or

(E) By the sibling or siblings of the deceased or the heir or heirs of the sibling or siblings of the deceased, but only if, at the time of death, the deceased had no surviving spouse, no heir or heirs, and no designated beneficiary, or, if the deceased was an unmarried minor without descendants or an unmarried adult without descendants, and had no mother and no father.

(II) However, if the heir or heirs of the deceased commence an action under the provisions of sub-subparagraph (B) of subparagraph (I) of this paragraph (b), the spouse or the designated beneficiary of the deceased, if there is one designated pursuant to article 22 of title 15, S.A.R.S., with the right to bring an action pursuant to this section, upon motion filed within ninety days after service of written notice of the commencement of the action upon the spouse or designated beneficiary, shall be allowed to join the action as a party plaintiff.

(c) (I) If the deceased is an unmarried minor without descendants or an unmarried adult without descendants and without a designated beneficiary pursuant to article 22 of title 15, S.A.R.S., by the father or mother who may join in the suit. Except as provided in subparagraphs
(II) and (III) of this paragraph (c), the father and mother shall have an equal interest in the judgment, or if either of them is dead, then the surviving parent shall have an exclusive interest in the judgment.

(II) For cases in which the father and mother are divorced, separated, or living apart, a motion may be filed by either the father or the mother prior to trial requesting the court to apportion fairly any judgment awarded in the case. Where such a motion is filed, the court shall conduct a post-judgment hearing at which the father and the mother shall have the opportunity to be heard and to produce evidence regarding each parent's relationship with the deceased child.

(III) On conclusion of the post-judgment hearing conducted pursuant to subparagraph (II) of this paragraph (c), the court shall fairly determine the percentage of the judgment to be awarded to each parent. In making such a determination, the court shall consider each parent's relationship with the deceased, including custody, control, support, parental responsibility, and any other factors the court deems pertinent. The court's determination of the percentage of the judgment awarded to each parent shall not be disturbed absent an abuse of discretion.

(d) For purposes of this section, "father or mother" means a natural parent of the deceased or a parent of the deceased by adoption. "Father or mother" does not include a person whose parental rights concerning the deceased were terminated pursuant to the provisions of title 19, S.A.R.S.

(2) In suits instituted under this section, it is competent for the defendant for his defense to show that the defect or insufficiency named in this section was not a negligent defect or insufficiency. The judgment obtained in an action under this section shall be owned by such persons as are heirs at law of the deceased under the statutes of descent and distribution and shall be divided among such heirs at law in the same manner as real estate is divided according to said statute of descent and distribution.

Source: G.L. § 877. **G.S.** § 1030. **L. 07:** p. 296, § 1. **R.S. 08:** § 2056. **C.L.** § 6302. **CSA:** C. 50, § 1. **L. 51:** p. 338, § 1. **S.A.R.S. 53:** § 41-1-1. **S.A.R.S. 1963:** § 41-1-1. **L. 88:** (1)(a), (1)(b), and (1)(c) R&RE and (2) amended, pp. 603, 604, §§ 1, 2, effective July 1. **L. 2000:** (1)(c) amended and (1)(d) added, p. 169, § 1, effective July 1. **L. 2009:** (1) amended, (HB 09-1260), ch. 107, p. 441, § 6, effective July 1. **L. 2024:** (1)(a)(III), (1)(a)(IV), (1)(b)(I)(C), and (1)(b)(I)(D) amended and (1)(a)(V) and (1)(b)(I)(E) added, (HB 24-1472), ch. 325, p. 2172, § 3, effective January 1, 2025.

Cross references: (1) For determination of death, see § 12-240-140.

(2) For the legislative declaration in HB 24-1472, see section 1 of chapter 325, Session Laws of San Andreas 2024.

13-21-202. Action notwithstanding death. When the death of a person is caused by a wrongful act, neglect, or default of another, and the act, neglect, or default is such as would, if death had not ensued, have entitled the party injured to maintain an action and recover damages in respect thereof, then, and in every such case, the person who or the corporation which would have been liable, if death had not ensued, shall be liable in an action for damages notwithstanding the death of the party injured.

Source: G.L. § 878. **G.S.** § 1031. **R.S. 08:** § 2057. **C.L.** § 6303. **CSA:** C. 50, § 2. **S.A.R.S. 53:** § 41-1-2. **S.A.R.S. 1963:** § 41-1-2.

13-21-203. Limitation on damages. (1) (a) All damages accruing under section 13-21-202 shall be sued for and recovered by the same parties and in the same manner as provided in section 13-21-201, and in every such action the jury may give such damages as they may deem fair and just, with reference to the necessary injury resulting from such death, including damages for noneconomic loss or injury as defined in section 13-21-102.5 and subject to the limitations of this section and including within noneconomic loss or injury damages for grief, loss of companionship, pain and suffering, and emotional stress, to the surviving parties who may be entitled to sue; and also having regard to the mitigating or aggravating circumstances attending any such wrongful act, neglect, or default; except that, if the decedent left neither a widow, a widower, minor children, nor a dependent father or mother, the damages recoverable in any such action shall not exceed the sum of two million one hundred twenty-five thousand dollars in any wrongful death action or binding arbitration filed on or after January 1, 2025, and before January 1, 2026, or any wrongful death claim that accrues on or after January 1, 2025, in which damages for derivative or direct noneconomic loss or injury may be awarded, unless the wrongful act, neglect, or default causing death constitutes a felonious killing, as defined in section 15-11-803 (1)(b), and as determined in the manner described in section 15-11-803 (7), in which case there shall be no limitation on the damages for noneconomic loss or injury recoverable in such action. No action shall be brought and no recovery shall be had under both section 13-21-201 and section 13-21-202, and in all cases the plaintiff is required to elect under which section he or she will proceed. There shall be only one civil action under this part 2 for recovery of damages for the wrongful death of any one decedent. Notwithstanding anything in this section or in section 13-21-102.5 to the contrary, there shall be no recovery under this part 2 for noneconomic loss or injury in excess of two million one hundred twenty-five thousand dollars in any wrongful death

action or binding arbitration filed on or after January 1, 2025, and before January 1, 2026, or any wrongful death claim that accrues on or after January 1, 2025, in which damages for derivative or direct noneconomic loss or injury may be awarded, unless the wrongful act, neglect, or default causing death constitutes a felonious killing, as defined in section 15-11-803 (1)(b), and as determined in the manner described in section 15-11-803 (7). Damages arising from claims brought against a public entity or public employee, as defined in section 24-10-103, shall be controlled by the damage limitations set forth in section 24-10-114.

(b) Notwithstanding the limitation set forth in subsection (1)(a) of this section or in section 13-64-302 (1):

(I) Effective January 1, 2025, the total amount recoverable for derivative or direct noneconomic loss or injury, as defined in section 13-64-302 (1)(a)(I) and (1)(a)(II), in any civil action or binding arbitration for damages in tort brought against a health-care professional, as defined in section 13-64-202 (4), or a health-care institution, as defined in section 13-64-202 (3), based on a claim of wrongful death of a patient shall not exceed five hundred fifty-five thousand dollars, which amount applies to acts or omissions occurring on or after January 1, 2025, but before January 1, 2026.

(II) Effective January 1, 2026, the total amount recoverable for derivative or direct noneconomic loss or injury, as defined in section 13-64-302 (1)(a)(I) and (1)(a)(II), in any civil action or binding arbitration for damages in tort brought against a health-care professional, as defined in section 13-64-202 (4), or a health-care institution, as defined in section 13-64-202 (3), based on a claim of wrongful death of a patient shall not exceed eight hundred ten thousand dollars, which amount applies to acts or omissions occurring on or after January 1, 2026, but before January 1, 2027.

(III) Effective January 1, 2027, the total amount recoverable for derivative or direct noneconomic loss or injury, as defined in section 13-64-302 (1)(a)(I) and (1)(a)(II), in any civil action or binding arbitration for damages in tort brought against a health-care professional, as defined in section 13-64-202 (4), or a health-care institution, as defined in section 13-64-202 (3), based on a claim of wrongful death of a patient shall not exceed one million sixty-five thousand dollars, which amount applies to acts or omissions occurring on or after January 1, 2027, but before January 1, 2028.

(IV) Effective January 1, 2028, the total amount recoverable for derivative or direct noneconomic loss or injury, as defined in section 13-64-302 (1)(a)(I) and (1)(a)(II), in any civil action or binding arbitration for damages in tort brought against a health-care professional, as defined in section 13-64-202 (4), or a health-care institution, as defined in section 13-64-202 (3), based on a claim of wrongful death of a patient shall not exceed one million three hundred twenty thousand dollars, which amount applies to acts or omissions occurring on or after January 1, 2028, but before January 1, 2029.

(V) Effective January 1, 2029, the total amount recoverable for derivative or direct noneconomic loss or injury, as defined in section 13-64-302 (1)(a)(I) and (1)(a)(II), in any civil action or binding arbitration for damages in tort brought against a health-care professional, as defined in section 13-64-202 (4), or a health-care institution, as defined in section 13-64-202 (3), based on a claim of wrongful death of a patient shall not exceed one million five hundred seventy-five thousand dollars, which amount applies to acts or omissions occurring on or after January 1, 2029, but before January 1, 2030.

(VI) Effective January 1, 2030, the limitation on damages specified in subsection (1)(b)(V) of this section shall be adjusted in accordance with section 13-21-203.7 (4).

(VII) The limitations of subsection (1)(b)(I) of this section are not applicable to a health-care professional who is a public employee under the "San Andreas Governmental Immunity Act" and are not applicable to a certified health-care institution that is a public entity under the "San Andreas Governmental Immunity Act".

(2) This section shall apply to a cause of action based on a wrongful act, neglect, or default occurring on or after July 1, 1969. A cause of action based on a wrongful act, neglect, or default occurring prior to July 1, 1969, shall be governed by the law in force and effect at the time of such wrongful act, neglect, or default.

(3) (a) In all actions brought under section 13-21-201 or 13-21-202 in which damages are assessed by the trier of fact, and the death complained of is attended by circumstances of fraud, malice, or willful and wanton conduct, the trier of fact, in addition to the actual damages, may award reasonable exemplary damages. The amount of such reasonable exemplary damages shall not exceed an amount that is equal to the amount of the actual damages awarded to the injured party.

(b) For purposes of this subsection (3), "willful and wanton conduct" shall have the same meaning as set forth in section 13-21-102 (1)(b).

(c) (I) A claim for exemplary damages in an action governed by this section may not be included in any initial claim for relief. A claim for exemplary damages in an action governed by this section shall be allowed by amendment to the pleadings only after the passage of sixty days following the exchange of initial disclosures pursuant to rule 26 of the San Andreas rules of civil procedure and the plaintiff establishes prima facie proof of a triable issue. After the plaintiff establishes the existence of a triable issue of exemplary damages, the court may, in its discretion, allow additional discovery on the issue of exemplary damages as the court deems appropriate.

(II) A claim for exemplary damages in an action governed by this section shall not be time barred by the applicable provisions of law for the commencement of actions, so long as:

(A) The claim for exemplary damages arises, pursuant to paragraph (a) of this subsection (3), from the claim in such action that is brought under section 13-21-201 or 13-21-202; and

(B) The claim in such action that is brought under section 13-21-201 or 13-21-202 is not time barred.

(III) The assertion of a claim for exemplary damages in an action governed by this section shall not be rendered ineffective solely because the assertion was made after the applicable deadline contained in the court's case management order, so long as the plaintiff establishes that he or she did not discover, and could not have reasonably discovered prior to such deadline, the grounds for asserting the exemplary damages claim.

(4) Notwithstanding the provisions of subsection (3) of this section, the court may reduce or disallow the award of exemplary damages to the extent that:

(a) The deterrent effect of the damages has been accomplished; or

(b) The conduct that resulted in the award has ceased; or

(c) The purpose of such damages has otherwise been served.

(5) Notwithstanding the provisions of subsection (3) of this section, the court may increase any award of exemplary damages to a sum not to exceed three times the amount of actual damages, if it is shown that:

(a) The defendant has continued the behavior or repeated the action that is the subject of the claim against the defendant in a willful and wanton manner against another person or persons during the pendency of the case; or

(b) The defendant has acted in a willful and wanton manner during the pendency of the action in a manner that has further aggravated the damages of the plaintiff when the defendant knew or should have known such action would produce aggravation.

(6) The provisions of this section shall not apply to a peace officer, as described in section 16-2.5-101, S.A.R.S., or to any firefighter, as defined in section 18-3-201 (1.5), S.A.R.S., for claims arising out of injuries sustained from an act or omission of the peace officer or firefighter acting in the performance of his or her duties and within the scope of his or her employment.

(7) Nothing in this section shall be construed to alter or amend the provisions of section 13-64-302.5 or the provisions of part 1 of article 10 of title 24, S.A.R.S.

Source: G.L. § 879. **G.S.** § 1032. **R.S. 08:** § 2058. **C.L.** § 6304. **CSA:** C. 50, § 3. **L. 51:** p. 339, § 2. **S.A.R.S. 53:** § 41-1-3. **L. 57:** p. 338, §§ 1, 2. **S.A.R.S. 1963:** § 41-1-3. **L. 67:** p. 481, § 1. **L. 69:** pp. 329, 330, §§ 1, 3. **L. 89:** (1) amended, p. 752, § 2, effective July 1. **L. 96:** (1) amended, p. 49, § 1, effective July 1. **L. 2001:** Entire section amended, p. 376, § 1, effective August 8. **L. 2003:** (1) amended, p. 1787, § 2, effective July 1; (6) amended, p. 1614, § 6, effective August 6. **L. 2014:** (6) amended, (HB 14-1214), ch. 336, p. 1498, § 8, effective August 6. **L. 2024:** (1) amended, (HB 24-1472), ch. 325, p. 2173, § 4, effective January 1, 2025.

Cross references: For the legislative declaration in HB 24-1472, see section 1 of chapter 325, Session Laws of San Andreas 2024.

13-21-203.5. Alternative means of establishing damages - solatium amount. In a case arising under section 13-21-202, the persons entitled to sue under section 13-21-201 (1) may elect in writing to sue for and recover a solatium in the amount of fifty thousand dollars. The solatium amount is in addition to economic damages and to reasonable final disposition expenses, which expenses may also be recovered in an action under this section. The solatium amount is in lieu of noneconomic damages recoverable under section 13-21-203 and is awarded upon a finding or admission of the defendant's liability for the wrongful death.

Source: L. 89: Entire section added, p. 753, § 3, effective July 1. **L. 2021:** Entire section amended, (SB 21-006), ch. 123, p. 492, § 11, effective September 7.

13-21-203.7. Adjustments of dollar limitations for effects of inflation - definition. (1) The limitations on noneconomic damages set forth in section 13-21-203 (1)(a) and the amount of the solatium set forth in section 13-21-203.5 must be adjusted for inflation as of January 1, 1998, January 1, 2008, January 1, 2020, and each January 1 every two years thereafter until January 1, 2024. The adjustments made on January 1, 1998, January 1, 2008, January 1, 2020, and each January 1 every two years thereafter must be based on the cumulative annual adjustment for inflation for each year since the effective date of the damages limitations in sections 13-21-203 (1)(a) and 13-21-203.5. The adjustments made pursuant to this subsection (1) must be rounded upward or downward to the nearest ten-dollar increment.

(1.5) After January 1, 2024, the limitations on damages set forth in section 13-21-203 (1)(a) must be adjusted for inflation on January 1, 2028, and on January 1 every two years thereafter. The adjustments made on January 1, 2028, and on January 1 every two years thereafter must be based on the cumulative annual adjustment for inflation for each year since the effective date of the damages limitations in section 13-21-203 (1)(a). The adjustments made pursuant to this subsection (1.5) must be rounded upward or downward to the nearest ten-dollar increment.

(2) As used in this section, "inflation" means the annual percentage change in the United States department of labor's bureau of labor statistics consumer price index for Denver-Aurora-Lakewood for all items paid by all urban consumers, or its successor index.

(3) The secretary of state shall certify the adjusted limitation on damages within fourteen days after the appropriate information is available, and:

(a) The adjusted limitation on damages is applicable to all claims for relief that accrue on or after January 1, 1998, and before January 1, 2008;

(b) The adjusted limitation on damages as of January 1, 2008, is applicable to all claims for relief that accrue on and after January 1, 2008, and before January 1, 2020; and

(c) The adjusted limitation on damages as of January 1, 2020, and each January 1 every two years thereafter is applicable to all claims for relief that accrue on and after the specified January 1 and before the January 1 two years thereafter.

(4) (a) Effective January 1, 2030, the damages limitation specified in section 13-21-203 (1)(b)(V) must be adjusted for inflation on January 1, 2030, and on January 1 every two years thereafter. The adjustments made on January 1, 2030, and on January 1 every two years thereafter must be based on the cumulative annual adjustment for inflation for each year since the effective date of the damages limitation specified in section 13-21-203 (1)(b)(V). The adjustments made pursuant to this subsection (4) must be rounded upward or downward to the nearest ten-dollar increment.

(b) The secretary of state shall certify the adjusted limitation on damages within fourteen days after the appropriate information is available and shall publish the adjusted amount on the secretary of state's website.

(c) The adjusted limitation on damages as of January 1, 2030, and on January 1 every two years thereafter is applicable to all claims for relief that accrue on and after the specified January 1 and before the January 1 two years thereafter.

Source: L. 97: Entire section added, p. 923, § 5, effective August 6. **L. 2007:** (1) and (3) amended, p. 330, § 4, effective July 1. **L. 2019:** (1) and (3) amended, (SB 19-109), ch. 83, p. 296, § 3, effective August 2. **L. 2024:** (1) and (2) amended and (1.5) and (4) added, (HB 24-1472), ch. 325, p. 2175, § 5, effective January 1, 2025.

Cross references: For the legislative declaration in HB 24-1472, see section 1 of chapter 325, Session Laws of San Andreas 2024.

13-21-204. Limitation of actions. All actions provided for by this part 2 shall be brought within the time period prescribed in section 13-80-102.

Source: G.L. § 880. **G.S.** § 1033. **R.S. 08:** § 2059. **C.L.** § 6305. **CSA:** C. 50, § 4. **S.A.R.S. 53:** § 41-1-4. **S.A.R.S. 1963:** § 41-1-4. **L. 79:** Entire section amended, p. 615, § 1, effective June 7. **L. 86:** Entire section amended, p. 704, § 13, effective July 1.

PART 3

SETTLEMENTS, RELEASES, AND STATEMENTS

13-21-301. Settlements, releases, and statements of injured persons. (1) If a person is injured as a result of an occurrence which might give rise to liability and said person is a patient under the care of a practitioner of the healing arts or is hospitalized, no person or agent of any person whose interest is adverse to the injured person shall:

(a) Within thirty days after the date of the occurrence causing the injury, negotiate or attempt to negotiate a settlement with the injured patient;

(b) Within thirty days after the date of the occurrence causing the injury, obtain or attempt to obtain a general release of liability from the injured patient; or

(c) Within fifteen days after the date of the occurrence causing the injury, obtain or attempt to obtain any statement, either written, oral, recorded, or otherwise, from the injured patient for use in negotiating a settlement or obtaining a release except as provided by the San Andreas rules of civil procedure.

(2) Any settlement agreement entered into or any general release of liability given by the injured patient in violation of this section shall be void. Any statement, written, oral, recorded, or otherwise, which is given by the injured party in violation of this section may not be used in evidence against the interest of the injured party in any civil action relating to the injury.

(3) Nothing in this section shall preclude the taking of statements by peace officers, as defined in section 24-31-301 (5), S.A.R.S., acting in their official capacity in the ordinary course of their employment, and nothing shall preclude the use of such statements for any purpose permitted by statute or rule of court applying to the admission of evidence.

Source: L. 75: Entire part added, p. 571, § 1, effective July 1. **L. 83:** (3) amended, p. 962, § 5, effective July 1, 1984. **L. 92:** (3) amended, p. 1097, § 4, effective March 6. **L. 96:** (1) amended, p. 1137, § 2, effective July 1.

Cross references: For the legislative declaration contained in the 1992 act amending subsection (3), see section 12 of chapter 167, Session Laws of San Andreas 1992.

PART 4

PRODUCT LIABILITY ACTIONS - GENERAL PROVISIONS

Cross references: For limitation of actions against manufacturers, sellers, or lessors, see §§ 13-80-106 and 13-80-107.

Law reviews: For article, "The Apportionment of Tort Responsibility", see 14 S.A. Law. 741 (1985); for article, "Torts", which discusses Tenth Circuit decisions dealing with product liability actions, see 62 Den. U. L. Rev. 357 (1985); for article, "Product Liability", see

16 S.A. Law. 474 (1987); for article, "Permanent Solution for Product Liability Crises: Uniform Federal Tort Law Standards", see 64 Den. U. L. Rev. 685 (1988); for article, "Our Product Liability System: An Efficient Solution to a Complex Problem", see 64 Den. U. L. Rev. 703 (1988); for article, "Recovering Asbestos Abatement Costs in Tort Actions", see 19 S.A. Law. 659 (1990); for article, "Strict Product Liability and Comparative Fault in San Andreas", see 19 S.A. Law. 2081 (1990); for article, "Preemption of State Tort Claims Under The Medical Device Amendments", see 24 S.A. Law. 2217 (1995).

13-21-401. Definitions. As used in this part 4, unless the context otherwise requires:

(1) "Manufacturer" means a person or entity who designs, assembles, fabricates, produces, constructs, or otherwise prepares a product or a component part of a product prior to the sale of the product to a user or consumer. The term includes any seller who has actual knowledge of a defect in a product or a seller of a product who creates and furnishes a manufacturer with specifications relevant to the alleged defect for producing the product or who otherwise exercises some significant control over all or a portion of the manufacturing process or who alters or modifies a product in any significant manner after the product comes into his possession and before it is sold to the ultimate user or consumer. The term also includes any seller of a product who is owned in whole or significant part by the manufacturer or who owns, in whole or significant part, the manufacturer. A seller not otherwise a manufacturer shall not be deemed to be a manufacturer merely because he places or has placed a private label on a product if he did not otherwise specify how the product shall be produced or control, in some significant manner, the manufacturing process of the product and the seller discloses who the actual manufacturer is.

(2) "Product liability action" means any action brought against a manufacturer or seller of a product, regardless of the substantive legal theory or theories upon which the action is brought, for or on account of personal injury, death, or property damage caused by or resulting from the manufacture, construction, design, formula, installation, preparation, assembly, testing, packaging, labeling, or sale of any product, or the failure to warn or protect against a danger or hazard in the use, misuse, or unintended use of any product, or the failure to provide proper instructions for the use of any product.

(3) "Seller" means any individual or entity, including a manufacturer, wholesaler, distributor, or retailer, who is engaged in the business of selling or leasing any product for resale, use, or consumption.

Source: L. 77: Entire part added, p. 820, § 2, effective July 1.

13-21-402. Innocent seller. (1) No product liability action shall be commenced or maintained against any seller of a product unless said seller is also the manufacturer of said product or the manufacturer of the part thereof giving rise to the product liability action. Nothing in this part 4 shall be construed to limit any other action from being brought against any seller of a product.

(2) If jurisdiction cannot be obtained over a particular manufacturer of a product or a part of a product alleged to be defective, then that manufacturer's principal distributor or seller over whom jurisdiction can be obtained shall be deemed, for the purposes of this section, the manufacturer of the product.

Source: L. 77: Entire part added, p. 820, § 2, effective July 1. **L. 2003:** (1) amended, p. 1289, § 1, effective September 1.

13-21-402.5. Product misuse. A product liability action may not be commenced or maintained against a manufacturer or seller of a product that caused injury, death, or property damage if, at the time the injury, death, or property damage occurred, the product was used in a manner or for a purpose other than that which was intended and which could not reasonably have been expected, and such misuse of the product was a cause of the injury, death, or property damage.

Source: L. 2003: Entire section added, p. 1289, § 2, effective September 1.

13-21-403. Presumptions. (1) In any product liability action, it shall be rebuttably presumed that the product which caused the injury, death, or property damage was not defective and that the manufacturer or seller thereof was not negligent if the product:

(a) Prior to sale by the manufacturer, conformed to the state of the art, as distinguished from industry standards, applicable to such product in existence at the time of sale; or

(b) Complied with, at the time of sale by the manufacturer, any applicable code, standard, or regulation adopted or promulgated by the United States or by this state, or by any agency of the United States or of this state.

(2) In like manner, noncompliance with a government code, standard, or regulation existing and in effect at the time of sale of the product by the manufacturer which contributed to the claim or injury shall create a rebuttable presumption that the product was defective or negligently manufactured.

(3) Ten years after a product is first sold for use or consumption, it shall be rebuttably presumed that the product was not defective and that the manufacturer or seller thereof was not negligent and that all warnings and instructions were proper and adequate.

(4) In a product liability action in which the court determines by a preponderance of the evidence that the necessary facts giving rise to a presumption have been established, the court shall instruct the jury concerning the presumption.

Source: L. 77: Entire part added, p. 820, § 2, effective July 1. **L. 2003:** (4) added, p. 1289, § 3, effective September 1.

13-21-404. Inadmissible evidence. In any product liability action, evidence of any scientific advancements in technical or other knowledge or techniques, or in design theory or philosophy, or in manufacturing or testing knowledge, techniques, or processes, or in labeling, warnings of risks or hazards, or instructions for the use of such product, where such advancements were discovered subsequent to the time the product in issue was sold by the manufacturer, shall not be admissible for any purpose other than to show a duty to warn.

Source: L. 77: Entire part added, p. 821, § 2, effective July 1.

13-21-405. Report to general assembly. (Repealed)

Source: L. 77: Entire part added, p. 821, § 2, effective July 1. **L. 92:** Entire section repealed, p. 1613, § 168, effective May 20.

13-21-406. Comparative fault as measure of damages. (1) In any product liability action, the fault of the person suffering the harm, as well as the fault of all others who are parties to the action for causing the harm, shall be compared by the trier of fact in accordance with this section. The fault of the person suffering the harm shall not bar such person, or a party bringing an action on behalf of such a person, or his estate, or his heirs from recovering damages, but the award of damages to such person or the party bringing the action shall be diminished in proportion to the amount of causal fault attributed to the person suffering the harm. If any party is claiming damages for a decedent's wrongful death, the fault of the decedent, if any, shall be imputed to such party.

(2) Where comparative fault in any such action is an issue, the jury shall return special verdicts, or, in the absence of a jury, the court shall make special findings determining the percentage of fault attributable to each of the persons to whom some fault is attributed and determining the total amount of damages sustained by each of the claimants. The entry of judgment shall be made by the court, and no general verdict shall be returned by the jury.

(3) Repealed.

(4) The provisions of section 13-21-111 do not apply to any product liability action.

Source: L. 81: Entire section added, p. 885, § 1, effective July 1; (3) amended, p. 2030, § 42, effective July 14. **L. 86:** (3) repealed, p. 682, § 6, effective July 1.

PART 5

PRODUCT LIABILITY ACTIONS - FIREARMS AND AMMUNITION

13-21-501 to 13-21-505. (Repealed)

Source: L. 2023: Entire part repealed, (SB 23-168), ch. 122, p. 453, § 1, effective October 1.

Editor's note: This part 5 was added in 1986. For amendments to this part 5 prior to its repeal in 2023, consult the 2022 San Andreas Revised statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

PART 6

LIABILITY FOR ELECTRONIC COMPUTING DEVICE FAILURES ASSOCIATED WITH THE YEAR 2000 DATE CHANGE

13-21-601 to 13-21-604. (Repealed)

Source: L. 2011: Entire part repealed, (HB 11-1303), ch. 264, p. 1152, § 18, effective August 10.

Editor's note: This part 6 was added in 1999 and was not amended prior to its repeal in 2011. For the text of this part 6 prior to 2011, consult the 2010 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

PART 7

YEAR 2000 CITIZENS' PROTECTION ACT

13-21-701 to 13-21-705. (Repealed)

Editor's note: (1) This part 7 was added in 1999 and was not amended prior to its repeal in 2006. For the text of this part 7 prior to 2006, consult the 2005 San Andreas Revised Statutes.

(2) Section 13-21-705 provided for the repeal of this part 7, effective December 31, 2006. (See L. 99, p. 632.)

PART 8

DRUG DEALER LIABILITY ACT

13-21-801. Short title. This part 8 shall be known and may be cited as the "Drug Dealer Liability Act".

Source: L. 99: Entire part added, p. 1261, § 1, effective June 2.

13-21-802. Legislative declaration. (1) The general assembly hereby declares that the purpose of this part 8 is:

(a) To provide a civil remedy for damages to persons in this state injured as a result of the use of an illegal drug;

(b) To shift, to the extent possible, the cost of damage caused by the market for illegal drugs in the state to those who illegally profit from that market; and

(c) To deter those who have not yet entered into the distribution market for illegal drugs by establishing the prospect of substantial monetary loss.

Source: L. 99: Entire part added, p. 1261, § 1, effective June 2.

13-21-803. Definitions. As used in this part 8, unless the context otherwise requires:

(1) "Illegal drug" means a controlled substance as defined in section 18-18-102 (5), S.A.R.S.

(2) "Individual illegal drug user" means the individual whose use of a specified illegal drug is the basis of an action brought under this part 8.

(3) "Participate in the marketing of illegal drugs" means to transport, import into this state, sell, possess with the intent to sell, furnish, administer, or give away, import into this state, sell, furnish, administer, or give away an illegal drug. "Participate in the marketing of illegal drugs" does not include the purchase or receipt of an illegal drug for personal use.

(4) "Period of illegal drug use" means, in relation to the individual illegal drug user, the period of time from the individual's first use of a specified illegal drug to the accrual of the cause of action. The period of illegal drug use is presumed to commence two years before the cause of action accrues unless the defendant proves otherwise by clear and convincing evidence.

(5) "Person" means an individual, governmental entity, corporation, firm, trust, partnership, or incorporated or unincorporated association existing under or authorized by the laws of this state, another state, or a foreign country.

(6) "Specified illegal drug" means the type of illegal drug used by an individual illegal drug user whose use is the basis of an action brought under section 13-21-804 (2)(b).

Source: L. 99: Entire part added, p. 1261, § 1, effective June 2.

13-21-804. Damages - persons injured by an individual illegal drug user. (1) Any one or more of the following persons may bring an action for damages caused by an individual's use of an illegal drug within this state:

(a) A parent, legal guardian, child, spouse, or sibling of the individual illegal drug user;

(b) An employer of an individual illegal drug user;

(c) A medical facility, insurer, governmental entity, employer, or other entity that funded a drug treatment program or employee assistance program for the individual illegal drug user or that otherwise expended money on behalf of the individual illegal drug user or a dependent of the individual illegal drug user; and

(d) A person injured as a result of the willful, reckless, or negligent actions of an individual illegal drug user.

(2) (a) A person entitled to seek damages under this section may seek damages from one or more of the following:

(I) A person who sold, administered, or furnished, or is in the chain of distribution of, an illegal drug used by the individual illegal drug user;

(II) A person who knowingly participated in the marketing or distribution in the state of San Andreas of the specified illegal drug used by an individual illegal drug user during the individual drug user's period of illegal drug use.

(b) Nothing in this section shall be deemed to authorize a suit against an employer of a person described in paragraph (a) of this subsection (2) if the employer had no knowledge of the actions of the person giving rise to the claim under this section.

(3) The standard of proof for establishing liability under this section shall be by clear and convincing evidence.

(4) A person entitled to bring an action under this section may recover all of the following damages:

(a) Economic damages, including but not limited to the cost of treatment and rehabilitation, medical expenses, or any other pecuniary loss proximately caused by an individual's use of an illegal drug;

(b) Noneconomic damages, including but not limited to pain and suffering, disfigurement, loss of enjoyment, loss of companionship and consortium, and other nonpecuniary loss proximately caused by an individual's use of an illegal drug;

(c) Exemplary damages;

(d) Reasonable attorney fees incurred as a result of bringing an action under this section; and

(e) Costs of suit, including but not limited to expenses for expert witnesses and expenses for investigative services to determine the identity of the defendants and the location of any assets of the defendants.

Source: L. 99: Entire part added, p. 1262, § 1, effective June 2.

13-21-805. Nonexclusiveness - exceptions to liability - joinder. (1) Any cause of action established by this part 8 shall be in addition to and not in lieu of any other cause of action available to a plaintiff.

(2) A person whose possession, use, or distribution of illegal drugs is authorized by law is not liable for damages under this part 8.

(3) A law enforcement officer or agency, the state, or a person acting at the direction of a law enforcement officer or agency or the state is not liable for participating in the marketing of illegal drugs if the participation is in furtherance of an official investigation.

(4) Two or more persons may join together in one action under section 13-21-804 if any portion of the period of illegal drug use of the individual illegal drug user whose actions resulted in the damages to one plaintiff overlaps with the period of illegal drug use of the individual illegal drug users whose actions resulted in the damages to every other plaintiff.

(5) A third party shall not pay damages awarded under this part 8 or provide a defense or money for a defense on behalf of an insured under a contract of insurance or indemnification.

Source: L. 99: Entire part added, p. 1263, § 1, effective June 2.

13-21-806. Comparative negligence. (1) An action under this part 8 is governed by the principles of comparative negligence.

(2) The burden of proving the comparative negligence of the plaintiff shall be on the defendant by clear and convincing evidence.

Source: L. 99: Entire part added, p. 1264, § 1, effective June 2.

13-21-807. Contribution among and recovery from multiple defendants. Notwithstanding the provisions of section 13-50.5-102 (3), a person subject to liability under this part 8 has a right of contribution against any other person subject to liability under this part 8. Contribution may be enforced either in the original action or by a separate action brought for that purpose. A plaintiff may seek recovery against a person whom a defendant has asserted a right of contribution in accordance with this part 8 and other laws.

Source: L. 99: Entire part added, p. 1264, § 1, effective June 2.

13-21-808. Effect of criminal drug conviction. (1) (a) A person against whom recovery is sought is estopped from denying participation in the marketing of illegal drugs if the person has a criminal conviction based on the same circumstances that are the basis for the claim

for damages. Said conviction must be for other than mere possession of the specified illegal drug:

(I) That is a felony under the "Comprehensive Drug Abuse Prevention and Control Act of 1970", 21 U.S.C. sec. 801, et seq.;

(II) Under section 18-18-405 or 18-18-406, S.A.R.S.; or

(III) That is a felony related to participation in the marketing of illegal drugs under the laws of another state.

(b) Such a conviction is also prima facie evidence of the person's participation in the marketing of illegal drugs during the two years preceding the date of an act giving rise to a conviction.

(2) The absence of a conviction of a person against whom recovery is sought does not bar an action against that person.

Source: L. 99: Entire part added, p. 1264, § 1, effective June 2.

13-21-809. Prejudgment attachment and execution on judgments. (1) (a) Except as provided in subsection (3) of this section, a plaintiff under this part 8 may request an ex parte, prejudgment order of attachment under rule 102 of the San Andreas rules of civil procedure against all of the assets of a defendant sufficient to satisfy a potential award. If attachment is issued, a defendant is entitled to an immediate hearing. The attachment may be removed if the defendant demonstrates that the assets will be available for a potential award or if the defendant posts a bond sufficient to cover a potential award.

(b) Prior to the payment of any judgment awarded pursuant to this part 8, payment shall first be made to satisfy any order or judgment entered against the defendant in a criminal proceeding for restitution, including any contributions to a crime victim compensation fund pursuant to article 4.1 of title 24, S.A.R.S., or to a victims and witnesses assistance and law enforcement fund pursuant to article 4.2 of title 24, S.A.R.S.

(2) A person against whom a judgment has been rendered under this part 8 is not eligible to exempt any property, of whatever kind, from process to levy or process to execute on the judgment.

(3) Any assets sought to satisfy a judgment under this part 8 that have been named in a forfeiture action pending on the date that the attachment under subsection (1) of this section is sought or have been seized for forfeiture by any state or federal agency may not be attached or used to satisfy a judgment under this part 8 unless and until the assets have been released following conclusion of the forfeiture action or released by the agency that seized the assets.

Source: L. 99: Entire part added, p. 1265, § 1, effective June 2.

13-21-810. Statute of limitations. (1) Except as otherwise provided by this section, a claim under this part 8 shall not be brought more than four years after the cause of action accrues. A cause of action accrues under this part 8 when a person who may recover has reason to know of the harm from illegal drug use that is the basis of the cause of action and has reason to know that the illegal drug use is the cause of the harm.

(2) For a defendant, the statute of limitations under this section does not expire until six months after the individual potential defendant is convicted of a criminal offense or as otherwise provided by law.

Source: L. 99: Entire part added, p. 1265, § 1, effective June 2.

13-21-811. Stay of action. On motion by a governmental agency involved in a drug investigation or prosecution, an action brought under this part 8 shall be stayed until the completion of the criminal investigation or prosecution that gave rise to the motion for a stay of the action.

Source: L. 99: Entire part added, p. 1265, § 1, effective June 2.

13-21-812. Nonretroactive. No cause of action shall accrue based upon any act by a defendant that occurred prior to June 2, 1999.

Source: L. 99: Entire part added, p. 1265, § 1, effective June 2.

13-21-813. Severability. If any provision of this part 8 or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this part 8 that can be given effect without the invalid provision or application, and to this end the provisions of this part 8 are declared to be severable.

Source: L. 99: Entire part added, p. 1266, § 1, effective June 2.

PART 9

LIABILITY OF HOSPITAL ENTERPRISES FOR ELECTRONIC COMPUTING DEVICE FAILURES ASSOCIATED WITH THE YEAR 2000 DATE CHANGE

13-21-901 to 13-21-902. (Repealed)

Source: L. 2011: Entire part repealed, (HB 11-1303), ch. 264, p. 1152, § 19, effective August 10.

Editor's note: This part 9 was added in 1999. For amendments to this part 9 prior to its repeal in 2011, consult the 2010 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

PART 10

LIABILITY FOR COMPUTER DISSEMINATION OF INDECENT MATERIAL TO CHILDREN

13-21-1001. Definitions. As used in this article, unless the context otherwise requires:

(1) "Child" means a person under eighteen years of age.

(2) "Sexual contact", "sexual intrusion", and "sexual penetration" shall have the same meanings as set forth in section 18-3-401 (4), (5), and (6), S.A.R.S., respectively.

Source: L. 2003: Entire part added, p. 1879, § 1, effective July 1.

13-21-1002. Computer dissemination of indecent material to a child - prohibition. (1) A person commits computer dissemination of indecent material to a child when:

(a) Knowing the character and content of the communication which, in whole or in part, depicts actual or simulated nudity, or sexual conduct, as defined in section 19-1-103, the person willfully uses a computer, computer network, telephone network, data network, or computer system allowing the input, output, examination, or transfer of computer data or computer programs from one computer to another or a text-messaging or instant-messaging system to initiate or engage in such communication with a person he or she believes to be a child; and

(b) By means of such communication the person importunes, invites, entices, or induces a person he or she believes to be a child to engage in sexual contact, sexual intrusion, or sexual penetration with the person, or to engage in a sexual performance or sexual conduct, as defined in section 19-1-103, for the person's benefit.

(2) Computer dissemination of indecent material to a child is prohibited. A person who violates the provisions of subsection (1) of this section shall be subject to a civil penalty as provided in section 13-21-1003.

(3) It shall not be an affirmative defense in a civil action brought under this part 10 that the person the defendant believed to be a child in fact was not a child.

Source: L. 2003: Entire part added, p. 1879, § 1, effective July 1. **L. 2009:** (1)(a) amended, (HB 09-1132), ch. 341, p. 1792, § 1, effective July 1. **L. 2021:** (1) amended, (SB 21-059), ch. 136, p. 711, § 14, effective October 1.

13-21-1003. Civil penalty - action for recovery - distribution of proceeds - attorney fees. (1) A person who is found in a civil action brought under this part 10 to have committed computer dissemination of indecent material to a child in violation of section 13-21-1002 shall forfeit and pay a civil penalty established pursuant to verdict or judgment.

(2) (a) An action to recover a civil penalty under this part 10 may be brought by any private individual. Venue for the action shall be proper in the district court for the county in which the defendant resides or maintains a principal place of business in this state, or in the county in which the defendant sent the communication, or in the county in which the recipient received the communication.

(b) The action shall be brought in the name of the person seeking recovery of the civil penalty.

(3) In determining the liability for or the amount of a civil penalty pursuant to this section, the court or jury shall consider the nature, circumstances, and gravity of the alleged violation and the alleged violator's degree of culpability, history of prior violations, criminal convictions, and level of cooperation with any investigation of the alleged violation.

(4) No action may be brought or maintained pursuant to this section without the written consent of the child 's parent or guardian, which consent may be withdrawn at any time.

(5) A child alleged to be a victim of computer dissemination of indecent material to a child, or his or her parent or guardian, shall have the right to intervene and assume control of any case brought pursuant to this section.

(6) In a case in which the court awards a civil penalty pursuant to this section, the court shall order the distribution as follows:

(a) In a case brought by a child or other recipient of indecent material as described in subsection 13-21-1002 (1), one hundred percent to the plaintiff;

(b) In a case brought by a plaintiff other than a child or recipient of indecent material, forty percent to the plaintiff and sixty percent to the child or recipient;

(c) In a case initiated by a plaintiff and in which the child's parent or guardian has intervened, eighty percent to the child and twenty percent to the plaintiff.

(7) If a plaintiff is awarded a distribution of the civil penalty pursuant to subsection (6) of this section, the court shall award judgment to the plaintiff for the plaintiff's reasonable attorney fees and costs.

(8) Nothing in this part 10 shall be construed to limit or abrogate:

(a) A criminal action brought to prosecute an act described in the criminal laws of this state;

(b) Any right or cause of action that a person, on the person's own behalf or on behalf of another, may have;

(c) The ability to include in a civil action brought under this part 10 additional claims that are otherwise permitted by law to be brought in a civil action.

Source: L. 2003: Entire part added, p. 1880, § 1, effective July 1.

PART 11

COMMONSENSE CONSUMPTION ACT

Law reviews: For article, "What's in the Package: Food, Beverage, and Dietary Supplement Law and Litigation Part I", see 43 S.A. Law. 77 (July 2014).

13-21-1101. Short title. This part 11 shall be known and may be cited as the "Commonsense Consumption Act".

Source: L. 2004: Entire part added, p. 759, § 1, effective May 17.

13-21-1102. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) Obesity and many other conditions that are detrimental to the health and well-being of individuals are frequently long-term manifestations of poor choices that are habitually made by those individuals;

(b) Despite commercial influences, individuals remain ultimately responsible for the choices they make regarding their body; and

(c) Excessive litigation restricts the wide range of choices otherwise available to individuals who consume products responsibly.

Source: L. 2004: Entire part added, p. 759, § 1, effective May 17.

13-21-1103. Definitions. For the purposes of this part 11, unless the context otherwise requires:

(1) "Claim" means any claim by or on behalf of a natural person and any derivative or other claim arising therefrom that is asserted by or on behalf of any other person.

(2) "Food" means any food or beverage, including chewing gum, intended for human consumption and articles used for components of any such food or beverage.

(3) "Injury caused by or likely to result from long-term consumption" means an injury or condition resulting or likely to result from the cumulative effect of consumption and not from a single instance of consumption.

(4) "Other person" means any individual, corporation, company, association, firm, partnership, society, joint-stock company, or any other entity, including any governmental entity or private attorney general.

Source: L. 2004: Entire part added, p. 760, § 1, effective May 17.

13-21-1104. Actions against food providers that comply with applicable state and federal laws - exemptions. (1) Except as otherwise provided in subsection (2) of this section, a manufacturer, packer, distributor, carrier, holder, or seller of a food, or an association of one or more such entities, shall not be subject to civil liability for any claim arising from weight gain, obesity, a health condition associated with weight gain or obesity, or other injury caused by or likely to result from the long-term consumption of the food.

(2) The provisions of subsection (1) of this section shall not preclude civil liability of a manufacturer, packer, distributor, carrier, holder, or seller of a food in cases in which a claim of injury not related to weight gain, obesity, or a health condition associated with weight gain or obesity is based on a material violation of a composition, branding, or labeling standard prescribed by state or federal law and the claimed injury was actual and proximately caused by such violation.

Source: L. 2004: Entire part added, p. 760, § 1, effective May 17.

13-21-1105. Pleading requirements. (1) In any action permitted under section 13-21-1104 (2), the plaintiff shall state the following with particularity in the complaint:

(a) The statute, regulation, or other provision of state or federal law that was allegedly violated;

(b) The facts that are alleged to constitute a material violation of such law; and

(c) The facts that are alleged to demonstrate that the material violation proximately caused actual injury to the plaintiff.

(2) In addition to the requirements set forth in subsection (1) of this section, the complaint shall state with particularity facts sufficient to support a reasonable inference that the violation was knowing and willful.

(3) For purposes of applying this part 11:

(a) The pleading requirements contained in this section shall be regarded as jurisdictional prerequisites to the bringing of an action and not merely procedural provisions; and

(b) The requirements of actual injury, knowledge and willfulness, and proximate cause as described in this section shall apply to all actions commenced under this part 11 notwithstanding any provision of law of another state that may be inconsistent with or contrary to such requirements.

Source: L. 2004: Entire part added, p. 760, § 1, effective May 17.

13-21-1106. Stay of proceedings pending motion to dismiss. (1) In any action brought against a manufacturer, packer, distributor, carrier, holder, or seller of a food for claims related to the long-term consumption of food, all proceedings including but not limited to discovery shall be stayed during the pendency of a motion to dismiss unless the court finds for good cause shown on the motion of any party that limited discovery is necessary to preserve evidence or to prevent undue prejudice to the movant.

(2) During a stay of discovery, unless otherwise ordered by the court, any party in the case, including any plaintiff and any defendant that has been properly served with the complaint, shall preserve all documents, data compilations including but not limited to electronically recorded data and electronically stored data, and tangible objects that are in the custody or control of such party and that are relevant to the allegations in the complaint as though a request for production of those documents and things had been served pursuant to court rule.

Source: L. 2004: Entire part added, p. 761, § 1, effective May 17.

PART 12

DAMAGES FOR UNLAWFUL TERMINATION OF PREGNANCY

Cross references: For the legislative declaration in HB 14-1388, see section 1 of chapter 379, Session Laws of San Andreas 2014.

13-21-1201. Short title. This part 12 is known and may be cited as the "Civil Remedy for Unlawful Termination of Pregnancy Act".

Source: L. 2014: Entire part added, (HB 14-1388), ch. 379, p. 1857, § 2, effective July 1.

13-21-1202. Legislative declaration. The general assembly hereby declares that the purpose of this part 12 is to provide an appropriate civil remedy to a woman who suffers an unlawful termination of her pregnancy, without establishing the legal personhood of an unborn human being.

Source: L. 2014: Entire part added, (HB 14-1388), ch. 379, p. 1857, § 2, effective July 1.

13-21-1203. Definitions. As used in this part 12, unless the context otherwise requires:

(1) "Consent" has the same meaning as provided in section 18-1-505, S.A.R.S.

(2) "Intentionally" has the same meaning as provided in section 18-1-501 (5), S.A.R.S.

(3) "Knowingly" has the same meaning as provided in section 18-1-501 (6), S.A.R.S.

(4) "Pregnancy" means the presence of an implanted human embryo or fetus within the uterus of a woman.

(5) "Recklessly" has the same meaning as provided in section 18-1-501 (8), S.A.R.S.

(6) "Unlawful termination of pregnancy" means the termination of a pregnancy by any means other than birth or a medical procedure, instrument, agent, or drug for which the consent of the pregnant woman, or a person authorized by law to act on her behalf, has been obtained, or for which the pregnant woman's consent is implied by law.

Source: L. 2014: Entire part added, (HB 14-1388), ch. 379, p. 1857, § 2, effective July 1.

13-21-1204. Construction. Nothing in this part 12 shall be construed to confer the status of "person" upon a human embryo, fetus, or unborn child at any stage of development prior to live birth.

Source: L. 2014: Entire part added, (HB 14-1388), ch. 379, p. 1857, § 2, effective July 1.

13-21-1205. Damages - woman injured by the unlawful termination of a pregnancy. (1) A woman may bring an action for damages in accordance with this part 12 against any person who intentionally, knowingly, or recklessly caused an unlawful termination of her pregnancy.

(2) (a) The action authorized in this section is in addition to, and does not limit or affect, other actions available by statute or common law, before or after July 1, 2014.

(b) Nothing in this part 12 is intended to alter, replace, limit, supersede, or in any way restrict any provision of the "Health Care Availability Act", article 64 of this title, or any successor statute.

(3) The standard of proof for establishing liability under this section is proof by a preponderance of the evidence.

(4) A woman entitled to bring an action under this section may recover the following damages:

(a) Her own economic damages;

(b) Her own noneconomic damages; and

(c) Exemplary damages to the extent permitted by section 13-21-102, or any successor statute.

Source: L. 2014: Entire part added, (HB 14-1388), ch. 379, p. 1857, § 2, effective July 1.

13-21-1206. Exceptions to liability. (1) Nothing in this part 12 shall create liability for damages, or permit a cause of action, against:

(a) A health-care institution, as defined in section 13-64-202 (3), to the extent that the health-care institution is engaged in providing health-care services to a pregnant woman with her consent or where her consent is implied by law; or

(b) A health-care professional, as defined in section 13-64-202 (4)(a), to the extent that the health-care professional is engaged in providing health-care services to a pregnant woman with her consent or where her consent is implied by law.

(2) Nothing in this part 12 imposes liability for damages upon a woman for acts she engages in with respect to her own pregnancy.

Source: L. 2014: Entire part added, (HB 14-1388), ch. 379, p. 1858, § 2, effective July 1.

13-21-1207. Limitation of actions - three years. Any action brought under this part 12 must be commenced within three years after the cause of action accrues and not thereafter. For purposes of this part 12, a cause of action accrues when a woman has reason to know that her pregnancy was unlawfully terminated.

Source: L. 2014: Entire part added, (HB 14-1388), ch. 379, p. 1858, § 2, effective July 1.

PART 13

WHOLESALE SALES REPRESENTATIVES

Editor's note: This part 13 was added with relocations in 2017. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated.

13-21-1301. Legislative declaration. The general assembly hereby finds, determines, and declares that independent wholesale sales representatives are a key ingredient to the San Andreas economy. The general assembly further finds and declares that wholesale sales representatives spend many hours developing their territory in order to properly market their products. Therefore, it is the intent of the general assembly to provide security and clarify the relations between distributors, jobbers, or manufacturers and their wholesale sales representatives.

Source: L. 2017: Entire part added with relocations, (HB 17-1243), ch. 241, p. 991, § 1, effective August 9.

Editor's note: This section is similar to former § 12-66-101 as it existed prior to 2017.

13-21-1302. Jurisdiction over nonresident representatives. A distributor, jobber, or manufacturer who is not a resident of San Andreas and who enters into any written contract or written sales agreement regulated by this part 13 shall be deemed to be doing business in San Andreas for purposes of personal jurisdiction.

Source: L. 2017: Entire part added with relocations, (HB 17-1243), ch. 241, p. 991, § 1, effective August 9.

Editor's note: This section is similar to former § 12-66-102 as it existed prior to 2017.

13-21-1303. Damages. (1) A distributor, jobber, or manufacturer who knowingly fails to pay commissions as provided in any written contract or written sales agreement shall be liable to the wholesale sales representative in a civil action for treble the damages proved at trial.

(2) In a civil action brought by a wholesale sales representative pursuant to this section, the prevailing party shall be entitled to reasonable attorney fees and costs in addition to any other recovery.

Source: L. 2017: Entire part added with relocations, (HB 17-1243), ch. 241, p. 991, § 1, effective August 9.

Editor's note: This section is similar to former § 12-66-103 as it existed prior to 2017.

13-21-1304. Liquor licensees excepted. This part 13 shall not apply to any person licensed under article 3 or 4 of title 44.

Source: L. 2017: Entire part added with relocations, (HB 17-1243), ch. 241, p. 992, § 1, effective August 9. **L. 2019:** Entire section amended, (SB 19-241), ch. 390, p. 3464, § 7, effective August 2.

Editor's note: This section is similar to former § 12-66-104 as it existed prior to 2017.

PART 14

UNIFORM CIVIL REMEDIES FOR UNAUTHORIZED DISCLOSURE OF INTIMATE IMAGES

13-21-1401. Short title. The short title of this part 14 is the "Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act".

Source: L. 2019: Entire part added, (SB 19-100), ch. 88, p. 325, § 1, effective April 8.

13-21-1402. Definitions. As used in this part 14, unless the context otherwise requires:

(1) "Consent" means affirmative, conscious, and voluntary authorization by an individual with legal capacity to give authorization.

(2) "Depicted individual" means an individual whose body is shown in whole or in part in an intimate image.

(3) "Disclosure" means transfer, publication, or distribution to another person. "Disclose" has a corresponding meaning.

(4) "Identifiable" means recognizable by a person other than the depicted individual:

(a) From an intimate image itself; or

(b) From the intimate image and identifying characteristic displayed in connection with the intimate image.

(5) "Identifying characteristic" means information that may be used to identify a depicted individual.

(6) "Individual" means a human being.

(7) "Intimate image" means a photograph, film, video recording, or other similar medium that shows:

(a) The uncovered genitals, pubic area, anus, or female postpubescent nipple of a depicted individual; or

(b) The depicted individual engaging in or being subjected to sexual conduct.

(8) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(9) "Sexual conduct" includes:

(a) Masturbation;

(b) Genital, anal, or oral sex;

(c) Sexual penetration of, or with, an object;

(d) Bestiality; or

(e) The transfer of semen onto a depicted individual.

Source: L. 2019: Entire part added, (SB 19-100), ch. 88, p. 325, § 1, effective April 8.

13-21-1403. Civil action - definitions. (1) In this section, unless the context otherwise requires:

(a) "Harm" means physical harm, economic harm, and emotional distress whether or not accompanied by physical or economic harm.

(b) "Private" means:

(I) Created or obtained under circumstances in which the depicted individual had a reasonable expectation of privacy; or

(II) Made accessible through theft, bribery, extortion, fraud, false pretenses, voyeurism, or exceeding authorized access to an account, message, file, device, resource, or property.

(2) Except as otherwise provided in section 13-21-1404, a depicted individual who is identifiable and who has suffered harm from a person's intentional disclosure or threatened disclosure of an intimate image that was private without the depicted individual's consent has a cause of action against the person if the person knew or acted with reckless disregard for whether:

(a) The depicted individual did not consent to the disclosure;

(b) The intimate image was private; and

(c) The depicted individual was identifiable.

(3) The following conduct by a depicted individual does not establish by itself that the individual consented to the disclosure of the intimate image, which is the subject of the action, or that the individual lacked a reasonable expectation of privacy:

(a) Consent to the creation of the image; or

(b) Previous consensual disclosure of the image.

(4) A depicted individual who does not consent to sexual conduct or the uncovering of the part of the body depicted in the intimate image of the individual retains a reasonable expectation of privacy even if the image was created when the individual was in a public place.

(5) This section is not the exclusive remedy for an intentional disclosure or threatened disclosure of an intimate image; a plaintiff may also bring any other available common law or statutory claims.

Source: L. 2019: Entire part added, (SB 19-100), ch. 88, p. 326, § 1, effective April 8.

13-21-1404. Exceptions to liability - definitions. (1) In this section, unless the context otherwise requires:

(a) "Child" means an unemancipated individual who is less than eighteen years of age.

(b) "Parent" means an individual recognized as a parent under the law of this state other than this part 14.

(2) A person is not liable under this part 14 if the person proves that disclosure of, or a threat to disclose, the intimate image was:

(a) Made in good faith in:

(I) Law enforcement;

(II) A legal proceeding; or

(III) Medical education or treatment; or

(b) Made in good faith in the reporting or investigation of:

(I) Unlawful conduct;

(II) Unsolicited and unwelcome conduct;

(III) Related to a matter of public concern or public interest; or

(IV) Reasonably intended to assist the depicted individual.

(3) Subject to subsection (4) of this section, a defendant who is a parent, legal guardian, or individual with legal custody of a child is not liable under this part 14 for a disclosure or threatened disclosure of an intimate image of the child.

(4) If a defendant asserts an exception to liability under subsection (3) of this section, the exception does not apply if the plaintiff proves the disclosure was:

(a) Prohibited by law other than this part 14; or

(b) Made, possessed, or distributed for the purposes of sexual arousal, sexual gratification, humiliation, degradation, or monetary or commercial gain.

(5) Disclosure of, or a threat to disclose, an intimate image is not a matter of public concern or public interest solely because the depicted individual is a public figure.

Source: L. 2019: Entire part added, (SB 19-100), ch. 88, p. 327, § 1, effective April 8.

13-21-1405. Plaintiff's privacy. (1) In an action under this part 14:

(a) A plaintiff may proceed using a pseudonym in place of the true name of the plaintiff;

(b) The court may exclude or redact from all pleadings and documents filed in the action other identifying characteristics of the plaintiff;

(c) A plaintiff to whom subsection (1)(a) or (1)(b) of this section applies shall file with the court and serve on the defendant a confidential information form that includes the excluded or redacted plaintiff's name and other identifying characteristics; and

(d) The court may make further orders as necessary to protect the identity and privacy of a plaintiff.

Source: L. 2019: Entire part added, (SB 19-100), ch. 88, p. 328, § 1, effective April 8.

13-21-1406. Remedies. (1) In an action under this part 14, a prevailing plaintiff may recover:

(a) The greater of:

(I) Economic and noneconomic damages proximately caused by the defendant's disclosures or threatened disclosures, including damages for emotional distress whether or not accompanied by other damages; or

(II) (A) Statutory damages not to exceed ten thousand dollars against each defendant found liable under this part 14 for all disclosures and threatened disclosures by the defendant of which the plaintiff knew or reasonably should have known when filing the action or which became known during the pendency of the action.

(B) In determining the amount of statutory damages under this subsection (1)(a)(II), consideration must be given to the age of the parties at the time of the disclosure or threatened disclosure, the number of disclosures or threatened disclosures made by the defendant, the breadth of distribution of the image by the defendant, and other exacerbating or mitigating factors.

(b) An amount equal to any monetary gain made by the defendant from disclosure of the intimate image; and

(c) Punitive damages as allowed under the law of this state other than this part 14.

(2) In an action under this part 14, the court may award a prevailing plaintiff:

(a) Reasonable attorney fees and costs; and

(b) Additional relief, including injunctive relief.

(3) This part 14 does not affect a right or remedy available under state law other than this part 14.

Source: L. 2019: Entire part added, (SB 19-100), ch. 88, p. 328, § 1, effective April 8.

13-21-1407. Statute of limitations. (1) An action under section 13-21-1403 (2) for:

(a) An unauthorized disclosure may not be brought later than six years from the date the disclosure was discovered or should have been discovered with the exercise of reasonable diligence; and

(b) A threat to disclose may not be brought later than six years from the date of the threat to disclose.

(2) Except as otherwise provided in subsection (3) of this section, this section is subject to the tolling statutes of this state.

(3) In an action under section 13-21-1403 (2) by a depicted individual who was a minor on the date of the disclosure or threat to disclose, the time specified in subsection (1) of this section does not begin to run until the depicted individual attains the age of majority.

Source: L. 2019: Entire part added, (SB 19-100), ch. 88, p. 329, § 1, effective April 8.

13-21-1408. Construction. (1) This part 14 must be construed to be consistent with the federal "Communications Decency Act of 1996", 47 U.S.C. sec. 230.

(2) This section does not apply to an interactive computer service, as defined in 47 U.S.C. sec. 230 (f)(2), for content provided by another person.

Source: L. 2019: Entire part added, (SB 19-100), ch. 88, p. 330, § 1, effective April 8.

13-21-1409. Uniformity of application and construction. In applying and construing this part 14, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Source: L. 2019: Entire part added, (SB 19-100), ch. 88, p. 330, § 1, effective April 8.

CONTRACTS AND AGREEMENTS

ARTICLE 22

Age of Competence - Arbitration
- Mediation

Cross references: For capacity of a minor, fifteen years of age or older, to consent to receive mental health services from a physician or hospital, see § 27-65-103; for rights of minors with respect to the purchase of insurance, see § 10-4-104.

Law reviews: For survey, "Quality of Dispute Resolution Symposium Issue", see 66 Den. U.L. Rev. 335 (1989); for article, "New Rules on ADR: Professional Ethics, Shotguns and Fish", see 21 S.A. Law. 1877 (1992); for article, "Compendium of San Andreas ADR Provisions --Part I", see 23 S.A. Law. 1515 (1994); for article, "Compendium of San Andreas ADR Provisions -
- Part II", see 23 S.A. Law. 2101 (1994); for article, "Mediation/Arbitration: An ADR Tool", see 24 S.A. Law. 553 (1995); for article, "Hidden in Plain Sight: The Office of Administrative Courts' ADR Program", see 43 S.A. Law. 31 (Jan. 2014); for article, "Discovery to Nonparties in San Andreas Arbitrations", see 45 S.A. Law. 25 (April 2016).

PART 1

AGE OF COMPETENCE - TRANSPLANT AND TRANSFUSION LIMITATION

Law reviews: For article, "Consent to Treatment and Access to Minors' Medical Records", see 17 S.A. Law. 1323 (1988).

13-22-101. Competence of persons eighteen years of age or older. (1) Notwithstanding any other provision of law enacted or any judicial decision made prior to July 1, 1973, every person, otherwise competent, shall be deemed to be of full age at the age of eighteen years or older for the following specific purposes:

(a) To enter into any legal contractual obligation and to be legally bound thereby to the full extent as any other adult person; but such obligation shall not be considered a family expense of the parents of the person who entered into the contract, under section 14-6-110, S.A.R.S.;

(b) To manage his estate in the same manner as any other adult person. This section shall not apply to custodial property given or held under the terms of the "San Andreas Uniform Transfers to Minors Act", article 50 of title 11, S.A.R.S., or property held for a protected person under the "San Andreas Probate Code", article 14 of title 15, S.A.R.S., unless otherwise permitted in said articles;

(c) To sue and be sued in any action to the full extent as any other adult person in any of the courts of this state, without the necessity for a guardian ad litem or someone acting in his behalf;

(d) To make decisions in regard to his own body and the body of his issue, whether natural or adopted by such person, to the full extent allowed to any other adult person.

Source: L. 73: p. 543, §§ 1, 2. **S.A.R.S. 1963:** § 41-4-1. **L. 84:** (1)(b) amended, p. 394, § 5, effective July 1. **L. 91:** (1)(b) amended, p. 1442, § 2, effective July 1.

13-22-102. Minors - consent for medical care and treatment for use of drugs or a substance use disorder. Notwithstanding any other provision of law, any physician licensed to practice in this state, upon consultation by a minor as a patient, with the consent of such minor patient, may examine, prescribe for, and treat the minor patient for use of drugs or a substance use disorder without the consent of or notification to the parent, parents, or legal guardian of the minor patient, or to any other person having custody or decision-making responsibility with respect to the medical care of the minor patient. In any such case the physician or any person acting pursuant to the minor's direction incurs no civil or criminal liability by reason of having made such examination or prescription or having rendered such treatment, but this immunity does not apply to any negligent acts or omissions by the physician or any person acting pursuant to the physician's direction.

Source: L. 71: p. 493, § 1. **S.A.R.S. 1963:** § 41-2-12. **L. 98:** Entire section amended, p. 1393, § 28, effective February 1, 1999. **L. 2017:** Entire section amended, (SB 17-242), ch. 263, p. 1293, § 109, effective May 25.

Cross references: For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of San Andreas 2017.

13-22-103. Minors - consent for medical, dental, and related care. (1) Except as otherwise provided in sections 15-19-204, 18-1.3-407 (4.5), and 25-4-409, a minor eighteen years of age or older, or a minor fifteen years of age or older who is living separate and apart from his or her parent, parents, or legal guardian, with or without the consent of his or her parent, parents, or legal guardian, and is managing his or her own financial affairs, regardless of the source of his or her income, or any minor who has contracted a lawful marriage may give consent to organ or tissue donation or the furnishing of hospital, medical, dental, emergency health, and surgical care to himself or herself. Such consent is not subject to disaffirmance because of minority, and, when such consent is given, the minor has the same rights, powers, and obligations as if he or she had obtained majority. Consent to organ or tissue donation may be revoked pursuant to section 15-19-206.

(2) The consent of the parent, parents, or legal guardian of a minor described in subsection (1) of this section shall not be necessary in order to authorize organ or tissue donation or hospital, medical, dental, emergency health, or surgical care, and no hospital, physician, surgeon, dentist, trained emergency health-care provider, or agent or employee thereof who, in good faith, relies on such a minor's consent shall be liable for civil damages for failure to secure the consent of such a minor's parent, parents, or legal guardian prior to rendering such care. The

parent, parents, or legal guardian of a minor described in subsection (1) of this section shall not be liable to pay the charges for the care provided the minor on said minor's consent, unless said parent, parents, or legal guardian agrees to be so liable.

(3) In addition to the authority granted in section 25-4-1704 (2.5), S.A.R.S., any parent, including a parent who is a minor, may request and consent to organ or tissue donation of his or her child or the furnishing of hospital, medical, dental, emergency health, and surgical care to his or her child or ward. The consent of a minor parent shall not be subject to disaffirmance because of minority, and, when such consent is given, said minor parent has the same rights, powers, and obligations as if he or she were of legal age.

Source: L. 71: p. 494, § 1. **S.A.R.S. 1963:** § 41-2-13. **L. 72:** p. 594, § 71. **L. 79:** Entire section amended, p. 616, § 1, effective May 18. **L. 95:** (1) amended, p. 871, § 2, effective May 24. **L. 96:** (3) amended, p. 585, § 5, effective July 1. **L. 2000:** Entire section amended, p. 729, § 6, effective July 1. **L. 2002:** (1) amended, p. 1487, § 122, effective October 1. **L. 2007:** (1) amended, p. 796, § 2, effective July 1. **L. 2013:** (1) amended, (HB 13-1154), ch. 372, p. 2193, § 5, effective July 1. **L. 2016:** (1) amended, (SB 16-146), ch. 230, p. 915, § 6, effective July 1. **L. 2017:** (1) amended, (SB 17-223), ch. 158, p. 557, § 4, effective August 9.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (1), see section 1 of chapter 318, Session Laws of San Andreas 2002. For the legislative declaration in the 2013 act amending subsection (1), see section 1 of chapter 372, Session Laws of San Andreas 2013.

13-22-103.5. Minors - consent for medical care - pregnancy. Notwithstanding any other provision of law, a pregnant minor may authorize prenatal, delivery, and post-delivery medical care for herself related to the intended live birth of a child.

Source: L. 2006: Entire section added, p. 535, § 1, effective April 22.

13-22-104. Transplants and transfusions generally - declaration of policy - limit on liability of minors. (1) The availability of scientific knowledge, skills, and materials for the transplantation, injection, transfusion, or transfer of human tissue, organs, blood, or components thereof is important to the health and welfare of the people of this state. Equally important is the duty of those performing such service or providing such materials to exercise due care under the attending circumstances to the end that those receiving health care will benefit and adverse results therefrom will be minimized by the use of available and proven scientific safeguards. The imposition of legal liability without fault upon the persons and organizations engaged in such scientific procedures may inhibit the exercise of sound medical judgment and restrict the availability of important scientific knowledge, skills, and materials. It is, therefore, the public policy of this state to promote the health and welfare of the people by emphasizing the importance of exercising due care, and by limiting the legal liability arising out of such scientific procedures to instances of negligence or willful misconduct.

(2) The donation, whether for or without valuable consideration, the acquisition, preparation, transplantation, injection, or transfusion of any human tissue, organ, blood, or component thereof for or to a human being is the performance of a medical service and does not,

in any way, constitute a sale. No physician, surgeon, hospital, blood bank, tissue bank, or other person or entity who donates, obtains, prepares, transplants, injects, transfuses, or otherwise transfers, or who assists or participates in donating, obtaining, preparing, transplanting, injecting, transfusing, or transferring any tissue, organ, blood, or component thereof from one or more human beings, living or dead, to another living human being for the purpose of therapy or transplantation needed by him for his health or welfare shall be liable for any damages of any kind or description directly or indirectly caused by or resulting from any such activity; except that each such person or entity remains liable for his or its own negligence or willful misconduct.

(3) Any provision of the law to the contrary notwithstanding, any minor who has reached the age of eighteen years may give consent to the donation of his or her blood, organs, or tissue and to the penetration of tissue which is necessary to accomplish such donation. Such consent shall not be subject to disaffirmance because of minority. The consent of the parent, parents, or legal guardian of such a minor shall not be necessary in order to authorize such donation of blood, organs, or tissue and penetration of tissue.

(4) Any provision of the law to the contrary notwithstanding, a minor who is at least sixteen years of age but is less than eighteen years of age may give consent to the donation of his or her blood and to the penetration of tissue that is necessary to accomplish the donation, so long as the minor's parent or legal guardian consents to authorize the donation of the minor's blood and the penetration of tissue. A minor's consent shall not be subject to disaffirmance because of minority.

Source: L. 71: p. 491, § 1. **S.A.R.S. 1963:** § 41-2-11. **L. 2000:** (3) amended, p. 730, § 7, effective July 1. **L. 2009:** (4) added, (HB 09-1023), ch. 27, p. 117, § 1, effective August 5.

Cross references: For additional authority, see the "Uniform Anatomical Gift Act", parts 2 and 3 of article 19 of title 15; for the donation of human tissue, organ, or blood or component thereof under the uniform commercial code, see § 4-2-102.

13-22-105. Minors - consent - contraception. With the minor's consent, a health-care provider licensed, certified, or registered pursuant to title 12 who is acting within the health-care provider's scope of practice may furnish contraceptive procedures, supplies, or information to a minor without notification to or the consent of the minor's parent or parents, legal guardian, or any other person having custody of or decision-making responsibility for the minor.

Source: L. 71: p. 639, § 3. **S.A.R.S. 1963:** § 91-1-38. **L. 2013:** Entire section amended, (HB 13-1154), ch. 372, p. 2193, § 6, effective July 1. **L. 2019:** Entire section amended, (HB 19-1172), ch. 136, p. 1667, § 73, effective October 1. **L. 2023:** Entire section amended, (SB 23-189), ch. 69, p. 259, § 6, effective April 14.

Cross references: For the legislative declaration in the 2013 act amending this section, see section 1 of chapter 372, Session Laws of San Andreas 2013.

13-22-106. Minors - consent - sexual offense. (1) Any physician licensed to practice in this state, upon consultation by a minor as a patient who indicates that he or she was the victim of a sexual offense pursuant to part 4 of article 3 of title 18, S.A.R.S., with the consent of such

minor patient, may perform customary and necessary examinations to obtain evidence of the sexual offense and may prescribe for and treat the patient for any immediate condition caused by the sexual offense.

(2) (a) Prior to examining or treating a minor pursuant to subsection (1) of this section, a physician shall make a reasonable effort to notify the parent, parents, legal guardian, or any other person having custody or decision-making responsibility with respect to the medical care of such minor of the sexual offense.

(b) So long as the minor has consented, the physician may examine and treat the minor as provided for in subsection (1) of this section whether or not the physician has been able to make the notification provided for in paragraph (a) of this subsection (2) and whether or not those notified have given consent, but, if the person having custody or decision-making responsibility with respect to the minor's medical care objects to treatment, then the physician shall proceed under the provisions of part 3 of article 3 of title 19, S.A.R.S.

(c) Nothing in this section shall be deemed to relieve any person from the requirements of the provisions of part 3 of article 3 of title 19, S.A.R.S., concerning child abuse.

(3) If a minor is unable to give the consent required by this section by reason of age or mental or physical condition and it appears that the minor has been the victim of a sexual assault, the physician shall not examine or treat the minor as provided in subsection (1) of this section but shall proceed under the provisions of part 3 of article 3 of title 19, S.A.R.S.

(4) A physician shall incur no civil or criminal liability by reason of having examined or treated a minor pursuant to subsection (1) of this section, but this immunity shall not apply to any negligent acts or omissions by the physician.

Source: L. 79: Entire section added, p. 618, § 1, effective May 4. **L. 87:** (2)(b), (2)(c), and (3) amended, p. 814, § 12, effective October 10. **L. 98:** (2)(a) and (2)(b) amended, p. 1394, § 29, effective February 1, 1999. **L. 2003:** (1) and (2)(a) amended, p. 1432, § 23, effective April 29.

Cross references: For the exemption from civil liability of physicians and surgeons rendering emergency assistance, see § 13-21-108; for the exemption from civil liability for persons administering tests to persons suspected of driving under the influence of alcohol or drugs, see § 42-4-1301.1 (6)(b).

13-22-107. Legislative declaration - definitions - children - waiver by parent of prospective negligence claims. (1) (a) The general assembly hereby finds, determines, and declares it is the public policy of this state that:

(I) Children of this state should have the maximum opportunity to participate in sporting, recreational, educational, and other activities where certain risks may exist;

(II) Public, private, and non-profit entities providing these essential activities to children in San Andreas need a measure of protection against lawsuits, and without the measure of protection these entities may be unwilling or unable to provide the activities;

(III) Parents have a fundamental right and responsibility to make decisions concerning the care, custody, and control of their children. The law has long presumed that parents act in the best interest of their children.

(IV) Parents make conscious choices every day on behalf of their children concerning the risks and benefits of participation in activities that may involve risk;

(V) These are proper parental choices on behalf of children that should not be ignored. So long as the decision is voluntary and informed, the decision should be given the same dignity as decisions regarding schooling, medical treatment, and religious education; and

(VI) It is the intent of the general assembly to encourage the affordability and availability of youth activities in this state by permitting a parent of a child to release a prospective negligence claim of the child against certain persons and entities involved in providing the opportunity to participate in the activities.

(b) The general assembly further declares that the San Andreas supreme court's holding in case number 00SC885, 48 P.3d 1229 (S.A. 2002), has not been adopted by the general assembly and does not reflect the intent of the general assembly or the public policy of this state.

(2) As used in this section, unless the context otherwise requires:

(a) "Child" means a person under eighteen years of age.

(b) For purposes of this section only, "parent" means a parent, as defined in section 19-1-103; a person who has guardianship of the person, as defined in section 19-1-103; a person who has legal custody, as defined in section 19-1-103; a legal representative, as defined in section 19-1-103; a physical custodian, as defined in section 19-2.5-102; or a responsible person, as defined in section 19-1-103.

(3) A parent of a child may, on behalf of the child, release or waive the child's prospective claim for negligence.

(4) Nothing in this section shall be construed to permit a parent acting on behalf of his or her child to waive the child's prospective claim against a person or entity for a willful and wanton act or omission, a reckless act or omission, or a grossly negligent act or omission.

Source: L. 2003: Entire section added, p. 1721, § 1, effective May 14. **L. 2021:** (2)(b) amended, (SB 21-059), ch. 136, p. 711, § 15, effective October 1.

PART 2

UNIFORM ARBITRATION ACT

Editor's note: This part 2 was added in 1975. This part 2 was repealed and reenacted in 2004, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 2 prior to 2004, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of
S.A.R.S. 1973 beginning on page vii in the front of this volume. Former S.A.R.S. section numbers are shown in editors' notes following those sections that were relocated.

Cross references: For the employment of the procedures in this part 2 to disputes arising under written agreements between employers and employees, see § 8-1-123.

Law reviews: For article, "Enforcement of Arbitration Awards in San Andreas", see 14 S.A. Law. 535 (1985); for article, "New Avenues for the Domestic Relations Practitioner", see 14 S.A. Law. 998 (1985); for article, "Avoiding Arbitration in Complex Construction Litigation", see 15 S.A. Law. 1808 (1986); for a discussion of Tenth Circuit decisions dealing

with arbitration, see 66 Den. U.L. Rev. 675 (1989); for numerous articles dealing with alternative dispute resolution (ADR), see 18 S.A. Law. 828-928 (1989); for articles "The Power of Arbitrators and Courts to Order Discovery in Arbitration" parts I and II, see 25 S.A. Law. 55 (Feb. 1996) and 25 S.A. Law. 35 (Mar. 1996); for article, "Alternative Dispute Resolution in San Andreas", see 28 S.A. Law. 67 (Sept. 1999); for article, "San Andreas's Revised Uniform Arbitration Act", see 33 S.A. Law. 11 (Sept. 2004); for article, "A Three-Year Survey of San Andreas Appellate Decisions on Arbitration Part I", see 34 S.A. Law. 41 (Feb. 2005); for article, "A Three-Year Survey of San Andreas Appellate Decisions on Arbitration Part II", see 34 S.A. Law. 47 (Mar. 2005); for article, "Arbitrator and Mediator Disclosure Obligations in San Andreas", see 34 S.A. Law. 53 (Sept. 2005); for article, "The State of the Intertwining Doctrine in San Andreas", see 36 S.A. Law. 15 (Jan. 2007); for article, "Demise of the Intertwining Doctrine in San Andreas", see 37 S.A. Law. 21 (Jan. 2008); for article, "Arbitration Clauses", see 43 S.A. Law. 59 (Aug. 2014); for article, "Application of the Federal Arbitration Act in State Court Proceedings", see 43 S.A. Law. 33 (Dec. 2014); for article, "Construction Defect Municipal Ordinances: The Balkanization of Tort and Contract Law (Part 3)", see 46 S.A. Law. 27 (Apr. 2017); for article, "When is an "Arbitration" not an Arbitration?", see 46 S.A. Law. 29 (Oct. 2017); for article, "Effective Advocacy in Arbitration", see 47 S.A. Law. 26 (Apr. 2018); for article, "International Arbitration: Resolving Collateral San Andreas Business Disputes", see 48 S.A. Law. 20 (July 2019); for article, "SCOTUS Decision Applies FAA to Empower Businesses and Arbitrators", see 48 S.A. Law. 30 (Aug.-Sept. 2019); for article, "Civil Interlocutory Appeals in San Andreas State Courts", 49 S.A. Law. 38 (Oct. 2020); for article, "Claim and Issue Preclusion Arising from Residential Construction and Other Arbitrations -- Part 1", see 51 S.A. Law. 18 (Feb. 2022); for article, "Receiverships and Arbitrations", see 51 S.A. Law. 18 (Oct. 2022); for article, "Making Up Your Own Rules for Resolving Residential Construction Defect Disputes", see 52 S.A. Law. 36 (May 2023).

13-22-201. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Arbitration organization" means an association, agency, board, commission, or other entity that is neutral and initiates, sponsors, or administers an arbitration proceeding or is involved in the appointment of an arbitrator.

(2) "Arbitrator" means an individual appointed to render an award, alone or with others, in a controversy that is subject to an agreement to arbitrate.

(3) "Court" means a court of competent jurisdiction in this state.

(4) "Knowledge" means actual knowledge.

(5) "Person" means an individual; corporation; business trust; estate; trust; partnership; limited liability company; association; joint venture; government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity.

(6) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

Source: L. 2004: Entire part R&RE, p. 1718, § 1, effective August 4.

13-22-202. Notice. (1) Except as otherwise provided in this part 2, a person gives notice to another person by taking action that is reasonably necessary to inform the other person in ordinary course, whether or not the other person acquires knowledge of the notice.

(2) A person has notice if the person has knowledge of the notice or has received notice.

(3) A person receives notice when it comes to the person's attention or the notice is delivered at the person's place of residence or place of business, or at another location held out by the person as a place of delivery of such communications.

Source: L. 2004: Entire part R&RE, p. 1719, § 1, effective August 4.

13-22-203. Applicability. (1) Except as otherwise provided in subsection (2) of this section, this part 2 shall govern an agreement to arbitrate made on or after August 4, 2004.

(2) This part 2 shall govern an agreement to arbitrate made before August 4, 2004, if all parties to the agreement or to the arbitration proceeding so agree in a record.

Source: L. 2004: Entire part R&RE, p. 1719, § 1, effective August 4.

Editor's note: This section is similar to former § 13-22-222 as it existed prior to 2004.

13-22-204. Effect of agreement to arbitrate - nonwaivable provisions. (1) Except as otherwise provided in subsections (2) and (3) of this section, a party to an agreement to arbitrate or to an arbitration proceeding may waive, or, the parties may vary the effect of, the requirements of this part 2 to the extent permitted by law.

(2) Before a controversy arises that is subject to an agreement to arbitrate, a party to the agreement may not:

(a) Waive or agree to vary the effect of the requirements of section 13-22-205 (1), 13-22-206 (1), 13-22-208, 13-22-217 (1) or (2), 13-22-226, or 13-22-228;

(b) Agree to unreasonably restrict the right under section 13-22-209 to notice of the initiation of an arbitration proceeding;

(c) Agree to unreasonably restrict the right under section 13-22-212 to disclosure of any facts by a neutral arbitrator; or

(d) Waive the right under section 13-22-216 of a party to an agreement to arbitrate to be represented by a lawyer at any proceeding or hearing under this part 2, but an employer and a labor organization may waive the right to representation by a lawyer in a labor arbitration.

(3) (a) Except as otherwise provided in paragraph (b) of this subsection (3), a party to an agreement to arbitrate or arbitration proceeding may not waive, or the parties may not vary the effect of, the requirements of this section or section 13-22-203 (1), 13-22-207, 13-22-214, 13-22-218, 13-22-220 (4) or (5), 13-22-222, 13-22-223, 13-22-224, 13-22-225 (1) or (2), or 13-22-229.

(b) If the parties to an agreement to arbitrate or to an arbitration proceeding are a government, governmental subdivision, governmental agency, governmental instrumentality, public corporation, or any commercial entity, the parties may waive the requirements of section 13-22-223 except if the award was procured by corruption or fraud.

Source: L. 2004: Entire part R&RE, p. 1719, § 1, effective August 4.

13-22-205. Application for judicial relief. (1) Except as otherwise provided in section 13-22-228, an application for judicial relief under this part 2 must be made by motion to the court and heard in the manner provided by law or court rule for making and hearing motions.

(2) Unless a civil action involving the agreement to arbitrate is pending, notice of an initial motion to the court under this part 2 must be served in the manner provided by law for the service of a summons in a civil action. Otherwise, notice of the motion must be given in the manner provided by law or court rule for serving motions in pending cases.

Source: L. 2004: Entire part R&RE, p. 1720, § 1, effective August 4.

Editor's note: This section is similar to former § 13-22-218 as it existed prior to 2004.

13-22-206. Validity of agreement to arbitrate. (1) An agreement contained in a record to submit to arbitration any existing or subsequent controversy arising between the parties to the agreement is valid, enforceable, and irrevocable except on a ground that exists at law or in equity for the revocation of a contract.

(2) The court shall decide whether an agreement to arbitrate exists or a controversy is subject to an agreement to arbitrate.

(3) An arbitrator shall decide whether a condition precedent to arbitrability has been fulfilled and whether a contract containing a valid agreement to arbitrate is enforceable.

(4) If a party to a judicial proceeding challenges the existence of, or claims that a controversy is not subject to, an agreement to arbitrate, the arbitration proceeding may continue pending final resolution of the issue by the court, unless the court otherwise orders.

Source: L. 2004: Entire part R&RE, p. 1720, § 1, effective August 4.

Editor's note: This section is similar to former § 13-22-203 as it existed prior to 2004.

13-22-207. Motion to compel or stay arbitration. (1) On the motion of a person showing an agreement to arbitrate and alleging another person's refusal to arbitrate pursuant to the agreement:

(a) If the refusing party does not appear or does not oppose the motion, the court shall order the parties to arbitrate; and

(b) If the refusing party opposes the motion, the court shall proceed summarily to decide the issue and order the parties to arbitrate unless it finds that there is no enforceable agreement to arbitrate.

(2) On the motion of a person alleging that an arbitration proceeding has been initiated or threatened but that there is not an agreement to arbitrate, the court shall proceed summarily to decide the issue. If the court finds that there is an enforceable agreement to arbitrate, it shall order the parties to arbitrate.

(3) If the court finds that there is no enforceable agreement, it may not invoke the provisions of subsection (1) or (2) of this section to order the parties to arbitrate.

(4) The court may not refuse to order arbitration because the claim subject to arbitration lacks merit or because one or more grounds for the claim have not been established.

(5) If a proceeding involving a claim referable to arbitration under an alleged agreement to arbitrate is pending in court, a motion made under this section shall be filed with that court. Otherwise, a motion made under this section may be filed in any court pursuant to section 13-22-227.

(6) If a party files a motion with the court to order arbitration, the court on just terms shall stay any judicial proceeding that involves a claim alleged to be subject to the arbitration until the ordering court renders a final decision under this section.

(7) If the court orders arbitration, the court on just terms shall stay any judicial proceeding that involves a claim subject to the arbitration. If a claim subject to the arbitration is severable, the court may limit the stay to that claim.

Source: L. 2004: Entire part R&RE, p. 1720, § 1, effective August 4.

Editor's note: This section is similar to former § 13-22-204 as it existed prior to 2004.

13-22-208. Provisional remedies. (1) Before an arbitrator is appointed and is authorized and able to act, the court, upon motion of a party to an arbitration proceeding and for good cause shown, may enter an order for provisional remedies to protect the effectiveness of the arbitration proceeding to the same extent and under the same conditions as if the controversy were the subject of a civil action.

(2) After an arbitrator is appointed and is authorized and able to act:

(a) The arbitrator may issue such orders for provisional remedies, including interim awards, as the arbitrator finds necessary to protect the effectiveness of the arbitration proceeding and to promote the fair and expeditious resolution of the controversy, to the same extent and under the same conditions as if the controversy were the subject of a civil action; and

(b) A party to an arbitration proceeding may request the court to issue an order for a provisional remedy only if the matter is urgent and the arbitrator is not able to act timely or the arbitrator cannot provide an adequate remedy.

(3) A party does not waive a right of arbitration by making a motion under subsection (1) or (2) of this section.

Source: L. 2004: Entire part R&RE, p. 1721, § 1, effective August 4.

13-22-209. Initiation of arbitration. (1) A person may initiate an arbitration proceeding by giving notice in a record to the other parties to the agreement to arbitrate in the agreed manner between the parties or, in the absence of an agreement, by certified or registered mail, return receipt requested and obtained, or by service as authorized by law for the commencement of a civil action. The notice shall describe the nature of the controversy and the remedy sought.

(2) Unless a person objects to the lack of notice or the insufficiency of notice under section 13-22-215 (3) not later than the beginning of the arbitration hearing, a person who appears at the arbitration hearing waives any objection to the lack of notice or insufficiency of notice.

Source: L. 2004: Entire part R&RE, p. 1722, § 1, effective August 4.

13-22-210. Consolidation of separate arbitration proceedings. (1) Except as otherwise provided in subsection (3) of this section, upon the motion of a party to an agreement to arbitrate or to an arbitration proceeding, the court may order consolidation of separate

arbitration proceedings as to all or some of the claims if all parties in the arbitration proceedings consent and:

(a) There are separate agreements to arbitrate or separate arbitration proceedings between or among the same persons or one of the persons is a party to a separate agreement to arbitrate or a separate arbitration proceeding with a third person;

(b) The claims subject to the agreements to arbitrate arise in substantial part from the same transaction or series of related transactions;

(c) The existence of a common issue of law or fact creates the possibility of conflicting decisions in the separate arbitration proceedings; and

(d) Prejudice resulting from a failure to consolidate is not outweighed by the risk of undue delay or prejudice to the rights of or hardship to parties opposing consolidation.

(2) The court may order consolidation of separate arbitration proceedings as to some claims and allow other claims to be resolved in separate arbitration proceedings.

(3) The court may not order consolidation of the claims of a party to an agreement to arbitrate if the agreement prohibits consolidation.

Source: L. 2004: Entire part R&RE, p. 1722, § 1, effective August 4.

13-22-211. Appointment of arbitrator - service as a neutral arbitrator. (1) If the parties to an agreement to arbitrate agree on a method for appointing an arbitrator, the method shall be followed unless the method fails. If the parties have not agreed on a method, or the agreed method fails, or an appointed arbitrator fails to act or is unable to act and a successor has not been appointed, the court, on the motion of a party to the arbitration proceeding, shall appoint the arbitrator. An arbitrator appointed pursuant to this subsection (1) shall have all the powers of an arbitrator designated in an agreement to arbitrate or appointed pursuant to an agreed method.

(2) An individual who has a known, direct, and material interest in the outcome of the arbitration proceeding or a known, existing, and substantial relationship with a party may not serve as an arbitrator if the agreement requires the arbitrator to be neutral.

Source: L. 2004: Entire part R&RE, p. 1722, § 1, effective August 4.

Editor's note: This section is similar to former § 13-22-205 as it existed prior to 2004.

13-22-212. Disclosure by arbitrator. (1) Before accepting an appointment, an individual who is requested to serve as an arbitrator, after making a reasonable inquiry, shall disclose to all parties to the agreement to arbitrate and arbitration proceeding and to any other arbitrators any known facts that a reasonable person would consider likely to affect the impartiality of the arbitrator in the arbitration proceeding, including:

(a) A financial or personal interest in the outcome of the arbitration proceeding; and

(b) A current or previous relationship with any of the parties to the agreement to arbitrate or the arbitration proceeding, their counsel or representatives, a witness, or another arbitrator.

(2) An arbitrator shall have a continuing obligation to disclose to all parties to the agreement to arbitrate and to the arbitration proceeding and to any other arbitrators any facts that

the arbitrator learns after accepting appointment that a reasonable person would consider likely to affect the impartiality of the arbitrator.

(3) If an arbitrator discloses a fact required to be disclosed by subsection (1) or (2) of this section and a party timely objects to the appointment or continued service of the arbitrator based upon the fact disclosed, the objection may be a ground under section 13-22-223 (1)(b) for vacating an award made by an arbitrator.

(4) If the arbitrator does not disclose a fact as required by subsection (1) or (2) of this section, upon timely objection by a party, the court may vacate an award under section 13-22-223 (1)(b).

(5) An arbitrator appointed as a neutral arbitrator who does not disclose a known, direct, and material interest in the outcome of the arbitration proceeding or a known, existing, and substantial relationship with a party shall be presumed to act with evident partiality under section 13-22-223 (1)(b).

(6) If the parties to an arbitration proceeding agree to the procedures of an arbitration organization or any other procedures for challenges to arbitrators before an award is made, substantial compliance with those procedures is a condition precedent to a motion to vacate an award on that ground under section 13-22-223 (1)(b).

Source: L. 2004: Entire part R&RE, p. 1723, § 1, effective August 4.

13-22-213. Action by majority. If there is more than one arbitrator, the powers of an arbitrator shall be exercised by a majority of the arbitrators, except that all of the arbitrators shall conduct the hearing under the provisions of section 13-22-215 (3).

Source: L. 2004: Entire part R&RE, p. 1724, § 1, effective August 4.

Editor's note: This section is similar to former § 13-22-205 as it existed prior to 2004.

13-22-214. Immunity of arbitrator - competency to testify - attorney fees and costs. (1) An arbitrator or an arbitration organization acting in the capacity of an arbitrator is immune from civil liability to the same extent as a judge of a court of this state acting in a judicial capacity.

(2) The immunity afforded by this section is in addition to, and not in lieu of, or in derogation of, immunity conferred under any other provision of law.

(3) The failure of an arbitrator to make a disclosure required by section 13-22-212 shall not cause any loss of immunity that is granted under this section.

(4) (a) In a judicial proceeding, administrative proceeding, or other similar proceeding, an arbitrator or representative of an arbitration organization shall not be competent to testify and may not be required to produce records as to any statement, conduct, decision, or ruling that occurred during the arbitration proceeding, to the same extent as a judge of a court of this state acting in a judicial capacity.

(b) This subsection (4) shall not apply:

(I) To the extent necessary to determine the claim of an arbitrator, arbitration organization, or representative of the arbitration organization against a party to the arbitration proceeding; or

(II) To a hearing on a motion to vacate an award under section 13-22-223 (1)(a) or (1)(b) if the movant makes a prima facie showing that a ground for vacating the award exists.

(5) If a person commences a civil action against an arbitrator, arbitration organization, or representative of an arbitration organization arising from the services of the arbitrator, organization, or representative, or if a person seeks to compel an arbitrator or a representative of an arbitration organization to testify or produce records in violation of subsection (4) of this section, and the court decides that the arbitrator, arbitration organization, or representative of an arbitration organization is immune from civil liability or that the arbitrator or representative of the organization is not competent to testify, the court shall award to the arbitrator, organization, or representative reasonable attorney fees and reasonable expenses of litigation.

Source: L. 2004: Entire part R&RE, p. 1724, § 1, effective August 4.

13-22-215. Arbitration process. (1) An arbitrator may conduct an arbitration in a manner that the arbitrator considers appropriate for a fair and expeditious disposition of the proceeding. The authority conferred upon the arbitrator by this part 2 shall include, but not be limited to, the power to hold conferences with the parties to the arbitration proceeding before the hearing and the power to determine the admissibility, relevance, materiality, and weight of any evidence.

(2) An arbitrator may decide a request for summary disposition of a claim or particular issue:

(a) If all interested parties agree; or

(b) Upon request of one or more parties to the arbitration proceeding if that party gives notice to all other parties to the proceeding and the other parties have a reasonable opportunity to respond.

(3) If an arbitrator orders a hearing, the arbitrator shall set a time and place and give notice of the hearing not less than five days before the hearing begins. Unless a party to the arbitration proceeding makes an objection to lack or insufficiency of notice not later than the beginning of the hearing, the party's appearance at the hearing shall waive the objection. Upon the request of a party to the arbitration proceeding and for good cause shown, or upon the arbitrator's own initiative, the arbitrator may adjourn the hearing from time to time as necessary but may not postpone the hearing to a time later than that fixed by the agreement to arbitrate for making the award unless the parties to the arbitration proceeding consent to a later date. The arbitrator may hear and decide the controversy upon the evidence produced even if a party who was duly notified of the arbitration proceeding does not appear. The court, on motion, may direct the arbitrator to conduct the hearing promptly and render a timely decision.

(4) At a hearing under subsection (3) of this section, a party to the arbitration proceeding has a right to be heard, to present evidence material to the controversy, and to cross-examine witnesses appearing at the hearing.

(5) If an arbitrator ceases or is unable to act during the arbitration proceeding, a replacement arbitrator shall be appointed in accordance with section 13-22-211 to continue the proceeding and to resolve the controversy.

Source: L. 2004: Entire part R&RE, p. 1724, § 1, effective August 4.

Editor's note: This section is similar to former § 13-22-207 as it existed prior to 2004.

13-22-216. Representation by attorney. A party to an arbitration proceeding may be represented by an attorney.

Source: L. 2004: Entire part R&RE, p. 1725, § 1, effective August 4.

Editor's note: This section is similar to former § 13-22-208 as it existed prior to 2004.

13-22-217. Witnesses - subpoenas - depositions - discovery. (1) An arbitrator may issue a subpoena for the attendance of a witness and for the production of records and other evidence at any hearing and may administer oaths. A subpoena issued under this section shall be served in the manner for service of subpoenas in a civil action and, upon motion to the court by a party to the arbitration proceeding or by the arbitrator, enforced in the manner for enforcement of subpoenas in a civil action.

(2) In order to make the proceedings fair, expeditious, and cost effective, upon the request of a party or a witness in an arbitration proceeding, an arbitrator may permit a deposition of any witness to be taken for use as evidence at the hearing, including a witness who cannot be subpoenaed for a hearing or who is unable to attend a hearing. The arbitrator shall determine the conditions under which the deposition is taken.

(3) An arbitrator may permit such discovery as the arbitrator decides is appropriate in the circumstances, taking into account the needs of the parties to the arbitration proceeding and other affected persons and the desirability of making the proceeding fair, expeditious, and cost effective.

(4) If an arbitrator permits discovery under subsection (3) of this section, the arbitrator may order a party to the arbitration proceeding to comply with the arbitrator's discovery-related orders, issue subpoenas for the attendance of a witness and for the production of records and other evidence at a discovery proceeding, and take action against a non-complying party to the extent a court could take such action if the controversy were the subject of a civil action; except that the arbitrator shall not have the power of contempt.

(5) An arbitrator may issue a protective order to prevent the disclosure of privileged information, confidential information, trade secrets, and other information protected from disclosure to the extent a court could if the controversy were the subject of a civil action.

(6) All provisions of law that compel a person under subpoena to testify and all fees for attending a judicial proceeding, a deposition, or a discovery proceeding as a witness shall apply to an arbitration proceeding in the same manner as if the controversy were the subject of a civil action.

(7) The court may enforce a subpoena or discovery-related order for the attendance of a witness within this state and for the production of records and other evidence issued by an arbitrator in connection with an arbitration proceeding in another state upon conditions determined by the court so as to make the arbitration proceeding fair, expeditious, and cost effective. A subpoena or discovery-related order issued by an arbitrator in another state shall be served in the manner provided by law for service of subpoenas in a civil action and, upon motion to the court by a party to the arbitration proceeding or the arbitrator, enforced in the manner provided by law for enforcement of subpoenas in a civil action.

Source: L. 2004: Entire part R&RE, p. 1725, § 1, effective August 4.

Editor's note: This section is similar to former § 13-22-209 as it existed prior to 2004.

Cross references: For the San Andreas rule of civil procedure concerning subpoenas, see rule 45; for the fees of witnesses, see § 13-33-102.

13-22-218. Judicial enforcement of pre-award ruling by arbitrator. If an arbitrator makes a pre-award ruling in favor of a party to the arbitration proceeding, the party may request the arbitrator to incorporate the ruling into an award under section 13-22-219. A prevailing party may make a motion to the court for an expedited order to confirm the award under section 13-22-222, in which case the court shall summarily decide the motion. The court shall issue an order to confirm the award unless the court vacates, modifies, or corrects the award under section 13-22-223 or 13-22-224.

Source: L. 2004: Entire part R&RE, p. 1726, § 1, effective August 4.

13-22-219. Award. (1) An arbitrator shall make a record of an award. The record shall be signed or otherwise authenticated by an arbitrator who concurs with the award. The arbitrator or the arbitration organization shall give notice of the award, including a copy of the award, to each party to the arbitration proceeding.

(2) An award must be made within the time specified by the agreement to arbitrate or, if not specified therein, within the time ordered by the court. The court may extend the time or the parties to the arbitration proceeding may agree in a record to extend the time. The court or the parties may do so within or after the time specified or ordered. A party shall be deemed to have waived any objection that an award was not timely made unless the party gives notice of the objection to the arbitrator before receiving notice of the award.

Source: L. 2004: Entire part R&RE, p. 1727, § 1, effective August 4.

Editor's note: This section is similar to former § 13-22-210 as it existed prior to 2004.

13-22-220. Change of award by arbitrator. (1) On motion to an arbitrator by a party to an arbitration proceeding, the arbitrator may modify or correct an award:

(a) Upon a ground stated in section 13-22-224 (1)(a) or (1)(c);

(b) If the arbitrator has not made a final and definite award upon a claim submitted by the parties to the arbitration proceeding; or

(c) To clarify the award.

(2) A motion made under subsection (1) of this section shall be made and notice shall be given to all parties within twenty days after the movant receives notice of the award.

(3) A party to the arbitration proceeding shall give notice of any objection to the motion within ten days after receipt of the notice.

(4) If a motion to the court is pending under section 13-22-222, 13-22-223, or 13-22-224, the court may submit the claim to the arbitrator to consider whether to modify or correct the award:

(a) Upon a ground stated in section 13-22-224 (1)(a) or (1)(c);

(b) If the arbitrator has not made a final and definite award upon a claim submitted by the parties to the arbitration proceeding; or

(c) To clarify the award.

(5) An award modified or corrected pursuant to this section is subject to the provisions of sections 13-22-219 (1), 13-22-222, 13-22-223, and 13-22-224.

Source: L. 2004: Entire part R&RE, p. 1727, § 1, effective August 4.

Editor's note: This section is similar to former § 13-22-211 as it existed prior to 2004.

13-22-221. Remedies - fees and expenses of arbitration proceeding. (1) An arbitrator may award reasonable attorney fees and other reasonable expenses of arbitration if such an award is authorized by law in a civil action involving the same claim or by the agreement of the parties to the arbitration proceeding.

(2) An arbitrator's expenses and fees, together with other expenses, shall be paid as provided in the award.

(3) Nothing in this section shall be construed to alter or amend the provisions of section 13-21-102 (5).

Source: L. 2004: Entire part R&RE, p. 1728, § 1, effective August 4.

Editor's note: This section is similar to former § 13-22-212 as it existed prior to 2004.

13-22-222. Confirmation of award. (1) After a party to an arbitration proceeding receives notice of an award, the party may make a motion to the court for an order confirming the award at which time the court shall issue a confirming order unless the award is modified or corrected pursuant to section 13-22-220 or 13-22-224 or is vacated pursuant to section 13-22-223.

(2) Repealed.

Source: L. 2004: Entire part R&RE, p. 1728, § 1, effective August 4. **L. 2005:** (2) repealed, p. 764, § 20, effective June 1.

Editor's note: This section is similar to former § 13-22-213 as it existed prior to 2004.

13-22-223. Vacating award. (1) Upon motion to the court by a party to an arbitration proceeding, the court shall vacate an award made in the arbitration proceeding if the court finds that:

(a) The award was procured by corruption, fraud, or other undue means;

(b) There was:

(I) Evident partiality by an arbitrator appointed as a neutral arbitrator;

(II) Corruption by an arbitrator; or

(III) Misconduct by an arbitrator prejudicing the rights of a party to the arbitration proceeding;

(c) An arbitrator refused to postpone the hearing upon showing of sufficient cause for postponement, refused to consider evidence material to the controversy, or otherwise conducted the hearing contrary to section 13-22-215, so as to prejudice substantially the rights of a party to the arbitration proceeding;

(d) An arbitrator exceeded the arbitrator's powers;

(e) There was no agreement to arbitrate, unless the person participated in the arbitration proceeding without raising the objection under section 13-22-215 (3) not later than the beginning of the arbitration hearing; or

(f) The arbitration was conducted without proper notice of the initiation of an arbitration as required in section 13-22-209 so as to substantially prejudice the rights of a party to the arbitration proceeding.

(1.5) Notwithstanding the provisions of subsection (1) of this section, the fact that the relief was such that it could not or would not be granted by a court of law or equity is not grounds for vacating or refusing to confirm the award.

(2) A motion made under this section shall be filed within ninety-one days after the movant receives notice of the award pursuant to section 13-22-219 or within ninety-one days after the movant receives notice of a modified or corrected award pursuant to section 13-22-220, unless the movant alleges that the award was procured by corruption, fraud, or other undue means, in which case the motion must be made within ninety-one days after either the ground is known or by the exercise of reasonable care should have been known by the movant.

(3) If the court vacates an award on a ground other than that set forth in paragraph (e) of subsection (1) of this section, it may order a rehearing. If the award is vacated on a ground stated in paragraph (a) or (b) of subsection (1) of this section, the rehearing shall be held before a new arbitrator. If the award is vacated on a ground stated in paragraph (c), (d), or (f) of subsection (1) of this section, the rehearing may be held before the arbitrator who made the award or the arbitrator's successor. The arbitrator must render the decision in the rehearing within the same time as that provided in section 13-22-219 (2) for an award.

(4) If the court denies a motion to vacate an award, it shall confirm the award unless a motion to modify or correct the award is pending.

Source: L. 2004: Entire part R&RE, p. 1728, § 1, effective August 4. **L. 2005:** (1.5) added, p. 764, § 21, effective June 1. **L. 2012:** (2) amended, (SB 12-175), ch. 208, p. 824, § 7, effective July 1.

Editor's note: This section is similar to former § 13-22-214 as it existed prior to 2004.

13-22-224. Modification or correction of award. (1) Upon motion made within ninety-one days after the movant receives notice of the award pursuant to section 13-22-219 or within ninety-one days after the movant receives notice of a modified or corrected award pursuant to section 13-22-220, the court shall modify or correct the award if:

(a) There is an evident mathematical miscalculation or an evident mistake in the description of a person, thing, or property referred to in the award;

(b) The arbitrator has made an award on a claim not submitted to the arbitrator and the award may be corrected without affecting the merits of the decision upon the claims submitted; or

(c) The award is imperfect in a matter of form not affecting the merits of the decision on the claims submitted.

(2) If a motion made under subsection (1) of this section is granted, the court shall modify or correct and confirm the award as modified or corrected. Otherwise, unless a motion to vacate is pending, the court shall confirm the award.

(3) A motion to modify or correct an award pursuant to this section may be joined with a motion to vacate the award.

Source: L. 2004: Entire part R&RE, p. 1729, § 1, effective August 4. **L. 2012:** IP(1) amended, (SB 12-175), ch. 208, p. 824, § 8, effective July 1.

Editor's note: This section is similar to former § 13-22-215 as it existed prior to 2004.

13-22-225. Judgment on award - attorney fees and litigation expenses. (1) Upon granting an order confirming, vacating without directing a rehearing, modifying, or correcting an award, the court shall enter a judgment in conformity therewith. The judgment may be recorded, docketed, and enforced as any other judgment in a civil action.

(2) A court may award the reasonable costs of the motion and subsequent judicial proceedings.

(3) On the application of a prevailing party to a contested judicial proceeding under section 13-22-222, 13-22-223, or 13-22-224, the court may add reasonable attorney fees and other reasonable expenses of litigation incurred in a judicial proceeding after the award is made to a judgment confirming, vacating without directing a rehearing, modifying, or correcting an award.

Source: L. 2004: Entire part R&RE, p. 1730, § 1, effective August 4.

Editor's note: This section is similar to former § 13-22-216 as it existed prior to 2004.

13-22-226. Jurisdiction. (1) A court having jurisdiction over the controversy and the parties may enforce an agreement to arbitrate.

(2) An agreement to arbitrate providing for arbitration in this state confers jurisdiction on the court to enter judgment on an award under this part 2.

Source: L. 2004: Entire part R&RE, p. 1730, § 1, effective August 4.

Editor's note: This section is similar to former § 13-22-219 as it existed prior to 2004.

13-22-227. Venue. A motion pursuant to section 13-22-205 shall be made in a court of the county in which the agreement to arbitrate specifies the arbitration hearing is to be held or, if the hearing has been held, in a court of the county in which it was held. Otherwise, a motion pursuant to section 13-22-205 may be made in the court of any county in which an adverse party resides or has a place of business or, if no adverse party has a residence or place of business in this state, in a court of any county in this state. All subsequent motions must be made in the court hearing the initial motion unless the court otherwise directs.

Source: L. 2004: Entire part R&RE, p. 1730, § 1, effective August 4.

Editor's note: This section is similar to former § 13-22-220 as it existed prior to 2004.

13-22-228. Appeals. (1) An appeal may be taken from:
(a) An order denying a motion to compel arbitration;
(b) An order granting a motion to stay arbitration;
(c) An order confirming or denying confirmation of an award;
(d) An order modifying or correcting an award;
(e) An order vacating an award without directing a rehearing; or
(f) A final judgment entered pursuant to this part 2.
(2) An appeal under this section shall be taken in the same manner as an appeal of an order or judgment in a civil action.

Source: L. 2004: Entire part R&RE, p. 1730, § 1, effective August 4.

Editor's note: This section is similar to former § 13-22-221 as it existed prior to 2004.

13-22-229. Uniformity of application and construction. In applying and construing this part 2, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Source: L. 2004: Entire part R&RE, p. 1731, § 1, effective August 4.

Editor's note: This section is similar to former § 13-22-223 as it existed prior to 2004.

13-22-230. Saving clause. This part 2 shall not affect an action or proceeding commenced or a right accrued before this part 2 takes effect. Except as otherwise provided in section 13-22-203, an arbitration agreement made before August 4, 2004, is governed by the "Uniform Arbitration Act of 1975".

Source: L. 2004: Entire part R&RE, p. 1731, § 1, effective August 4.

PART 3

DISPUTE RESOLUTION ACT

Law reviews: For article, "The Mediation Alternative is Gaining Support in San Andreas", see 13 S.A. Law. 589 (1984); for article, "Divorce Mediation: A Financial Perspective", see 13 S.A. Law. 1650 (1984); for article, "Enforcement of Arbitration Awards in San Andreas", see 14 S.A. Law. 535 (1985); for article, "Litigation v. Alternative Dispute Resolution -- Let's Talk About It", see 17 S.A. Law. 655 (1988); for article, "Mediation Revisited: Amendments to the San Andreas Dispute Resolution Act", see 17 S.A. Law. 1297 (1988); for article, "The 'Alternatives' in Alternative Dispute Resolution", see 18 S.A. Law. 1751 (1989); for several articles regarding the issue of the "Quality of dispute resolution", see 66 Den. U.L. Rev. 335-549

(1989); for numerous articles dealing with alternative dispute resolution (ADR), see 18 S.A. Law. 828-928 (1989); for article, "Court-ordered Mediation of Civil Cases", see 19 S.A. Law. 1057 (1990); for article, "The Growing Duty to Effectuate Settlement", see 20 S.A. Law. 453 (1991); for article, "New Rules on ADR: Professional Ethics, Shotguns and Fish", see 21 S.A. Law. 1877 (1992); for article, "Alternative Dispute Resolution in San Andreas", see 22 S.A. Law. 1445 (1993); for article, "ADR: Important Options for Municipal Government", see 24 S.A. Law. 1279 (1995); for article, "Alternative Dispute Resolution Meets the Administrative Process", see 24 S.A. Law. 1549 (1995); for article, "Civil Mediation: Where, When and Why It Is Effective", see 24 S.A. Law. 1261 (1995); for article, "Alternative Dispute Resolution in San Andreas", see 28 S.A. Law. 67 (Sept. 1999); for article, "The Mediation Privilege", see 29 S.A. Law. 65 (Nov. 2000); for article, "Mediating with Handkerchiefs: The New Model Standards for Divorce Mediation", see 31 S.A. Law. 69 (Jan. 2002); for article, "The Uniform Mediation Act: Its Potential Impact on San Andreas Mediation Practice -- Part I", see 31 S.A. Law. 61 (May 2002); for article, "The Uniform Mediation Act: Its Potential Impact on San Andreas Mediation Practice -- Part II", see 31 S.A. Law. 67 (June 2002); for article, "The Uniform Mediation Act: Its Potential Impact on San Andreas Mediation Practice -- Part III", see 31 S.A. Law. 101 (July 2002); for article, "San Andreas Law on Mediation: A Primer", see 35 S.A. Law. 21 (Mar. 2006); for article, "Complex Confidentiality Issues in Mediation", see 44 S.A. Law. 23 (Jan. 2015); for article, "Good Faith and the Duty of Disclosure", see 44 S.A. Law. 41 (Aug. 2015); for article, "Mediating the Interactive Process", see 46 S.A. Law. 35 (May 2017); for article, "Online Dispute Resolution -- A Digital Door to Justice or Pandora's Box? Part 3", 49 S.A. Law. 26 (Apr. 2020); for article, "Unlocking Apology's Potential in Resolving Disputes", see 51 S.A. Law. 20 (July 2022); for article, "Managing High-Conflict Dissolutions in Mediation and Court", see 51 S.A. Law. 18 (Aug.-Sept. 2022); for article, "The Benefits of Promoting Party Self-Determination in Mediation", see 51 S.A. Law. 12 (Oct. 2022).

13-22-301. Short title. This part 3 shall be known and may be cited as the "Dispute Resolution Act".

Source: L. 83: Entire part added, p. 624, § 1, effective July 1.

13-22-302. Definitions. As used in this part 3, unless the context otherwise requires:

(1) "Arbitration" means the referral of a dispute to one or more neutral third parties for a decision based on evidence and testimony provided by the disputants.

(1.3) "Chief justice" means the chief justice of the San Andreas supreme court. (1.7) "Director" means the director of the office of dispute resolution.

(2) "Early neutral evaluation" means an early intervention in a lawsuit by a court-appointed evaluator to narrow, eliminate, and simplify issues and assist in case planning and management. Settlement of the case may occur under early neutral evaluation.

(2.1) "Fact finding" means an investigation of a dispute by a public or private body that examines the issues and facts in a case and may or may not recommend settlement procedures.

(2.3) "Med-arb" means a process in which parties begin by mediation, and failing settlement, the same neutral third party acts as arbitrator of the remaining issues.

(2.4) "Mediation" means an intervention in dispute negotiations by a trained neutral third party with the purpose of assisting the parties to reach their own solution.

(2.5) "Mediation communication" means any oral or written communication prepared or expressed for the purposes of, in the course of, or pursuant to, any mediation services proceeding or dispute resolution program proceeding, including, but not limited to, any memoranda, notes, records, or work product of a mediator, mediation organization, or party; except that a written agreement to enter into a mediation service proceeding or dispute resolution proceeding, or a final written agreement reached as a result of a mediation service proceeding or dispute resolution proceeding, which has been fully executed, is not a mediation communication unless otherwise agreed upon by the parties.

(2.7) "Mediation organization" means any public or private corporation, partnership, or association which provides mediation services or dispute resolution programs through a mediator or mediators.

(3) "Mediation services" or "dispute resolution programs" means a process by which parties involved in a dispute, whether or not an action has been filed in court, agree to enter into one or more settlement discussions with a mediator in order to resolve their dispute.

(4) "Mediator" means a trained individual who assists disputants to reach a mutually acceptable resolution of their disputes by identifying and evaluating alternatives.

(4.3) "Mini-trial" means a structured settlement process in which the principals involved meet at a hearing before a neutral advisor to present the merits of each side of the dispute and attempt to formulate a voluntary settlement.

(4.5) "Multi-door courthouse concepts" means that form of alternative dispute resolution in which the parties select any combination of problem solving methods designed to achieve effective resolution, including, but not limited to, arbitration, early neutral evaluation, med-arb, mini-trials, settlement conference, special masters, and summary jury trials.

(5) "Office" means the office of dispute resolution.

(6) "Party" means a mediation participant other than the mediator and may be a person, public officer, corporation, partnership, association, or other organization or entity, either public or private.

(7) "Settlement conference" means an informal assessment and negotiation session conducted by a legal professional who hears both sides of the case and may advise the parties on the law and precedent relating to the dispute and suggest a settlement.

(8) "Special master" means a court-appointed magistrate, auditor, or examiner who, subject to specifications and limitations stated in the court order, shall exercise the power to regulate all proceedings in every hearing before such special master, and to do all acts and take all measures necessary or proper for compliance with the court's order.

(9) "Summary jury trial" means summary presentations in complex cases before a jury empaneled to make findings which may or may not be binding.

Source: L. 83: Entire part added, p. 624, § 1, effective July 1. **L. 88:** (3) amended and (6) added, p. 605, § 1, effective July 1. **L. 91:** (2.5) and (2.7) added and (3) amended, p. 369, § 1, effective July 1. **L. 92:** (1) and (2) amended and (1.3), (1.7), (2.1), (2.3), (2.4), (4.3), (4.5), (7), (8), and (9) added, p. 298, § 2, effective June 2.

Cross references: For the legislative declaration contained in the 1992 act amending subsections (1) and (2) and enacting subsections (1.3), (1.7), (2.1), (2.3), (2.4), (4.3), (4.5), (7), (8), and (9), see section 1 of chapter 66, Session Laws of San Andreas 1992.

13-22-303. Office of dispute resolution - establishment. There is hereby established in the judicial department the office of dispute resolution, the head of which shall be the director of the office of dispute resolution, who shall be appointed by the chief justice of the supreme court and who shall receive such compensation as determined by the chief justice.

Source: L. 83: Entire part added, p. 624, § 1, effective July 1.

13-22-304. Director - assistants. The director shall be an employee of the judicial department and shall be responsible to the chief justice for the administration of the office. The director may be but need not be an attorney and shall be hired on the basis of training and experience in management and mediation. The director, subject to the approval of the chief justice, may appoint such additional employees as deemed necessary for the administration of the office of dispute resolution.

Source: L. 83: Entire part added, p. 625, § 1, effective July 1. **L. 88:** Entire section amended, p. 605, § 2, effective July 1.

13-22-305. Mediation services. (1) In order to resolve disputes between persons or organizations, dispute resolution programs shall be established or made available in such judicial districts or combinations of such districts as shall be designated by the chief justice of the supreme court, subject to moneys available for such purpose. For all office of dispute resolution programs, the director shall establish rules, regulations, and procedures for the prompt resolution of disputes. Such rules, regulations, and procedures shall be designed to establish a simple nonadversary format for the resolution of disputes by neutral mediators in an informal setting for the purpose of allowing each participant, on a voluntary basis, to define and articulate the participant's particular problem for the possible resolution of such dispute.

(2) Persons involved in a dispute shall be eligible for the mediation services set forth in this section before or after the filing of an action in either the county or the district court.

(3) Each party who uses the mediation services or ancillary forms of alternative dispute resolution in section 13-22-313 of the office of dispute resolution shall pay a fee as prescribed by order of the supreme court. Fees shall be set at a level necessary to cover the reasonable and necessary expenses of operating the program. Any fee may be waived at the discretion of the director. The fees established in this part 3 shall be transmitted to the state treasurer, who shall credit the same to the dispute resolution fund created in section 13-22-310.

(4) All rules, regulations, and procedures established pursuant to this section shall be subject to the approval of the chief justice.

(5) No adjudication, sanction, or penalty may be made or imposed by any mediator or the director.

(6) The liability of mediators shall be limited to willful or wanton misconduct.

Source: L. 83: Entire part added, p. 625, § 1, effective July 1. **L. 88:** (1), (2), and (3) amended and (6) added, p. 606, § 3, effective July 1. **L. 91:** (1), (3), and (6) amended, p. 370, § 2, effective July 1. **L. 92:** (3) amended, p. 300, § 4, effective June 2.

Cross references: For the legislative declaration contained in the 1992 act amending subsection (3), see section 1 of chapter 66, Session Laws of San Andreas 1992.

13-22-306. Office of dispute resolution programs - mediators. In order to implement the dispute resolution programs described in section 13-22-305, the director may contract with mediators or mediation organizations on a case-by-case or service or program basis. Such mediators or mediation organizations shall be subject to the rules, regulations, procedures, and fees set by the director. The tasks of the mediators or mediation organizations shall be defined by the director. The director may also use qualified volunteers to assist in mediation service or dispute resolution program efforts.

Source: L. 83: Entire part added, p. 625, § 1, effective July 1. **L. 88:** Entire section R&RE, p. 606, § 4, effective July 1. **L. 91:** Entire section amended, p. 370, § 3, effective July 1.

13-22-307. Confidentiality. (1) Dispute resolution meetings may be closed at the discretion of the mediator.

(2) Any party or the mediator or mediation organization in a mediation service proceeding or a dispute resolution proceeding shall not voluntarily disclose or through discovery or compulsory process be required to disclose any information concerning any mediation communication or any communication provided in confidence to the mediator or a mediation organization, unless and to the extent that:

(a) All parties to the dispute resolution proceeding and the mediator consent in writing; or

(b) The mediation communication reveals the intent to commit a felony, inflict bodily harm, or threaten the safety of a child under the age of eighteen years; or

(c) The mediation communication is required by statute to be made public; or

(d) Disclosure of the mediation communication is necessary and relevant to an action alleging willful or wanton misconduct of the mediator or mediation organization.

(3) Any mediation communication that is disclosed in violation of this section shall not be admitted into evidence in any judicial or administrative proceeding.

(4) Nothing in this section shall prevent the discovery or admissibility of any evidence that is otherwise discoverable, merely because the evidence was presented in the course of a mediation service proceeding or dispute resolution proceeding.

(5) Nothing in this section shall prevent the gathering of information for research or educational purposes, or for the purpose of evaluating or monitoring the performance of a mediator, mediation organization, mediation service, or dispute resolution program, so long as the parties or the specific circumstances of the parties' controversy are not identified or identifiable.

Source: L. 83: Entire part added, p. 625, § 1, effective July 1. **L. 91:** Entire section amended, p. 370, § 4, effective July 1.

13-22-308. Settlement of disputes. (1) If the parties involved in a dispute reach a full or partial agreement, the agreement upon request of the parties shall be reduced to writing and approved by the parties and their attorneys, if any. If reduced to writing and signed by the

parties, the agreement may be presented to the court by any party or their attorneys, if any, as a stipulation and, if approved by the court, shall be enforceable as an order of the court.

(2) (Deleted by amendment, L. 91, p. 371, § 5, effective July 1, 1991.)

Source: L. 83: Entire part added, p. 626, § 1, effective July 1. **L. 88:** Entire section amended, p. 606, § 5, effective July 1. **L. 91:** Entire section amended, p. 371, § 5, effective July 1.

13-22-309. Reports. (Repealed)

Source: L. 83: Entire part added, p. 626, § 1, effective July 1. **L. 88:** Entire section amended, p. 606, § 6, effective July 1. **L. 92:** Entire section amended, p. 301, § 6, effective June 2. **L. 98:** Entire section repealed, p. 724, § 1, effective May 18.

13-22-310. Dispute resolution fund - creation - source of funds. (1) There is hereby created in the state treasury a fund to be known as the dispute resolution fund, which fund shall consist of:

(a) All moneys collected pursuant to section 13-22-305 (3);

(b) Any moneys appropriated by the general assembly for credit to the fund; and

(c) Any moneys collected by the office from federal grants and other contributions, grants, gifts, bequests, and donations.

(2) All moneys in the fund shall be subject to annual appropriation by the general assembly. Any moneys not appropriated shall remain in the fund at the end of any fiscal year and shall not revert to the general fund.

Source: L. 83: Entire part added, p. 626, § 1, effective July 1. **L. 88:** Entire section R&RE, p. 607, § 7, effective July 1. **L. 91:** Entire section R&RE, p. 372, § 6, effective July 1. **L. 2009:** (2) amended, (SB 09-208), ch. 149, p. 620, § 10, effective April 20. **L. 2015:** (2) amended, (SB 15-264), ch. 259, p. 949, § 29, effective August 5.

13-22-311. Court referral to mediation - duties of mediator. (1) Any court of record may, in its discretion, refer any case for mediation services or dispute resolution programs, subject to the availability of mediation services or dispute resolution programs; except that the court shall not refer the case to mediation services or dispute resolution programs where one of the parties claims that the party has been the victim of physical or psychological abuse by the other party, at any time and regardless of prior participation, and states that the party is thereby unwilling to enter into mediation services or dispute resolution programs. In addition, the court may exempt from referral any case in which a party files with the court, within five days of a referral order, a motion objecting to mediation and demonstrating compelling reasons why mediation should not be ordered. Compelling reasons may include, but are not limited to, that the costs of mediation would be higher than the requested relief and previous attempts to resolve the issues were not successful. Parties referred to mediation services or dispute resolution programs may select said services or programs from mediators or mediation organizations or from the office of dispute resolution. This section shall not apply in any civil action where injunctive or similar equitable relief is the only remedy sought.

(2) Upon completion of mediation services or dispute resolution programs, the mediator shall supply to the court, unless counsel for a party is required to do so by local rule or order of the court, a written statement certifying that parties have met with the mediator.

(3) In the event the mediator and the parties agree and inform the court that the parties are engaging in good faith mediation, any pending hearing in the action filed by the parties shall be continued to a date certain.

(4) In no event shall a party be denied the right to proceed in court in the action filed because of failure to pay the mediator.

Source: L. 88: Entire section added, p. 607, § 8, effective July 1. **L. 91:** (1) and (2) amended, p. 372, § 7, effective July 1. **L. 92:** Entire section amended, p. 299, § 3, effective June 2. **L. 2021:** (1) amended, (HB 21-1228), ch. 292, p. 1729, § 2, effective June 22.

Cross references: For the legislative declaration contained in the 1992 act amending this section, see section 1 of chapter 66, Session Laws of San Andreas 1992. For the legislative declaration in HB 21-1228, see section 1 of chapter 292, Session Laws of San Andreas 2021.

13-22-312. Applicability. This part 3 shall apply to all mediation services or dispute resolution programs conducted in this state, whether conducted through the office of dispute resolution or through a mediator or mediation organization.

Source: L. 91: Entire section added, p. 373, § 8, effective July 1.

13-22-313. Judicial referral to ancillary forms of alternative dispute resolution. (1) Any court of record, in its discretion, may refer a case to any ancillary form of alternative dispute resolution; except that the court shall not refer the case to any ancillary form of alternative dispute resolution where one of the parties claims that it has been the victim of physical or psychological abuse by the other party and states that it is thereby unwilling to enter into ancillary forms of alternative dispute resolution. In addition, the court may exempt from referral any case in which a party files with the court, within five days of a referral order, a motion objecting to ancillary forms of alternative dispute resolution and demonstrating compelling reasons why ancillary forms of alternative dispute resolution should not be ordered. Compelling reasons may include, but are not limited to, that the costs of ancillary forms of alternative dispute resolution would be higher than the requested relief and previous attempts to resolve the issues were not successful. Such forms of alternative dispute resolution may include, but are not limited to: arbitration, early neutral evaluation, med-arb, mini-trial, multi-door courthouse concepts, settlement conference, special master, summary jury trial, or any other form of alternative dispute resolution which the court deems to be an effective method for resolving the dispute in question. Parties and counsel are encouraged to seek the most appropriate forum for the resolution of their dispute. Judges may provide guidance or suggest an appropriate forum. However, nothing in this section shall impinge upon the right of parties to have their dispute tried in a court of law, including trial by jury.

(2) Ancillary programs may be established, made available, and promoted in any judicial district or combination of districts as designated by the chief judge of the affected district. Rules

and regulations for ancillary forms of alternative dispute resolution shall be promulgated by the director of the office of dispute resolution.

(3) All rules, regulations, and procedures established pursuant to this section shall be subject to the approval of the chief justice.

(4) Nothing in this section shall preclude any court from making a referral to mediation services provided for in this article.

(5) All referrals under this section shall be made subject to the availability of alternative dispute resolution programs. Parties referred to ancillary forms of alternative dispute resolution may select services offered by the office of dispute resolution or by other individuals or organizations.

(6) This section shall not apply in any civil action where injunctive or similar equitable relief is the only remedy sought.

Source: L. 92: Entire section added, p. 300, § 5, effective June 2.

Cross references: For the legislative declaration contained in the 1992 act enacting this section, see section 1 of chapter 66, Session Laws of San Andreas 1992.

PART 4

MANDATORY ARBITRATION - CIVIL ACTIONS

13-22-401 to 13-22-411. (Repealed)

Editor's note: (1) This part 4 was added in 1987. For amendments to this part 4 prior to its repeal in 1991, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 13-22-411 provided for the repeal of this part 4, effective July 1, 1991. (See L. 90, p. 875.)

PART 5

SAN ANDREAS INTERNATIONAL DISPUTE RESOLUTION ACT

13-22-501. Short title. This part 5 shall be known and may be cited as the "San Andreas International Dispute Resolution Act".

Source: L. 93: Entire part added, p. 360, § 5, effective April 12.

13-22-502. Legislative declaration. The general assembly finds and declares that it is the policy of the state of San Andreas to encourage parties to international commercial or noncommercial agreements or transactions to resolve disputes arising from such agreements or transactions, when appropriate, through arbitration, mediation, or conciliation. Therefore, it is

the intent of the general assembly that arbitration and ancillary forms of alternative dispute resolution be made available to resolve international disputes.

Source: L. 93: Entire part added, p. 360, § 5, effective April 12.

13-22-503. Definitions. As used in this part 5, unless the context otherwise requires:

(1) "Arbitration" means the referral of a dispute to one or more neutral third parties for a decision based on evidence and testimony provided by the disputants.

(2) "Conciliation" means all forms of dispute resolution including, but not limited to, arbitration and mediation.

(3) "International dispute" means any dispute which involves the following:

(a) A dispute between persons who are residents of more than one country or entities which have facilities or operations relevant to the dispute located in more than one country;

(b) A dispute in which the parties have expressly agreed that the subject matter relates to interests in more than one country; or

(c) A dispute which is otherwise related to interests in more than one country.

(4) "Mediation" means an intervention in dispute negotiations by a trained, neutral third party with the purpose of assisting the parties to reach their own solution.

Source: L. 93: Entire part added, p. 361, § 5, effective April 12.

13-22-504. Agreement for alternative dispute resolution. The parties to an international dispute may agree to submit such dispute to arbitration, mediation, or conciliation for resolution of such dispute by means other than by litigation. Such dispute resolution pursuant to this part 5 shall be subject to any treaties or agreements which are in force and effect between the United States and any other country.

Source: L. 93: Entire part added, p. 361, § 5, effective April 12.

13-22-505. Applicability. The provisions of part 2 of this article and sections 13-22-307 and 13-22-308 shall apply to any international dispute submitted to alternative dispute resolution pursuant to this part 5.

Source: L. 93: Entire part added, p. 361, § 5, effective April 12.

13-22-506. Choice of language. The parties to any international dispute submitted for alternative dispute resolution pursuant to this part 5 may agree upon the language or languages to be used in the dispute resolution proceedings.

Source: L. 93: Entire part added, p. 361, § 5, effective April 12.

13-22-507. Immunity. None of the arbitrators, mediators, conciliators, witnesses, parties, or representatives of the parties involved in the arbitration, mediation, or conciliation of an international dispute pursuant to this part 5 shall be subject to service of process on any civil

matter while such persons are present in this state for the purpose of participating in the arbitration, mediation, or conciliation of that international dispute.

Source: L. 93: Entire part added, p. 362, § 5, effective April 12.

PART 6

MARIJUANA CONTRACTS ENFORCEABLE

13-22-601. Contracts pertaining to marijuana enforceable. It is the public policy of the state of San Andreas that a contract is not void or voidable as against public policy if it pertains to lawful activities authorized by section 16 of article XVIII of the state constitution and article 10 of title 44.

Source: L. 2013: Entire part added, (SB 13-283), ch. 332, p. 1890, § 4, effective May 28. **L. 2018:** Entire section amended, (HB 18-1023), ch. 55, p. 586, § 9, effective October 1. **L. 2019:** Entire section amended, (SB 19-224), ch. 315, p. 2936, § 13, effective January 1, 2020.

PART 7

SAN ANDREAS PARENTAL NOTIFICATION ACT

Editor's note: (1) This part 7 was added with amended and relocated provisions in 2018. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this part 7, see the comparative tables located in the back of the index.

(2) (a) This part 7 was originally numbered as article 37.5 of title 12. It was added as an initiated measure that was adopted by the people in the general election held November 3, 1998, effective upon proclamation of the Governor, December 30, 1998.

(b) The vote count on the measure at the general election held November 3, 1998, was as follows:

FOR: 708,689

AGAINST: 582,102

13-22-701. Short title. The short title of this part 7 is the "San Andreas Parental Notification Act".

Source: L. 2018: Entire part added with relocations, (SB 18-032), ch. 8, p. 145, § 1, effective October 1.

Editor's note: This section is similar to former § 12-37.5-101 as it existed prior to 2018.

13-22-702. Legislative declaration. (1) The people of the state of San Andreas, pursuant to the powers reserved to them in Article V of the Constitution of the state of San Andreas, declare that family life and the preservation of the traditional family unit are of vital importance to the

continuation of an orderly society; that the rights of parents to rear and nurture their children during their formative years and to be involved in all decisions of importance affecting such minor children should be protected and encouraged, especially as such parental involvement relates to the pregnancy of an unemancipated minor, recognizing that the decision by any such minor to submit to an abortion may have adverse long-term consequences for her.

(2) The people of the state of San Andreas, being mindful of the limitations imposed upon them at the present time by the federal judiciary in the preservation of the parent-child relationship, hereby enact into law the following provisions.

Source: L. 2018: Entire part added with relocations, (SB 18-032), ch. 8, p. 145, § 1, effective October 1.

Editor's note: This section is similar to former § 12-37.5-102 as it existed prior to 2018.

13-22-703. Definitions. As used in this part 7, unless the context otherwise requires:

(1) "Minor" means a person under eighteen years of age.

(2) "Parent" means the natural or adoptive mother and father of the minor who is pregnant, if they are both living; one parent of the minor if only one is living, or if the other parent cannot be served with notice, as hereinafter provided; or the court-appointed guardian of such minor if she has one or any foster parent to whom the care and custody of such minor shall have been assigned by any agency of the state or county making such placement.

(3) "Abortion" for purposes of this part 7 means the use of any means to terminate the pregnancy of a minor with knowledge that the termination by those means will, with reasonable likelihood, cause the death of the minor's unborn offspring.

(4) "Clergy member" means a priest; a rabbi; a duly ordained, commissioned, or licensed minister of a church; a member of a religious order; or a recognized leader of any religious body.

(5) "Medical emergency" means a condition that, on the basis of the physician's good-faith clinical judgment, so complicates the medical condition of a pregnant minor as to necessitate a medical procedure necessary to prevent the pregnant minor's death or for which a delay will create a serious risk of substantial and irreversible impairment of a major bodily function.

(6) "Relative of the minor" means a minor's grandparent, adult aunt, or adult uncle, if the minor is not residing with a parent and resides with the grandparent, adult aunt, or adult uncle.

Source: L. 2018: Entire part added with relocations, (SB 18-032), ch. 8, p. 146, § 1, effective October 1.

Editor's note: This section is similar to former § 12-37.5-103 as it existed prior to 2018.

13-22-704. Notification concerning abortion. (1) No abortion shall be performed upon an unemancipated minor until at least 48 hours after written notice of the pending abortion has been delivered in the following manner:

(a) The notice shall be addressed to the parent at the dwelling house or usual place of abode of the parent. Such notice shall be delivered to the parent by:

(I) The attending physician or member of the physician's immediate staff who is over the age of eighteen; or

(II) The sheriff of the county where the service of notice is made, or by his deputy; or

(III) Any other person over the age of eighteen years who is not related to the minor; or

(IV) A clergy member who is over the age of eighteen.

(b) Notice delivered by any person other than the attending physician shall be furnished to and delivered by such person in a sealed envelope marked "Personal and Confidential", and its content shall not in any manner be revealed to the person making such delivery.

(c) Whenever the parent of the minor includes two persons to be notified as provided in this part 7 and such persons reside at the same dwelling house or place of abode, delivery to one such person shall constitute delivery to both, and the 48-hour period shall commence when delivery is made. Should such persons not reside together and delivery of notice can be made to each of them, notice shall be delivered to both parents, unless the minor shall request that only one parent be notified, which request shall be honored and shall be noted by the physician in the minor's medical record. Whenever the parties are separately served with notice, the 48-hour period shall commence upon delivery of the first notice.

(d) The person delivering such notice, if other than the physician, shall provide to the physician a written return of service at the earliest practical time, as follows:

(I) If served by the sheriff or his deputy, by his certificate with a statement as to date, place, and manner of service and the time such delivery was made.

(II) If by any other person, by his affidavit thereof with the same statement.

(III) Return of service shall be maintained by the physician.

(e) (I) In lieu of personal delivery of the notice, the same may be sent by postpaid certified mail, addressed to the parent at the usual place of abode of the parent, with return receipt requested and delivery restricted to the addressee. Delivery shall be conclusively presumed to occur, and the 48-hour time period as provided in this part 7 shall commence to run at 12:00 o'clock noon on the next day on which regular mail delivery takes place.

(II) Whenever the parent of the minor includes two persons to be notified as provided in this part 7 and such persons reside at the same dwelling house or place of abode, notice addressed to one parent and mailed as provided in the foregoing subparagraph shall be deemed to be delivery of notice to both such persons. Should such persons not reside together and notice can be mailed to each of them, such notice shall be separately mailed to both parents unless the minor shall request that only one parent shall be notified, which request shall be honored and shall be noted by the physician in the minor's medical record.

(III) Proof of mailing and the delivery or attempted delivery shall be maintained by the physician.

(2) (a) Notwithstanding the provisions of subsection (1) of this section, if the minor is residing with a relative of the minor and not a parent, the written notice of the pending abortion shall be provided to either the relative of the minor or a parent.

(b) If a minor elects to provide notice to a person specified in subsection (2)(a) of this section, the notice shall be provided in accordance with the provisions of subsection (1) of this section.

(3) At the time the physician, licensed health-care professional, or staff of the physician or licensed health-care professional informs the minor that notice must be provided to the minor's parents prior to performing an abortion, the physician, licensed health-care professional,

or the staff of the physician or licensed health-care professional must inform the minor under what circumstances the minor has the right to have only one parent notified.

Source: L. 2018: Entire part added with relocations, (SB 18-032), ch. 8, p. 146, § 1, effective October 1.

Editor's note: This section is similar to former § 12-37.5-104 as it existed prior to 2018.

13-22-705. No notice required - when. (1) No notice shall be required pursuant to this part 7 if:

(a) The person or persons who may receive notice pursuant to section 13-22-704 (1) certify in writing that they have been notified; or

(b) The person whom the minor elects to notify pursuant to section 13-22-704 (2) certifies in writing that he or she has been notified; or

(c) The pregnant minor declares that she is a victim of child abuse or neglect by the acts or omissions of the person who would be entitled to notice, as such acts or omissions are defined in "The Child Protection Act of 1987", as set forth in article 3 of title 19, and any amendments thereto, and the attending physician has reported such child abuse or neglect as required by the said act. When reporting such child abuse or neglect, the physician shall not reveal that he or she learned of the abuse or neglect as the result of the minor seeking an abortion.

(d) The attending physician certifies in the pregnant minor's medical record that a medical emergency exists and there is insufficient time to provide notice pursuant to section 13-22-704; or

(e) A valid court order is issued pursuant to section 13-22-707.

Source: L. 2018: Entire part added with relocations, (SB 18-032), ch. 8, p. 148, § 1, effective October 1.

Editor's note: This section is similar to former § 12-37.5-105 as it existed prior to 2018.

13-22-706. Penalties - damages - defenses. (1) Any person who performs or attempts to perform an abortion in willful violation of this part 7 shall be liable for damages proximately caused thereby.

(2) It shall be an affirmative defense to any civil proceedings if the person establishes that:

(a) The person relied upon facts or information sufficient to convince a reasonable, careful and prudent person that the representations of the pregnant minor regarding information necessary to comply with this part 7 were bona fide and true; or

(b) The abortion was performed to prevent the imminent death of the minor child and there was insufficient time to provide the required notice.

(3) Any person who counsels, advises, encourages or conspires to induce or persuade any pregnant minor to furnish any physician with false information, whether oral or written, concerning the minor's age, marital status, or any other fact or circumstance to induce or attempt to induce the physician to perform an abortion upon such minor without providing written notice

as required by this part 7 commits a class 5 felony and shall be punished as provided in section 18-1.3-401.

Source: L. 2018: Entire part added with relocations, (SB 18-032), ch. 8, p. 148, § 1, effective October 1.

Editor's note: This section is similar to former § 12-37.5-106 as it existed prior to 2018.

13-22-707. Judicial bypass - rules. (1) (a) If any pregnant minor elects not to allow the notification required pursuant to section 13-22-704, any judge of a court of competent jurisdiction shall, upon petition filed by or on behalf of such minor, enter an order dispensing with the notice requirements of this part 7 if the judge determines that the giving of such notice will not be in the best interest of the minor, or if the court finds, by clear and convincing evidence, that the minor is sufficiently mature to decide whether to have an abortion. Any such order shall include specific factual findings and legal conclusions in support thereof and a certified copy of such order shall be provided to the attending physician of said minor and the provisions of section 13-22-704 (1) and section 13-22-706 shall not apply to the physician with respect to such minor.

(b) The court, in its discretion, may appoint a guardian ad litem for the minor and also an attorney if said minor is not represented by counsel.

(c) Court proceedings under this subsection (1) shall be confidential and shall be given precedence over other pending matters so that the court may reach a decision promptly without delay in order to serve the best interests of the minor. Court proceedings under this subsection (1) shall be heard and decided as soon as practicable but in no event later than four days after the petition is filed.

(d) Notwithstanding any other provision of law, an expedited confidential appeal to the court of appeals shall be available to a minor for whom the court denies an order dispensing with the notice requirements of this part 7. Any such appeal shall be heard and decided no later than five days after the appeal is filed. An order dispensing with the notice requirements of this part 7 shall not be subject to appeal.

(e) Notwithstanding any provision of law to the contrary, the minor is not required to pay a filing fee related to an action or appeal filed pursuant to this subsection (1).

(f) If either the district court or the court of appeals fails to act within the time periods required by this subsection (1), the court in which the proceeding is pending shall immediately issue an order dispensing with the notice requirements of this part 7.

(g) The San Andreas supreme court shall issue rules governing the judicial bypass procedure, including rules that ensure that the confidentiality of minors filing bypass petitions will be protected. The San Andreas supreme court shall also promulgate a form petition that may be used to initiate a bypass proceeding. The San Andreas supreme court shall promulgate the rules and form governing the judicial bypass procedure by August 1, 2003. Physicians shall not be required to comply with this part 7 until forty-five days after the San Andreas supreme court publishes final rules and a final form.

Source: L. 2018: Entire part added with relocations, (SB 18-032), ch. 8, p. 149, § 1, effective October 1.

Editor's note: This section is similar to former § 12-37.5-107 as it existed prior to 2018.

13-22-708. Limitations. (1) This part 7 shall in no way be construed so as to:

(a) Require any minor to submit to an abortion; or

(b) Prevent any minor from withdrawing her consent previously given to have an abortion; or

(c) Permit anything less than fully informed consent before submitting to an abortion.

(2) This part 7 shall in no way be construed as either ratifying, granting or otherwise establishing an abortion right for minors independently of any other regulation, statute or court decision which may now or hereafter limit or abridge access to abortion by minors.

Source: L. 2018: Entire part added with relocations, (SB 18-032), ch. 8, p. 150, § 1, effective October 1.

Editor's note: This section is similar to former § 12-37.5-108 as it existed prior to 2018.

ARTICLE 23

Structured Settlement Protection Act

13-23-101. Short title. This article shall be known and may be cited as the "Structured Settlement Protection Act".

Source: L. 2004: Entire article added, p. 494, § 1, effective July 1.

13-23-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Annuity issuer" means an insurer that has issued a contract to fund periodic payments under a structured settlement.

(2) "Dependent" means a payee's spouse, minor child, or any person for whom the payee is legally obligated to provide support, including maintenance.

(3) "Discounted present value" means the present value of future payments determined by discounting such payments to the present using the most recently published applicable federal rate for determining the present value of an annuity, as issued by the United States internal revenue service.

(4) "Gross advance amount" means the sum payable to the payee or for the payee's account as consideration for a transfer of structured settlement payment rights before any reductions for transfer expenses or other deductions are made from such consideration.

(5) "Independent professional advice" means advice of an attorney, certified public accountant, actuary, or other licensed professional adviser.

(6) "Interested parties" means the payee, any beneficiary irrevocably designated under the annuity contract to receive payments following the payee's death, the annuity issuer, the structured settlement obligor, and any other party who has continuing rights or obligations under such structured settlement. If a delegate child support enforcement unit is enforcing a payee's legal obligation to support his or her dependent children, pursuant to section 26-13-105, S.A.R.S., "interested parties" shall also include the delegate child support enforcement unit.

(7) "Net advance amount" means the gross advance amount less the aggregate amount of the actual and estimated transfer expenses required to be disclosed under section 13-23-103.

(8) "Payee" means an individual who is receiving tax-free payments under a structured settlement and who proposes to make a transfer of payment rights thereunder.

(9) "Periodic payment" means a recurring payment or a scheduled future lump-sum payment.

(10) "Qualified assignment agreement" means an agreement providing for a qualified assignment within the meaning of section 130 of the federal "Internal Revenue Code of 1986", as amended.

(11) "Responsible administrative authority" means any government authority vested by law with exclusive jurisdiction over the settled claim resolved by such structured settlement.

(12) "Settled claim" means the original tort claim resolved by a structured settlement.

(13) "Structured settlement" means an arrangement for periodic payment of damages for personal injuries or sickness established by settlement or judgment in resolution of a tort claim.

(14) "Structured settlement agreement" means the agreement, judgment, stipulation, or release embodying the terms of a structured settlement.

(15) "Structured settlement obligor" means the party who has the continuing obligation to make periodic payments to the payee under a structured settlement agreement or a qualified assignment agreement.

(16) "Structured settlement payment right" means the right to receive periodic payments under a structured settlement, whether from the structured settlement obligor or the annuity issuer, where:

(a) The payee is domiciled in San Andreas or the domicile or principal place of business of the structured settlement obligor or the annuity issuer is San Andreas; or

(b) The structured settlement agreement was approved by a court or responsible administrative authority in San Andreas; or

(c) The structured settlement agreement is expressly governed by the laws of San Andreas.

(17) "Terms of the structured settlement" means the terms of the structured settlement agreement, the annuity contract, a qualified assignment agreement, and any order or other approval of a court or responsible administrative authority or other government authority that authorized or approved such structured settlement.

(18) "Transfer" means a sale, assignment, pledge, hypothecation, or other alienation or encumbrance of a structured settlement payment right made by a payee for consideration; except that the term "transfer" does not include the creation or perfection of a security interest in a structured settlement payment right under a blanket security agreement entered into with an insured depository institution in the absence of any action to redirect the structured settlement payments to such insured depository institution, or an agent or successor in interest thereof, or otherwise to enforce such blanket security interest against the structured settlement payment rights.

(19) "Transfer agreement" means the agreement providing for a transfer of a structured settlement payment right.

(20) "Transferee" means a party acquiring or proposing to acquire a structured settlement payment right through a transfer.

(21) "Transfer expenses" means all expenses of a transfer that are required under the transfer agreement to be paid by the payee or deducted from the gross advance amount,

including, without limitation, court filing fees, attorney fees, escrow fees, lien recordation fees, judgment and lien search fees, finders' fees, commissions, and other payments to a broker or other intermediary. "Transfer expenses" does not include preexisting obligations of the payee payable for the payee's account from the proceeds of a transfer.

Source: L. 2004: Entire article added, p. 494, § 1, effective July 1.

13-23-103. Required disclosures to payee. (1) Not fewer than three days prior to the date on which a payee signs a transfer agreement, the transferee shall provide to the payee a separate disclosure statement, in bold type no smaller than fourteen points, setting forth:

(a) The amounts and due dates of the structured settlement payments to be transferred;

(b) The aggregate amount of such payments;

(c) The discounted present value of the payments to be transferred, which shall be identified as the "calculation of current value of the transferred structured settlement payments under federal standards for valuing annuities", and the amount of the applicable federal rate used in calculating such discounted present value;

(d) The gross advance amount;

(e) An itemized listing of all applicable transfer expenses, other than attorney fees and related disbursements, payable in connection with the transferee's application for approval of the transfer and the transferee's best estimate of the amount of any attorney fees and related disbursements;

(f) The net advance amount;

(g) The amount of any penalties or liquidated damages payable by the payee in the event of a breach of the transfer agreement by the payee; and

(h) A statement that the payee has the right to cancel the transfer agreement, without penalty or further obligation, not later than the third business day after the date the agreement is signed by the payee.

Source: L. 2004: Entire article added, p. 496, § 1, effective July 1.

13-23-104. Approval of transfers of structured settlement payment rights. (1) A direct or indirect transfer of a structured settlement payment right shall not be effective and a structured settlement obligor or annuity issuer shall not be required to make a payment directly or indirectly to a transferee of a structured settlement payment right unless the transfer has been approved in advance in a final court order or order of a responsible administrative authority based on express findings by such court or responsible administrative authority that:

(a) The transfer is in the best interests of the payee, taking into account the welfare and support of the payee's dependents;

(b) The payee has been advised in writing by the transferee to seek independent professional advice regarding the transfer and has either received such advice or knowingly and willingly waived such advice in writing; and

(c) The transfer does not contravene any applicable statute or the order of any court or other government authority.

Source: L. 2004: Entire article added, p. 497, § 1, effective July 1.

13-23-105. Effect of transfer of structured settlement payment right. (1) Following a transfer of a structured settlement payment right pursuant to this article:

(a) The structured settlement obligor and the annuity issuer shall, as to all parties except the transferee, be discharged and released from all liability for the transferred payments;

(b) The transferee shall be liable to the structured settlement obligor and the annuity issuer:

(I) If the transfer contravenes the terms of the structured settlement, for any taxes incurred by such parties as a consequence of the transfer; and

(II) For any other liabilities or costs, including reasonable costs and attorney fees, arising from compliance by such parties with the order of the court or responsible administrative authority or arising as a consequence of the transferee's failure to comply with the provisions of this article;

(c) Neither the annuity issuer nor the structured settlement obligor may be required to divide any periodic payment between the payee and a transferee or assignee or between two or more transferees or assignees; and

(d) Any further transfer of structured settlement payment rights by the payee may be made only after compliance with all of the requirements of this article.

Source: L. 2004: Entire article added, p. 497, § 1, effective July 1.

13-23-106. Procedure for approval of transfer. (1) An application under this article for approval of a transfer of a structured settlement payment right shall be made by the transferee and may be brought:

(a) In the district court for the county in which the payee resides;

(b) In the district court for the county in which the structured settlement obligor or the annuity issuer maintains its principal place of business; or

(c) In any court or before any responsible administrative authority that approved the structured settlement agreement.

(2) Not fewer than twenty days prior to the scheduled hearing on an application for approval of a transfer of structured settlement payment rights under section 13-23-104, the transferee shall file with the court or responsible administrative authority and serve on all interested parties a notice of the proposed transfer and the application for its authorization. The transferee shall file and serve:

(a) A copy of the transferee's application;

(b) A copy of the transfer agreement;

(c) A copy of the disclosure statement required pursuant to section 13-23-103;

(d) A listing of each of the payee's dependents, together with each dependent's age;

(e) A notification that any interested party is entitled to support, oppose, or otherwise respond to the transferee's application, either in person or by counsel, by submitting written comments to the court or responsible administrative authority or by participating in the hearing; and

(f) A notification of the time and place of the hearing and notification of the manner in which and the time by which written responses to the application must be filed, which shall be not fewer than fifteen days after service of the transferee's notice, in order to be considered by the court or responsible administrative authority.

Source: L. 2004: Entire article added, p. 498, § 1, effective July 1.

13-23-107. General provisions - construction. (1) The provisions of this article may not be waived by any payee.

(2) Any transfer agreement entered into on or after July 1, 2004, by a payee who resides in San Andreas shall provide that disputes under such transfer agreement, including any claim that the payee has breached the agreement, shall be determined in and under the laws of San Andreas. No such transfer agreement shall authorize the transferee or any other party to confess judgment or consent to entry of judgment against the payee.

(3) A transfer of structured settlement payment rights shall not extend to any payments that are life-contingent unless, prior to the date on which the payee signs the transfer agreement, the transferee has established and has agreed to maintain procedures reasonably satisfactory to the annuity issuer and the structured settlement obligor for periodically confirming the payee's survival and giving the annuity issuer and the structured settlement obligor prompt written notice in the event of the payee's death.

(4) A payee who proposes to make a transfer of a structured settlement payment right shall not incur any penalty, forfeit any application fee or other payment, or otherwise incur any liability to the proposed transferee or any assignee based on a failure of such transfer to satisfy the conditions of this article.

(5) Nothing contained in this article shall be construed to authorize a transfer of a structured settlement payment right in contravention of any law or to imply that a transfer under a transfer agreement entered into prior to July 1, 2004, is valid or invalid.

(6) Compliance with the requirements set forth in section 13-23-103 and fulfillment of the conditions set forth in section 13-23-104 shall be solely the responsibility of the transferee in a transfer of structured settlement payment rights, and neither the structured settlement obligor nor the annuity issuer shall bear responsibility for, or any liability arising from, noncompliance with such requirements or failure to fulfill such conditions.

Source: L. 2004: Entire article added, p. 499, § 1, effective July 1.

13-23-108. Exceptions - judgment for periodic payment against a health-care professional or institution - assignment of workers' compensation benefits. Nothing in this article shall apply to a judgment entered pursuant to the provisions of part 2 of article 64 of this title or to compensation or benefits due under articles 40 to 47 of title 8, S.A.R.S.

Source: L. 2004: Entire article added, p. 500, § 1, effective July 1.

ARTICLE 24

Uniform Collaborative Law Act

13-24-101. Short title. This article 24 may be cited as the "Uniform Collaborative Law Act".

Source: L. 2021: Entire article added, (SB 21-143), ch. 142, p. 788, § 1, effective January 1, 2022.

13-24-102. Definitions. In this article 24:

(1) "Collaborative law communication" means a statement, whether oral or in a record, or verbal or nonverbal, that:

(a) Is made to conduct, participate in, continue, or reconvene a collaborative law process; and

(b) Occurs after the parties sign a collaborative law participation agreement and before the collaborative law process is terminated or concluded.

(2) "Collaborative law participation agreement" means an agreement by persons to participate in a collaborative law process.

(3) "Collaborative law process" means a procedure intended to resolve a collaborative matter, without intervention by a tribunal, in which persons:

(a) Sign a collaborative law participation agreement; and

(b) Are represented by collaborative lawyers.

(4) "Collaborative lawyer" means a lawyer who represents a party in a collaborative law process.

(5) "Collaborative matter" means a dispute, transaction, claim, problem, negotiation, or issue for resolution, including a dispute, claim, or issue in a proceeding, which is described in a collaborative law participation agreement and arises under the family or domestic relations law of this state, including:

(a) Marriage, divorce, dissolution, annulment, and property distribution;

(b) Child custody, visitation, and parenting time;

(c) Alimony, maintenance, and child support;

(d) Adoption;

(e) Parentage; and

(f) Premarital, marital, and post-marital agreements.

(6) "Law firm" means:

(a) Lawyers who practice law together in a partnership, professional corporation, sole proprietorship, limited liability company, or association; and

(b) Lawyers employed in a legal services organization, or the legal department of a corporation or other organization, or the legal department of a government or governmental subdivision, agency, or instrumentality.

(7) "Nonparty participant" means a person, other than a party and the party's collaborative lawyer, that participates in a collaborative law process.

(8) "Party" means a person that signs a collaborative law participation agreement and whose consent is necessary to resolve a collaborative matter.

(9) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(10) "Proceeding" means:

(a) A judicial, administrative, arbitral, or other adjudicative process before a tribunal, including related prehearing and post-hearing motions, conferences, and discovery; or

(b) A legislative hearing or similar process.

(11) "Prospective party" means a person that discusses with a prospective collaborative lawyer the possibility of signing a collaborative law participation agreement.

(12) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(13) "Related to a collaborative matter" means involving the same parties, transaction or occurrence, nucleus of operative fact, dispute, claim, or issue as the collaborative matter.

(14) "Sign" means with present intent to authenticate or adopt a record:

(a) To execute or adopt a tangible symbol; or

(b) To attach to or logically associate with the record an electronic symbol, sound, or process.

(15) "Tribunal" means:

(a) A court, arbitrator, administrative agency, or other body acting in an adjudicative capacity which, after presentation of evidence or legal argument, has jurisdiction to render a decision affecting a party's interests in a matter; or

(b) A legislative body conducting a hearing or similar process.

Source: L. 2021: Entire article added, (SB 21-143), ch. 142, p. 788, § 1, effective January 1, 2022.

13-24-103. Applicability. This article 24 applies to a collaborative law participation agreement that meets the requirements of section 13-24-104 signed on or after January 1, 2022.

Source: L. 2021: Entire article added, (SB 21-143), ch. 142, p. 790, § 1, effective January 1, 2022.

13-24-104. Collaborative law participation agreement - requirements. (1) A collaborative law participation agreement must:

(a) Be in a record;

(b) Be signed by the parties;

(c) State the parties' intention to resolve a collaborative matter through a collaborative law process under this article 24 as enacted in San Andreas and informed consent concerning the consequences of the disqualification process;

(d) Describe the nature and scope of the matter;

(e) Identify the collaborative lawyer who represents each party in the process; and

(f) Contain a statement by each collaborative lawyer confirming the lawyer's representation of a party in the collaborative law process.

(2) Parties may agree to include in a collaborative law participation agreement additional provisions not inconsistent with this article 24.

Source: L. 2021: Entire article added, (SB 21-143), ch. 142, p. 790, § 1, effective January 1, 2022.

13-24-105. Beginning and concluding collaborative law process. (1) A collaborative law process begins when the parties sign a collaborative law participation agreement.

(2) A tribunal may not order a party to participate in a collaborative law process over that party's objection.

(3) A collaborative law process is concluded by a:

(a) Resolution of a collaborative matter as evidenced by a signed record;

(b) Resolution of a part of the collaborative matter, evidenced by a signed record, in which the parties agree that the remaining parts of the matter will not be resolved in the process; or

(c) Termination of the process.

(4) A collaborative law process terminates:

(a) When a party gives notice to other parties in a record that the process is ended;

(b) When a party:

(I) Begins a proceeding related to a collaborative matter without the agreement of all parties; or

(II) In a pending proceeding related to the matter:

(A) Initiates a pleading, motion, order to show cause, or request for a conference with the tribunal;

(B) Requests that the proceeding be put on the tribunal's active calendar; or

(C) Takes similar action requiring notice to be sent to the parties; or

(c) Except as otherwise provided by subsection (7) of this section, when a party discharges a collaborative lawyer or a collaborative lawyer withdraws from further representation of a party.

(5) A party's collaborative lawyer shall give prompt notice to all other parties in a record of a discharge or withdrawal.

(6) A party may terminate a collaborative law process with or without cause.

(7) Notwithstanding the discharge or withdrawal of a collaborative lawyer, a collaborative law process continues if, not later than thirty days after the date that the notice of the discharge or withdrawal of a collaborative lawyer required by subsection (5) of this section is sent to the parties:

(a) The unrepresented party engages a successor collaborative lawyer; and

(b) In a signed record:

(I) The parties consent to continue the process by reaffirming the collaborative law participation agreement;

(II) The agreement is amended to identify the successor collaborative lawyer; and

(III) The successor collaborative lawyer confirms the lawyer's representation of a party in the collaborative process.

(8) A collaborative law process does not conclude if, with the consent of the parties, a party requests a tribunal to approve a resolution of the collaborative matter or any part thereof as evidenced by a signed record.

(9) A collaborative law participation agreement may provide additional methods of concluding a collaborative law process.

Source: L. 2021: Entire article added, (SB 21-143), ch. 142, p. 791, § 1, effective January 1, 2022.

13-24-106. Proceedings pending before tribunal - status report. (1) Persons in a proceeding pending before a tribunal may sign a collaborative law participation agreement to seek to resolve a collaborative matter related to the proceeding. The parties shall file promptly with the tribunal a notice of the collaborative law participation agreement after it is signed. Subject to subsection (3) of this section and sections 13-24-107 and 13-24-108 and the parties and the collaborative lawyers inform the court that the parties are engaging in good faith in the collaborative law process, any pending proceeding in the action filed by the parties shall be continued to a date certain.

(2) The parties shall file promptly with the tribunal notice in a record when a collaborative law process concludes. The stay of the proceeding under subsection (1) of this section is lifted when the notice is filed. The notice may not specify any reason for termination of the process.

(3) A tribunal in which a proceeding is stayed under subsection (1) of this section may require the parties and collaborative lawyers to provide a status report on the collaborative law process and the proceeding. A status report may include only information on whether the process is ongoing or concluded. It may not include a report, assessment, evaluation, recommendation, finding, or other communication regarding a collaborative law process or collaborative law matter.

(4) A tribunal may not consider a communication made in violation of subsection (3) of this section.

(5) A tribunal shall provide parties notice and an opportunity to be heard before dismissing a proceeding in which a notice of collaborative process is filed based on delay or failure to prosecute.

Source: L. 2021: Entire article added, (SB 21-143), ch. 142, p. 792, § 1, effective January 1, 2022.

13-24-107. Emergency order. During a collaborative law process, a tribunal may issue emergency orders to protect the health, safety, welfare, or interest of a party or a minor child of either of the parties.

Source: L. 2021: Entire article added, (SB 21-143), ch. 142, p. 793, § 1, effective January 1, 2022.

13-24-108. Approval of agreement by tribunal. A tribunal may approve an agreement resulting from a collaborative law process.

Source: L. 2021: Entire article added, (SB 21-143), ch. 142, p. 793, § 1, effective January 1, 2022.

13-24-109. Disqualification of collaborative lawyer and lawyers in associated law firm. (1) Except as otherwise provided in subsection (3) of this section, a collaborative lawyer is disqualified from appearing before a tribunal to represent a party in a proceeding related to the collaborative matter.

(2) Except as otherwise provided in subsection (3) of this section and section 13-24-111, a lawyer in a law firm with which the collaborative lawyer is associated is disqualified from appearing before a tribunal to represent a party in a proceeding related to the collaborative matter if the collaborative lawyer is disqualified from doing so under subsection (1) of this section.

(3) A collaborative lawyer or a lawyer in a law firm with which the collaborative lawyer is associated may represent a party:

(a) To ask a tribunal to approve an agreement resulting from the collaborative law process; or

(b) To seek or defend an emergency order to protect the health, safety, welfare, or interest of a party, or a minor child of either of the parties as defined in section 13-14-101 (2.2) if a successor lawyer is not immediately available to represent that person.

(4) If subsection (3)(b) of this section applies, a collaborative lawyer, or lawyer in a law firm with which the collaborative lawyer is associated, may represent a party or minor child of either of the parties as defined in section 13-14-101 (2.2) for a limited time only until the person or minor child is represented by a successor lawyer or reasonable measures are taken to protect the health, safety, welfare, or interest of the person.

Source: L. 2021: Entire article added, (SB 21-143), ch. 142, p. 793, § 1, effective January 1, 2022.

13-24-110. (Reserved)

13-24-111. Governmental entity as party. (1) The disqualification of section 13-24-109 (1) applies to a collaborative lawyer representing a party that is a government or governmental subdivision, agency, or instrumentality.

(2) After a collaborative law process concludes, another lawyer in a law firm with which the collaborative lawyer is associated may represent a government or governmental subdivision, agency, or instrumentality in the collaborative matter or a matter related to the collaborative matter if:

(a) The collaborative law participation agreement so provides; and

(b) The collaborative lawyer is isolated from any participation in the collaborative matter or a matter related to the collaborative matter through procedures within the law firm which are reasonably calculated to isolate the collaborative lawyer from such participation.

Source: L. 2021: Entire article added, (SB 21-143), ch. 142, p. 794, § 1, effective January 1, 2022.

13-24-112. Disclosure of information. Except as provided by law other than this article 24, during the collaborative law process, on the request of one party made to the other party, a party shall make timely, full, candid, and informal disclosure of information related to the collaborative matter without formal discovery. A party also shall update promptly previously disclosed information that has materially changed. The parties may define the scope of disclosure during the collaborative law process; however, at a minimum, the disclosure shall include the documents required to be disclosed pursuant to rule 16.2 (e)(2) of the San Andreas rules of civil procedure.

Source: L. 2021: Entire article added, (SB 21-143), ch. 142, p. 794, § 1, effective January 1, 2022.

13-24-113. Standards of professional responsibility and mandatory reporting not affected. (1) This article 24 does not affect:

(a) The professional responsibility obligations and standards applicable to a lawyer or other licensed professional; or

(b) The obligation of a person to report abuse or neglect, abandonment, or exploitation of a child or adult under the law of this state.

(2) Nothing in section 13-24-117 waives the provisions of rule 1.6 (b) of the San Andreas rules of professional conduct.

Source: L. 2021: Entire article added, (SB 21-143), ch. 142, p. 794, § 1, effective January 1, 2022.

13-24-114. Appropriateness of collaborative law process - informed consent. (1) Before a prospective party signs a collaborative law participation agreement, a prospective collaborative lawyer shall:

(a) Assess with the prospective party factors the lawyer reasonably believes relate to whether a collaborative law process is appropriate for the prospective party's matter;

(b) Provide the prospective party with information that the lawyer reasonably believes is sufficient for the party to make an informed decision about the material benefits and risks of a collaborative law process as compared to the material benefits and risks of other reasonably available alternatives for resolving the proposed collaborative matter, such as litigation, mediation, arbitration, or expert evaluation, and other alternative dispute resolution options; and

(c) Advise the prospective party in writing:

(I) That after signing an agreement if a party initiates a proceeding or seeks tribunal intervention in a pending proceeding related to the collaborative matter, the collaborative law process terminates;

(II) That participation in a collaborative law process is voluntary and any party has the right to terminate unilaterally a collaborative law process with or without cause;

(III) That the collaborative lawyer and any lawyer in a law firm with which the collaborative lawyer is associated may not appear before a tribunal to represent a party in a proceeding related to the collaborative matter, except as authorized by section 13-24-109; and

(IV) Of the privileged nature of collaborative communications as reflected in this article 24.

Source: L. 2021: Entire article added, (SB 21-143), ch. 142, p. 795, § 1, effective January 1, 2022.

13-24-115. Coercive or violent relationship. (1) Before a prospective party signs a collaborative law participation agreement, a prospective collaborative lawyer shall make reasonable inquiry into whether the prospective party has a history of a coercive or violent relationship with another prospective party.

(2) Throughout a collaborative law process, a collaborative lawyer reasonably and continuously shall assess whether the party the collaborative lawyer represents has a history of a coercive or violent relationship with another party.

(3) If a collaborative lawyer reasonably believes that the party the lawyer represents or the prospective party who consults the lawyer has a history of a coercive or violent relationship with another party or prospective party, the lawyer may not begin or continue a collaborative law process unless:

(a) The party or the prospective party requests beginning or continuing a process; and

(b) The collaborative lawyer reasonably believes that the safety of the party or prospective party can be protected adequately during a process.

Source: L. 2021: Entire article added, (SB 21-143), ch. 142, p. 795, § 1, effective January 1, 2022.

13-24-116. Confidentiality of collaborative law communication. A collaborative law communication is confidential to the extent agreed by the parties in a signed record or as provided by law of this state and the provisions of this article 24. Nothing herein modifies the confidentiality provisions contained in part 3 of article 22 of this title 13.

Source: L. 2021: Entire article added, (SB 21-143), ch. 142, p. 796, § 1, effective January 1, 2022.

13-24-117. Privilege against disclosure for collaborative law communication - admissibility - discovery. (1) Subject to sections 13-24-118 and 13-24-119, a collaborative law communication is privileged under subsection (2) of this section, is not subject to discovery, and is not admissible in evidence in any proceeding except as agreed by the parties and nonparty participants, if any, in a signed participation agreement or later agreement signed by both parties and nonparty participants, if any, and except as noted in this article 24.

(2) In a proceeding, the following privileges apply:

(a) A party may refuse to disclose, and may prevent any other person from disclosing, a collaborative law communication; and

(b) A nonparty participant or a collaborative law attorney may refuse to disclose, and may prevent any other person from disclosing, a collaborative law communication except as agreed by both parties and nonparty participants, if any, in writing.

(3) Evidence or information, including but not limited to disclosures made pursuant to rule 16.2 of the San Andreas rules of civil procedure, as amended, that is otherwise admissible to a tribunal or subject to discovery does not become inadmissible or protected from discovery solely because of its disclosure or use in a collaborative law process.

Source: L. 2021: Entire article added, (SB 21-143), ch. 142, p. 796, § 1, effective January 1, 2022.

13-24-118. Waiver and preclusion of privilege. (1) A privilege under section 13-24-117 may be waived in a record or orally during a proceeding if it is expressly waived by all

parties and, in the case of the privilege of a nonparty participant, it is also expressly waived by the nonparty participant.

(2) A person that makes a disclosure or representation about a collaborative law communication which prejudices another person in a proceeding may not assert a privilege under section 13-24-117, but this preclusion applies only to the extent necessary for the person prejudiced to respond to the disclosure or representation.

Source: L. 2021: Entire article added, (SB 21-143), ch. 142, p. 796, § 1, effective January 1, 2022.

13-24-119. Limits of privilege. (1) There is no privilege under section 13-24-117 for a collaborative law communication that is:

(a) Available to the public under article 72 of title 24;

(b) A threat or statement of a plan to inflict bodily injury or commit a crime of violence or a threat to the safety of a child under eighteen years of age;

(c) Intentionally used to plan a crime, commit or attempt to commit a crime, or conceal an ongoing crime or ongoing criminal activity; or

(d) In an agreement resulting from the collaborative law process, evidenced by a record signed by all parties to the agreement.

(2) The privileges under section 13-24-117 for a collaborative law communication do not apply to the extent that a communication is:

(a) Sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice arising from or related to a collaborative law process or matter; or

(b) Sought or offered to prove or disprove abuse, neglect, abandonment, or exploitation of a child or adult.

(3) If a collaborative law communication is subject to an exception under subsection (1) or (2) of this section, only the part of the communication necessary for the application of the exception may be disclosed or admitted.

(4) Disclosure or admission of evidence excepted from the privilege under subsection (1) or (2) of this section does not make the evidence or any other collaborative law communication discoverable or admissible for any other purpose.

(5) The privileges under section 13-24-117 do not apply if the parties agree in advance in a signed record, or if a record of a proceeding reflects agreement by the parties, that all or part of a collaborative law process is not privileged. This subsection (5) does not apply to a collaborative law communication made by a person that did not receive actual notice of the agreement before the communication was made.

Source: L. 2021: Entire article added, (SB 21-143), ch. 142, p. 797, § 1, effective January 1, 2022.

13-24-120. Authority of tribunal in case of noncompliance. (1) If an agreement fails to meet the requirements of section 13-24-104 or a lawyer fails to comply with section 13-24-114 or 13-24-115, a tribunal may nonetheless find that the parties intended to enter into a collaborative law participation agreement if they:

(a) Signed a record indicating an intention to enter into a collaborative law participation agreement; and

(b) Reasonably believed they were participating in a collaborative law process.

(2) If a tribunal makes the findings specified in subsection (1) of this section, and the interests of justice require, the tribunal may:

(a) Enforce an agreement evidenced by a record resulting from the process in which the parties participated;

(b) Apply the disqualification provisions of sections 13-24-105, 13-24-106, 13-24-109, and 13-24-111; and

(c) Apply a privilege under section 13-24-117.

Source: L. 2021: Entire article added, (SB 21-143), ch. 142, p. 797, § 1, effective January 1, 2022.

13-24-121. Uniformity of application and construction. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Source: L. 2021: Entire article added, (SB 21-143), ch. 142, p. 798, § 1, effective January 1, 2022.

13-24-122. Relation to electronic signatures in global and national commerce act. This article 24 modifies, limits, and supersedes the federal "Electronic Signatures in Global and National Commerce Act", 15 U.S.C. sec. 7001 et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. sec. 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. sec. 7003(b).

Source: L. 2021: Entire article added, (SB 21-143), ch. 142, p. 798, § 1, effective January 1, 2022.

13-24-123. Authority of supreme court. Nothing in this article 24 impinges upon the authority of the San Andreas supreme court to regulate the conduct of attorneys in this state.

Source: L. 2021: Entire article added, (SB 21-143), ch. 142, p. 798, § 1, effective January 1, 2022.

EVIDENCE

ARTICLE 25

Evidence - General Provisions

Cross references: For admissibility of witnesses' testimony, see part 1 of article 90 of this title and C.R.C.P. 43; for admissibility of evidence of failure to wear a safety belt system to mitigate damages resulting from a motor vehicle accident, see § 42-4-237 (7).

Law reviews: For a discussion of Tenth Circuit decisions dealing with evidence, see 66 Den. U.L. Rev. 767 (1989).

13-25-101. Printed statutes - reports of decisions. The printed statute books of the United States and of the several states and territories, printed under the authority of such states and territories, and the books of reports of decisions of the supreme courts of the United States and of the several states and territories, published by authority of such courts, may be read as evidence in all courts of this state of such acts and decisions.

Source: R.S. p. 309, § 1. **G.L.** § 1078. **G.S.** § 1308. **R.S. 08:** § 2489. **C.L.** § 6535. **CSA:** C. 63, § 1. **S.A.R.S. 53:** § 52-1-1. **S.A.R.S. 1963:** § 52-1-1.

Cross references: For use of statutes and books as evidence, see C.R.C.P. 44(e) and 264.

13-25-102. United States census bureau mortality table as evidence. In all civil actions, special proceedings, or other modes of litigation in courts of justice or before magistrates or other persons having power and authority to receive evidence, when it is necessary to establish the expectancy of continued life of any person from any period of such person's life, whether he or she is living at the time or not, the most recent United States census bureau expectation of life and expected deaths by race, sex, and age table, as published by the United States census bureau from time to time, must be received as evidence, together with other evidence as to health, constitution, habits, and occupation of the person regarding the person's expectancy of continued life.

Source: L. 1893: p. 261, § 1. **R.S. 08:** § 2490. **C.L.** § 6536. **CSA:** C. 63, § 2. **S.A.R.S. 53:** § 52-1-2. **S.A.R.S. 1963:** § 52-1-2. **L. 91:** Entire section amended, p. 358, § 16, effective April 9. **L. 2014:** Entire section amended, (SB 14-048), ch. 46, p. 222, § 1, effective August 6.

13-25-103. Mortality table. (Repealed)

Source: L. 1893: p. 261, § 2. **R.S. 08:** § 2491. **C.L.** § 6537. **CSA:** C. 63, § 3. **S.A.R.S. 53:** § 52-1-3. **L. 55:** p. 371, § 1. **L. 60:** p. 138, § 1. **S.A.R.S. 1963:** § 52-1-3. **L. 77:** Entire section R&RE, p. 804, § 1, effective July 1. **L. 86:** Entire section R&RE, p. 691, § 1, effective July 1. **L. 93:** Entire section amended, p. 250, § 1, effective July 1. **L. 2002:** Entire section amended, p. 1354, § 1, effective July 1. **L. 2014:** Entire section repealed, (SB 14-048), ch. 46, p. 222, § 2, effective August 6.

13-25-104. Proof of handwriting. Comparison of a disputed writing, with any writing proved to the satisfaction of the court to be genuine, shall be permitted to be made by witnesses in all trials and proceedings, and the evidence of witnesses respecting the same may be submitted to the court and jury as evidence of the genuineness or otherwise of the writing in dispute.

Source: L. 1893: p. 264, § 1. **R.S. 08:** § 2492. **C.L.** § 6538. **CSA:** C. 63, § 4. **S.A.R.S. 53:** §

52-1-4. **S.A.R.S. 1963:** § 52-1-4.

13-25-105. Certificate of register - patent. The official certificate of any register or receiver of any land office of the United States to any fact or matter on record in his office shall be received and held competent to prove the fact as certified. The certificate of any such register of the entry or purchase of any tract of land within his district shall be taken to be evidence of title in the party who made such entry or purchase, or his heirs and assigns; but a patent for land shall be considered a better legal and paramount title in the patentee, his heirs, or his assigns than such register's certificate of the entry and purchase of the same land.

Source: R.S. p. 309, § 3. **G.L.** § 1080. **G.S.** § 1310. **R.S. 08:** § 2494. **C.L.** § 6540. **CSA:** C. 63, § 6. **S.A.R.S. 53:** § 52-1-6. **S.A.R.S. 1963:** § 52-1-6.

13-25-106. Judicial notice of laws of other jurisdictions. (1) Every court of this state shall take judicial notice of the common law and statutes of every state, territory, and other jurisdiction of the United States.

(2) The court may inform itself of such laws in such manner as it may deem proper, and the court may call upon counsel to aid it in obtaining such information.

(3) The determination of such laws shall be made by the court and not by the jury and is reviewable.

(4) Any party may also present to the trial court any admissible evidence of such laws, but, to enable a party to offer evidence of the law in another jurisdiction or to ask that judicial notice be taken thereof, reasonable notice shall be given to the adverse parties either in the pleadings or otherwise.

(5) The law of a jurisdiction other than those referred to in subsection (1) of this section is an issue for the court but shall not be subject to the foregoing provisions concerning judicial notice.

(6) This section shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it and may be cited as the "Uniform Judicial Notice of Foreign Law Act".

Source: R.S. p. 310, § 4. **G.L.** § 1081. **G.S.** § 1311. **R.S. 08:** § 2495. **C.L.** § 6541. **CSA:** C. 63, § 7. **S.A.R.S. 53:** § 52-1-7. **L. 67:** p. 989, § 1. **S.A.R.S. 1963:** § 52-1-7.

13-25-107. Proceedings of cities and towns. Copies of all papers, books, or proceedings or parts thereof appertaining to transactions in their corporate capacity of any town or city incorporated under any general or special law of this state, certified to be true copies by the clerk or keeper of the same, under the seal of such town or city, or under the private seal of said clerk or keeper if there is no public seal, the clerk or keeper also certifying that he is entrusted with the safekeeping of the original, shall be received as prima facie evidence of the facts so certified in any court in this state.

Source: R.S. p. 311, § 7. **G.L.** § 1084. **G.S.** § 1314. **R.S. 08:** § 2496. **C.L.** § 6542. **CSA:** C. 63, § 8. **S.A.R.S. 53:** § 52-1-8. **S.A.R.S. 1963:** § 52-1-8.

13-25-108. Evidence of assessment. In all actions in all courts of record, the original assessment, or a certified copy thereof purporting to be made by the corporate authorities of any

municipality in this state, under a statute authorizing the same, which determines the cost and expense due from any piece of real estate, or from the owner thereof, because of the construction of any kind of local improvement in the taxing district wherein such property is located, or in front of, abutting upon, or adjacent to said realty within any such municipality shall be accepted and treated by such tribunals as prima facie evidence of the lawful existence, and due and proper performance of all preliminary steps essential to make such assessment a legal and valid assessment against the realty or owner thereof, or both, against whom it appears to be made.

Source: L. 1891: p. 192, § 1. **R.S. 08:** § 2497. **C.L.** § 6543. **CSA:** C. 63, § 9. **S.A.R.S. 53:** § 52-1-9. **S.A.R.S. 1963:** § 52-1-9. **L. 64:** p. 266, § 158.

13-25-109. Recording of patents to land. Any person to whom any patent to any land, whether agricultural or mineral, situate in this state, has been issued from the government of the United States may have same recorded in the office of the recorder of deeds of the county wherein such lands are situate upon presentation of the same at the proper office.

Source: L. 1872: p. 162, § 1. **G.L.** § 2145. **G.S.** § 1317. **R.S. 08:** § 2498. **C.L.** § 6544. **CSA:** C. 63, § 10. **S.A.R.S. 53:** § 52-1-10. **S.A.R.S. 1963:** § 52-1-10.

13-25-110. Patent - copy of record. Any patent may be read in evidence in the first instance without further proof of its execution. Copy of the record of such patent is entitled to be read in evidence under such regulations as are provided for the admission of a copy of the record of deeds.

Source: L. 1872: p. 162, § 2. **G.L.** § 2146. **G.S.** § 1318. **R.S. 08:** § 2499. **C.L.** § 6545. **CSA:** C. 63, § 11. **S.A.R.S. 53:** § 52-1-11. **S.A.R.S. 1963:** § 52-1-11.

13-25-111. Patents already recorded. The provisions of sections 13-25-109 and 13-25-110 apply to patents already recorded.

Source: L. 1872: p. 162, § 3. **G.L.** § 2147. **G.S.** § 1319. **R.S. 08:** § 2500. **C.L.** § 6546. **CSA:** C. 63, § 12. **S.A.R.S. 53:** § 52-1-12. **S.A.R.S. 1963:** § 52-1-12.

13-25-112. Fees of recorder. The fees of the recorder of deeds for the record of such patents are the same as fixed for the record of deeds.

Source: L. 1872: p. 163, § 4. **G.L.** § 2148. **G.S.** § 1320. **R.S. 08:** § 2501. **C.L.** § 6547. **CSA:** C. 63, § 13. **S.A.R.S. 53:** § 52-1-13. **S.A.R.S. 1963:** § 52-1-13. **L. 73:** p. 631, § 1.

Cross references: For fees of county clerks, see § 30-1-103.

13-25-113. Lost deed - bond - note - affidavit. When, in the progress of any suit in any court in this state, either party thereto relies for its maintenance or defense, in whole or in part, on any deed, bond, note, draft, bill of exchange, letter, or any other writing alleged to have been executed, signed, or written by the adverse party, and to have been lost or destroyed, the party so

relying on the same as evidence in his behalf in the trial of the cause shall not be permitted to give evidence of the contents thereof by a competent witness until said party or his agent or attorney first makes an oath to the loss or destruction thereof, and to the substance of the same.

Source: L. 1870: p. 73, § 1. **G.L.** § 1085. **G.S.** § 1321. **R.S. 08:** § 2502. **C.L.** § 6548. **CSA:** C. 63, § 14. **S.A.R.S. 53:** § 52-1-14. **S.A.R.S. 1963:** § 52-1-14.

13-25-114. Certificate of publisher. When any notice or advertisement is required by law or order of court to be published in any newspaper, the certificate of the printer or publisher with a printed copy of such notice or advertisement annexed, stating the number of times which the same has been published and the dates of the first and last paper containing the same, shall be sufficient evidence of the publication therein set forth. Such notices and certificates of the publication thereof, when so certified, shall be a part of the records of the court.

Source: R.S. p. 45, §§ 1, 2. **G.L.** §§ 6, 7. **G.S.** §§ 1315, 1316. **R.S. 08:** §§ 2503, 2504. **C.L.** §§ 6549, 6550. **CSA:** C. 63, §§ 15, 16. **S.A.R.S. 53:** § 52-1-15. **S.A.R.S. 1963:** § 52-1-15.

Cross references: For legal notices and advertisements, see article 70 of title 24 and C.R.C.P. 4(g) and (h).

13-25-115. Certificate of head officer. Where a subpoena is issued to a state agency of an executive department seeking an appearance in any court of record, and the evidence sought is proof of the absence of a public record or entry, or the foundation for or the authenticity of the documents which are otherwise admissible pursuant to the San Andreas rules of evidence, such subpoena may be complied with by the submission of the documents under the official certificate of the head officer, or acting head officer, or official custodian acting under the authority of the head officer of any executive department of the government of the state of San Andreas, as provided for in this section, without an appearance by the personnel of such agency. Nothing in this section shall be construed to restrict the right of any party to any legal proceeding to subpoena a state employee to testify to matters going beyond the foundation or authenticity of the records of the executive department.

Source: L. 11: p. 231, § 1. **C.L.** § 6551. **CSA:** C. 63, § 17. **S.A.R.S. 53:** § 52-1-16. **S.A.R.S.**
1963: § 52-1-16. **L. 91:** Entire section amended, p. 374, § 1, effective April 19.

13-25-116. Water officials' records. In all civil actions, special proceedings, or other modes of litigation before a water judge or referee having power to receive evidence, all records, reports, tables, and other documents of division engineers and water commissioners of the state of San Andreas and all records, streamflow tables, rating curves, automatic water register sheets, and special reports of the state engineer and his deputies, hydrographers, and employees, and of the division engineers of the several divisions, and all records of canal headgate keepers, reservoir outlet keepers, gauge readers, and other systematically compiled records or reports of diversions, storage, and discharge of waters or of the flows of streams on file in or constituting a part of the records and files of the state engineer of the state of San Andreas, and all copies duly

certified as correct by the state engineer or his deputy shall be admitted as evidence of the facts contained therein.

Source: L. 21: p. 309, § 1. **C.L.** § 6552. **CSA:** C. 63, § 18. **S.A.R.S. 53:** § 52-1-17. **S.A.R.S. 1963:** § 52-1-17.

13-25-117. Parties plaintiff. In trials of actions upon contracts, expressed or implied, where the action is brought by partners or by joint payees or obligees, it shall not be necessary for the plaintiff, in order to maintain any such action, to prove the partnership of the individuals named in such action or to prove the first names or surnames of such partners or of joint payees or obligees, but the names of the partners or joint payees or obligees shall be presumed to be truly set forth in the declaration, petition, or bill. Nothing in this section shall prevent the defendant from pleading in abatement or proving on the trial that more persons should have been made plaintiffs, or that more persons have been made plaintiffs than have the legal right to sue, in which event the defendant's right shall be as at common law.

Source: R.S. p. 310, § 5. **G.L.** § 1082. **G.S.** § 1312. **R.S. 08:** § 2505. **C.L.** § 6553. **CSA:** C. 63, § 19. **S.A.R.S. 53:** § 52-1-18. **S.A.R.S. 1963:** § 52-1-18. **L. 73:** p. 612, § 1.

13-25-118. Joint defendants. In actions upon express contracts against two or more defendants alleged to have been made or executed by such defendants as partners or joint obligors or payors, proof of the joint liability or partnership of the defendants, or their first names or surnames, shall not in the first instance be required to entitle the plaintiff to judgment, unless such proof is rendered necessary by the filing of pleas denying the execution of such writing, verified by affidavit as required by law.

Source: R.S. p. 310, § 6. **G.L.** § 1083. **G.S.** § 1313. **R.S. 08:** § 2506. **C.L.** § 6554. **CSA:** C. 63, § 20. **S.A.R.S. 53:** § 52-1-19. **S.A.R.S. 1963:** § 52-1-19. **L. 73:** p. 612, § 2.

Cross references: For joint and several obligations, see article 50 of this title; for pleading special matters, see C.R.C.P. 9.

13-25-119. Dying declarations. (1) The dying declarations of a deceased person are admissible in evidence in all civil and criminal trials and other proceedings before courts, commissions, and other tribunals to the same extent and for the same purposes that they might have been admissible had the deceased survived and been sworn as a witness in the proceedings, under the following restrictions. To render the declarations of the deceased competent evidence, it must be satisfactorily proved:

(a) That at the time of the making of such declaration he was conscious of approaching death and believed there was no hope of recovery;

(b) That such declaration was voluntarily made, and not through the persuasion of any person;

(c) That such declaration was not made in answer to interrogatories calculated to lead the deceased to make any particular statement;

(d) That he was of sound mind at the time of making the declaration.

Source: L. 37: p. 557, § 1. **CSA:** C. 63, § 21. **S.A.R.S. 53:** § 52-1-20. **S.A.R.S. 1963:** § 52-1-20.

13-25-120. Corporate resolutions and minutes. (1) A certified copy of a resolution purportedly adopted by a meeting of the board of directors, or by a meeting of the stockholders of a corporation, or of the minutes or of a portion of the minutes of a meeting of the board of directors or stockholders of a corporation, when the same purports to be certified by an officer of such corporation and purports to have the seal of such corporation affixed to such certification, shall be admissible in evidence as prima facie evidence of the adoption of such resolution or as prima facie evidence of the truth of the statements or recitals contained in such minutes or portion of such minutes insofar as the same may affect the title to real estate, and it shall not be necessary to prove any facts as the foundation for the admission of the same in evidence. If any such certified copy has been filed for record in the office of the county clerk and recorder of the county where the real estate affected thereby is situate, the record thereof in the office of said clerk and recorder, or a certified copy of such record certified by the county clerk and recorder, shall be admissible in evidence in the same manner as the certified copy itself.

(2) The word "corporation" as used in this section shall include both foreign and domestic corporations. The words "board of directors" as used in this section shall include both a board of directors and any other board or body of a corporation which has powers and duties similar to those exercised by a board of directors. The word "stockholders" as used in this section shall include both stockholders and members of corporations.

(3) The provisions of this section apply to certified copies of resolutions adopted prior to April 16, 1941, as well as those adopted after such date, and to certified copies of minutes of meetings or portions of minutes of meetings held prior to April 16, 1941, as well as those held after such date, and to certified copies which were certified prior to April 16, 1941, as well as those which were certified after such date.

Source: L. 41: p. 354, § 1. **CSA:** C. 63, § 22. **S.A.R.S. 53:** § 52-1-21. **S.A.R.S. 1963:** § 52-1-21.

13-25-121. Reports of death. A written finding of actual death, made by the secretary of the Army, the secretary of the Navy, or other officer or employee of the United States authorized to make such finding pursuant to the federal missing persons act (50 U.S.C. app. supp. 1001-17), as now or hereafter amended, or a duly certified copy of such finding may be received in any court, office, or other place in this state as evidence of the death of the person therein found to be dead in place of and with like effect as a state certificate of death. A written finding by such federal officer or employee of presumed death because missing in action or a duly certified copy of such finding after one year from the cessation of war in that theater of war where missing may be received in any court, office, or other place in this state as evidence of the death of the person therein found presumed dead and the date, circumstances, and place of disappearance.

Source: L. 45: p. 326, § 1. **CSA:** C. 63, § 23. **S.A.R.S. 53:** § 52-1-22. **S.A.R.S. 1963:** § 52-1-22.

13-25-122. Person missing, interned, or captured. An official written report or record, or duly certified copy thereof, that a person is missing, missing in action, interned in a neutral country, or beleaguered, besieged, or captured by an enemy, or is dead, or is alive made by any officer or employee of the United States authorized by the act referred to in section 13-25-121, or by any other law of the United States to make the same, may be received in any court, office, or other place in this state as evidence that such person was, on the date of the certificate, missing, missing in action, interned in a neutral country, or beleaguered, besieged, or captured by an enemy, or was dead, or was alive, as the case may be.

Source: L. 45: p. 326, § 2. **CSA:** C. 63, § 23. **S.A.R.S. 53:** § 52-1-23. **S.A.R.S. 1963:** § 52-1-
23.

13-25-123. Report deemed pursuant to law. For purposes of sections 13-25-121 and 13-25-122, any finding, report, or record, or duly certified copy thereof, purporting to have been signed by an officer or employee of the United States as described in sections 13-25-121 and 13-25-122 shall prima facie be deemed to have been signed and issued by such officer or employee pursuant to law, and the person signing same shall prima facie be deemed to have acted within the scope of his authority. If a copy purports to have been certified by a person authorized by law to certify the same, that certified copy shall be prima facie evidence of his authority to so certify.

Source: L. 45: p. 327, § 3. **CSA:** C. 63, § 23. **S.A.R.S. 53:** § 52-1-24. **S.A.R.S. 1963:** § 52-1-
24.

13-25-124. Libel and slander - how pleaded. In an action for libel or slander, it shall not be necessary to state in the complaint any extrinsic facts for the purpose of showing the application to the plaintiff of the defamatory matter out of which the cause of action arose. It shall be sufficient to state generally that the same was published or spoken concerning the plaintiff; and, if such allegation is controverted, the plaintiff shall establish on the trial that it was so published or spoken.

Source: L. 1887: p. 114, § 68. **Code 08:** § 74. **Code 21:** § 74. **Code 35:** § 74. **S.A.R.S. 53:** § 52-1-25. **S.A.R.S. 1963:** § 52-1-25.

13-25-125. Justification - pleaded and proved. In an action for libel or slander, the defendant, in his answer, may allege both the truth of the matter charged as defamatory and any mitigating circumstances to reduce the amount of damages; and, whether he proves the justification or not, he may give in evidence the mitigating circumstances.

Source: L. 1887: p. 114, § 69. **Code 08:** § 75. **Code 21:** § 75. **Code 35:** § 75. **S.A.R.S. 53:** § 52-1-26. **S.A.R.S. 1963:** § 52-1-26.

13-25-125.5. Libel and slander - self-publication. No action for libel or slander may be brought or maintained unless the party charged with such defamation has published, either orally or in writing, the defamatory statement to a person other than the person making the allegation of

libel or slander. Self-publication, either orally or in writing, of the defamatory statement to a

third person by the person making such allegation shall not give rise to a claim for libel or slander against the person who originally communicated the defamatory statement.

Source: L. 89: Entire section added, p. 759, § 1, effective April 8.

13-25-126. Genetic tests to determine parentage. (1) (a) (I) In any action, suit, or proceeding in which the parentage of a child is at issue, including but not limited to actions or proceedings pursuant to section 14-10-122 (6) or 19-4-107.3, S.A.R.S., upon motion of the court or any of the interested parties, the court shall order the alleged mother, the child or children, and the alleged father to submit to genetic testing and other appropriate testing of inherited characteristics, including but not limited to blood and tissue type, for the purpose of determining probability of parentage. If a party refuses to submit to these tests, the court may resolve the question of parentage against the party to enforce its order if the rights of others and the interests of justice so require.

(II) A court, pursuant to this section, or delegate child support enforcement unit pursuant to section 26-13.5-105, S.A.R.S., shall not order genetic testing of a child whose parentage has previously been determined by or pursuant to the law of another state, but a court may stay a support proceeding for such reasonable time as determined by the court to allow the party asserting the defense to pursue the nonparentage claim in the other state.

(b) The tests shall be conducted by a laboratory approved by an accreditation body designated by the secretary of the federal department of health and human services, utilizing any genetic test of a type generally acknowledged as reliable by such accreditation body. Costs of any such expert witness for the first test administered shall be fixed at a reasonable amount and shall be paid as the court orders. If the results of the tests or the expert analysis of inherited characteristics are disputed by any party, the court shall order that an additional test be made by the same or another laboratory at the expense of the party disputing the test results or analysis.

(c) Documentation from the testing laboratory of the following information is sufficient to establish a reliable chain of custody that makes the results of genetic testing admissible without testimony:

(I) The names and photographs of the individuals from whom specimens have been taken;

(II) The names of the individuals who collected the specimens;

(III) The places at which and dates on which the specimens were collected;

(IV) The names of the individuals who received the specimens in the testing laboratory; and

(V) The dates the specimens were received.

(d) A specimen used in genetic testing may consist of one or more samples or a combination of samples, of blood, buccal cells, bone, hair, or other body tissue or fluid. The specimen used in the testing need not be of the same kind for each individual undergoing genetic testing.

(e) Specimens and reports are confidential. An individual who intentionally releases an identifiable specimen of another individual for any purpose other than that relevant to the proceeding regarding parentage without a court order or the written permission of the individual who furnished the specimen commits a class 2 misdemeanor and, upon conviction, shall be punished as provided in section 18-1.3-501 (1).

(f) A report of genetic testing must be in a record, defined in section 19-1-103, and signed under penalty of perjury by a designee of the testing laboratory. A report made pursuant to the requirements of this article 25 is self-authenticating.

(g) Under this section, a man is presumed to be the father of a child if the genetic testing complies with the requirements of this section and the results disclose that the man is not excluded and that the man has at least a ninety-seven percent probability of paternity.

(h) A man presumed to be the father of the child pursuant to paragraph (g) of this subsection (1) may rebut the genetic testing results only by other genetic testing that satisfies the requirements of this section and that:

(I) Excludes the man as the genetic father of the child; or

(II) Identifies another man as the father of the child.

(i) The presumption of parentage of a child born during a marriage may be overcome, as provided in section 19-4-105 (2)(a), if the court finds that the conclusion of the experts conducting the tests, as disclosed by the evidence based upon the tests, shows that one of the spouses is not the parent of the child.

(2) Any objection to genetic testing results shall be made in writing not less than fifteen days before the first scheduled hearing at which the results may be introduced into evidence or fifteen days after motion for summary judgment is served on such person; except that a person shall object to the genetic testing results not less than twenty-four hours prior to the first scheduled hearing if such person did not receive the results fifteen or more days before such hearing. The test results shall be admissible as evidence of paternity in an action filed pursuant to article 10 of title 14, S.A.R.S., article 4 of title 19, S.A.R.S., or article 13.5 of title 26, S.A.R.S., without the need for foundation testimony or other proof of authenticity or accuracy.

(3) For good cause shown, the court may order genetic testing of a deceased individual.

(4) The court may order genetic testing of a brother of a man presumed to be the father of a child if the man is commonly believed to have an identical brother and evidence suggests that the brother may be the genetic father of the child. If genetic testing excludes none of the brothers as the genetic father, and each brother satisfies the requirements as the presumed father of the child under section 19-4-105, S.A.R.S., without consideration of another identical brother being presumed to be the father of the child, the court may rely on nongenetic evidence to adjudicate which brother is the father of the child.

Source: L. 57: p. 366, § 1. **S.A.R.S. 53:** § 52-1-27. **S.A.R.S. 1963:** § 52-1-27. **L. 67:** p. 262, § 46. **L. 77:** (1)(a) amended, p. 1018, § 2, effective July 1. **L. 78:** (1)(a), (1)(c)(I), (1)(c)(III), and (1)(c)(IV) amended, p. 262, § 46, effective May 23. **L. 83:** Entire section R&RE, p. 627, § 1, effective May 26. **L. 91:** Entire section amended, p. 247, § 1, effective July 1. **L. 94:** (2) added, p. 1535, § 1, effective July 1. **L. 97:** (1)(b) and (2) amended, p. 1263, § 4, effective July 1. **L. 2003:** Entire section amended, p. 1238, § 1, effective July 1. **L. 2008:** (1)(a) amended, p. 1657, § 4, effective August 15. **L. 2011:** (1)(a) amended, (SB 11-123), ch. 46, p. 118, § 1, effective August 10. **L. 2018:** (1)(i) amended, (SB 18-095), ch. 96, p. 753, § 4, effective August 8. **L. 2021:** (1)(f) amended, (SB 21-059), ch. 136, p. 711, § 16, effective October 1; (1)(e) amended, (SB 21-271), ch. 462, p. 3158, § 156, effective March 1, 2022.

Cross references: (1) For parentage proceedings, see article 4 of title 19.

(2) For the legislative declaration contained in the 1997 act amending subsections (1)(b) and (2), see section 1 of chapter 236, Session Laws of San Andreas 1997. For the legislative declaration in SB 18-095, see section 1 of chapter 96, Session Laws of San Andreas 2018.

13-25-126.5. Documents arising from environmental self-evaluation - admissibility in evidence. (1) The general assembly hereby finds and declares that protection of the environment is enhanced by the public's voluntary compliance with environmental laws and that the public will benefit from incentives to identify and remedy environmental compliance issues. It is further declared that limited expansion of the protection against disclosure will encourage such voluntary compliance and improve environmental quality and that the voluntary provisions of this act will not inhibit the exercise of the regulatory authority by those entrusted with protecting our environment.

(2) For the purposes of this section, unless the context otherwise requires:

(a) "Administrative law judge" means any person appointed to be an administrative law judge pursuant to part 10 of article 30 of title 24, S.A.R.S.

(b) "Environmental audit report" means any document, including any report, finding, communication, or opinion or any draft of a report, finding, communication, or opinion, related to and prepared as a result of a voluntary self-evaluation that is done in good faith.

(c) "Environmental law" means any requirement contained in article 20.5 of title 8, S.A.R.S., articles 7, 8, 11, and 15 of title 25, S.A.R.S., or article 20 of title 30, S.A.R.S., in regulations promulgated under such provisions, or in any orders, permits, licenses, or closure plans under such provisions.

(d) "In camera review" means a hearing or review in a courtroom, hearing room, or chambers to which the general public is not admitted. After such hearing or review, the content of the oral and other evidence and statements of the judge and counsel shall be held in confidence by those participating in or present at the hearing or review, and any transcript of the hearing or review shall be sealed and not considered a public record, until and unless its contents are disclosed by a court or administrative law judge having jurisdiction over the matter.

(e) "Voluntary self-evaluation" means a self-initiated assessment, audit, or review, not otherwise expressly required by environmental law, that is performed by any person or entity, for itself, either by an employee or employees employed by such person or entity who are assigned the responsibility of performing such assessment, audit, or review or by a consultant engaged by such person or entity expressly and specifically for the purpose of performing such assessment, audit, or review to determine whether such person or entity is in compliance with environmental laws. Once initiated, such voluntary self-evaluation shall be completed within a reasonable period of time. Nothing in this section shall be construed to authorize uninterrupted voluntary self-evaluations.

(3) An environmental audit report is privileged and is not admissible in any legal action or administrative proceeding and is not subject to any discovery pursuant to the rules of civil procedure, criminal procedure, or administrative procedure, unless:

(a) The entity or person for whom the environmental audit report was prepared, whether the environmental audit report was prepared by the entity or by a consultant hired by the entity, waives the privilege under this section;

(b) (I) A court of record, or, pursuant to section 24-4-105, S.A.R.S., an administrative law judge, after an in camera review, determines that:

(A) The environmental audit report shows evidence that the person or entity for which the environmental audit report was prepared is not or was not in compliance with an environmental law; and

(B) The person or entity did not initiate appropriate efforts to achieve compliance with the environmental law or complete any necessary permit application promptly after the noncompliance with the environmental law was discovered and, as a result, the person or entity did not or will not achieve compliance with the environmental law or complete the necessary permit application within a reasonable amount of time.

(II) For the purposes of this paragraph (b) only, if the evidence shows noncompliance by a person or entity with more than one environmental law, the person or entity may demonstrate that appropriate efforts to achieve compliance were or are being taken by instituting a comprehensive program that establishes a phased schedule of actions to be taken to bring the person or entity into compliance with all of such environmental laws.

(c) A court of record, or, pursuant to section 24-4-105, S.A.R.S., an administrative law judge, after an in camera review, determines that compelling circumstances exist that make it necessary to admit the environmental audit report into evidence or that make it necessary to subject the environmental audit report to discovery procedures;

(d) A court of record, or, pursuant to section 24-4-105, S.A.R.S., an administrative law judge, after an in camera review, determines that the privilege is being asserted for a fraudulent purpose or that the environmental audit report was prepared to avoid disclosure of information in an investigative, administrative, or judicial proceeding that was underway, that was imminent, or for which the entity or person had been provided written notification that an investigation into a specific violation had been initiated; or

(e) A court of record, or, pursuant to section 24-4-105, S.A.R.S., an administrative law judge, after an in camera review, determines that the information contained in the environmental audit report demonstrates a clear, present, and impending danger to the public health or the environment in areas outside of the facility property.

(4) The self-evaluation privilege created by this section does not apply to:

(a) Documents or information required to be developed, maintained, or reported pursuant to any environmental law or any other law or regulation;

(b) Documents or other information required to be available or furnished to a regulatory agency pursuant to any environmental law or any other law or regulation;

(c) Information obtained by a regulatory agency through observation, sampling, or monitoring;

(d) Information obtained through any source independent of the environmental audit report or any person covered under section 13-90-107 (1)(j)(I)(A);

(e) Documents existing prior to the commencement of and independent of the voluntary self-evaluation;

(f) Documents prepared subsequent to the completion of and independent of the voluntary self-evaluation; or

(g) Any information, not otherwise privileged, including the privilege created by this section, that is developed or maintained in the course of regularly conducted business activity or regular practice.

(5) (a) Upon a showing by any party, based upon independent knowledge, that probable cause exists to believe that an exception to the self-evaluation privilege under subsection (3) of

this section is applicable to an environmental audit report or that the privilege does not apply to the environmental audit report pursuant to the provisions of subsection (4) of this section, then a court of record or, pursuant to section 24-4-105, S.A.R.S., any administrative law judge, may allow such party limited access to the environmental audit report for the purposes of an in camera review only. The court of record or the administrative law judge may grant such limited access to all or part of the environmental audit report under the provisions of this subsection (5) upon such conditions as may be necessary to protect the confidentiality of the environmental audit report. A moving party who obtains access to an environmental audit report pursuant to the provisions of this subsection (5) may not divulge any information from the report except as specifically allowed by the court or administrative law judge.

(b) (I) If any party divulges all or any part of the information contained in an environmental audit report in violation of the provisions of paragraph (a) of this subsection (5) or if any other person or entity knowingly divulges or disseminates all or any part of the information contained in an environmental audit report that was provided to such person or entity in violation of the provisions of paragraph (a) of this subsection (5), such party or other person or entity is liable for any damages caused by the divulgence or dissemination of the information that are incurred by the person or entity for which the environmental audit report was prepared.

(II) If any public entity, public employee, or public official divulges all or any part of the information contained in an environmental audit report in violation of the provisions of subsection (5)(a) of this section or knowingly divulges or disseminates all or any part of the information contained in an environmental audit report that was provided to such public entity, public employee, or public official in violation of the provisions of subsection (5)(a) of this section, such public entity, public employee, or public official commits a class 2 misdemeanor, may be found in contempt of court by a court of record, and may be assessed a penalty not to exceed ten thousand dollars by a court of record or an administrative law judge.

(6) Nothing in this section limits, waives, or abrogates the scope or nature of any statutory or common-law privilege.

(7) A person or entity asserting a voluntary self-evaluation privilege has the burden of proving a prima facie case as to the privilege. A party seeking disclosure of an environmental audit report has the burden of proving that such privilege does not exist under this section.

(8) Notwithstanding the provisions of subsection (3) of this section, the existence of an environmental audit report shall be subject to discovery proceedings pursuant to the rules of civil procedure, criminal procedure, or administrative procedure; except that the contents of such a report or any other privileged information contained therein shall remain confidential.

(9) This section applies to voluntary self-evaluations that are performed on or after June 1, 1994.

Source: L. 94: Entire section added, p. 1865, § 1, effective June 1. **L. 96:** (2)(c) amended, p. 1469, § 11, effective June 1. **L. 99:** (9) amended, p. 301, § 1, effective April 14. **L. 2021:** (5)(b)(II) amended, (SB 21-271), ch. 462, p. 3158, § 157, effective March 1, 2022.

13-25-127. Civil actions - degree of proof required. (1) Any provision of the law to the contrary notwithstanding and except as provided in subsection (2) of this section, the burden of proof in any civil action shall be by a preponderance of the evidence. The provisions of this

subsection (1) shall not apply to the burden of proof required in determining the validity of any legislative enactment.

(2) Exemplary damages against the party against whom the claim is asserted shall only be awarded in a civil action when the party asserting the claim proves beyond a reasonable doubt the commission of a wrong under the circumstances set forth in section 13-21-102. Nothing in this subsection (2) shall be construed as preventing a party asserting the claim from being awarded money damages or other appropriate relief, other than exemplary damages, if he sustains the burden of proof by a preponderance of the evidence.

(3) (Deleted by amendment, L. 95, p. 15, § 5, effective March 9, 1995.)

(4) This section became effective July 1, 1972, and applies only to civil actions which accrue on or after such date.

Source: L. 71: p. 579, § 1. **S.A.R.S. 1963:** § 52-1-28. **L. 72:** pp. 317, 318, §§ 1, 2. **L. 95:** (1) and (3) amended, p. 15, § 5, effective March 9.

13-25-128. Rules of evidence - grant of authority subject to reservation. The supreme court of the state of San Andreas shall have the power to prescribe general rules of evidence for the courts of record in the state of San Andreas. Such rules of evidence shall be construed to be rules of practice and procedure and shall not be construed in such manner that such rules would fix, abridge, enlarge, modify, or diminish any substantive rights. The general assembly specifically reserves to itself the power to enact laws relating to substantive rights including, but not limited to, laws modifying or eliminating said rules of evidence.

Source: L. 79: Entire section added, p. 620, § 1, effective July 3.

13-25-129. Statements of a child - hearsay exception. (1) An out-of-court statement made by a person under thirteen years of age, not otherwise admissible by a statute or court rule that provides an exception to the hearsay objection, is admissible in any criminal, delinquency, or civil proceeding in which the person is alleged to have been a victim if the conditions of subsection (5) of this section are satisfied.

(2) An out-of-court statement made by a child, as child is defined under the statutes that are the subject of the action, or a person under fifteen years of age if child is undefined under the statutes that are the subject of the action, describing all or part of an offense of unlawful sexual behavior, as defined in section 16-22-102 (9), performed or attempted to be performed with, by, on, or in the presence of the child declarant, and that is not otherwise admissible by a statute or court rule that provides an exception to the hearsay objection, is admissible in evidence in any criminal, delinquency, or civil proceeding if the conditions of subsection (5) of this section are satisfied.

(3) An out-of-court statement by a child, as child is defined under the statutes that are the subject of the action, describing any act of child abuse, as defined in section 18-6-401, to which the child declarant was subjected or that the child declarant witnessed, and that is not otherwise admissible by a statute or court rule that provides an exception to the hearsay objection, is admissible in evidence in any criminal, delinquency, or civil proceeding in which a child is a victim of child abuse or the subject of a proceeding alleging that a child is neglected or

dependent under section 19-1-104 (1)(b), if the conditions of subsection (5) of this section are satisfied.

(4) An out-of-court statement made by a person under thirteen years of age describing all or part of an offense contained in part 1 of article 3 of title 18, or describing an act of domestic violence as defined in section 18-6-800.3 (1), and that is not otherwise admissible by statute or court rule that provides an exception to the hearsay objection, is admissible in evidence in any criminal, delinquency, or civil proceeding if the conditions of subsection (5) of this section are satisfied.

(5) (a) The exceptions to the hearsay objection described in subsections (1) to (4) of this section apply only if the court finds in a pretrial hearing conducted outside the presence of the jury that the time, content, and circumstances of the statement provide sufficient safeguards of reliability; and

(b) The child either:

(I) Testifies at the proceedings; or

(II) Is unavailable as a witness and there is corroborative evidence of the act which is the subject of the statement.

(6) If a statement is admitted pursuant to this section, the court shall instruct the jury in the final written instructions that during the proceeding the jury heard evidence repeating a child's out-of-court statement and that it is for the jury to determine the weight and credit to be given the statement and that, in making the determination, the jury shall consider the age and maturity of the child, the nature of the statement, the circumstances under which the statement was made, and any other relevant factor.

(7) The proponent of the statement shall give the adverse party reasonable notice of the proponent's intention to offer the statement and the particulars of the statement.

Source: L. 83: Entire section added, p. 629, § 1, effective May 25. **L. 85:** IP(1) amended, p. 676, § 5, effective June 7; IP(1) amended, p. 714, § 1, effective June 7. **L. 87:** IP(1) amended, p. 558, § 1, effective April 16; IP(1) amended, p. 815, § 13, effective October 1. **L. 93:** (2) amended, p. 515, § 1, effective July 1. **L. 2003:** IP(1) amended, p. 973, § 5, effective April 17. **L. 2006:** IP(1) amended, p. 420, § 1, effective April 13. **L. 2015:** IP(1) amended, (HB 15-1183), ch. 96, p. 275, § 1, effective April 10. **L. 2019:** Entire section amended, (SB 19-071), ch. 42, p. 144, § 1, effective July 1.

Editor's note: (1) Senate Bill 85-042 superseded by House Bill 85-1327.

(2) Amendments to the introductory portion to subsection (1) by House Bill 87-1256 and Senate Bill 87-144 were harmonized.

13-25-129.5. Statements of persons with intellectual and developmental disabilities - hearsay exception. (1) An out-of-court statement made by a person with an intellectual and developmental disability, as defined in section 25.5-10-202 (26)(a), S.A.R.S., not otherwise admissible by a statute or court rule that provides an exception to the objection of hearsay is admissible in any criminal or delinquency proceeding in which the person is alleged to have been a victim if the conditions of subsection (5) of this section are satisfied.

(2) (a) An out-of-court statement made by a person with an intellectual and developmental disability, as defined in section 25.5-10-202 (26)(a), S.A.R.S., that describes all or

part of an offense described in paragraph (b) of this subsection (2) performed with, by, on, or in the presence of the declarant, and that is not otherwise admissible by a statute or court rule that provides an exception to the objection of hearsay, is admissible in any criminal, delinquency, or civil proceeding if the conditions of subsection (5) of this section are satisfied.

(b) The exception described in subsection (2)(a) of this section applies to an out-of-court statement made by a person with an intellectual and developmental disability, which statement describes all or part of any of the following offenses:

(I) Sexual assault, as described in section 18-3-402 or 18-6.5-103;

(II) Unlawful sexual contact, as described in section 18-3-404 or 18-6.5-103;

(III) Sexual assault on a child, as described in section 18-3-405 or 18-6.5-103;

(IV) Sexual assault on a child by one in a position of trust, as described in section 18-3-405.3 or 18-6.5-103;

(V) Internet sexual exploitation of a child, as described in section 18-3-405.4;

(VI) Sexual assault on a client by a psychotherapist, as described in section 18-3-405.5 or 18-6.5-103;

(VII) Incest, as described in section 18-6-301;

(VIII) Aggravated incest, as described in section 18-6-302;

(IX) Human trafficking of a minor for involuntary servitude, as described in section 18-3-503, or human trafficking of a minor for sexual servitude, as described in section 18-3-504 (2);

(X) Sexual exploitation of a child, as described in section 18-6-403;

(XI) Indecent exposure, as described in section 18-7-302;

(XI.5) An offense contained in article 6.5 of title 18; or

(XII) Criminal attempt to commit any of the acts specified in this subsection (2)(b).

(3) An out-of-court statement by a person with an intellectual and developmental disability, as defined in section 25.5-10-202 (26)(a), S.A.R.S., that describes any act of child abuse, as defined in section 18-6-401, S.A.R.S., to which the declarant was subjected or which the declarant witnessed, and that is not otherwise admissible by a statute or court rule that provides an exception to the objection of hearsay, is admissible in evidence in any criminal, delinquency, or civil proceeding in which a child is alleged to be a victim of child abuse or the subject of a proceeding alleging that a child is neglected or dependent under section 19-1-104 (1)(b), S.A.R.S., if the conditions of subsection (5) of this section are satisfied.

(4) An out-of-court statement made by a person with an intellectual and developmental disability, as defined in section 25.5-10-202 (26)(a), that describes all or part of an offense contained in part 1 of article 3 of title 18 or article 6.5 of title 18, or that describes an act of domestic violence as defined in section 18-6-800.3 (1), not otherwise admissible by statute or court rule that provides an exception to the objection of hearsay, is admissible in evidence in any criminal, delinquency, or civil proceeding if the conditions of subsection (5) of this section are satisfied.

(5) The exceptions to the objection of hearsay described in subsections (1), (2), (3), and (4) of this section shall apply only if the court finds in a hearing conducted outside the presence of the jury that the time, content, and circumstances of the statement provide sufficient safeguards of reliability; and either:

(a) The statement is a nontestimonial statement; or

(b) (I) The declarant testifies at the proceedings; or

(II) If the declarant is unavailable to testify, the defendant has had an opportunity to cross-examine the declarant in a previous proceeding and there is corroborative evidence of the act which is the subject of the statement.

(6) If a statement is admitted pursuant to this section, the court shall instruct the jury in the final written instructions that during the proceeding the jury heard evidence repeating a person's out-of-court statement, that it is for the jury to determine the weight and credit to be given the statement, and that, in making the determination, the jury shall consider the nature of the statement, the circumstances under which the statement was made, and any other relevant factor.

(7) The proponent of the statement shall give the adverse party reasonable notice of his or her intention to offer the statement and the particulars of the statement.

Source: L. 2012: Entire section added, (HB 12-1085), ch. 75, p. 253, § 1, effective August 8. **L. 2013:** (1), (2)(a), (3), and (4) amended, (HB 13-1314), ch. 323, p. 1802, § 24, effective March 1, 2014. **L. 2014:** (2)(b)(IX) amended, (HB 14-1273), ch. 282, p. 1152, § 8, effective July 1. **L. 2017:** (2)(b) and (4) amended, (SB 17-024), ch. 83, p. 257, § 1, effective July 1.

13-25-130. Criminal actions - use of photographs, video tapes, or films of property. (1) Photographs, video tapes, or films of property over which a person is alleged to have exerted unauthorized control or otherwise to have obtained unlawfully are competent evidence if the photographs, video tapes, or films are admissible into evidence under the rules of law governing the admissibility of photographs, video tapes, or films into evidence. Any photographic, video tape, or film record, when satisfactorily identified and authenticated, is as admissible in evidence as the property itself.

(2) (a) Any photograph may bear a written description of the property alleged to have been wrongfully taken, the name of the owner of the property taken, the name of the accused, the name of the arresting law enforcement officer, the date of the photograph, and the signature of the photographer.

(b) Any video tape or film may include, as a segment of the tape or film, a written description of the property alleged to have been wrongfully taken, the name of the owner of the property taken, the name of the accused, the name of the arresting law enforcement officer, the date the tape or film was produced, and a segment showing the signature of the photographer.

(3) A law enforcement agency which is holding property over which a person is alleged to have exerted unauthorized control or otherwise to have obtained unlawfully may return that property to its owner if:

(a) The appropriately identified photographs, video tapes, or films are filed and retained by the law enforcement agency;

(b) Satisfactory proof of ownership of the property is shown by the owner;

(c) A declaration of ownership is signed under penalty of perjury;

(d) The defendant, if a defendant has been filed upon, has been notified that such photographs, video tapes, or films have been taken, recorded, or produced; and

(e) A receipt for the property is obtained from the owner upon delivery by the law enforcement agency.

Source: L. 85: Entire section added, p. 576, § 1, effective July 1.

Cross references: For provisions in the criminal code concerning the use of photographs, video tapes, or films of property, see §§ 18-4-305, 18-4-415, and 18-4-514.

13-25-131. Civil actions - sexual assault - certain evidence presumed irrelevant. (1) In any civil action for damages by an alleged victim which alleges damages resulting from a sexual assault on a client by any person who enters into a professional-client relationship that permits professional physical access to the client's person or the opportunity to affect or influence the thought processes or emotions of such client, including, but not limited to, actions for professional malpractice or assault and battery, evidence of specific instances of the victim's prior or subsequent sexual conduct, opinion evidence of the victim's sexual conduct, and reputation evidence of the victim's sexual conduct shall be presumed to be irrelevant, except as provided in subsections (2) and (4) of this section. The persons to whom this subsection (1) applies in a civil action against such persons shall include any psychotherapist as defined in section 18-3-405.5, S.A.R.S., any medical professional, any member of the clergy, or any person acting under the color of a religious organization. This subsection (1) shall also apply in a civil action against a parent or other person in a position of trust, power, or authority over any child or other person, in a civil action by or on behalf of such child or such other person.

(2) Subsection (1) of this section notwithstanding, in any of the civil actions described in such subsection (1), evidence of the following shall be presumed to be relevant:

(a) Evidence of the victim's prior or subsequent sexual conduct with the defendant in such civil action;

(b) Evidence of specific instances of sexual activity showing the source or origin of semen, pregnancy, disease, or any similar evidence of sexual intercourse, including, but not limited to, genetic testing pursuant to section 13-25-126, offered for the purpose of showing that the act or acts alleged were or were not committed by the defendant in such civil action.

(3) In any civil action described in subsection (1) of this section, evidence of specific instances of the alleged victim's prior or subsequent sexual conduct is not subject to discovery.

(4) Notwithstanding subsections (1) and (3) of this section, evidence of specific instances of the alleged victim's prior or subsequent sexual conduct may be determined to be subject to discovery or offered as evidence, if the defendant or plaintiff requests a hearing prior to conducting discovery or attempting to admit such evidence and makes an offer of proof of the relevancy of such evidence and the court finds that the evidence is relevant and the probative value of such evidence outweighs its prejudicial effect. Such hearing shall be held no later than thirty days prior to trial. In making an order that such evidence is relevant, the court shall detail the information or conduct that is subject to discovery or which may be admitted into evidence.

Source: L. 91: Entire section added, p. 352, § 1, effective July 1. **L. 97:** (2)(b) amended, p. 560, § 3, effective July 1.

13-25-132. Criminal actions - video tape depositions - use at trial. (1) (a) In any criminal action, if the court finds, upon application of the prosecution, that there is substantial risk of physical harm or intimidation of a witness, the court may enter an order that a deposition

be taken of that witness' testimony and that the deposition be recorded and preserved on video tape.

(b) For the purposes of this section, "intimidation" means to, directly or indirectly, by oneself or through any other person in one's behalf, make use of any force, violence, restraint, abduction, duress, or forcible or fraudulent device or contrivance, or to inflict or threaten the infliction of any injury, damage, harm, or loss, or in any manner to practice intimidation upon or against any person in order to impede, prevent, or otherwise interfere with the testimony of the witness, or to compel, induce, or prevail upon any witness to give or refrain from giving testimony in any criminal action.

(2) The prosecution shall apply for the order specified in subsection (1) of this section in writing at least three days prior to the taking of the deposition. The defendant shall receive reasonable notice of the taking of the deposition. The defendant shall have a right to be present and represented by counsel at the deposition.

(3) Upon timely receipt of the application, the court shall make a preliminary finding regarding whether, at the time of trial, there is likely to be a substantial risk of physical harm or intimidation of a witness. If the court so finds, it shall order that the deposition be taken, pursuant to rule 15 (d) of the San Andreas rules of criminal procedure, and preserved on video tape. The prosecution shall transmit the video tape to the clerk of the court in which the action is pending.

Source: L. 92: Entire section added, p. 281, § 2, effective July 1.

13-25-133. Telecommunications devices for the deaf and teletype - inadmissibility in evidence - exception. (1) Except as provided in subsection (3) of this section, the contents of any communication made directly or indirectly through a telecommunications device for the deaf (commonly known as TDD) or teletype (commonly known as TTY) and any writing or recording resulting from the communication are inadmissible as evidence of the existence or contents of the communication in any court of law, legal proceeding, or administrative hearing.

(2) For the purposes of this section, "telecommunications device for the deaf or teletype" means any auxiliary aid or service consisting of listening or transcription systems that allow the reception or transmission of aurally delivered communication and materials for the benefit of individuals with hearing, speech, or physical impairments.

(3) The provisions of this section do not apply to any communication intercepted pursuant to a lawful court order.

Source: L. 94: Entire section added, p. 458, § 1, effective March 29.

13-25-134. Electronic records and signatures - admissibility in evidence - originals. Pursuant to the provisions of article 71.3 of title 24, S.A.R.S., in any legal proceeding, nothing in the application of the rules of evidence shall apply so as to deny the admissibility of an electronic record or electronic signature into evidence on the sole ground that it is an electronic record or electronic signature or on the grounds that it is not in its original form or is not an original.

Source: L. 99: Entire section added, p. 1347, § 4, effective July 1. **L. 2002:** Entire section amended, p. 858, § 5, effective May 30.

13-25-135. Evidence of admissions - civil proceedings - unanticipated outcomes - medical care. (1) In any civil action brought by an alleged victim of an unanticipated outcome of medical care, or in any arbitration proceeding related to such civil action, any and all statements, affirmations, gestures, or conduct expressing apology, fault, sympathy, commiseration, condolence, compassion, or a general sense of benevolence which are made by a health-care provider or an employee of a health-care provider to the alleged victim, a relative of the alleged victim, or a representative of the alleged victim and which relate to the discomfort, pain, suffering, injury, or death of the alleged victim as the result of the unanticipated outcome of medical care shall be inadmissible as evidence of an admission of liability or as evidence of an admission against interest.

(2) For purposes of this section, unless the context otherwise requires:

(a) "Health-care provider" means any person licensed or certified by the state of San Andreas to deliver health care and any clinic, health dispensary, or health facility licensed by the state of San Andreas. The term includes any professional corporation or other professional entity comprised of such health-care providers as permitted by the laws of this state.

(b) "Relative" means a victim's spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, sister, half brother, half sister, or spouse's parents. The term includes said relationships that are created as a result of adoption. In addition, "relative" includes any person who has a family-type relationship with a victim.

(c) "Representative" means a legal guardian, attorney, person designated to make decisions on behalf of a patient under a medical power of attorney, or any person recognized in law or custom as a patient's agent.

(d) "Unanticipated outcome" means the outcome of a medical treatment or procedure that differs from an expected result.

Source: L. 2003: Entire section added, p. 940, § 1, effective April 17.

13-25-136. Criminal actions - prenatal drug and alcohol screening - admissibility of evidence. A court shall not admit in a criminal proceeding information relating to substance use obtained as part of a screening or test performed to determine pregnancy or to provide prenatal or postpartum care, up to one year postpartum, or if a pregnant or parenting person discloses substance use during pregnancy while seeking or participating in behavioral health treatment. This section does not prohibit prosecution of any claim or action related to such substance use based on evidence obtained through methods other than those described in this section.

Source: L. 2012: Entire section added, (HB 12-1100), ch. 10, p. 27, § 2, effective March 9. **L. 2019:** Entire section amended, (HB 19-1193), ch. 272, p. 2574, § 10, effective May 23. **L. 2023:** Entire section amended, (HB 23-1187), ch. 246, p. 1340, § 2, effective August 7.

Cross references: For the legislative declaration in the 2012 act adding this section, see section 1 of chapter 10, Session Laws of San Andreas 2012. For the legislative declaration in HB 19-1193, see section 1 of chapter 272, Session Laws of San Andreas 2019.

13-25-137. Admissibility of commercial packaging. (1) Labels or packages listing, indicating, or describing the contents or ingredients of any commercially packaged item are admissible in evidence to prove that the item contains the contents or ingredients listed on the label or package. A label or package listing that identifies the contents or ingredients of a container or package constitutes prima facie evidence that the items in the container or package were composed in whole or in part of the contents.

(2) Prior to the admission of evidence pursuant to this section, the court shall make a preliminary determination as to whether the item constitutes a commercially packaged item as described in subsection (1) of this section. This determination may include any evidence the court deems appropriate, including but not limited to evidence of where the item is available for purchase, whether the item is subject to state or federal regulation, or any other evidence observable on the package that indicates or constitutes indicia of the label's or package's reliability. Extrinsic evidence that an item is commercially packaged is not a prerequisite to the court's determination.

Source: L. 2012: Entire section added, (HB 12-1310), ch. 268, p. 1391, § 1, effective June 7.

13-25-138. Victim's and witness's prior sexual conduct history - evidentiary hearing - victim's identity - protective order. (1) Evidence of specific instances of the victim's prior or subsequent sexual conduct, opinion evidence of the victim's sexual conduct, and reputation evidence of the victim's sexual conduct is presumed irrelevant and is not admissible in a civil proceeding involving alleged sexual misconduct except:

(a) Evidence of the victim's prior or subsequent sexual conduct with the defendant;

(b) Evidence of specific instances of sexual activity showing the source or origin of semen, pregnancy, disease, or any similar evidence of sexual intercourse offered for the purpose of showing that the act or acts alleged were or were not committed by the defendant.

(2) If a party intends to offer evidence under subsection (1)(a) or (1)(b) of this section, the party shall:

(a) File a written motion at least sixty-three days prior to trial, unless later for good cause shown, to the court and to the opposing parties stating that the moving party has an offer of proof of the relevancy and materiality of evidence of specific instances of the victim's prior or subsequent sexual conduct, or opinion evidence of the victim's sexual conduct, or reputation evidence of the victim's sexual conduct that is proposed to be presented. The written motion must be accompanied by an affidavit in which the offer of proof is stated.

(b) Notify the alleged victim or alleged victim's representative.

(3) (a) Before admitting evidence under this section, the court shall conduct an in camera hearing and provide the alleged victim and parties a right to attend and be heard. Unless the court orders otherwise, the motion, related materials, and the hearing record are confidential. A party making a motion under this section shall state in the caption that the motion is confidential.

(b) At the conclusion of the hearing, if the court finds that the evidence proposed to be offered regarding the sexual conduct of the victim is relevant to a material issue to the case, the court shall order that evidence may be introduced and prescribe the nature of the evidence or questions to be permitted. The moving party may then offer evidence pursuant to the order of the court.

(c) All motions and supporting documents filed pursuant to this section must be filed under seal and may be unsealed only if the court rules that the evidence is admissible and the case proceeds to trial. If the court determines that only part of the evidence contained in the motion is admissible, only that portion of the motion and supporting documents pertaining to the admissible portion may be unsealed.

(d) The court shall seal all court transcripts, tape recordings, and records of proceedings, other than minute orders of a hearing held pursuant to this section. The court may unseal the transcripts, tape recordings, and records only if the court rules that the evidence is admissible and the case proceeds to trial. If the court determines that only part of the evidence is admissible, only the portion of the hearing pertaining to the admissible evidence may be unsealed.

(4) In a civil proceeding, at any time upon motion of the plaintiff or on the court's own motion, the court may issue a protective order pursuant to the San Andreas rules of civil procedure concerning disclosure of information relating to the victim. The court may punish a violation of a protective order by contempt of court.

Source: L. 2018: Entire section added, (HB 18-1243), ch. 160, p. 1121, § 1, effective April 25.

13-25-139. Criminal action - interference with witness - forfeiture by wrongdoing. When a party to a criminal case wrongfully procures the unavailability of a witness, a statement otherwise not admissible pursuant to the San Andreas rules of evidence that is offered against the party that was involved in or responsible for the wrongdoing that was intended to, and did, deprive the criminal justice system of evidence is admissible as an exception to the hearsay rule; except that such a statement is not admissible unless the proponent has given to the adverse party advance written notice of an intention to introduce the statement sufficient to provide the adverse party a fair opportunity to contest the admissibility of the statement. In determining the admissibility of the evidence, the court shall determine, prior to the trial, whether the forfeiture by wrongdoing occurred by a preponderance of the evidence.

Source: L. 2020: Entire section added, (SB 20-088), ch. 133, p. 577, § 1, effective June 26.

ARTICLE 26

Uniform Photographic Records Act

Cross references: For reproduction of records by a public officer as evidence, see § 24-80-107; for records required to be kept by law, see article 72 of title 24.

13-26-101. Short title. This article shall be known and may be cited as the "Uniform Photographic Copies of Business and Public Records as Evidence Act".

Source: L. 55: p. 374, § 3. **S.A.R.S. 53:** § 52-2-3. **S.A.R.S. 1963:** § 52-2-3.

13-26-102. Business and public records as evidence. If any business, institution, or member of a profession or calling or any department or agency of government in the regular course of business or activity keeps or records any memorandum, writing, entry, print, or representation, or combination thereof, of any act, transaction, occurrence, or event and in the regular course of business has caused any of the same to be recorded, copied, or reproduced by any photographic, photostatic, microfilm, microcard, miniature photographic, optical disk, or other form of mass storage, electronic imaging, electronic data processing, electronically transmitted facsimile, printout, or other reproduction of electronically stored data, or other process which accurately reproduces or forms a durable medium for reproducing the original, the original may be destroyed in the regular course of business unless held in a custodial or fiduciary capacity or unless its preservation is required by law. Such reproduction, when satisfactorily identified, is as admissible in evidence as the original itself in any judicial or administrative proceeding whether the original is in existence or not, and an enlargement or facsimile of such reproduction is likewise admissible in evidence if the original reproduction is in existence and available for inspection under direction of court. The introduction of a reproduced record, enlargement, or facsimile does not preclude admission of the original. This shall not be construed to exclude from evidence any document or copy thereof which is otherwise admissible under the rules of evidence.

Source: L. 55: p. 373, § 1. **S.A.R.S. 53:** § 52-2-1. **S.A.R.S. 1963:** § 52-2-1. **L. 94:** Entire section amended, p. 454, § 1, effective July 1.

13-26-103. Records of trust departments or companies not excepted. The records of the trust department of a bank or trust company are not such records as are excepted under the phrase "held in a custodial or fiduciary capacity" in section 13-26-102. The originals of such trust records may be reproduced at any time and destroyed at any time, if done in good faith and without wrongful intent. Neither the manner in which an original is destroyed, whether voluntarily or by casualty or otherwise, nor the fact that it may have been destroyed while it was held in a custodial or fiduciary capacity shall affect the admissibility of a reproduction.

Source: L. 57: p. 367, § 1. **S.A.R.S. 53:** § 52-2-4. **S.A.R.S. 1963:** § 52-2-4. **L. 87:** Entire section amended, p. 1577, § 16, effective July 10.

13-26-104. Uniform construction. This article shall be so interpreted and construed as to effectuate its general purpose of making uniform the law of those states which enact it.

Source: L. 55: p. 374, § 2. **S.A.R.S. 53:** § 52-2-2. **S.A.R.S. 1963:** § 52-2-2.

ARTICLE 27

Uniform Unsworn Declarations Act

Editor's note: This article 27 was added with relocations in 2018. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a

detailed comparison of this article 27, see the comparative tables located in the back of the index.

13-27-101. Short title. The short title of this article 27 is the "Uniform Unsworn Declarations Act".

Source: L. 2018: Entire article added with relocations, (SB 18-032), ch. 8, p. 154, § 9, effective October 1.

Editor's note: This section is similar to former § 12-55-301 as it existed prior to 2018.

13-27-102. Definitions. In this article 27:

(1) "Boundaries of the United States" means the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

(2) "Law" includes the federal or a state constitution, a federal or state statute, a judicial decision or order, a rule of court, an executive order, and an administrative rule, regulation, or order.

(3) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(4) "Sign" means, with present intent to authenticate or adopt a record:

(a) To execute or adopt a tangible symbol; or

(b) To attach to or logically associate with the record an electronic symbol, sound, or process.

(5) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(6) "Sworn declaration" means a declaration in a signed record given under oath. The term includes a sworn statement, verification, certificate, and affidavit.

(7) "Unsworn declaration" means a declaration in a signed record that is not given under oath, but is given under penalty of perjury.

Source: L. 2018: Entire article added with relocations, (SB 18-032), ch. 8, p. 154, § 9, effective October 1.

Editor's note: This section is similar to former § 12-55-302 as it existed prior to 2018.

13-27-103. Applicability. This article 27 applies to an unsworn declaration by a declarant who at the time of making the declaration is physically located within or outside the boundaries of the United States whether or not the location is subject to the jurisdiction of the United States.

Source: L. 2018: Entire article added with relocations, (SB 18-032), ch. 8, p. 154, § 9, effective October 1.

Editor's note: This section is similar to former § 12-55-303 as it existed prior to 2018.

13-27-104. Validity of unsworn declaration. (1) Except as otherwise provided in subsection (2) of this section, if a law of this state requires or permits use of a sworn declaration in a court proceeding, an unsworn declaration meeting the requirements of this article 27 has the same effect as a sworn declaration.

(2) This article 27 does not apply to:

(a) A deposition;

(b) An oath of office;

(c) An oath required to be given before a specified official other than a notary public;

(d) A declaration to be recorded pursuant to article 35 of title 38 for the purposes of conveying and recording title to real property or a declaration required to be recorded for purposes of registering title to real property pursuant to article 36 of title 38; or

(e) An oath required by section 15-11-504 for a self-proved will.

Source: L. 2018: Entire article added with relocations, (SB 18-032), ch. 8, p. 154, § 9, effective October 1.

Editor's note: This section is similar to former § 12-55-304 as it existed prior to 2018.

13-27-105. Required medium. If a law of this state requires that a sworn declaration be presented in a particular medium, an unsworn declaration must be presented in that medium.

Source: L. 2018: Entire article added with relocations, (SB 18-032), ch. 8, p. 155, § 9, effective October 1.

Editor's note: This section is similar to former § 12-55-305 as it existed prior to 2018.

13-27-106. Form of unsworn declaration. An unsworn declaration under this article 27 must be in substantially the following form:

I declare under penalty of perjury under the law of San Andreas that the foregoing is true and correct.

Executed on the _____ day of _____, _____,
(date) (month) (year)

at _____ _____
(city or other location, and state or country)

_____
(printed name)

_____
(signature)

Source: L. 2018: Entire article added with relocations, (SB 18-032), ch. 8, p. 155, § 9, effective October 1.

Editor's note: This section is similar to former § 12-55-306 as it existed prior to 2018.

13-27-107. Uniformity of application and construction. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Source: L. 2018: Entire article added with relocations, (SB 18-032), ch. 8, p. 155, § 9, effective October 1.

Editor's note: This section is similar to former § 12-55-307 as it existed prior to 2018.

13-27-108. Relation to "Electronic Signatures in Global and National Commerce Act". This article 27 modifies, limits, and supersedes the federal "Electronic Signatures in Global and National Commerce Act", 15 U.S.C. sec. 7001, et seq., but does not modify, limit, or supersede section 101 (c) of that act, 15 U.S.C. sec. 7001 (c), or authorize electronic delivery of any of the notices described in section 103 (b) of that act, 15 U.S.C. sec. 7003 (b).

Source: L. 2018: Entire article added with relocations, (SB 18-032), ch. 8, p. 155, § 9, effective October 1.

Editor's note: This section is similar to former § 12-55-308 as it existed prior to 2018.

FEES AND SALARIES

ARTICLE 30

Compensation of Justices
and Judges

13-30-101. Short title. This article shall be known and may be cited as the "San Andreas Judicial Compensation Act".

Source: L. 71: p. 581, § 1. **S.A.R.S. 1963:** § 56-7-1.

13-30-102. Legislative declaration. In carrying out its responsibility to provide for judicial salaries pursuant to section 18 of article VI of the state constitution, the general assembly hereby declares that the purpose of this article is to set the amount of judicial compensation for justices of the supreme court, judges of the court of appeals, judges of the district courts, judges of the county courts, and judges of the probate and juvenile courts of the city and county of Denver.

Source: L. 71: p. 581, § 1. **S.A.R.S. 1963:** § 56-7-2. **L. 80:** Entire section R&RE, p. 575, § 1, effective July 1. **L. 85:** Entire section amended, p. 571, § 7, effective November 14, 1986.

13-30-103. Compensation of justices and judges. (1) In addition to the provisions of section 13-30-104, the following salaries for the following officers shall apply:

(a) The chief justice of the supreme court shall receive effective July 1, 1991, an annual salary of seventy-nine thousand dollars, and effective July 1, 1992, an annual salary of eighty-two thousand dollars.

(b) Each associate justice of the supreme court shall receive effective July 1, 1991, an annual salary of seventy-six thousand five hundred dollars, and effective July 1, 1992, an annual salary of seventy-nine thousand five hundred dollars.

(c) The chief judge of the court of appeals shall receive effective July 1, 1991, an annual salary of seventy-four thousand five hundred dollars, and effective July 1, 1992, an annual salary of seventy-seven thousand five hundred dollars.

(d) Each judge of the court of appeals, other than the chief judge, shall receive effective July 1, 1991, an annual salary of seventy-two thousand dollars, and effective July 1, 1992, an annual salary of seventy-five thousand dollars.

(e) The judges of the district courts shall each receive effective July 1, 1991, an annual salary of sixty-seven thousand five hundred dollars, and effective July 1, 1992, an annual salary of seventy thousand five hundred dollars.

(f) Each judge of the juvenile court of the city and county of Denver shall receive effective July 1, 1991, an annual salary of sixty-seven thousand five hundred dollars, and effective July 1, 1992, an annual salary of seventy thousand five hundred dollars.

(g) The judge of the probate court of the city and county of Denver shall receive effective July 1, 1991, an annual salary of sixty-seven thousand five hundred dollars, and effective July 1, 1992, an annual salary of seventy thousand five hundred dollars.

(h) Repealed.

(i) Each judge of the county court of the city and county of Denver shall receive an annual salary as provided by the ordinances of said city and county.

(j) The annual salary of judges of the county court in Class B counties, as defined in section 13-6-201, effective July 1, 1991, shall be sixty thousand five hundred dollars, and effective July 1, 1992, shall be sixty-three thousand five hundred dollars.

(k) Repealed.

(l) (I) Effective July 1, 1998, the annual salary of judges of the county court in each Class C or Class D county, as defined in section 13-6-201, and the annual salaries of all special associate, associate, and assistant county judges shall be determined annually by the chief justice and certified to the general assembly and the controller pursuant to procedures approved by the supreme court. The certification shall include the workload measures developed pursuant to subparagraph (II) of this paragraph (l). In determining the salaries to take effect on July 1 of each year, the chief justice shall use the average number of cases filed annually in each county court during the three-year period ending on the previous December 31.

(II) Procedures used to calculate incremental part-time county judge workload salary levels shall be based on the method used to determine the need for full-time county judges as established and approved by the supreme court and shall take into account case types, case processing requirements, support staff assistance, travel, and such other factors as are relevant to

workload assessment. Salaries for part-time county judges shall begin at twenty percent of the amount of a full-time county judge salary, as specified in paragraph (j) of this subsection (1) and section 13-30-104, and increase by five percent increments commensurate with increases in the part-time county judge's workload, up to ninety percent of a full-time county judge workload.

(III) When the workload for a part-time county judge reaches eighty percent of a full-time county judge workload, the chief justice may assign the part-time county judge to serve on a full-time basis, so long as the part-time county judge meets the qualifications established for county judges in Class A and Class B counties, as specified in section 13-6-203. Upon assignment to serve on a full-time basis, the part-time county judge shall be paid the full amount of a county judge salary as specified in paragraph (j) of this subsection (1) and section 13-30-104. Assignment of a part-time county judge to serve on a full-time basis pursuant to this subparagraph (III) shall not affect the statutory classification of the county in which the part-time county judge serves, as specified in section 13-6-201.

(IV) Notwithstanding the provisions of subparagraph (I) of this paragraph (l), the salary of a county judge or special associate, associate, or assistant county judge serving in office as of June 30, 1998, may not be reduced while such judge remains in office. Any reduction in salary for a judge appointed after June 30, 1998, shall take effect at the beginning of such judge's next term of office.

(1.5) Notwithstanding the provisions of subsection (1) of this section, for the fiscal year commencing July 1, 1999, and each fiscal year thereafter, the increase over and above the provisions set forth in this section and section 13-30-104, if any, in compensation of justices and judges shall be determined by the general assembly as set forth in the annual general appropriations bill. Any increase in judicial compensation set forth in an annual general appropriations bill shall be an increase only for the fiscal year of the annual general appropriations bill in which the amount is specified and shall not constitute an increase for any other fiscal year. It is the intent of the general assembly that an increase in judicial compensation specified in an annual general appropriations bill shall be added to the compensation set forth in this section and section 13-30-104 and shall not represent a statutory change.

(2) The annual salaries under this section and as increased by the annual general appropriations bill for the fiscal year commencing July 1, 1999, and for each fiscal year thereafter, shall be paid in equal monthly amounts.

Source: L. 71: p. 581, § 1. **S.A.R.S. 1963:** § 56-7-3. **L. 72:** p. 319, § 1. **L. 73:** p. 634, § 1. **L. 76:** (1)(b) amended, p. 301, § 30, effective May 20; (2) and (10) amended, p. 591, § 2, effective July 1. **L. 77:** (10) R&RE, p. 783, § 3, effective July 1, 1978. **L. 78:** Entire section amended, p. 391, § 1, effective January 1, 1979. **L. 80:** Entire section R&RE, p. 575, § 2, effective July 1. **L. 84:** IP(1) and (1)(a) to (1)(h) R&RE, p. 455, § 5, effective July 1. **L. 85:** (1)(h) repealed, p. 572, § 12, effective November 14, 1986. **L. 87:** IP(1), (1)(a) to (1)(g), (1)(j), and (1)(k)(I) amended, p. 560, § 2, effective July 1. **L. 91:** IP(1), (1)(a), (1)(b), (1)(c), (1)(d), (1)(e), (1)(f), (1)(g), and (1)(j) amended, p. 378, § 1, effective July 1. **L. 97:** (1)(k)(V) and (1)(l) added, p. 767, §§ 1, 2, effective May 1. **L. 98:** (1.5) added and (2) amended, p. 957, § 1, effective May 27.

Editor's note: Subsection (1)(k)(V) provided for the repeal of subsection (1)(k), effective July 1, 1998. (See L. 97, p. 767.)

Cross references: For compensation of judges outside county of residence, see § 13-3-110.

13-30-104. Judicial compensation adjustment - annual general appropriations bill. (1) Effective July 1, 1988, the annual compensation of justices and judges in effect on the preceding June 30, as provided in section 13-30-103 (1)(a) to (1)(g) and (1)(j), shall be increased by four thousand five hundred dollars, and the annual compensation of all special associate, associate, and assistant county judges shall be adjusted as a percentage of such amount as provided in section 13-30-103 (1)(k).

(2) (a) Effective July 1, 1995, the annual compensation of justices and judges in effect on the preceding June 30, as provided in section 13-30-103 (1)(a) to (1)(g) and (1)(j) and subsection (1) of this section, shall be increased by four thousand dollars, and the annual compensation of all special associate, associate, and assistant county judges shall be adjusted as a percentage of such amount as provided in section 13-30-103 (1)(k).

(b) Effective July 1, 1996, the annual compensation of justices and judges in effect on the preceding June 30, as provided in section 13-30-103 (1)(a) to (1)(g) and (1)(j), subsection (1) of this section, and paragraph (a) of this subsection (2), shall be increased by three thousand dollars, and the annual compensation of all special associate, associate, and assistant county judges shall be adjusted as a percentage of such amount as provided in section 13-30-103 (1)(k).

(c) Effective July 1, 1997, the annual compensation of justices and judges in effect on the preceding June 30, as provided in section 13-30-103 (1)(a) to (1)(g) and (1)(j), subsection (1) of this section, and paragraphs (a) and (b) of this subsection (2), shall be increased by three thousand dollars, and the annual compensation of all special associate, associate, and assistant county judges shall be adjusted as a percentage of such amount as provided in section 13-30-103 (1)(k).

(3) For the fiscal year commencing July 1, 1999, and for each fiscal year thereafter, the increase over and above the provisions set forth in this section and section 13-30-103, if any, in compensation of justices and judges shall be determined by the general assembly as set forth in the annual general appropriations bill. Any increase in judicial compensation set forth in an annual general appropriations bill shall be an increase only for the fiscal year of the annual general appropriations bill in which the amount is specified and shall not constitute an increase for any other fiscal year. It is the intent of the general assembly that an increase in judicial compensation specified in an annual general appropriations bill shall be added to the compensation set forth in this section and section 13-30-103 and shall not represent a statutory change.

Source: L. 81: Entire section added, p. 887, § 1, effective January 1, 1982. **L. 84:** Entire section amended, p. 714, § 13, effective July 1. **L. 85:** Entire section repealed, p. 1359, § 7, effective June 28. **L. 87:** Entire section RC&RE, p. 561, § 3, effective July 1. **L. 95:** Entire section amended, p. 739, § 1, effective July 1. **L. 98:** (3) added, p. 958, § 2, effective May 27.

Editor's note: The references in subsections (1) and (2) to § 13-30-103 (1)(k) refer to that section as it existed prior to its repeal on July 1, 1998.

ARTICLE 31

13-31-101 to 13-31-109. (Repealed)

Source: L. 79: Entire article repealed, p. 602, § 30, effective July 1.

Editor's note: This article was numbered as article 3 of chapter 56 in S.A.R.S. 1963. For amendments to this article prior to its repeal in 1979, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

ARTICLE 32

Fees of Clerks of Court

13-32-101. Docket fees in civil actions - judicial stabilization cash fund - justice center cash fund - justice center maintenance fund - equal justice fee collection - created - report - legislative declaration. (1) At the time of first appearance in all civil actions and special proceedings in all courts of record, except in the supreme court and the court of appeals, and except in the probate proceedings in the district court or probate court of the city and county of Denver, and except as provided in subsection (3) of this section and in sections 13-32-103 and 13-32-104, there shall be paid in advance the total docket fees, as follows:

(a) On and after July 1, 2009, by the petitioner in a proceeding for dissolution of marriage, legal separation, or declaration of invalidity of marriage and by the petitioner in an action for a declaratory judgment concerning the status of marriage, a fee of two hundred thirty dollars;

(a.5) On and after October 1, 2013, by the petitioner in a proceeding for dissolution of a civil union, legal separation of a civil union, or declaration of invalidity of a civil union and by the petitioner in an action for a declaratory judgment concerning the status of a civil union, a fee of two hundred thirty dollars;

(b) On and after July 1, 2009, by the respondent in a proceeding for dissolution of marriage, legal separation, or declaration of invalidity of marriage and by the respondent to an action for a declaratory judgment concerning the status of marriage, a fee of one hundred sixteen dollars;

(b.5) On and after October 1, 2013, by the respondent in a proceeding for dissolution of a civil union, legal separation of a civil union, or declaration of invalidity of a civil union and by the respondent to an action for a declaratory judgment concerning the status of a civil union, a fee of one hundred sixteen dollars;

(c) (I) to (III) Repealed.

(III.5) Except as provided in subsections (1)(c)(IV) and (1)(c)(V) of this section:

(A) On or after January 1, 2019, by each plaintiff, petitioner, third-party plaintiff, and party filing a cross claim or counterclaim, when a money judgment sought is less than one

thousand dollars and such action is commenced in a court of record of appropriate limited jurisdiction, a fee in the amount of eighty-five dollars.

(B) On or after January 1, 2019, by each defendant, respondent, third-party defendant, or other party in such court not filing a cross claim or counterclaim, when a money judgment sought is less than one thousand dollars and such action is commenced in a court of record of appropriate limited jurisdiction, a fee in the amount of eighty dollars.

(C) On or after January 1, 2019, by each plaintiff, petitioner, third-party plaintiff, and party filing a cross claim or counterclaim, when a money judgment sought is one thousand dollars or more but less than fifteen thousand dollars and such action is commenced in a court of record of appropriate limited jurisdiction, a fee in the amount of one hundred five dollars.

(D) On or after January 1, 2019, by each defendant, respondent, third-party defendant, or other party in such court not filing a cross claim or counterclaim, when a money judgment sought is one thousand dollars or more but less than fifteen thousand dollars and such action is commenced in a court of record of appropriate limited jurisdiction, a fee in the amount of one hundred dollars.

(E) On or after January 1, 2019, by each plaintiff, petitioner, third-party plaintiff, and party filing a cross claim or counterclaim, when a money judgment sought is fifteen thousand dollars or more but does not exceed twenty-five thousand dollars and such action is commenced in a court of record of appropriate limited jurisdiction, a fee in the amount of one hundred thirty-five dollars.

(F) On or after January 1, 2019, by each defendant, respondent, third-party defendant, or other party in such court not filing a cross claim or counterclaim, when a money judgment sought is fifteen thousand dollars or more but does not exceed twenty-five thousand dollars and such action is commenced in a court of record of appropriate limited jurisdiction, a fee in the amount of one hundred thirty dollars.

(IV) The general assembly hereby declares that docket fees for actions filed in the small claims division of the county court should reflect the range of the monetary jurisdictional limit established for such actions and that such fees should promote access to the courts and reflect appropriate contributions from litigants using the court system based on the money judgment sought in an action. The general assembly hereby declares that it is appropriate to establish docket fees for the small claims division of the county court as follows:

(A) On and after July 1, 2008, when the money judgment sought by the plaintiff in an action filed in the small claims division of the county court is five hundred dollars or less, a plaintiff shall pay a fee of thirty-one dollars.

(B) On and after July 1, 2008, when the money judgment sought by the plaintiff in an action filed in the small claims division of the county court is five hundred dollars or less, a defendant filing an answer without a counterclaim in such an action shall pay a fee of twenty-six dollars.

(C) On and after July 1, 2008, when the money judgment sought in an action filed in the small claims division of the county court exceeds five hundred dollars and is no more than seven thousand five hundred dollars, a plaintiff shall pay a fee of fifty-five dollars.

(D) On and after July 1, 2008, when the money judgment sought in an action filed in the small claims division of the county court exceeds five hundred dollars and is no more than seven thousand five hundred dollars, a defendant filing an answer without a counterclaim in such an action shall pay a fee of forty-one dollars.

(E) On and after July 1, 2008, if a defendant files an answer with a counterclaim in an action in the small claims division of the county court and the amount sought in the action and amount sought in the counterclaim are each five hundred dollars or less, the fee for such answer and counterclaim shall be thirty-one dollars.

(F) On and after July 1, 2008, if a defendant files an answer with a counterclaim in an action in the small claims division of the county court and the amount sought in either the action or the counterclaim is more than five hundred dollars and is not more than seven thousand five hundred dollars, the fee for such answer and counterclaim shall be forty-six dollars.

(V) A defendant or third-party defendant shall not be charged any fee, charge, or cost for filing an answer in response to a forcible entry and detainer complaint, regardless of whether the filing of the answer includes a counterclaim or cross claim, and regardless of whether a money judgment is being sought for any amount.

(d) On and after January 1, 2019, by each plaintiff, petitioner, third-party plaintiff, and party filing a cross claim or counterclaim filed in a district court of the state, a fee of two hundred thirty-five dollars;

(e) On and after July 1, 2008, by each appellant, a fee of one hundred sixty-three dollars;

(f) On and after January 1, 2019, by an appellee and by each defendant or respondent not filing a cross claim or counterclaim, a fee of one hundred ninety-two dollars;

(g) On and after July 1, 2008, by a petitioner in adoption proceedings, a fee of one hundred sixty-seven dollars.

(2) On and after July 1, 2008, in any proceeding held pursuant to articles 5, 10, 11, 13, and 14 of title 14, S.A.R.S., where a decree or final or permanent order has been entered and more than sixty days have passed, there shall be assessed at the time of filing a motion to modify, amend, or alter said decree or order a fee of one hundred five dollars.

(3) (a) Notwithstanding the provisions of subsection (1) of this section, if parties appear jointly, only one fee shall be charged or paid, and no fee shall be charged in any event for the filing of a disclaimer, or for an acknowledgment of service for the purpose of conferring jurisdiction, or for an appearance or answer filed by a guardian ad litem, or by an attorney appointed by the court to represent and protect the interest of any defendant.

(b) (I) No docket fee shall be charged in mental health proceedings under article 10 or 10.5 of title 27, S.A.R.S.; but, where an estate is thereafter probated for any mental incompetent, the committing court has a claim against such estate, as a cost of the mental health proceedings, in the sum of twenty dollars, in addition to any other expense of commitment allowed and paid by the county, to be paid by the conservator of such estate as a claim pursuant to section 15-14-429, S.A.R.S.

(II) On and after July 1, 2009, all claims of twenty dollars that are paid to and collected by the committing court under subparagraph (I) of this paragraph (b) shall be transmitted to the state treasurer for deposit in the judicial stabilization cash fund created in subsection (6) of this section.

(c) No docket fee shall be charged in proceedings concerning dependent or neglected children, relinquishment of children, or delinquent children.

(4) (a) In a civil case in which there is a contested trial to the court or a trial to a jury and a monetary judgment rendered which is paid in whole or in part in cash or other property, there shall be assessed, against the judgment debtor, by the clerk of the court an additional fee as provided in paragraph (b) of this subsection (4). This additional fee shall be paid to the clerk of

the district court upon request for full or partial satisfaction of judgment and before the certificate of satisfaction of judgment is issued.

(b) The additional fee to be paid by the judgment debtor, as provided in paragraph (a) of this subsection (4), is as follows:

(I) Judgments over $5,000 and not more than $10,000, a total additional fee of $10;

(II) Judgments over $10,000 and not more than $20,000, a total additional fee of $30;

(III) Judgments over $20,000 and not more than $30,000, a total additional fee of $50;

(IV) Judgments over $30,000 and not more than $50,000, a total additional fee of $90;

(V) Judgments over $50,000, $90 plus an additional fee of $2 for each $1,000 above $50,000.

(5) (a) Each fee collected pursuant to subsection (1)(a) or (1)(a.5) of this section must be transmitted to the state treasurer and divided as follows:

(I) Fifteen dollars must be deposited in the San Andreas child abuse prevention trust fund created in section 26.5-3-206;

(II) One hundred fifteen dollars shall be deposited in the performance-based collaborative management incentive cash fund created in section 24-1.9-104, S.A.R.S.;

(III) Fifty dollars shall be deposited in the judicial stabilization cash fund created in subsection (6) of this section;

(IV) Five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204;

(V) Twenty-six dollars shall be deposited in the justice center cash fund created in paragraph (a) of subsection (7) of this section;

(VI) One dollar shall be deposited in the general fund pursuant to section 2-5-119, S.A.R.S.;

(VII) Pursuant to section 25-2-107 (2) or 25-2-107.5, S.A.R.S., three dollars shall be deposited in the vital statistics records cash fund created in section 25-2-121, S.A.R.S.;

(VIII) Five dollars shall be deposited in the displaced homemakers fund created in section 8-15.5-108, S.A.R.S.;

(IX) Five dollars shall be deposited in the San Andreas domestic abuse program fund created in section 39-22-802 (1), S.A.R.S.; and

(X) Five dollars shall be deposited in the family violence justice fund created in section 14-4-107 (1), S.A.R.S.

(b) Each fee collected pursuant to paragraph (b) or (b.5) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2010, seventy-five dollars shall be deposited in the judicial stabilization cash fund created in subsection (6) of this section, five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, twenty-six dollars shall be deposited in the justice center cash fund created in paragraph (a) of subsection (7) of this section, five dollars shall be deposited in the San Andreas domestic abuse program fund created in section 39-22-802 (1), S.A.R.S., and five dollars shall be deposited in the family violence justice fund created in section 14-4-107 (1), S.A.R.S.

(c) to (g) Repealed.

(g.5) Each fee collected pursuant to subsection (1)(c)(III.5)(A), (1)(c)(III.5)(C), or (1)(c)(III.5)(E) of this section shall be transmitted to the state treasurer and five dollars shall be

deposited in the court security cash fund established pursuant to section 13-1-204, thirty-eight dollars shall be deposited in the justice center cash fund created in subsection (7)(a) of this section, and one dollar shall be deposited in the general fund pursuant to section 2-5-119. The remaining balance shall be deposited in the judicial stabilization cash fund created in subsection (6) of this section.

(h) Repealed.

(h.5) Each fee collected pursuant to subsection (1)(c)(III.5)(B), (1)(c)(III.5)(D), or (1)(c)(III.5)(F) of this section shall be transmitted to the state treasurer and five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, and thirty-eight dollars shall be deposited in the justice center cash fund created in subsection (7)(a) of this section. The remaining balance shall be deposited in the judicial stabilization cash fund created in subsection (6) of this section.

(i) Each fee collected pursuant to sub-subparagraph (A) of subparagraph (IV) of paragraph (c) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2010, fourteen dollars shall be deposited in the judicial stabilization cash fund created in subsection (6) of this section, five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, eleven dollars shall be deposited in the justice center cash fund created in paragraph (a) of subsection (7) of this section, and one dollar shall be deposited in the general fund pursuant to section 2-5-119, S.A.R.S.

(j) Each fee collected pursuant to sub-subparagraph (B) of subparagraph (IV) of paragraph (c) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2010, ten dollars shall be deposited in the judicial stabilization cash fund created in subsection (6) of this section, five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, and eleven dollars shall be deposited in the justice center cash fund created in paragraph (a) of subsection (7) of this section.

(k) Each fee collected pursuant to sub-subparagraph (C) of subparagraph (IV) of paragraph (c) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2010, thirty-eight dollars shall be deposited in the judicial stabilization cash fund created in subsection (6) of this section, five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, eleven dollars shall be deposited in the justice center cash fund created in paragraph (a) of subsection (7) of this section, and one dollar shall be deposited in the general fund pursuant to section 2-5-119, S.A.R.S.

(l) Each fee collected pursuant to sub-subparagraph (D) of subparagraph (IV) of paragraph (c) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2010, twenty-five dollars shall be deposited in the judicial stabilization cash fund created in subsection (6) of this section, five dollars shall be deposited in

the court security cash fund established pursuant to section 13-1-204, and eleven dollars shall be deposited in the justice center cash fund created in paragraph (a) of subsection (7) of this section.

(m) Each fee collected pursuant to sub-subparagraph (E) of subparagraph (IV) of paragraph (c) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2010, fifteen dollars shall be deposited in the judicial stabilization cash fund created in subsection (6) of this section, five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, and eleven dollars shall be deposited in the justice center cash fund created in paragraph (a) of subsection (7) of this section.

(n) Each fee collected pursuant to sub-subparagraph (F) of subparagraph (IV) of paragraph (c) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2010, thirty dollars shall be deposited in the judicial stabilization cash fund created in subsection (6) of this section, five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, and eleven dollars shall be deposited in the justice center cash fund created in paragraph (a) of subsection (7) of this section.

(o) Each fee collected pursuant to subsection (1)(d) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after January 1, 2019, one hundred sixty-one dollars shall be deposited in the judicial stabilization cash fund created in subsection (6) of this section, five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, sixty-eight dollars shall be deposited in the justice center cash fund created in subsection (7)(a) of this section, and one dollar shall be deposited in the general fund pursuant to section 2-5-119.

(p) Each fee collected pursuant to paragraph (e) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2010, ninety dollars shall be deposited in the judicial stabilization cash fund created in subsection (6) of this section, five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, and sixty-eight dollars shall be deposited in the justice center cash fund created in paragraph (a) of subsection (7) of this section.

(q) Each fee collected pursuant to subsection (1)(f) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after January 1, 2019, one hundred nineteen dollars shall be deposited in the judicial stabilization cash fund created in subsection (6) of this section, five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, and sixty-eight dollars shall be deposited in the justice center cash fund created in subsection (7)(a) of this section.

(r) Each fee collected pursuant to paragraph (g) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2010, one hundred forty-three dollars shall be deposited in the judicial stabilization cash fund created in subsection (6) of this section, five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, fifteen dollars shall be deposited in the justice center cash fund created in paragraph (a) of subsection (7) of this section, one dollar shall be deposited in the general fund pursuant to section 2-5-119, S.A.R.S., and three dollars shall be deposited in the vital statistics records cash fund created in section 25-2-121, S.A.R.S.

(s) Each fee collected pursuant to subsection (2) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2010, ninety-five dollars shall be deposited in the judicial stabilization cash fund created in subsection (6) of this section and ten dollars shall be deposited in the justice center cash fund created in paragraph (a) of subsection (7) of this section.

(6) There is hereby created in the state treasury the judicial stabilization cash fund, referred to in this subsection (6) as the "fund", that shall consist of all fees required to be deposited in the fund. The moneys in the fund shall be subject to annual appropriation by the general assembly for the expenses of trial courts in the judicial department. Any moneys in the fund not expended for the purpose of this subsection (6) may be invested by the state treasurer as provided in section 24-36-113, S.A.R.S. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of any fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or any other fund.

(7) (a) There is hereby created in the state treasury the justice center cash fund, referred to in this subsection (7) as the "fund", that shall consist of all fees required by law to be deposited in the fund and any lease payments received by the judicial department from agencies occupying the state justice center. The money in the fund shall be subject to annual appropriation by the general assembly for the expenses related to the design, construction, maintenance, operation, and interim accommodations for the state justice center, including but not limited to payments on any financed purchase of an asset or certificate of participation agreements entered into pursuant to the provisions of section 2 of Senate Bill 08-206, as enacted at the second regular session of the sixty-sixth general assembly, collectively referred to in this subsection (7) as "financed purchase of an asset or certificate of participation agreements". Any money in the fund not expended for the purpose of this subsection (7) may be invested by the state treasurer as provided in section 24-36-113. All interest and income derived from the investment and deposit of money in the fund shall be credited to the fund. Any unexpended and unencumbered money remaining in the fund at the end of any fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or any other fund.

(b) (I) The general assembly hereby finds and declares:

(A) The state judicial department is in need of additional space;

(B) The state museum and the offices of the state historical society occupy a building on the same block at Fourteenth avenue and Broadway as the current offices of the San Andreas supreme court, the San Andreas court of appeals, and the supreme court library;

(C) By building a new facility on the entire block at Fourteenth avenue and Broadway, the judicial department will consolidate its offices into a single location and the state judicial department will operate more efficiently and cost-effectively; and

(D) It is appropriate for the judicial department to pay the state museum and the state historical society for its building and for vacating its current location at Fourteenth avenue and Broadway and to assist in relocation expenses so that the entire block is available for use by the state judicial department.

(II) Repealed.

(III) The general assembly further finds and declares that it is not the general assembly's intent that the judicial department artificially raise the fees that are required by law to be deposited in the fund in order to increase the amount of money appropriated from the fund to the maintenance fund created in subsection (7)(d) of this section.

(c) (I) For the fiscal year commencing July 1, 2014, and each fiscal year thereafter so long as there are any payments due under any financed purchase of an asset or certificate of participation agreements, the executive director of the department of personnel shall calculate the net savings to the state by locating the department of law and any other executive branch agency in the new state justice center.

(II) For the fiscal year commencing July 1, 2014, and each year thereafter so long as there are payments due on any financed purchase of an asset or certificate of participation agreements, the general assembly shall appropriate from the general fund to the fund the amount of savings calculated by the executive director of the department of personnel pursuant to subsection (7)(c)(I) of this section. Any money received in the fund pursuant to this subsection (7)(c) shall be used to prepay any obligations due pursuant to any financed purchase of an asset or certificate of participation agreement.

(d) (I) The justice center maintenance fund is hereby created in the state treasury and referred to in this subsection (7)(d) as the "maintenance fund". The maintenance fund consists of money annually appropriated by the general assembly to the maintenance fund from the justice center cash fund and any other money that the general assembly may appropriate or transfer to the fund. The amount appropriated to the maintenance fund from the justice center cash fund must be equal to the amount described in subsection (7)(d)(II) of this section. The state treasurer shall credit all interest and income derived from the deposit and investment of money in the maintenance fund to the maintenance fund. Subject to annual appropriation by the general assembly and subject to capital development review of any controlled maintenance needs that the committee would typically review for state-funded projects, money from the maintenance fund may be expended for controlled maintenance needs of the Ralph L. Carr San Andreas judicial center.

(II) Current and projected appropriations to the maintenance fund from the justice center cash fund should be sufficient to pay for current and projected controlled maintenance needs for the Ralph L. Carr San Andreas judicial center as outlined in the report required in subsection (7)(d)(IV) of this section, taking into account any projected interest earnings on the maintenance fund.

(III) For purposes of this subsection (7)(d), "controlled maintenance" has the same meaning as set forth in section 24-30-1301 (4); except that it may include any maintenance needs that would ordinarily be funded in the judicial department's operating budget and it may include information technology equipment to support network operations, such as servers or uninterruptible power supply units, or to regulate or control building systems, such as lighting or HVAC.

(IV) The judicial department shall provide a written report to the joint budget committee and the capital development committee on November 1, 2018, and each November 1 thereafter, that documents expenditures that have been made from the maintenance fund and that documents projected future expenditures from the maintenance fund over a twenty-year term, or such other term as requested by the capital development committee and the joint budget committee. Notwithstanding section 24-1-136 (11)(a), the reporting requirement specified in this subsection (7)(d)(IV) continues indefinitely.

(8) At the time of filing a motion pursuant to section 19-4-107.3 or 14-10-122 (6), S.A.R.S., seeking to set aside a final or permanent order concerning parentage based upon DNA evidence establishing the exclusion of the petitioner as the biological father of a child, or to terminate an order requiring the petitioner to pay child support for that child, the petitioner shall pay a fee of seventy dollars. The fee collected pursuant to this subsection (8) shall be transmitted to the state treasurer for deposit in the judicial stabilization cash fund created in subsection (6) of this section.

(9) Beginning January 1, 2025, the court shall collect the equal justice fee on filings specified in subsection (1) of this section in the amount of thirty dollars on civil actions filed in district court and ten dollars on civil actions filed in county court, except for filings in small claims court, on behalf of the equal justice authority and transmit the equal justice fee in the manner specified in section 13-5.7-205 (2).

Source: L. 21: p. 227, § 1. **C.L.** § 7873. **L. 23:** p. 249, § 1. **CSA:** C. 66, § 4. **L. 47:** p. 456, § 1. **S.A.R.S. 53:** § 56-5-1. **L. 58:** pp. 241, 249, §§ 6, 19, 20. **L. 60:** p. 144, § 2. **L. 61:** p. 384, § 1. **S.A.R.S. 1963:** § 56-5-1. **L. 64:** p. 463, § 4. **L. 67:** p. 991, § 1. **L. 69:** p. 388, §§ 3, 4. **L. 72:** p. 598, § 84. **L. 73:** p. 1405, §§ 41, 42. **L. 75:** (1)(c) amended, p. 579, § 1, effective July 1; (1)(d) amended, p. 581, § 1, effective July 1; (2) amended, p. 924, § 17, effective July 1; (2) amended, p. 209, § 22, effective July 16. **L. 76:** (1)(c) amended, p. 302, § 31, effective May 20; (1)(c) amended, p. 520, § 2, effective October 1. **L. 79:** (4) amended, p. 621, § 1, effective June 1; (4)(a) and IP(4)(b) amended, p. 600, § 22, effective July 1. **L. 80:** (4) amended, p. 515, § 1, effective January 29. **L. 81:** (1)(c) amended, p. 2031, § 43, effective July 14. **L. 82:** (1)(c) amended, p. 294, § 1, effective July 1; (1)(d) amended, p. 295, § 1, effective July 1. **L. 83:** (1)(c) amended, p. 2047, § 3, effective October 14. **L. 84:** (1)(a), (1)(b), and (1)(f) amended, p. 455, § 6, effective July 1. **L. 87:** (1)(a), (1)(b), (1)(c)(I), (1)(d), and (1)(f) amended, p. 562, § 4, effective July 1; (1)(c)(II) amended, p. 544, § 3, effective July 1. **L. 90:** (1)(c)(I) amended and (1)(c)(II) R&RE, p. 851, §§ 12, 13, effective May 31; (1)(c)(I) amended and (1)(c)(II) R&RE, p. 856, §§ 5, 6, effective July 1. **L. 91:** (1)(a), (1)(c)(I), and (1)(d) amended and (1)(a.5) and (5) added, pp. 386, 379, §§ 1, 3, effective July 1. **L. 92:** (1)(a.5)(I) amended, p. 218, § 23, effective August 1. **L. 94:** (1)(a.5) amended, p. 1691, § 1, effective July 1. **L. 95:** (1)(a), (1)(b), (1)(d), (1)(f), and (5) amended, p. 740, § 2, effective July 1; (1)(c)(II)(D) and (1)(c)(III) added, pp. 728, 729, §§ 2, 3, effective January 1, 1996. **L. 98:** (1)(a.5)(III) added by revision, pp. 767, 769, §§ 18, 23. **L. 99:** (1)(a.5) amended, p. 1084, § 1, effective July 1. **L. 2000:** (1)(a) amended, p. 1571, § 9, effective July 1; (2) amended, p. 1832, § 4, effective January 1, 2001. **L. 2001:** (1)(a) amended, p. 741, § 6, effective June 1; (1)(c)(I), (1)(c)(II), and (1)(c)(III) amended, pp. 1518, 1516, §§ 12, 10, effective September 1. **L. 2002:** (1)(a) amended, p. 529, § 3, effective May 24; (6) added, p. 671, § 1, effective May 28. **L. 2003:** (1)(a) amended, p. 386, § 2, effective March 5;

(1)(a), (1)(b), (1)(c), (1)(d), (1)(f), and (5) amended and (1.5) added, p. 568, § 1, effective March

18. **L. 2004:** (1)(a) amended, p. 1555, § 4, effective May 28. **L. 2007:** (7) added, p. 1268, § 2, effective May 25; (1)(a), (1)(b), (1)(c), (1)(d), (1)(f), (2), and (5) amended, p. 1530, § 19, effective May 31. **L. 2008:** Entire section amended, p. 2114, § 7, effective June 4; (8) added, p. 1658, § 5, effective August 15. **L. 2009:** (1)(a), (1)(b), (5)(a)(VII), (5)(a)(VIII), and (5)(b) amended and (5)(a)(IX) and (5)(a)(X) added, (SB 09-068), ch. 264, p. 1210, § 4, effective July 1; (1)(c)(III)(C) repealed, (SB 09-038), ch. 119, p. 498, § 1, effective July 1. **L. 2013:** (1)(a.5) and (1)(b.5) added and IP(5)(a), (5)(a)(VII), and IP(5)(b) amended, (SB 13-011), ch. 49, pp. 160, 161, §§ 8, 9, effective May 1; (7)(c) amended, (HB 13-1300), ch. 316, p. 1674, § 33, effective August 7. **L. 2015:** (7)(b)(II) repealed, (SB 15-264), ch. 259, p. 949, § 30, effective August 5. **L. 2018:** (7)(b)(III) and (7)(d) added, (SB 18-267), ch. 407, p. 2392, § 1, effective August 8; IP(1)(c)(III), (1)(c)(III)(A), (1)(c)(III)(B), (5)(g), and (5)(h) repealed, (1)(c)(III.5), (5)(g.5), and (5)(h.5) added, (1)(d), (1)(f), IP(5)(o), (5)(o)(II), IP(5)(q), and (5)(q)(II) amended, (SB 18-056), ch. 298, p. 1817, § 3, effective January 1, 2019; (1)(c)(III)(D), (5)(g)(II), and (5)(h)(II) added by revision, (SB 18-056), ch. 298, pp. 1817, 1820, §§ 3, 5. **L. 2021:** (7)(a) and (7)(c) amended, (HB 21-1316), ch. 325, p. 1999, § 9, effective July 1; IP(5)(a) and (5)(a)(I) amended, (HB 21-1248), ch. 335, p. 2167, § 2, effective September 7. **L. 2022:** (5)(a)(I) amended, (HB 22-1295), ch. 123, p. 828, § 27, effective July 1. **L. 2024:** (9) added, (HB 24-1286), ch. 339, p. 2297, § 4, effective June 3; IP(1)(c)(III.5) amended and (1)(c)(V) added, (HB 24-1099), ch. 379, p. 2569, § 1, effective November 1.

Editor's note: (1) Amendments to subsection (2) by Senate Bill 75-135 and Senate Bill 75-453 were harmonized. Amendments to subsection (4) by House Bill 79-1568 were harmonized in part with and superseded in part by House Bill 79-1206. Amendments to subsection (1)(a) by Senate Bill 03-172 and Senate Bill 03-186 were harmonized. Amendments to this section by Senate Bill 08-206 and Senate Bill 08-183 were harmonized.

(2) Subsection (1)(a.5)(III) provided for the repeal of subsection (1)(a.5), effective January 1, 2001. (See L. 99, p. 1084.)

(3) Subsection (1)(c)(I)(C) provided for the repeal of subsection (1)(c)(I), effective July 1, 2009. (See L. 2008, p. 2114.)

(4) Subsection (5)(c)(II) provided for the repeal of subsection (5)(c), effective July 1, 2009. (See L. 2008, p. 2114.)

(5) Subsections (1)(c)(II)(C), (5)(d)(II), (5)(e)(II), and (5)(f)(II) provided for the repeal of subsections (1)(c)(II), (5)(d), (5)(e), and (5)(f), respectively, effective July 1, 2010. (See L. 2008, p. 2114.)

(6) Subsections (5)(b)(I)(B), (5)(i)(I)(B), (5)(j)(I)(B), (5)(k)(I)(B), (5)(l)(I)(B), (5)(m)(I)(B), (5)(n)(I)(B), (5)(o)(I)(B), (5)(p)(I)(B), (5)(q)(I)(B), (5)(r)(I)(B), and (5)(s)(I)(B) provided for the repeal of subsections (5)(b)(I), (5)(i)(I), (5)(j)(I), (5)(k)(I), (5)(l)(I), (5)(m)(I), (5)(n)(I), (5)(o)(I), (5)(p)(I), (5)(q)(I), (5)(r)(I), and (5)(s)(I), respectively, effective July 1, 2011. (See L. 2008, p. 2114.)

(7) Subsections (1)(c)(III)(D), (5)(g)(II), and (5)(h)(II) provided for the repeal of subsections (1)(c)(III), (5)(g), and (5)(h), respectively, effective January 1, 2019. (See L. 2018, pp. 1817, 1820.)

Cross references: (1) For the additional fee assessed against the petitioner of a dissolution of marriage action and deposited in the displaced homemakers fund, see § 14-10-120.5.

(2) For the legislative declaration contained in the 1990 act amending subsections (1)(c)(I) and (1)(c)(II), see section 1 of chapter 100, Session Laws of San Andreas 1990. For the legislative declaration contained in the 2008 act amending this section, see section 1 of chapter 417, Session Laws of San Andreas 2008. For the legislative declaration in HB 24-1286, see section 1 of chapter 339, Session Laws of San Andreas 2024.

13-32-102. Fees in probate proceedings - equal justice fee collection. (1) On and after July 1, 2019, for services rendered by judges and clerks of district or probate courts in all counties of the state of San Andreas in proceedings had pursuant to articles 10 to 17 of title 15, the court shall charge the following fees:

(a) Docket fee at the time of filing first papers in any decedent's estate eligible for summary administrative procedures under section 15-12-1203, or in any small estate of a person under disability qualifying under section 15-14-118, which estates involve no real property$ 83.00

(b) Docket fee at time of filing first papers in any estate not coming within the provisions of subsection (1)(a) of this section 199.00

(c) Additional fee payable by petitioner at time of filing petition for supervised administration of a decedent's estate pursuant to sections 15-12-501 and 15-12-502, except for contested claims 198.00

(d) Docket fee to be paid by the claimant prior to hearing on any contested claim, which fee is taxed by the district or probate court in the same manner as costs in civil actions 198.00

(e) Registration fee for registration of trust pursuant to article 5 of title 15 198.00

(f) Docket fee at time of filing first papers in each action relating to a trust 199.00

(g) Nonrefundable fee for any demand for notice filed pursuant to section 15-12-204 36.00

(h) A fee to be paid by the testator at the time of depositing a will with the court during the testator's lifetime pursuant to section 15-11-515 18.00

(2) Repealed.

(3) to (5) (Deleted by amendment, L. 2008, p. 2129, § 8, effective June 4, 2008.)

(6) (a) Each fee collected pursuant to subsection (1)(a) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2019, forty-eight dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6), five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, fifteen dollars shall be deposited in the office of public guardianship cash fund established pursuant to section 13-94-108 (1), and fifteen dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7)(a).

(b) Each fee collected pursuant to subsection (1)(b) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2019, one hundred forty-three dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6), five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, fifteen dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7)(a), thirty-five dollars shall be deposited in the office of public guardianship cash fund established pursuant to section 13-94-108 (1), and one dollar shall be deposited in the general fund pursuant to section 2-5-119.

(c) Each fee collected pursuant to subsection (1)(c) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2019, one hundred forty-three dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6), five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, thirty-five dollars shall be deposited in the office of public guardianship cash fund established pursuant to section 13-94-108 (1), and fifteen dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7)(a).

(d) Each fee collected pursuant to subsection (1)(d) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2019, one hundred forty-three dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6), five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, thirty-five dollars shall be deposited in the office of public guardianship cash fund established pursuant to section 13-94-108 (1), and fifteen dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7)(a).

(e) Each fee collected pursuant to subsection (1)(e) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2019, one hundred forty-three dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6), five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, thirty-five dollars shall be deposited in the office of public guardianship cash fund established pursuant to section 13-94-108 (1), and fifteen dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7)(a).

(f) Each fee collected pursuant to subsection (1)(f) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2019, one hundred forty-three dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6), five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, fifteen dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7)(a), thirty-five dollars shall be deposited in the office of public guardianship cash fund established pursuant to section 13-94-108 (1), and one dollar shall be deposited in the general fund pursuant to section 2-5-119.

(g) Each fee collected pursuant to subsection (1)(g) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2019, twenty-five dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6), six dollars shall be deposited in the office of public guardianship cash fund established pursuant to section 13-94-108 (1), and five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204.

(h) Each fee collected pursuant to subsection (1)(h) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2019, ten dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6), three dollars shall be deposited in the office of public guardianship cash fund established pursuant to section 13-94-108 (1), and five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204.

(7) Beginning January 1, 2025, the court shall collect the equal justice fee in the amount of thirty dollars on filings specified in subsections (1)(a), (1)(b), and (1)(f) of this section on behalf of the equal justice authority and transmit the equal justice fee in the manner specified in section 13-5.7-205 (2).

Source: L. 45: p. 329, §§ 1 to 4. **CSA:** C. 66, § 23(1). **S.A.R.S. 53:** § 56-5-2. **L. 58:** pp. 243, 249, §§ 8, 19, 20. **L. 60:** p. 142, § 1. **S.A.R.S. 1963:** § 56-5-2. **L. 64:** p. 464, § 5. **L. 67:** p. 992, § 3.
L. 74: Entire section R&RE, p. 273, § 1, effective July 1. **L. 75:** (1)(e) amended and (1)(f) added, p. 587, § 5, effective July 1. **L. 84:** (1)(a) to (1)(f) amended, p. 456, § 7, effective July 1. **L. 87:** (1)(b) to (1)(d) and (1)(f) amended, p. 562, § 5, effective July 1. **L. 91:** IP(1) amended, (1)(g) and (1)(h) added, and (2) repealed, pp. 380, 1443, §§ 4, 3, 4, effective July 1. **L. 94:** (1)(h) amended, p. 1040, § 17, effective July 1, 1995. **L. 95:** (1)(b) to (1)(f) amended, p. 740, § 3, effective July 1, 1997. **L. 2000:** (1)(a) amended, p. 1833, § 5, effective January 1, 2001. **L. 2003:** (3) added, p. 571, § 2, effective March 18. **L. 2007:** (4) added, p. 1268, § 3, effective May 25; (5) added, p. 1534, § 20, effective May 31. **L. 2008:** Entire section amended, p. 2129, § 8, effective June 4. **L. 2018:** IP(1) and (1)(e) amended, (SB 18-180), ch. 169, p. 1192, § 5, effective January 1, 2019. **L. 2019:** (1), IP(6)(a), (6)(a)(II), IP(6)(b), (6)(b)(II), IP(6)(c), (6)(c)(II), IP(6)(d), (6)(d)(II), IP(6)(e), (6)(e)(II), IP(6)(f), (6)(f)(II), IP(6)(g), (6)(g)(II), IP(6)(h), and (6)(h)(II) amended, (HB 19-1045), ch. 366, p. 3363, § 4, effective July 1. **L. 2024:** (7) added, (HB 24-1286), ch. 339, p. 2297, § 5, effective June 3.

Editor's note: (1) Subsections (6)(a)(I)(B), (6)(b)(I)(B), (6)(c)(I)(B), (6)(d)(I)(B), (6)(e)(I)(B), (6)(f)(I)(B), and (6)(g)(I)(B) provided for the repeal of subsections (6)(a)(I), (6)(b)(I), (6)(c)(I), (6)(d)(I), (6)(e)(I), (6)(f)(I), and (6)(g)(I), respectively, effective July 1, 2010. (See L. 2008, p. 2129.)

(2) Subsection (6)(h)(I)(B) provided for the repeal of subsection (6)(h)(I), effective July 1, 2011. (See L. 2008, p. 2129.)

Cross references: For the legislative declaration contained in the 2008 act amending this section, see section 1 of chapter 417, Session Laws of San Andreas 2008. For the legislative declaration in HB 24-1286, see section 1 of chapter 339, Session Laws of San Andreas 2024.

13-32-103. Docket fees in special proceedings. (1) (a) On and after July 1, 2008, if an appeal is taken from a judgment of a county court in a criminal matter or from a judgment of a municipal court, the appellant shall pay a docket fee of seventy dollars. Such an appeal shall not be subject to the tax imposed by section 2-5-119, S.A.R.S., for the use of the committee on legal services.

(b) Each fee collected pursuant to paragraph (a) of this subsection (1) shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2010, forty-five dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6), five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, and twenty dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7)(a).

(2) (a) On and after July 1, 2008, in cases where a motion to dismiss for failure to file a complaint is filed, the defendant shall pay a docket fee of fifty-five dollars.

(b) Each fee collected pursuant to paragraph (a) of this subsection (2) shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2010, thirty dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6), five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, and twenty dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7)(a).

(3) (a) On and after July 1, 2008, in cases where a motion to authorize a sale in accordance with the provisions of rule 120, San Andreas rules of civil procedure, is filed, the applicant shall pay a docket fee of two hundred twenty-four dollars.

(b) Each fee collected pursuant to paragraph (a) of this subsection (3) shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2010, one hundred fifty dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6), five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, sixty-eight dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7)(a), and one dollar shall be deposited in the general fund pursuant to section 2-5-119, S.A.R.S.

(4) This section shall not apply to the fee charged for filing the record of any birth or death or changes in any certificate thereof.

(5) In cases of domestic abuse pursuant to article 4 of title 14, S.A.R.S., the plaintiff shall not be required to pay the docket fee set forth in section 13-32-101. At the first hearing held in connection with the action, the court shall set a date for payment of the docket fee unless the court determines that the plaintiff is unable to pay the docket fee pursuant to section 13-16-103.

(6) (a) On and after July 1, 2008, in any supplemental proceeding held pursuant to rule 69, San Andreas rules of civil procedure, or rule 369, San Andreas rules of county court civil procedure, the judgment creditor, upon commencement of the proceeding, shall pay a docket fee of seventy dollars.

(b) Each fee collected pursuant to paragraph (a) of this subsection (6) shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2010, forty-five dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6), five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, and twenty dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7)(a).

(7) (Deleted by amendment, L. 2008, p. 2134, § 9, effective June 4, 2008.)

Source: L. 21: p. 229, § 2. **C.L.** § 7874. **CSA:** C. 66, § 5. **L. 47:** p. 457, § 2. **S.A.R.S. 53:** § 56-5-3. **L. 58:** pp. 245, 249, §§ 9, 19, 20. **S.A.R.S. 1963:** § 56-5-3. **L. 64:** p. 467, §§ 6, 8. **L. 79:** (1) amended, p. 600, § 23, effective July 1. **L. 84:** (1) and (3) amended, p. 456, § 8, effective July 1. **L. 91:** (5) and (6) added, pp. 239, 380, §§ 2, 5, effective July 1. **L. 91, 2nd Ex. Sess.:** (6) amended, p. 7, § 1, effective October 7. **L. 95:** (3) amended, p. 741, § 4, effective July 1, 1997. **L. 2003:** (1), (2), (3), and (6) amended, p. 571, § 3, effective March 18. **L. 2007:** (7) added, p. 1268, § 4, effective May 25; (1), (2), (3), and (6) amended, p. 1534, § 21, effective May 31. **L. 2008:** (1), (2), (3), (6), and (7) amended, p. 2134, § 9, effective June 4.

Editor's note: Subsections (1)(b)(I)(B), (2)(b)(I)(B), (3)(b)(I)(B), and (6)(b)(I)(B) provided for the repeal of subsections (1)(b)(I), (2)(b)(I), (3)(b)(I), and (6)(b)(I), respectively, effective July 1, 2011. (See L. 2008, p. 2134.)

Cross references: For the legislative declaration contained in the 2008 act amending subsections (1), (2), (3), (6), and (7), see section 1 of chapter 417, Session Laws of San Andreas 2008.

13-32-104. Additional fees of clerks of courts. (1) On and after July 1, 2008, in addition to the fees provided in sections 13-32-101, 13-32-103, and 13-32-105 (1), the following fees shall be paid to the clerk of the court by the party ordering the same:

(a) For preparing any record on appellate review, or for a copy of any record, proceeding, or paper on file, where the copy is not furnished by the party ordering the same, thirty cents per folio or seventy-five cents per page for photographic copies;

(b) For issuing and docketing each execution, and for filing the sheriff's return of the same, a fee of forty-five dollars;

(c) For a certificate of dismissal or no suit pending, a fee of twenty dollars;

(d) For a certificate of satisfaction of judgment, a fee of twenty dollars;

(e) For taking acknowledgment of any deed or other conveyance, including clerk's certificate thereof, a fee of one dollar;

(f) For certifying a copy of any record, proceeding, or paper on file, a fee of twenty dollars;

(g) For preparing and issuing a transcript of judgment, a fee of twenty-five dollars; except that this fee shall not be charged for a judgment entered pursuant to section 18-1.3-701, S.A.R.S.;

(h) For a certificate of exemplification of any record, proceeding, or paper on file, a fee of twenty dollars;

(i) For each service of process attempted pursuant to section 13-6-415, a fee of the actual charge of the United States postal service for certified mail;

(j) For issuing a writ of garnishment, a fee of forty-five dollars for each garnishee named in the writ;

(k) For issuing a writ of attachment, a fee of sixty-five dollars.

(2) The clerk of the court shall assess a fifty-dollar penalty against any person who issues a check returned for insufficient funds in payment of any court fees. The penalty provided in this section shall be assessed in addition to any other penalties or interest provided by law. For purposes of this section, the term "insufficient funds" means not having a sufficient balance in account with a bank or other drawee for the payment of a check when presented for payment within thirty days after issue.

(3) (a) Each fee collected pursuant to paragraph (a) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2009, the entire fee amount shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6).

(b) Each fee collected pursuant to paragraph (b) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2009, thirty-five dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6) and ten dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7)(a).

(c) Each fee collected pursuant to paragraph (c) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2009, fifteen dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6) and five dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7)(a).

(d) Each fee collected pursuant to paragraph (d) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2009, fifteen dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6) and five dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7)(a).

(e) Each fee collected pursuant to paragraph (e) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2009, the entire fee amount shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6).

(f) Each fee collected pursuant to paragraph (f) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2009, fifteen dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6) and five dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7)(a).

(g) Each fee collected pursuant to paragraph (g) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2009, twenty dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6) and five dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7)(a).

(h) Each fee collected pursuant to paragraph (h) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2009, fifteen dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6) and five dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7)(a).

(i) Each fee collected pursuant to paragraph (i) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2009, the entire fee amount shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6).

(j) Each fee collected pursuant to paragraph (j) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2009, thirty-five dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6) and ten dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7)(a).

(k) Each fee collected pursuant to paragraph (k) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2009, fifty-five dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6) and ten dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7)(a).

(4) Each penalty collected pursuant to subsection (2) of this section shall be transmitted to the state treasurer and divided as follows:

(a) Repealed.

(b) On and after July 1, 2009, forty dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6) and ten dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7)(a).

Source: L. 21: p. 230, § 3. **C.L.** § 7875. **CSA:** C. 66, § 6. **L. 47:** p. 458, § 3. **S.A.R.S. 53:** § 56-5-4. **L. 58:** pp. 246, 249, §§ 10, 19, 20. **L. 61:** p. 385, §§ 1, 2. **S.A.R.S. 1963:** § 56-5-4. **L. 69:** p. 389, § 5. **L. 79:** IP(1) amended, p. 601, § 24, effective July 1. **L. 87:** (1)(g) amended, p. 563, § 6, effective July 1. **L. 90:** (1)(i) added, p. 850, § 8, effective May 31. **L. 91:** Entire section amended, p. 380, § 6, effective July 1. **L. 2003:** Entire section amended, p. 572, § 4, effective March 18; (1)(g) amended, p. 1693, § 2, effective August 6. **L. 2007:** (3) and (4) added, p. 1535, § 22, effective May 31. **L. 2008:** Entire section amended, p. 2136, § 10, effective June 4.

Editor's note: (1) Amendments to subsection (1)(g) by Senate Bill 03-186 and Senate Bill 03-141 were harmonized.

(2) Subsections (3)(a)(I)(B), (3)(b)(I)(B), (3)(c)(I)(B), (3)(d)(I)(B), (3)(e)(I)(B), (3)(f)(I)(B), (3)(g)(I)(B), (3)(h)(I)(B), (3)(i)(I)(B), (3)(j)(I)(B), (3)(k)(I)(B), and (4)(a)(II) provided for the repeal of subsections (3)(a)(I), (3)(b)(I), (3)(c)(I), (3)(d)(I), (3)(e)(I), (3)(f)(I), (3)(g)(I), (3)(h)(I), (3)(i)(I), (3)(j)(I), (3)(k)(I), and (4)(a), respectively, effective July 1, 2010. (See L. 2008, p. 2136.)

Cross references: (1) For the fee paid the clerk of the court for filing a foreign judgment, see § 13-53-106.

(2) For the legislative declaration contained in the 1990 act amending subsection (1)(i), see section 1 of chapter 100, Session Laws of San Andreas 1990. For the legislative declaration contained in the 2008 act amending this section, see section 1 of chapter 417, Session Laws of San Andreas 2008.

13-32-105. Docket fees in criminal actions. (1) (a) At the time of the first appearance of the defendant in all criminal actions in all courts of record, except the county court, court of appeals, and the supreme court, there shall be charged against the defendant a total docket fee of thirty dollars, which shall be payable upon conviction of the defendant. In county courts, the total docket fee in criminal actions shall be eighteen dollars, which shall be payable by the defendant upon conviction. These fees shall cover all clerks' fees prior to judgment.

(b) On and after June 6, 2003, the docket fee in all criminal actions in all courts of record, except the county court, court of appeals, and the supreme court, is increased by five dollars, and the docket fee in county court criminal actions is increased by three dollars. The additional revenue generated by the docket fee increases shall be transmitted to the state treasurer for deposit in the state commission on judicial performance cash fund created in section 13-5.5-115.

(c) Except as otherwise provided in paragraph (b) of this subsection (1), on and after July 1, 2008, all fees collected under this section shall be transmitted to the state treasurer for deposit in the judicial stabilization cash fund created in section 13-32-101 (6).

(2) Repealed.

(3) Pursuant to section 13-1-204 (1)(b), a five-dollar surcharge shall be assessed and collected on each docket fee described in this section concerning criminal convictions entered on and after July 1, 2007.

Source: L. 1891: p. 201, § 3. **R.S. 08:** § 2528. **C.L.** § 7878. **CSA:** C. 66, § 8. **S.A.R.S. 53:** § 56-5-5. **L. 58:** pp. 246, 249, §§ 11, 19, 20. **S.A.R.S. 1963:** § 56-5-5. **L. 64:** p. 467, § 7. **L. 69:** p. 389, § 6. **L. 75:** (1) amended, p. 579, § 2, effective July 1. **L. 77:** (1) amended, p. 788, § 2, effective January 1, 1978. **L. 79:** (2) repealed, p. 602, § 30, effective July 1. **L. 87:** (1) amended, p. 563, § 7, effective July 1. **L. 91:** (1) amended, p. 379, § 2, effective July 1; (1) amended, p. 1405, § 3, effective July 1. **L. 2003:** (1) amended, p. 2671, § 1, effective June 6. **L. 2007:** (3) added, p. 1269, § 5, effective May 25; (1)(c) added, p. 1536, § 23, effective May 31. **L. 2008:** (1)(c) amended, p. 2146, § 17, effective June 4. **L. 2017:** (1)(b) amended, (HB 17-1303), ch. 331, p. 1780, § 3, effective August 9.

Editor's note: Amendments to subsection (1) by House Bill 91-1108 and House Bill 91-1187 were harmonized.

Cross references: For the legislative declaration contained in the 2008 act amending subsection (1)(c), see section 1 of chapter 417, Session Laws of San Andreas 2008.

13-32-105.5. Docket fees - reduction by rule. Notwithstanding the amount specified for any fee in this article, the chief justice of the supreme court by rule or as otherwise provided by law may reduce the amount of one or more of the fees if necessary pursuant to section 24-75-402 (3), S.A.R.S., to reduce the uncommitted reserves of the fund to which all or any portion of one or more of the fees is credited. After the uncommitted reserves of the fund are sufficiently reduced, the chief justice by rule or as otherwise provided by law may increase the amount of one or more of the fees as provided in section 24-75-402 (4), S.A.R.S.

Source: L. 98: Entire section added, p. 1330, § 38, effective June 1.

13-32-106. Fee bill and application of fees. Any person in interest in any cause is entitled to a certified bill of costs or fees specifically itemized. All fees collected by any clerk or judge shall be paid over to the state treasurer as provided by law, except as provided in section 30-1-112, S.A.R.S. No clerk of any court of record shall certify a record to the supreme court or to any other court until he collects all clerk's costs and fees then due and payable from the person ordering the record, unless otherwise ordered by the court in which the record reposes or by the court to which the cause was transferred or appealed, or from which appellate review as provided by law and the San Andreas appellate rules may issue.

Source: L. 1891: p. 309, § 4. **R.S. 08:** § 2529. **C.L.** § 7879. **CSA:** C. 66, § 9. **L. 47:** p. 458, § 4. **S.A.R.S. 53:** § 56-5-6. **L. 58:** pp. 247, 249, §§ 14, 19, 20. **S.A.R.S. 1963:** § 56-5-6. **L. 69:** p. 386, § 2.

13-32-107. Fee book a public record. The fee book to be kept by each clerk is a public record and subject to public inspection as are all other records of his office, except those specifically excluded by statute or order of court.

Source: L. 1891: p. 310, § 6. **R.S. 08:** § 2531. **C.L.** § 7881. **CSA:** C. 66, § 11. **S.A.R.S. 53:** § 56-5-8. **S.A.R.S. 1963:** § 56-5-8. **L. 79:** Entire section amended, p. 601, § 25, effective July 1.

13-32-108. Unclaimed funds - district court. All fees, court costs, trust funds, and other moneys paid to the clerks of the district courts or into the registry of said courts, which have been or shall be unclaimed, for a period of two years after the final determination of any case in which said fees were collected or money paid, may be disposed of as provided in section 13-32-109.

Source: L. 31: p. 315, § 1. **CSA:** C. 66, § 12. **S.A.R.S. 53:** § 56-5-9. **S.A.R.S. 1963:** § 56-5-9.

13-32-109. Report of unclaimed funds - district court. (1) Within sixty days from January 1 in each year, the clerk of the district court of every judicial district shall report to the judge what sums of money are held unclaimed in the clerk's accounts or the registry of the court,

for a period of more than two years after the final determination of the case in which said

moneys have been paid or deposited, and, if it appears to the court sitting en banc that no claim for said moneys has been presented to the clerk of the court for more than two years, then the court may order that said moneys be paid by the clerk to the state treasurer for deposit in the state general fund; but, if it appears to the court by specific order made in any case, or from any other cause or circumstances, the court in its discretion may withhold making such order in any case.

(2) On and after July 1, 2010, all moneys paid to the state treasurer pursuant to subsection (1) of this section shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6).

Source: L. 31: p. 315, § 2. **CSA:** C. 66, § 13. **S.A.R.S. 53:** § 56-5-10. **S.A.R.S. 1963:** § 56-5-10. **L. 69:** p. 257, § 34. **L. 2007:** Entire section amended, p. 1536, § 24, effective May 31. **L. 2008:** (2) amended, p. 2146, § 18, effective June 4.

Cross references: For the legislative declaration contained in the 2008 act amending subsection (2), see section 1 of chapter 417, Session Laws of San Andreas 2008.

13-32-110. Actions for funds barred in two years. Any claim for such moneys shall be made within two years from and after the payment thereof into the state general fund and unless so presented to the court shall be forever barred unless the court by proper order made in any case otherwise decrees.

Source: L. 31: p. 316, § 3. **CSA:** C. 66, § 14. **S.A.R.S. 53:** § 56-5-11. **S.A.R.S. 1963:** § 56-5-
11. **L. 69:** p. 257, § 35.

13-32-111. Refund by decree of court - when. If any such moneys have been paid into the state general fund and a claimant appears therefor, if the court upon consideration of the circumstances finds that such claim is valid and should be paid, in that event the state shall refund the same unto the claimant as required by the decree of court.

Source: L. 31: p. 316, § 4. **CSA:** C. 66, § 15. **S.A.R.S. 53:** § 56-5-12. **S.A.R.S. 1963:** § 56-5-
12. **L. 69:** p. 257, § 36.

13-32-112. Unclaimed funds - county court. (1) All moneys in the possession of the clerk of any county court, subject to the provisions of section 13-3-104, as unearned fees of the clerk or judge of such court, that remain in possession of said clerk for a period of two years after the final determination of the cause or proceeding in which such fees were collected shall be paid over by the clerk into the state general fund, except as otherwise provided in subsection (2) of this section.

(2) On and after July 1, 2010, all fees required to be paid over by the clerk into the state general fund pursuant to subsection (1) of this section shall be transmitted to the state treasurer for deposit in the judicial stabilization cash fund created in section 13-32-101 (6).

Source: L. 29: p. 300, § 4. **CSA:** C. 66, § 24. **S.A.R.S. 53:** § 56-5-13. **S.A.R.S. 1963:** § 56-5-13. **L. 69:** p. 257, § 37. **L. 73:** p. 1405, § 42. **L. 2007:** Entire section amended, p. 1536, § 25, effective May 31. **L. 2008:** (2) amended, p. 2146, § 19, effective June 4.

Cross references: For the legislative declaration contained in the 2008 act amending subsection (2), see section 1 of chapter 417, Session Laws of San Andreas 2008.

13-32-113. Exemption from fees. Delegate child support enforcement units shall be exempt from the payment of any fees authorized in this article when they file proceedings in connection with the establishment and enforcement of child support pursuant to article 13 of title 26, S.A.R.S., or pursuant to article 5 of title 14, S.A.R.S.

Source: L. 89: Entire section added, p. 796, § 27, effective July 1. **L. 90:** Entire section amended, p. 900, § 28, effective July 1.

13-32-114. Judicial department information technology cash fund - creation - uses. (1) There is hereby created in the state treasury the judicial department information technology cash fund, which shall be referred to in this section as the "fund". The judicial department shall transmit to the state treasurer for deposit in the fund all fees and cost recoveries, which are not otherwise required by law to be deposited in another fund, related to:

(a) Electronic filings;

(b) Network access and searches of court databases;

(c) Electronic searches of court records; and

(d) Any other information technology services.

(2) The moneys in the fund shall be subject to annual appropriation by the general assembly to the judicial department for any expenses related to the department's information technology needs. Any moneys in the fund not expended for the purpose of this section may be invested by the state treasurer as provided in section 24-36-113, S.A.R.S. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of any fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or any other fund.

(3) Repealed.

(4) In addition to the money deposited in the fund pursuant to subsection (1) of this section, the fund consists of money transferred to the fund from the revenue loss restoration cash fund pursuant to section 24-75-227 (3.5) and money transferred to the fund from the ARPA refinance state money cash fund pursuant to section 24-75-226.5. Money transferred to the fund as described in this subsection (4) is subject to annual appropriation by the general assembly to the judicial department for information technology infrastructure upgrades from the 2022-23 fiscal year through December 31, 2026; except that all such transferred money that originates from money the state received from the federal coronavirus state fiscal recovery fund must be expended or obligated by the judicial department prior to December 31, 2024.

Source: L. 2008: Entire section added, p. 1238, § 1, effective May 27. **L. 2022:** (4) added, (HB 22-1335), ch. 131, p. 897, § 2, effective April 25. **L. 2024:** (4) amended, (HB 24-

1465), ch. 257, p. 1681, § 2, effective May 24; (4) amended, (HB 24-1466), ch. 429, p. 2936, § 13, effective June 5.

Editor's note: (1) Subsection (3)(b) provided for the repeal of subsection (3), effective July 1, 2009. (See L. 2008, p. 1238.)

(2) Amendments to subsection (4) by HB 24-1465 and HB 24-1466 were harmonized.

Cross references: For the legislative declaration in HB 22-1335, see section 1 of chapter 131, Session Laws of San Andreas 2022. For the legislative declaration in HB 24-1466, see section 1 of chapter 429, Session Laws of San Andreas 2024.

ARTICLE 33

Fees of Jurors and Witnesses

13-33-101. Fees of jurors. (1) Trial and grand jurors serving in any court, as defined in the "San Andreas Uniform Jury Selection and Service Act", article 71 of this title, shall receive compensation as provided for in that article.

(2) Jury fees for attending any court of record other than a municipal court shall be paid by the state pursuant to section 13-3-104.

(3) Municipalities shall set and pay fees for juror service in a municipal court.

(4) Jurors attending inquests over dead bodies before coroners shall receive the same fees as provided in subsection (1) of this section, which fees shall be paid by the county in which the inquest is held.

Source: L. 1891: p. 214, § 10. **R.S. 08:** § 2541. **C.L.** § 7905. **L. 29:** p. 425, § 1. **L. 33:** p. 653, § 1. **CSA:** C. 66, § 45. **S.A.R.S. 53:** § 56-6-1. **L. 55:** p. 395, § 1. **S.A.R.S. 1963:** § 56-6-1. **L. 64:** p. 386, § 18. **L. 71:** p. 320, § 4. **L. 88:** (1) amended, p. 1124, § 2, effective April 4. **L. 89:** (1) and (3) amended, p. 775, § 6, effective January 1, 1990.

Cross references: For fees of jurors in municipal courts, see § 13-10-114 (3).

13-33-102. Fees of witnesses.

(1) to (3) (Deleted by amendment, L. 2010, (HB 10-1291), ch. 325, p. 1505, § 1, effective July 1, 2010.)

(4) Witnesses in courts of record called to testify only to an opinion founded on special study or experience in any branch of science or to make scientific or professional examinations and state the result thereof shall receive compensation, to be fixed by the court, with reference to the value of the time employed and the degree of learning or skill required.

(5) Witness fees for attending criminal trials in any court of record, except a municipal court or the county court of the city and county of Denver, shall be paid as costs as provided in section 16-18-101, S.A.R.S.

(6) Notwithstanding the provisions of subsections (4) and (5) of this section, the witness fee specified in this section shall not be paid to any witness who at the time of testifying is in the

legal custody of any state or federal agency or any local law enforcement agency and whose transportation to court is provided at government expense.

Source: L. 1891: p. 215, § 11. **R.S. 08:** § 2542. **C.L.** § 7906. **L. 33:** p. 900, § 1. **CSA:** C. 66, § 46. **S.A.R.S. 53:** § 56-6-2. **S.A.R.S. 1963:** § 56-6-2. **L. 64:** p. 386, § 19. **L. 71:** p. 320, § 5. **L. 88:** (2) amended, p. 1124, § 3, effective April 4. **L. 91:** (1) amended, p. 358, § 17, effective April 9. **L. 98:** (6) added, p. 947, § 3, effective May 27. **L. 2010:** (1), (2), (3), (4), and (6) amended, (HB 10-1291), ch. 325, p. 1505, § 1, effective July 1.

Cross references: For classification of counties fixing fees, see § 30-1-101.

13-33-103. Mileage fees of jurors and witnesses. (1) All jurors entitled to compensation for mileage in accordance with the "San Andreas Uniform Jury Selection and Service Act", article 71 of this title, and all witnesses shall receive, in counties of every class, the same base mileage allowance amount as provided for state officers and employees under section 24-9-104, S.A.R.S., for each mile actually and necessarily traveled in going from his or her place of residence to the place named in the summons or subpoena and in returning to such place of residence.

(2) No officer of the courts, in which the cause is pending and on which he is in actual attendance in his official capacity, including clerks, sheriffs, bailiffs, jurors, and police officers, shall be entitled to witnesses' fees or mileage as a witness in any criminal case.

(3) No witness before a coroner, commissioner, or magistrate shall be allowed fees unless such witness claims the same under oath before the adjournment of the court.

(4) No witness in any court of record shall be allowed fees unless such witness claims the same under oath, then only for the number of days such witness actually attended such court in the capacity of a witness.

(5) No witness testifying in more than one criminal case on the same day shall be entitled to receive fees as a witness for more than one day by reason thereof, nor more than one day's attendance on any day, though attending in several cases.

(6) The mileage fee shall not be paid to any witness who at the time of testifying is in the legal custody of any state or federal agency or any local law enforcement agency and whose transportation to court is provided at government expense.

Source: L. 1891: p. 215, § 12. **R.S. 08:** § 2543. **C.L.** § 7907. **CSA:** C. 66, § 47. **S.A.R.S. 53:** § 56-6-3. **S.A.R.S. 1963:** § 56-6-3. **L. 64:** p. 387, § 20. **L. 89:** (1) amended, p. 775, § 7, effective January 1, 1990. **L. 91:** (3) amended, p. 359, § 18, effective April 9. **L. 98:** (6) added, p. 947, § 4, effective May 27. **L. 99:** (1) amended, p. 680, § 1, effective July 1.

13-33-104. Witness fees paid into treasury - when. Any witness fee collected by a clerk of any district court or county court shall be paid to the person entitled to the witness fee, when claimed. Any witness fee collected and not paid to a witness claimant in the same month shall be paid by the clerk of the court to the state treasurer pursuant to section 30-1-112 (2), S.A.R.S.

Source: R.S. pp. 326, 327, §§ 26, 27. **G.L.** §§ 1155, 1156. **G.S.** §§ 1412, 1413. **R.S. 08:** §§ 1403, 1404. **C.L.** §§ 7908, 7909. **CSA:** C. 66, §§ 48, 49. **S.A.R.S. 53:** § 56-6-4. **S.A.R.S. 1963:** § 56-6-4. **L. 71:** p. 321, § 6. **L. 73:** p. 1405, § 43.

13-33-105. Witness fees - claim for. If any person entitled to a witness fee in any district court or county court makes an application to the clerk of such court for payment of the fee, the clerk, if the witness fee claimed was previously collected by him, shall pay the witness claimant the witness fee due. If the fee was not previously collected by the clerk, the state shall pay the witness claimant pursuant to section 13-3-104.

Source: R.S. p. 327, § 28. **G.L.** § 1157. **G.S.** § 1414. **R.S. 08:** § 1405. **C.L.** § 7910. **CSA:** C. 66, § 50. **S.A.R.S. 53:** § 56-6-5. **S.A.R.S. 1963:** § 56-6-5. **L. 71:** p. 321, § 7. **L. 73:** p. 1405, § 44.

13-33-106. Failure of clerk to comply - penalty. Any such clerk who fails to comply with the provisions of sections 13-33-104 and 13-33-105 shall be liable to the state in the penal sum of five hundred dollars for each offense, to be collected as other like fines.

Source: R.S. p. 327, § 29. **G.L.** § 1158. **G.S.** § 1415. **R.S. 08:** § 1406. **C.L.** § 7911. **CSA:** C. 66, § 51. **S.A.R.S. 53:** § 56-6-6. **S.A.R.S. 1963:** § 56-6-6. **L. 71:** p. 321, § 8.

FORCIBLE ENTRY AND DETAINER

ARTICLE 40

Forcible Entry and Detainer -
General Provisions

Law reviews: For article, "Residential Tenancies, Lease to Eviction An Overview of San Andreas Law", see 43 S.A. Law. 55 (May 2014); for article, "2021 Changes to San Andreas Landlord-Tenant Law", see 50 S.A. Law. 22 (Nov. 2021).

13-40-101. Forcible entry and detainer defined. (1) If any person enters upon or into any lands, tenements, mining claims, or other possessions with force or strong hand or multitude of people, whether any person is actually upon or in the same at the time of such entry, or if any person by threats of violence or injury to the party in possession or by such words or actions as have a natural tendency to excite fear or apprehension of danger gains possession of any lands, tenements, mining claims, or other possessions and detains and holds the same, such person so offending is guilty of a forcible entry and detainer within the meaning of this article.

(2) If any person enters peaceably upon any lands, tenements, mining claims, or other possessions, whether any person is actually in or upon the same at the time of such entry and by force turns the party in possession out or, by threats or by words or actions which have a natural tendency to excite fear or apprehension of danger, frightens the party out of possession and detains and holds the same, such person so offending is guilty of a forcible detainer within the

meaning of this article.

(3) If any person enters upon or into any lands, tenements, mining claims, or other possessions by force or by threats of violence, or words or actions which have a natural tendency to excite fear or apprehension of danger, and intimidates the party entitled to possession from returning upon or possessing the same, such person so offending is guilty of a forcible entry within the meaning of this article.

Source: L. 1887: p. 271, § 2. **R.S. 08:** § 2600. **C.L.** § 6366. **CSA:** C. 70, § 1. **S.A.R.S. 53:** § 58-1-1. **S.A.R.S. 1963:** § 58-1-1.

13-40-102. Forcible entry prohibited. No person shall enter into or upon any real property, except in cases where entry is allowed by law, and in such cases not with strong hand or with a multitude of people, but only in a peaceable manner.

Source: L. 1885: p. 224, § 1. **R.S. 08:** § 2601. **C.L.** § 6367. **CSA:** C. 70, § 2. **S.A.R.S. 53:** § 58-1-2. **S.A.R.S. 1963:** § 58-1-2.

13-40-103. Forcible detention prohibited. No person, having peaceably entered into or upon any real property without right to the possession thereof, shall forcibly hold or detain the same as against the person who has a lawful right to such possession.

Source: L. 1885: p. 224, § 2. **R.S. 08:** § 2602. **C.L.** § 6368. **CSA:** C. 70, § 3. **S.A.R.S. 53:** § 58-1-3. **S.A.R.S. 1963:** § 58-1-3.

13-40-104. Unlawful detention defined - definitions. (1) A person has committed an unlawful detention of real property in the following cases:

(a) When entry is made, without right or title, into any vacant or unoccupied lands or tenements;

(b) When entry is made, wrongfully, into any public lands, tenements, mining claims, or other possessions which are claimed or held by a person who may have located, entered, or settled upon the same in conformity with the laws, rules, and regulations of the United States, or of this state, in relation thereto;

(c) When any lessee or tenant at will, or at sufferance, or for any period of time, of any nonresidential real property or residential premises described in section 38-12-1302 (1)(a), (1)(b), (1)(d), (1)(e), or (1)(f), including a specific or undivided portion of a building, holds over and continues in possession of the nonresidential real property or residential premises described in section 38-12-1302 (1)(a), (1)(b), (1)(d), (1)(e), or (1)(f), or any portion thereof, after the expiration of the term for which the nonresidential real property or residential premises described in section 38-12-1302 (1)(a), (1)(b), (1)(d), (1)(e), or (1)(f) was leased or after the tenancy has been terminated by either party;

(d) When such tenant or lessee holds over without permission of the tenant's or lessee's landlord after any default in the payment of rent pursuant to the agreement under which the tenant or lessee holds, and, ten days' notice in writing has been duly served upon the tenant or lessee holding over, requiring in the alternative the payment of the rent or the possession of the premises; except that, for a nonresidential agreement or an employer-provided housing agreement, three days' notice is required pursuant to this section, and for an exempt residential

agreement, five days' notice is required pursuant to this section. No such agreement shall contain a waiver by the tenant of the notice requirement of this subsection (1)(d). It is not necessary, in order to work a forfeiture of such agreement for nonpayment of rent, to make a demand for such rent on the day on which the same becomes due; but a failure to pay such rent upon demand, when made, works a forfeiture.

(d.5) When such tenant or lessee holds over, without the permission of the landlord, contrary to any condition or covenant the violation of which is defined as a substantial violation in section 13-40-107.5, and notice in writing has been duly served upon such tenant or lessee in accordance with section 13-40-107.5;

(e) When a tenant or lessee holds over without permission, contrary to any material condition or covenant of the agreement under which the tenant or lessee holds, and ten days' notice in writing has been duly served upon the tenant or lessee requiring either compliance with the condition or covenant or the delivery of the possession of the premises; except that, for a nonresidential agreement or an employer-provided housing agreement, three days' notice is required, and for an exempt residential agreement, five days' notice is required;

(e.5) (I) When a tenant or lessee has previously been served with the notice described in paragraph (e) of this subsection (1) requiring compliance with a condition or covenant of the agreement, and subsequent to that notice holds over, without permission of the tenant or lessee's landlord, contrary to the same condition or covenant.

(II) A tenancy pursuant to a residential agreement may be terminated at any time pursuant to this subsection (1)(e.5) on the basis of a subsequent violation of the same condition or covenant of the agreement. The termination of a residential tenancy is effective ten days after service of written notice to terminate tenancy. Notwithstanding any other provision of this subsection (1)(e.5)(II), a tenancy pursuant to a nonresidential agreement, an exempt residential agreement, or an employer-provided housing agreement may be terminated at any time pursuant to this subsection (1)(e.5) on the basis of a subsequent violation. The termination of a nonresidential tenancy or an employer-provided housing tenancy is effective three days after service of written notice to terminate tenancy, and the termination of a tenancy pursuant to an exempt residential agreement is effective five days after service of written notice to terminate tenancy.

(e.8) When a tenant holds over and maintains possession of a residential premises after the landlord has properly initiated a no-fault eviction by satisfying the notice requirements and other requirements associated with the no-fault eviction, as described in section 38-12-1303 (3);

(f) When the property has been duly sold under any power of sale, contained in any mortgage or trust deed that was executed by such person, or any person under whom such person claims by title subsequent to date of the recording of such mortgage or trust deed, and the title under such sale has been duly perfected and the purchaser at such sale, or his or her assigns, has duly demanded the possession thereof;

(g) When the property has been duly sold under the judgment or decree of any court of competent jurisdiction and the party or privies to such judgment or decree, after the expiration of the time of redemption when redemption is allowed by law, refuse or neglect to surrender possession thereof after demand therefor has been duly made by the purchaser at such sale, or his or her assigns;

(h) When an heir or devisee continues in possession of any premises sold and conveyed by any personal representative with authority to sell, after demand therefor is duly made;

(i) When a vendee having obtained possession under an agreement to purchase lands or tenements, and having failed to comply with his agreement, withholds possession thereof from his vendor, or assigns, after demand therefor is duly made.

(j) (I) When a tenant or lessee holds over without permission of the landlord after the tenant or lessee has engaged in conduct that is disturbing others or causing a nuisance, which conduct interferes with the quiet enjoyment of the landlord, if the landlord lives in the same or an immediately adjacent property, or of others who reside in an immediately adjacent property, or of other tenants or occupants of the same property, or the tenant or lessee by reason of negligence damaged the housing accommodation, and ten days' notice in writing has been duly served upon the tenant or lessee, which notice contains a description of the specific conduct that disturbed others or caused a nuisance, requiring in the alternative cessation of the conduct that is disturbing others or causing a nuisance that interferes with the quiet enjoyment of the landlord, if the landlord lives in the same or immediately adjacent property, or other tenants or occupants of the same property, or maliciously or by reason of negligence damaged the housing accommodation or possession of the premises so held; except that, for a nonresidential agreement or an employer-provided housing agreement, three days' notice is required pursuant to this subsection (1)(j), and for an exempt residential agreement, five days' notice is required pursuant to this section.

(II) The lawful exercise by a tenant of any rights pursuant to any law or rule relating to occupancy of a property, including this subsection (1)(j), shall not be deemed to interfere with the quiet enjoyment of the landlord or other tenants or other ground for eviction pursuant to this subsection (1)(j).

(III) It shall not constitute a nuisance or disturbance for purposes of this subsection (1)(j) if a victim of domestic violence is being accused of causing a disturbance or nuisance as a direct result of being a victim of domestic violence. This exception applies only to victims of domestic violence and not to perpetrators.

(2) and (3) Repealed.

(4) (a) It shall not constitute an unlawful detention of real property as described in paragraph (d.5), (e), or (e.5) of subsection (1) of this section if the tenant or lessee is the victim of domestic violence, as that term is defined in section 18-6-800.3, S.A.R.S., or of domestic abuse, as that term is defined in section 13-14-101 (2), which domestic violence or domestic abuse was the cause of or resulted in the alleged unlawful detention and which domestic violence or domestic abuse has been documented by the following:

(I) A police report; or

(II) A valid civil or emergency protection order.

(b) A person is not guilty of an unlawful detention of real property pursuant to paragraph (a) of this subsection (4) if the alleged violation of the rental or lease agreement is a result of domestic violence or domestic abuse against the tenant or lessee.

(c) A rental, lease, or other such agreement shall not contain a waiver by the tenant or lessee of the protections provided in this subsection (4).

(d) Nothing in this subsection (4) shall prevent the landlord from seeking judgment for possession against the tenant or lessee of the premises who perpetuated the violence or abuse that was the cause of or resulted in the alleged unlawful detention.

(5) As used in this section, unless the context otherwise requires:

(a) "Employer-provided housing agreement" means a residential tenancy agreement between an employee and an employer when the employer or an affiliate of the employer acts as a landlord.

(b) "Exempt residential agreement" means a residential agreement leasing a single family home by a landlord who owns five or fewer single family rental homes and who provides notice in the agreement that a ten-day notice period required pursuant to this section does not apply to the tenancy entered into pursuant to the agreement.

Source: L. 1885: p. 224, § 3. **R.S. 08:** § 2603. **C.L.** § 6369. **CSA:** C. 70, § 4. **S.A.R.S. 53:** § 58-1-4. **S.A.R.S. 1963:** § 58-1-4. **L. 79:** (1)(h) amended, p. 648, § 4, effective July 1. **L. 83:** (1)(d) amended, p. 631, § 1, effective July 1. **L. 86:** (1)(c), (1)(f), and (1)(g) amended and (2) added, p. 434, § 7, effective April 18. **L. 87:** (1)(e) amended, p. 565, § 1, effective March 13; (2)(a)(I), (2)(a)(II), and (2)(b) amended and (3) added, p. 1356, § 6, effective July 1. **L. 94:** (1)(d.5) added, p. 1467, § 1, effective May 31. **L. 95:** (1)(e) amended and (1)(e.5) added, p. 271, § 1, effective July 1. **L. 98:** (1)(c), (1)(f), and (1)(g) amended, p. 819, § 15, effective August 5. **L. 2005:** (4) added, p. 401, § 1, effective July 1. **L. 2019:** (1)(d), (1)(e), and (1)(e.5)(II) amended and (5) added, (HB 19-1118), ch. 230, p. 2316, § 1, effective May 20. **L. 2024:** IP(1), (1)(c), (1)(e), and (1)(e.5)(II) amended and (1)(e.8) and (1)(j) added, (HB 24-1098), ch. 113, p. 360, § 3, effective April 19.

Editor's note: Subsection (2)(b) provided for the repeal of subsection (2), effective January 31, 1989. (See L. 87, p. 1356.) Subsection (3)(b) provided for the repeal of subsection (3), effective July 1, 1991. (See L. 87, p. 1356.)

Cross references: For the legislative declaration in HB 24-1098, see section 1 of chapter 113, Session Laws of San Andreas 2024.

13-40-105. Crops of possessor. In all cases arising under section 13-40-104 (1)(c) to (1)(i), the person in possession is entitled to cultivate and gather the crops, if any, planted or sown by him previous to the service of the demand to deliver up possession, and then grown or growing on the premises, and shall have the right to enter such premises for the purpose of cultivating or removing such crops, first paying or tendering to the party entitled to the possession of said premises a reasonable compensation for the use of the land before removing such crops.

Source: L. 1885: p. 225, § 4. **R.S. 08:** § 2604. **C.L.** § 6370. **CSA:** C. 70, § 5. **S.A.R.S. 53:** § 58-1-5. **S.A.R.S. 1963:** § 58-1-5.

13-40-106. Written demand. (1) The demand or notice required by section 13-40-104 or 38-12-1303 shall be made in writing, specifying the grounds of the demandant's right to the possession of the premises, including a specific description of the alleged violation or no-fault eviction grounds, describing the premises, and indicating the date and time when the premises shall be delivered up, and shall be signed by the person claiming such possession, the person's agent, or the person's attorney.

(2) The demand or notice required by section 13-40-104 or 38-12-1303 must also include a statement that a residential tenant who receives supplemental security income, social security disability insurance under Title II of the federal "Social Security Act", 42 U.S.C. sec. 401 et seq., as amended, or cash assistance through the San Andreas works program created in part 7 of article 2 of title 26 has a right to mediation prior to the landlord filing an eviction complaint with the court pursuant to section 13-40-110.

(3) The demand or notice required by section 13-40-104 or 38-12-1303 must be written in English, Spanish, or any other language that the landlord knows, or has reason to know, is the primary language of the tenant.

Source: L. 1885: p. 226, § 5. **R.S. 08:** § 2605. **C.L.** § 6371. **CSA:** C. 70, § 6. **S.A.R.S. 53:** § 58-1-6. **S.A.R.S. 1963:** § 58-1-6. **L. 2023:** Entire section amended, (HB 23-1120), ch. 414, p. 2454, § 4, effective June 6. **L. 2024:** Entire section amended, (HB 24-1098), ch. 113, p. 362, § 4, effective April 19.

Cross references: For the legislative declaration in HB 23-1120, see section 1 of chapter 414, Session Laws of San Andreas 2023. For the legislative declaration in HB 24-1098, see section 1 of chapter 113, Session Laws of San Andreas 2024.

13-40-107. Notice to terminate tenancy. (1) A landlord of nonresidential real property or a residential premises described in section 38-12-1302 (1)(a), (1)(b), (1)(d), (1)(e), or (1)(f) or a tenant of any property or premises may terminate a periodic tenancy at the end of the tenancy period or elect to not renew a fixed term tenancy at the end of the fixed term by serving written notice that expires at the end of the period or fixed term, based on the length of the applicable tenancy described in subsection (2) of this section.

(2) The written notice described in subsection (1) of this section must be served before the end of the period or fixed term, as follows:

(a) A tenancy for one year or longer, at least ninety-one days;

(b) A tenancy of six months or longer but less than a year, at least twenty-eight days;

(c) A tenancy of one month or longer but less than six months, at least twenty-one days;

(d) A tenancy of one week or longer but less than one month, or a tenancy at will, at least three days;

(e) A tenancy for less than one week, at least one day.

(3) The written notice described in subsection (1) of this section must:

(a) Describe the property and the particular date when the tenancy will terminate; and

(b) Be signed by the landlord or tenant, the party giving such notice, or the landlord's or tenant's agent or attorney.

(4) No written notice under subsection (1) of this section is necessary from a tenant with a fixed-term tenancy that is, by agreement, to end at a time certain.

Source: L. 1885: p. 226, § 6. **R.S. 08:** § 2606. **C.L.** § 6372. **CSA:** C. 70, § 7. **S.A.R.S. 53:** § 58-1-7. **L. 55:** p. 407, § 3. **S.A.R.S. 1963:** § 58-1-7. **L. 79:** (5) added, p. 1399, § 2, effective June 21. **L. 2012:** (1)(a), (1)(b), and (1)(c) amended, (SB 12-175), ch. 208, p. 825, § 9, effective July 1. **L. 2017:** (1)(c) amended, (SB 17-245), ch. 352, p. 1837, § 2, effective August 9. **L. 2024:**

Entire section amended, (HB 24-1098), ch. 113, p. 362, § 5, effective April 19.

Cross references: For the legislative declaration in HB 24-1098, see section 1 of chapter 113, Session Laws of San Andreas 2024.

13-40-107.5. Termination of tenancy for substantial violation - definition - legislative declaration. (1) The general assembly finds and declares that:

(a) Violent and antisocial criminal acts are increasingly committed by persons who base their operations in rented homes, apartments, and commercial properties;

(b) Such persons often lease such property from owners who are unaware of the dangerous nature of such persons until after the persons have taken possession of the property;

(c) Under traditional landlord and tenant law, such persons may have established the technical, legal right to occupy the premises for a fixed term which continues long after they have demonstrated themselves unfit to coexist with their neighbors and co-tenants; furthermore, such persons often resist eviction as long as possible;

(d) In certain cases it is necessary to curtail the technical, legal right of occupancy of such persons in order to protect the equal or greater rights of neighbors and co-tenants, the interests of property owners, the values of trust and community within neighborhoods, and the health, safety, and welfare of all the people of this state.

(2) It is declared to be an implied term of every lease of real property in this state that the tenant shall not commit a substantial violation while in possession of the premises.

(3) As used in this section, "substantial violation" means any act or series of acts by the tenant or any guest or invitee of the tenant that, when considered together:

(a) Occurs on or near the premises and endangers the person or willfully and substantially endangers the property of the landlord, any co-tenant, or any person living on or near the premises; or

(b) Occurs on or near the premises and constitutes a violent or drug-related felony prohibited under article 3, 4, 6, 7, 9, 10, 12, or 18 of title 18, S.A.R.S.; or

(c) Occurs on the tenant's leased premises or the common areas, hallway, grounds, parking lot, or other area located in the same building or complex in which the tenant's leased premises are located and constitutes a criminal act in violation of federal or state law or local ordinance that:

(I) Carries a potential sentence of incarceration of one hundred eighty days or more; and

(II) Has been declared to be a public nuisance under state law or local ordinance based on a state statute.

(4) (a) A tenancy may be terminated at any time on the basis of a substantial violation. The termination is effective three days after service of written notice to terminate tenancy.

(b) The notice to terminate tenancy must describe the property, the particular date when the tenancy will terminate, and the grounds for termination. The notice must be signed by the landlord or by the landlord's agent or attorney.

(5) (a) In any action for possession under this section, the landlord has the burden of proving the occurrence of a substantial violation by a preponderance of the evidence.

(b) In any action for possession under this section, it shall be a defense that:

(I) (Deleted by amendment, L. 2005, p. 402, § 2, effective July 1, 2005.)

(II) The tenant did not know of, and could not reasonably have known of or prevented, the commission of a substantial violation by a guest or invitee but immediately notified a law enforcement officer of his or her knowledge of the substantial violation.

(c) (I) The landlord shall not have a basis for possession under this section if the tenant or lessee is the victim of domestic violence, as that term is defined in section 18-6-800.3, S.A.R.S., or of domestic abuse, as that term is defined in section 13-14-101 (2), which domestic violence or domestic abuse was the cause of or resulted in the alleged substantial violation and which domestic violence or domestic abuse has been documented pursuant to the provisions set forth in section 13-40-104 (4).

(II) Nothing in this paragraph (c) shall prevent the landlord from seeking possession against a tenant or lessee of the premises who perpetuated the violence or abuse that was the cause of or resulted in the alleged substantial violation.

Source: L. 94: Entire section added, p. 1467, § 2, effective May 31. **L. 98:** IP(3) and (3)(b) amended and (3)(c) added, p. 419, § 1, effective April 21. **L. 2003:** (5)(b)(I) amended, p. 1010, § 11, effective July 1. **L. 2005:** (5) amended, p. 402, § 2, effective July 1. **L. 2024:** (4)(a) and (4)(b) amended, (HB 24-1098), ch. 113, p. 363, § 6, effective April 19.

Cross references: For the legislative declaration in HB 24-1098, see section 1 of chapter 113, Session Laws of San Andreas 2024.

13-40-108. Service of notice to vacate or demand. A written notice to vacate or demand as required by section 13-40-104, 38-12-202, 38-12-204, or 38-12-1303 may be served by delivering a copy of the notice to a known tenant occupying the premises, or by leaving such copy with some person, a member of the tenant's family above the age of fifteen years, residing on or in charge of the premises, or, in case no one is on the premises after attempts at personal service at least once on two separate days, by posting the copy in some conspicuous place on the premises.

Source: L. 1885: p. 226, § 7. **R.S. 08:** § 2607. **C.L.** § 6373. **CSA:** C. 70, § 8. **S.A.R.S. 53:** § 58-1-8. **L. 61:** p. 390, § 1. **S.A.R.S. 1963:** § 58-1-8. **L. 2024:** Entire section amended, (HB 24-1098), ch. 113, p. 363, § 7, effective April 19.

Cross references: For the legislative declaration in HB 24-1098, see section 1 of chapter 113, Session Laws of San Andreas 2024.

13-40-109. Jurisdiction of courts. The district courts in their respective districts and county courts in their respective counties have jurisdiction of all cases of forcible entry, forcible detainer, or unlawful detainer arising pursuant to this article 40, and the person entitled to the possession of any premises may recover possession thereof by action brought in any of said courts in the manner provided in this article 40. On and after January 1, 2019, in all actions brought before county courts pursuant to section 13-40-104 (1)(f) to (1)(i), where the allegations of the complaint are put in issue by a verified answer and in actions in which the verified answer alleges a monthly rental value of the property in excess of twenty-five thousand dollars, the county court, upon the filing of said answer, shall suspend all proceedings therein and certify said cause and transmit the papers therein to the district court of the same county. Causes so certified by the county court shall be proceeded within the courts to which they have been so certified in all respects as if originally begun in the court to which they have been certified. On

and after January 1, 2019, the jurisdiction of the county court to enter judgment for rent, or damages, or both and to render judgment on a counterclaim in forcible entry and detainer shall be limited to a total of twenty-five thousand dollars in favor of either party, exclusive of costs and attorney fees.

Source: L. 1885: p. 226, § 8. **L. 1887:** p. 271, § 3. **R.S. 08:** § 2608. **C.L.** § 6374. **CSA:** C. 70, § 9. **S.A.R.S. 53:** § 58-1-9. **S.A.R.S. 1963:** § 58-1-9. **L. 64:** p. 469, § 1. **L. 75:** Entire section amended, p. 562, § 2. **L. 82:** Entire section amended, p. 642, § 1, effective June 1. **L. 90:** Entire section amended, p. 850, § 9, effective May 31; entire section amended, p. 856, § 7, effective July 1. **L. 2001:** Entire section amended, p. 1518, § 13, effective September 1. **L. 2018:** Entire section amended, (SB 18-056), ch. 298, p. 1817, § 2, effective January 1, 2019.

Cross references: For the legislative declaration contained in the 1990 act amending this section, see section 1 of chapter 100, Session Laws of San Andreas 1990.

13-40-110. Action - how commenced - report. (1) (a) An action pursuant to this article 40 is commenced by filing with the court a complaint in writing using the standard form of eviction complaint and affidavit for a residential tenancy that is available online through the judicial department's website to describe the property with reasonable certainty; the street address and the zip code, listed separately; the grounds for recovery; the name of the person in possession or occupancy; a prayer for recovery of possession; and a signed affidavit that states:

(I) The residential tenant receives supplemental security income, social security disability insurance under Title II of the federal "Social Security Act", 42 U.S.C. sec. 401 et seq., as amended, or cash assistance through the San Andreas works program created in part 7 of article 2 of title 26, and the complainant and residential tenant participated in mandatory mediation and the mediation was unsuccessful;

(II) The complainant and residential tenant did not participate in mandatory mediation because the residential tenant:

(A) Did not disclose or declined to disclose in writing in response to a written inquiry from the complainant that the residential tenant receives supplemental security income, social security disability insurance under Title II of the federal "Social Security Act", 42 U.S.C. sec. 401 et seq., as amended, or cash assistance through the San Andreas works program created in part 7 of article 2 of title 26; or

(B) Does not receive supplemental security income, social security disability insurance under Title II of the federal "Social Security Act", 42 U.S.C. sec. 401 et seq., as amended, or cash assistance through the San Andreas works program created in part 7 of article 2 of title 26; or

(III) The complainant and residential tenant did not participate in mandatory mediation because the complainant is:

(A) A 501(c)(3) nonprofit organization that offers opportunities for mediation to residential tenants prior to filing a residential eviction in court; or

(B) A landlord with five or fewer single-family rental homes and no more than five total rental units, including any single-family homes.

(b) Mandatory mediation must be conducted by a trained neutral third party and be provided at no cost to the residential tenant. The landlord is only required to pay for the

landlord's portion of the mandatory mediation. The complainant and residential tenant may have

legal representation present during the mandatory mediation. A residential tenant may voluntarily waive the tenant's right to mandatory mediation, but a waiver must not be in any lease agreement or other agreement between the complainant and residential tenant pursuant to section 38-12-801.

(c) The office of dispute resolution, created in section 13-22-303, shall schedule the mandatory mediation at the first available date, but no later than fourteen calendar days after the landlord requests the mediation.

(d) Failure to comply with the mandatory mediation requirements outlined in this subsection (1) is an affirmative defense. If the affirmative defense is raised and the complainant cannot demonstrate that the requirements were met, the court shall dismiss the case without prejudice and a new complaint must be filed.

(e) The complaint may also set forth the amount of rent due, the rate at which it is accruing, the amount of damages due, and the rate at which they are accruing and may include a prayer for rent due or to become due, present and future damages, costs, and any other relief to which plaintiff is entitled.

(f) Notwithstanding the requirement to file a complaint using the standard form of eviction pursuant to subsection (1)(a) of this section, the court shall accept a complaint filed on a different form if the complaint meets the requirements of this section.

(2) In an action for termination of a tenancy in a mobile home park, the complaint, in addition to the requirements of subsection (1) of this section, must specify the reasons for termination as the reasons are stated in section 38-12-203. The complaint must specify the approximate time, place, and manner in which the tenant allegedly committed the acts giving rise to the complaint. If the action is based on the mobile home or mobile home lot being out of compliance with the rules and regulations adopted pursuant to section 38-12-214, the complaint must specify that the home owner was given ninety days after the date of service or posting of the notice to terminate tenancy to cure the noncompliance, that ninety days have passed, and the noncompliance has not been cured.

(3) The complaint must include:

(a) A designation of whether the plaintiff elects to participate in any hearing in person or remotely by phone or video on a platform designated by the court. Upon filing the complaint, the court shall provide the plaintiff with any necessary information to facilitate the plaintiff's participation.

(b) A box indicating if the eviction is for a residential or commercial tenancy.

(4) Beginning January 2024, the judicial department shall report to the house of representatives judiciary committee and the senate judiciary committee, or their successor committees, during the judicial department's "SMART Act" hearing the total number of mediations scheduled by the office of dispute resolution pursuant to this section, the outcomes of the mediations, and the cost of the mediations for the previous fiscal year.

Source: L. 1885: p. 226, § 9. **L. 1887:** p. 272, § 4. **R.S. 08:** § 2609. **C.L.** § 6375. **L. 33:** p. 481, § 1. **CSA:** C. 70, § 10. **S.A.R.S. 53:** § 58-1-10. **L. 55:** p. 406, § 1. **L. 61:** p. 390, § 2. **S.A.R.S. 1963:** § 58-1-10. **L. 85:** Entire section amended, p. 578, § 1, effective July 1. **L. 96:** (2) amended, p. 670, § 1, effective July 1. **L. 2020:** (2) amended, (HB 20-1196), ch. 195, p. 927, § 17, effective June 30. **L. 2023:** (1) amended and (4) added, (HB 23-1120), ch. 414, p. 2452, § 2, effective June 6; (3) added, (HB 23-1186), ch. 415, p. 2459, § 3, effective January 1, 2024. **L.**

2024: (2) amended, (HB 24-1098), ch. 113, p. 364, § 8, effective April 19; IP(1)(a) amended and (1)(f) added, (SB 24-064), ch. 297, p. 2029, § 2, effective May 31.

Cross references: For the legislative declaration in HB 23-1186, see section 1 of chapter 415, Session Laws of San Andreas 2023. For the legislative declaration in HB 23-1120, see section 1 of chapter 414, Session Laws of San Andreas 2023. For the legislative declaration in HB 24-1098, see section 1 of chapter 113, Session Laws of San Andreas 2024.

13-40-110.5. Automatic suppression of court records - definition. (1) As used in this section, unless the context otherwise requires, "suppressed court record" means a court record that is accessible only to judges; court staff; a party to the case and, if represented, the party's attorneys; authorized judicial department staff; and a person with a valid court order authorizing access to the court record.

(2) Upon the commencement of an action pursuant to this article 40, any court record of the action is a suppressed court record.

(3) When an order granting the plaintiff possession of the premises is entered in an action to which this section applies, the record is no longer a suppressed court record and the court shall make the record available to the public unless the parties to the action agree that the record should remain suppressed. If the parties agree that the record should remain suppressed, the record remains a suppressed court record.

(4) The names of the parties included in a court record that is suppressed pursuant to this section may be used by the court for administrative purposes, but the court shall not, for any reason, publish the names of the parties online.

(5) In addition to the persons described in subsection (1) of this section, a court shall allow a person to access a suppressed court record if the person affirms to the court, in writing or electronically, that:

(a) The person is an attorney, other than a party's attorney described in subsection (1) of this section, or is acting on behalf of the attorney;

(b) A party included in the court record has given written or verbal permission for the person to access the suppressed court record;

(c) The person is only accessing the record for the purpose of:

(I) Providing legal advice to, or evaluating whether to enter an appearance on behalf of, the party who gave permission for the person to access the record; or

(II) Evaluating whether the matter is suitable for mediation or in preparation for a mediation between the parties included in the court record; and

(d) The person is not accessing the record for commercial purposes, other than as described in subsection (5)(c) of this section.

Source: L. 2020: Entire section added, (HB 20-1009), ch. 37, p. 120, § 1, effective December 1. **L. 2022:** Subsection (5) added, (SB 22-019), ch. 19, p. 133, § 1, effective August 10.

13-40-111. Issuance and return of summons. (1) Upon filing the complaint as required in section 13-40-110, the clerk of the court or the attorney for the plaintiff shall issue a summons. The summons must command the defendant to appear before the court at a place

named in the summons and at a time and on a day not less than seven days but not more than fourteen days after the day of issuing the same to answer the complaint of plaintiff. A court shall not enter a default judgment for possession before the close of business on the date upon which an appearance is due. The summons must also contain a statement addressed to the defendant stating: "If you do not respond to the landlord's complaint by filing a written answer with the court on or before the date and time in this summons or appearing in court at the date and time in this summons, the judge may enter a default judgment against you in favor of your landlord for possession. A default judgment for possession means that you will have to move out, and it may mean that you will have to pay money to the landlord. In your answer to the court, you can state why you believe you have a right to remain in the property, whether you admit or deny the landlord's factual allegations against you, and whether you believe you were given proper notice of the landlord's reasons for terminating your tenancy before you got this summons."

(2) Repealed.

(3) For actions commenced pursuant to section 13-40-104 (1)(f) and (1)(g) only, if no answer to the complaint is filed as provided in subsection (1) of this section, the court shall examine the complaint, and, if satisfied that venue is proper and the plaintiff is entitled to possession of the premises, the court shall dispense with appearances by the plaintiff or a hearing and shall forthwith enter a judgment for possession, present or future damages, and costs.

(4) A summons issued pursuant to this section must contain a statement in bold-faced type notifying the defendant that:

(a) Any records associated with the action are suppressed and not accessible to the public until an order is entered granting the plaintiff possession of the premises;

(b) If the plaintiff is granted possession of the premises, the court records may remain private if both parties agree to suppress the records; and

(c) For a residential action filed in county court pursuant to this article 40, either party has a right to appear in person or remotely by phone or video on a platform designated by the court. If a party participates remotely and the party is disconnected or there is a technology failure, the court shall make all reasonable efforts to contact the party and shall allow reasonable time for the party to reestablish connection. If the party is unable to reestablish connection, the court shall reschedule the hearing in person on the first available date after the date of the originally scheduled hearing but no later than one week after the originally scheduled hearing, to the extent practicable. The court shall not enter a default judgment if a party is unable to participate remotely due to a technological disconnection or failure.

(5) A summons issued pursuant to this section must also contain a list of available resources with a website link and phone number for residential tenants to obtain civil legal aid and rental assistance. The department of local affairs shall make available and keep current the list of resources available. Local government entities may also provide or supplement the list of resources and provide such resources to the department of local affairs for publication on its website.

(6) A summons issued pursuant to this section must also contain:

(a) A copy of a blank answer form required pursuant to section 13-40-113. The form must include a place for the defendant to indicate whether the defendant will participate in the eviction hearing in person or remotely by phone or video on a platform designated by the court.

(b) A form that allows either party to request all documents in the landlord's and tenant's possession relevant to the current action; and

(c) Information about how a pro se party can file documents related to the case.

Source: L. 1885: p. 227, § 10. **L. 1887:** p. 272, § 5. **L. 1891:** p. 227, § 1. **R.S. 08:** § 2610. **C.L.** § 6376. **CSA:** C. 70, § 11. **S.A.R.S. 53:** § 58-1-11. **L. 61:** p. 391, § 3. **S.A.R.S. 1963:** § 58-1-11. **L. 64:** p. 470, § 2. **L. 75:** Entire section amended, p. 582, § 1, effective July 1. **L. 87:** Entire section amended, p. 565, § 2, effective March 13. **L. 2004:** Entire section amended, p. 594, § 1, effective July 1. **L. 2006:** (3) added, p. 1479, § 35, effective July 1. **L. 2007:** (3) amended, p. 1830, § 1, effective January 1, 2008. **L. 2008:** (1) amended, p. 1819, § 1, effective September 1. **L. 2012:** (1) amended and (2) repealed, (SB 12-175), ch. 208, p. 825, § 10, effective July 1. **L. 2020:** (4) added, (HB 20-1009), ch. 37, p. 121, § 2, effective December 1. **L. 2021:** (1) amended, (HB 21-1121), ch. 348, p. 2259, § 1, effective June 25; (1) amended and (5) and (6) added, (SB 21-173), ch. 349, p. 2262, § 1, effective October 1. **L. 2023:** (4) and (6) amended, (HB 23-1186), ch. 415, p. 2460, § 4, effective January 1, 2024. **L. 2024:** (1) amended, (SB 24-094), ch. 158, p. 730, § 14, effective May 3; (1) amended, (HB 24-1099), ch. 379, p. 2570, § 3, effective November 1.

Editor's note: (1) Amendments to subsection (1) by HB 21-1121 and SB 21-273 were harmonized.

(2) Section 15 of chapter 158 (SB 24-094), Session Laws of San Andreas 2024, provides that the act changing this section applies to actions related to violations of part 5 of article 12 of title 38 filed on or after May 3, 2024.

(3) Amendments to subsection (1) by SB 24-094 and HB 24-1099 were harmonized, effective November 1, 2024.

Cross references: For the legislative declaration in HB 23-1186, see section 1 of chapter 415, Session Laws of San Andreas 2023.

13-40-112. Service. (1) Such summons may be served by personal service as in any civil action. A copy of the complaint must be served with the summons.

(2) If personal service cannot be had upon the defendant by a person qualified under the San Andreas rules of civil procedure to serve process, after having made diligent effort to make such personal service, such person may make service by posting a copy of the summons and the complaint in some conspicuous place upon the premises. In addition thereto, the plaintiff shall mail, no later than the next business day following the day on which he or she files the complaint, a copy of the summons, or, in the event that an alias summons is issued, a copy of the alias summons, and a copy of the complaint to the defendant at the premises by postage prepaid, first-class mail.

(3) Personal service or service by posting shall be made at least seven days before the day for appearance specified in such summons, and the time and manner of such service shall be endorsed upon such summons by the person making service thereof.

(4) For purposes of this section, "business days" means any calendar day excluding Saturdays, Sundays, and legal holidays.

Source: L. 1885: p. 227, § 11. **L. 1887:** p. 273, § 6. **R.S. 08:** § 2611. **C.L.** § 6377. **CSA:** C. 70, § 12. **S.A.R.S. 53:** § 58-1-12. **L. 61:** p. 392, § 4. **S.A.R.S. 1963:** § 58-1-12. **L. 64:** p.

470, § 3.

L. 83: (2) and (3) amended, p. 632, § 1, effective May 26. **L. 84:** (2) and (3) amended, p. 465, § 1, effective March 16. **L. 87:** (2) amended, p. 566, § 3, effective March 13. **L. 2004:** (2) and (3) amended and (4) added, p. 594, § 2, effective July 1. **L. 2012:** (3) amended, (SB 12-175), ch. 208, p. 825, § 11, effective July 1.

Cross references: For the procedure for service of process, see C.R.C.P. 4.

13-40-113. Answer of defendant - additional and amended pleadings. (1) The defendant shall file with the court, at or before the day specified for the defendant's appearance in the summons, an answer in writing. The defendant's answer must set forth the grounds on which the defendant bases the defendant's claim for possession, admitting or denying all of the material allegations of the complaint, and presenting every defense which then exists and upon which the defendant intends to rely, either by including the same in the defendant's answer or by simultaneously filing motions setting forth every such defense.

(2) The court for good cause may permit the filing of additional and amended pleadings if it will not result in a delay prejudicial to the defendant.

(2.5) A defendant may assert as an affirmative defense to a proceeding under this article 40 that the landlord violated or is in violation of a provision of part 5 of article 34 of title 24.

(3) A defendant does not waive any defense related to proper notice by filing an answer pursuant to this section. A defendant can raise a defense related to proper notice in the defendant's answer or by filing a motion prehearing. A defendant cannot raise this defense for the first time at the hearing if the defendant failed to raise it in the defendant's answer or in a prehearing motion.

(4) After an answer is provided to the court pursuant to this section:

(a) The court shall set a date for trial no sooner than seven, but not more than ten, days after the answer is filed, unless the defendant requests a waiver of this requirement in the defendant's answer or after filing an answer; except that a court may extend beyond ten days if either party demonstrates good cause for an extension, if the court otherwise finds justification for the extension, or if a party participating remotely pursuant to section 13-40-113.5 was disconnected and unable to reestablish connection. The requirement set forth in this subsection (4)(a) does not apply to a forcible entry and detainer petition that alleges a substantial violation, as defined in section 13-40-107.5 (3), or terminates a tenancy pursuant to section 38-12-203 (1)(f).

(b) In the time after an answer is filed and before a trial occurs, the court shall order that the landlord or tenant provide any documentation relevant to the current action that either party requests pursuant to section 13-40-111 (6)(b).

(c) The court shall provide any party who opted to participate remotely with necessary information to facilitate such participation. The information must include a phone number and e-mail address for the court and instructions on what to do in the event remote participation is disrupted.

Source: L. 1885: p. 227, § 12. **R.S. 08:** § 2612. **C.L.** § 6378. **CSA:** C. 70, § 13. **S.A.R.S. 53:** § 58-1-13. **L. 55:** p. 406, § 2. **L. 61:** p. 392, § 5. **S.A.R.S. 1963:** § 58-1-13. **L. 2021:** Entire section amended, (SB 21-173), ch. 349, p. 2263, § 2, effective October 1. **L. 2023:** (2.5) added, (SB 23-

184), ch. 402, p. 2413, § 6, effective August 7; (4)(a) amended and (4)(c) added, (HB 23-1186), ch. 415, p. 2460, § 5, effective January 1, 2024.

Cross references: For the legislative declaration in HB 23-1186, see section 1 of chapter 415, Session Laws of San Andreas 2023.

13-40-113.5. Residential actions in county court - remote participation - electronic filing - procedures for technology failure - auxiliary services providers. (1) For a residential action filed in county court pursuant to this article 40:

(a) The court shall allow either party and any witness to choose to appear in person or remotely by phone or video on a platform designated by the court at any return, conference, hearing, trial, or other court proceeding. Either party and any witness may elect to change how the party or witness intends to participate by contacting the court; except that, if a party or witness contacts the court within forty-eight hours of the scheduled appearance, the court has discretion whether to approve the party or witness's requested change in participation.

(b) A pro se defendant may file an answer electronically through an e-filing system. If either party is pro se, the party may file a motion or other documents, including, but not limited to, evidence or additional documentation, electronically through an e-filing system.

(c) (I) (Deleted by amendment, L. 2024.)

(II) The court shall not assess, charge, or collect an e-filing fee, service fee, or any other fee associated with the filing of motions, answers, or documents that are filed by a defendant.

(d) The court shall comply with any federal or state law or regulation, including any supreme court directive or policy, regarding the provision of accommodations for people with a disability or for people with limited English proficiency during any proceeding, regardless of whether the proceeding is conducted in person or remotely by phone or video on a platform designated by the court; and

(e) If a pro se defendant files an answer or any other document physically instead of filing electronically through an e-filing system, the court shall timely serve the document on the plaintiff on behalf of the defendant and shall not charge any fee or cost related to the service.

(2) In the event a party is disconnected or there is a technology failure, the court shall make all reasonable efforts to contact the party and shall allow reasonable time for the party to reestablish connection with the court. If the party is unable to reestablish connection, the court shall reschedule the hearing, to be held in person, for the first available date after the date of the originally scheduled hearing but no later than one week after the originally scheduled hearing, to the extent practicable. The court shall not enter a default judgment if a party is unable to participate remotely due to a technological disconnection or failure.

(3) A court shall not construe this section to provide less than is required by Title II of the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., as amended, and its implementing regulations.

Source: L. 2023: Entire section added, (HB 23-1186), ch. 415, p. 2458, § 2, effective January 1, 2024. **L. 2024:** (1)(b), (1)(c), and (1)(d) amended and (1)(e) added, (HB 24-1099), ch. 379, p. 2570, § 2, effective November 1.

Cross references: For the legislative declaration in HB 23-1186, see section 1 of chapter 415, Session Laws of San Andreas 2023.

13-40-114. Delay in trial - undertaking. If either party requests a delay in trial longer than five days, the court in its discretion may, upon good cause shown, require either of the parties to give bond or other security approved and fixed by the court in an amount for the payment to the opposite party of such sum as he may be damaged due to the delay.

Source: L. 1885: p. 228, § 13. **R.S. 08:** § 2613. **C.L.** § 6379. **CSA:** C. 70, § 14. **S.A.R.S. 53:** § 58-1-14. **L. 61:** p. 393, § 6. **S.A.R.S. 1963:** § 58-1-14. **L. 87:** Entire section amended, p. 566, §
4, effective March 13.

13-40-115. Judgment - writ of restitution - cure period. (1) Upon the trial of any action under this article if service was had only by posting in accordance with section 13-40-112 (2) and if the court finds that the defendant has committed an unlawful detainer, the court shall enter judgment for the plaintiff to have restitution of the premises and shall issue a writ of restitution. The court may also continue the case for further hearing from time to time and may issue alias and pluries summonses until personal service upon the defendant is had.

(2) Upon a trial or further hearing pursuant to this article 40 after personal service has been made upon the defendant in accordance with section 13-40-112 (1), if the court or jury has not already tried the issue of unlawful detainer, it may do so. If the court finds that the defendant has committed an unlawful detainer, the court shall enter judgment for the plaintiff to have restitution of the premises and shall issue a writ of restitution. In addition to the judgment for restitution, the court or jury shall further find the amount of rent, if any, due to the plaintiff from the defendant at the time of trial; the amount of damages, if any, sustained by the plaintiff to the time of the trial on account of the unlawful detention of the property by the defendant; and damages sustained by the plaintiff to the time of trial on account of injuries to the property. The court shall enter judgment for such amounts, together with any reasonable attorney fees and costs as in other civil actions. This section does not permit the entry of judgment in excess of the court's jurisdictional limit.

(3) A writ of restitution that is issued by the court pursuant to subsection (1) or (2) of this section shall remain in effect for forty-nine days after issuance and shall automatically expire thereafter.

(4) A landlord who provides a tenant with proper notice of nonpayment shall accept payment of the tenant's full payment of all amounts due according to the notice, as well as any rent that remains due under the rental agreement, at any time until a judge issues a judgment for possession pursuant to subsection (1) or (2) of this section. A tenant may pay this amount to either the landlord or to the court. Once a court has confirmation that the full amount has been timely paid, the court shall:

(a) Vacate any judgments that have been issued; and

(b) Dismiss the action with prejudice.

(5) The rights provided in subsection (4) of this section may not be waived by any written agreement.

Source: L. 1885: p. 228, § 14. **R.S. 08:** § 2614. **C.L.** § 6380. **CSA:** C. 70, § 15. **S.A.R.S. 53:** § 58-1-15. **L. 61:** p. 393, § 7. **S.A.R.S. 1963:** § 58-1-15. **L. 2005:** (3) added, p. 263, § 1, effective August 8. **L. 2012:** (3) amended, (SB 12-175), ch. 208, p. 826, § 12, effective July 1. **L. 2021:** (2) amended and (4) and (5) added, (SB 21-173), ch. 349, p. 2264, § 3, effective October 1.

13-40-116. Dismissal. If the plaintiff's action brought for any of the causes mentioned in this article, upon the trial thereon, is dismissed or the action fails to prove the plaintiff's right to the possession of the premises described in the complaint, the defendant shall have judgment and execution for his costs.

Source: L. 1885: p. 229, § 16. **R.S. 08:** § 2616. **C.L.** § 6382. **CSA:** C. 70, § 17. **S.A.R.S. 53:** § 58-1-17. **S.A.R.S. 1963:** § 58-1-17.

Cross references: For dismissal of actions generally, see C.R.C.P. 41.

13-40-117. Appeals. (1) If either party feels aggrieved by the judgment rendered in such action before the county court, he may appeal to the district court, as in other cases tried before the county court, with the additional requirements provided in this article.

(2) Upon the court's taking such appeal, all further proceedings in the case shall be stayed, and the appellate court shall thereafter issue all needful writs and process to carry out any judgment which may be rendered thereon in the appellate court.

(3) If the appellee believes that the appellee may suffer serious economic harm during the pendency of the appeal, the appellee may petition the court taking the appeal to require the appellant to have an additional undertaking to cover the anticipated harm. The court shall order such undertaking only after a hearing and upon a finding that the appellee has shown a substantial likelihood of suffering such economic harm during the pendency of the appeal and that the appellee will not be adequately protected under the appeals bond and the other requirements for appeal pursuant to sections 13-40-118, 13-40-120, and 13-40-123.

Source: L. 1885: p. 229, § 17. **R.S. 08:** § 2617. **C.L.** § 6383. **CSA:** C. 70, § 18. **S.A.R.S. 53:** § 58-1-18. **S.A.R.S. 1963:** § 58-1-18. **L. 64:** p. 470, § 4. **L. 84:** Entire section amended, p. 466, § 1, effective July 1. **L. 85:** (1) amended, p. 571, § 8, effective November 14, 1986. **L. 2021:** (3) amended, (SB 21-173), ch. 349, p. 2264, § 4, effective October 1.

13-40-118. Deposit of rent. In all appeals from the judgment of a county court, in an action founded upon section 13-40-104 (1)(d), the defendant, at the time of the filing thereof, shall deposit with the court the amount of rent found due and specified in such judgment. Unless such deposit is made, the appeal is not perfected, and proceedings upon such judgment shall thereupon be had accordingly. If the appeal is perfected, the court shall transmit such deposit to the clerk of the appellate court, with the papers in such case; and the appellant thereafter, at the time when the rents become due as specified in the judgment appealed from and as often as the same become due, shall deposit the amount thereof with the clerk of such appellate court. In case the appellant, at any time during the pendency of such appeal and before final judgment therein, neglects or fails to make any deposit of rent, falling due at the time specified in the judgment

appealed from, the court in which such appeal is pending, upon such fact being made to appear

and upon motion of the appellee, shall affirm the judgment appealed from with costs; and proceedings thereupon shall be had as in like cases determined upon the merits.

Source: L. 1885: p. 229, § 18. **R.S. 08:** § 2618. **C.L.** § 6384. **CSA:** C. 70, § 19. **S.A.R.S. 53:** § 58-1-19. **S.A.R.S. 1963:** § 58-1-19. **L. 64:** p. 471, § 5. **L. 84:** Entire section amended, p. 467, § 2, effective July 1.

13-40-119. Rules of practice. In all actions brought under any provision of this article in any court, the proceedings shall be governed by the rules of practice and the provisions of law concerning civil actions in such court, except as may be otherwise provided in this article.

Source: L. 1885: p. 230, § 20. **R.S. 08:** § 2620. **C.L.** § 6386. **CSA:** C. 70, § 21. **S.A.R.S. 53:** § 58-1-21. **L. 61:** p. 394, § 8. **S.A.R.S. 1963:** § 58-1-21.

13-40-120. Appellate review. Appellate review of the judgment of the district courts of this state, in proceedings under this article, is allowed as provided by law and the San Andreas appellate rules. In cases of appeal from judgments founded upon causes of action embraced in section 13-40-104 (1)(d), the deposit of rent money during pendency of appeal shall be made, or judgment of affirmance shall be entered, in the manner provided in section 13-40-118.

Source: L. 1885: p. 230, § 22. **L. 1891:** p. 228, § 1. **R.S. 08:** § 2622. **C.L.** § 6388. **CSA:** C. 70, § 23. **S.A.R.S. 53:** § 58-1-23. **S.A.R.S. 1963:** § 58-1-22. **L. 64:** p. 472, § 6. **L. 84:** Entire section amended, p. 467, § 3, effective July 1. **L. 85:** Entire section amended, p. 571, § 9, effective November 14, 1986.

13-40-121. When deposit of rent is paid. The rent money deposited, as provided for in this article, shall be paid to the landlord entitled thereto, upon the order of the court wherein the same is deposited and at such time and in such manner as the court determines necessary to protect the rights of the parties.

Source: L. 1885: p. 231, § 23. **R.S. 08:** § 2623. **C.L.** § 6389. **CSA:** C. 70, § 24. **S.A.R.S. 53:** § 58-1-24. **S.A.R.S. 1963:** § 58-1-23.

13-40-122. Writ of restitution after judgment - definitions. (1) (a) A court shall not issue a writ of restitution upon any judgment entered in any action pursuant to this article 40 until forty-eight hours after the time of the entry of the judgment. If the writ of restitution concerns a residential tenant who receives supplemental security income, social security disability insurance under Title II of the federal "Social Security Act", 42 U.S.C. sec. 401 et seq., as amended, or cash assistance through the San Andreas works program created in part 7 of article 2 of title 26, the writ must specify that the writ is not executable for thirty days after entry of judgment pursuant to subsection (1)(b) of this section; except in the case:

(I) In which a court has ordered a judgment for possession for a substantial violation pursuant to section 13-40-107.5; or

(II) Of a landlord with five or fewer single-family rental homes and no more than five

total rental units including any single-family homes.

(b) A writ of restitution must be executed by the officer having the same only in the daytime and between sunrise and sunset, and the officer shall not execute a writ of restitution concerning a residential tenancy until at least ten days after entry of the judgment; except that the officer shall not execute a writ of restitution concerning a residential tenancy until at least thirty days after entry of judgment if the residential tenant receives supplemental security income, social security disability insurance under Title II of the federal "Social Security Act", 42 U.S.C. sec. 401 et seq., as amended, or cash assistance through the San Andreas works program created in part 7 of article 2 of title 26, as specified in the writ; except in the case:

(I) In which a court has ordered a judgment for possession for a substantial violation pursuant to section 13-40-107.5; or

(II) Of a landlord with five or fewer single-family rental homes and no more than five total rental units including any single-family homes.

(c) Any writ of restitution governed by this section may be executed by the county sheriff's office in which the property is located by a sheriff, undersheriff, or deputy sheriff, as described in section 16-2.5-103 (1) or (2), while off duty or on duty at rates charged by the employing sheriff's office in accordance with section 30-1-104 (1)(gg).

(2) The officer that executes a writ of restitution under subsection (1) of this section and the law enforcement agency that employs such officer shall be immune from civil liability for any damage to a tenant's personal property that was removed from the premises during the execution of the writ. A landlord who complies with the lawful directions of the officer executing a writ of restitution shall be immune from civil and criminal liability for any act or omission related to a tenant's personal property that was removed from the premises during or after the execution of a writ of restitution.

(2.5) (a) (I) Notwithstanding subsections (3) and (4) of this section, the officer that executes a writ of restitution under subsection (1) of this section shall immediately inspect the premises for any pet animals.

(II) If the tenant is present on the premises at the time the writ of restitution is being executed, the officer shall give any pet animals found during the inspection required by subsection (2.5)(a)(I) of this section to the tenant.

(III) If the tenant is not present on the premises at the time the writ of restitution is being executed and there are any pet animals found during the inspection required by subsection (2.5)(a)(I) of this section, the officer shall contact the local authority in charge of animal control to take custody of the pet animals. The landlord shall provide the local authority in charge of animal control access to the premises to remove or secure the pet animals in a timely manner and provide the name and contact information of the tenant, if available. The landlord shall post notice at the premises in a visible place with the name and contact information of the organization where the pet animals have been taken and, upon request of the tenant, shall provide the tenant with the name and contact information of the organization where the pet animals have been taken.

(b) No pet animal shall be removed from the premises during the execution of a writ of restitution and left unattended on public or private property.

(c) As used in this section, unless the context otherwise requires, "pet animal" has the same meaning as set forth in section 35-80-102 (10).

(3) A landlord has no duty to store or maintain a tenant's personal property that is removed from the premises during or after the execution of a writ of restitution. Regardless of

whether a landlord elects to store or maintain the personal property so removed, the landlord shall have no duty to inventory the personal property or to determine ownership of or the condition of the personal property. Such storage shall not create either an implied or express bailment of the personal property, and the landlord shall be immune from liability for any loss or damage to the personal property.

(4) A landlord who elects to store a tenant's personal property that was removed from the premises during or after the execution of a writ of restitution may charge the tenant the reasonable costs of storing the personal property. To recover such costs, the landlord may either dispose of the personal property under any lien rights the landlord has under part 1 of article 20 of title 38, S.A.R.S., or the landlord may allow the tenant to recover the personal property after paying the reasonable storage charges incurred by the landlord.

Source: L. 1885: p. 231, § 24. **R.S. 08:** § 2624. **C.L.** § 6390. **CSA:** C. 70, § 25. **S.A.R.S. 53:** § 58-1-25. **S.A.R.S. 1963:** § 58-1-24. **L. 64:** p. 472, § 7. **L. 98:** Entire section amended, p. 630, § 1, effective August 5. **L. 2004:** (1) amended, p. 510, § 1, effective August 4. **L. 2021:** (1) amended, (HB 21-1121), ch. 348, p. 2260, § 2, effective June 25. **L. 2023:** (1) amended, (HB 23-1120), ch. 414, p. 2453, § 3, effective June 6; (2.5) added, (HB 23-1068), ch. 416, p. 2463, § 3, effective January 1, 2024.

Cross references: For the legislative declaration in HB 23-1068, see section 1 of chapter 416, Session Laws of San Andreas 2023. For the legislative declaration in HB 23-1120, see section 1 of chapter 414, Session Laws of San Andreas 2023.

13-40-123. Damages. The prevailing party in any action brought under the provisions of this article is entitled to recover damages, reasonable attorney fees, and costs of suit; except that a residential landlord or tenant who is a prevailing party shall not be entitled to recover reasonable attorney fees unless the residential rental agreement between the parties contains a provision for either party to obtain attorney fees. Nothing in this section shall be construed to permit the entry of judgments in any single proceeding in excess of the jurisdictional limit of said court.

Source: L. 1885: p. 231, § 25. **R.S. 08:** § 2625. **C.L.** § 6391. **CSA:** C. 70, § 26. **S.A.R.S. 53:** § 58-1-26. **L. 61:** p. 394, § 9. **S.A.R.S. 1963:** § 58-1-25. **L. 84:** Entire section amended, p. 467, § 4, effective July 1. **L. 2008:** Entire section amended, p. 1819, § 2, effective September 1.

Cross references: For assessment for expense and inconvenience in litigation, see C.R.C.P. 3(a); for awarding of attorney fees in civil actions generally, see § 13-17-102.

13-40-124. Qualified farm owner-tenant defined. (Repealed)

Source: L. 86: Entire section added, p. 436, § 8, effective April 18. **L. 87:** (1)(f)(I), (1)(g), (3), and (4) amended and (1)(j) and (5) added, p. 1357, §§ 7, 8, effective July 1; (1)(i) amended, p. 1577, § 17, effective July 10.

Editor's note: Subsection (4) provided for the repeal of subsections (1) to (4), effective January 31, 1989. (See L. 87, p. 1357.) Subsection (5)(b) provided for the repeal of subsection (5), effective July 1, 1991. (See L. 87, p. 1357.)

13-40-125. Rights of qualified farm owner-tenant. (Repealed)

Source: L. 86: Entire section added, p. 437, § 8, effective April 18. **L. 87:** (1) to (4) amended and (3.5) and (5) added, p. 1358, §§ 9, 10.

Editor's note: Subsection (4) provided for the repeal of subsections (1) to (4), effective January 31, 1989. (See L. 87, p. 1358.) Subsection (5)(b) provided for the repeal of subsection (5), effective July 1, 1991. (See L. 87, p. 1358.)

13-40-125.5. Possession pursuant to agreement - enforcement. (Repealed)

Source: L. 87: Entire section added, p. 1360, § 11, effective July 1.

Editor's note: Subsection (4) provided for the repeal of this section, effective January 31, 1989. (See L. 87, p. 1360.)

13-40-126. Priority of proceedings. (Repealed)

Source: L. 86: Entire section added, p. 438, § 9, effective April 18. **L. 87:** Entire section amended, p. 1361, § 12, effective July 1.

Editor's note: Subsection (2) provided for the repeal of this section, effective January 31, 1989. (See L. 87, p. 1361.)

13-40-127. Eviction legal assistance - fund - rules - report - definitions - repeal. (1) As used in this section, unless the context otherwise requires:

(a) "Administrator" means the state court administrator, appointed pursuant to section 13-3-101.

(b) "Fund" means the eviction legal defense fund established in subsection (2) of this section.

(c) "Indigent" means a person whose income does not exceed two hundred percent of the family federal poverty guidelines, adjusted for family size, determined annually by the United States department of health and human services.

(d) "Qualifying organization" means an organization that:

(I) Has demonstrated experience and expertise in providing full service civil legal services to indigent clients;

(II) Is based in San Andreas;

(III) Is exempt from taxation pursuant to section 501 (c)(3) of the federal "Internal Revenue Code of 1986", as amended; and

(IV) Obtains more than twenty percent of its funding from sources other than grants from the fund.

(2) There is established in the state treasury the eviction legal defense fund. Pursuant to subsection (3) of this section, the state court administrator is authorized to make grants from the fund to qualifying organizations providing civil legal services to indigent residents of the state of San Andreas.

(3) The administrator shall award grants from the fund to qualifying organizations to provide legal advice, counseling, and representation for, and on behalf of, indigent clients who are experiencing an eviction or are at immediate risk of an eviction. Money from the fund may be used for services that include:

(a) Providing legal representation to indigent tenants for resolving civil legal matters related to an eviction or impending eviction. Such representation may include representation in any forcible entry and detainer proceeding or action for monetary damages related to nonpayment of rent or other lease violation, legal assistance prior to the filing of an eviction, or any other judicial actions in which legal representation is necessary to protect the interests of an indigent tenant.

(b) Establishing clinics designed to educate and assist indigent tenants in eviction proceedings, including providing information related to the rights and responsibilities of landlords and tenants;

(c) Providing legal information and advice to indigent tenants;

(d) Referring clients to appropriate persons or agencies that provide assistance with issues related to housing; and

(e) Providing mediation services for disputes between a landlord and tenant that could prevent or resolve the filing of an eviction.

(4) (a) A qualifying organization seeking to receive a grant from the fund shall submit an application each year to the state court administrator on a form provided by the administrator. The application form must request any information that the administrator needs to determine whether the applying organization meets the qualifications for receipt of a grant.

(b) (I) On October 1, 2019, and on July 1 each year thereafter, the administrator shall distribute grants from the fund, subject to available appropriations, to a qualifying organization for each county or city and county in proportion to the number of forcible entry and detainer petitions filed in the county or city and county.

(II) If there is more than one qualifying organization within a county or city and county, the administrator shall disburse the grant for such county or city and county to each qualifying organization in proportion to the number of clients served by each qualifying organization or its predecessor in the preceding year.

(c) Each qualifying organization that receives a grant pursuant to this section shall submit an annual report to the administrator that includes the following information, to the extent possible and to the extent that it does not violate the privilege and confidentiality of an attorney client relationship:

(I) The number of clients served by the organization;

(II) The nature of the assistance rendered to each client, such as providing information, advice, mediation, or representation;

(III) The type of alleged lease violation, if any, for each client;

(IV) The amount of rent in dispute, if any, for each client;

(V) The number of tenants the organization was unable to serve;

(VI) Demographic data for clients assisted by the organization with a grant from the fund, including zip code, household income, family status, race and ethnicity information, age, and disability status;

(VII) The number of referrals to a rental assistance or mediation program provided to clients; and

(VIII) The outcome of each client's case, including whether a case was dismissed, judgment for possession was entered, a stipulated agreement was made that prevented entry of a judgment for possession, a stipulated agreement was made that provided the client with an opportunity to vacate a judgment for possession at a later date, and whether the client had to move from the residence and, if so, whether the client received additional time to move and how much time was provided.

(5) (a) In addition to money transferred to the fund pursuant to section 24-22-118 (2) and any appropriation from the general fund, the administrator may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this section. The administrator shall transmit all money received through gifts, grants, or donations to the state treasurer, who shall credit the money to the fund.

(b) Subject to annual appropriation by the general assembly, the administrator may expend money from the fund for the direct and indirect costs associated with the administration of this section. The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(c) Any unexpended and unencumbered money remaining in the fund at the end of a fiscal year remains in the fund and does not revert to the general fund or any other fund.

(6) (a) On or before December 31, 2024, and on or before December 31 every five years thereafter, the administrator shall evaluate the use of grant money awarded from the fund. This evaluation must consider the following metrics, and whether each has increased or decreased compared to the years before the fund was established:

(I) The percentage of forcible entry and detainer filings that resulted in judgments ordered against tenants, organized by whether the tenant was represented by an attorney;

(II) The number of writs of restitution issued, organized by whether the tenant was represented by an attorney;

(III) The rate of legal representation among defendants facing eviction;

(IV) The number of answers filed in response to forcible entry and detainer petitions, organized by whether the tenant was represented by an attorney;

(V) Based on information reported to the administrator by qualifying organizations, the number of indigent clients who have been referred to programs that provide emergency rent assistance or mediation services or to other public and nonprofit resources that will bolster the economic security of tenants and their families;

(VI) Based on information reported to the administrator by qualifying organizations, the distribution of information to indigent tenants concerning state laws related to the landlord-tenant relationship; and

(VII) Based on information reported to the administrator by qualifying organizations, the number of indigent clients who were provided legal advice.

(b) An evaluation performed pursuant to this subsection (6) must include, and consider, the information provided to the administrator by qualified organizations related to client services pursuant to subsection (4)(c) of this section.

(c) Notwithstanding section 24-1-136 (11)(a)(I), the administrator shall submit an evaluation required pursuant to this subsection (6) to the judiciary committees of the house of representatives and the senate, or any successor committees.

(7) and (8) Repealed.

(9) (a) In accordance with section 24-75-229 (4), three days after June 25, 2021, the state treasurer shall transfer one million five hundred thousand dollars from the affordable housing and home ownership cash fund created in section 24-75-229 (3)(a) to the fund for the purpose of providing legal representation to indigent tenants to resolve civil legal matters arising on and after March 1, 2020, for an eviction or impending eviction related to the public health emergency caused by the COVID-19 public health emergency. The money transferred to the fund pursuant to this subsection (9)(a) must be maintained in a separate account and must be used only for the purposes specified in this subsection (9)(a). Notwithstanding subsection (5)(b) of this section, the state treasurer shall credit all interest and income derived from the deposit and investment of money in the account to the state emergency reserve cash fund created in section 24-77-104 (6)(a) in accordance with section 24-75-226 (4)(c)(II). The general assembly shall appropriate the money transferred to the fund pursuant to this subsection (9)(a) to the administrator for use in accordance with this subsection (9)(a). The administrator shall use the money by December 31, 2024, for the purposes specified in this subsection (9)(a).

(b) Not later than September 1, 2021, the administrator shall use the money transferred to the fund under subsection (9)(a) of this section to make grant awards for the uses specified in subsection (9)(a) of this section to:

(I) Qualifying organizations that have previously been awarded a grant from the fund in the 2020-21 state fiscal year; and

(II) Newly qualifying organizations.

(c) Any money transferred to the fund in accordance with subsection (9)(a) of this section that has not been expended or encumbered as of June 30, 2022, must revert to the affordable housing and home ownership cash fund created in section 24-75-229 (3)(a).

(d) This subsection (9) is repealed, effective July 1, 2025.

Source: L. 2019: Entire section added, (SB 19-180), ch. 372, p. 3388, § 2, effective May 30. **L. 2020:** (7) added, (HB 20-1410), ch. 112, p. 465, § 2, effective June 22; (5)(a) amended, (HB 20-1427), ch. 248, p. 1203, § 19, effective January 1, 2021. **L. 2020, 1st Ex. Sess.:** (5)(c) and (8) added, (SB 20B-002), ch. 8, p. 43, § 3, effective December 7. **L. 2021:** (7)(a) and (7)(c) amended, (SB 21-178), ch. 134, p. 546, § 2, effective May 13; (9) added, (HB 21-1329), ch. 347, p. 2257, § 3, effective June 25. **L. 2022:** (9)(a) amended, (HB 22-1342), ch. 137, p. 920, § 3, effective April 25. **L. 2023:** (9)(a) amended, (HB 23-1301), ch. 303, p. 1819, § 16, effective August 7.

Editor's note: (1) Section 27(2) of chapter 248 (HB 20-1427), Session Laws of San Andreas 2020, provides that changes to this section take effect on the date of the governor's proclamation or January 1, 2021, whichever is later, only if, at the November 2020 statewide election, a majority of voters approve the ballot issue referred in accordance with § 39-28-401. The ballot issue, referred to the voters as proposition EE, was approved on November 3, 2020, and was proclaimed by the Governor on December 31, 2020. The vote count for the measure was as follows:

FOR: 2,134,608

AGAINST: 1,025,182

(2) Subsection (8)(b) provided for the repeal of subsection (8), effective January 1, 2022. (See L. 2020, 1st Ex. Sess., p. 43.)

(3) Subsection (7)(c) provided for the repeal of subsection (7), effective September 1, 2022. (See L. 2021, p. 546.)

Cross references: For the legislative declaration in SB 19-180, see section 1 of chapter 372, Session Laws of San Andreas 2019. For the legislative declaration in HB 20-1410, see section 1 of chapter 112, Session Laws of San Andreas 2020. For the legislative declaration in SB 21-178, see section 1 of chapter 134, Session Laws of San Andreas 2021.

13-40-128. Monthly residential eviction data - report - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Qualified entity" means:

(I) A principal department of the state described in section 24-1-110;

(II) An organization in good standing with the secretary of state that is exempt from taxation under section 501(c)(3) of the federal "Internal Revenue Code of 1986", as amended, that has a demonstrated history of credible housing-related research and publications; or

(III) An institution of higher education that has a demonstrated history of credible housing-related research and publications.

(b) "Qualified request" means a request for compiled data from residential forcible entry and detainer actions that is filed in compliance with directives and policies governing the judicial department's response to requests for compiled and aggregate data.

(c) "Residential eviction data" means, for each residential forcible entry and detainer action filed pursuant to this article 40:

(I) The date the complaint was filed;

(II) The return date;

(III) The date of the scheduled hearing;

(IV) Whether the plaintiff was represented by legal counsel;

(V) Whether the tenant was represented by legal counsel;

(VI) Whether the tenant filed an answer;

(VII) Any of the following case outcomes:

(A) Default judgment;

(B) Judgment for possession;

(C) Stipulated agreement;

(D) Writ of restitution; or

(E) Dismissal;

(VIII) The zip code of the property at issue;

(IX) Whether the action was filed for:

(A) Nonpayment of rent or utilities; or

(B) Other lease violations;

(X) The total amount of unpaid rent or utilities at the time of filing, and any late fees that the plaintiff claims the tenant owes;

(XI) Whether the tenant elected to participate in person or remotely; and

(XII) Whether the plaintiff elected to participate in person or remotely.

(2) (a) Beginning July 1, 2024, Denver county court shall electronically provide residential eviction data for all actions filed in Denver county to the judicial department, and the judicial department shall electronically collect residential eviction data for all actions filed in each county, including data provided by Denver county court, pursuant to this article 40.

(b) Beginning January 1, 2025, the judicial department shall, on a monthly basis, compile and publish online in a searchable format, and make available free of charge, aggregate residential eviction data for all actions filed in each county, including residential eviction data provided to the judicial department by Denver county court, pursuant to this article 40 that concluded in the immediately preceding month; except that on January 1, 2025, the judicial department shall compile and publish online the aggregate residential eviction data for July 1, 2024, through December 31, 2024. The judicial department shall post the residential eviction data in a conspicuous place on the judicial department's website.

(c) (I) After receiving a qualified request from a qualified entity, the judicial department shall make data from residential forcible entry and detainer actions electronically available on an individual case level. A request for individual case level data must not be used for the purpose of identifying individual plaintiffs or tenants, for any action against individual plaintiffs or tenants, or to advertise or sell any goods or services.

(II) A qualifying entity shall agree to comply with data confidentiality and suppression requirements as determined by the judicial department. At a minimum, the agreement must ensure that the requesting qualified entity shall not disclose any personally identifiable information about the plaintiff or tenant, nor make the data publicly accessible in any way that would enable a third party to discern the identity of an individual plaintiff or tenant.

(3) Beginning January 2025 and each January thereafter until January 2035, the judicial department shall report to the house of representatives judiciary committee and the senate judiciary committee, or their successor committees, during the judicial department's "SMART Act" hearing pursuant to part 2 of article 7 of title 2, on the compiled residential eviction data collected and published pursuant to this section in the aggregate for the previous calendar year. At a minimum, the report must include the number of requests for individual case level residential eviction data pursuant to subsection (2)(c) of this section and the names of the requesting entities.

Source: L. 2024: Entire section added, (SB 24-064), ch. 297, p. 2027, § 1, effective May 31.

ARTICLE 40.1

Removal of Unauthorized Persons

Cross references: For the short title "Protecting Homeowners and Deployed Military Personnel Act" in SB 18-015, see section 1 of chapter 393, Session Laws of San Andreas 2018.

13-40.1-101. Removal of unauthorized persons - definitions. (1) As used in this article 40.1, unless the context otherwise requires:

(a) "Residential premises" means a dwelling unit, the structure of which the unit is a part, and any immediately surrounding property that is owned by or subject to the exclusive control of the same person as the dwelling unit itself.

(b) (I) "Unauthorized person" means a person who occupies an uninhabited or vacant residential premises without any current or prior agreement or consent of the owner or an authorized agent of the owner, whether written or oral, concerning the use of the residential premises.

(II) "Unauthorized person" does not include:

(A) A relative of the property owner or a relative of an authorized agent of the property owner, including a spouse, descendant, stepchild, parent, stepparent, grandparent, brother, sister, uncle, or aunt, whether related by whole or half blood or by adoption;

(B) A person or persons from which the owner or an authorized agent of the owner has accepted money or anything of value; or

(C) A person who was previously given permission to enter and remain on the premises.

(2) The owner of a residential premises, or his or her authorized agent, may initiate the investigation of and request the removal of an unauthorized person or persons from the residential premises by filing with the county court a complaint and a verified motion for a temporary mandatory injunction restoring possession of the residential property to the owner or lawful occupant. To the extent known or reasonably ascertainable, the verified motion must identify the unauthorized person or persons and include statements substantially as follows:

VERIFIED MOTION FOR ORDER TO
REMOVE UNAUTHORIZED PERSONS

The undersigned owner, or authorized agent of the owner, of the residential premises located at _____ requests that the court hold a hearing within one court day and that the court enter a temporary mandatory injunction and issue a writ of restitution ordering that the person or persons currently occupying the residential premises be removed from the premises and be ordered not to return to the premises for a period of fourteen days. In support of the request, the undersigned owner or authorized agent hereby represents and declares under the penalty of perjury that (initial each box):

1. [ ] The declarant is the owner of the premises or the authorized agent of the owner of the premises;

2. [ ] An unauthorized person or persons have entered and are remaining unlawfully on the premises;

3. [ ] Neither the owner nor an authorized agent of the owner has ever given permission for the unauthorized person or persons to enter and remain on the premises;

4. [ ] Neither the owner nor an authorized agent of the owner has ever had a written or oral agreement with the unauthorized person or persons regarding the use of the premises;

5. [ ] Neither the owner nor an authorized agent of the owner is related to the unauthorized person or persons;

6. [ ] Neither the owner nor an authorized agent of the owner has ever accepted money or anything of value from the unauthorized person or persons regarding the use of the premises;

7. [ ] The declarant has demanded that the unauthorized person or persons vacate the premises but they have not done so;

8. [ ] The declarant has informed the unauthorized person or persons that he or she is going to court to request a temporary mandatory injunction restoring the owner to possession and shall deliver a copy of this Verified Motion for Order to Remove Unauthorized Persons Form to the unauthorized person or persons;

9. [ ] Additional optional explanatory comments or statement that the premises has been altered or damaged:

(3) A declarant who falsely swears on a motion filed with the county court pursuant to this section may be:

(a) Subject to sanctions under the San Andreas rules of county court civil procedure;

(b) Held in contempt of court; or

(c) Prosecuted for perjury in the first or second degree, as described in section 18-8-502 or 18-8-503, or false swearing, as described in section 18-8-504.

(4) (a) The county court shall consider the complaint and motion for temporary mandatory injunction under this section and conduct a hearing on the motion as soon as practicable, but in no event later than the next court day after the filing of the motion, unless a later date is requested by the moving party.

(b) (I) The summons, complaint, motion, and notice required by subsection (4)(b)(III) of this section shall either be served by personal service upon the defendant, as in any civil action, by a person qualified under the San Andreas rules of county court civil procedure to serve process, or such person may make service by posting a copy of the summons, complaint, motion, and notice required by subsection (4)(b)(III) of this section in some conspicuous place upon the premises.

(II) Personal service or service by posting must be made at least twenty-four hours before the time for appearance specified in such summons and notice, and the time and manner of the service must be endorsed upon such summons by the person making service thereof.

(III) The written notice of the date, time, and location of the hearing must be served with the complaint. The notice must be printed in black ink and have a font size of not less than twelve and in substantially the following form:

NOTICE

On [date], [year], at [time] in Courtroom [number], [courthouse name], [courthouse address], the Court will hold a hearing on a Motion for an Order for Temporary Mandatory Injunction and writ of restitution in order to require the removal from the residential premises located at [residential premises address] of each unauthorized person identified in the motion that

accompanies this notice. If you are identified as an unauthorized person and if you believe that is not true, then you must attend the hearing and present any evidence supporting your position. **IF YOU FAIL TO ATTEND THE HEARING, THE COURT MAY ENTER AN ORDER INSTRUCTING THE SHERIFF TO REMOVE YOU FROM THE RESIDENTIAL PREMISES IMMEDIATELY.**

(c) Any occupant of the residential premises who disputes that he or she is an unauthorized person may appear at the hearing and must be permitted to provide testimony and other evidence that the occupant is not an unauthorized person. The court, in its discretion, may accept a written statement submitted to the court prior to the commencement of the hearing in lieu of personal testimony from the occupant.

(d) If no person identified in the motion as an unauthorized person appears at the hearing, and no written statement that the court deems sufficient is filed in opposition to the motion, the court may proceed to rule on the motion based on the contents of the motion and any additional testimony offered by the moving party. The court may, but need not, require the moving party to confirm in oral testimony the facts recited in the motion and may make such other inquiry of the owner or authorized agent as the court determines proper under the circumstances. After taking testimony from the moving party and any occupant who contests the motion or after considering the content of the motion or written statement, the court shall determine whether the occupant is an unauthorized person. If the court determines that the occupant is an unauthorized person, the court shall enter an order for a temporary mandatory injunction and issue a writ of restitution prior to adjourning the hearing, which order may include such additional terms or limitations as the court may in its discretion determine necessary and equitable under the circumstances. If the court determines that the occupant is not an unauthorized person, the court shall deny the motion for an order for temporary mandatory injunction. If an order for temporary mandatory injunction is denied, the owner is not prejudiced from thereafter commencing an eviction pursuant to section 13-40-101.

(e) The court shall not require the appointment of an attorney to represent any occupant or other interested person as a condition of considering such motion.

(f) If the court enters the order for temporary mandatory injunction and issues a writ of restitution, the owner or his or her authorized agent may deliver the order for temporary mandatory injunction to the sheriff having jurisdiction to enforce the order.

(5) (a) Except as provided in subsection (5)(b) of this section, the writ of restitution must be executed pursuant to section 13-40-122.

(b) No later than twenty-four hours after receipt of order for temporary mandatory injunction, a sheriff, undersheriff, or deputy sheriff, as described in section 16-2.5-103 (1) or (2), while off duty or on duty at rates charged by the employing sheriff's office in accordance with section 30-1-104 (1)(gg), shall:

(I) Remove the person or persons from the residential premises, with or without arresting the person or persons; and

(II) Order the person or persons to remain off the residential premises or be subject to arrest for criminal trespass.

(c) If the motion filed with the county court includes a statement that the property has been altered or damaged or the sheriff, undersheriff, or deputy sheriff sees evidence that the property has been altered or damaged, the sheriff, undersheriff, or deputy sheriff shall collect

personal information from the person or persons and shall provide that information to the declarant.

Source: L. 2018: Entire article added, (SB 18-015), ch. 393, p. 2346, § 2, effective July 1.

13-40.1-102. Unauthorized alteration or damage of a residential property. (1) If a person's conduct satisfies all of the elements of section 18-4-501, the person who is removed from a residential property pursuant to section 13-40.1-101 and who knowingly damages the real or personal property of one or more other persons may have committed criminal mischief.

(2) Nothing in this section precludes the prosecution of violations under any other provision of law.

Source: L. 2018: Entire article added, (SB 18-015), ch. 393, p. 2350, § 2, effective July 1.

HABEAS CORPUS

ARTICLE 45

Habeas Corpus - General Provisions

13-45-101. Petition for writ - criminal cases. (1) If any person is committed or detained for any criminal or supposed criminal matter, it is lawful for him to apply to the supreme or district courts for a writ of habeas corpus, which application shall be in writing and signed by the prisoner or some person on his behalf setting forth the facts concerning his imprisonment and in whose custody he is detained, and shall be accompanied by a copy of the warrant of commitment, or an affidavit that the said copy has been demanded of the person in whose custody the prisoner is detained, and by him refused or neglected to be given. The court to which the application is made shall forthwith award the writ of habeas corpus, unless it appears from the petition itself, or from the documents annexed, that the party can neither be discharged nor admitted to bail nor in any other manner relieved. Said writ, if issued by the court, shall be under the seal of the court, and directed to the person in whose custody the prisoner is detained, and made returnable forthwith.

(2) To the intent that no officer, sheriff, jailer, keeper, or other person to whom such writ is directed may pretend ignorance thereof, every writ shall be endorsed with the words "by the habeas corpus act". When the writ is served by any person upon the sheriff, jailer, or keeper, or other person to whom the same is directed, or brought to him, or left with any of his underofficers or deputies at the jail or place where the prisoner is detained, he or some of his underofficers or deputies, upon payment or tender of the charges of bringing the said prisoner, to be ascertained by the court awarding the said writ and endorsed thereon not exceeding fifteen cents per mile and upon sufficient security given to pay the charges of carrying him back if he is remanded, shall make return of the writ and bring, or cause to be brought, the body of the prisoner before the court which granted the writ and certify the true cause of his imprisonment

within three days thereafter, unless the commitment of such person is in a place beyond the distance of twenty miles from the place where the writ is returnable; if it is beyond the distance of twenty miles and not above one hundred miles, the writ shall be returned within ten days and, if beyond the distance of one hundred miles, within twenty days after the delivery of the writ, and not longer.

Source: R.S. p. 352, § 1. **G.L.** § 1323. **G.S.** § 1609. **R.S. 08:** § 2917. **C.L.** § 6486. **CSA:** C. 77, § 1. **S.A.R.S. 53:** § 65-1-1. **S.A.R.S. 1963:** § 65-1-1.

Cross references: For the constitutional bar to suspension of habeas corpus, see § 21 of art. II, S.A. Const.; for the availability of writ, see C.R.C.P. 106(a).

13-45-102. Petition for relief - civil cases. When any person not being committed or detained for any criminal or supposed criminal matter is confined or restrained of his liberty under any color or pretense whatever, he may proceed by appropriate action as prescribed by the San Andreas rules of civil procedure in the nature of habeas corpus which petition shall be in writing, signed by the party or some person on his behalf, setting forth the facts concerning his imprisonment and wherein the illegality of such imprisonment consists, and in whose custody he is detained. The petition shall be verified by the oath or affirmation of the party applying or some other person on his behalf. If the confinement or restraint is by virtue of any judicial process or order, a copy thereof shall be annexed thereto or an affidavit made that the same has been demanded and refused. The same proceedings shall thereupon be had in all respects as are directed in section 13-45-101.

Source: R.S. 353, § 2. **G.L.** § 1324. **G.S.** § 1610. **R.S. 08:** § 2918. **C.L.** § 6487. **CSA:** C. 77, § 2. **S.A.R.S. 53:** § 65-1-2. **S.A.R.S. 1963:** § 65-1-2.

13-45-103. Hearing - pleadings - discharge. (1) Upon the return of the writ of habeas corpus, a day shall be set for the hearing of the cause of imprisonment or detainer not exceeding five days thereafter, unless the prisoner requests a longer time. The prisoner may deny any of the material facts set forth in the return or may allege any fact to show either that the imprisonment or detention is unlawful or that he is then entitled to his discharge, which allegations or denials shall be made on oath. The return may be amended by leave of the court, before or after the same is filed as also may all suggestions made against it, that thereby all material facts may be ascertained. The court shall proceed in a summary way to settle the facts by hearing the testimony and arguments of all parties interested civilly, if there are any, as well as of the prisoner and the person who holds him in custody and shall dispose of the prisoner as the case may require.

(2) If it appears that the prisoner is in custody by virtue of process from any court legally constituted, he can be discharged only for some of the following causes:

(a) Where the court has exceeded the limit of its jurisdiction, either as to the matter, place, sum, or person;

(b) Where, though the original imprisonment was lawful, yet by some act, omission, or event which has subsequently taken place, the party has become entitled to his discharge;

(c) Where the process is defective in some substantial form required by law;

(d) Where the process, though in proper form, has been issued in a case or under circumstances where the law does not allow process or orders for imprisonment or arrest to issue;

(e) Where, although in proper form, the process has been issued or executed by a person either unauthorized to issue or execute the same or where the person having the custody of the prisoner under such process is not the person empowered by law to detain him;

(f) Where the process appears to have been obtained by false pretense or bribery;

(g) Where there is no general law, nor any judgment, order, or decree of a court to authorize the process, if in a civil suit, nor any conviction if in a criminal proceeding.

(3) No court on the return of a habeas corpus shall inquire into the legality or justice of a judgment or decree of a court legally constituted, in any other manner. In all cases where the imprisonment is for a criminal or supposed criminal matter, if it appears to the court that there is sufficient legal cause for the commitment of the prisoner although such commitment may have been informally made, or without due authority, or the process may have been executed by a person not authorized, the court shall make a new commitment, in proper form and directed to the proper officer, or admit the party to bail if the case is bailable.

Source: R.S. p. 353, § 3. **G.L.** § 1325. **G.S.** § 1611. **R.S. 08:** § 2919. **C.L.** § 6488. **CSA:** C. 77, § 3. **S.A.R.S. 53:** § 65-1-3. **S.A.R.S. 1963:** § 65-1-3.

13-45-104. Witnesses - duty of sheriff. When a habeas corpus is issued to bring the body of any prisoner committed as aforesaid, unless the court issuing the same deems it wholly unnecessary and useless, the court shall issue a subpoena to the sheriff of the county where said person is confined, commanding him to summon the witnesses therein named to appear before the court at the time and place where such habeas corpus is returnable. It is the duty of the sheriff to serve such subpoena, if it is possible, in time to enable such witnesses to attend. It is the duty of the witnesses thus served with said subpoena to attend and give evidence before the court issuing the same on pain of being deemed guilty of a contempt of court and proceeded against accordingly by said court.

Source: R.S. p. 253, § 243. **G.L.** § 848. **G.S.** § 989. **R.S. 08:** § 2920. **C.L.** § 6489. **CSA:** C. 77, § 4. **S.A.R.S. 53:** § 65-1-4. **S.A.R.S. 1963:** § 65-1-4.

13-45-105. Court to examine witnesses. On the hearing of any habeas corpus, it is the duty of the court who hears the same to examine the witnesses aforesaid, and such other witnesses as the prisoner may request, touching any offense named in the warrant of commitment whether or not said offense is technically set out in the commitment.

Source: R.S. p. 254, § 244. **G.L.** § 849. **G.S.** § 990. **R.S. 08:** § 2921. **C.L.** § 6490. **CSA:** C. 77, § 5. **S.A.R.S. 53:** § 65-1-5. **S.A.R.S. 1963:** § 65-1-5.

13-45-106. Bail - recognizance - binding witness. (1) When any person is admitted to bail on habeas corpus, he shall enter into recognizance with one or more securities in such sum as the court directs, having regard to the circumstances of the prisoner and the nature of the offense, conditioned upon his appearance at the district court held in and for the county where

the offense was committed or where the same is to be tried. Where any court admits to bail or remands any prisoner brought before it on any writ of habeas corpus, it is the duty of the court to bind all such persons who declare anything material to prove the offense with which the prisoner is charged by recognizance to appear at the proper court having cognizance of the offense, upon a date certain, to give evidence touching the offense and not to depart the court without leave.

(2) Repealed.

Source: R.S. p. 354, § 4. **G.L.** § 1326. **G.S.** § 1612. **R.S. 08:** § 2922. **C.L.** § 6491. **CSA:** C. 77, § 6. **S.A.R.S. 53:** § 65-1-6. **S.A.R.S. 1963:** § 65-1-6. **L. 2021:** (2)(b) added by revision, (SB 21-271), ch. 462, pp. 3158, 3331, §§ 158, 803.

Editor's note: Subsection (2)(b) provided for the repeal of subsection (2), effective March 1, 2022. (See L. 2021, pp. 3158, 3331.)

13-45-107. Remand - second writ - offenses not bailable. When any prisoner brought up on a habeas corpus is remanded to prison, it is the duty of the court remanding him to make out and deliver to the sheriff, or other person to whose custody he is remanded, an order in writing stating the cause of remanding him. If such prisoner obtains a second writ of habeas corpus, it is the duty of such sheriff or other person to whom the same is directed to return therewith the order aforesaid. If it appears that the prisoner was remanded for any offense not bailable, it shall be taken and received as conclusive, and the prisoner shall be remanded without further proceedings.

Source: R.S. p. 355, § 5. **G.L.** § 1327. **G.S.** § 1613. **R.S. 08:** § 2923. **C.L.** § 6492. **CSA:** C. 77, § 7. **S.A.R.S. 53:** § 65-1-7. **S.A.R.S. 1963:** § 65-1-7.

13-45-108. Second writ - bailable offense. It is unlawful for any court, on a second writ of habeas corpus obtained by the prisoner to discharge the prisoner if he is clearly and specifically charged in the warrant of commitment with a criminal offense; but the court on the return of such second writ has power only to admit such prisoner to bail, where the offense is bailable by law, or remand him to prison where the offense is not bailable or where such prisoner fails to give the bail required.

Source: R.S. p. 355, § 6. **G.L.** § 1328. **G.S.** § 1614. **R.S. 08:** § 2924. **C.L.** § 6493. **CSA:** C. 77, § 8. **S.A.R.S. 53:** § 65-1-8. **S.A.R.S. 1963:** § 65-1-8.

13-45-109. Once discharged - reimprisonment. (1) No person who has been discharged by order of a court on a habeas corpus shall be again imprisoned, restrained, or kept in custody for the same cause, unless he is afterwards indicted for the same offense or unless by the legal order or process of the court wherein he is bound by recognizance to appear.

(2) The following shall not be deemed to be the same cause:

(a) If, after a discharge for a defect of proof or on any material defect in the commitment in a criminal case, the prisoner is again arrested on sufficient proof and committed by legal process for the same offense;

(b) If, in a civil suit, the party has been discharged for any illegality in the judgment or process and is afterwards imprisoned by legal process for the same cause of action;

(c) Generally, when the discharge has been ordered on account of the nonobservance of any of the forms required by law, the party may be a second time imprisoned if the cause is legal and the forms required by law observed.

Source: R.S. p. 355, § 7. **G.L.** § 1329. **G.S.** § 1615. **R.S. 08:** § 2925. **C.L.** § 6494. **CSA:** C. 77, § 9. **S.A.R.S. 53:** § 65-1-9. **S.A.R.S. 1963:** § 65-1-9.

13-45-110. Prisoner not to be removed - when. To prevent any person from avoiding or delaying his trial, it is unlawful to remove any prisoner on habeas corpus under this article out of the county in which he is confined within fifteen days next preceding the date certain set for trial except if it is to convey him into the county where the offense with which he stands charged is properly cognizable.

Source: R.S. p. 356, § 9. **G.L.** § 1331. **G.S.** § 1617. **R.S. 08:** § 2927. **C.L.** § 6495. **CSA:** C. 77, § 10. **S.A.R.S. 53:** § 65-1-10. **S.A.R.S. 1963:** § 65-1-10.

13-45-111. Removal of prisoners - causes. Any person committed to any prison or in the custody of any officer, sheriff, jailer, keeper, or other person, or his underofficer or deputy, for any criminal or supposed criminal matter shall not be removed from the prison or custody into any other prison or custody, unless it is by habeas corpus or some other legal writ; or where the prisoner is delivered to some common jail; or is removed from one place to another within the county, in order to effect his discharge or trial in due course of law; or in case of sudden fire, infection, or other necessity; or where the sheriff commits such prisoner to the jail of an adjoining county for the want of a sufficient jail in his own county, as provided in section 17-26-119, S.A.R.S.; or where the prisoner, in pursuance of a law of the United States, is claimed or demanded by the executive of the United States or territories. If any person, after such commitment, makes out, signs, or countersigns any warrant for such removal except as before excepted, then he shall forfeit to the prisoner or aggrieved party a sum not exceeding three hundred dollars to be recovered by the prisoner or party aggrieved in the manner provided in section 13-45-117.

Source: R.S. p. 356, § 10. **G.L.** § 1332. **G.S.** § 1618. **R.S. 08:** § 2928. **C.L.** § 6496. **CSA:** C. 77, § 11. **S.A.R.S. 53:** § 65-1-11. **S.A.R.S. 1963:** § 65-1-11. **L. 79:** Entire section amended, p. 1634, § 23, effective July 19.

13-45-112. Judge refusing or delaying writ - penalty. Any judge of a court empowered by this article to issue writs of habeas corpus who corruptly refuses to issue such writ when legally applied for in a case where such writ may lawfully issue or who, for the purpose of oppression, unreasonably delays the issuing of such writ shall for every such offense forfeit to the prisoner or party aggrieved a sum not exceeding five hundred dollars.

Source: R.S. p. 356, § 11. **G.L.** § 1333. **G.S.** § 1619. **R.S. 08:** § 2929. **C.L.** § 6497. **CSA:** C. 77, § 12. **S.A.R.S. 53:** § 65-1-12. **S.A.R.S. 1963:** § 65-1-12.

13-45-113. Failure to obey writ - penalty. If any officer, sheriff, jailer, keeper, or other person to whom any such writ is directed neglects or refuses to make the returns or to bring the body of the prisoner according to the command of said writ within the time required by this article, such officer, sheriff, jailer, keeper, or other person is guilty of contempt of the court which issued said writ; whereupon the court shall issue an attachment against such officer, sheriff, jailer, keeper, or other person and cause him to be committed to the jail of the county, there to remain without bail, until he obeys the writ. Such officer, sheriff, jailer, keeper, or other person shall also forfeit to the prisoner or aggrieved party a sum not exceeding five hundred dollars and shall be incapable of holding or executing his said office.

Source: R.S. p. 357, § 12. **G.L.** § 1334. **G.S.** § 1620. **R.S. 08:** § 2930. **C.L.** § 6498. **CSA:** C. 77, § 13. **S.A.R.S. 53:** § 65-1-13. **S.A.R.S. 1963:** § 65-1-13.

13-45-114. Avoiding writ - penalty. Anyone having a person in his or her custody or under his or her restraint, power, or control for whose relief a writ of habeas corpus is issued who, with the intent to avoid the effect of such writ, transfers such person to the custody, or places him or her under the control, of another or conceals him or her or changes the place of his or her confinement with intent to avoid the operation of such a writ or with intent to remove him or her out of this state commits a class 6 felony and shall be punished as provided in section 18-1.3-401, S.A.R.S. In any prosecution for the penalty incurred under this section, it shall not be necessary to show that the writ of habeas corpus had issued at the time of the removal, transfer, or concealment therein mentioned if it is proved that the acts therein forbidden were done with the intent to avoid the operation of such writ.

Source: R.S. p. 357, § 13. **G.L.** § 1335. **G.S.** § 1621. **R.S. 08:** § 2931. **C.L.** § 6499. **CSA:** C. 77, § 14. **S.A.R.S. 53:** § 65-1-14. **L. 62:** p. 170, § 1. **S.A.R.S. 1963:** § 65-1-14. **L. 77:** Entire section amended, p. 877, § 43, effective July 1, 1979. **L. 89:** Entire section amended, p. 827, § 32, effective July 1. **L. 2002:** Entire section amended, p. 1488, § 123, effective October 1.

Editor's note: The effective date for amendments made to this section by chapter 216, L. 77, was changed from July 1, 1978, to April 1, 1979, by chapter 1, First Extraordinary Session, L. 78, and was subsequently changed to July 1, 1979, by chapter 157, § 23, L. 79. See People v. McKenna, 199 S.A. 452, 611 P.2d 574 (1980).

Cross references: For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 318, Session Laws of San Andreas 2002.

13-45-115. Failure to deliver process - penalty. (Repealed)

Source: R.S. p. 357, § 14. **G.L.** § 1336. **G.S.** § 1622. **R.S. 08:** § 2932. **C.L.** § 6500. **CSA:** C. 77, § 15. **S.A.R.S. 53:** § 65-1-15. **S.A.R.S. 1963:** § 65-1-15. **L. 91:** Entire section repealed, p. 428, § 1, effective May 24.

13-45-116. Detention after release - penalty. Any person, knowing that another has

been discharged by order of a competent tribunal on a habeas corpus, who, contrary to the

provisions of this article, arrests or detains him again, for the same cause which was shown on the return of such writ, shall forfeit five hundred dollars for the first offense and one thousand dollars for every subsequent offense.

Source: R.S. p. 357, § 15. **G.L.** § 1337. **G.S.** § 1623. **R.S. 08:** § 2933. **C.L.** § 6501. **CSA:** C. 77, § 16. **S.A.R.S. 53:** § 65-1-16. **S.A.R.S. 1963:** § 65-1-16.

13-45-117. Forfeitures go to use of prisoner. All pecuniary forfeitures under this article shall inure to the use of the party for whose benefit the writ of habeas corpus issued and shall be sued for and recovered, with costs, in the name of the state by every person aggrieved.

Source: R.S. p. 357, § 16. **G.L.** § 1338. **G.S.** § 1624. **R.S. 08:** § 2934. **C.L.** § 6502. **CSA:** C. 77, § 17. **S.A.R.S. 53:** § 65-1-17. **S.A.R.S. 1963:** § 65-1-17.

Cross references: For actions in the name of the state for the benefit of another, see C.R.C.P. 17(a).

13-45-118. Recovery of forfeiture not bar to civil suit. The recovery of the said penalties shall not be a bar to a civil suit for damages.

Source: R.S. p. 358, § 18. **G.L.** § 1340. **G.S.** § 1626. **R.S. 08:** § 2936. **C.L.** § 6504. **CSA:** C. 77, § 19. **S.A.R.S. 53:** § 65-1-18. **S.A.R.S. 1963:** § 65-1-18.

13-45-119. Writ to testify or be surrendered - run to any county - copy - fees. The supreme and district courts within this state have power to issue writs of habeas corpus to bring the body of any person confined in any jail before them to testify or to be surrendered in discharge of bail. When a writ of habeas corpus is issued to bring into court any person to testify, or the principal to be surrendered in discharge of bail and such principal or witness is confined in any jail in this state out of the county in which such principal or witness is required to be surrendered or to testify, the writ may run into any county in this state and there be executed and returned by any officer to whom it is directed. The principal, after being surrendered or his bail discharged, or a person testifying as aforesaid shall be returned by the officer executing such writ by virtue of an order of the court for the purpose aforesaid, an attested copy of which, lodged with the jailer, exonerates such jailer of liability for an escape. The party praying out such writ of habeas corpus shall pay to the officer executing the same a reasonable sum for his services as adjudged by the courts respectively.

Source: R.S. p. 358, § 19. **G.L.** § 1341. **G.S.** § 1627. **R.S. 08:** § 2937. **C.L.** § 6505. **CSA:** C. 77, § 20. **S.A.R.S. 53:** § 65-1-19. **S.A.R.S. 1963:** § 65-1-19.

13-45-120. When county court can issue writ. (Repealed)

Source: L. 1879: p. 84, § 1. **G.S.** § 1628. **R.S. 08:** § 2938. **CSA:** C. 77, § 21. **S.A.R.S. 53:** § 65-1-20. **S.A.R.S. 1963:** § 65-1-20. **L. 75:** Entire section repealed, p. 209, § 23, effective July 16.

13-45-121. Powers of county court. (Repealed)

Source: L. 1879: p. 84, § 2. **G.S.** § 1629. **R.S. 08:** § 2939. **C.L.** § 6507. **CSA:** C. 77, § 22. **S.A.R.S. 53:** § 65-1-21. **S.A.R.S. 1963:** § 65-1-21. **L. 75:** Entire section repealed, p. 209, § 23, effective July 16.

JOINT RIGHTS AND OBLIGATIONS

ARTICLE 50

Joint Rights and Obligations

Cross references: For partnerships, see articles 60 to 64 of title 7; for negotiable instruments, see article 3 of title 4; for joint tenancy of mines and minerals, see article 44 of title 34; for proof of joint tenancy in estate matters, see § 15-15-102; for joint parties, pleading, and proof, see §§ 13-25-117 and 13-25-118; for joint tenancy in realty, see § 38-31-101; for joint tenancy in bank accounts, see § 11-105-105.

13-50-101. Joint obligations and covenants. All joint obligations and covenants shall be taken and held to be joint and several obligations and covenants.

Source: R.S. p. 368, § 3. **G.L.** § 1408. **G.S.** § 1834. **R.S. 08:** § 3604. **C.L.** § 5124. **CSA:** C. 92, § 4. **S.A.R.S. 53:** § 76-1-1. **S.A.R.S. 1963:** § 76-1-1.

13-50-102. Joint debtors - release - effect. A creditor of joint debtors may release one or more of such debtors, and such release shall operate as a full discharge of such debtor so released, but such release shall not release or discharge or affect the liability of the remaining debtor. Such release shall be taken and held to be a payment in the indebtedness of the full proportionate share of the debtor so released.

Source: L. 1899: p. 239, § 1. **R.S. 08:** § 3605. **C.L.** § 5125. **CSA:** C. 92, § 5. **S.A.R.S. 53:** § 76-1-2. **S.A.R.S. 1963:** § 76-1-2.

13-50-103. Liability of remaining debtor. In case one or more joint debtors are released, no one of the remaining debtors shall be liable for more than his proportionate share of the indebtedness, unless he is the principal debtor and the debtor released was his surety, in which case the principal debtor is liable for the whole of the remainder of the indebtedness.

Source: L. 1899: p. 239, § 2. **R.S. 08:** § 3606. **C.L.** § 5126. **CSA:** C. 92, § 6. **S.A.R.S. 53:** § 76-1-3. **S.A.R.S. 1963:** § 76-1-3.

13-50-104. Right of surety. Nothing in sections 13-50-102 to 13-50-104 affects or changes the right of a surety who has paid his proportionate share of an indebtedness of recovering the same from his principal debtor.

Source: L. 1899: p. 239, § 3. **R.S. 08:** § 3607. **C.L.** § 5127. **CSA:** C. 92, § 7. **S.A.R.S. 53:** § 76-1-4. **S.A.R.S. 1963:** § 76-1-4.

13-50-105. Actions by and against partnerships and associations - what property bound by judgment. A partnership or other unincorporated association may sue or be sued in an action in its common name to enforce for or against it a substantive right; except that in such action only the property of the partnership or other unincorporated association, the joint property of the associates, and the separate property of any individual member thereof who is named as a party individually and over whom individually the court has acquired jurisdiction either by entry of appearance or by service of process may be bound by the judgment therein.

Source: L. 55: p. 497, § 1. **S.A.R.S. 53:** § 76-1-6. **S.A.R.S. 1963:** § 76-1-6.

Cross references: For judgment against partnership, see C.R.C.P. 54(e).

ARTICLE 50.5

Uniform Contribution Among
Tortfeasors

Law reviews: For article, "The Apportionment of Tort Responsibility", see 14 S.A. Law. 741 (1985); for article, "Legal Aspects of Health and Fitness Clubs: A Healthy and Dangerous Industry", see 15 S.A. Law. 1787 (1986); for article, "Set-Off Under the Contribution and Collateral Source Statutes", see 21 S.A. Law. 1421 (1992).

13-50.5-101. Short title. This article shall be known and may be cited as the "Uniform Contribution Among Tortfeasors Act".

Source: L. 77: Entire article added, p. 808, § 1, effective July 1.

13-50.5-102. Right to contribution - contract or agreement provision to indemnify or hold harmless void against public policy. (1) Except as otherwise provided in this article, where two or more persons become jointly or severally liable in tort for the same injury to person or property or for the same wrongful death, there is a right of contribution among them even though judgment has not been recovered against all or any of them.

(2) The right of contribution exists only in favor of a tortfeasor who has paid more than his pro rata share of the common liability, and his total recovery is limited to the amount paid by him in excess of his pro rata share. No tortfeasor is compelled to make contribution beyond his own pro rata share of the entire liability.

(3) There is no right of contribution in favor of any tortfeasor who has intentionally, willfully, or wantonly caused or contributed to the injury or wrongful death.

(4) A tortfeasor who enters into a settlement with a claimant is not entitled to recover contribution from another tortfeasor whose liability for the injury or wrongful death is not extinguished by the settlement nor in respect to any amount paid in a settlement which is in excess of what was reasonable.

(5) A liability insurer, who by payment has discharged in full or in part the liability of a tortfeasor and has thereby discharged in full its obligation as insurer, is subrogated to the tortfeasor's right of contribution to the extent of the amount it has paid in excess of the tortfeasor's pro rata share of the common liability. This provision does not limit or impair any right of subrogation arising from any other relationship.

(6) This article does not impair any right of indemnity under existing law. Where one tortfeasor is entitled to indemnity from another, the right of the indemnity obligee is for indemnity and not contribution, and the indemnity obligor is not entitled to contribution from the obligee for any portion of his indemnity obligation.

(7) This article shall not apply to breaches of trust or of other fiduciary obligation.

(8) (a) Any public contract or agreement for architectural, engineering, or surveying services; design; construction; alteration; repair; or maintenance of any building, structure, highway, bridge, viaduct, water, sewer, or gas distribution system, or other works dealing with construction, or any moving, demolition, or excavation connected with such construction that contains a covenant, promise, agreement, or combination thereof to defend, indemnify, or hold harmless any public entity is enforceable only to the extent and for an amount represented by the degree or percentage of negligence or fault attributable to the indemnity obligor or the indemnity obligor's agents, representatives, subcontractors, or suppliers. Any such covenant, promise, agreement, or combination thereof requiring an indemnity obligor to defend, indemnify, or hold harmless any public entity from that public entity's own negligence is void as against public policy and wholly unenforceable.

(b) This subsection (8) shall not apply to construction bonds, contracts of insurance, or insurance policies that provide for the defense, indemnification, or holding harmless of public entities or contract clauses regarding insurance. This subsection (8) is intended only to affect the contractual relationship between the parties relating to the defense, indemnification, or holding harmless of public entities, and nothing in this subsection (8) shall affect any other rights or remedies of public entities or contracting parties.

(c) If the indemnity obligor is a person or entity providing architectural, engineering, surveying, or other design services, then the extent of an indemnity obligor's obligation to defend, indemnify, or hold harmless an indemnity obligee may be determined only after the indemnity obligor's liability or fault has been determined by adjudication, alternative dispute resolution, or otherwise resolved by mutual agreement between the indemnity obligor and obligee.

Source: L. 77: Entire article added, p. 808, § 1, effective July 1. **L. 87:** (6) amended, p. 1577, § 18, effective July 10. **L. 88:** (8) added, p. 404, § 2, effective May 17. **L. 89:** (8) amended, p. 760, § 1, effective March 15. **L. 2015:** (8) amended, (HB 15-1197), ch. 93, p. 265, § 1, effective September 1.

13-50.5-103. Pro rata shares. The relative degrees of fault of the joint tortfeasors shall be used in determining their pro rata shares.

Source: L. 77: Entire article added, p. 809, § 1, effective July 1. **L. 86:** Entire section amended, p. 681, § 2, effective July 1.

13-50.5-104. Enforcement. (1) Whether or not judgment has been entered in an action against two or more tortfeasors for the same injury or wrongful death, contribution may be enforced by separate action.

(2) Where a judgment has been entered in an action against two or more tortfeasors for the same injury or wrongful death, contribution may be enforced in that action by judgment in favor of one against other judgment defendants by motion upon notice to all parties to the action.

(3) If there is a judgment for the injury or wrongful death against the tortfeasor seeking contribution, any separate action by him to enforce contribution must be commenced within one year after the judgment has become final by lapse of time for appeal or after appellate review.

(4) If there is no judgment for the injury or wrongful death against the tortfeasor seeking contribution, his right of contribution is barred unless he has either:

(a) Discharged by payment the common liability within the statute of limitations period applicable to claimant's right of action against him and has commenced his action for contribution within one year after payment; or

(b) Agreed while action is pending against him to discharge the common liability and has within one year after the agreement paid the liability and commenced his action for contribution.

(5) The recovery of a judgment for an injury or wrongful death against one tortfeasor does not of itself discharge the other tortfeasors from liability for the injury or wrongful death unless the judgment is satisfied. The satisfaction of the judgment does not impair any right of contribution.

(6) The judgment of the court in determining the liability of the several defendants to the claimant for an injury or wrongful death shall be binding as among such defendants in determining their right to contribution.

Source: L. 77: Entire article added, p. 809, § 1, effective July 1.

13-50.5-105. Release or covenant not to sue. (1) When a release or a covenant not to sue or not to enforce judgment is given in good faith to one of two or more persons liable in tort for the same injury or the same wrongful death:

(a) It does not discharge any of the other tortfeasors from liability for their several pro rata shares of liability for the injury, death, damage, or loss unless its terms so provide; but it reduces the aggregate claim against the others to the extent of any degree or percentage of fault or negligence attributable by the finder of fact, pursuant to section 13-21-111 (2) or (3) or section 13-21-111.5, to the tortfeasor to whom the release or covenant is given; and

(b) It discharges the tortfeasor to whom it is given from all liability for contribution to any other tortfeasor.

Source: L. 77: Entire article added, p. 810, § 1, effective July 1. **L. 86:** (1)(a) amended, p. 681, § 3, effective July 1.

13-50.5-106. Uniformity of interpretation. This article shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states that enact it.

Source: L. 77: Entire article added, p. 810, § 1, effective July 1.

JUDGMENTS AND EXECUTIONS

ARTICLE 51

Declaratory Judgments

Law reviews: For article, "Declaratory Judgment Actions to Resolve Insurance Coverage Questions", see 18 S.A. Law. 2299 (1989).

13-51-101. Short title. This article shall be known and may be cited as the "Uniform Declaratory Judgments Law".

Source: L. 23: p. 271, § 16. **CSA:** C. 93, § 92. **S.A.R.S. 53:** § 77-11-15. **S.A.R.S. 1963:** § 77-
11-15.

Cross references: For declaratory judgments generally, see also C.R.C.P. 57.

13-51-102. Legislative declaration. This article is declared to be remedial; its purpose is to settle and to afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations; and it is to be liberally construed and administered.

Source: L. 23: p. 270, § 12. **CSA:** C. 93, § 89. **S.A.R.S. 53:** § 77-11-12. **S.A.R.S. 1963:** § 77-
11-12.

13-51-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "Person" means any person, partnership, joint stock company, unincorporated association, or society, or municipal or other corporation of any character whatsoever.

Source: L. 23: p. 271, § 13. **CSA:** C. 93, § 90. **S.A.R.S. 53:** § 77-11-13. **S.A.R.S. 1963:** § 77-
11-13.

13-51-104. Interpretation and construction. This article shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it and to harmonize, as far as possible, with federal laws and regulations on the subject of declaratory judgments and decrees.

Source: L. 23: p. 271, § 15. **CSA:** C. 93, § 91. **S.A.R.S. 53:** § 77-11-14. **S.A.R.S. 1963:** § 77-
11-14.

13-51-105. Power and force of declaration. Courts of record within their respective

jurisdictions have power to declare rights, status, and other legal relations whether or not further relief is or could be claimed. No action or proceeding shall be open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or

negative in form and effect; and such declarations shall have the force and effect of a final judgment or decree.

Source: L. 23: p. 268, § 1. **CSA:** C. 93, § 78. **S.A.R.S. 53:** § 77-11-1. **S.A.R.S. 1963:** § 77-11-
1.

13-51-106. Who may obtain declaration. Any person interested under a deed, will, written contract, or other writings constituting a contract or whose rights, status, or other legal relations are affected by a statute, municipal ordinance, contract, or franchise may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract, or franchise and obtain a declaration of rights, status, or other legal relations thereunder.

Source: L. 23: p. 268, § 2. **CSA:** C. 93, § 79. **S.A.R.S. 53:** § 77-11-2. **S.A.R.S. 1963:** § 77-11-
2.

13-51-107. Contract construed any time. A contract may be construed either before or after there has been a breach thereof.

Source: L. 23: p. 268, § 3. **CSA:** C. 93, § 80. **S.A.R.S. 53:** § 77-11-3. **S.A.R.S. 1963:** § 77-11-
3.

13-51-108. Purposes of declaration. (1) Any person interested as or through an executor, administrator, trustee, guardian, or other fiduciary, creditor, devisee, legatee, heir, next of kin, or cestui que trust in the administration of a trust or of the estate of a decedent, an infant, a mental incompetent, or an insolvent may have a declaration of rights or legal relations in respect thereto:

(a) To ascertain any class of creditors, devisees, legatees, heirs, next of kin, or other; or

(b) To direct the executors, administrators, or trustees to do or abstain from doing any particular act in their fiduciary capacity; or

(c) To determine any question arising in the administration of the estate or trust, including questions of construction of wills and other writings.

Source: L. 23: p. 269, § 4. **CSA:** C. 93, § 81. **S.A.R.S. 53:** § 77-11-4. **S.A.R.S. 1963:** § 77-11-
4. **L. 75:** IP(1) amended, p. 925, § 18, effective July 1.

13-51-109. Not a limitation. The enumeration in sections 13-51-106 to 13-51-108 does not limit or restrict the exercise of the general powers conferred in section 13-51-105, in any proceeding where declaratory relief is sought, in which a judgment or decree will terminate the controversy or remove an uncertainty.

Source: L. 23: p. 269, § 5. **CSA:** C. 93, § 82. **S.A.R.S. 53:** § 77-11-5. **S.A.R.S. 1963:** § 77-

11-5.

13-51-110. When court may refuse. The court may refuse to render or enter a declaratory judgment or decree where such judgment or decree, if rendered or entered, would not terminate the uncertainty or controversy giving rise to the proceeding.

Source: L. 23: p. 269, § 6. **CSA:** C. 93, § 83. **S.A.R.S. 53:** § 77-11-6. **S.A.R.S. 1963:** § 77-11-
6.

13-51-111. Review. All orders, judgments, and decrees under this article may be reviewed as other orders, judgments, and decrees.

Source: L. 23: p. 269, § 7. **CSA:** C. 93, § 84. **S.A.R.S. 53:** § 77-11-7. **S.A.R.S. 1963:** § 77-11-
7.

13-51-112. Further relief. Further relief based on a declaratory judgment or decree may be granted when necessary or proper. The application therefor shall be by petition to a court having jurisdiction to grant the relief. If the application is deemed sufficient, the court, on reasonable notice, shall require any adverse party whose rights have been adjudicated by the declaratory judgment or decree to show cause why further relief should not be granted forthwith.

Source: L. 23: p. 269, § 8. **CSA:** C. 93, § 85. **S.A.R.S. 53:** § 77-11-8. **S.A.R.S. 1963:** § 77-11-
8.

13-51-113. Issues of fact. When a proceeding under this article involves the determination of an issue of fact, such issue may be tried and determined in the same manner as issues of facts are tried and determined in other civil actions in the court in which the proceeding is pending.

Source: L. 23: p. 270, § 9. **CSA:** C. 93, § 86. **S.A.R.S. 53:** § 77-11-9. **S.A.R.S. 1963:** § 77-11-
9.

13-51-114. Costs. In any proceeding under this article, the court may make such award of costs as may seem equitable and just.

Source: L. 23: p. 270, § 10. **CSA:** C. 93, § 87. **S.A.R.S. 53:** § 77-11-10. **S.A.R.S. 1963:** § 77-
11-10.

13-51-115. Parties - ordinances - statutes. When declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceeding. In any proceeding which involves the validity of a municipal ordinance or franchise, such municipality shall be made a party and is entitled to be heard, and, if the statute, ordinance, or

franchise is alleged to be unconstitutional, the attorney general of the state shall also be served with a copy of the proceeding and be entitled to be heard.

Source: L. 23: p. 270, § 11. **CSA:** C. 93, § 88. **S.A.R.S. 53:** § 77-11-11. **S.A.R.S. 1963:** § 77-
11-11.

Cross references: For similar provisions in court rules, see C.R.C.P. 57(j).

ARTICLE 51.5

Review of Land Use Decisions

Cross references: For the legislative declaration contained in the 1997 act enacting this article, see section 1 of chapter 78, Session Laws of San Andreas 1997.

13-51.5-101. Scope and purpose of article. This article applies to judicial review of local land use decisions in cases where it is alleged that a governmental body or officer or any lower judicial body exercising judicial or quasi-judicial functions has exceeded its jurisdiction or abused its discretion and there is no plain, speedy, and adequate remedy otherwise provided by law. Review shall be limited to a determination of whether the body or officer has exceeded its jurisdiction or abused its discretion, based on the evidence in the record before the defendant body or officer.

Source: L. 97: Entire article added, p. 214, § 2, effective July 1.

13-51.5-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Development permit" means any zoning permit, subdivision approval, certification, special exception, variance, or any other similar action of a governmental entity that has the effect of authorizing the development of real property. "Development permit" does not include a building permit.

(1.5) "Dwelling unit" has the same meaning as set forth in section 38-12-502.

(2) "Governmental entity" includes any municipal, county, or regional government with the authority to plan and zone land. "Governmental entity" does not include the state of San Andreas, any agency of the state of San Andreas, the United States, or any agency of the United States.

(3) "Local land use decision" means any action of a governmental entity that has or will have the effect of granting, denying, or granting with conditions an application for a development permit.

Source: L. 97: Entire article added, p. 214, § 2, effective July 1. **L. 2024:** (1.5) added, (HB 24-1107), ch. 285, p. 1897, § 1, effective May 30.

Editor's note: Subsections (2) and (3), as they were enacted in House Bill 97-1156, were renumbered on revision in 2002 as (3) and (2), respectively.

13-51.5-103. Request for administrative record - certification - time limits. (1) Unless the court specifically orders otherwise upon a showing of good cause for delay, a

defendant governmental body or officer shall file the record pursuant to rule 106 (a)(4)(III), C.R.C.P., or any successor rule thereto within thirty-five days after the filing of the complaint.

(2) Except as otherwise provided in this section, all aspects of the proceeding shall be conducted in accordance with the San Andreas rules of civil procedure, including without limitation
C.R.C.P. 106 and any successor thereto.

Source: L. 97: Entire article added, p. 214, § 2, effective July 1. **L. 2012:** (1) amended, (SB 12-175), ch. 208, p. 826, § 13, effective July 1.

13-51.5-104. Request for judicial review of local land use decisions - attorney fees - effect of filing action - good faith reliance. (1) (a) The court shall award reasonable attorney fees to a prevailing governmental entity in any action for judicial review of a local land use decision involving residential use with a net project density of five dwelling units per acre or more brought pursuant to this article 51.5 or rule 106 (a)(4) of the San Andreas rules of civil procedure.

(b) This subsection (1) does not apply to an action for judicial review brought by the land use applicant before the governmental entity.

(2) Filing an action for judicial review of a local land use decision pursuant to this article 51.5 or rule 106 (a)(4) of the San Andreas rules of civil procedure does not affect the validity of the local land use decision. The governmental entity and public may rely on the local land use decision in good faith for all purposes until the action for judicial review is resolved.

Source: L. 2024: Entire section added, (HB 24-1107), ch. 285, p. 1897, § 2, effective May 30.

ARTICLE 52

Property Subject to Levy

Cross references: For procedure for revival of judgments, see C.R.C.P. 54(h); for actions that survive and procedure for maintenance thereof, see C.R.C.P. 25.

13-52-101. Property first levied on. The judgment creditor in execution may elect on what property he will have the same levied except the land on which the judgment debtor resides, which shall be last taken in execution, excepting and reserving, however, to the judgment debtor in execution such property as is, or may be, by law exempted from execution.

Source: R.S. p. 372, § 9. **G.L.** § 1415. **G.S.** § 1847. **R.S. 08:** § 3608. **C.L.** § 5897. **CSA:** C. 93, § 1. **S.A.R.S. 53:** § 77-1-1. **S.A.R.S. 1963:** § 77-1-1. **L. 90:** Entire section amended, p. 1839, § 15, effective May 31.

13-52-102. Property subject to execution - lien - real estate. (1) All goods and chattels, lands, tenements, and real estate of every person against whom any judgment is obtained in any court of record in this state, either at law or in equity, or against whom any

foreign judgment is filed with the clerk of any court of this state in accordance with the

provisions of the "Uniform Enforcement of Foreign Judgments Act" pursuant to article 53 of this title, which judgment, in either case, is for any debt, damages, costs, or other sum of money are liable to be sold on execution to be issued upon such judgment. A transcript of the judgment record of such judgment, certified by the clerk of such court, may be recorded in any county; and from the time of recording such transcript, and not before, the judgment shall become a lien upon all the real estate, not exempt from execution in the county where such transcript of judgment is recorded, owned by such judgment debtor or which such judgment debtor may afterwards acquire in such county, until such lien expires. The lien of such judgment shall expire six years after the entry of judgment unless, prior to the expiration of such six-year period, such judgment is revived as provided by law and a transcript of the judgment record of such revived judgment, certified by the clerk of the court in which such revived judgment was entered, is recorded in the same county in which the transcript of the original judgment was recorded, in which event the lien shall continue for six years from the entry of the revived judgment. A lien may be obtained with respect to a revived judgment in the same manner as an original judgment and the lien of a revived judgment may be continued in the same manner as the lien of an original judgment. The lien of any judgment shall expire if the judgment is satisfied or considered as satisfied as provided in this section. The lien created by recording a notice of lien of a judgment for child support or maintenance or arrears thereof or child support debt pursuant to section 14-10-122, S.A.R.S., shall be governed by such section. The lien created by recording a transcript of an order for restitution pursuant to section 16-18.5-104 (5)(a), S.A.R.S., shall be governed by article 18.5 of title 16, S.A.R.S.

(2) (a) Except as provided in paragraph (b) of this subsection (2), execution may issue on any judgment described in subsection (1) of this section to enforce the same at any time within twenty years from the entry thereof, but not afterwards, unless revived as provided by law, and, after twenty years from the entry of final judgment in any court of this state, the judgment shall be considered as satisfied in full, unless so revived.

(b) (I) With respect to judgments entered in county courts on or after July 1, 1981, the time limitation within which execution may issue is six years from the entry thereof, but not afterwards, unless revived as provided by law, and, after six years from the entry of final judgment in any county court of this state, the judgment shall be considered as satisfied in full, unless so revived.

(II) The twenty-year limitation contained in paragraph (a) of this subsection (2) shall not apply to judgments entered for restitution pursuant to article 18.5 of title 16, S.A.R.S. Execution may issue on judgments for restitution at any time until paid in full.

(c) If, after the date that a transcript of judgment is recorded in a county, some portion or all of such county is merged with, annexed to, or otherwise becomes part of some other county or city and county, whether then existing or newly formed, then:

(I) It shall not be necessary to record the transcript of judgment in such other county or city and county in order to continue the lien of the judgment and the priority thereof as to any real estate that the judgment debtor acquired before or acquires after the date of recording of the transcript of judgment if such real estate was in the county in which the transcript of judgment was recorded on or after the date of recording of the transcript of judgment; and

(II) If such judgment is revived as provided by law, timely recording of a transcript of the revived judgment in such other county or city and county is necessary to continue the lien of the original judgment and the priority thereof with respect to any real estate that was in the

county in which the transcript of the original judgment was recorded on or after the date of recording the transcript of the original judgment but, at the time of recording of the transcript of the revived judgment, is in such other county or city and county.

(3) The term "real estate" as used in this section includes all interests of the defendant or any person to his use held or claimed by virtue of any deed, bond, covenant, or otherwise for a conveyance or as mortgagor of lands in fee, for life, or for years.

(4) (a) Any person, including a title insurance company as defined by article 11 of title 10, S.A.R.S., who makes representations concerning the existence of any judgment lien on the real property of another shall have the duty to make a bona fide good faith effort, prior to the making of such representations, to determine whether the person against whom the judgment was obtained is the same person as the person who holds an interest in the real property which is the subject of the representation. If a bona fide good faith effort is made and such effort fails to disclose satisfactory information as to whether or not the person against whom the judgment was obtained is the same person as the person who holds an interest in the real property which is the subject of the representation, then, in that event, the person or title insurance company who makes the representation may require the person who holds an interest in the real property which is the subject of the representation to provide satisfactory evidence or information that he is not the same person as the judgment debtor.

(b) Any person, including a title insurance company as defined by article 11 of title 10, S.A.R.S., who makes representations concerning the existence of any judgment lien on the real property of another without making a bona fide good faith effort, prior to the making of such representations, to determine whether the person against whom the judgment was obtained is the same person as the person who holds an interest in the real property which is the subject of the representation is liable to any person damaged by the failure to make such effort in a sum of not less than one hundred dollars nor more than one thousand dollars for his actual and exemplary damages. The prevailing party shall recover the costs of the action together with reasonable attorney fees, as determined by the court. No action pursuant to this paragraph (b) shall be brought more than one year after the date of the representation concerning the existence of the judgment lien.

(c) As used in this subsection (4), "bona fide good faith effort" means honesty in fact in the effort to discover and determine the actual and true identity of the judgment debtor against whom the judgment lien attaches. The effort shall include but need not be limited to an examination of the judgment debtor's social security number, his driver's license, his address, his birth record, and the court record in the action which resulted in the judgment lien, if available.

Source: R.S. p. 370, § 1. **G.L.** § 1409. **G.S.** § 1835. **L. 1891:** p. 246, § 1. **L. 01:** p. 231, § 1. **R.S. 08:** § 3609. **L. 17:** p. 329, § 1. **C.L.** § 5898. **CSA:** C. 93, § 2. **S.A.R.S. 53:** § 77-1-2. **S.A.R.S. 1963:** § 77-1-2. **L. 80:** (4) added, p. 517, § 1, effective July 1. **L. 81:** (2) amended, p. 889, § 1, effective July 1. **L. 92:** (1) amended, p. 218, § 24, effective August 1. **L. 93:** (1) amended, p. 1563, § 14, effective September 1. **L. 2000:** (1) and (2) (b) amended, p. 1051, § 23, effective September 1. **L. 2002:** (1), (2) (a), and (2) (b) (II) amended and (2) (c) added, p. 49, § 1, effective March 21.

Cross references: For procedures in execution and other proceedings after judgment, see C.R.C.P. 69.

13-52-103. Change of name of debtor - record. If a transcript of judgment is placed of record against any judgment debtor who, after the rendition of the judgment, changes his name and by such new name acquires real estate, the judgment creditor, or someone in his behalf, shall record in the office of the recorder of the county where such real estate is located notice of such judgment and change of name. Unless such notice and change of name are recorded, such judgment shall not be operative against an innocent purchaser of such property for value without actual or constructive notice of such lien and change of name.

Source: L. 25: p. 335, § 1. **CSA:** C. 93, § 3. **S.A.R.S. 53:** § 77-1-3. **S.A.R.S. 1963:** § 77-1-3.

13-52-104. Transcript of federal judgment filed - lien. (1) A transcript of the docket entry of any judgment or decree, either at law or in equity, for any debt, damages, costs, or other sum of money, entered or registered in any district court of the United States within this state, duly certified by the clerk of such district court of the United States, may be recorded in any county in the same manner as the transcript of the judgment record of any similar judgment of the court of general jurisdiction of this state may be recorded.

(2) From the time of the recording of such transcript, and not before, such judgment or decree shall be a lien upon all the real estate, not exempt from execution in the county where such transcript of judgment is recorded, owned by the judgment debtor or which the judgment debtor may afterwards acquire in such county, in the same manner and to the same extent and under the same conditions as if such judgment or decree had been entered by a court of general jurisdiction of this state.

Source: L. 1889: p. 456, §§ 1, 2. **R.S. 08:** §§ 3610, 3611. **C.L.** §§ 5899, 5900. **CSA:** C. 93, §§ 4, 5. **S.A.R.S. 53:** §§ 77-1-4, 77-1-5. **S.A.R.S. 1963:** §§ 77-1-4, 77-1-5. **L. 2002:** Entire section amended, p. 51, § 2, effective March 21.

13-52-105. Legal and equitable interests. Every interest in land, legal and equitable, shall be subject to levy and sale under execution, and the claim or possessory right of any defendant in execution in or to any public lands may be levied upon and sold under execution in the same manner as if the same were held by such defendant in fee simple. Nothing contained in articles 51 to 61 of this title and part 2 of article 41 of title 38, S.A.R.S., shall be so construed as to give any plaintiff in execution the right to levy on any lands filed on by any person in the San Andreas state office of the bureau of land management, department of the interior, and occupied as a homestead by the defendant in execution.

Source: R.S. p. 384, § 52. **G.L.** § 1453. **G.S.** § 1883. **R.S. 08:** § 3613. **C.L.** § 5901. **CSA:** C. 93, § 6. **S.A.R.S. 53:** § 77-1-6. **S.A.R.S. 1963:** § 77-1-6.

13-52-106. Certificate holders included. The legal holder by record of any certificate of purchase of lands of the United States shall be deemed to be within the true intent and meaning of articles 51 to 61 of this title and part 2 of article 41 of title 38, S.A.R.S.

Source: R.S. p. 371, § 3. **G.L.** § 1411. **G.S.** § 1843. **R.S. 08:** § 3614. **C.L.** § 5902. **CSA:** C. 93, § 7. **S.A.R.S. 53:** § 77-1-7. **S.A.R.S. 1963:** § 77-1-7.

13-52-107. What moneys may be levied on. All paper currency, coins, bank bills, and other evidence of debt used or circulated or intended to be used or circulated as money and issued by any corporation or state, or by the United States, may be levied upon under any execution or writ of attachment as other personal property is levied upon or attached and shall be returned by the officer making such levy as so much money collected without sale.

Source: R.S. p. 383, § 45. **G.L.** § 1446. **G.S.** § 1876. **R.S. 08:** § 3615. **C.L.** § 5903. **CSA:** C. 93, § 8. **S.A.R.S. 53:** § 77-1-8. **S.A.R.S. 1963:** § 77-1-8.

13-52-108. Concerning garnishment and attachment prior to judgment. (1) No order of attachment prior to judgment on any garnishee shall be made out or issued in any court of record in this state for any sum less than twenty dollars.

(2) Wages, fees, or commissions shall not be subject to a writ of garnishment made out or issued in any court of record in this state until a complaint has been filed. After a defendant in any case has become subject to the jurisdiction of a court of record in this state, no wages, fees, or commissions shall be subject to any writ of garnishment theretofore or thereafter made out or issued in such case except in aid of execution of judgment.

(3) The provisions of this section shall not apply to methods of enforcing collections provided in article 79 of title 8, S.A.R.S.

(4) The provisions of this section shall be subject to article 5 of the "Uniform Consumer Credit Code".

Source: R.S. p. 383, § 44. **G.L.** § 1445. **G.S.** § 1875. **R.S. 08:** § 3616. **C.L.** § 5904. **CSA:** C. 93, § 9. **S.A.R.S. 53:** § 77-1-9. **S.A.R.S. 1963:** § 77-1-9. **L. 65:** p. 805, § 1. **L. 71:** p. 852, § 2.

Cross references: For the "Uniform Consumer Credit Code", see articles 1 to 9 of title 5.

13-52-109. Property sold in parcels. When any real or personal property is taken in execution, if such property is susceptible of division, it shall be sold in such quantities as may be necessary to satisfy such execution and costs.

Source: R.S. p. 372, § 10. **G.L.** § 1416. **G.S.** § 1848. **R.S. 08:** § 3623. **C.L.** § 5911. **CSA:** C. 93, § 10. **S.A.R.S. 53:** § 77-1-10. **S.A.R.S. 1963:** § 77-1-10.

13-52-110. Execution to any county. It is lawful for the party in whose favor any judgment may be obtained to have executions in the usual form directed to any county in this state against the goods, chattels, lands, and tenements of such party defendant, or upon his body, when the same is authorized by law.

Source: R.S. p. 371, § 5. **G.L.** § 1413. **G.S.** § 1845. **L. 03:** p. 299, § 1. **R.S. 08:** § 3625. **C.L.** 5912. **CSA:** C. 93, § 11. **S.A.R.S. 53:** § 77-1-11. **S.A.R.S. 1963:** § 77-1-11.

13-52-111. Return - endorsement - entry. All executions shall be made returnable ninety days after date, and no writ of execution shall bind the personal property, goods, or chattels of any person against whom such writ is issued until the writ is delivered to the sheriff

or other officer for execution. For a better manifestation of the time, the sheriff or other officer, on receipt of every such writ, shall endorse upon the back thereof the hour, day of the month, and the year when the same was received by him and shall immediately enter the receipt of said writ and the time of receiving it in a book to be kept for that purpose at the office of the sheriff. Said book shall be a public record and open to the inspection of the public. The execution shall be returned within ninety days from date of issue, unless sale is pending under levy made.

Source: R.S. p. 371, § 8. **G.L.** § 1414. **G.S.** § 1846. **L. 03:** p. 219, § 1. **R.S. 08:** § 3626. **C.L.** 5913. **CSA:** C. 93, § 12. **S.A.R.S. 53:** § 77-1-12. **S.A.R.S. 1963:** § 77-1-12.

ARTICLE 53

Uniform Enforcement of Foreign Judgments

13-53-101. Short title. This article shall be known and may be cited as the "Uniform Enforcement of Foreign Judgments Act".

Source: L. 69: p. 563, § 1. **S.A.R.S. 1963:** § 77-13-1.

13-53-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Foreign judgment" means any judgment, decree, or order of a court of the United States or of any other court, except a protection order or a restraining order as described in section 13-14-110 that is entitled to full faith and credit in this state.

Source: L. 69: p. 563, § 1. **S.A.R.S. 1963:** § 77-13-2. **L. 98:** Entire section amended, p. 1234, § 6, effective July 1. **L. 2004:** (1) amended, p. 554, § 8, effective July 1. **L. 2015:** (1) amended, (SB 15-264), ch. 259, p. 949, § 31, effective August 5.

13-53-103. Filing and status of foreign judgments. A copy of any foreign judgment authenticated in accordance with the act of congress or the laws of this state may be filed in the office of the clerk of any court of this state which would have had jurisdiction over the original action had it been commenced first in this state. A judgment so filed has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a judgment of the court of this state in which filed and may be enforced or satisfied in like manner.

Source: L. 69: p. 563, § 1. **S.A.R.S. 1963:** § 77-13-3.

Cross references: For foreign actions and decrees, see §§ 13-80-110 and 14-11-101.

13-53-104. Notice of filing. (1) At the time of the filing of the foreign judgment, the judgment creditor or his lawyer shall make and file with the clerk of court an affidavit setting forth the name and last-known post-office address of the judgment debtor and the judgment creditor.

(2) Promptly upon the filing of the foreign judgment and the affidavit, the clerk shall mail notice of the filing of the foreign judgment to the judgment debtor at the address given and shall make a note of the mailing in the docket. The notice shall include the name and post-office address of the judgment creditor and the judgment creditor's lawyer, if any, in this state. In addition, the judgment creditor may mail a notice of the filing of the judgment to the judgment debtor and may file proof of mailing with the clerk. Lack of mailing notice of filing by the clerk shall not affect the enforcement proceedings if proof of mailing by the judgment creditor has been filed.

(3) No execution or other process for enforcement of a foreign judgment filed under this article shall issue until ten days after the date the judgment is filed.

Source: L. 69: p. 563, § 1. **S.A.R.S. 1963:** § 77-13-4.

13-53-105. Stay. (1) If the judgment debtor shows the court that an appeal from the foreign judgment is pending or will be taken or that a stay of execution has been granted, the court shall stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated upon proof that the judgment debtor has furnished the security for the satisfaction of the judgment required by the state in which it was rendered.

(2) If the judgment debtor shows the court any ground upon which enforcement of a judgment of a court of this state would be stayed, the court shall stay enforcement of the foreign judgment for an appropriate period upon requiring the same security for satisfaction of the judgment which is required in this state.

Source: L. 69: p. 564, § 1. **S.A.R.S. 1963:** § 77-13-5.

Cross references: For stay of proceedings to enforce a judgment, see C.R.C.P. 62.

13-53-106. Fees. (1) (a) On and after July 1, 2008, any person filing a foreign judgment shall pay to the clerk of the court two hundred one dollars.

(b) Fees for docketing, transcription, or other enforcement proceedings shall be as provided for judgments of the courts of this state.

(c) Each fee collected pursuant to subsection (1)(a) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Ninety dollars shall be deposited in the general fund;

(II) Sixty dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6);

(III) Fifteen dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7)(a);

(IV) One dollar shall be deposited in the general fund pursuant to section 2-5-119; and

(V) Thirty-five dollars shall be deposited in the office of public guardianship cash fund established pursuant to section 13-94-108 (1).

(2) Notwithstanding the amount specified for the fee in subsection (1) of this section, the chief justice of the supreme court by rule or as otherwise provided by law may reduce the amount of the fee if necessary pursuant to section 24-75-402 (3), S.A.R.S., to reduce the

uncommitted reserves of the fund to which all or any portion of the fee is credited. After the uncommitted reserves of the fund are sufficiently reduced, the chief justice by rule or as otherwise provided by law may increase the amount of the fee as provided in section 24-75-402 (4), S.A.R.S.

Source: L. 69: p. 564, § 1. **S.A.R.S. 1963:** § 77-13-6. **L. 84:** Entire section amended, p. 456, § 9, effective July 1. **L. 95:** Entire section amended, p. 741, § 5, effective July 1, 1997. **L. 98:** Entire section amended, p. 1330, § 39, effective June 1. **L. 2003:** (1) amended, p. 574, § 5, effective March 18. **L. 2007:** (1) amended, p. 1537, § 26, effective May 31. **L. 2008:** (1) amended, p. 2142, § 11, effective June 4. **L. 2019:** (1)(a), IP(1)(c), (1)(c)(III), and (1)(c)(IV) amended and (1)(c)(V) added, (HB 19-1045), ch. 366, p. 3366, § 5, effective July 1.

Cross references: For the legislative declaration contained in the 2008 act amending subsection (1), see section 1 of chapter 417, Session Laws of San Andreas 2008.

13-53-107. Optional procedure. The right of a judgment creditor to bring an action to enforce his judgment instead of proceeding under this article remains unimpaired.

Source: L. 69: p. 564, § 1. **S.A.R.S. 1963:** § 77-13-7.

13-53-108. Uniformity of interpretation. This article shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Source: L. 69: p. 564, § 1. **S.A.R.S. 1963:** § 77-13-8.

ARTICLE 54

Property and Earnings Exempt

Cross references: For nature of and procedure for claiming homestead exemption, see part 2 of article 41 of title 38.

Law reviews: For article, "An Overview of San Andreas Exemption Laws", see 21 S.A. Law. 1883 (1992).

13-54-101. Definitions. As used in this article, unless the context otherwise requires:

(1) "Debtor" means a person whose property or earnings are subject to attachment, execution, or garnishment.

(2) "Dependent" means a person who receives more than one-half of his support from the debtor.

(2.5) "Disabled debtor", "disabled spouse", or "disabled dependent" means a debtor, spouse, or dependent who has a physical or mental impairment that is disabling and that, because of other factors such as age, training, experience, or social setting, substantially precludes the debtor, spouse, or dependent from engaging in a useful occupation as a homemaker, a wage-

earner, or a self-employed person in any employment that exists in the community for which he or she has competence.

(3) Repealed.

(3.5) "Elderly debtor", "elderly spouse", or "elderly dependent" means a debtor, spouse, or dependent who is sixty years of age or older.

(4) "Household goods" means, by way of illustration, household furniture, furnishings, dishes, utensils, cutlery, tableware, napery, pictures, prints, appliances, stoves, microwave ovens, beds and bedding, freezers, refrigerators, washing machines, dryers, exercise equipment, musical instruments, bicycles, sewing machines, toys, and home electronics, including but not limited to cameras, television sets, radios, stereos, computers, facsimile machines, telephones, and other audio and video equipment.

(5) "Value" means the fair market value of any property less the amount of any lien thereon valid as between the owner of the property and the holder of any such lien.

Source: L. 59: p. 529, § 1. **S.A.R.S. 53:** § 77-13-1. **S.A.R.S. 1963:** § 77-2-1. **L. 81:** Entire section R&RE, p. 892, § 1, effective July 1. **L. 2000:** (4) amended, p.715, § 1, effective May 23. **L. 2007:** (2.5) and (3.5) added and (4) amended, p. 875, § 2, effective May 14. **L. 2015:** (3) repealed, (SB 15-283), ch. 301, p. 1237, § 1, effective July 1.

Cross references: For the legislative declaration contained in the 2007 act enacting subsections (2.5) and (3.5) and amending subsection (4), see section 1 of chapter 226, Session Laws of San Andreas 2007.

13-54-102. Property exempt - commingled exempt and nonexempt assets - definitions. (1) The following property is exempt from levy and sale under writ of attachment or writ of execution:

(a) The necessary wearing apparel of the debtor and each dependent to the extent of two thousand dollars in value;

(b) Watches, jewelry, and articles of adornment of the debtor and each dependent to the extent of two thousand five hundred dollars in value;

(c) The library, family pictures, and school books of the debtor and the debtor's dependents to the extent of two thousand dollars in value, not including any property constituting all or part of the stock in trade of the debtor;

(d) Burial sites, including spaces in mausoleums, to the extent of one site or space for the debtor and each dependent;

(e) The household goods owned and used by the debtor or the debtor's dependents to the extent of six thousand dollars in value;

(f) Provisions and fuel on hand for the use or consumption of the debtor or the debtor's dependents to the extent of six hundred dollars in value;

(g) (I) Except as otherwise provided in subsection (1)(g)(II) of this section, in the case of every debtor engaged in agriculture as the debtor's principal occupation, including farming, ranching, and dairy production or the raising of livestock or poultry, the following, in the aggregate value of one hundred thousand dollars:

(A) All livestock, poultry, or other animals;

(B) All crops, dairy products, and agricultural products grown, raised, or produced; and

(C) All tractors, farm implements, trucks used in agricultural operations, harvesting equipment, seed, and agricultural machinery and tools.

(II) Only one exemption in the aggregate value of one hundred thousand dollars is allowed for a debtor and the debtor's spouse under subsection (1)(g)(I) of this section. In the event that property is claimed as exempt by a debtor or the debtor's spouse under subsection (1)(g)(I) of this section, no exemption is allowed for the debtor or the debtor's spouse under subsection (1)(i) of this section.

(h) Except for amounts due under court-ordered support of children or spouse which are subject to the exemption provisions of section 13-54-104, all money received by any person as a pension, compensation, or allowance for any purpose on account or arising out of the services of such person as a member of the armed forces of the United States in time of war or armed conflict, and whether in the actual possession of the recipient thereof or deposited or loaned by him, and a like exemption to the unremarried widow or widower and the children of such person who receive a pension, compensation, or allowance of any kind from the United States on account or arising out of such service by a deceased member of such armed forces; and when a debtor entitled to exemption under this paragraph (h) dies or leaves his family said exemption shall extend to the dependents of said debtor;

(h.5) The articles of military equipment personally owned by members of the National Guard;

(i) (I) Except as described in subsection (1)(i)(II) of this section, the stock in trade, supplies, fixtures, maps, machines, tools, electronics, equipment, books, and business materials of a debtor that are used and kept for the purpose of carrying on:

(A) The debtor's primary gainful occupation, in the aggregate value of sixty thousand dollars; or

(B) Any other gainful occupation, in the aggregate value of twenty thousand dollars.

(II) Exempt property described in this subsection (1)(i) may not also be claimed as exempt pursuant to subsection (1)(j) of this section.

(j) (I) Up to two motor vehicles or bicycles kept and used by any debtor, in the aggregate value of fifteen thousand dollars; or

(II) (A) Up to two motor vehicles or bicycles kept and used by any debtor who is elderly or disabled or by any debtor's spouse or dependent who is elderly or disabled, in the aggregate value of twenty-five thousand dollars.

(B) (Deleted by amendment, L. 2007, p. 876, § 3, effective May 14, 2007.)

(III) The exemption provided in this paragraph (j) does not apply to snowmobiles, all-terrain vehicles, golf carts, boats or other watercraft, travel trailers, tent trailers, or motor homes.

(k) The library of any debtor who is a professional person, including a minister or priest of any faith, kept and used by the debtor in carrying on his or her profession, in the value of three thousand dollars; except that exemptions with respect to any of the property described in this paragraph (k) may not also be claimed under paragraph (i) of this subsection (1);

(l) (I) (A) The cash surrender value of policies or certificates of life insurance that have been owned by a debtor for a continuous, unexpired period of forty-eight months or more, to the extent of two hundred fifty thousand dollars for writs of attachment or writs of execution issued against the insured; except that there is no exemption for increases in cash value from extraordinary moneys contributed to a policy or certificate of life insurance during the forty-eight months prior to the issuance of the writ of attachment or writ of execution; and

(B) The proceeds of policies or certificates of life insurance paid upon the death of the insured to a designated beneficiary, without limitation as to amount, for writs of attachment or writs of execution issued against the insured.

(II) The provisions of this paragraph (l) shall not be interpreted to provide an exemption for attachment or execution of the proceeds of any policy or certificate of life insurance to pay the debts of a beneficiary of such policy or certificate.

(III) The provisions of this paragraph (l) shall not provide an exemption for attachment or execution of the proceeds of any policy or certificate of life insurance if the beneficiary of such policy or certificate is the estate of the insured.

(IV) For purposes of this paragraph (l), "extraordinary moneys" means monetary contributions or loan payments in excess of those contractually required under the policy or certificate of life insurance.

(m) The proceeds of any claim for loss, destruction, or damage and the avails of any fire or casualty insurance payable because of loss, destruction, or damage to any property which would have been exempt under this article to the extent of the exemptions incident to such property;

(n) The proceeds of any claim for damages for personal injuries suffered by any debtor except for obligations incurred for treatment of any kind for such injuries or collection of such damages;

(o) The full amount of any federal or state income tax refund attributed to an earned income tax credit or any child tax credit, whether as a refundable tax credit or as a nonrefundable reduction in tax;

(p) Professionally prescribed health aids for the debtor or a dependent of the debtor;

(q) The debtor's right to receive, or property that is traceable to, an award under a crime victim's reparation law;

(r) For purposes of garnishment proceedings pursuant to article 54.5 of this title 13, any amount held by a third party as a security deposit, as defined in section 38-12-102 (6), or any amount held by a third party as a utility deposit to secure payment for utility goods or services used or consumed by the debtor or the debtor's dependents;

(s) Property, including funds, held in or payable from any pension or retirement plan, deferred compensation plan, and health savings accounts, including those in which the debtor has received benefits or payments, has the present right to receive benefits or payments, or has the right to receive benefits or payments in the future and including pensions or plans that qualify under the federal "Employee Retirement Income Security Act of 1974", as amended; any employee pension benefit plan, as defined in 29 U.S.C. sec. 1002; any individual retirement account, as defined in 26 U.S.C. sec. 408; any Roth individual retirement account, as defined in 26 U.S.C. sec. 408A; and any plan, as defined in 26 U.S.C. sec. 401, and as these plans may be amended from time to time;

(t) All property which is subject to a judgment against a debtor for failure to pay state income tax to a state for periods when such individual was not a resident of such state on benefits received from a pension or other retirement plan;

(u) Any court-ordered domestic support obligation or payment, including a maintenance obligation or payment or a child support obligation or payment;

(v) Any claim for public or private disability benefits due, or any proceeds of such a claim, not otherwise provided for under law, up to five thousand dollars per month. Any claim or

proceeds in excess of this amount is subject to garnishment in accordance with section 13-54-104.

(w) Up to two thousand five hundred dollars cumulative in a depository account or accounts in the name of the debtor.

(x) The debtor's aggregate interest in firearms and hunting and fishing equipment held for personal, family, or household use or for the personal safety of the debtor and members of the debtor's household, not to exceed one thousand dollars in value;

(y) (I) Any economic impact payment held by or payable to a debtor or to a debtor's dependents in any form.

(II) As used in this subsection (1)(y) and in subsection (3) of this section, unless the context otherwise requires, "economic impact payment" means a payment from a federal, state, or local government to a debtor or to a debtor's dependents to assist in managing the economic consequences of a national or statewide emergency or disaster. "Economic impact payment" includes:

(A) All economic impact and stimulus recovery payments to debtors pursuant to the federal "Coronavirus Aid, Relief, and Economic Security Act", Pub.L. 116-136, as amended, or otherwise relating to the COVID-19 pandemic; and

(B) All other economic impact or stimulus recovery payments to debtors, which payments are authorized to assist with economic recovery from the COVID-19 pandemic or from any national or statewide emergency or disaster. It is the intent of the general assembly that this definition be interpreted in the broadest possible manner to protect such payments.

(z) All money placed into a life expectancy set-aside account or similar reserve fund, escrow, or impound account, which money is derived from reverse mortgage proceeds that are designated for use to pay for real estate property taxes; homeowner's hazard, flood, or other property insurance; or other home maintenance expenses.

(2) Notwithstanding the provisions of paragraph (h) of subsection (1) of this section and section 13-54-104, military pensions shall be subject to court-ordered support of children or spouse.

(3) Notwithstanding subsections (1)(s) and (1)(y) of this section, any economic impact payment and any pension or retirement benefit or payment is subject to attachment or levy in satisfaction of a judgment taken for arrearages for child support or for child support debt, subject to the limitations in section 13-54-104.

(4) Notwithstanding anything to the contrary in this section, all property of a person who has committed a felonious killing, as defined in section 15-11-803 (1)(b), S.A.R.S., and as determined in the manner described in section 15-11-803 (7), S.A.R.S., shall be subject to attachment or levy in satisfaction of a judgment awarded pursuant to section 13-21-201 or section 13-21-202 for such felonious killing.

(5) (a) As provided in the exception contained in 11 U.S.C. sec. 522 (f)(3), as amended, a debtor shall not avoid a consensual lien on property otherwise eligible to be claimed as exempt property.

(b) As used in this subsection (5), unless the context otherwise requires, "consensual lien" means a lien on property granted with the consent and approval of the owner.

(6) To the extent that exempt assets are commingled with nonexempt assets, a first-in first-out accounting shall be used to determine the portion of the commingled assets to which the exemption applies. If exempt assets are commingled with nonexempt assets as part of a single

transaction, any amounts withdrawn from an account for the purpose of such transaction shall be assessed on a pro rata basis. This subsection (6) applies to all provisions of the San Andreas Revised Statutes concerning the exemption of assets from seizure, except for exemptions that require segregation.

Source: L. 59: p. 530, § 2. **S.A.R.S. 53:** § 77-13-2. **S.A.R.S. 1963:** § 77-2-2. **L. 73:** pp. 236, 915, 916, §§ 15, 1, 3. **L. 75:** (1)(o)(II) amended, p. 1466, § 6, effective July 18. **L. 77:** (1)(h) amended and (1.1) added, p. 811, § 1, effective July 1. **L. 81:** Entire section R&RE, p. 893, § 2, effective July 1. **L. 84:** (1)(r) added, p. 475, § 2, effective January 1, 1985. **L. 85:** (1)(j) amended, p. 580, § 1, effective April 30. **L. 91:** (1)(s) and (3) added, p. 383, §§ 1, 2, effective May 1. **L. 92:** (1)(t) added, p. 2241, § 1, effective June 6. **L. 94:** (1)(u) added, p. 1210, § 1, effective May 22. **L. 95:** (1)(l) amended, p. 723, § 1, effective July 1. **L. 96:** (4) added, p. 50, § 2, effective July 1. **L. 2000:** (1)(a), (1)(b), (1)(c), (1)(e), (1)(f), (1)(g), (1)(i), (1)(j)(I), (1)(j)(II)(A), (1)(k), and (1)(o) amended, p. 715, § 2, effective May 23. **L. 2002:** (1)(h.5) added, p. 587, § 11, effective May 24; (1)(s) amended, p. 487, § 1, effective May 24; (1)(g) amended, p. 1862, § 1, effective July 1; (1)(l)(I)(A) amended, p. 641, § 1, effective August 7. **L. 2007:** (1)(b), (1)(g), (1)(i), (1)(j), (1)(o), and (1)(u) amended and (1)(v) and (5) added, pp. 876, 877, §§ 3, 4, effective May 14; (1)(s) amended, p. 2026, § 27, effective June 1. **L. 2010:** (1)(l)(I)(A) amended, (SB 10-147), ch. 147, p. 507, § 1, effective September 1. **L. 2015:** (1)(a), (1)(b), (1)(c), (1)(g)(I), (1)(i), (1)(j), (1)(l)(I)(A), and (1)(v) amended and (1)(l)(IV) added, (SB 15-283), ch. 301, p. 1237, § 2, effective July 1. **L. 2017:** (1)(l)(I)(A) amended, (HB 17-1093), ch. 57, p. 180, § 1, effective September 1. **L. 2020:** (1)(w) added, (SB 20-211), ch. 140, p. 610, § 3, effective June 29. **L. 2021:** (1)(w)(I) amended, (SB 21-002), ch. 7, p. 45, § 2, effective January 21; (1)(r) amended, (SB21-173), ch. 349, p. 2265, § 5, effective October 1. **L. 2022:** (1)(e), (1)(g), (1)(i), (1)(j)(I), (1)(j)(II)(A), (1)(o), (1)(s), (1)(u), (1)(v), (1)(w), and (3) amended and (1)(x), (1)(y), (1)(z), and (6) added, (SB 22-086), ch. 74, p. 377, § 6, effective April 7.

Cross references: (1) For specific exemptions for cemetery company property, see § 7-47-106; for workers' compensation benefits, see § 8-42-124; for employment security benefits, see § 8-80-103; for delinquent insurance company assets, see § 10-3-556; for group life insurance proceeds, see § 10-7-205; for fraternal benefit society insurance benefits, see § 10-14-403; for constitutional state officers' fees or salaries, see § 13-61-101; for family allowance from estate, see § 15-11-403; for public assistance payments, see § 26-2-131; for homestead exemptions, see part 2 of article 41 of title 38.

(2) For the legislative declaration contained in the 2007 act amending subsections (1)(b), (1)(g), (1)(i), (1)(j), (1)(o), and (1)(u) and enacting subsections (1)(v) and (5), see section 1 of chapter 226, Session Laws of San Andreas 2007. For the legislative declaration in SB 20-211, see section 1 of chapter 140, Session Laws of San Andreas 2020. For the legislative declaration in SB 22-086, see section 1 of chapter 74, Session Laws of San Andreas 2022.

13-54-102.5. Child support payments - exemption. Any past or present child support obligation owed by a parent or child support payment made by a parent that is required by a support order is exempt from levy under writ of attachment or writ of execution for any debt owed by either parent.

Source: L. 94: Entire section added, p. 1210, § 2, effective May 22. **L. 2022:** Entire section amended, (SB 22-086), ch. 74, p. 379, § 7, effective April 7.

Cross references: For the legislative declaration in SB 22-086, see section 1 of chapter 74, Session Laws of San Andreas 2022.

13-54-103. No exemption for purchase price. None of the property described in section 13-54-102 shall be exempt from levy and sale on writ of attachment or writ of execution for the purchase price of such property.

Source: L. 59: p. 532, § 3. **S.A.R.S. 53:** § 77-13-3. **S.A.R.S. 1963:** § 77-2-3.

13-54-104. Restrictions on garnishment and levy under execution or attachment - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Disposable earnings" means that part of the earnings of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld and after the deduction of the cost of any health insurance provided by the individual pursuant to section 14-14-112 and the cost of any health insurance for the individual or members of the individual's household that is provided by the individual's employer and withheld from the individual's earnings. In the case of an order for the support of a spouse, former spouse, or dependent child, "disposable earnings" includes money voluntarily deposited in tax-deferred compensation funds.

(b) (I) "Earnings" means:

(A) Compensation paid or payable to an individual employee or independent contractor for personal labor or services;

(B) Funds held in or payable from any health, accident, or disability insurance.

(II) For the purposes of writs of garnishment that are the result of a judgment taken for arrearages for child support or for child support debt, for restitution for the theft, embezzlement, misappropriation, or wrongful conversion of public property, or in the event of a judgment for a willful and intentional violation of fiduciary duties to a public pension plan where the offender or a related party received direct financial gain, "earnings" also means:

(A) Workers' compensation benefits;

(B) Any pension or retirement benefits or payments, including but not limited to those paid pursuant to articles 51, 54, 54.5, and 54.6 of title 24, S.A.R.S., and articles 30.5 and 31 of title
31, S.A.R.S.;

(C) Dividends, severance pay, royalties, monetary gifts, monetary prizes, excluding lottery winnings not required by the rules of the San Andreas lottery commission to be paid only at the lottery office, taxable distributions from general partnerships, limited partnerships, closely held corporations, or limited liability companies, interest, trust income, annuities, capital gains, or rents;

(D) Any funds held in or payable from any health, accident, disability, or casualty insurance to the extent that such insurance replaces wages or provides income in lieu of wages; and

(E) Tips declared by the individual for purposes of reporting to the federal internal revenue service or tips imputed to bring the employee's gross earnings to the minimum wage for the number of hours worked, whichever is greater.

(III) For the purposes of writs of garnishment issued by the state agency responsible for administering the state medical assistance program, which writs are issued as a result of a judgment for medical support for child support or for medical support debt, "earnings" includes:

(A) Payments received from a third party to cover the health-care cost of the child but which payments have not been applied to cover the child's health-care costs;

(A.5) Unemployment insurance benefits; and

(B) State tax refunds.

(IV) For the purposes of writs of garnishment issued by a county department of human or social services responsible for administering the state public assistance programs, which writs are issued as a result of a judgment for a debt for fraudulently obtained public assistance, fraudulently obtained overpayments of public assistance, or excess public assistance paid for which the recipient was ineligible, "earnings" includes workers' compensation benefits.

(V) For the purposes of attachments of earnings or writs of garnishment that are the result of a judgment taken for court assessments including fines, fees, costs, restitution, and surcharges pursuant to section 16-11-101.6 or section 16-18.5-105, S.A.R.S., "earnings" also means those enumerated under subparagraph (I) of this paragraph (b).

(1.1) Repealed.

(2) (a) Except as provided in subsection (3) of this section, the maximum part of the aggregate disposable earnings of an individual for any workweek that is subjected to garnishment or levy under execution or attachment may not exceed:

(I) For debts other than debts pursuant to subsection (2)(a)(II) of this section, the lesser of:

(A) Twenty percent of the individual's disposable earnings for that week; or

(B) The amount by which the individual's disposable earnings for that week exceed forty times the federal minimum hourly wage prescribed by 29 U.S.C. sec. 206 (a)(1) in effect at the time the earnings are payable; or

(C) The amount by which the individual's disposable earnings for that week exceed forty times the state minimum hourly wage pursuant to section 15 of article XVIII of the state constitution in effect at the time the earnings are payable;

(D) Notwithstanding the provisions of subsections (2)(a)(I)(A), (2)(a)(I)(B), and (2)(a)(I)(C) of this section, a judgment debtor may file a written objection pursuant to section 13-54.5-108 (1)(a), without the necessity of conferring with the garnishee, and seek a hearing pursuant to section 13-54.5-109 (1)(a). At the hearing the judgment debtor may establish that a greater portion of the judgment debtor's disposable earnings should be exempt from garnishment for the support of the judgment debtor or the judgment debtor's family supported, in whole or in part, by the judgment debtor. At such hearing, the court shall, pursuant to section 13-54.5-109 (2), determine whether the earnings of the judgment debtor following garnishment, together with any other income received by the judgment debtor's family, are insufficient to pay the actual and necessary living expenses of the judgment debtor or the judgment debtor and judgment debtor's family based upon proof of such expenses incurred during the sixty days prior to the hearing. In making this determination, the living expenses the court must consider include, but are not limited to, the following: Rent or mortgage; utilities; food and household supplies; medical and dental expenses; child care; clothing; education; transportation; and maintenance, alimony, or child support. If the court makes a determination of insufficiency, it shall order that more of the

judgment debtor's disposable earnings should be exempt from garnishment than prescribed by subsections (2)(a)(I)(A), (2)(a)(I)(B), and (2)(a)(I)(C) of this section.

(II) For debts for fraudulently obtained public assistance or fraudulently obtained overpayments collected pursuant to section 26-2-128 (1)(a), S.A.R.S., the lesser of:

(A) Thirty-five percent of the individual's disposable earnings for that week; or

(B) The amount by which the individual's disposable earnings for that week exceed thirty times the federal minimum hourly wage prescribed by section 206 (a)(1) of title 29 of the United States Code in effect at the time the earnings are payable; or

(C) The amount by which the individual's disposable earnings for that week exceed thirty times the state minimum hourly wage pursuant to section 15 of article XVIII of the state constitution in effect at the time the earnings are payable.

(b) In the case of earnings for any pay period other than a week, a multiple of the federal minimum hourly wage or the state minimum hourly wage, equivalent in effect to that set forth in paragraph (a) of this subsection (2) shall be used.

(3) (a) The restrictions of subsection (2) of this section do not apply in the case of:

(I) Any order for the support of any person issued by a court of competent jurisdiction or in accordance with an administrative procedure which is established by state law, which affords substantial due process, and which is subject to judicial review;

(II) Any order of any court of the United States having jurisdiction over cases under chapter 13 of title 11 of the United States Code, the federal bankruptcy code of 1978;

(III) Any debt due for any state or federal tax.

(b) (I) The maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment or levy under execution or attachment to enforce any order for the support of any person shall not exceed:

(A) Where such individual is supporting his spouse or dependent child, other than a spouse or child with respect to whose support such order is used, fifty percent of such individual's disposable earnings for that week; and

(B) Where such individual is not supporting a spouse or dependent child as described in sub-subparagraph (A) of this subparagraph (I), sixty percent of such individual's disposable earnings for that week.

(II) With respect to the disposable earnings of any individual for any workweek, the fifty percent specified in sub-subparagraph (A) of subparagraph (I) of this paragraph (b) shall be deemed to be fifty-five percent, and the sixty percent specified in sub-subparagraph (B) of subparagraph (I) of this paragraph (b) shall be deemed to be sixty-five percent if and to the extent that such earnings are subject to garnishment or wage assignment or income assignment or levy under execution or attachment to enforce a support order with respect to a period that is prior to the twelve-week period that ends with the beginning of such workweek.

(III) Notwithstanding the maximum part of the aggregate disposable earnings of an individual which is subject to garnishment as provided in this paragraph (b), a debtor who is totally and permanently disabled and who establishes that at least seventy-five percent of his income is derived from any disability income or benefits may object to the amount of the aggregate disposable earnings subject to garnishment under this paragraph (b). The court, upon consideration of the circumstances of the parties, may provide for garnishment in an amount less than such maximum amounts.

(4) The restrictions established by this section shall be adhered to whether or not the employer of the debtor is subject to garnishee process.

Source: L. 59: p. 532, § 4. **S.A.R.S. 53:** § 77-13-4. **S.A.R.S. 1963:** § 77-2-4. **L. 71:** p. 853, § 2. **L. 79:** Entire section R&RE, p. 623, § 1, effective May 31. **L. 80:** (1)(b) amended, p. 613, § 2, effective April 10; (3)(a)(II) amended, p. 785, § 11, effective June 5. **L. 85:** (3)(b)(II) amended, p. 590, § 5, effective July 1. **L. 87:** (1)(b) amended, p. 595, § 22, effective July 10. **L. 88:** (1.1) added, p. 609, § 1, effective April 14; (3)(b)(III) added, p. 611, § 3, effective July 1. **L. 90:** (1)(b) amended, p. 564, § 32, effective July 1. **L. 91:** (1)(b) amended and (1.1) repealed, pp. 383, 384, §§ 3, 4, effective May 1. **L. 92:** (1)(b) amended, p. 577, § 3, effective July 1; (1)(a) amended, p. 172, § 5, effective August 1. **L. 93:** (1)(b)(II) amended, p. 1871, § 3, effective June 6. **L. 94:** (1)(a) and (1)(b)(I)(A) amended, p. 1535, § 2, effective May 31; (1)(b)(II) amended, p. 2048, § 7, effective June 3; (1)(b) amended, p. 1594, § 3, effective July 1; (1)(b)(II) amended, p. 1252, § 4, effective July 1; (2)(a) amended, p. 2061, § 2, effective July 1. **L. 96:** (1)(b) and (3)(b)(II) amended, p. 590, § 1, effective July 1. **L. 98:** (1)(b)(II)(B) amended, p. 920 § 5, effective July 1. **L. 99:** (1)(b)(II)(B) amended, p. 620, § 13, effective August 4. **L. 2005:** IP(1)(b)(II) and (1)(b)(II)(B) amended, p. 71, § 1, effective August 8. **L. 2006:** (1)(b)(IV) added, p. 948, § 4, effective August 7. **L. 2007:** (2) amended, p. 877, § 5, effective July 1. **L. 2009:** (1)(b)(II)(B) amended, (SB 09-066), ch. 73, p. 259, § 23, effective July 1; (1)(b)(II)(B) amended, (SB 09-282), ch. 288, p. 1396, § 57, effective January 1, 2010. **L. 2012:** (1)(b)(V) added, (HB 12-1310), ch. 268, p. 1392, § 2, effective June 7. **L. 2015:** (1)(b)(I)(A) and (1)(b)(II)(C) amended, (SB 15-283), ch. 301, p. 1239, § 3, effective July 1. **L. 2018:** (1)(b)(IV) amended, (SB 18-092), ch. 38, p. 399, § 9, effective August 8. **L. 2019:** (1)(a), IP(2)(a), and (2)(a)(I) amended, (HB 19-1189), ch. 214, p. 2224, § 3, effective August 2.

Editor's note: (1) Amendments to subsection (1)(b) by Senate Bill 94-164, Senate Bill 94-088, Senate Bill 94-141, and House Bill 94-1345 were harmonized.

(2) Amendments to subsection (1)(b)(II)(B) by Senate Bill 09-066 and Senate Bill 09-282 were harmonized, effective January 1, 2010.

Cross references: For the legislative intent contained in the 2006 act enacting subsection (1)(b)(IV), see section 8(2) of chapter 208, Session Laws of San Andreas 2006. For the legislative declaration contained in the 2007 act amending subsection (2), see section 1 of chapter 226, Session Laws of San Andreas 2007. For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of San Andreas 2018.

13-54-105. No exemption for taxes. Nothing in this article shall be construed to exempt any property of any debtor from sale for the payment of any taxes legally assessed.

Source: L. 59: p. 532, § 5. **S.A.R.S. 53:** § 77-13-5. **S.A.R.S. 1963:** § 77-2-5.

13-54-106. Exemptions applicable to all writs - exception for child support. The exemptions provided by this article shall extend and apply to writs of attachment, execution, and garnishment issued out of any court of record and by municipal courts, except those writs which

are the result of a judgment taken for arrearages for child support or for child support debt which are subject to the exemptions set forth in section 13-54-104 (3).

Source: L. 59: p. 532, § 6. **S.A.R.S. 53:** § 77-13-6. **S.A.R.S. 1963:** § 77-2-6. **L. 64:** p. 287, §
216. **L. 86:** Entire section amended, p. 728, § 11, effective July 1. **L. 87:** Entire section amended, p. 586, § 2, effective July 10.

13-54-107. Exemptions in bankruptcy. The exemptions provided in section 522 (d) of the federal bankruptcy code of 1978, title 11 of the United States Code, as amended, are denied to residents of this state. Exemptions authorized to be claimed by residents of this state shall be limited to those exemptions expressly provided by the statutes of this state.

Source: L. 81: Entire section added, p. 894, § 3, effective July 1.

ARTICLE 54.5

Garnishment

13-54.5-101. Definitions. As used in this article 54.5, unless the context otherwise requires:

(1) "Continuing garnishment" means any procedure for payment of a judgment debt by withholding earnings to which a judgment debtor becomes entitled for the duration of the writ of continuing garnishment.

(2) (a) "Earnings" means:

(I) Compensation paid or payable to an individual employee or independent contractor for personal labor or services;

(II) Funds held in or payable from any health, accident, or disability insurance.

(b) For the purposes of writs of garnishment that are the result of a judgment taken for arrearages for child support or for child support debt, for restitution for the theft, embezzlement, misappropriation, or wrongful conversion of public property, or in the event of a judgment for a willful and intentional violation of fiduciary duties to a public pension plan where the offender or a related party received direct financial gain, "earnings" also means:

(I) Workers' compensation benefits;

(II) Any pension or retirement benefits or payments, including but not limited to those paid pursuant to articles 51, 54, 54.5, and 54.6 of title 24, S.A.R.S., and articles 30.5 and 31 of title
31, S.A.R.S.;

(III) Dividends, severance pay, royalties, monetary gifts, monetary prizes, excluding lottery winnings not required by the rules of the San Andreas lottery commission to be paid only at the lottery office, taxable distributions from general partnerships, limited partnerships, closely held corporations, or limited liability companies, interest, trust income, annuities, capital gains, or rents;

(IV) Any funds held in or payable from any health, accident, disability, or casualty insurance to the extent that such insurance replaces wages or provides income in lieu of wages; and

(V) Tips declared by the individual for purposes of reporting to the federal internal revenue service or tips imputed to bring the employee's gross earnings to the minimum wage for the number of hours worked, whichever is greater.

(c) For the purposes of writs of garnishment issued by the state agency responsible for administering the state medical assistance program, which writs are issued as a result of a judgment for medical support for child support or for medical support debt, "earnings" includes:

(I) Payments received from a third party to cover the health-care cost of the child but which payments have not been applied to cover the child's health-care costs; and

(II) State tax refunds.

(d) For the purposes of writs of garnishment issued by a county department of human or social services responsible for administering the state public assistance programs and the San Andreas child care assistance program, which writs are issued as a result of a judgment for a debt for fraudulently obtained public assistance or child care assistance, fraudulently obtained overpayments of public assistance or child care assistance, or excess public assistance or child care assistance paid for which the recipient was ineligible, "earnings" includes workers' compensation benefits.

(e) For the purposes of attachments of earnings or writs of garnishment that are the result of a judgment taken for court assessments including fines, fees, costs, restitution, and surcharges pursuant to section 16-11-101.6 or section 16-18.5-105, S.A.R.S., "earnings" also means those enumerated under paragraph (a) of this subsection (2).

(3) "Garnishee" means a person other than a judgment creditor or judgment debtor who is in possession of earnings or property of the judgment debtor and who is subject to garnishment in accordance with the provisions of this article.

(4) "Garnishment" means any procedure through which the property or earnings of an individual in the possession or control of a garnishee are required to be withheld for payment of a judgment debt.

(5) "Judgment creditor" means any individual, corporation, partnership, or other legal entity that has recovered a money judgment against a judgment debtor in a court of competent jurisdiction.

(6) "Judgment debtor" means any person, including a corporation, partnership, or other legal entity, who has a judgment entered against him in a court of competent jurisdiction.

(7) "Notice of exemption and pending levy" means the document required to be served on the judgment debtor in any garnishment proceeding, except continuing garnishment, as soon as practicable following the service of the writ of garnishment on the garnishee. A "notice of exemption and pending levy" includes a statement that the judgment creditor intends to satisfy the judgment against the judgment debtor out of the judgment debtor's personal property held by a third party and that the judgment debtor has the right to claim certain property as exempt.

Source: L. 84: Entire article added, p. 469, § 1, effective January 1, 1985. **L. 85:** (7) amended, p. 582, § 1, effective May 3. **L. 87:** (2) amended, p. 595, § 23, effective July 10. **L. 90:** (2) amended, p. 564, § 33, effective July 1. **L. 91:** (2) amended, p. 384, § 5, effective May 1. **L. 92:** (2) amended, p. 577, § 4, effective July 1. **L. 93:** (2)(b) amended, p. 1871, § 4, effective June 6. **L. 94:** (2)(a)(I) amended, p. 1536, § 3, effective May 31; (2) amended, p. 1595, § 4, effective July 1; (2)(b) amended, p. 1252, § 5, effective July 1. **L. 96:** (2) amended, p. 591, § 2, effective July 1. **L. 98:** (2)(b)(II) amended, p. 920, § 6, effective July 1. **L. 99:** (2)(b)(II) amended, p. 620,

§ 14, effective August 4. **L. 2005:** IP(2)(b) and (2)(b)(II) amended, p. 71, § 2, effective August 8. **L. 2006:** (2)(d) added, p. 947, § 3, effective August 7. **L. 2009:** (2)(b)(II) amended, (SB 09-282), ch. 288, p. 1397, § 58, effective January 1, 2010. **L. 2010:** (2)(b)(II) amended, (HB 10-1422), ch. 419, p. 2068, § 23, effective August 11. **L. 2012:** (2)(e) added, (HB 12-1310), ch. 268, p. 1392, § 3, effective June 7. **L. 2015:** (1), (2)(a)(I), and (2)(b)(III) amended, (SB 15-283), ch. 301, p. 1239, § 4, effective July 1. **L. 2018:** IP and (2)(d) amended, (SB 18-092), ch. 38, p. 399, § 10, effective August 8. **L. 2022:** (2)(d) amended, (HB 22-1295), ch. 123, p. 828, § 28, effective July 1.

Editor's note: Amendments to subsection (2) by Senate Bill 94-088, Senate Bill 94-164, and House Bill 94-1345 were harmonized.

Cross references: For the legislative intent contained in the 2006 act enacting subsection (2)(d), see section 8(2) of chapter 208, Session Laws of San Andreas 2006. For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of San Andreas 2018.

13-54.5-102. Continuing garnishment - creation of lien. (1) In addition to garnishment proceedings otherwise available pursuant to the laws of this state in any case in which a money judgment is obtained in a court of competent jurisdiction, the judgment creditor or its assignees are entitled, on notice to the judgment debtor required by section 13-54.5-105 (5)(b), to apply to the clerk of such court for garnishment against any garnishee. To the extent that the earnings are not exempt from garnishment, such garnishment is a lien and continuing levy upon the earnings due or to become due from the garnishee to the judgment debtor consistent and in accordance with the requirements of section 13-54.5-105 (6).

(2) Garnishment pursuant to subsection (1) of this section is a lien and continuing levy against said earnings due for one hundred eighty-two days consistent and in accordance with the requirements of section 13-54.5-105 (6) or for one hundred eighty-two days following the expiration of any writs with a priority pursuant to section 13-54.5-104, but such lien is terminated earlier than one hundred eighty-two days if earnings are no longer due; the underlying judgment is vacated, modified, or satisfied in full; or the writ is dismissed; except that a continuing garnishment may be suspended for a specified period of time by the judgment creditor upon agreement with the judgment debtor, which agreement shall be in writing and filed by the judgment creditor with the clerk of the court in which the judgment was entered and a copy of which shall be delivered by the judgment creditor to the garnishee.

(2.5) A garnishee is not required to collect, possess, or control the judgment debtor's tips, and any tips are not owed by a garnishee to a judgment creditor.

(3) Garnishment pursuant to subsection (1) of this section shall apply only to proceedings against the earnings of a judgment debtor who is a natural person.

Source: L. 84: Entire article added, p. 470, § 1, effective January 1, 1985. **L. 85:** (1) amended, p. 582, § 2, effective May 3. **L. 88:** (1) and (2) amended, p. 610, § 1, effective July 1. **L. 2001:** (2) amended, p. 35, § 1, effective August 8. **L. 2012:** (2) amended, (SB 12-175), ch. 208, p. 826, § 14, effective July 1. **L. 2019:** (1) and (2) amended and (2.5) added, (HB 19-1189), ch. 214, p. 2223, § 1, effective August 2.

13-54.5-103. Property or earnings subject to garnishment.

(1) Repealed.

(2) Any indebtedness, intangible personal property, or tangible personal property capable of manual delivery, other than earnings, owned by the judgment debtor and in the possession and control of the garnishee at the time of service of the writ of garnishment upon the garnishee shall be subject to the process of garnishment.

(3) Notwithstanding the provisions of subsection (2) of this section, the exemptions from garnishment required or allowed by law, including but not limited to exemptions provided by sections 13-54-102 and 13-54-104 and 15 U.S.C. sec. 1671 et seq., apply to all garnishments.

Source: L. 84: Entire article added, p. 470, § 1, effective January 1, 1985. **L. 96:** (1) amended, p. 621, § 30, effective July 1. **L. 2019:** (1) repealed and (3) amended, (HB 19-1189), ch. 214, p. 2224, § 2, effective August 2.

13-54.5-104. Priority between multiple garnishments. (1) (a) Only one writ of continuing garnishment against earnings due the judgment debtor shall be satisfied at one time. When more than one writ of continuing garnishment has been issued against earnings due the same judgment debtor, they shall be satisfied in the order of service on the garnishee. Except as provided in this subsection (1), a lien and continuing levy obtained pursuant to this article shall have priority over any subsequent garnishment lien or wage attachment.

(b) Where a continuing garnishment has been suspended for a specific period of time by agreement of the parties pursuant to the provisions of section 13-54.5-102 (2), such suspended continuing garnishment shall have priority over any writ of continuing garnishment served on the garnishee after such suspension has expired.

(c) (I) Notwithstanding any other provision of this subsection (1), a continuing garnishment obtained pursuant to section 14-14-105, S.A.R.S., for the satisfaction of debts or judgments for child support shall have priority over any other continuing garnishment.

(II) Notwithstanding any other provision of this subsection (1), a continuing garnishment obtained pursuant to section 26-2-128 (1)(a) or section 26.5-4-116 (1) for the satisfaction of a judgment for fraudulently obtained public assistance or child care assistance or fraudulently obtained overpayments has priority over any other continuing garnishment other than a garnishment for collection of child support pursuant to subsection (1)(c)(I) of this section.

(2) (a) Any writ of continuing garnishment served upon a garnishee while any previous writ is still in effect shall be answered by the garnishee with a statement that he has been served previously with one or more writs of continuing garnishment against earnings due the judgment debtor and specifying the date on which all such liens are expected to terminate.

(b) Upon the termination of a lien and continuing levy obtained pursuant to this article, any other writ of continuing garnishment which has been issued or which is issued subsequently against earnings due the judgment debtor shall have priority in the order of service on the garnishee, and no priority shall be given to any previous continuing lienholder whose lien has terminated. The person who serves a writ of continuing garnishment on a garnishee shall note the date and time of such service.

Source: L. 84: Entire article added, p. 471, § 1, effective January 1, 1985. **L. 94:** (1)(c) amended, p. 2062, § 3, effective July 1. **L. 2022:** (1)(c)(II) amended, (HB 22-1295), ch. 123, p. 828, § 29, effective July 1.

13-54.5-105. Notice to judgment debtor in continuing garnishment. (1) In the case of a continuing garnishment, the writ of garnishment must be served on the garnishee in accordance with rule 4 of the San Andreas rules of civil procedure.

(2) The writ of garnishment pursuant to subsection (1) of this section must include:

(a) The name of the judgment debtor;

(b) The last-known physical and mailing addresses of the judgment debtor or a statement that the information is not known;

(c) The amount of the judgment upon which the judgment creditor bases the continuing garnishment;

(d) Information sufficient to identify the judgment on which the continuing garnishment is based;

(e) A completed notice that satisfies subsection (3) of this section and that may be incorporated into and made a part of the writ of garnishment; and

(f) A notice of San Andreas rules about garnishment that satisfies subsection (4) of this section and that is incorporated into and made a part of the notice required by subsection (2)(e) of this section.

(3) The notice required by subsection (2)(e) of this section must be in substantially the following form and conspicuously labeled:

Notice of Garnishment

Money will be taken from your pay if you fail to act.

1. **Why am I getting this notice?**

You are getting this notice because a court has ruled that you owe the judgment creditor, who is called "Creditor" in this notice, money. Creditor has started a legal process called a "garnishment". The process requires that money be taken from your pay and given to Creditor to pay what you owe. The person who pays you does not keep the money.

Creditor filled out this form. The law requires the person who pays you to give you this notice. Creditor may not be the person or company to which you originally owed money. You may request that Creditor provide the name and address of the person or company to which you originally owed money. If you want this information, you must write Creditor or Creditor's lawyer at the address at the very beginning of this form. You must do this within 14 days after receiving this notice. Creditor will send you this information at the address you give Creditor. Creditor must send you this information within 7 days after receiving your request. Knowing the name of the original creditor might help you understand why the money will be taken from your pay.

2. **How much do I owe?**

The amount the court has ruled that you currently owe is listed at the top of the writ of garnishment. The amount could go up if there are more court costs or additional interest. The

interest rate on the amount you owe is listed at the top of the writ of garnishment. The amount could also go down if you make payments to Creditor.

3. **How will the amount I owe be paid?**

The person who pays you will start taking money from your paycheck on the first payday that is at least 14 days after the day the person who pays you sends you this notice. Money will continue to be taken from your pay for up to 6 months. If the debt is not paid off or not likely to be paid off by that time, Creditor may serve another garnishment.

The rules about how much of your pay can be taken are explained in the notice of San Andreas rules about garnishment that you received with this notice. This notice also contains an estimate of how much of your pay will likely be withheld each paycheck.

At any time, you can get a report that shows how the amount taken from your pay was calculated. To receive this report, you must write or e-mail the person who pays you.

4. **Do I have options?**

Yes, you have several options, here are three of them:

A. You can talk with a lawyer: A lawyer can explain the situations to you and help you decide what to do. The self-help desk of the court where the garnishment action is pending can provide you help with resources to find a lawyer.

B. You can contact Creditor: If you can work something out with Creditor, money might not have to be taken from your pay. The Creditor's contact information is on the first page of the writ of garnishment.

C. You can request a court hearing: A hearing could be helpful if there are disagreements about the garnishment, the amount the court has ruled that you owe, whether the amount of money being withheld from your paycheck is correct, or whether the amount being withheld should be reduced to help you support your family and yourself. If you disagree with the estimate of the amount of money that will be withheld from your paycheck, you must attempt to work this out with the person who pays you before going to court. You must do this within 7 days after receiving this notice. If you cannot work it out with the person who pays you, you may seek a hearing in court. If you want a court hearing, you must request one. If you think that you need more money to support your family and yourself, you may seek a court hearing without consulting the person who pays you. For help requesting a hearing, contact the self-help desk of the court where the garnishment action is pending.

5. **What if I don't do anything?**

If you don't do anything, the law requires that money be taken out of your paycheck beginning with the first payday that is at least 14 days after the day the person who pays you sends you this notice. The money will be given to Creditor. This process will continue for 6 months unless your debt is paid off before that.

6. **How does garnishment work in San Andreas?**

Only a portion of your pay can be garnished. The amount that can be withheld from your pay depends on something called "disposable earnings". Your disposable earnings are what is left after deductions from your gross pay for taxes and certain health insurance costs. Your paycheck stub should tell what your disposable earnings are.

The amount of your disposable earnings that can be garnished is determined by comparing two numbers: (1) 20% of your disposable earnings and (2) the amount by which your disposable earnings exceed 40 times the minimum wage. The smaller of these two amounts will be deducted from your pay.

If you think that your earnings after garnishment are not enough to support yourself and any members of your family that you support, you can try to have the amount of your disposable earnings that are garnished further reduced. This is discussed earlier in this notice under 4. **Do I have options?**

Your employer cannot fire you because your earnings have been garnished. If your employer does this in violation of your legal rights, you may file a lawsuit within 91 days of your firing to recover wages you lost because you were fired. You can also seek to be reinstated to your job. If you are successful with this lawsuit, you cannot recover more than 6 weeks' wages and attorney fees.

Based on your most recent paycheck, the person who pays you estimates that $_____ will be withheld from each paycheck that is subject to garnishment.

(4) The notice required by subsection (2)(f) of this section must:

(a) Have a heading stating that it explains wage garnishment in San Andreas; and

(b) Reasonably inform the judgment debtor of:

(I) The limits on wage garnishment pursuant to section 13-54-104;

(II) Exemptions from and limits on garnishment and protections pursuant to the laws of San Andreas; and

(III) An estimate, based on the judgment debtor's most recent paycheck and prepared by the garnishee, of the amount that would likely be withheld from the judgment debtor's paychecks in the future.

(5) Not later than seven days after being served with a writ of garnishment:

(a) If one of the following grounds applies, the garnishee shall send notice to the judgment creditor stating the applicable ground:

(I) The judgment debtor is not an employee of the garnishee; or

(II) The writ of garnishment does not contain all information required by subsection (2) of this section.

(b) If subsection (5)(a) of this section does not apply, the garnishee shall:

(I) Send to the judgment creditor a notice that includes:

(A) A statement that the named judgment debtor is an employee of the garnishee;

(B) The pay frequency of the judgment debtor and the date of the first payday that is at least twenty-one days after the garnishee was served with the writ of garnishment in accordance with subsection (1) of this section or the first payday after the expiration of any prior effective writ of garnishment that is at least twenty-one days after service of the writ on the garnishee;

(C) If the judgment debtor's earnings are subject to deductions other than withholding for local, state, and federal income taxes and pursuant to the "Federal Insurance Contributions Act", 26 U.S.C. sec. 3101 et seq., as amended, the nature, number, and amounts of these deductions and the relative priority of the writ of garnishment; and

(II) Send to the judgment debtor on the same day the notice required by subsection (5)(b)(I) of this section is sent to the judgment creditor a copy of the writ of garnishment and the notices required pursuant to subsections (2)(e) and (2)(f) of this section.

(6) If subsection (5)(b)(I) of this section applies, the garnishee shall begin garnishment on the first payday that occurs at least twenty-one days after the garnishee was served with the writ of garnishment in accordance with subsection (1) of this section or the first payday after the expiration of any prior effective writ of garnishment that is at least twenty-one days after service of the writ on the garnishee.

Source: L. 84: Entire article added, p. 471, § 1, effective January 1, 1985. **L. 2019:** Entire section R&RE, (HB 19-1189), ch. 214, p. 2225, § 4, effective August 2.

13-54.5-106. Notice to judgment debtor in other garnishment. (1) In a case where personal property of the judgment debtor other than earnings is subject to garnishment, following the service of the writ of garnishment on the garnishee, the person who served said writ shall, as soon as practicable, serve a copy of the writ of garnishment, together with a notice of exemption and pending levy, upon each judgment debtor whose property is subject to garnishment by said writ. The notice of exemption and pending levy shall inform the judgment debtor that the judgment creditor intends to seek satisfaction of any judgment rendered in its favor against the judgment debtor out of the judgment debtor's personal property in the possession or control of the garnishee and shall inform the judgment debtor of his right to claim exempt property.

(2) The notice of exemption and pending levy in such garnishment proceeding against the personal property of a judgment debtor who is a natural person shall contain the following:

(a) The judgment creditor's name and business address;

(b) The original amount of the judgment;

(c) The amount, if any, paid on the principal of the judgment as of the date of the notice;

(d) The principal balance due on the judgment;

(e) The interest, if any, due on the judgment;

(f) The itemized taxable costs, if any, including the estimated costs of serving the notice;

(g) The total amount due and owing on the judgment;

(h) The date of entry of the judgment;

(i) The name of the court in which the judgment was entered;

(j) A statement of the judgment debtor's right to claim any property levied upon as exempt, including, but not limited to:

(I) Exempt property under section 13-54-102 and exempt earnings under section 13-54-104;

(II) Workers' compensation benefits under section 8-42-124, S.A.R.S.;

(III) Unemployment compensation benefits under section 8-80-103, S.A.R.S.;

(IV) Group life insurance proceeds under section 10-7-205, S.A.R.S.;

(V) Health insurance benefits under section 10-16-212, S.A.R.S.;

(VI) Fraternal society benefits under section 10-14-403, S.A.R.S.;

(VII) Family allowances under section 15-11-404, S.A.R.S.;

(VIII) Repealed.

(IX) Public employees' retirement benefits pursuant to sections 24-51-212 and 24-54-111, S.A.R.S., social security benefits pursuant to 42 U.S.C. sec. 407, and railroad employee retirement benefits pursuant to 45 U.S.C. sec. 231m;

(X) Public assistance benefits under section 26-2-131, S.A.R.S.;

(XI) Police officers' and firefighters' pension fund payments under section 31-30.5-208, S.A.R.
S.; (XII) Utility and security deposits under section 13-54-102 (1)(r);

(j.5) A statement that, notwithstanding the debtor's right to claim any property levied upon as exempt for the property specified in paragraph (j) of this subsection (2), no exemption other than the exemptions set forth in section 13-54-104 (3) may be claimed for a writ which is the result of a judgment taken for arrearages for child support or for child support debt;

(k) The method of claiming an exemption and the time therefor; and

(l) The right to a hearing on any such claim of exemption and the time within which such hearing must be held.

(3) Any notice to the judgment debtor required in the case of a garnishment proceeding against the assets of a judgment debtor other than a natural person shall be as prescribed by the supreme court pursuant to section 13-54.5-111.

Source: L. 84: Entire article added, p. 471, § 1, effective January 1, 1985. **L. 87:** (2)(j)(IX) amended, p. 1091, § 6, effective July 1; (2)(j)(IX) amended, p. 1585, § 56, effective July 1; (2)(j.5) added, p. 595, § 24, effective July 10. **L. 88:** (3) amended, p. 611, § 2, effective July 1. **L. 90:** (2)(j)(II) amended, p. 564, § 34, effective July 1. **L. 92:** (2)(j)(V) amended, p. 1726, § 15, effective July 1. **L. 93:** (2)(j)(VI) amended, p. 609, § 2, effective July 1. **L. 94:** (2)(j)(VII) amended, p. 1040, § 18, effective July 1, 1995. **L. 96:** (2)(j)(XI) amended, p. 941, § 3, effective May 23. **L. 2011:** (2)(j)(VIII) repealed, (HB 11-1303), ch. 264, p. 1152, § 20, effective August 10.

13-54.5-107. Service of notice upon judgment debtor. (1) In a case of continuing garnishment, the garnishee shall deliver a copy of the writ of garnishment and notices required by section 13-54.5-105 to the judgment debtor in accordance with the provisions of section 13-54.5-105 (5)(b)(II).

(2) (a) In cases other than a continuing garnishment where the judgment debtor's personal property is subject to garnishment, service of the notice of exemption and pending levy required by section 13-54.5-106 must be made by one of the following means:

(I) Giving the notice of exemption and pending levy to the judgment debtor in person and obtaining a receipt;

(II) Personal service;

(III) (A) Depositing the notice in the United States mail, postage prepaid and addressed to the judgment debtor's last-known address known to the judgment creditor. A notice served in this manner must be sent either by certified mail, return receipt requested, or by regular mail supported by an affidavit of mailing sworn and retained by the judgment creditor.

(B) A notice mailed and not returned as undeliverable by the United States postal service is presumed to have been given on the date of mailing. For the purposes of this subsection (2), "undeliverable" does not include unclaimed or refused.

(C) If the judgment debtor has provided consent for notice by electronic mail as described in subparagraph (IV) of this paragraph (a), the judgment creditor shall also provide the notice as described in subparagraph (IV) of this paragraph (a) when using the notice provisions in this subparagraph (III).

(IV) Transmitting the notice by electronic mail, if the judgment debtor has previously consented to receive information about the debt from the judgment creditor in electronic form, to the last-known electronic mail address of the judgment debtor on file with the judgment creditor. A notice served in this manner must be supported by an affidavit, executed under penalty of perjury, of any officer, clerk, or agent of the creditor or the creditor's attorney, authorized to serve the notice or electronically transmit the notice under this section. The affidavit constitutes proof of notice under this subparagraph (IV).

(b) (I) If service cannot be made upon the judgment debtor as set forth in paragraph (a) of this subsection (2), and upon a showing that due diligence has been used to obtain service as set forth in paragraph (a) of this subsection (2), the court shall order service of a notice of exemption and pending levy to be made by one of the following methods:

(A) Publication for a period of fourteen days in a newspaper of general circulation published in the county in which the property was levied upon; or

(B) If there is no newspaper of general circulation published in the county in which the property was levied upon, then service is made by publication for a period of fourteen days in a newspaper of general circulation in an adjoining county, and the court shall order the clerk of the court in which the judgment was entered to mail a copy of the notice to the judgment debtor at the judgment debtor's last-known address, postage prepaid.

(II) A newspaper used for service by publication as set forth in this paragraph (b) must meet the requirements set forth in section 24-70-106, S.A.R.S.

(III) (A) The judgment creditor shall file with the clerk of the court in which the judgment was entered a notice of exemption and pending levy, as well as proof of service of the notice.

(B) In the case of service by publication, the judgment creditor shall file with the clerk of the court in which the judgment was entered an affidavit of publication and an affidavit of the mailing of the notice.

(3) Compliance with this section and sections 13-54.5-105 and 13-54.5-106 by the judgment creditor shall be deemed to give sufficient notice to the judgment debtor of the garnishment proceedings against him, and no further notice shall be required under this article.

Source: L. 84: Entire article added, p. 473, § 1, effective January 1, 1985. **L. 2012:** (2) amended, (SB 12-175), ch. 208, p. 826, § 15, effective July 1. **L. 2015:** (2) amended, (SB 15-283), ch. 301, p. 1240, § 5, effective July 1. **L. 2019:** (1) amended, (HB 19-1189), ch. 214, p. 2229, § 5, effective August 2.

13-54.5-108. Judgment debtor to file written objection or claim of exemption. (1) (a) In a case of continuing garnishment where the judgment debtor objects to the calculation of the amount of exempt earnings, the judgment debtor shall have seven days from receipt of the copy of the writ of continuing garnishment required by section 13-54.5-105 within which to resolve the issue of such miscalculation, by agreement with the garnishee, during which time the garnishee shall not tender any money to the clerk of the court or judgment creditor. If such objection is not resolved within seven days and after good faith effort, the judgment debtor may file a written objection with the clerk of the court in which the judgment was entered setting forth with reasonable detail the grounds for such objection. The judgment debtor may also file a written objection with the clerk of the court in which the judgment was obtained pursuant to

section 13-54-104 (2)(a)(I)(D). The judgment debtor shall, by certified mail, return receipt requested, deliver immediately a copy of such objection to the judgment creditor or his or her attorney of record.

(b) In a case where a garnishee, pursuant to a writ of garnishment, holds any personal property of the judgment debtor other than earnings which the judgment debtor claims to be exempt, said judgment debtor, within fourteen days after being served with the notice of exemption and pending levy required by section 13-54.5-106, shall make and file with the clerk of the court in which the judgment was entered a written claim of exemption setting forth with reasonable detail a description of the property claimed to be exempt, together with the grounds for such exemption. The judgment debtor shall, by certified mail, return receipt requested, deliver immediately a copy of such claim to the judgment creditor or his or her attorney of record.

(2) Upon the filing of a written objection or claim of exemption, all further proceedings with relation to the sale or other disposition of said property or earnings shall be stayed until the matter of such objection or claim of exemption is determined.

(3) Notwithstanding the provisions of subsection (1) of this section, a judgment debtor failing to make a written objection or claim of exemption may, at any time within one hundred eighty-two days from receipt of a copy of the writ of continuing garnishment required by section 13-54.5-105 or from service of the notice of exemption and pending levy required by section 13-54.5-106 and for good cause shown, move the court in which the judgment was entered to hear an objection or a claim of exemption as to any earnings or property levied in garnishment, the amount of which the judgment debtor claims to have been miscalculated or which the judgment debtor claims to be exempt. Such hearing may be granted upon a showing of mistake, accident, surprise, irregularity in proceedings, newly discovered evidence, events not in the control of the judgment debtor, or such other grounds as the court may allow.

Source: L. 84: Entire article added, p. 473, § 1, effective January 1, 1985. **L. 2012:** (1) and (3) amended, (SB 12-175), ch. 208, p. 827, § 16, effective July 1. **L. 2019:** (1)(a) amended, (HB 19-1189), ch. 214, p. 2229, § 6, effective August 2.

13-54.5-108.5. Garnishee not required to assert exemption. A garnishee shall not be required to deduct, set up, or plead any exemption for or on behalf of a judgment debtor, except as set forth in the writ.

Source: L. 2006: Entire section added, p. 579, § 1, effective July 1.

13-54.5-109. Hearing on objection or claim of exemption. (1) (a) Upon the filing of an objection pursuant to section 13-54.5-108 (1)(a) or the filing of a claim of exemption pursuant to section 13-54.5-108 (1)(b), the court in which the judgment was entered shall set a time for the hearing of such objection or claim, which shall be not more than fourteen days after filing. The clerk of the court where such objection or claim is filed shall immediately inform the judgment creditor or his or her attorney of record and the judgment debtor or his or her attorney of record by telephone, by mail, or in person of the date set for such hearing.

(b) The certificate of the clerk of the court that service of notice of such hearing has been made in the manner and form stated in paragraph (a) of this subsection (1), which certificate has

been attached to the court file, shall constitute prima facie evidence of such service, and such certificate of service filed with the clerk of the court is sufficient return of such service.

(2) Upon such hearing, the court shall summarily try and determine whether the amount of the judgment debtor's exempt earnings was correctly calculated by the garnishee or whether the property held by the garnishee is exempt and shall enter an order or judgment setting forth the determination of the court. If the amount of exempt earnings is found to have been miscalculated or if said property is found to be exempt, the court shall order the clerk of the court to remit the amount of over-garnished earnings, or the garnishee to remit such exempt property, to the judgment debtor within seven days.

(3) Where the judgment debtor moves the court to hear an objection or claim of exemption within the time provided by section 13-54.5-108 (3) and the judgment giving rise to such claim has been satisfied against property or earnings of the judgment debtor, the court shall hear and summarily try and determine whether the amount of the judgment debtor's earnings paid to the judgment creditor was correctly calculated and whether the judgment debtor's property sold in execution was exempt and shall issue an order setting forth the determination of the court. If such amount of earnings is found to have been miscalculated or if such property is found to be exempt, the court shall order the judgment creditor to remit the amount of the over-garnished earnings or such exempt property or the value thereof to the judgment debtor within seven days.

(4) Any order or judgment entered by the court as provided for in subsections (2) and (3) of this section is a final judgment or order for the purpose of appellate review.

Source: L. 84: Entire article added, p. 474, § 1, effective January 1, 1985. **L. 2012:** (1)(a), (2), and (3) amended, (SB 12-175), ch. 208, p. 827, § 17, effective July 1.

13-54.5-110. No discharge from employment for any garnishment - general prohibition. (1) No employer shall discharge an employee for the reason that a creditor of the employee has subjected or attempted to subject unpaid earnings of the employee to any garnishment or like proceeding directed to the employer for the purpose of paying any judgment.

(2) If an employer discharges an employee in violation of the provisions of this section, the employee may, within ninety-one days, bring a civil action for the recovery of wages lost as a result of the violation and for an order requiring the reinstatement of the employee. Damages recoverable shall be lost wages not to exceed six weeks, costs, and reasonable attorney fees.

Source: L. 84: Entire article added, p. 475, § 1, effective January 1, 1985. **L. 2012:** (2) amended, (SB 12-175), ch. 208, p. 828, § 18, effective July 1.

13-54.5-111. Supreme court rules. The practice and procedure in garnishment actions instituted pursuant to this article, and all forms in connection therewith, shall be in accordance with rules prescribed by the supreme court pursuant to article 2 of this title.

Source: L. 84: Entire article added, p. 475, § 1, effective January 1, 1985.

ARTICLE 55

Method of Claiming Exemption

13-55-101. Defendant to file written claim. Except in cases of garnishment pursuant to article 54.5 of this title, in cases where a sheriff or other officer by virtue of a writ of execution, writ of attachment, or other order of court issued by a court of record or clerk thereof levies upon, seizes, or takes into his possession any property of the defendant debtor, which said property, or part thereof, the defendant claims as exempt under the provisions of the statutes of the state, said defendant debtor, within fourteen days after being served with notice of such levy or seizure, shall make and file with the clerk of the court of record out of which such writ of execution, writ of attachment, or other order was issued a written claim of such exemption setting forth with reasonable detail the description of the property so claimed to be exempt together with the grounds of such claim of exemption.

Source: L. 35: p. 244, § 1. **CSA:** C. 93, § 30. **S.A.R.S. 53:** § 77-4-1. **S.A.R.S. 1963:** § 77-4-1. **L. 64:** p. 283, § 205. **L. 85:** Entire section amended, p. 582, § 3, effective May 3. **L. 2012:** Entire section amended, (SB 12-175), ch. 208, p. 828, § 19, effective July 1.

13-55-102. Service of notice of levy. Notice of such levy or seizure of any property under a writ of execution, writ of attachment, or other order of court shall be served upon the defendant debtor by delivering a copy of such notice to the defendant debtor personally or by leaving a copy of such notice at the usual abode of the defendant debtor with some member of his family over the age of fifteen years. In the event the defendant is a nonresident, or absent from the state or conceals himself or herself so personal service cannot be had upon him or her, then service of such notice of levy or seizure shall be made by publication thereof for a period of fourteen days in some newspaper published in the county in which said property was so levied upon or seized, or, if there is no newspaper published in such county, then like publication shall be made in a newspaper in an adjoining county, and the clerk of the court of record shall mail a copy of such notice to the defendant debtor directed to him or her at his or her last-known address, postage prepaid. Such notice, with proof of service thereof and, in case of publication, affidavit of publication and affidavit of mailing of notice shall be filed with the clerk of the court of record from which such writ of execution, writ of attachment, or other order of court was issued.

Source: L. 35: p. 245, § 2. **CSA:** C. 93, § 31. **S.A.R.S. 53:** § 77-4-2. **S.A.R.S. 1963:** § 77-4-2. **L. 64:** p. 283, § 206. **L. 2012:** Entire section amended, (SB 12-175), ch. 208, p. 828, § 20, effective July 1.

Cross references: For requirements of publication of notice, as required by this section, see § 24-70-106.

13-55-103. Proceedings for sale stayed. Upon the filing of a written claim of exemption, all further proceedings with relation to the sale or other disposition of said property shall be stayed until the matter of such claim of exemption is determined.

Source: L. 35: p. 245, § 3. **CSA:** C. 93, § 32. **S.A.R.S. 53:** § 77-4-3. **S.A.R.S. 1963:** § 77-4-3.

13-55-104. Hearing on claim. (1) Upon the filing of such claim of exemption, the court of record shall set a time for the hearing of such claim of exemption, which shall not be less than seven days nor more than fourteen days thereafter. A written notice of the time and place of such hearing shall be given by the defendant or his or her attorney to the officer who made such levy or seizure, and to the plaintiff in said action or his or her attorney of record, by leaving a copy of such notice with said officer or his deputy at his office and by leaving a copy thereof with the plaintiff or his or her attorney of record, or notice may be given to the plaintiff by mailing a copy of such notice of hearing to the attorney of record of the plaintiff at least seven days in advance of date set for the hearing.

(2) The affidavit of the defendant or his attorney that service of notice of such hearing has been made in the manner and form stated, attached to the original notice, shall constitute prima facie evidence of such service, and such affidavit of service filed with the clerk of the court is sufficient return of such service. Such hearing may be continued from time to time in the discretion of the court. In case of the absence of the district judge from the county in which said claim of exemption has been filed with the clerk of the district court or in case of other inability of the district judge to act, the county judge of such county if possessing the qualifications of a district judge in cases of claims for exemption arising therein may set the time of hearing and hear and determine such claims, sitting as a judge of the district court, and his judgment, findings, or orders entered therein shall be of the same force and effect as though made by the district judge.

Source: L. 35: p. 246, § 4. **CSA:** C. 93, § 33. **S.A.R.S. 53:** § 77-4-4. **S.A.R.S. 1963:** § 77-4-4.
L. 64: p. 284, § 207. **L. 2012:** (1) amended, (SB 12-175), ch. 208, p. 829, § 21, effective July 1.

13-55-105. Court enters order or judgment. Upon such hearing, the court shall summarily try and determine the question as to whether or not the property, or any part thereof, so levied upon, seized, and taken into possession by the officer making such levy, as set forth in said written claim of exemption, is exempt and shall enter an order or judgment setting forth the determination of the court. If any of said property is found to be exempt, the court shall order the sheriff or other officer to return such property so found to be exempt to the defendant within forty-eight hours, unless same is ordered sold as provided in section 13-55-109.

Source: L. 35: p. 247, § 5. **CSA:** C. 93, § 34. **S.A.R.S. 53:** § 77-4-5. **S.A.R.S. 1963:** § 77-4-5.
L. 64: p. 284, § 208.

13-55-106. Order or judgment is final. Any order or judgment entered by the court as provided for by section 13-55-105 is a final judgment or order for the purpose of appellate review.

Source: L. 35: p. 247, § 6. **CSA:** C. 93, § 35. **S.A.R.S. 53:** § 77-4-6. **S.A.R.S. 1963:** § 77-4-6.
L. 64: p. 284, § 209.

13-55-107. Failure to claim - effect. In case the defendant debtor fails to make written

claim of exemption as provided in section 13-55-101, he conclusively waives his right of exemption under the statutes of this state and has no right of action against the officer making

such levy or seizure or against the plaintiff on account of such levy or seizure on the ground of levying upon exempt property.

Source: L. 35: p. 247, § 7. **CSA:** C. 93, § 36. **S.A.R.S. 53:** § 77-4-7. **S.A.R.S. 1963:** § 77-4-7.

13-55-108. Damages. If, after hearing of claim of exemption, the court determines that the property levied upon and seized, or any part thereof, is exempt and the officer making the levy in all matters obeys and abides by the order or judgment of the court, no right of action for other than actual damages suffered by the defendant shall exist against said officer or the plaintiff on account of such levy or seizure upon the ground of levying upon or seizure of exempt property. If such officer does not return the property seized and so found to be exempt within forty-eight hours, unless same is ordered sold as provided in section 13-55-109, then he is liable in damages for three times the value of the property seized.

Source: L. 35: p. 247, § 8. **CSA:** C. 93, § 37. **S.A.R.S. 53:** § 77-4-8. **S.A.R.S. 1963:** § 77-4-8.
L. 64: p. 285, § 210.

13-55-109. Court may order sale - proceeds. In case the court finds that a portion of such property is exempt to such value as is by statute fixed as being exempt but that the property seized is of a greater value and said property so seized cannot be readily divided, the court may order said property to be sold, and out of the first proceeds of said sale the defendant debtor shall be paid the amount, as is provided by statute, of his exemption. The disposal of the balance of the proceeds of said sale shall await the further order of the court. If such property is divisible, the court shall fix the value of each item thereof and shall require the defendant to select therefrom such items as the defendant may choose of an aggregate value not to exceed the amount of his exemptions, and the disposal of the balance of such property shall await the further order of the court. No sale of property seized or levied upon under a writ of attachment shall be ordered sold until after final judgment in said action has been rendered in favor of the plaintiff.

Source: L. 35: p. 248, § 9. **CSA:** C. 93, § 38. **S.A.R.S. 53:** § 77-4-9. **S.A.R.S. 1963:** § 77-4-9.
L. 64: p. 285, § 211.

13-55-110. Appeals. Appellate review may be had from the final order or judgment entered in pursuance of this article as in other cases.

Source: L. 35: p. 248, § 10. **CSA:** C. 93, § 39. **S.A.R.S. 53:** § 77-4-10. **S.A.R.S. 1963:** § 77-4-10.

ARTICLE 56

Cross references: For prohibition against execution and levy, see § 15-12-812.

PART 1

CERTIFICATES OF LEVY

13-56-101. Certificate of levy - notice. When in any case a writ of attachment or a writ of execution is issued from any district or county court and a levy thereunder is made upon real estate, it is the duty of the sheriff or officer making the levy to file a certificate of such fact with the recorder of the county where such real estate is situate, and, from and after the filing, such levy shall take effect as to creditors and bona fide purchasers without notice and not before.

Source: L. 19: p. 295, § 1. **C.L.** § 5932. **CSA:** C. 93, § 40. **S.A.R.S. 53:** § 77-5-1. **S.A.R.S. 1963:** § 77-5-1.

13-56-102. Writs from other county. Writs of attachment and writs of execution may issue from any district or county court of any county to the sheriff or other proper officer of such county or any other county, and, when in such cases a levy is made upon real estate in such other county, it is the duty of the sheriff or other officer making such levy to file a certificate of such fact with the recorder of his county, and, from and after the filing of the same, such levy shall take effect as to creditors and bona fide purchasers without notice and not before.

Source: L. 19: p. 295, § 2. **C.L.** § 5933. **CSA:** C. 93, § 41. **S.A.R.S. 53:** § 77-5-2. **S.A.R.S. 1963:** § 77-5-2.

13-56-103. Lien of six years' duration. The lien of an attachment or execution levied on real estate shall continue for six years from the filing of the certificate thereof, as provided in section 13-56-101, unless the same is sooner released or discharged or unless the judgment in the case is satisfied.

Source: L. 19: p. 295, § 3. **C.L.** § 5934. **CSA:** C. 93, § 42. **S.A.R.S. 53:** § 77-5-3. **S.A.R.S. 1963:** § 77-5-3.

13-56-104. Recorder to file and record. It is the duty of the recorder of the proper county to file and record the certificates mentioned in this part 1 in a book to be kept for that purpose, for which he shall be entitled to the same fees as for recording other papers, to be paid by the plaintiff in such execution or attachment and taxed and collected by the sheriff as other costs.

Source: R.S. p. 378, § 26. **G.L.** omitted. **G.S.** § 1885. **R.S. 08:** § 3639. **C.L.** § 5937. **CSA:** C. 93, § 45. **S.A.R.S. 53:** § 77-5-4. **S.A.R.S. 1963:** § 77-5-4.

PART 2

SALE OF LANDS

13-56-201. Hours - notice - penalty - irregularity. (1) No lands or tenements shall be sold by virtue of any execution unless such sale is at public venue and between the hours of nine in the morning and the setting of the sun on the same day nor unless the time and place of holding such sale has been previously advertised for the space of twenty days, by publishing notices of the time and place thereof in some daily or weekly newspaper printed and published in the county where such lands and tenements are situate or, if there is no such newspaper printed in the county, by posting such notices, printed or written, or partly printed and partly written, in three of the most public places in the county where the lands may be situated specifying the names of the plaintiff and defendant in the execution. In all such notices, the lands or tenements to be sold shall be described with reasonable certainty by setting forth their number or by some other appropriate description, and such notices shall comply with section 24-70-109, S.A.R.S.

(2) If any sheriff or other officer sells any lands or tenements by virtue of any such execution, otherwise than in the manner aforesaid, or without such previous notice, the sheriff or other officer so offending shall forfeit and pay the sum of fifty dollars for every offense to be recovered, with costs of suit, in any court of record in this state by the person whose lands were advertised and sold. No such offense nor any irregularity on the part of the sheriff or other officer having the execution shall affect the validity of any sale made under it, unless it appears that the purchaser had notice of such irregularity.

Source: R.S. p. 372, § 11. **G.L.** § 1417. **G.S.** § 1849. **R.S. 08:** § 3641. **C.L.** § 5939. **CSA:** C. 93, § 47. **S.A.R.S. 53:** § 77-6-1. **S.A.R.S. 1963:** § 77-6-1. **L. 88:** (1) amended, p. 977, § 2, effective May 6.

Cross references: For sales on execution and lien foreclosures, see article 38 of title 38; for general requirements of publication, see § 24-70-106.

ARTICLE 57

Sale of Chattels

13-57-101. Ten days' notice of sale. No goods or chattels shall be sold by virtue of any execution unless previous notice of such sale has been given for at least ten days successively in the same manner as required in the sale of real estate upon execution.

Source: R.S. p. 379, § 29. **G.L.** § 1430. **G.S.** § 1862. **R.S. 08:** § 3649. **C.L.** § 5947. **CSA:** C. 93, § 57. **S.A.R.S. 53:** § 77-7-1. **S.A.R.S. 1963:** § 77-7-1.

Cross references: For procedure for sale of real estate upon execution, see § 13-56-201.

13-57-102. Future delivery bond - conditions. When a sheriff or other officer has levied an execution, issued out of any court of record, upon the personal property of a defendant, or is about to make such levy and the defendant is desirous of retaining the property in his possession, such sheriff shall take a bond from the defendant with security that the property shall be forthcoming or delivered at such time and place as is named in the condition and that the

property shall not be disposed of nor injured. A bond so taken shall not be considered void as taken by color of office.

Source: R.S. p. 379, § 30. **G.L.** § 1431. **G.S.** § 1863. **R.S. 08:** § 3650. **C.L.** § 5948. **CSA:** C. 93, § 58. **S.A.R.S. 53:** § 77-7-2. **S.A.R.S. 1963:** § 77-7-2.

13-57-103. Breach of bond - levy on security - sale. Where bonds are taken by a sheriff for the future delivery of property and the defendant or his security does not return the property named in the bond conformably to the condition thereof, the officer having such execution may proceed to execute the same in the same manner as if no levy had been made. In case the defendant's property, or a sufficiency thereof, cannot be found, the officer may proceed to levy on so much of the property of the security in the delivery bond as will make the amount called for in such bond. The property which may be so taken may be sold, by giving notice thereof, as prescribed in section 13-57-101, and no future delivery bond shall be allowed.

Source: R.S. p. 379, § 31. **G.L.** § 1432. **G.S.** § 1864. **R.S. 08:** § 3651. **C.L.** § 5949. **CSA:** C. 93, § 59. **S.A.R.S. 53:** § 77-7-3. **S.A.R.S. 1963:** § 77-7-3.

ARTICLE 58

Death of Parties

13-58-101. Death of debtor - filing claim. When a judgment is obtained in any court of record in this state against any person who after the rendition of said judgment dies, a claim based upon such judgment may be filed against the estate of the deceased judgment debtor without first reviving the judgment against his heirs or personal representatives.

Source: R.S. p. 381, § 37. **G.L.** § 1438. **G.S.** § 1871. **R.S. 08:** § 3659. **C.L.** § 5957. **CSA:** C. 93, § 67. **L. 45:** p. 423, § 1. **S.A.R.S. 53:** § 77-8-1. **S.A.R.S. 1963:** § 77-8-1.

13-58-102. Execution to issue after one year. When any judgment becomes a lien and the defendant dies before execution is issued thereon, the remedy of the person in whose favor the judgment has been rendered shall not be delayed nor suspended by reason of the nonage of any heir of such defendant. No execution shall issue upon such judgment until the expiration of one year after the death of the defendant, nor shall any law of this state which gives no preference to the claims of a creditor of a deceased debtor be so construed as to impair or affect the lien of any judgment.

Source: R.S. p. 371, § 2. **G.L.** § 1410. **G.S.** § 1842. **R.S. 08:** § 3660. **C.L.** § 5958. **CSA:** C. 93, § 68. **S.A.R.S. 53:** § 77-8-2. **S.A.R.S. 1963:** § 77-8-2.

13-58-103. Death of plaintiff - substitution. The collection of the judgments of courts of record shall not be delayed nor hindered by the death of the plaintiff or person in whose name the judgment exists, but the executor or administrator, as the case may be, may cause the letters testamentary or of administration to be recorded in the court in which the judgment exists, after

which execution may issue and proceedings had thereon in the name of the executor or administrator as such, in the same manner that could or might be done, if the judgment exists or remains in the name and in favor of the executor or administrator in his capacity as such executor or administrator.

Source: R.S. p. 382, § 40. **G.L.** § 1441. **G.S.** § 1872. **R.S. 08:** § 3661. **C.L.** § 5959. **CSA:** C. 93, § 69. **S.A.R.S. 53:** § 77-8-3. **S.A.R.S. 1963:** § 77-8-3.

13-58-104. Lien of judgment not abated by death. The lien created by law on property shall not abate or cease by reason of the death of any plaintiff, but the same shall survive in favor of the executor or administrator of the testator or intestate, whose duty it is to have the judgment enforced in the manner provided in section 13-58-103.

Source: R.S. p. 382, § 41. **G.L.** § 1442. **G.S.** § 1873. **R.S. 08:** § 3662. **C.L.** § 5960. **CSA:** C. 93, § 70. **S.A.R.S. 53:** § 77-8-4. **S.A.R.S. 1963:** § 77-8-4.

13-58-105. Administrator to buy on execution. When it is necessary in order to secure the collection of any judgment in favor of any executor or administrator, it is the duty of such executor or administrator to bid for and become the purchaser of real estate at a sheriff's sale, which real estate so purchased shall be assets in his hands and may be again sold by him upon the order of the court of probate, and the moneys arising from such sale shall be paid over and accounted for as other moneys in his hands.

Source: R.S. p. 382, § 42. **G.L.** § 1443. **G.S.** § 1874. **R.S. 08:** § 3663. **C.L.** § 5961. **CSA:** C. 93, § 71. **S.A.R.S. 53:** § 77-8-5. **S.A.R.S. 1963:** § 77-8-5.

ARTICLE 59

Execution Against the Body

13-59-101. No imprisonment for debt. There shall be no imprisonment or arrest for debt in this state in any case upon any contract, expressed or implied.

Source: R.S. p. 358, § 1. **G.L.** § 1351. **G.S.** § 1646. **R.S. 08:** § 3022. **C.L.** § 5962. **CSA:** C. 93, § 72. **S.A.R.S. 53:** § 77-9-1. **S.A.R.S. 1963:** § 77-9-1.

13-59-102. Execution against the body. No execution shall issue against the body of any defendant in a civil action.

Source: G.L. § 1589. **G.S.** § 1648. **R.S. 08:** § 3023. **C.L.** § 5963. **CSA:** C. 93, § 73. **S.A.R.S. 53:** § 77-9-2. **S.A.R.S. 1963:** § 77-9-2. **L. 95:** Entire section amended, p. 16, § 6, effective March 9.

13-59-103. Body execution in tort, when. (Repealed)

Source: G.L. § 1590. **G.S.** § 1649. **R.S. 08:** § 3024. **L. 21:** p. 310, § 1. **C.L.** § 5964. **CSA:** C. 93, § 74. **S.A.R.S. 53:** § 77-9-3. **S.A.R.S. 1963:** § 77-9-3. **L. 64:** p. 286, § 212. **L. 95:** Entire section repealed, p. 16, § 2, effective March 9.

13-59-104. Finding - term - release. (Repealed)

Source: G.L. § 1591. **G.S.** § 1650. **R.S. 08:** § 3025. **C.L.** § 5965. **CSA:** C. 93, § 75. **S.A.R.S. 53:** § 77-9-4. **L. 64:** p. 286, § 213. **S.A.R.S. 1963:** § 77-9-4. **L. 95:** Entire section repealed, p. 15, § 3, effective March 9.

13-59-105. Plaintiff to pay costs, unless. (Repealed)

Source: G.L. § 1592. **G.S.** § 1651. **R.S. 08:** § 3026. **C.L.** § 5966. **CSA:** C. 93, § 76. **S.A.R.S. 53:** § 77-9-5. **S.A.R.S. 1963:** § 77-9-5. **L. 95:** Entire section repealed, p. 15, § 4, effective March 9.

ARTICLE 60

Judgments Against Municipal Corporations

13-60-101. Levy to pay judgment against municipality - procedure. (1) When a judgment for the payment of money is given and rendered against any municipal or quasi-municipal corporation of the state, or against any officer thereof, in an action prosecuted by or against him in his official capacity or name of office, such judgment being an obligation of such municipality, and when by reason of vacancy in office or for any other cause the duly constituted tax assessing and collecting officers fail or neglect to provide for the payment of such judgment or fail to make a tax levy to pay such judgment, the judgment creditor may file a transcript of such judgment with the board of county commissioners of the county, and counties if more than one, in which such public corporation is situated. Thereupon, the county commissioners shall levy a tax as provided in subsection (2) of this section upon all the taxable property within the limits of such public corporation for the purpose of making provision for the payment of such judgment, which tax shall be collected by the county treasurer, and, when collected by the county treasurer, it shall be paid over, as fast as collected by him, to the judgment creditor, or his assigns, upon the execution and delivery of proper vouchers therefor.

(2) The power conferred to pay such judgment by special levy of such tax is in addition to the taxing power given and granted to such public corporation to levy taxes for other purposes. The board of county commissioners shall levy under this section on all taxable property within said municipal or quasi-municipal corporation such taxes as are sufficient to discharge such judgment in the next fiscal year; but in no event shall such annual levy pursuant to this section and section 24-10-113, S.A.R.S., exceed a total of ten mills for one or more judgments, exclusive of mill levies for other purposes of such public corporation. The board of county commissioners shall continue to levy such taxes not to exceed a total of ten mills

annually, exclusive of mill levies for other purposes of such public corporation, but in no event

less than ten mills if such judgment will not be discharged by a lesser levy, until such judgment is discharged.

(3) Any taxes levied to pay the last payment upon or to pay any such judgment shall be valid, whether or not the sum sought to be raised thereby exceeds the sum due on such judgment, principal, and interest. Such excess of the sum required shall not exceed a sum equal to ten percent of such required sum, and no sale of real estate made to make such taxes shall be invalid by reason of such excess if the same is within said specified limit. All levies to pay judgments shall be made as near as possible to raise a sum equal to that due on the judgment to pay for which the tax is levied. Nevertheless, any excess levied, if such excess does not exceed ten percent of the sum due and desired to be paid, shall not invalidate any tax levy upon or tax sale of real or personal estate made to raise, make, or collect the sum due and excess. Any excess collected by the county treasurer remaining in his hands after paying all judgments in full, transcripts thereof having been filed with the county commissioners, shall be paid by him to the treasurer of such public corporation and become part of the general fund of such public corporation. This section shall not prevent said public corporation from paying any judgment from any other funds it may have in its treasury available for that purpose. The provisions of this section shall not apply to counties.

Source: L. 13: p. 388, § 1. **C.L.** § 5967. **CSA:** C. 93, § 77. **S.A.R.S. 53:** § 77-10-1. **S.A.R.S. 1963:** § 77-10-1. **L. 71:** p. 1213, § 7.

ARTICLE 61

Garnishment of Public Servants

13-61-101. Funds subject to garnishment. The state of San Andreas, municipal corporations, quasi-municipal corporations, and any officer, board, or commission thereof, having the control of the disbursing of any fund, whether the same be derived from appropriations, levies, fees, licenses, special taxes, or otherwise within the state of San Andreas, shall be subject to garnishment upon writs of attachment and execution in the same manner as private corporations are subject to garnishment under such writs; except that the state of San Andreas shall not be subject to garnishment regarding salaries or fees due to any officer designated as such and whose salary or fees are fixed by the provisions of the constitution of the state of San Andreas.

Source: L. 27: p. 374, § 1. **Code 35:** § 132A. **S.A.R.S. 53:** § 77-12-1. **S.A.R.S. 1963:** § 77-12-1.

13-61-102. Other salaries, wages, and fees. It is declared that no provision of this article is contrary to public policy and that the provisions of this article are meant to apply to all salaries, wages, fees, credits, and choses in action other than such as are exempt under the provisions of section 13-61-101, whether collection of the same might be enforced under any action in court, by an action in the nature of mandamus, or in any manner whatsoever.

Source: L. 27: p. 375, § 2. **Code 35:** § 132B. **S.A.R.S. 53:** § 77-12-2. **S.A.R.S. 1963:** § 77-12-2.

Cross references: For an action in the nature of mandamus, see C.R.C.P. 106(a)(2).

13-61-103. Summons - how served. Garnishee summons issued upon writs of attachment and execution shall be served upon the officer of such state, municipal corporation, quasi-municipal corporation, or board or commission thereof, whose duty it is to issue warrants, checks, or money for the payment to any officer, employee, or other person whose salary, wages, earnings, or money due him is sought to be held. Service of such garnishee summons on such officer shall be made by leaving a copy thereof with him personally or, in the event of his absence from his office, then by leaving a copy thereof in his office with the chief clerk, deputy, or other employee of the office then in charge thereof.

Source: L. 27: p. 375, § 3. **Code 35:** § 132C. **S.A.R.S. 53:** § 77-12-3. **S.A.R.S. 1963:** § 77-12-3.

Cross references: For personal service in state, see C.R.C.P. 4(e).

13-61-104. Garnishee to answer. It is the duty of such officer to answer any garnishee summons served upon him under the provisions of this article in the same manner as is provided by law for the answer of garnishee summons by private corporations. If such answer is accompanied by a certificate of such officer that the same is true, such answer need not be under oath or affirmation, and such officer shall not be required to appear and answer in person, but may file his answer in writing or submit the same by United States mail to the court, or clerk thereof, designated in such summons. The officer need not include as money due the amount of any warrant or check drawn and signed prior to the time of the service of such garnishee summons.

Source: L. 27: p. 375, § 4. **Code 35:** § 132D. **S.A.R.S. 53:** § 77-12-4. **S.A.R.S. 1963:** § 77-12-4. **L. 64:** p. 287, § 214.

13-61-105. Order of court. Such officer shall abide by the order of the court with regard to paying into court any amount ordered, not, however, in excess of the salary, wages, earnings, or money due such officer, employee, or other person whose salary, wages, or money due him is sought to be held to the time of the service of such garnishee summons.

Source: L. 27: p. 376, § 5. **Code 35:** § 132E. **S.A.R.S. 53:** § 77-12-5. **S.A.R.S. 1963:** § 77-12-5. **L. 64:** p. 287, § 215.

ARTICLE 62

Uniform Foreign-country Money
Judgments Recognition Act

Editor's note: This article was added in 1977 and was not amended prior to 2008. The substantive provisions of this article were repealed and reenacted in 2008, resulting in the addition, relocation, and elimination of sections as well as subject matter. For the text of this article prior to 2008, consult the 2007 San Andreas Revised Statutes.

13-62-101. Short title. This article may be cited as the "Uniform Foreign-country Money Judgments Recognition Act".

Source: L. 2008: Entire article R&RE, p. 99, § 1, effective August 5.

13-62-102. Definitions. In this article:

(1) "Foreign-country" means a government other than:

(a) The United States;

(b) A state, district, commonwealth, territory, or insular possession of the United States; or

(c) Any other government with regard to which the decision in this state as to whether to recognize a judgment of that government's courts is initially subject to determination under the full faith and credit clause of the United States constitution.

(2) "Foreign-country judgment" means a judgment of a court of a foreign country.

Source: L. 2008: Entire article R&RE, p. 99, § 1, effective August 5.

13-62-103. Applicability. (1) Except as otherwise provided in subsection (2) of this section, this article applies to a foreign-country judgment to the extent that the judgment:

(a) Grants or denies recovery of a sum of money; and

(b) Under the law of the foreign country where rendered, is final, conclusive, and enforceable.

(2) This article does not apply to a foreign-country judgment, even if the judgment grants or denies recovery of a sum of money, to the extent that the judgment is:

(a) A judgment for taxes;

(b) A fine or other penalty; or

(c) A judgment for divorce, support, or maintenance, or other judgment rendered in connection with domestic relations.

(3) A party seeking recognition of a foreign-country judgment has the burden of establishing that this article applies to the foreign-country judgment.

Source: L. 2008: Entire article R&RE, p. 100, § 1, effective August 5.

13-62-104. Standards for recognition of foreign-country judgment. (1) Except as otherwise provided in subsections (2) and (3) of this section, a court of this state shall recognize a foreign-country judgment to which this article applies.

(2) A court of this state may not recognize a foreign-country judgment if:

(a) The judgment was rendered under a judicial system that does not provide impartial tribunals or procedures compatible with the requirements of due process of law;

(b) The foreign court did not have personal jurisdiction over the defendant; or

(c) The foreign court did not have jurisdiction over the subject matter.

(3) A court of this state need not recognize a foreign-country judgment if:

(a) The defendant in the proceeding in the foreign court did not receive notice of the proceeding in sufficient time to enable the defendant to defend;

(b) The judgment was obtained by fraud that deprived the losing party of an adequate opportunity to present its case;

(c) The judgment or the claim for relief on which the judgment is based is repugnant to the public policy of this state or of the United States;

(d) The judgment conflicts with another final and conclusive judgment;

(e) The proceeding in the foreign court was contrary to an agreement between the parties under which the dispute in question was to be determined otherwise than by proceedings in that foreign court;

(f) In the case of jurisdiction based only on personal service, the foreign court was a seriously inconvenient forum for the trial of the action;

(g) The judgment was rendered in circumstances that raise substantial doubt about the integrity of the rendering court with respect to the judgment; or

(h) The specific proceeding in the foreign court leading to the judgment was not compatible with the requirements of due process of law.

(4) A party resisting recognition of a foreign-country judgment has the burden of establishing that a ground for nonrecognition stated in subsection (2) or (3) of this section exists.

Source: L. 2008: Entire article R&RE, p. 100, § 1, effective August 5.

13-62-105. Personal jurisdiction. (1) A foreign-country judgment may not be refused recognition for lack of personal jurisdiction if:

(a) The defendant was served with process personally in the foreign country;

(b) The defendant voluntarily appeared in the proceeding, other than for the purpose of protecting property seized or threatened with seizure in the proceeding or of contesting the jurisdiction of the court over the defendant;

(c) The defendant, before the commencement of the proceeding, had agreed to submit to the jurisdiction of the foreign court with respect to the subject matter involved;

(d) The defendant was domiciled in the foreign country when the proceeding was instituted or was a corporation or other form of business organization that had its principal place of business in, or was organized under the laws of, the foreign country;

(e) The defendant had a business office in the foreign country and the proceeding in the foreign court involved a claim for relief arising out of business done by the defendant through that office in the foreign country; or

(f) The defendant operated a motor vehicle or airplane in the foreign country and the proceeding involved a claim for relief arising out of that operation.

(2) The list of bases for personal jurisdiction in subsection (1) of this section is not exclusive. The courts of this state may recognize bases of personal jurisdiction other than those listed in subsection (1) of this section as sufficient to support a foreign-country judgment.

Source: L. 2008: Entire R&RE, p. 101, § 1, effective August 5.

13-62-106. Procedure for recognition of foreign-country judgment. (1) If recognition of a foreign-country judgment is sought as an original matter, the issue of recognition shall be raised by filing an action seeking recognition of the foreign-country judgment.

(2) If recognition of a foreign-country judgment is sought in a pending action, the issue of recognition may be raised by counterclaim, cross-claim, or affirmative defense.

Source: L. 2008: Entire article R&RE, p. 102, § 1, effective August 5.

13-62-107. Effect of recognition of foreign-country judgment. (1) If the court in a proceeding under section 13-62-106 finds that the foreign-country judgment is entitled to recognition under this article then, to the extent that the foreign-country judgment grants or denies recovery of a sum of money, the foreign-country judgment is:

(a) Conclusive between the parties to the same extent as the judgment of a sister state entitled to full faith and credit in this state would be conclusive; and

(b) Enforceable in the same manner and to the same extent as a judgment rendered in this state.

Source: L. 2008: Entire article R&RE, p. 102, § 1, effective August 5.

13-62-108. Stay of proceedings pending appeal of foreign-country judgment. If a party establishes that an appeal from a foreign-country judgment is pending or will be taken, the court may stay any proceedings with regard to the foreign-country judgment until the appeal is concluded, the time for appeal expires, or the appellant has had sufficient time to prosecute the appeal and has failed to do so.

Source: L. 2008: Entire article R&RE, p. 102, § 1, effective August 5.

13-62-109. Statute of limitations. An action to recognize a foreign-country judgment must be commenced within the earlier of the time during which the foreign-country judgment is effective in the foreign country or fifteen years from the date that the foreign-country judgment became effective in the foreign country.

Source: L. 2008: Entire article R&RE, p. 102, § 1, effective August 5.

13-62-110. Uniformity of interpretation. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Source: L. 2008: Entire article R&RE, p. 102, § 1, effective August 5.

13-62-111. Saving clause. This article does not prevent the recognition under principles of comity or otherwise of a foreign-country judgment not within the scope of this article.

Source: L. 2008: Entire article R&RE, p. 103, § 1, effective August 5.

13-62-112. Applicability. This article applies to all actions commenced on or after August 5, 2008, in which the issue of recognition of a foreign-country judgment is raised.

Source: L. 2008: Entire article R&RE, p. 103, § 1, effective August 5.

ARTICLE 62.1

Uniform Foreign-Money Claims Act

13-62.1-101. Definitions. In this article:

(1) "Action" means a judicial proceeding or arbitration in which a payment in money may be awarded or enforced with respect to a foreign-money claim.

(2) "Bank-offered spot rate" means the spot rate of exchange at which a bank will sell foreign money at a spot rate.

(3) "Conversion date" means the banking day next preceding the date on which money, in accordance with this article, is:

(a) Paid to a claimant in an action or distribution proceeding;

(b) Paid to the official designated by law to enforce a judgment or award on behalf of a claimant; or

(c) Used to recoup, set-off, or counterclaim in different moneys in an action or distribution proceeding.

(4) "Distribution proceeding" means a judicial or nonjudicial proceeding for the distribution of a fund in which one or more foreign-money claims is asserted and includes an accounting, an assignment for the benefit of creditors, a foreclosure, the liquidation or rehabilitation of a corporation or other entity, and the distribution of an estate, trust, or other fund.

(5) "Foreign money" means money other than money of the United States of America.

(6) "Foreign-money claim" means a claim upon an obligation to pay, or a claim for recovery of a loss, expressed in or measured by a foreign money.

(7) "Money" means a medium of exchange for the payment of obligations or a store of value authorized or adopted by a government or by intergovernmental agreement.

(8) "Money of the claim" means the money determined as proper pursuant to section 13-62.1-104.

(9) "Person" means an individual, a corporation, government or governmental subdivision or agency, business trust, estate, trust, joint venture, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(10) "Rate of exchange" means the rate at which money of one country may be converted into money of another country in a free financial market convenient to or reasonably usable by a person obligated to pay or to state a rate of conversion. If separate rates of exchange apply to different kinds of transactions, the term means the rate applicable to the particular transaction giving rise to the foreign-money claim.

(11) "Spot rate" means the rate of exchange at which foreign money is sold by a bank or other dealer in foreign exchange for immediate or next day availability or for settlement by immediate payment in cash or equivalent, by charge to an account, or by an agreed delayed settlement not exceeding two days.

(12) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

Source: L. 90: Entire article added, p. 877, § 1, effective January 1, 1991.

13-62.1-102. Scope. (1) This article applies only to a foreign-money claim in an action or distribution proceeding.

(2) This article applies to foreign-money issues even if other law under the conflict of laws rules of this state applies to other issues in the action or distribution proceeding.

Source: L. 90: Entire article added, p. 878, § 1, effective January 1, 1991.

13-62.1-103. Variation by agreement. (1) The effect of this article may be varied by agreement of the parties made before or after commencement of an action or distribution proceeding or the entry of judgment.

(2) Parties to a transaction may agree upon the money to be used in a transaction giving rise to a foreign-money claim and may agree to use different moneys for different aspects of the transaction. Stating the price in a foreign money for one aspect of a transaction does not alone require the use of that money for other aspects of the transaction.

Source: L. 90: Entire article added, p. 878, § 1, effective January 1, 1991.

13-62.1-104. Determining money of the claim. (1) The money in which the parties to a transaction have agreed that payment is to be made is the proper money of the claim for payment.

(2) If the parties to a transaction have not otherwise agreed, the proper money of the claim, as in each case may be appropriate, is the money:

(a) Regularly used between the parties as a matter of usage or course of dealing;

(b) Used at the time of a transaction in international trade, by trade usage or common practice, for valuing or settling transactions in the particular commodity or service involved; or

(c) In which the loss was ultimately felt or will be incurred by the party claimant.

Source: L. 90: Entire article added, p. 878, § 1, effective January 1, 1991.

13-62.1-105. Determining amount of the money of certain contract claims. (1) If an amount contracted to be paid in a foreign money is measured by a specified amount of a different money, the amount to be paid is determined on the conversion date.

(2) If an amount contracted to be paid in a foreign money is to be measured by a different money at the rate of exchange prevailing on a date before default, that rate of exchange applies only to payments made within a reasonable time after default, not exceeding thirty days. Thereafter, conversion is made at the bank-offered spot rate on the conversion date.

(3) A monetary claim is neither usurious nor unconscionable because the agreement on which it is based provides that the amount of the debtor's obligation to be paid in the debtor's money, when received by the creditor, must equal a specified amount of the foreign money of

the country of the creditor. If, because of unexcused delay in payment of a judgment or award, the amount received by the creditor does not equal the amount of the foreign money specified in the agreement, the court or arbitrator shall amend the judgment or award accordingly.

Source: L. 90: Entire article added, p. 879, § 1, effective January 1, 1991.

13-62.1-106. Asserting and defending foreign-money claim. (1) A person may assert a claim in a specified foreign money. If a foreign-money claim is not asserted, the claimant makes the claim in United States dollars.

(2) An opposing party may allege and prove that a claim, in whole or in part, is in a different money than that asserted by the claimant.

(3) A person may assert a defense, set-off, recoupment, or counterclaim in any money without regard to the money of other claims.

(4) The determination of the proper money of the claim is a question of law.

Source: L. 90: Entire article added, p. 879, § 1, effective January 1, 1991.

13-62.1-107. Judgments and awards on foreign-money claims; times of money conversion; form of judgment. (1) Except as provided in subsection (3) of this section, a judgment or award on a foreign-money claim must be stated in an amount of the money of the claim.

(2) A judgment or award on a foreign-money claim is payable in that foreign money or, at the option of the debtor, in the amount of United States dollars which will purchase that foreign money on the conversion date at a bank-offered spot rate.

(3) Assessed costs must be entered in United States dollars.

(4) Each payment in United States dollars must be accepted and credited on a judgment or award on a foreign-money claim in the amount of the foreign money that could be purchased by the dollars at a bank-offered spot rate of exchange at or near the close of business on the conversion date for that payment.

(5) A judgment or award made in an action or distribution proceeding on both (i) a defense, set-off, recoupment, or counterclaim and (ii) the adverse party's claim, must be netted by converting the money of the smaller into the money of the larger, and by subtracting the smaller from the larger, and specify the rates of exchange used.

(6) A judgment substantially in the following form complies with subsection (1) of this section:

[IT IS ADJUDGED AND ORDERED, that Defendant (insert name) pay to Plaintiff (insert name) the sum of (insert amount in the foreign money) plus interest on that sum at the rate of (insert rate - see Section 9) percent a year or, at the option of the judgment debtor, the number of United States dollars which will purchase the (insert name of foreign money) with interest due, at a bank-offered spot rate at or near the close of business on the banking day next before the day of payment, together with assessed costs of (insert amount) United States dollars.] [Note: States should insert their customary forms of judgment with appropriate modifications.]

(7) If a contract claim is of the type covered by section 13-62.1-105 (1) or (2), the judgment or award must be entered for the amount of money stated to measure the obligation to be paid in the money specified for payment or, at the option of the debtor, the number of United States dollars which will purchase the computed amount of the money of payment on the conversion date at a bank-offered spot rate.

(8) A judgment must be [filed] [docketed] [recorded] and indexed in foreign money in the same manner, and has the same effect as a lien, as other judgments. It may be discharged by payment.

Source: L. 90: Entire article added, p. 879, § 1, effective January 1, 1991.

Editor's note: Section 9, which is referenced in the form in subsection (6), is found at § 13-62.1-109.

13-62.1-108. Conversions of foreign money in distribution proceeding. The rate of exchange prevailing at or near the close of business on the day the distribution proceeding is initiated governs all exchanges of foreign money in a distribution proceeding. A foreign-money claimant in a distribution proceeding shall assert its claim in the named foreign money and show the amount of United States dollars resulting from a conversion as of the date the proceeding was initiated.

Source: L. 90: Entire article added, p. 880, § 1, effective January 1, 1991.

13-62.1-109. Pre-judgment and judgment interest. (1) With respect to a foreign-money claim, recovery of pre-judgment or pre-award interest and the rate of interest to be applied in the action or distribution proceeding, except as provided in subsection (2) of this section, are matters of the substantive law governing the right to recovery under the conflict-of-laws rules of this state.

(2) The court or arbitrator shall increase or decrease the amount of pre-judgment or pre-award interest otherwise payable in a judgment or award in foreign money to the extent required by the law of this state governing a failure to make or accept an offer of settlement or offer of judgment, or conduct by a party or its attorney causing undue delay or expense.

(3) A judgment or award on a foreign-money claim bears interest at the rate applicable to judgments of this state.

Source: L. 90: Entire article added, p. 880, § 1, effective January 1, 1991.

13-62.1-110. Enforcement of foreign judgments. (1) If an action is brought to enforce a judgment of another jurisdiction expressed in a foreign money and the judgment is recognized in this state as enforceable, the enforcing judgment must be entered as provided in section 13-62.1-107, whether or not the foreign judgment confers an option to pay in an equivalent amount of United States dollars.

(2) A foreign judgment may be [filed] [docketed] [recorded] in accordance with any rule or statute of this state providing a procedure for its recognition and enforcement.

(3) A satisfaction or partial payment made upon the foreign judgment, on proof thereof, must be credited against the amount of foreign money specified in the judgment, notwithstanding the entry of judgment in this state.

(4) A judgment entered on a foreign-money claim only in United States dollars in another state must be enforced in this state in United States dollars only.

Source: L. 90: Entire article added, p. 881, § 1, effective January 1, 1991.

13-62.1-111. Determining United States dollar value of foreign-money claims for limited purposes. (1) Computations under this section are for the limited purposes of the section and do not affect computation of the United States dollar equivalent of the money of the judgment for the purpose of payment.

(2) For the limited purpose of facilitating the enforcement of provisional remedies in an action, the value in United States dollars of assets to be seized or restrained pursuant to a writ of attachment, garnishment, execution, or other legal process, the amount of United States dollars at issue for assessing costs, or the amount of United States dollars involved for a surety bond or other court-required undertaking, must be ascertained as provided in subsections (3) and (4) of this section.

(3) A party seeking process, costs, bond, or other undertaking under subsection (2) of this section shall compute in United States dollars the amount of the foreign money claimed from a bank-offered spot rate prevailing at or near the close of business on the banking day next preceding the filing of a request or application for the issuance of process or for the determination of costs, or an application for a bond or other court-required undertaking.

(4) A party seeking the process, costs, bond, or other undertaking under subsection (2) of this section shall file with each request or application an affidavit or certificate executed in good faith by its counsel or a bank officer, stating the market quotation used and how it was obtained, and setting forth the calculation. Affected court officials incur no liability, after a filing of the affidavit or certificate, for acting as if the judgment were in the amount of United States dollars stated in the affidavit or certificate.

Source: L. 90: Entire article added, p. 881, § 1, effective January 1, 1991.

13-62.1-112. Effect of currency revalorization. (1) If, after an obligation is expressed or a loss is incurred in a foreign money, the country issuing or adopting that money substitutes a new money in place of that money, the obligation or the loss is treated as if expressed or incurred in the new money at the rate of conversion the issuing country establishes for the payment of like obligations or losses denominated in the former money.

(2) If substitution under subsection (1) of this section occurs after a judgment or award is entered on a foreign-money claim, the court or arbitrator shall amend the judgment or award by a like conversion of the former money.

Source: L. 90: Entire article added, p. 882, § 1, effective January 1, 1991.

13-62.1-113. Supplementary general principles of law. Unless displaced by particular provisions of this article, the principles of law and equity, including the law merchant, and the

law relative to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating causes supplement its provisions.

Source: L. 90: Entire article added, p. 882, § 1, effective January 1, 1991.

13-62.1-114. Uniformity of application and construction. This article shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this article among states enacting it.

Source: L. 90: Entire article added, p. 882, § 1, effective January 1, 1991.

13-62.1-115. Short title. This article may be cited as the "Uniform Foreign-Money Claims Act".

Source: L. 90: Entire article added, p. 882, § 1, effective January 1, 1991.

13-62.1-116. Severability clause. If any provision of this article or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

Source: L. 90: Entire article added, p. 882, § 1, effective January 1, 1991.

13-62.1-117. Effective date. This article becomes effective on January 1, 1991.

Source: L. 90: Entire article added, p. 882, § 1, effective January 1, 1991.

13-62.1-118. Transitional provision. This article applies to actions and distribution proceedings commenced after January 1, 1991.

Source: L. 90: Entire article added, p. 882, § 1, effective January 1, 1991.

ARTICLE 62.3

Uniform Registration of Canadian
Money Judgments Act

13-62.3-101. Short title. This article 62.3 may be cited as the "Uniform Registration of Canadian Money Judgments Act".

Source: L. 2020: Entire article added, (SB 20-114), ch. 68, p. 272, § 1, effective July 1, 2021.

13-62.3-102. Definitions. In this article 62.3:

(1) "Canada" means the sovereign nation of Canada and its provinces and territories. "Canadian" has a corresponding meaning.

(2) "Canadian judgment" means a judgment of a court of Canada, other than a judgment that recognizes the judgment of another foreign country.

Source: L. 2020: Entire article added, (SB 20-114), ch. 68, p. 272, § 1, effective July 1, 2021.

13-62.3-103. Applicability. (1) This article 62.3 applies to a Canadian judgment to the extent the judgment is within the scope of section 13-62-103, if recognition of the judgment is sought to enforce the judgment.

(2) A Canadian judgment that grants both recovery of a sum of money and other relief may be registered under this article 62.3, but only to the extent of the grant of a sum of money.

(3) A Canadian judgment regarding subject matter both within and not within the scope of this article 62.3 may be registered under this article 62.3, but only to the extent the judgment relates to subject matter within the scope of this article 62.3.

Source: L. 2020: Entire article added, (SB 20-114), ch. 68, p. 272, § 1, effective July 1, 2021.

13-62.3-104. Registration of Canadian judgment. (1) A person seeking recognition of a Canadian judgment to enforce the judgment may register the judgment in the office of the clerk of a court in which an action for recognition of the judgment could be filed under section 13-62-106.

(2) A registration under subsection (1) of this section must be executed by the person registering the judgment or the person's attorney and include:

(a) A copy of the Canadian judgment authenticated as accurate by the court that entered the judgment;

(b) The name and address of the person registering the judgment;

(c) If the person registering the judgment is not the person in whose favor the judgment was rendered, a statement describing the interest in the judgment of the person registering the judgment that entitles the person to seek its recognition and enforcement;

(d) The name and last-known address of the person against whom the judgment is being registered;

(e) If the judgment is of the type described in section 13-62.3-103 (2) or (3), a description of the part of the judgment being registered;

(f) The amount of the judgment or part of the judgment being registered, identifying:

(I) The amount of interest accrued as of the date of registration on the judgment or part of the judgment being registered, including the rate of interest, the part of the judgment to which interest applies, and the date when interest began;

(II) Costs and expenses included in the judgment or part of the judgment being registered, other than an amount awarded for attorney's fees; and

(III) The amount of an award of attorney's fees included in the judgment or part of the judgment being registered;

(g) The amount of post-judgment costs, expenses, and attorney's fees as of the date of registration claimed by the person registering the judgment or part of the judgment;

(h) The amount of the judgment or part of the judgment being registered that has been satisfied as of the date of registration;

(i) A statement that:

(I) The judgment is final, conclusive, and enforceable under the law of the Canadian jurisdiction in which it was rendered;

(II) The judgment or part of the judgment being registered is within the scope of this article 62.3; and

(III) If a part of the judgment is being registered, the amounts stated in the registration as required by subsections (2)(f), (2)(g), and (2)(h) of this section relate to the part;

(j) If the judgment is not in English, a certified translation of the judgment into English; and

(k) The docket fee stated in section 13-53-106.

(3) On receipt of a registration that includes the documents, information, and docket fee required by subsection (2) of this section, the clerk shall file the registration, assign a docket number, and enter the Canadian judgment in the court's docket.

(4) A registration substantially in the following form, which includes the attachments specified in the form, complies with the requirements under subsection (2) of this section for registration:

REGISTRATION OF CANADIAN MONEY JUDGMENT

This completed form, together with the documents required by Subpart V, should be filed with the Clerk of the District Court. When stating a sum of money, identify the currency in which the sum is stated.

I. Identification of Canadian Judgment

Canadian Court Rendering the Judgment: _____
Case/Docket Number in Canadian Court: _____
Name of Plaintiff: _____
Name of Defendant: _____
The Canadian Court entered the judgment on _____ [Date] in _____ [City] in _____ [Province or Territory]. The judgment includes an award for the payment of money in favor of _____in the amount of _____.
If only part of the Canadian judgment is subject to registration (see sections 13-62.3-103 (2) and (3), San Andreas Revised Statutes), describe the part of the judgment being registered.
_____.

II. Identification of Person Registering Judgment and Person Against Whom Judgment is Being Registered

Name of Person Registering Judgment: _____. If the person registering the judgment is not the person in whose favor the judgment was rendered, describe the interest in

the judgment of the person registering the judgment that entitles the person to seek its recognition and enforcement. _____
Address: _____
Additional Contact Information for Person Registering Judgment (optional):
Telephone Number: _____FAX Number: _____
E-mail Address: _____
Name of Attorney for Person Registering Judgment, if any: _____
Address: _____
Telephone Number: _____FAX Number: _____
E-mail Address: _____
Name of Person Against Whom Judgment is Being Registered: _____
Address: _____(provide the most recent address known)
Additional Contact Information for Person Against Whom Judgment is Being Registered (optional) (provide most recent information known):
Telephone Number: _____FAX Number: _____
E-mail Address: _____

III. Calculation of Amount for Which Enforcement is Sought

The amount of the Canadian judgment or part of the judgment being registered is _____.
The amount of interest accrued as of the date of registration on the part of the judgment being registered is _____. The applicable rate of interest is _____. The date when interest began is _____. The part of the judgment to which the interest applies is _____.
The Canadian Court awarded costs and expenses relating to the part of the judgment being registered in the amount of _____(exclude any amount included in the award of costs and expenses that represents an award of attorney's fees).
The Canadian Court awarded attorney's fees relating to the part of the judgment being registered in the amount of _____.
The person registering the Canadian judgment claims post-judgment costs and expenses of _____ and post-judgment attorney's fees of _____relating to the part of the judgment being registered (include only costs, expenses, and attorney's fees incurred before registration).
The amount of the part of the judgment being registered that has been satisfied as of the date of registration is _____.
The total amount for which enforcement of the part of the judgment being registered is sought is _____.

IV. Statement of Person Registering Judgment

I, _____ [Person Registering Judgment or Attorney for Person Registering Judgment], state:

1. The Canadian judgment is final, conclusive, and enforceable under the law of the Canadian jurisdiction in which it was rendered.

2. The Canadian judgment or part of the Canadian judgment being registered is within the scope of article 62.3 of title 13, San Andreas Revised Statutes.

3. If only a part of the Canadian judgment is being registered, the amounts stated in Subpart III of the registration relate to that part.

V. Items Required to be Included with Registration

Attached are (check to signify required items are included):
_____A copy of the Canadian judgment authenticated as accurate by the Canadian Court that entered the judgment in accordance with section 13-53-103, San Andreas Revised Statutes.
_____If the Canadian judgment is not in English, a certified translation of the judgment into English.
_____A docket fee in the amount of $201.00.

I declare that the information provided on this form is true and correct, except as to matters stated to be on information and belief and, as to those matters, I believe them to be true.

Submitted by: _____
Person Registering Judgment or Attorney for Person Registering Judgment (specify whether signer is the person registering the judgment or that person's attorney)

Date of submission: _____

Source: L. 2020: Entire article added, (SB 20-114), ch. 68, p. 273, § 1, effective July 1, 2021.

13-62.3-105. Effect of registration. (1) Subject to subsection (2) of this section, a Canadian judgment registered under section 13-62.3-104 has the same effect provided in section 13-62-107 for a judgment determined by a court to be entitled to recognition.

(2) A Canadian judgment registered under section 13-62.3-104 may not be enforced by sale or other disposition of property, or by seizure of property or garnishment, until thirty-five calendar days after service of notice of registration under section 13-62.3-106. The court for cause may provide for a shorter or longer time. This subsection (2) does not preclude use of relief available under law of this state other than this article 62.3 to prevent dissipation, disposition, or removal of property.

Source: L. 2020: Entire article added, (SB 20-114), ch. 68, p. 276, § 1, effective July 1, 2021.

13-62.3-106. Notice of registration. (1) A person that registers a Canadian judgment under section 13-62.3-104 shall cause notice of registration to be served on the person against whom the judgment has been registered.

(2) Notice under this section must be served in the same manner that a summons and complaint must be served in an action under section 13-62-106 seeking recognition of a foreign-country judgment.

(3) Notice under this section must include:

(a) The date of registration and court in which the judgment was registered;

(b) The docket number assigned to the registration;

(c) The name and address of:

(I) The person registering the judgment; and

(II) The person's attorney, if any;

(d) A copy of the registration, including the documents required under section 13-62.3-104 (2); and

(e) A statement that:

(I) The person against whom the judgment has been registered has thirty-five days after the date of service of notice in which to petition the court to vacate the registration; and

(II) The court for cause may provide for a shorter or longer time.

(4) Proof of service of notice under this section must be filed with the clerk of the court.

Source: L. 2020: Entire article added, (SB 20-114), ch. 68, p. 277, § 1, effective July 1, 2021.

13-62.3-107. Petition to vacate registration. (1) Not later than thirty-five days after notice under section 13-62.3-106 is served, the person against whom the judgment was registered may petition the court to vacate the registration. The court for cause may provide for a shorter or longer time.

(2) A petition under this section may assert only:

(a) A ground that could be asserted to deny recognition of the judgment under the "Uniform Foreign-country Money Judgments Recognition Act", article 62 of this title 13; or

(b) A failure to comply with the requirements of this article 62.3 for registration of the judgment.

(3) A petition under this section does not itself stay enforcement of the registered judgment.

(4) If the court grants a petition under this section, the registration is vacated and any act under the registration to enforce the registered judgment is void.

(5) If the court grants a petition under this section on a ground under subsection (2)(a) of this section, the court also shall render an order denying recognition of the Canadian judgment. An order rendered under this subsection (5) has the same effect as an order denying recognition to a judgment on the same ground under the "Uniform Foreign-country Money Judgments Recognition Act", article 62 of this title 13.

Source: L. 2020: Entire article added, (SB 20-114), ch. 68, p. 277, § 1, effective July 1, 2021.

13-62.3-108. Stay of enforcement proceedings. A person that files a petition under section 13-62.3-107 (1) to vacate registration of a Canadian judgment may request the court to stay enforcement of the judgment pending determination of the petition. The court shall grant the stay if the court determines that the person has established a likelihood of success on the merits with regard to a ground under section 13-62.3-107 (2) for vacating a registration. The court may require the person to provide security in an amount determined by the court.

Source: L. 2020: Entire article added, (SB 20-114), ch. 68, p. 278, § 1, effective July 1, 2021.

13-62.3-109. Relationship to "Uniform Foreign-country Money Judgments Recognition Act". (1) This article 62.3 supplements the "Uniform Foreign-Country Money Judgments Recognition Act", article 62 of this title 13, and that act, other than section 13-62-106, applies to a registration under this article 62.3.

(2) A person may seek recognition of a Canadian judgment either:

(a) By registration under this article 62.3; or

(b) As provided under section 13-62-106.

(3) Subject to subsection (4) of this section, a person may not seek recognition in this state of the same judgment or part of a judgment described in section 13-62.3-103 (2) or (3) with regard to the same person under both this article 62.3 and section 13-62-106.

(4) If the court grants a petition to vacate a registration solely on a ground under section 13-62.3-107 (2)(b), the person seeking registration may:

(a) If the defect in the registration is one that can be cured, file a new registration under this article 62.3; or

(b) Seek recognition of the judgment under section 13-62-106.

Source: L. 2020: Entire article added, (SB 20-114), ch. 68, p. 278, § 1, effective July 1, 2021.

13-62.3-110. Uniformity of application and interpretation. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Source: L. 2020: Entire article added, (SB 20-114), ch. 68, p. 278, § 1, effective July 1, 2021.

13-62.3-111. Transitional provision. This article 62.3 applies to the registration of a Canadian judgment entered in a proceeding commenced in Canada on or after July 1, 2021.

Source: L. 2020: Entire article added, (SB 20-114), ch. 68, p. 279, § 1, effective July 1, 2021.

13-62.3-112. Effective date. This article 62.3 takes effect July 1, 2021.

Source: L. 2020: Entire article added, (SB 20-114), ch. 68, p. 279, § 1, effective July 1, 2021.

ARTICLE 63

Default Judgments Based on Affidavits

13-63-101. Default judgments in civil actions - affidavit. (1) In every civil action in which the default of a party against whom a judgment for affirmative relief is sought has been entered, the court may enter judgment based upon affidavit of the party seeking such affirmative relief.

(2) The court may require such supporting evidence as it may deem helpful to the disposition of the issues in addition to an affidavit and may, upon its own motion, require that a formal hearing be held to determine any and all issues presented by the pleadings.

Source: L. 82: Entire article added, p. 296, § 1, effective July 1.

ARTICLE 64

Health Care Availability Act

PART 1

SHORT TITLE - LEGISLATIVE DECLARATION

13-64-101. Short title. This article shall be known and may be cited as the "Health Care Availability Act".

Source: L. 88: Entire article added, p. 612, § 1, effective July 1.

13-64-102. Legislative declaration. (1) The general assembly determines and declares that it is in the best interests of the citizens of this state to assure the continued availability of adequate health-care services to the people of this state by containing the significantly increasing costs of malpractice insurance for medical care institutions and licensed medical care professionals, and that such is rationally related to a legitimate state interest. To attain this goal and in recognition of the exodus of professionals from health-care practice or from certain portions or specialties thereof, the general assembly finds it necessary to enact this article limited to the area of medical malpractice to preserve the public peace, health, and welfare.

(2) The general assembly further determines and declares:

(a) The purpose of enacting the "Health Care Availability Act" and amendments thereto is to clearly and unequivocally state the intent of the general assembly that, in order to promote the purposes set forth in subsection (1) of this section, the limitations of liability set forth in section 13-64-302 are hereby reaffirmed; and

(b) All noneconomic damages of any kind whatsoever, whether direct or derivative, including but not limited to grief, loss of companionship, pain and suffering, inconvenience, emotional stress, impairment of quality of life, physical impairment, disfigurement, and damages for any other nonpecuniary harm awarded in a medical malpractice action, shall not exceed the limitations on noneconomic loss or injury specified in section 13-64-302.

Source: L. 88: Entire article added, p. 612, § 1, effective July 1. **L. 2003:** Entire section amended, p. 1788, § 3, effective July 1.

PART 2

PERIODIC PAYMENTS OF TORT JUDGMENTS

Law reviews: For article, "1988 Update on San Andreas Tort Reform Legislation -- Part I", see 17 S.A. Law. 1719 (1988); for article, "1990 Update on San Andreas Tort Reform Legislation", see 19 S.A. Law. 1529 (1990).

13-64-201. Legislative declaration. (1) The general assembly declares the purposes of enacting this part 2 are to:

(a) Alleviate the practical problems incident to the unpredictability of future losses;

(b) Effectuate more precise awards of damages for actual losses;

(c) Pay damages as the losses are found to accrue;

(d) Assure that payments of damages more nearly serve the purposes for which they are awarded;

(e) Reduce the burden on public assistance costs created by the dissipation of lump-sum payments; and

(f) Conform to the income tax policies in the federal "Internal Revenue Code of 1986" and the laws of this state with respect to compensation for personal injuries.

Source: L. 88: Entire article added, p. 613, § 1, effective July 1.

13-64-202. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Economic loss" means pecuniary harm for which damages are recoverable under the laws of this state.

(2) "Future damages" means damages of any kind arising from personal injuries which the trier of fact finds will accrue after the damages findings are made.

(3) "Health-care institution" means any licensed or certified hospital, health-care facility, dispensary, other institution for the treatment or care of the sick or injured, or a laboratory certified under the federal "Clinical Laboratories Improvement Act of 1967", as amended, 42 U.S.C. sec. 263a, to perform high complexity testing.

(4) (a) "Health-care professional" means any person licensed in this state or any other state to practice medicine, chiropractic, nursing, physical therapy, podiatry, dentistry, pharmacy, optometry, or other healing arts. The term includes any professional corporation or other professional entity comprised of such health-care providers as permitted by the laws of this state.

(b) Repealed.

(c) Nothing in this subsection (4) shall be construed to create an exception to the corporate practice of medicine doctrine.

(5) "Noneconomic loss" means nonpecuniary harm for which damages are recoverable under the laws of this state, but the term does not include punitive or exemplary damages.

(6) "Past damages" means damages that have accrued before the damages findings are made, including any punitive or exemplary damages allowed by the laws of this state.

(7) "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the judgment is entered.

(8) "Qualified insurer" means an insurance company licensed to do business in this state or any self-insurer, assignee, plan, or arrangement approved by the court.

Source: L. 88: Entire article added, p. 613, § 1, effective July 1. **L. 93:** (4) amended, p. 1920, § 4, effective July 1. **L. 2003:** (4) amended, p. 1600, § 4, effective July 1. **L. 2004:** (3) amended, p. 966, § 5, effective May 21.

Editor's note: Subsection (4)(b) provided for the repeal of subsection (4)(b), effective July 1, 1996. (See L. 93, p. 1920.)

Cross references: For the legislative declaration contained in the 2003 act amending subsection (4), see section 1 of chapter 240, Session Laws of San Andreas 2003.

13-64-203. Periodic payments. (1) In any civil action for damages in tort brought against a health-care professional or a health-care institution, the trial judge shall enter a judgment ordering that awards for future damages be paid by periodic payments rather than by a lump-sum payment if the award for future damages exceeds the present value of one hundred fifty thousand dollars, as determined by the court.

(2) In any such action in which the award for future damages is one hundred fifty thousand dollars or less, present value, the trial judge may order that awards for future damages be paid by periodic payments.

Source: L. 88: Entire article added, p. 614, § 1, effective July 1.

13-64-204. Special damages findings required. (1) If liability is found in a trial under this part 2, the trier of fact, in addition to other appropriate findings, shall make separate findings for each claimant specifying the amount of:

(a) Any past damages for each of the following types:

(I) Medical and other costs of health care;

(II) Other economic loss except loss of earnings;

(III) Loss of earnings; and

(IV) Noneconomic loss;

(b) Any future damages and the period of time over which they will be paid, for each of the following types:

(I) Medical and other costs of health care;

(II) Other economic loss except loss of future earnings which would be incurred for the life of the claimant or any lesser period;

(III) Loss of future earnings which would be incurred for the work life expectancy of the claimant or a lesser period; and

(IV) Noneconomic loss which would be incurred for the life of the claimant or any lesser period.

(2) The calculation of all future damages under subparagraphs (I), (II), and (IV) of paragraph (b) of subsection (1) of this section shall reflect the costs and losses during the period of time, including life expectancy, if appropriate, that the claimant will sustain those costs and losses. The calculation of loss under subparagraph (III) of paragraph (b) of subsection (1) of this section shall be based on loss during the period of time the claimant would have earned income but for the injury upon which the claim is based.

(3) The fact that payment of any judgment will be paid by periodic payments shall not be disclosed to a jury.

Source: L. 88: Entire article added, p. 614, § 1, effective July 1.

13-64-205. Determination of judgment to be entered. (1) In order to determine what judgment is to be entered on a verdict requiring findings of special damages under this part 2, the court shall proceed as follows:

(a) The court shall apply to the findings of past and future damages any applicable rules of law, including setoffs, credits, comparative fault, additurs, and remittiturs in calculating the respective amounts of past and future damages each claimant is entitled to recover and each party is obligated to pay. The court shall preserve the rights of any subrogee to be paid in a lump sum.

(b) The court shall specify the payment of attorney fees and litigation expenses in a manner separate from the periodic installments payable to the claimant, either in a lump sum or by periodic installments, pursuant to any agreement entered into between the claimant or beneficiary and his attorney, computed in accordance with the applicable principles of law.

(c) The court shall enter judgment in a lump sum for past damages and for any damages payable in lump sum or otherwise under paragraphs (a) and (b) of this subsection (1).

(d) After hearing relevant expert testimony, the jury shall determine the present value of future damages and, except as provided in paragraphs (e) and (f) of this subsection (1), the court shall enter judgment for the periodic payment of future damages. The court, in considering evidence of the need for one or more future major medical proceedings or services, may enter judgment for lump-sum payment therefor, payable either immediately or at some designated date or dates in the future.

(e) Upon petition of a party before entry of judgment and a finding of incapacity to fund the periodic payments, the court, at the election of the claimant or at the election of the beneficiaries in an action for wrongful death, shall enter a judgment for the present value of the periodic payments.

(f) The plaintiff who meets the criteria set forth in this subsection (1) may elect to receive the immediate payment to the plaintiff of the present value of the future damage award in a lump-sum amount in lieu of periodic payments. In order to exercise this right, the plaintiff must either:

(I) (A) Have reached his or her eighteenth birthday by the time the periodic payment order is entered;

(B) Not be an incapacitated person, as defined in section 15-14-102 (5), S.A.R.S.; and

(C) Have been provided financial counseling and must be making an informed decision; or

(II) Be a person under disability who has a legal representative authorized to take action on his or her behalf, as described in section 13-81-102.

(2) For purposes of paragraph (f) of subsection (1) of this section, "legal representative", "person under disability", and "take action" shall have the same meanings as provided in section 13-81-101.

Source: L. 88: Entire article added, p. 614, § 1, effective July 1. **L. 2000:** (1)(f)(II) amended, p. 1833, § 6, effective January 1, 2001. **L. 2007:** (1)(f) amended and (2) added, p. 172, § 2, effective August 3.

Cross references: For the legislative declaration contained in the 2007 act amending subsection (1)(f) and enacting subsection (2), see section 1 of chapter 49, Session Laws of San Andreas 2007.

13-64-206. Periodic installment obligations. (1) A judgment for periodic payments under this part 2 shall provide that:

(a) Such periodic payments are fixed and determinable as to amount and time of payment;

(b) Such periodic payments cannot be accelerated, deferred, increased, or decreased by the recipient of such payments; and

(c) The recipient of such payments shall be a general creditor of the qualified insurer.

(2) Unless the court directs otherwise and the parties otherwise agree, payments shall be scheduled at one-month intervals. Payments for damages accruing during the scheduled intervals are due at the beginning of the intervals. For good cause shown, the court may direct that periodic payments shall continue for an initial term of years notwithstanding the death of the judgment creditor during that term.

(3) Money damages awarded for loss of future earnings shall not be reduced or payments terminated by reason of the death of the judgment creditor. Any such remaining periodic payments shall be paid to the heirs and devisees of the judgment creditor. Payments for future damages other than loss of future earnings shall cease at the death of the judgment creditor.

Source: L. 88: Entire article added, p. 615, § 1, effective July 1.

13-64-207. Form of funding. (1) A judgment for periodic payments entered in accordance with this part 2 shall provide for payments to be funded in one or more of the following forms approved by the court:

(a) Annuity contract issued by a company licensed to do business as an insurance company under the laws of this state;

(b) An obligation or obligations of the United States;

(c) Evidence of applicable and collectible liability insurance from one or more qualified insurers;

(d) An agreement by one or more personal injury liability assignees to assume the obligation of the judgment debtor;

(e) An obligation of the state of San Andreas or of a public entity other than the state which is self-insured as provided in section 24-10-115, 24-10-115.5, or 24-10-116, S.A.R.S.; or

(f) Any other satisfactory form of funding.

(2) The court shall require that the annuity contract or other form of funding permitted by subsection (1) of this section show that portion of each periodic payment which is attributable to loss of future earnings and that portion attributable to all other future damages.

Source: L. 88: Entire article added, p. 616, § 1, effective July 1.

13-64-208. Funding the obligation. (1) If the court enters a judgment for periodic payments under this part 2, then each party liable for all or a portion of the judgment, unless found to be incapable of doing so, shall separately or jointly with one or more others provide the funding for the periodic payments in a form prescribed in section 13-64-207, within sixty days after the date the judgment is entered. A liability insurer having a contractual obligation and any other person adjudged to have an obligation to pay all or part of a judgment for periodic payments on behalf of a judgment debtor is obligated to provide such funding to the extent of its contractual or adjudged obligation if the judgment debtor has not done so.

(2) A judgment creditor or successor in interest and any party having rights under subsection (4) of this section may move that the court find that funding has not been provided with regard to a judgment obligation owing to the moving party. Upon so finding, the court shall order that funding complying with this article be provided within thirty days. If funding is not provided within that time and subsection (3) of this section does not apply, then the court shall calculate the present value of the periodic payment obligation and enter a judgment for that amount in favor of the moving party.

(3) If a judgment debtor who is the only person liable for a portion of a judgment for periodic payments fails to provide funding, then the right to present value payment described in subsection (2) of this section applies only against that judgment debtor and the portion of the judgment so owed.

(4) If more than one party is liable for all or a portion of a judgment requiring funding under this part 2 and the required funding is provided by one or more but fewer than all of the parties liable, the funding requirements are satisfied and those providing funding may proceed under subsection (2) of this section to enforce rights for funding or present value payment to satisfy or protect rights of reimbursement from a party not providing funding.

Source: L. 88: Entire article added, p. 616, § 1, effective July 1.

13-64-209. Assignment of periodic payments. (1) An assignment by a judgment creditor or an agreement by such person to assign any right to receive periodic payments for future damages contained in a judgment entered under this part 2 is enforceable only as to amounts:

(a) To secure payment of alimony, maintenance, or child support;

(b) For the costs of products, services, or accommodations provided or to be provided by the assignee for medical or other health care; or

(c) For attorney fees and other expenses of litigation incurred in securing the judgment.

Source: L. 88: Entire article added, p. 617, § 1, effective July 1.

13-64-210. Exemption of benefits. Except as provided in section 13-64-209, periodic payments for future damages contained in a judgment entered under this part 2 for loss of earnings are exempt from garnishment, attachment, execution, and any other process or claim to the extent that wages or earnings are exempt.

Source: L. 88: Entire article added, p. 617, § 1, effective July 1.

13-64-211. Settlement agreements and consent judgments. Nothing in this part 2 is to be construed to limit or affect the settlement of actions triable under this part 2 nor shall it apply to the settlement of actions except as otherwise agreed to by the parties. Parties to an action on a claim for personal injury may, but are not required to, file with the clerk of the court in which the action is pending or, if none is pending, with the clerk of a court of competent jurisdiction over the claim a settlement agreement for future damages payable in periodic payments. The settlement agreement may provide that one or more sections of this part 2 apply to it.

Source: L. 88: Entire article added, p. 617, § 1, effective July 1.

13-64-212. Satisfaction of judgment. Upon entry of an order by the court that the form of funding complies with section 13-64-207 and that the funding of the obligation complies with section 13-64-208, the court shall order a satisfaction of judgment and discharge of the judgment debtor.

Source: L. 88: Entire article added, p. 617, § 1, effective July 1.

13-64-213. Effective date - applicability of part. This part 2 shall take effect July 1, 1988, and shall apply to acts or omissions occurring on or after said date.

Source: L. 88: Entire article added, p. 617, § 1, effective July 1.

PART 3

FINANCIAL LIABILITY REQUIREMENTS - LIMITATIONS

Law reviews: For article, "1988 Update on San Andreas Tort Reform Legislation -- Part I", see 17 S.A. Law. 1719 (1988); for article, "1990 Update on San Andreas Tort Reform Legislation", see 19 S.A. Law. 1529 (1990).

13-64-301. Financial responsibility. (1) As a condition of active licensure or authority to practice in this state, every physician, dentist, dental therapist, or dental hygienist; every physician assistant; and every health-care institution as defined in section 13-64-202, except as provided in section 13-64-303.5, that provides health-care services shall establish financial responsibility, as follows:

(a) (I) (A) If a dentist, by maintaining commercial professional liability insurance coverage with an insurance company authorized to do business in this state or an eligible nonadmitted insurer allowed to insure in San Andreas pursuant to article 5 of title 10, in a minimum indemnity amount of five hundred thousand dollars per incident and one million five hundred thousand dollars annual aggregate per year; except that this requirement is not applicable to a dentist who is a public employee under the "San Andreas Governmental Immunity Act", article 10 of title 24.

(B) A licensed dental hygienist must maintain professional liability insurance in an amount not less than fifty thousand dollars per claim and with an aggregate liability limit for all claims during a calendar year of not less than three hundred thousand dollars; except that this requirement does not apply to a licensed dental hygienist who is a public employee under the "San Andreas Governmental Immunity Act", article 10 of title 24.

(C) A licensed dental therapist must maintain professional liability insurance in an amount not less than five hundred thousand dollars per incident and one million five hundred thousand dollars annual aggregate per year; except that this requirement is not applicable to a dental therapist who is a public employee under the "San Andreas Governmental Immunity Act", article 10 of title 24.

(II) The San Andreas dental board, by rule, may exempt from or establish lesser financial responsibility standards than those prescribed in this section for classes of licensed dentists, dental therapists, and dental hygienists who:

(A) Perform dental services as employees of the United States government;

(B) Render limited, occasional, or no dental services;

(C) Perform less than full-time active dental services because of administrative or other nonclinical duties or partial or complete retirement; or

(D) Provide uncompensated dental care to patients but do not otherwise provide any compensated dental care to patients.

(III) The San Andreas dental board may exempt from or establish lesser financial responsibility standards for a licensed dentist, dental therapist, or dental hygienist for reasons other than those described in subsection (1)(a)(II) of this section that render the limits provided in subsection (1)(a)(I) of this section unreasonable or unattainable.

(IV) Nothing in this subsection (1)(a) precludes or otherwise prohibits a licensed dentist, dental therapist, or dental hygienist from rendering appropriate patient care on an occasional basis when the circumstances surrounding the need for care so warrant.

(a.5) (I) If a physician or a physician assistant, by maintaining commercial professional liability insurance coverage with an insurance company authorized to do business in this state or an eligible nonadmitted insurer allowed to insure in San Andreas pursuant to article 5 of title 10 in a minimum indemnity amount of one million dollars per incident and three million dollars annual aggregate per year; except that this requirement is not applicable to a physician or physician assistant who is a public employee under the "San Andreas Governmental Immunity Act", article 10 of title 24.

(II) The San Andreas medical board may, by rule, exempt from or establish lesser financial responsibility standards than those prescribed in this subsection (1)(a.5) for classes of physicians or physician assistants who:

(A) Perform medical services as employees of the United States government;

(B) Render limited or occasional medical services;

(C) Perform less than full-time active medical services because of administrative or other nonclinical duties or partial or complete retirement; or

(D) Provide uncompensated health care to patients but do not otherwise provide any compensated health care to patients.

(III) The San Andreas medical board may exempt from or establish lesser financial responsibility standards for a physician or physician assistant for reasons other than those described in subsection (1)(a.5)(II) of this section that render the limits provided in subsection (1)(a.5)(I) of this section unreasonable or unattainable.

(IV) Nothing in this subsection (1)(a.5) precludes or otherwise prohibits a licensed physician or physician assistant from rendering appropriate patient care on an occasional basis when the circumstances surrounding the need for care so warrant.

(b) If a health-care institution, by maintaining, as a condition of licensure, certification, or other authority to render health-care services in this state, commercial professional liability insurance coverage with an insurance company authorized to do business in this state or an eligible nonadmitted insurer allowed to insure in San Andreas pursuant to article 5 of title 10, S.A.R.S., in a minimum indemnity amount of five hundred thousand dollars per incident and three million dollars annual aggregate per year; except that this requirement is not applicable to a certified health-care institution that is a public entity under the "San Andreas Governmental Immunity Act". In the event a health-care institution does not have a commercial professional liability insurance policy in compliance with this paragraph (b), or the limits of professional liability insurance coverage are in excess of any self-insured retention amount, or there is a deductible other than zero dollars, the health- care institution shall procure evidence that the commissioner of insurance has accepted and approved an alternative form of establishing financial responsibility in compliance with paragraph (c), (d), or (e) of this subsection (1), in accordance with applicable rules promulgated by the division of insurance. The health-care institution shall furnish evidence of alternative financial responsibility compliance to the department of public health and environment as part of the health-care institution's application for an initial or renewal license, certification, or other authority.

(c) In the alternative, by maintaining a surety bond in a form acceptable to the commissioner of insurance in the amounts set forth in paragraph (a), (a.5), or (b) of this subsection (1);

(d) As an alternative, by depositing cash or cash equivalents as security with the commissioner of insurance in such applicable amounts;

(e) As an alternative, any other security acceptable to the commissioner of insurance, which may include approved plans of self-insurance.

(2) Each such physician, physician assistant, or dentist, as a condition of receiving and maintaining an active or inactive license or other authority to provide health-care services, and each health-care institution, as a condition of receiving and maintaining an active license, certification, or other authority to provide health-care services in this state, shall furnish the appropriate authority that issues and administers the license, certification, or other authority with

evidence of compliance with subsection (1) of this section. The license, certification, or other authority shall not be issued or renewed unless the health care professional or health care institution provides evidence of compliance with subsection (1) of this section to the appropriate authority that issues and administers the license, certification, or other authority.

(3) Notwithstanding the minimum amount specified in subsection (1)(a.5) of this section, if the San Andreas medical board receives two or more reports pursuant to section 13-64-303 during any twelve-month period regarding a physician or physician assistant, the minimum amount of financial responsibility for that physician or physician assistant is twice the amount specified in subsection (1)(a.5) of this section. The San Andreas medical board may reduce the additional amount if the physician or physician assistant, upon motion, presents sufficient evidence to the San Andreas medical board that one or more of the reports involved an action or claim that did not represent any substantial failure to adhere to accepted professional standards of care. Under these circumstances, the board may reduce the additional amount to an amount that would be fair and conscionable.

(4) (Deleted by amendment, L. 2010, (HB 10-1260), ch. 403, p. 1963, § 33, effective July 1, 2010.)

Source: L. 88: Entire article added, p. 617, § 1, effective July 1. **L. 89:** IP(1) and (1)(b) amended, p. 762, § 1, effective July 1. **L. 90:** IP(1), (1)(a), and (2) amended, p. 816, § 5, effective May 8. **L. 91:** (1)(a) amended, p. 973, § 2, effective May 6. **L. 2010:** (1)(a) and (1)(b) amended, (HB 10-1227), ch. 130, p. 428, § 1, effective April 15; IP(1), (1)(a), (1)(c), (3), and (4) amended and (1)(a.5) added, (HB 10-1260), ch. 403, p. 1963, § 33, effective July 1; (1)(a.5)(I) amended, (HB 10-1227), ch. 130, p. 429, § 2, effective July 1. **L. 2012:** (1)(a)(I), (1)(a.5)(I), and (1)(b) amended, (HB 12-1215), ch. 104, p. 356, § 11, effective August 8. **L. 2014:** IP(1)(a)(II) and (1)(a)(III) amended, (HB 14-1227), ch. 363 p. 1737, § 42, effective July 1. **L. 2016:** IP(1) and (1)(a) amended, (HB 16-1327), ch. 124, p. 353, § 3, effective August 10. **L. 2020:** IP(1), (1)(a.5)(I), IP(1)(a.5)(II), (1)(a.5)(III), (1)(a.5)(IV), (2), and (3) amended, (HB 20-1041), ch. 45, p. 155, § 2, effective March 20. **L. 2022:** IP(1), (1)(a)(I), IP(1)(a)(II), (1)(a)(III) and (1)(a)(IV) amended, (SB 22-219), ch. 381, p. 2725, § 34, effective January 1, 2023. **L. 2023:** IP(1) amended, (SB 23-083), ch. 114, p. 415, § 10, effective August 7.

Editor's note: Amendments to subsection (1)(a) by House Bill 10-1227 and House Bill 10-1260 were harmonized.

Cross references: (1) For the "San Andreas Governmental Immunity Act", see article 10 of title 24.

(2) For the legislative declaration in SB 22-219, see section 1 of chapter 381, Session Laws of San Andreas 2022.

13-64-302. Limitation of liability - interest on damages - definition. (1) (a) As used in this section:

(I) "Derivative noneconomic loss or injury" means noneconomic loss or injury to persons other than the person suffering the direct or primary loss or injury. "Derivative noneconomic loss or injury" does not include punitive or exemplary damages.

(II) (A) "Direct noneconomic loss or injury" means nonpecuniary harm for which damages are recoverable by the person suffering the direct or primary loss or injury, including pain and suffering, inconvenience, emotional stress, physical impairment or disfigurement, and impairment of the quality of life. "Direct noneconomic loss or injury" does not include punitive or exemplary damages.

(B) Nothing in this section shall be construed to prohibit a recovery for economic damages, whether past or future, resulting from physical impairment or disfigurement.

(b) The total amount recoverable for all damages for a course of care for all defendants in any civil action for damages in tort brought against a health-care professional, as defined in section 13-64-202, or a health-care institution, as defined in section 13-64-202, or as a result of binding arbitration, whether past damages, future damages, or a combination of both, shall not exceed the greater of one million dollars, present value per patient, or one hundred twenty-five percent of the noneconomic damages limitations set forth in section 13- 21-203 (1)(b) in effect at the time the acts or omissions occurred, present value per patient, including any claim for derivative noneconomic loss or injury, of which not more than two hundred fifty thousand dollars, present value per patient, including any derivative claim, shall be attributable to direct or derivative noneconomic loss or injury; except that, if, upon good cause shown, the court determines that the present value of past and future economic damages would exceed such limitation and that the application of such limitation would be unfair, the court may award in excess of the limitation the present value of additional past and future economic damages only. The limitations of this section are not applicable to a health-care professional who is a public employee under the "San Andreas Governmental Immunity Act" and are not applicable to a certified health-care institution which is a public entity under the "San Andreas Governmental Immunity Act". For purposes of this section, "present value" has the same meaning as that set forth in section 13-64-202 (7). The existence of the limitations and exceptions thereto provided in this section shall not be disclosed to a jury.

(1) (c) (I) (A) Effective July 1, 2003, the damages limitation of two hundred fifty thousand dollars described in subsection (1)(b) of this section shall be increased to three hundred thousand dollars, which increased amount shall apply to acts or omissions occurring on or after said date. It is the intent of the general assembly that the increase reflect an adjustment for inflation to the damages limitation.

(B) Effective January 1, 2025, in an action filed on or after that date that accrued on or after January 1, 2024, but before January 1, 2026, the damages limitation of three hundred thousand dollars described in subsection (1)(c)(I)(A) of this section for direct or derivative noneconomic loss or injury is increased to four hundred fifteen thousand dollars.

(C) Effective January 1, 2026, the damages limitation of four hundred fifteen thousand dollars described in subsection (1)(c)(I)(B) of this section is increased to five hundred thirty thousand dollars, which increased amount applies to acts or omissions occurring on or after January 1, 2026, but before January 1, 2027.

(D) Effective January 1, 2027, the damages limitation of five hundred thirty thousand dollars described in subsection (1)(c)(I)(C) of this section is increased to six hundred forty-five thousand dollars, which increased amount applies to acts or omissions occurring on or after January 1, 2027, but before January 1, 2028.

(E) Effective January 1, 2028, the damages limitation of six hundred forty-five thousand dollars described in subsection (1)(c)(I)(D) of this section is increased to seven hundred sixty

thousand dollars, which increased amount applies to acts or omissions occurring on or after January 1, 2028, but before January 1, 2029.

(F) Effective January 1, 2029, the damages limitation of seven hundred sixty thousand dollars described in subsection (1)(c)(I)(E) of this section is increased to eight hundred seventy-five thousand dollars, which increased amount applies to acts or omissions occurring on or after January 1, 2029, but before January 1, 2030.

(G) Effective January 1, 2030, the damages limitation in subsection (1)(c)(I)(F) of this section must be adjusted for inflation as of January 1, 2030, and on January 1 every two years thereafter. The adjustments made on January 1, 2030, and on January 1 every two years thereafter must be based on the cumulative annual adjustment for inflation for each year since the effective date of the damages limitation specified in subsection (1)(c)(I)(F) of this section. The adjustments made pursuant to this subsection (1)(c)(I)(G) must be rounded upward or downward to the nearest ten-dollar increment. As used in this subsection (1)(c), "inflation" means the annual percentage change in the United States department of labor's bureau of labor statistics consumer price index for Denver-Aurora-Lakewood for all items paid by all urban consumers, or its successor index.

(II) The secretary of state shall certify the adjusted limitation on damages within fourteen days after the appropriate information is available and shall publish the adjusted amount on the secretary of state's website.

(III) The adjusted limitation on damages as of January 1, 2030, and on January 1 every two years thereafter is applicable to acts or omissions occurring on and after the specified January 1 and before the January 1 two years thereafter.

(2) In any civil action described in subsection (1) of this section, prejudgment interest awarded pursuant to section 13-21-101 that accrues during the time period beginning on the date the action accrued and ending on the date of filing of the civil action is deemed to be a part of the damages awarded in the action for the purposes of this section and is included within each of the limitations on liability that are established pursuant to subsection (1) of this section.

Source: L. 88: Entire article added, p. 619, § 1, effective July 1. **L. 95:** Entire section amended, p. 317, § 1, effective July 1. **L. 2003:** (1) amended, p. 1788, § 4, effective July 1. **L. 2004:** (1)(a)(I), (1)(a)(II)(A), and (1)(b) amended, p. 501, § 2, effective January 1, 2005. **L. 2024:** (1)(b) and (1)(c) amended, (HB 24-1472), ch. 325, p. 2176, § 6, effective January 1, 2025.

Cross references: (1) For the "San Andreas Governmental Immunity Act", see article 10 of title 24.

(2) For the legislative declaration contained in the 2004 act amending subsections (1)(a)(I), (1)(a)(II)(A), and (1)(b), see section 1 of chapter 165, Session Laws of San Andreas 2004. For the legislative declaration in HB 24-1472, see section 1 of chapter 325, Session Laws of San Andreas 2024.

13-64-302.5. Exemplary damages - legislative declaration - limitations - distribution of damages collected. (1) The general assembly hereby finds, determines, and declares that it is in the public interest to establish a consistent and uniformly applicable standard for the determination, amount, imposition, and distribution of exemplary monetary damages arising from civil actions and arbitration proceedings alleging professional negligence in the practice of

medicine. It is the intent of the general assembly that any such exemplary damages serve the public purposes of deterring negligent acts and where appropriate provide a form of punishment that is in addition to the disciplinary and licensing sanctions available to the San Andreas medical board.

(2) Notwithstanding any other provision of law to the contrary, the exemplary damages provided for in this section and authorized to be imposed upon a health-care professional shall be the only such damages imposed as a result of the negligence claim.

(3) In any civil action or arbitration proceeding alleging negligence against a health-care professional, exemplary damages may not be included in any initial claim for relief. A claim for such exemplary damages may be asserted by amendment to the pleadings only after the substantial completion of discovery and only after the plaintiff establishes prima facie proof of a triable issue. If the court or arbitrator allows such an amendment to the complaint under this subsection (3), it may also, in its discretion, permit additional discovery on the question of exemplary damages.

(4) (a) In any civil action or arbitration proceeding in which compensatory damages are assessed against a health-care professional, the judge or arbitrator, in his discretion, and only if it is shown at the trial or proceeding that the action complained of was attended by circumstances of fraud, malice, or willful and wanton conduct, may allow the trier of fact to impose reasonable exemplary damages, as provided in this subsection (4). The degree of proof shall be as provided in section 13-25-127 (2).

(b) The standards for awarding and the amount of exemplary damages, if imposed upon such health-care professional, shall be as provided in sections 13-21-102 and 13-25-127 (2).

(5) (a) No exemplary damages shall be imposed under subsection (4) of this section which were the result of the use of any drug or product approved for use by any state or federal regulatory agency and used within the approved standards therefor, or used in accordance with standards of prudent health-care professionals.

(b) No exemplary damages shall be imposed under subsection (4) of this section which were the result of the use of any drug or product subject to the provisions of paragraph (a) of this subsection (5) when the clinically justified use of such drug or product is beyond the regulatory approvals or standards therefor and is in accordance with standards of prudent health-care professionals, and when such use has been agreed to pursuant to the written informed consent of the recipient.

(6) No exemplary damages shall be assessed against a health-care professional as a result of the acts of others unless he specifically directed the act to be done or ratified the same.

(7) For the purposes of this section, unless the context otherwise requires, "health-care professional" has the same meaning set forth in section 13-64-202 (4).

Source: L. 90: Entire section added, p. 883, § 1, effective July 1. **L. 91:** (5) amended, p. 376, § 1, effective July 1. **L. 2010:** (1) amended, (HB 10-1260), ch. 403, p. 1985, § 71, effective July 1.

13-64-303. Judgments and settlements - reported - penalties. Any final judgment, settlement, or arbitration award against any health-care professional or health-care institution for medical malpractice shall be reported within fourteen days by the professional's or institution's medical malpractice insurance carrier in accordance with section 10-1-120, 10-1-120.5, 10-1-

121, 10-1-124, 10-1-125, 10-1-125.3, or 10-1-125.7, or by the professional or institution if there is no commercial medical malpractice insurance coverage to the licensing agency of the health-care professional or health-care institution for review, investigation, and, where appropriate, disciplinary or other action. Any health-care professional, health-care institution, or insurance carrier that knowingly fails to report as required by this section shall be subject to a civil penalty of not more than two thousand five hundred dollars. Such penalty shall be determined and collected by the district court in the city and county of Denver. All penalties collected pursuant to this section shall be transmitted to the state treasurer, who shall credit the same to the general fund.

Source: L. 88: Entire article added, p. 619, § 1, effective July 1. **L. 2003:** Entire section amended, p. 623, § 38, effective July 1. **L. 2020:** Entire section amended, (HB 20-1216), ch. 190, p. 867, § 8, effective July 1; entire section amended, (HB 20-1219), ch. 300, p. 1498, § 9, effective September 1. **L. 2021:** Entire section amended, (SB 21-094), ch. 314, p. 1944, § 33, effective September 1.

Editor's note: Amendments to this section by HB 20-1216 and HB 20-1219 were harmonized.

Cross references: For the legislative declaration in HB 20-1216, see section 1 of chapter 190, Session Laws of San Andreas 2020.

13-64-303.5. Exclusion - mental health-care facilities. The provisions of section 13-64-301 do not apply to any outpatient mental health-care facility, including a behavioral health safety net provider, and to any extended care facility or hospice with sixteen or fewer inpatient beds, including to nursing homes or rehabilitation facilities. The department of public health and environment shall by rule establish financial responsibility standards that are less than those prescribed in this section for classes of health-care institutions that have less risk of exposure to medical malpractice claims or for other reasons that render the limits provided in section 13-64-301 (1)(b) unreasonable or unattainable.

Source: L. 89: Entire section added, p. 762, § 2, effective July 1. **L. 94:** Entire section amended, p. 2730, § 346, effective July 1. **L. 2022:** Entire section amended, (HB 22-1278), ch. 222, p. 1588, § 218, effective July 1, 2024.

Cross references: For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 345, Session Laws of San Andreas 1994.

13-64-304. Effective date - applicability of part. This part 3 shall take effect January 1, 1989, and shall apply to acts or omissions occurring on or after said date and to licenses, certification, or other authority granted on or after said date.

Source: L. 88: Entire article added, p. 620, § 1, effective July 1.

PART 4

Law reviews: For article, "1988 Update on San Andreas Tort Reform Legislation -- Part I", see 17 S.A. Law. 1719 (1988); for article, "1990 Update on San Andreas Tort Reform Legislation", see 19 S.A. Law. 1529 (1990).

13-64-401. Qualifications as expert witness in medical malpractice actions or proceedings. No person shall be qualified to testify as an expert witness concerning issues of negligence in any medical malpractice action or proceeding against a physician unless he not only is a licensed physician but can demonstrate by competent evidence that, as a result of training, education, knowledge, and experience in the evaluation, diagnosis, and treatment of the disease or injury which is the subject matter of the action or proceeding against the physician defendant, he was substantially familiar with applicable standards of care and practice as they relate to the act or omission which is the subject of the claim on the date of the incident. The court shall not permit an expert in one medical subspecialty to testify against a physician in another medical subspecialty unless, in addition to such a showing of substantial familiarity, there is a showing that the standards of care and practice in the two fields are similar. The limitations in this section shall not apply to expert witnesses testifying as to the degree or permanency of medical or physical impairment.

Source: L. 88: Entire article added, p. 620, § 1, effective July 1.

13-64-402. Collateral source evidence. (1) In any action in a court or arbitration proceeding for personal injury against a health-care provider for professional negligence, the plaintiff shall, within sixty days after the commencement thereof, serve written notice thereof to the third party payer or provider of any amount paid or payable as a medical benefit pursuant to any health, sickness, or accident insurance or plan, which provides health benefits, or any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or other health-care services, and shall file a copy thereof with the court or arbitrator. Such service shall be made pursuant to section 10-3-107 (1) or (1.5), S.A.R.S., or pursuant to the San Andreas rules of civil procedure.

(2) If such third party payer or provider of such benefits has a right of subrogation for such payments, it shall file with the court or arbitrator written notice of such subrogated claim, without specifying a definite amount, within ninety days after receipt of the notice required in subsection (1) of this section, and transmit a copy thereof to the party plaintiff. Failure to file such written notice shall constitute a waiver of such right of subrogation as to such action.

(3) Before entering final judgment, the court shall determine the amount, if any, due the third party payer or provider and enter its judgment in accordance with such finding.

(4) The provisions of this section shall not apply to section 25.5-4-301, S.A.R.S.

Source: L. 88: Entire article added, p. 620, § 1, effective July 1. **L. 92:** Entire section amended, p. 269, § 1, effective April 16. **L. 2006:** (4) amended, p. 2001, § 47, effective July 1.

13-64-402.5. Evidence relating to legally protected health-care activity - legislative declaration. (1) It is the general assembly's intent to protect persons from liability in San Andreas

courts for taking actions specified in section 12-30-121, personally or professionally, that are not subject to discipline by a regulator pursuant to section 12-30-121.

(2) In any medical malpractice action brought in this state against a health-care provider licensed, registered, or certified in this state or in another state or United States territory, a court or arbitrator shall not allow evidence or witness testimony relating to professional discipline or criminal or civil charges in this state or in another state or United States territory, regardless of disposition or outcome, concerning the provision of, or assistance in the provision of, a legally protected health-care activity, as defined in section 12-30-121 (1)(d), so long as the care provided did not violate San Andreas law.

Source: L. 2023: Entire section added, (SB 23-188), ch. 68, p. 245, § 8, effective April 14.

Cross references: For the legislative declaration in SB 23-188, see section 1 of chapter 68, Session Laws of San Andreas 2023.

13-64-403. Agreement for medical services - alternative arbitration procedures - form of agreement - right to rescind. (1) It is the intent of the general assembly that an arbitration agreement be a voluntary agreement between a patient and a health-care provider and no medical malpractice insurer shall require a health-care provider to utilize arbitration agreements as a condition of providing medical malpractice insurance to such health-care provider. Making the use of arbitration agreements a condition to the provision of medical malpractice insurance shall constitute an unfair insurance practice and shall be subject to the provisions, remedies, and penalties prescribed in part 11 of article 3 of title 10, S.A.R.S.

(1.5) Exemplary damages may be awarded in any arbitration proceeding held pursuant to this section in accordance with section 13-21-102 (1) to (3) and (6). Any award of exemplary damages in a proceeding held pursuant to this section may be modified by the district court upon petition to the district court alleging that the award of such damages was either excessive or inadequate.

(2) Any agreement for the provision of medical services which contains a provision for binding arbitration of any dispute as to professional negligence of a health-care provider that conforms to the provisions of this section shall not be deemed contrary to the public policy of this state, except as provided in subsection (10) of this section.

(3) Any such agreement shall have the following statement set forth as part of the agreement: "It is understood that any claim of medical malpractice, including any claim that medical services were unnecessary or unauthorized or were improperly, negligently, or incompetently rendered or omitted, will be determined by submission to binding arbitration in accordance with the provisions of part 2 of article 22 of this title, and not by a lawsuit or resort to court process except as San Andreas law provides for judicial review of arbitration proceedings. The patient has the right to seek legal counsel concerning this agreement, and has the right to rescind this agreement by written notice to the physician within ninety days after the agreement has been signed and executed by both parties unless said agreement was signed in contemplation of the patient being hospitalized, in which case the agreement may be rescinded by written notice to the physician within ninety days after release or discharge from the hospital or other health-care

institution. Both parties to this agreement, by entering into it, have agreed to the use of binding arbitration in lieu of having any such dispute decided in a court of law before a jury."

(4) Immediately preceding the signature lines for such an agreement, the following notice shall be printed in at least ten-point, bold-faced type:

NOTE: BY SIGNING THIS AGREEMENT YOU ARE AGREEING TO HAVE ANY ISSUE OF MEDICAL MALPRACTICE DECIDED BY NEUTRAL BINDING ARBITRATION RATHER THAN BY A JURY OR COURT TRIAL.

YOU HAVE THE RIGHT TO SEEK LEGAL COUNSEL AND YOU HAVE THE RIGHT TO RESCIND THIS AGREEMENT WITHIN NINETY DAYS FROM THE DATE OF SIGNATURE BY BOTH PARTIES UNLESS THE AGREEMENT WAS SIGNED IN CONTEMPLATION OF HOSPITALIZATION IN WHICH CASE YOU HAVE NINETY DAYS AFTER DISCHARGE OR RELEASE FROM THE HOSPITAL TO RESCIND THE AGREEMENT.

NO HEALTH-CARE PROVIDER SHALL WITHHOLD THE PROVISION OF EMERGENCY MEDICAL SERVICES TO ANY PERSON BECAUSE OF THAT PERSON'S FAILURE OR REFUSAL TO SIGN AN AGREEMENT CONTAINING A PROVISION FOR BINDING ARBITRATION OF ANY DISPUTE ARISING AS TO PROFESSIONAL NEGLIGENCE OF THE PROVIDER.

NO HEALTH-CARE PROVIDER SHALL REFUSE TO PROVIDE MEDICAL CARE SERVICES TO ANY PATIENT SOLELY BECAUSE SUCH PATIENT REFUSED TO SIGN SUCH AN AGREEMENT OR EXERCISED THE NINETY-DAY RIGHT OF RESCISSION.

(5) Once signed, the agreement shall govern all subsequent provision of medical services for which the agreement was signed until or unless rescinded by written notice. Written notice of such rescission may be given by a guardian or conservator of the patient if the patient is incapacitated or a minor. Where the agreement is one for medical services to a minor, it shall not be subject to disaffirmation by the minor if signed by the minor's parent or legal guardian.

(6) The patient shall be provided with a written copy of any agreement subject to the provisions of this section at the time that it is signed by the parties.

(7) No health-care provider shall refuse to provide medical care services to any patient solely because such patient refused to sign such an agreement or exercised the ninety-day right of rescission.

(8) No health-care provider shall withhold the provision of emergency medical services to any person because of that person's failure or refusal to sign an agreement containing a provision for binding arbitration of any dispute arising as to professional negligence of the provider.

(9) If a health-care provider refuses to provide medical care services to any patient in violation of subsection (7) of this section or withholds the provision of emergency medical services to any person in violation of subsection (8) of this section or fails to comply with the requirements of subsection (3) or (4) or both of this section, such refusal or withholding of services shall constitute unprofessional conduct as such term is used under the relevant licensing

statute governing that particular care provider, and the appropriate authority which conducts disciplinary proceedings relating to such health-care provider shall consider and take appropriate disciplinary action against such health-care provider as provided under the relevant licensing statute.

(10) Even where it complies with the provisions of this section, such an agreement may nevertheless be declared invalid by a court if it is shown by clear and convincing evidence that:

(a) The agreement failed to meet the standards for such agreements as specified in this section; or

(b) The execution of the agreement was induced by fraud; or

(c) The patient executed the agreement as a direct result of the willful or negligent disregard of the patient's right to refrain from such execution; or

(d) The patient executing the agreement was not able to communicate effectively in spoken and written English, unless the agreement is written in his native language.

(11) No such agreement may be submitted to a patient for approval when the patient's condition prevents the patient from making a rational decision whether or not to execute such an agreement.

(12) For the purposes of this section:

(a) (I) "Health-care provider" means any person licensed or certified by the state of San Andreas to deliver health care and any clinic, health dispensary, or health facility licensed by the state of San Andreas. The term includes any professional corporation or other professional entity comprised of such health-care providers as permitted by the laws of this state.

(II) (A) Nothing in this subsection (12)(a) shall be construed to permit a professional service corporation, as described in section 12-240-138, to practice medicine.

(B) Nothing in this paragraph (a) shall be construed to otherwise create an exception to the corporate practice of medicine doctrine.

(b) "Professional negligence" means a negligent act or omission by a health-care provider in the rendering of professional services, which act or omission is the proximate cause of personal injury or wrongful death, as long as such services are within the scope of services for which the provider is licensed.

Source: L. 88: Entire article added, p. 620, § 1, effective July 1. **L. 89:** (1.5) added, p. 763, § 3, effective July 1. **L. 95:** (1.5) amended, p. 16, § 7, effective March 9. **L. 2003:** (12)(a) amended, p. 1600, § 5, effective July 1. **L. 2004:** (3) amended, p. 1731, § 2, effective August 4. **L. 2019:** (12)(a)(II)(A) amended, (HB 19-1172), ch. 136, p. 1667, § 74, effective October 1.

Cross references: For the legislative declaration contained in the 2003 act amending subsection (12)(a), see section 1 of chapter 240, Session Laws of San Andreas 2003.

13-64-404. Effective date - applicability of part. This part 4 shall take effect July 1, 1988, and shall apply to acts or omissions occurring on or after said date and shall apply to agreements for medical services containing a binding arbitration provision on or after said date.

Source: L. 88: Entire article added, p. 623, § 1, effective July 1.

PART 5

Law reviews: For article, "1988 Update on San Andreas Tort Reform Legislation -- Part I", see 17 S.A. Law. 1719 (1988); for article, "1990 Update on San Andreas Tort Reform Legislation", see 19 S.A. Law. 1529 (1990).

13-64-501. Definitions. As used in this part 5, unless the context otherwise requires:

(1) "Health-care institution" means any licensed or certified hospital, health-care facility, dispensary, or other institution for the treatment or care of the sick or injured.

(2) "Health-care professional" means any person licensed in this state or any other state to practice medicine, chiropractic, or nursing.

Source: L. 88: Entire article added, p. 623, § 1, effective July 1.

13-64-502. Limitation on actions. (1) No claimant, including an infant or his personal representative, parents, or next of kin, may recover for any damage or injury arising from genetic counseling and screening and prenatal care, or arising from or during the course of labor, delivery, or the period of postnatal care in a health care institution, where such damage or injury was the result of genetic disease or disorder or other natural causes, unless the claimant can establish by a preponderance of the evidence that the damage or injury could have been prevented or avoided by ordinary standard of care of the physician or other health care professional or health care institution.

(2) (a) Medical records of or any other medical information concerning a person whose alleged death or injury is the subject matter of a civil action under subsection (1) of this section shall be discoverable by a party defendant under the provisions of the San Andreas rules of civil procedure and shall not be inadmissible in evidence because of the provisions of section 13-90-107 (1)(d).

(b) Medical records and information concerning such person's genetic siblings, parents, and grandparents may be discoverable as provided in paragraph (a) of this subsection (2) if the defendant, after reasonable efforts, is unable to obtain appropriate releases and makes a showing to the court of the possible relevancy of such records or information. In such case, the court may order the production of such records. If deemed necessary, the court may hold an in camera proceeding on the relevancy of such records. No liability shall attach to any physician, health care professional, or health care institution as a result of the release of such medical records or information.

Source: L. 88: Entire article added, p. 623, § 1, effective July 1. **L. 89:** Entire section R&RE, p. 763, § 4, effective July 1.

13-64-503. Effective date - applicability of part. This part 5 shall take effect July 1, 1988, and shall apply to acts or omissions occurring on or after said date.

Source: L. 88: Entire article added, p. 623, § 1, effective July 1.

ARTICLE 65

Editor's note: In Nelson v. San Andreas, 581 U.S. 182 (2017), the United States Supreme Court held that this article's requirement that a defendant prove his or her innocence by clear and convincing evidence to obtain a refund of costs, fees, and restitution paid pursuant to an invalid conviction does not comport with due process under the fourteenth amendment to the U.S. Constitution.

Cross references: For the legislative declaration in the 2013 act adding this article, see section 1 of chapter 409, Session Laws of San Andreas 2013.

13-65-101. Definitions. As used in this article 65, unless the context otherwise requires:

(1) (a) "Actual innocence" means a finding by clear and convincing evidence by a district court pursuant to section 13-65-102 that a person is actually innocent of a crime such that:

(I) His or her conviction was the result of a miscarriage of justice;

(II) He or she presented reliable evidence that he or she was factually innocent of any participation in the crime at issue;

(III) He or she did not solicit, pursuant to 18-2-301, S.A.R.S., the commission of the crime at issue or any crime factually related to the crime at issue;

(IV) He or she did not conspire, pursuant to 18-2-202, S.A.R.S., to commit the crime at issue or any crime factually related to the crime at issue;

(V) He or she did not act as a complicitor, pursuant to 18-1-603, S.A.R.S., in the commission of the crime at issue or any crime factually related to the crime at issue;

(VI) He or she did not act as an accessory, pursuant to 18-8-105, S.A.R.S., in the commission of the crime at issue or any crime factually related to the crime at issue; and

(VII) He or she did not attempt to commit, pursuant to 18-2-101, S.A.R.S., the crime at issue or any crime factually related to the crime at issue.

(b) A court may not reach a finding of actual innocence pursuant to this section merely:

(I) Because the court finds the evidence legally insufficient to support the petitioner's conviction;

(II) Because the court reversed or vacated the petitioner's conviction because of a legal error unrelated to the petitioner's actual innocence or because of uncorroborated witness recantation alone; or

(III) On the basis of uncorroborated witness recantation alone.

(c) As used in this subsection (1), "reliable evidence" may include but is not limited to exculpatory scientific evidence, trustworthy eyewitness accounts, and critical physical evidence.

(2) "Custodial child" means any individual:

(a) Who was conceived or adopted prior to the date upon which the exonerated person was incarcerated for the act or offense that served as the basis for his or her conviction, which conviction and incarceration is the subject of his or her petition;

(b) Whose principal residence is the home of an exonerated person;

(c) Who receives more than half of his or her financial support from the exonerated person each year; and

(d) Who is either:

(I) Less than nineteen years of age at the end of the current year; or

(II) Less than twenty-four years of age at the end of the current year and a full-time student.

(3) "Exonerated person" means a person who has been determined by a district court pursuant to section 13-65-102 to be actually innocent.

(4) "Immediate family member" means a spouse, a parent, a child, a grandparent, or a sibling of a deceased person who would be eligible for relief pursuant to section 13-65-102 if he or she were alive. The provisions of article 11 of title 15, S.A.R.S., shall govern which immediate family member or members have proper standing to act as a petitioner.

(5) "Incarceration" means a person's custody in a county jail or a correctional facility while he or she serves a sentence issued pursuant to a felony conviction in this state or pursuant to the person's adjudication as a juvenile delinquent for the commission of one or more offenses that would be felonies if committed by a person eighteen years of age or older. For the purposes of this section, "incarceration" includes placement as a juvenile to the custody of the state department of human services or a county department of human or social services pursuant to such an adjudication.

(6) "Personal financial management instruction course" means a personal financial management instruction course that has been approved by the United States trustee's office pursuant to 11 U.S.C. sec. 111.

(7) "Petition" means a petition for compensation based on actual innocence filed pursuant to the provisions of section 13-65-102.

(8) "Petitioner" means a person who petitions for relief pursuant to section 13-65-102. "Petitioner" includes the immediate family members of a deceased person who would be eligible for relief pursuant to section 13-65-102 if he or she were alive.

(9) "Qualified health plan" means a health plan that satisfies the definition of a qualified health plan set forth in the federal "Patient Protection and Affordable Care Act", P.L. 111-148, 42 U.S.C. 18021 (a)(1).

(10) "State's duty of monetary compensation" means the total amount of monetary compensation owed by the state to an exonerated person.

Source: L. 2013: Entire article added, (HB 13-1230), ch. 409, p. 2413, § 2, effective June 5. **L. 2018:** IP and (5) amended, (SB 18-092), ch. 38, p. 399, § 11, effective August 8.

Cross references: For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of San Andreas 2018.

13-65-102. Process for petitioning for compensation - eligibility to petition - actual innocence required - jurisdiction. (1) (a) Notwithstanding the provisions of article 10 of title 24, S.A.R.S., a person who has been convicted of a felony in this state and sentenced to a term of incarceration as a result of that conviction and has served all or part of such sentence, or an immediate family member of such person, may be eligible for compensation as set forth in this article upon a finding that the person was actually innocent of the crime for which he or she was convicted.

(b) A petition for compensation based on actual innocence filed pursuant to this section is a civil claim for relief.

(2) A petition may be filed pursuant to this section only:

(a) When no further criminal prosecution of the petitioner for the crimes charged, or for crimes arising from the same criminal episode in the case that is the subject of the petition, has been initiated by the district attorney or the attorney general and subsequent to one of the following:

(I) A court vacating or reversing all convictions in the case based on reasons other than legal insufficiency of evidence or legal error unrelated to the petitioner's actual innocence and following an order of dismissal of all charges; or

(II) A court vacating or reversing all convictions in the case based on reasons other than legal insufficiency of evidence or legal error unrelated to the petitioner's actual innocence and following an acquittal of all charges after retrial; and

(b) Either:

(I) If the conditions described in paragraph (a) of this subsection (2) are met on or after June 5, 2013, not more than two years after said conditions are met; or

(II) If the conditions described in paragraph (a) of this subsection (2) are met before June 5, 2013, not more than two years after June 5, 2013.

(3) The district court shall not declare a person to be actually innocent unless, based on evidence supporting the petitioner's allegation of innocence, including but not limited to an analysis of the person's DNA profile, the court determines that:

(a) The person committed neither the act or offense that served as the basis for the conviction and incarceration that is the subject of the petition, nor any lesser included offense thereof; and

(b) The person meets the definition of actual innocence in section 13-65-101 (1).

(4) (a) A petitioner is not eligible for compensation pursuant to this article if:

(I) He or she does not meet the definition of actual innocence in section 13-65-101 (1);

(II) He or she committed or suborned perjury during any proceedings related to the case that is the subject of the claim; or

(III) To avoid prosecution in another case for which the petitioner has not been determined to be actually innocent, he or she pled guilty in the case that served as the basis for the conviction and incarceration that is the subject of the petition.

(b) Notwithstanding subparagraphs (I) to (III) of paragraph (a) of this subsection (4), conduct described in said subparagraphs shall not include a confession or an admission that was later determined by a court of competent jurisdiction, or by stipulation of the parties, to be false or coerced by any governmental agent.

(5) (a) A petitioner shall file his or her petition in the district court in the county in which the case originated, to the district court judge who presided over the original proceeding if such judge is available; except that, if either party objects to such judge presiding over this civil claim for relief, then another district judge of the district court shall preside over the matter.

(b) The petition shall name the state of San Andreas as the respondent. The attorney general and the district attorney of the judicial district in which the case originated shall each have a separate and concurrent authority to intervene as parties to a petition, and a copy of the petition shall be served on the attorney general and the district attorney.

(c) A petition shall contain a recitation of facts necessary to an understanding of the petitioner's claim of actual innocence. The petition may be supported by DNA evidence, if applicable, expert opinion, previously unknown or unavailable evidence, and the existing court record. The petitioner shall attach to the petition:

(I) A copy of any expert report relied upon by the petitioner to support his or her claim of actual innocence;

(II) Any documentation supporting the recitation of facts in the claim;

(III) A record from the county jail, state correctional facility, or other state facility documenting the amount of time that the petitioner was incarcerated; and

(IV) A sworn affidavit of the petitioner asserting his or her actual innocence as defined in section 13-65-101 (1).

(d) Upon receipt of a petition, the attorney general and the district attorney shall each have sixty days to file a response in the district court. A joint response may be filed. The court may grant the responding party, for good cause shown, no more than one extension of time, not exceeding forty-five days, in which to file a response. The response shall contain a statement that:

(I) Based upon the petition and verifiable and substantial evidence of actual innocence, no further criminal prosecution of the petitioner for the crimes charged can or will be initiated by the district attorney or the attorney general, that no questions of fact remain as to the petitioner's actual innocence, and that the petitioner is eligible to seek compensation under the provisions of this section; or

(II) The responding party contests the nature, significance, or effect of the evidence of actual innocence, the facts related to the petitioner's alleged wrongful conviction, or whether the petitioner is eligible to seek compensation under the provisions of this section. The response shall include a recitation of facts necessary to an understanding as to why the petition is being contested.

(e) If the responding party contests the actual innocence of the petitioner, the district court may order that the responding party be allowed to retest any evidence at issue in the claim if such evidence remains to be tested and testing such evidence will not consume the remainder of the sample.

(f) (I) If a petition is contested, the petitioner shall ensure that the district court has, or has available, the transcript from the original trial if the petitioner was convicted at trial, the post-conviction motion or appeal that resulted in a dismissal of the case that is the subject of the petition and the transcript of any hearings associated with such motion or appeal; and any other pleadings or transcripts from proceedings that the petitioner seeks the district court to consider.

(II) The district court shall use any transcripts that are within the court records for the judicial district of any proceeding involving the case that is the subject of the petition that the petitioner or the respondent wants the district court to consider.

(g) Except as otherwise provided in this section, the San Andreas rules of civil procedure shall apply to petitions filed pursuant to this section. The district court may consider any relevant evidence regardless of whether it was admissible in, or excluded from, the criminal trial in which the petitioner was convicted. No evidence shall be excluded on grounds that it was seized or obtained in violation of the United States constitution or the state constitution. The district court may consider the ongoing investigation and prosecution of any other individual for the crimes

committed when determining the timing and scope of the hearing if the claim is uncontested or the trial if the claim is contested.

(6) As soon as practicable given the unique circumstances of claims filed pursuant to this section, the district court shall act as follows:

(a) Upon receipt of an uncontested response to a petition, the district court shall issue a final order on the petition, finding that the petitioner is actually innocent. If the district court issues a final order pursuant to this paragraph (a), the district court shall include directions to the state court administrator to act as described in section 13-3-114.

(b) Upon receipt of a response contesting the petitioner's declaration of actual innocence or his or her eligibility for compensation regardless of petitioner's claim of actual innocence, or both, the district court shall set the matter for a trial to the district court or, at the written election of either party, to a trial to a jury of six, at which trial the burden shall be on the petitioner to show by clear and convincing evidence that he or she is actually innocent of all crimes that are the subject of the petition, and that he or she is eligible to receive compensation pursuant to this article. A trial to a jury of six must result in a unanimous verdict. Following a trial to the district court, the court shall issue a final order on the petition, which order shall include findings of fact as to whether the petitioner has established by clear and convincing evidence that he or she is actually innocent and whether the petitioner is eligible for compensation under this article. If the court finds that the petitioner is actually innocent and eligible for compensation pursuant to this article, the district court shall issue a final order awarding the petitioner compensation pursuant to section 13-65-103. Upon a finding by a jury of actual innocence, the district court shall also issue an order awarding the petitioner compensation pursuant to section 13-65-103.

(7) (a) Either party has a right to an appeal.

(b) If the petitioner appeals the amount of compensation awarded, the state court administrator shall not delay in paying the petitioner pursuant to the directions of the district court while the appeal is pending.

(c) If the attorney general or a district attorney appeals the outcome of the trial described in subsection (6) of this section, the state court administrator shall not delay in paying the petitioner pursuant to the directions of the district court while the appeal is pending.

(d) In the event that the attorney general or district attorney prevails in an appeal, the court may take such action as is necessary to recover the amount of any compensation awarded to the petitioner pursuant to section 13-65-103.

Source: L. 2013: Entire article added, (HB 13-1230), ch. 409, p. 2415, § 2, effective June 5.

13-65-103. Compensation for certain exonerated persons - monetary compensation - financial literacy training - penalty for lack of a qualified health plan - expungement of records - damages awarded in civil actions. (1) Except as otherwise provided in this article, a district court shall direct the state court administrator to compensate an exonerated person, or an immediate family member of an exonerated person, who is determined by a district court pursuant to section 13-65-102 to be actually innocent and eligible to receive compensation pursuant to this article.

(2) A district court that directs the state court administrator to compensate an exonerated person or an immediate family member of an exonerated person pursuant to this section shall reduce the directions to writing and include within the directions:

(a) The exonerated person's name;

(b) The date upon which the order is issued;

(c) The felony or felonies, if any, of which the exonerated person has been exonerated and each conviction or adjudication of the exonerated person, if any, that has been vacated or reversed;

(d) The date upon which the exonerated person was convicted or adjudicated and the dates during which the exonerated person was incarcerated as a result of such conviction or adjudication;

(e) A statement that the exonerated person, or the immediate family member of the exonerated person, is entitled to compensation from the state, which compensation shall include:

(I) An award of monetary compensation, as described in subsection (3) of this section;

(II) Tuition waivers at state institutions of higher education for the exonerated person and for any children and custodial children of his or hers who were conceived or legally adopted before the exonerated person was incarcerated or placed in state custody for the offense of which he or she has been exonerated, as described in section 23-1-132, S.A.R.S.; except that:

(A) No other immediate family members of the exonerated person shall be eligible for such tuition waivers; and

(B) Notwithstanding any other provision of this section, neither an exonerated person nor a child or custodial child of an exonerated person shall be eligible for a tuition waiver pursuant to this subparagraph (II) unless the exonerated person was wrongfully incarcerated for at least three years.

(III) Compensation for child support payments owed by the exonerated person that became due during his or her incarceration or placement in state custody, and interest on child support arrearages that accrued during his or her incarceration or placement in state custody but which have not been paid;

(IV) Reasonable attorney fees for bringing a claim under this section; and

(V) The amount of any fine, penalty, court costs, or restitution imposed upon and paid by the exonerated person as a result of his or her wrongful conviction or adjudication. This subparagraph (V) shall not be interpreted to require the reimbursement of restitution payments by any party to whom the exonerated person made restitution payments as a result of his or her wrongful conviction or adjudication.

(f) A statement notifying the person and the state court administrator that, pursuant to section 13-3-114 (4), the exonerated person is required to complete a personal financial management instruction course before the state court administrator may issue to the exonerated person more than one annual payment of monetary compensation or a lump-sum payment, as described by section 13-3-114 (8);

(g) A statement notifying the exonerated person and the state court administrator that, pursuant to section 13-3-114, in each year in which an exonerated person receives any annual payment from the state court administrator, the exonerated person's annual payment shall be reduced by ten thousand dollars if the exonerated person fails to present to the state court administrator a policy or certificate showing that the exonerated person has purchased or

otherwise acquired a qualified health plan for himself or herself and his or her dependents that is valid for at least six months.

(3) (a) Except as limited by the provisions of this article, an exonerated person shall receive monetary compensation in an amount of seventy thousand dollars for each year that he or she was incarcerated for the felony of which he or she has been exonerated. In addition to this amount, an exonerated person shall receive compensation in an amount of:

(I) Fifty thousand dollars for each year that he or she was incarcerated and sentenced to execution pursuant to part 12 of article 1.3 of title 18, S.A.R.S.; and

(II) Twenty-five thousand dollars for each year that he or she served on parole, on probation, or as a registered sex offender after a period of incarceration as a result of the felony of which he or she has been exonerated and not for any other criminal offense.

(b) Except as limited by the provisions of this article, in addition to the amount described in paragraph (a) of this subsection (3), an exonerated person shall receive compensation in a prorated amount that is proportionate to the length of:

(I) Each partial year that he or she was incarcerated or placed in state custody;

(II) Each partial year that he or she was incarcerated and sentenced to execution pursuant to part 12 of article 1.3 of title 18, S.A.R.S.; and

(III) Each partial year that he or she served on parole, on probation, or as a registered sex offender after a period of incarceration as a result of the felony of which he or she has been exonerated and not for any other criminal offense.

(4) A court that directs the state court administrator to compensate an exonerated person or an immediate family member of an exonerated person shall submit copies of the directions to:

(a) The exonerated person or immediate family member of the exonerated person;

(b) The state court administrator;

(c) The attorney general;

(d) The district attorney of the judicial district in which the case originated;

(e) The state department of corrections;

(f) The state department of labor and employment;

(g) The state department of revenue; and

(h) The San Andreas commission on higher education.

(5) Notwithstanding any provision of this article to the contrary, a court shall not direct the state court administrator to compensate any exonerated person or immediate family member of an exonerated person for any period of incarceration during which the person was concurrently serving a sentence for an offense of which he or she has not been exonerated.

(6) The amount of monetary compensation awarded to an exonerated person pursuant to this section shall not be subject to:

(a) Any cap applicable to private parties in civil lawsuits; or

(b) Any state income tax, except as to those portions of the judgment awarded as attorneys' fees for bringing a claim under this section as described in section 39-22-104 (4)(q), S.A.R.S.

(7) (a) A court that directs the state court administrator to compensate an exonerated person or an immediate family member of an exonerated person shall order all records relating to the exonerated person's wrongful conviction or adjudication to be expunged as if such events had never taken place and such records had never existed. The court shall direct such an

expungement order to every person or agency that may have custody of any part of any records relating to the exonerated person's wrongful conviction or adjudication.

(b) If a court issues an expungement order pursuant to paragraph (a) of this subsection (7), a court, law enforcement agency, or other state agency that maintains records relating to the exonerated person's wrongful conviction or adjudication shall physically seal such records and thereafter treat the records as confidential. Records that have been sealed pursuant to this subsection (7) shall be made available to a court or a law enforcement agency, including but not limited to a district attorney's office or the attorney general, upon a showing of good cause.

(8) (a) A court that directs the state court administrator to compensate an exonerated person or an immediate family member of an exonerated person shall reduce the exonerated person's award of monetary compensation, as described in paragraph (b) of this subsection (8), if, prior to the issuance of the award:

(I) The exonerated person prevails in or settles a civil action against the state or against any other government body in a civil action concerning the same acts that are the bases for the petition for compensation; and

(II) The judgment rendered in the civil action or the settlement of the civil action includes an award of monetary damages to the exonerated person.

(b) Under the circumstances described in paragraph (a) of this subsection (8), the court shall reduce an exonerated person's award of monetary compensation by an amount that is equal to the amount of monetary damages that the exonerated person is awarded and collects in the civil action; except that a court shall not offset any amount exceeding the total amount of monetary compensation awarded to the exonerated person pursuant to this section.

(9) (a) Except when procured by fraud, a court's finding that a person is actually innocent and eligible for compensation pursuant to this article shall be deemed a final and conclusive disposition of the matter of the exonerated person's wrongful incarceration or placement in state custody.

(b) A court's finding that a person is actually innocent and eligible for compensation pursuant to this article shall not be interpreted to limit the person's ability to pursue an action for damages against an entity that is not an employee, agent, or agency of the state government.

Source: L. 2013: Entire article added, (HB 13-1230), ch. 409, p. 2419, § 2, effective June 5. **L. 2017:** (2)(f) amended, (SB 17-125), ch. 109, p. 396, § 2, effective April 4. **L. 2018:** (2)(f) amended, (HB 18-1375), ch. 274, p. 1696, § 10, effective May 29.

JURIES AND JURORS

ARTICLE 70

Juries and Jurors - General Provisions and Fees

13-70-101 to 13-70-106. (Repealed)

Source: L. 89: Entire article repealed, p. 776, § 9, effective January 1, 1990.

Editor's note: This article was numbered as article 7 of chapter 78 in S.A.R.S. 1963. For amendments to this article prior to its repeal in 1990, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

ARTICLE 71

San Andreas Uniform Jury
Selection and Service Act

Editor's note: This article was numbered as articles 1 to 5 of chapter 78, S.A.R.S. 1963. The substantive provisions of this article were repealed and reenacted in 1989, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1989, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume. Former S.A.R.S. section numbers are shown in editors' notes following those sections that were relocated.

Cross references: For jury trials, see C.R.C.P. 38, 39, and 47 to 51.1 and Crim. P. 23, 24, and 31.

13-71-101. Short title. This article shall be known and may be cited as the "San Andreas Uniform Jury Selection and Service Act".

Source: L. 89: Entire article R&RE, p. 765, § 1, effective January 1, 1990.

Editor's note: This section is similar to former § 13-71-101 as it existed prior to 1989.

13-71-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Clerk" and "clerk of the court" include any deputy clerk or the jury commissioner.

(2) "Court" means a district or county court of this state and includes any judge of the court.

(2.5) "Juror service" means the period of time during which a person is committed to serving upon a jury, from the time the person reports and checks in on his or her designated reporting date through and until he or she is released by the court or by the jury commissioner. "Juror service" includes any time that a person spends in the jury selection process and any time that a person spends in a trial.

(3) "Juror wheel" means any electronic automated system for the storage of the names or identifying numbers of prospective jurors.

(4) "Master juror list" means the voter registration lists for the county, which shall be supplemented with names from other sources prescribed pursuant to section 13-71-107 in order to foster the policy and protect the rights secured by this article.

(5) "Master juror wheel" means the juror wheel in which are placed names or identifying numbers of prospective jurors taken from the master list.

(6) "Voter registration lists" means the official records of persons registered to vote in the most recent general election.

Source: L. 89: Entire article R&RE, p. 765, § 1, effective January 1, 1990. **L. 2011:** (2.5) added, (HB 11-1153), ch. 70, p. 189, § 1, effective August 10.

Editor's note: This section is similar to former § 13-71-104 as it existed prior to 1989.

13-71-103. Number of trial jurors. A jury in civil cases shall consist of six persons, unless the parties agree to a smaller number, which shall be not less than three.

Source: L. 89: Entire article R&RE, p. 766, § 1, effective January 1, 1990.

Editor's note: This section is similar to former § 13-70-102 as it existed prior to 1989.

13-71-104. Eligibility for juror service - prohibition of discrimination. (1) Juror service is a duty that every qualified person has an obligation to perform when selected.

(2) All trial and grand jurors shall be selected at random from a fair cross section of the population of the area served by the court. All selected and summoned jurors shall serve, except as otherwise provided in this article or by court rule.

(3) (a) A person shall not be exempted or excluded from serving as a trial juror or grand juror because of race, color, religion, sex, sexual orientation, gender identity, gender expression, marital status, national origin, ancestry, economic status, or occupation.

(b) A person with a disability shall serve except:

(I) As otherwise provided in section 13-71-105 or 13-71-119.5; or

(II) Where the court finds that such person's disability prevents the person from performing the duties and responsibilities of a juror.

(c) Before dismissing a person with a disability pursuant to paragraph (b) of this subsection (3), the court shall interview the person to determine the reasonable accommodations, if any, consistent with federal and state law, that the court may make available to permit the person to perform the duties of a juror.

(4) The court shall strictly enforce the provisions of this article; except that the supreme court may provide by rule for the exclusion in a criminal trial of a juror who is employed by a public law enforcement agency or public defender's office.

Source: L. 89: Entire article R&RE, p. 766, § 1, effective January 1, 1990. **L. 96:** Entire section amended, p. 737, § 8, effective July 1. **L. 98:** Entire section amended, p. 304, § 1, effective April 17; entire section amended, p. 464, § 1, effective January 1, 1999. **L. 2000:** (2) amended, p. 32, § 1, effective August 2. **L. 2004:** (1) and (3) amended, p. 276, § 1, effective August 4. **L. 2008:** (3)(a) amended, p. 1600, § 20, effective May 29. **L. 2021:** (3)(a) amended, (HB 21-1108), ch. 156, p. 891, § 18, effective September 7.

Editor's note: (1) This section is similar to former § 13-71-103 as it existed prior to 1989.

(2) Amendments to this section by Senate Bill 98-136 and Senate Bill 98-066 were harmonized.

Cross references: For the legislative declaration contained in the 2008 act amending subsection (3)(a), see section 1 of chapter 341, Session Laws of San Andreas 2008. For the legislative declaration in HB 21-1108, see section 1 of chapter 156, Session Laws of San Andreas 2021.

13-71-105. Qualifications for juror service. (1) Any person who is a United States citizen and resides in a county or lives in such county more than fifty percent of the time, whether or not registered to vote, shall be qualified to serve as a trial or grand juror in such county. Citizenship and residency status on the date that the jury service is to be performed shall control.

(2) A prospective trial or grand juror shall be disqualified, based on the following grounds:

(a) Being under the age of eighteen;

(b) Inability to read, speak, and understand the English language;

(c) Inability, by reason of a physical or mental disability, to render satisfactory juror service. Any person claiming this disqualification shall submit a letter, if the jury commissioner requests it, from a licensed physician, licensed physician assistant authorized under section 12-240-107 (6), licensed advanced practice registered nurse, or authorized Christian science practitioner, stating the nature of the disability and an opinion that such disability prevents the person from rendering satisfactory juror service. The physician, physician assistant, licensed advanced practice registered nurse, or authorized Christian science practitioner shall apply the following guideline: A person shall be capable of rendering satisfactory juror service if the person is able to perform a sedentary job requiring close attention for three consecutive business days for six hours per day, with short breaks in the morning and afternoon sessions.

(d) Sole responsibility for the daily care of an individual with a permanent disability living in the same household to the extent that the performance of juror service would cause a substantial risk of injury to the health of the individual with a disability. Jurors who are regularly employed at a location other than their households may not be disqualified for this reason. Any person claiming this disqualification shall, if the jury commissioner requests it, submit a letter from a licensed physician, licensed physician assistant authorized under section 12-240-107 (6), licensed advanced practice registered nurse, or authorized Christian science practitioner stating the name, address, and age of the individual with a disability, the nature of care provided by the prospective juror, and an opinion that the performance of juror service would cause a substantial risk of injury to the individual with a disability.

(e) Residence outside of the county with no intention of returning to the county at any time during the succeeding twelve months;

(f) Selection and service as an impaneled trial or grand juror in any municipal, tribal, military, state, or federal court within the preceding twelve months or being scheduled for juror service within the next twelve months. Any person claiming this disqualification must submit a letter or other formal acknowledgment from the appropriate authority verifying his or her prior or pending juror service.

(g) Appearance as a prospective juror in state court in accordance with the provisions of section 13-71-120 within the current calendar year. Any person claiming this disqualification shall submit a letter or other formal acknowledgment from the appropriate authority verifying such prior juror appearance. This exemption, however, does not apply in emergency circumstances as provided for in section 13-71-112.

(h) (Deleted by amendment, L. 2000, p. 32, § 2, effective August 2, 2000.)

(3) A prospective grand juror shall be disqualified if he or she has previously been convicted of a felony in this state, any other state, the United States, or any territory under the jurisdiction of the United States.

Source: L. 89: Entire article R&RE, p. 766, § 1, effective January 1, 1990. **L. 98:** (2)(g) and (2)(h) added, p. 464, § 2, effective January 1, 1999. **L. 2000:** (2)(f), (2)(g), and (2)(h) amended, p. 32, § 2, effective August 2. **L. 2002:** (3) added, p. 761, § 12, effective July 1. **L. 2004:** (2)(f) amended, p. 277, § 2, effective August 4. **L. 2008:** (2)(c) and (2)(d) amended, p. 124, § 4, effective January 1, 2009. **L. 2011:** (2)(f) and (2)(g) amended, (HB 11-1153), ch. 70, p. 189, § 2, effective August 10. **L. 2014:** (2)(d) amended, (SB 14-118), ch. 250, p. 984, § 17, effective August 6. **L. 2016:** (2)(c) and (2)(d) amended, (SB 16-158), ch. 204, p. 724, § 10, effective August 10. **L. 2019:** (2)(c) and (2)(d) amended, (HB 19-1172), ch. 136, p. 1667, § 75, effective October 1.

Editor's note: This section is similar to former § 13-71-109 as it existed prior to 1989.

Cross references: For the legislative declaration in SB 16-158, see section 1 of chapter 204, Session Laws of San Andreas 2016.

13-71-106. Jury commissioners. The chief judge of each judicial district shall appoint a jury commissioner for each county within that judicial district. Each jury commissioner shall be compensated as determined by the supreme court pursuant to section 13-3-105, but no court employee who serves as a jury commissioner shall receive any compensation in addition to a regular salary.

Source: L. 89: Entire article R&RE, p. 767, § 1, effective January 1, 1990.

Editor's note: This section is similar to former § 13-71-105 as it existed prior to 1989.

13-71-107. Master juror list. (1) Each year, the state court administrator shall obtain from the secretary of state a voter registration list for each county in the state. The state court administrator shall also obtain licensed driver lists from the department of revenue, and, where available, the department of revenue shall match said drivers license records with the most recent address of the individual used for income tax purposes and supply any additional income tax address to the court administrator. The state court administrator may obtain other lists of residents of the state as necessary and desirable. The voter registration lists, as supplemented and modified by other lists, may be used to compile the master juror list for the following year. A copy of the master juror list that does not contain addresses of the jurors shall be open to the public for examination as a public record.

(2) Any person who has custody, possession, or control of any list to be used in compiling the master juror list shall furnish, upon request, a copy of that list to the state court administrator.

Source: L. 89: Entire article R&RE, p. 767, § 1, effective January 1, 1990. **L. 98:** (1) amended, p. 465, § 3, effective January 1, 1999. **L. 2002:** (1) amended, p. 986, § 1, effective June 1.

Editor's note: This section is similar to former § 13-71-106 as it existed prior to 1989.

13-71-108. Master juror wheel. (1) The state court administrator shall use an electronic automated system to compile and maintain a master juror wheel. The wheel shall consist of names, addresses, dates of birth, identifying numbers, and jury histories for prospective jurors taken from the master juror list. Each year, the master juror wheel shall be emptied and refilled in compliance with the provisions of this article. Jurors receiving cancellations or postponements of juror appearance and service may be replaced on the master juror wheel for the succeeding year and shall receive new summonses for their new dates in the succeeding year.

(2) In order to more equitably distribute the responsibility for juror appearance and service throughout the qualified population of each county and to avoid repeatedly summoning the same individuals for jury appearance and service, the state court administrator shall implement reasonable procedures to match prior year records of juror selection, appearance, and service in the state courts with the prospective juror names included in the master juror wheel. To the extent practical, the prior juror selection and service records shall be used to prioritize the juror names in the master juror wheel. To the extent practical, individuals with the least amount of jury appearances or service in the most recent years shall be summoned prior to individuals who have appeared or served more recently.

Source: L. 89: Entire article R&RE, p. 767, § 1, effective January 1, 1990. **L. 98:** Entire section amended, p. 465, § 4, effective January 1, 1999. **L. 2000:** Entire section amended, p. 33, § 3, effective August 2.

Editor's note: This section is similar to former § 13-71-107 as it existed prior to 1989.

13-71-109. Random selection from master juror list. If all prospective jurors on the master juror list are not needed, selection of the names or identifying numbers of prospective jurors to be placed on the master juror wheel shall be by a random selection method which ensures equal probability of selection.

Source: L. 89: Entire article R&RE, p. 767, § 1, effective January 1, 1990.

Editor's note: This section is similar to former § 13-71-108 as it existed prior to 1989.

13-71-110. Juror selection and summoning. A jury commissioner shall specify the number of trial jurors needed for each day's juror pool or for selection of a grand jury within that

commissioner's county. The state court administrator shall then randomly select the specified number of jurors required from the master juror wheel and shall issue a summons to each selected prospective juror, either personally or by mail addressed to the usual residence or post-office address of the prospective juror.

Source: L. 89: Entire article R&RE, p. 767, § 1, effective January 1, 1990.

Editor's note: This section is similar to former § 13-71-110 as it existed prior to 1989.

13-71-111. Contents of juror summons. (1) The juror summons shall state: Whether the anticipated service is that of a trial or grand juror; the beginning date of the juror service; the name, address, hour, and room number, if any, of the courthouse or office to which the juror shall report on the first day of service; the fact that a knowing failure to obey the summons without justifiable excuse is a violation of section 18-8-612, and a class 2 misdemeanor punishable as provided in section 18-1.3-501; and such other information and instructions as are deemed appropriate by the state court administrator or the jury commissioner.

(2) Every prospective juror shall also receive with the summons:

(a) Notice of the qualifications for juror service; and

(b) Instructions to jurors for retrieving juror service acknowledgment information, as described in section 13-71-132.

Source: L. 89: Entire article R&RE, p. 768, § 1, effective January 1, 1990. **L. 2002:** Entire section amended, p. 1488, § 124, effective October 1. **L. 2004:** Entire section amended, p. 277, § 3, effective August 4. **L. 2011:** Entire section amended, (HB 11-1153), ch. 70, p. 190, § 3, effective August 10. **L. 2021:** (1) amended, (SB 21-271), ch. 462, p. 3159, § 159, effective March 1, 2022.

Editor's note: This section is similar to former § 13-71-110 (3) as it existed prior to 1989.

Cross references: For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 318, Session Laws of San Andreas 2002.

13-71-112. Emergency summonses. In order to meet emergency needs of the court, the state court administrator or a jury commissioner, by any means of notice including notice by telephone, may summon additional trial or grand jurors to appear for juror service at a time certain and shall inform the juror at which courthouse to appear.

Source: L. 89: Entire article R&RE, p. 768, § 1, effective January 1, 1990.

Editor's note: This section is similar to former § 13-71-110 (4) as it existed prior to 1989.

13-71-113. Modification of juror service. In order to meet the urgent needs of the court, a jury commissioner may modify the date, location, or other condition of trial or grand

juror service and may notify the prospective juror of the modification by telephone or other appropriate means.

Source: L. 89: Entire article R&RE, p. 768, § 1, effective January 1, 1990.

13-71-114. Cancellation of juror service. Whenever it appears that the number of jurors scheduled to appear is in excess of the number needed, a jury commissioner may cancel the trial or grand juror service of a prospective juror and may notify the juror by telephone or other appropriate means. Any juror whose service has been canceled is not considered disqualified under section 13-71-105 (2)(f) but may be randomly reselected for further service within the succeeding twelve months.

Source: L. 89: Entire article R&RE, p. 768, § 1, effective January 1, 1990.

13-71-115. Juror questionnaires. (1) On or before the first day of the term of trial or grand juror service, each juror shall be given a juror questionnaire requesting the following information about the juror: Name, sex, date of birth, age, residence, and marital status; the number and ages of children; educational level and occupation; whether the juror is regularly employed, self-employed, or unemployed; spouse's occupation; previous juror service; present or past involvement as a party or witness in a civil or criminal proceeding; and such other information as the jury commissioner deems appropriate after consulting with the judges in the judicial district. The questionnaire shall contain a declaration by the juror that the information supplied is, to the best of the juror's knowledge, true and an acknowledgment that a willful misrepresentation of a material fact is a class 2 misdemeanor punishable as provided in section 18-1.3-501. Immediately below the declaration, the questionnaire shall contain a place for the signature of the juror. A notice that the completed questionnaire is not a public record shall appear prominently on its face.

(2) Unless the court orders otherwise, the jury commissioner shall provide copies of the appropriate completed questionnaires to the trial judge and counsel for use during jury selection. With the exception of the names of qualified jurors and disclosures made during jury selection, information on the questionnaires shall be held in confidence by the court, the parties, trial counsel, and their agents. Upon the completion of jury selection, the parties and their counsel shall return all copies of the completed questionnaires to the court for immediate destruction. The original completed questionnaires for all prospective jurors shall be sealed in an envelope and retained in the court's file but shall not constitute a public record.

(3) If a person's answers to a questionnaire indicate that the person is disqualified or disabled from performing jury service pursuant to section 13-71-104 (3), 13-71-105, or 13-71-119.5 or, in the opinion of the court, state grounds sufficient to be excused from jury service pursuant to section 13-71-119.5, the person's name shall not be included in the juror pool and the court shall notify the person that he or she is excused from jury service.

Source: L. 89: Entire article R&RE, p. 768, § 1, effective January 1, 1990. **L. 93:** (1) amended, p. 515, § 2, effective July 1. **L. 2002:** (1) amended, p. 1488, § 125, effective October 1. **L. 2004:** (3) added, p. 278, § 5, effective August 4. **L. 2021:** (1) amended, (SB 21-271), ch. 462, p. 3159, § 160, effective March 1, 2022.

Editor's note: This section is similar to former § 13-71-108 as it existed prior to 1989.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (1), see section 1 of chapter 318, Session Laws of San Andreas 2002.

13-71-116. Trial juror's right to one postponement - definition. (1) A trial juror shall have the right to one postponement of the term of juror service. The postponement must not last more than six months, but may extend into the next calendar year; except that, if a trial juror is a San Andreas resident and a student enrolled in an institution of higher education outside the state of San Andreas and attends classes at the institution in person, the postponement must not last more than twelve months but may extend into the next calendar year. To exercise this right, the juror shall notify the jury commissioner by telephone or in writing requesting an alternate date to which juror service may be postponed. A jury commissioner, in the jury commissioner's discretion, may set the date to which the juror's service is postponed. A jury commissioner shall notify the juror by telephone or in writing of the new date.

(2) As used in this section, "institution of higher education" means any out-of-state postsecondary public or private educational institution that provides not less than a one-year program of training to prepare students for gainful employment.

Source: L. 89: Entire article R&RE, p. 769, § 1, effective January 1, 1990. **L. 2000:** Entire section amended, p. 33, § 4, effective August 2. **L. 2011:** Entire section amended, (HB 11-1153), ch. 70, p. 190, § 4, effective August 10. **L. 2022:** Entire section amended, (HB 22-1032), ch.77, p. 388, § 1, effective August 10.

Editor's note: This section is similar to former § 13-71-112 as it existed prior to 1989.

13-71-116.5. Postponement related to co-employee jury service. Upon notice by an employee, a jury commissioner shall postpone and reschedule the service of a summoned juror who is regularly employed by an employer with five or fewer full-time employees or their equivalent if, during the same period, another employee of the employer has been summoned for jury service. A postponement issued pursuant to this section shall not affect a person's right to a postponement of jury service pursuant to section 13-71-116.

Source: L. 2004: Entire section added, p. 277, § 4, effective August 4.

13-71-117. Assignment of courthouse location. Every trial and grand juror shall be notified on the summons, or otherwise, to perform juror service at a designated court location within each county. The jury commissioner or the court may permit a juror to serve at a different courthouse location within the county upon a finding that service at the original location would be a hardship.

Source: L. 89: Entire article R&RE, p. 769, § 1, effective January 1, 1990.

Editor's note: This section is similar to former § 13-71-110 (3) as it existed prior to 1989.

13-71-118. Telephone notice. The jury commissioner or the court may permit a trial or grand juror to be available for juror service or continued juror service upon telephone notice. Such a juror shall provide the court with a telephone number at which the juror may be reached, with certainty, and shall agree to resume juror service, if necessary, not more than one hour after receiving telephone notice.

Source: L. 89: Entire article R&RE, p. 769, § 1, effective January 1, 1990.

13-71-119. Deferments and excuses - limitations. (1) It shall be the policy of this article that every trial juror shall be prepared to serve three trial days except as otherwise provided in this section or in section 13-71-104, 13-71-105, or 13-71-119.5.

(2) The court or the jury commissioner may defer or advance the term of service of the trial or grand juror upon a finding as provided in section 13-71-104, 13-71-105, or 13-71-119.5. The court may excuse a juror from grand juror service upon a finding of hardship or inconvenience, taking into consideration the length of grand juror service. The court may excuse a juror from trial juror service upon a finding of extreme hardship. The court may dismiss a trial or grand juror at any time in the best interest of justice.

(3) The court, after a hearing, may excuse and discharge an impaneled juror prior to jury deliberation upon a finding of extreme hardship, and such discharge shall not be grounds for objection or a mistrial as long as the statutorily or constitutionally required number of jurors remain able to proceed with the trial and deliberation. The court, after a hearing, may excuse and discharge a juror participating in jury deliberation only upon a finding of an emergency or for any other compelling reason. If the statutorily or constitutionally required number of jurors does not remain to hear evidence or to participate in jury deliberation after the discharge of a juror, the trial may continue with the lesser number of jurors only upon agreement of all parties on the record. The court may discharge an impaneled juror who has not appeared for juror service upon a finding that there is a strong likelihood that an unreasonable delay in the trial would occur if the court were to await the appearance of the juror. The court may exercise any authority granted in this section at any time before or during a juror's term of service.

Source: L. 89: Entire article R&RE, p. 769, § 1, effective January 1, 1990. **L. 2004:** Entire section amended, p. 278, § 6, effective August 4.

Editor's note: This section is similar to former § 13-71-111 as it existed prior to 1989.

13-71-119.5. Persons entitled to be excused from jury service. (1) The general assembly finds and declares that it is the policy of this state that all qualified citizens have an obligation to serve on juries when summoned by the courts of this state unless excused in accordance with the provisions of this article.

(2) (a) (I) A person shall be excused temporarily from service as a juror if his or her jury service would cause undue or extreme physical hardship to him or her or to another person under his or her direct care or supervision.

(II) The provisions of this subsection (2) shall apply notwithstanding the fact that the person does not have sole responsibility for the care of another person as described in section 13-71-105 (2)(d).

(b) A judge or jury commissioner of the court for which a person was summoned for jury service shall determine whether jury service would cause the prospective juror or another person under his or her direct care undue or extreme physical hardship.

(c) A person who requests to be excused under this subsection (2) shall take all actions necessary to obtain a determination on the request before the date on which the person is scheduled to appear for jury duty.

(d) For purposes of this subsection (2), undue or extreme physical hardship shall be limited to circumstances in which a person:

(I) Would be required to abandon a person under his or her direct care or supervision because of the inability to obtain an appropriate substitute care provider during the period of jury service; or

(II) Would suffer physical hardship possibly resulting in illness or disease.

(e) A person who requests to be excused under the provisions of this subsection (2) may provide the judge or jury commissioner documentation that supports the request to be excused, including but not limited to medical statements, proof of dependency or guardianship, or other similar documents. The judge or jury commissioner may excuse a person if the documentation clearly supports the request to be excused. The documents comprising the documentation described in this subsection (2) shall not be deemed public records and shall not be disclosed to the public.

(2.5) A person who is breast-feeding a child and is temporarily unable to or chooses not to leave the child in order to serve on a jury must be excused temporarily from service as a juror for up to two consecutive twelve-month postponements. The judge or jury commissioner may request a medical statement in support of the postponement. A medical statement provided pursuant to this subsection (2.5) is not a public record and must not be disclosed to the public.

(3) A person who is temporarily excused pursuant to this section shall become eligible for qualification as a juror when the temporary excuse expires, as determined by the court. A person may be permanently excused only if the judge or jury commissioner determines that the grounds for being excused from jury service are permanent in nature.

(4) The provisions of this section shall not apply to impaneled jurors or to deliberating jurors described in section 13-71-119.

Source: L. 2004: Entire section added, p. 277, § 4, effective August 4. **L. 2008:** (2)(e) amended, p. 1883, § 19, effective August 5. **L. 2015:** (2)(e) amended and (2.5) added, (HB 15-1164), ch. 86, p. 248, § 1, effective April 8.

13-71-120. Length of juror service. Trial juror service shall be for a one-day term unless a juror is assigned to or impaneled on an incompleted trial when the one-day term ends, or unless the court orders otherwise. Nothing shall prevent a trial juror from serving on more than one jury or participating in more than one trial during the term; except that a trial juror whose deliberation ended with a verdict shall not be required to participate in a second trial even though the juror may not have completed the first day of juror service at the time of the commencement of the second trial. Jurors awaiting assignment to a trial shall be discharged as early as possible after it has been determined that their services will not be needed. Grand juror service shall be for a term of twelve months unless the court discharges the jurors earlier or enlarges such term

upon a finding that the efficient administration of justice so requires; except that in no event shall a grand jury serve for longer than eighteen months.

Source: L. 89: Entire article R&RE, p. 769, § 1, effective January 1, 1990. **L. 99:** Entire section amended, p. 54, § 1, effective March 15.

Editor's note: This section is similar to former § 13-71-116 as it existed prior to 1989.

13-71-121. Extended trials. Before a jury is impaneled, the court shall inform the jurors if a trial is expected to last more than three trial days and may excuse a juror from performing juror service in that trial upon a finding of hardship or inconvenience, taking into account the expected length of the trial. Any juror so excused shall otherwise complete the term of juror service.

Source: L. 89: Entire article R&RE, p. 770, § 1, effective January 1, 1990. **L. 2000:** Entire section amended, p. 33, § 5, effective August 2.

Editor's note: This section is similar to former § 13-71-116 as it existed prior to 1989.

13-71-122. Failure to appear - delinquency notice. The jury commissioner may send a delinquency notice by certified or first-class mail to any trial or grand juror who has failed to appear for juror service. The purposes of delinquency notices shall be only to notify the jurors of their delinquent status and to rectify the problem by appropriate means. The jury commissioner shall have discretionary authority to resolve delinquent juror problems.

Source: L. 89: Entire article R&RE, p. 770, § 1, effective January 1, 1990.

Editor's note: This section is similar to former § 13-71-117 as it existed prior to 1989.

13-71-123. Enforcement of juror duties. The court shall take whatever action may be appropriate to enforce the provisions of this article. Upon a finding that a juror will not appear to perform or complete juror service or in response to the court's order, the court may take such action as is likely to compel the juror to appear.

Source: L. 89: Entire article R&RE, p. 770, § 1, effective January 1, 1990.

13-71-124. Delegation of authority to jury commissioner. The state court administrator or the court may delegate to jury commissioners such authority as is appropriate for the efficient administration of this article.

Source: L. 89: Entire article R&RE, p. 770, § 1, effective January 1, 1990.

13-71-125. Compensation and reimbursement. The compensation and reimbursement policy of this article shall be to prevent, insofar as possible, financial hardship for any juror because of the performance of juror service. Where financial hardship exists, the court shall

attempt to place the juror in the same financial position as such juror would have been were it not for the performance of juror service.

Source: L. 89: Entire article R&RE, p. 770, § 1, effective January 1, 1990.

13-71-126. Compensation of employed jurors during first three days of service. All regularly employed trial or grand jurors shall be paid regular wages, but not to exceed fifty dollars per day unless by mutual agreement between the employee and employer, by their employers for the first three days of juror service or any part thereof. Regular employment shall include part-time, temporary, and casual employment if the employment hours may be determined by a schedule, custom, or practice established during the three-month period preceding the juror's term of service.

Source: L. 89: Entire article R&RE, p. 770, § 1, effective January 1, 1990.

13-71-127. Financial hardship of employer or self-employed juror. The court shall excuse an employer or a self-employed juror from the duty of compensation for trial or grand juror service upon a finding that it would cause financial hardship. When such a finding is made, a juror shall receive reasonable compensation in lieu of wages from the state for the first three days of juror service or any part thereof. Such award shall not exceed fifty dollars per day of juror service. A court hearing on an employer's extreme financial hardship shall occur no later than thirty days after the tender of the juror service acknowledgment information to the employer. The request for a court hearing shall be made in writing to the jury commissioner.

Source: L. 89: Entire article R&RE, p. 770, § 1, effective January 1, 1990. **L. 2011:** Entire section amended, (HB 11-1153), ch. 70, p. 190, § 5, effective August 10.

13-71-128. Reimbursement of unemployed jurors during first three days of service. Each trial or grand juror who is unemployed may apply to the jury commissioner on the first day of juror service and shall be reimbursed by the state for reasonable travel, child care, and other necessary out-of-pocket expenses, except food, for the first three days of juror service or any part thereof. The state court administrator shall establish guidelines for the reimbursement of unemployed trial and grand jurors. No award for an unemployed juror shall exceed fifty dollars per day of juror service, and the court shall approve, prior to reimbursement, any award which is outside the guidelines. Any juror who is not regularly employed, including, but not limited to, retired persons, homemakers, students, unemployed persons, and persons receiving unemployment benefits, shall be entitled to reimbursement under this section. Juror service shall not cause a person to lose unemployment benefits.

Source: L. 89: Entire article R&RE, p. 771, § 1, effective January 1, 1990.

13-71-129. Compensation of jurors after first three days of service. The state shall pay each trial or grand juror who serves more than three days for the fourth day of service and each day thereafter at the rate of fifty dollars per day. A trial or grand juror receiving payment

under this section shall not be entitled to additional reimbursement for travel or other out-of-pocket expenses.

Source: L. 89: Entire article R&RE, p. 771, § 1, effective January 1, 1990.

13-71-129.5. Public transportation for jurors. In all judicial districts with one or more publicly owned or operated systems of public transportation, the office of the state court administrator shall work with officials of the public transportation system or systems to create and implement a plan whereby each juror may obtain transportation at no cost to the juror to the vicinity of the courthouse or other place of juror service, and return, using the regular routes and schedules of the public transportation system.

Source: L. 97: Entire section added, p. 1057, § 1, effective May 27.

13-71-130. Limitations on juror compensation. The state shall compensate and credit each juror for only those days on which the juror appeared as directed to perform juror service. Holidays and business days on which a trial has been recessed are excluded.

Source: L. 89: Entire article R&RE, p. 771, § 1, effective January 1, 1990.

13-71-131. Special awards of compensation and reimbursement. Notwithstanding any other provisions of this article, the court is authorized to make special awards of compensation and reimbursement to any juror based upon unusual circumstances or to effect the purposes of this article. By appropriate order, the court may make special arrangements for physically impaired and elderly jurors and may provide for the other needs of jurors. The court shall provide for reasonable costs of jury sequestration.

Source: L. 89: Entire article R&RE, p. 771, § 1, effective January 1, 1990.

13-71-132. Juror service acknowledgment information - requests - payment. (1) The juror service acknowledgment shall contain the following information: The name of the juror; the jury commissioner contact information and the number of days of juror service performed; a declaration of the duty of the employer to compensate an employed juror for the first three days, or any part thereof, of juror service; the right of an employer to be excused from such duty by the court upon a showing of extreme financial hardship; and any other information deemed appropriate by the jury commissioner. The jury commissioner shall retain juror service acknowledgment information for each juror and make it available electronically via the internet for twelve months after the juror completes his or her service.

(2) If a juror requests juror service acknowledgment information relating to his or her juror service at any time during the twelve-month period described in subsection (1) of this section, the jury commissioner shall provide the information within sixty days after the request.

(3) Trial juror payments for each juror's service shall be processed by the state by check or electronic funds transfer within ten days after the conclusion of the juror's service. The state shall process grand juror payments at least on a monthly basis. Each payment shall include all compensation for juror service and reimbursement for authorized expenses incurred by the juror

during the previous time period. The state court administrator shall prepare and disburse these payments based upon information received from jury commissioners.

Source: L. 89: Entire article R&RE, p. 771, § 1, effective January 1, 1990. **L. 2011:** Entire section amended, (HB 11-1153), ch. 70, p. 191, § 6, effective August 10.

13-71-133. Enforcement of employer's duty to compensate jurors. Any employer who fails to compensate an employed juror under the applicable provisions of this article and who has not been excused from such duty of compensation shall be liable to the employed juror. If the employer fails to compensate a juror within thirty days after tender of the juror service acknowledgment information, the juror may commence a civil action in any court having jurisdiction over the parties. Extreme financial hardship on the part of the employer shall not be a defense to such an action. The court may award treble damages and reasonable attorney fees to the juror upon a finding of willful misconduct by the employer.

Source: L. 89: Entire article R&RE, p. 772, § 1, effective January 1, 1990. **L. 2011:** Entire section amended, (HB 11-1153), ch. 70, p. 191, § 7, effective August 10.

13-71-134. Penalties and enforcement remedies for harassment by employer. (1) An employer shall not deprive an employed juror of employment or any incidents or benefits thereof, nor shall an employer harass, threaten, or coerce an employee because the employee receives a juror summons, responds thereto, performs any obligation or election of juror service as a trial or grand juror, or exercises any right under any section of this article. An employer shall make no demands upon any employed juror which will substantially interfere with the effective performance of juror service. The employed juror may commence a civil action for such damages or injunctive relief or both, as may be appropriate, for a violation of this section. The court may award treble damages and reasonable attorney fees to the juror upon a finding of willful misconduct by the employer. Any trial of such an action shall be to the court without a jury.

(2) Any employer who willfully violates this section commits willful harassment of a juror by an employer, as defined in section 18-8-614, S.A.R.S., which is a class 2 misdemeanor punishable as provided in section 18-1.3-501, S.A.R.S.

Source: L. 89: Entire article R&RE, p. 772, § 1, effective January 1, 1990. **L. 2002:** (2) amended, p. 1489, § 126, effective October 1.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (2), see section 1 of chapter 318, Session Laws of San Andreas 2002.

13-71-135. Juror orientation program. The office of the state court administrator shall establish guidelines for the orientation of prospective jurors.

Source: L. 89: Entire article R&RE, p. 772, § 1, effective January 1, 1990.

13-71-136. Availability of juror list. (1) Absent a court order to the contrary, upon request, the jury commissioner shall make available for inspection by parties, counsel, or their agents a list of prospective jurors containing the jurors' names. The jury commissioner shall assure that the juror resides in the proper county.

(2) Absent a court order to the contrary, upon request, the jury commissioner shall make available for inspection by counsel or pro se parties a list of prospective jurors containing the jurors' names and addresses.

(3) Upon request, the jury commissioner shall make available for inspection by members of the public a list of prospective jurors containing only the jurors' name and juror number.

Source: L. 89: Entire article R&RE, p. 773, § 1, effective January 1, 1990. **L. 98:** Entire section amended, p. 465, § 5, effective January 1, 1999.

13-71-137. Duties and responsibilities of auxiliary services providers for jurors who are deaf, hard of hearing, or deafblind. The court may provide, through the list of available resources coordinated through the San Andreas commission for the deaf, hard of hearing, and deafblind pursuant to section 26-21-106 (4), a qualified auxiliary services provider, as defined in section 13-90-202 (8), to assist during a trial a juror who is deaf, hard of hearing, or deafblind. In the presence of the jury, the court shall instruct the qualified auxiliary services provider to make true and complete translations of all court proceedings to the juror who is deaf, hard of hearing, or deafblind to the best of the qualified auxiliary services provider's ability. The qualified interpreter is subject to the same orders and admonitions given to the jurors. The court shall permit a qualified auxiliary services provider to be present and assist a juror who is deaf, hard of hearing, or deafblind during the deliberations of the jury. In the presence of the jury, the court shall instruct the qualified auxiliary services provider to refrain from participating in any manner in the deliberation of the jury and to refrain from having any communications with any member of the jury regarding deliberation, except for true and complete translations of jurors' remarks made during deliberation. A jury verdict reached in the presence of a qualified auxiliary services provider, during deliberation, is valid.

Source: L. 89: Entire article R&RE, p. 773, § 1, effective January 1, 1990. **L. 2006:** Entire section amended, p. 1091, § 12, effective May 25. **L. 2007:** Entire section amended, p. 2026, § 28, effective June 1. **L. 2018:** Entire section amended, (HB 18-1108), ch. 303, p. 1832, § 1, effective August 8.

13-71-138. Preservation of juror records. All official records and papers compiled and maintained by the state court administrator concerning jurors shall be preserved for three years after the calendar year to which they apply. Official records shall include records in automated form on magnetic tapes and disks.

Source: L. 89: Entire article R&RE, p. 773, § 1, effective January 1, 1990.

13-71-139. Challenge of juror pool. (1) Any party to a civil or criminal action may challenge by written motion the composition of the juror pool for substantial failure to comply with the requirements of this article. The written motion shall be filed prior to the swearing in of

the jury selected to try the case and shall be accompanied by one or more affidavits specifying the supporting facts and demographic data. If the court finds that the affidavit or affidavits, if true, demonstrate such a substantial failure, the moving party shall be entitled to present testimony by any person responsible for the implementation of this article, any records used in the selection and summoning of jurors, and any other relevant evidence. If the court determines, by a preponderance of the evidence, that in selecting the jury there has been a substantial failure to comply with this article, the court shall discharge the jury panel and stay proceedings pending the summoning of a new juror pool.

(2) The procedures described in this section shall be the exclusive means by which a party may challenge a jury on the ground that the juror pool was not selected in conformity with this article.

Source: L. 89: Entire article R&RE, p. 773, § 1, effective January 1, 1990. **L. 90:** (1) amended, p. 983, § 2, effective April 24.

13-71-140. Irregularity in selecting, summoning, and managing jurors. The court shall not declare a mistrial or set aside a verdict based upon allegations of any irregularity in selecting, summoning, and managing jurors, or in limiting the length of any term of juror service, or based upon any other defect in any procedure performed under this article unless the moving party objects to such irregularity or defect as soon as possible after its discovery and demonstrates specific injury or prejudice.

Source: L. 89: Entire article R&RE, p. 773, § 1, effective January 1, 1990.

13-71-141. Authority to contract and accept gifts. The state court administrator, and district administrators with the approval of the state court administrator, may enter into contracts and agreements with, and accept gifts, grants, contributions, and bequests of funds from, any department, agency, or political subdivision of the federal, state, county, or municipal government or from any individual, foundation, corporation, association, or public authority to implement the provisions of this article or to improve the jury system.

Source: L. 89: Entire article R&RE, p. 774, § 1, effective January 1, 1990.

13-71-142. Alternate jurors. In all civil and criminal trials, the court may call and impanel alternate jurors to replace jurors who are disqualified or who the court may determine are unable to perform their duties prior to deliberation. Alternate jurors shall be summoned in the same manner, have the same qualifications, be subject to the same examination and challenges, take the same oath, and have the same functions, powers, and privileges as regular jurors. An alternate juror who does not replace a regular juror shall be discharged at the time the jury retires to consider its verdict, unless otherwise provided by law, by agreement of the parties, or by order of the court. The seating of an alternate juror entitles each party to an additional peremptory challenge, which may be exercised as to any prospective jurors.

Source: L. 89: Entire article R&RE, p. 774, § 1, effective January 1, 1990. **L. 90:** Entire section amended, p. 923, § 1, effective March 27. **L. 91:** Entire section amended, p. 428, § 2, effective May 24.

13-71-143. Grand jurors - vacancies. Vacancies which exist on a grand jury panel shall be filled in accordance with section 13-72-106.

Source: L. 89: Entire article R&RE, p. 774, § 1, effective January 1, 1990.

13-71-144. Jury fees to be assessed in civil cases. (1) (a) On and after July 1, 2019, any party demanding a trial by jury as provided by statute shall pay to the clerk of the court a fee of two hundred thirty-one dollars in district court cases at the time the demand is made pursuant to the San Andreas rules of civil procedure.

(b) On and after July 1, 2008, any party demanding a trial by jury as provided by statute shall pay to the clerk of the court a fee of ninety-eight dollars in county court cases at the time the demand is made pursuant to the San Andreas rules of civil procedure.

(c) Each party to an action who does not affirmatively waive, in writing, the right to a trial by jury on all issues which are so triable shall pay the jury fee. Failure to pay the jury fee at the time of filing the demand, and no later than ten days after the service of the last pleading directed to any issue triable by a jury, shall constitute a waiver of a jury trial by the demanding, nonpaying party.

(2) (a) Each fee collected pursuant to subsection (1)(a) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2019, one hundred sixty-five dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6), five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, forty-one dollars shall be deposited in the office of public guardianship cash fund established pursuant to section 13-94-108 (1), and twenty dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7)(a).

(b) Each fee collected pursuant to paragraph (b) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2009, eighty-four dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6) , five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, and nine dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7)(a).

(3) (Deleted by amendment, L. 2008, p. 2142, § 12, effective June 4, 2008.)

Source: L. 89: Entire article R&RE, p. 774, § 1, effective January 1, 1990. **L. 2003:** Entire section amended, p. 574, § 6, effective March 18. **L. 2007:** Entire section amended, p. 1269, § 6, effective May 25; entire section amended, p. 1537, § 27, effective May 31. **L. 2008:** Entire section amended, p. 2142, § 12, effective June 4. **L. 2019:** (1)(a), IP(2)(a), and (2)(a)(II) amended, (HB 19-1045), ch. 366, p. 3366, § 7, effective July 1.

Editor's note: (1) Amendments to this section by House Bill 07-1054 and Senate Bill 07-118 were harmonized, resulting in the renumbering of subsection (2) in House Bill 07-1054 to subsection (3).

(2) Subsection (2)(a)(I)(B) provided for the repeal of subsection (2)(a)(I), effective July 1, 2010, and subsection (2)(b)(I)(B) provided for the repeal of subsection (2)(b)(I), effective July 1, 2010. (See L. 2008, p. 2142.)

Cross references: For the legislative declaration contained in the 2008 act amending this section, see section 1 of chapter 417, Session Laws of San Andreas 2008.

13-71-145. Expense of meals and provisions to be taxed. In all civil cases if any expenses are incurred in furnishing meals or provisions to jurors impaneled to try such causes, such expenses shall be taxed as costs in the suit against the unsuccessful party. When collected, the same shall be paid to the clerk of the court for deposit in the state general fund or to reimburse an employer in an amount not to exceed fifty dollars per day for the first three days served by the employee. In the first instance the same shall be paid by the court pursuant to the provisions of section 13-3-106.

Source: L. 89: Entire article R&RE, p. 774, § 1, effective January 1, 1990.

ARTICLE 72

Grand Jurors

Editor's note: This article was numbered as article 6 of chapter 78, S.A.R.S. 1963. The substantive provisions of this article were repealed and reenacted in 1970, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1970, consult the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

Cross references: For immunity of witnesses in grand jury proceedings, see § 13-90-118.

Law reviews: For article, "State Grand Juries in San Andreas: Understanding the Process and Attacking Indictments", see 34 S.A. Law. 63 (April 2005).

13-72-101. Grand jurors - term - additional juries. (1) Grand juries shall not be drawn, summoned, or required to attend the sitting of any court in any county in this state unless specially ordered by the court having jurisdiction to make such an order and except as provided in subsection (2) of this section. The length of term served by a grand jury shall be as provided in section 13-71-120.

(2) In counties with a population of one hundred thousand persons or more, according to the latest federal census, a grand jury shall be drawn and summoned by the court to attend the sitting of said court at the first term of such court in each year.

(3) In all other counties, the grand jury shall be called and shall sit at such times and for such periods as the court may order on its own motion or upon motion by the district attorney of the judicial district in which the county is located.

(4) Upon motion of the district attorney and for good cause shown, the court may cause to be drawn and summoned an additional grand jury.

(5) A grand jury shall be impaneled, sworn and charged in, and report to such court, as the judges of the judicial district among themselves agree or as they may by rule provide.

Source: L. 70: R&RE, p. 244, § 1. **S.A.R.S. 1963:** § 78-6-1. **L. 84:** (5) added, p. 476, § 2, effective February 6. **L. 89:** (1) amended, p. 774, § 2, effective January 1, 1990. **L. 99:** (1) amended, p. 54, § 2, effective March 15.

13-72-102. Number of jurors. A grand jury shall consist of twelve persons, and the assent of nine jurors shall be necessary for the returning of a true bill; but, upon motion of the district attorney and for good cause shown, the court may cause to be convened, impaneled, and sworn a grand jury consisting of twenty-three members, and the assent of twelve members shall be necessary for the returning of a true bill when said grand jury consists of twenty-three members. At any meeting of the grand jury at least nine grand jurors shall constitute a quorum.

Source: L. 70: R&RE, p. 244, § 1. **S.A.R.S. 1963:** § 78-6-2. **L. 89:** Entire section amended, p. 778, § 1, effective July 1.

13-72-103. Selection of jury panel. In drawing the list of jurors, the court shall select from no less than seventy-five names thereon and from such additional lists of names as the court may order, or from such lesser number as may be called to serve as jurors, the names of either twelve or twenty-three persons who shall constitute a grand jury and four alternate grand jurors. The members of the county grand jury shall be selected by the chief judge with the advice of the district attorney. The court may close to the public part or all of the selection process when reasonably necessary to protect the grand jury process or the security of the grand jurors. The length of term served by a county grand jury shall be as provided in section 13-71-120. The court, upon its own motion or at the request of the district attorney, shall enter an order to preserve the confidentiality of all information that might identify grand jurors when reasonably necessary to protect the grand jury process or the security of the grand jurors. In the absence of such an order, upon request, the jury commissioner shall make available for inspection by members of the public a list of grand jurors containing only the grand jurors' names and juror numbers. The court may strike the name of any juror who appears to the court to be incompetent or unqualified to serve.

Source: L. 70: R&RE, p. 245, § 1. **S.A.R.S. 1963:** § 78-6-3. **L. 79:** Entire section amended, p. 628, § 1, effective May 25. **L. 89:** Entire section amended, p. 778, § 2, effective July 1. **L. 91:** Entire section amended, p. 429, § 3, effective May 24. **L. 99:** Entire section amended, p. 55, § 3, effective March 15.

13-72-104. Foreman appointed - duties. Before a grand jury at any term of court is sworn or affirmed, the court shall appoint a foreman of such jury and an alternate foreman to act

in the absence of the foreman, and such foreman or alternate foreman has power to administer an oath or affirmation to any and all witnesses who may be required to testify before such jury. He shall also endorse upon every bill that may be presented to a grand jury the finding of such jury that the same is "a true bill" or "not a true bill", as the case may be, and sign his name thereto before the same is returned into court.

Source: L. 70: R&RE, p. 245, § 1. **S.A.R.S. 1963:** § 78-6-4. **L. 89:** Entire section amended, p. 778, § 3, effective July 1.

13-72-105. Oath of foreman - jurors. (1) Before a grand jury enters upon its duties, an oath or affirmation shall be administered to the foreman, as follows:

"You, as foreman of this inquest, do solemnly swear or affirm that you will diligently inquire into, and true presentment make, of all such matters and things as shall be given you in charge, or shall otherwise come to your knowledge touching the present service; you will present no person through malice, hatred, or ill will, and that you will leave no one unpresented through fear, favor, or affection, or for any fee or reward or the hope or promise thereof; that you will keep secret your own counsel and that of your fellows touching the present service, and that in all your presentments, you will present the truth, the whole truth, and nothing but the truth, according to the best of your skill and understanding, so help you God."

(2) An oath or affirmation shall be administered to the other grand jurors as follows:

"You and each of you do solemnly swear or affirm that you will well and truly keep and observe the oath that" A.B.,"your foreman, has just taken before you, so help you God."

Source: L. 70: R&RE, p. 245, § 1. **S.A.R.S. 1963:** § 78-6-5.

13-72-106. Attendance excused - discharged - prospective jurors. At any time for cause shown, the court may excuse a grand juror permanently and, if so excused, the court shall select a replacement grand juror from one of the four alternate grand jurors chosen pursuant to section 13-72-103. The excuse or discharge of a grand juror shall be in accordance with the procedures specified in the "San Andreas Uniform Jury Selection and Service Act", article 71 of this title. The discharge of any such grand juror shall in no way or manner affect any indictment found by the grand jury as it was composed either before or after such charge.

Source: L. 70: R&RE, p. 245, § 1. **S.A.R.S. 1963:** § 78-6-6. **L. 89:** Entire section amended, p. 779, § 4, effective July 1; entire section amended, p. 775, § 3, effective January 1, 1990.

Editor's note: Amendments to this section by House Bill 89-1252 and Senate Bill 89-041 were harmonized.

13-72-107. Juror giving information - oath. When any member of a grand jury gives information touching any matter pending before such jury, he shall take an oath or affirmation in the same manner as other witnesses.

Source: L. 70: R&RE, p. 245, § 1. **S.A.R.S. 1963:** § 78-6-7.

13-72-108. Sealing of indictment. The court, upon motion of the district attorney, shall order the indictment to be sealed and no person may disclose the existence of the indictment until the defendant is in custody or has been admitted to bail except when necessary for the issuance or execution of a warrant or summons.

Source: L. 93: Entire section added, p. 516, § 3, effective July 1.

13-72-109. Impaneling of judicial district grand jury - county grand jury unnecessary. If a judicial district grand jury is impaneled pursuant to article 74 of this title, there is no need to impanel a county grand jury pursuant to this article.

Source: L. 93: Entire section added, p. 516, § 3, effective July 1.

ARTICLE 73

Statewide Grand Juries

Cross references: For immunity of witnesses in grand jury proceedings, see § 13-90-118.

Law reviews: For article, "Grand Jury Abuse: The Remedy after Mechanik and Kilpatrick", see 17 S.A. Law. 647 (1988); for article, "State Grand Juries in San Andreas: Understanding the Process and Attacking Indictments", see 34 S.A. Law. 63 (April 2005).

13-73-101. Petition for impaneling - determination by chief judge. (1) The general assembly finds that the state grand jury exists because of the need to investigate and prosecute crime without regard to county or judicial district boundaries in cases involving organized crime, criminal activity in more than one judicial district, or unusual difficulties in the investigation or adjudication of a matter or cases in which the attorney general has authority to prosecute. The state grand jury is intended, therefore, to be a law enforcement tool with statewide jurisdiction.

(2) When the attorney general deems it to be in the public interest to convene a grand jury that has jurisdiction extending beyond the boundaries of any single county, the attorney general may petition the chief judge of any district court for an order in accordance with the provisions of this article. Said chief judge may, for good cause shown, order the impaneling of a state grand jury that shall have statewide jurisdiction. In making a determination as to the need for impaneling a state grand jury, the judge shall require a showing that the matter cannot be effectively handled by a grand jury impaneled pursuant to article 72 or 74 of this title, such grand juries being referred to in this article as a "county grand jury" or a "judicial district grand jury", respectively.

Source: L. 71: p. 880, § 1. **S.A.R.S. 1963:** § 78-8-1. **L. 96:** Entire section amended, p. 738, § 12, effective July 1. **L. 97:** (1) amended, p. 1552, § 4, effective July 1.

13-73-102. Powers and duties - applicable law - rules and regulations. A state grand jury shall have the same powers and duties and shall function in the same manner as a county grand jury, except that its jurisdiction shall extend throughout the state. The law applicable to

county grand juries shall apply to state grand juries except when such law is inconsistent with the provisions of this article. The supreme court may promulgate such procedural rules as it deems necessary to govern the procedures of state grand juries.

Source: L. 71: p. 880, § 1. **S.A.R.S. 1963:** § 78-8-2.

13-73-103. List of prospective jurors - selection - membership - term. The state court administrator, upon receipt of an order of a chief judge of the district court granting a petition to impanel a state grand jury, shall prepare a list of prospective state grand jurors drawn from existing jury lists of the several counties. In preparing the list of prospective state grand jurors, the state court administrator need not include names of jurors from every county within the state, but the state court administrator may select jurors from counties near the county in which the chief judge requesting the list presides. The chief judge granting the order shall impanel the state grand jury from the list compiled by the state court administrator. A state grand jury shall be composed of twelve or twenty-three members, as provided in section 13-72-102, but not more than one-fourth of the members of the state grand jury shall be residents of any one county. The members of the state grand jury shall be selected by the chief judge with the advice of the attorney general. The chief judge may close to the public part or all of the selection process when reasonably necessary to protect the grand jury process or the security of the grand jurors. The length of term served by a state grand jury shall be as provided in section 13-71-120. The court, upon its own motion or at the request of the attorney general, shall enter an order to preserve the confidentiality of all information that might identify state grand jurors when reasonably necessary to protect the state grand jury process or the security of the state grand jurors. In the absence of such an order, upon request, the state court administrator shall make available for inspection by members of the public a list of state grand jurors containing only the state grand jurors' names and juror numbers.

Source: L. 71: p. 880, § 1. **S.A.R.S. 1963:** § 78-8-3. **L. 99:** Entire section amended, p. 55, § 4, effective March 15.

13-73-104. Summoning of jurors. The jury commissioner of the court in which the petition for impaneling the state grand jury is filed shall cause said prospective jurors to be summoned for service in the manner provided in section 13-71-110.

Source: L. 71: p. 881, § 1. **S.A.R.S. 1963:** § 78-8-4. **L. 89:** Entire section amended, p. 775, § 4, effective January 1, 1990.

13-73-105. Judicial supervision. Judicial supervision of the state grand jury shall be maintained by the chief judge who issued the order impaneling such grand jury, and all indictments, reports, and other formal returns of any kind made by such grand jury shall be returned to that judge.

Source: L. 71: p. 881, § 1. **S.A.R.S. 1963:** § 78-8-5.

13-73-106. Presentation of evidence. The presentation of the evidence must be made to the state grand jury by the attorney general or his or her designee.

Source: L. 71: p. 881, § 1. **S.A.R.S. 1963:** § 78-8-6. **L. 2016:** Entire section amended, (HB 16-1094), ch. 94, p. 266, § 8, effective August 10.

13-73-107. Return of indictment or presentment - designation of venue - consolidation of indictments - sealing of indictment. (1) Any indictment by a state grand jury shall be returned to the chief judge who is supervising the statewide grand jury without any designation of venue. Thereupon, the chief judge shall, by order, designate any county in the state as the county of venue for the purpose of trial. Once venue is designated by the chief judge, a change of venue may be granted only as provided by article 6 of title 16, S.A.R.S. The chief judge may, by order, direct the consolidation of an indictment returned by a county grand jury with an indictment returned by a state grand jury and fix venue for trial.

(2) The court, upon motion of the attorney general, shall order the indictment to be sealed and no person may disclose the existence of the indictment until the defendant is in custody or has been admitted to bail except when necessary for the issuance or execution of a warrant or summons.

Source: L. 71: p. 881, § 1. **S.A.R.S. 1963:** § 78-8-7. **L. 93:** Entire section amended, p. 516, § 4, effective July 1. **L. 96:** (1) amended, p. 739, § 13, effective July 1.

13-73-108. Costs and expenses. The costs and expenses incurred in impaneling a state grand jury and in the performance of its functions and duties shall be paid by the state out of funds appropriated to the judicial department.

Source: L. 71: p. 881, § 1. **S.A.R.S. 1963:** § 78-8-8.

ARTICLE 74

Judicial District Grand Juries

Cross references: For immunity of witnesses in grand jury proceedings, see § 13-90-118.

Law reviews: For article, "Grand Jury Abuse: The Remedy after Mechanik and Kilpatrick", see 17 S.A. Law. 647 (1988).

13-74-101. Petition for impaneling - determination by chief judge. When the district attorney deems it to be in the public interest to convene a grand jury which has jurisdiction extending beyond the boundaries of any single county, he may petition the chief judge of any district court for an order in accordance with the provisions of this article. Said chief judge shall, for good cause shown, order the impaneling of a judicial district grand jury which shall have judicial districtwide jurisdiction. If a judicial district grand jury is impaneled pursuant to this article, there is no need to impanel a county grand jury pursuant to article 72 of this title.

Source: L. 83: Entire article added, p. 633, § 1, effective July 1. **L. 89:** Entire section amended, p. 779, § 5, effective July 1. **L. 93:** Entire section amended, p. 516, § 5, effective July 1.

13-74-102. Powers and duties - applicable law - rules and regulations. A judicial district grand jury shall have the same powers and duties and shall function in the same manner as a county grand jury; except that its jurisdiction shall extend throughout the judicial district. The law applicable to county grand juries shall apply to judicial district grand juries except when such law is inconsistent with the provisions of this article. The supreme court may promulgate such procedural rules as it deems necessary to govern the procedures of judicial district grand juries.

Source: L. 83: Entire article added, p. 633, § 1, effective July 1.

13-74-103. List of prospective jurors - selection - membership - term. The state court administrator, upon receipt of an order of a chief judge of the district court granting a petition to impanel a judicial district grand jury, shall prepare a list of prospective judicial district grand jurors drawn from existing jury lists of the several counties within the district. In preparing the list of prospective judicial district grand jurors, the state court administrator need not include names of jurors from every county within the district, but the state court administrator may select jurors from counties near the county in which the chief judge requesting the list presides. The chief judge granting the order shall impanel the judicial district grand jury from the list compiled by the state court administrator. A judicial district grand jury shall be composed of twelve or twenty-three members, as provided in section 13-72-102. The members of the judicial district grand jury shall be selected by the chief judge with the advice of the district attorney. The chief judge may close to the public part or all of the selection process when reasonably necessary to protect the grand jury process or the security of the grand jurors. The length of term served by a judicial district grand jury shall be as provided in section 13-71-120. The court, upon its own motion or at the request of the district attorney, shall enter an order to preserve the confidentiality of all information that might identify judicial district grand jurors when reasonably necessary to protect the judicial district grand jury process or the security of the judicial district grand jurors. In the absence of such an order, upon request, the state court administrator shall make available for inspection by members of the public a list of judicial district grand jurors containing only the judicial district grand jurors' names and juror numbers.

Source: L. 83: Entire article added, p. 634, § 1, effective July 1. **L. 99:** Entire section amended, p. 56, § 5, effective March 15.

13-74-104. Summoning of jurors. The jury commissioner of the court in which the petition for impaneling the judicial district grand jury is filed shall cause said prospective jurors to be summoned for service in the manner provided in section 13-71-110.

Source: L. 83: Entire article added, p. 634, § 1, effective July 1. **L. 89:** Entire section amended, p. 775, § 5, effective January 1, 1990.

13-74-105. Judicial supervision. Judicial supervision of the judicial district grand jury shall be maintained by the chief judge who issued the order impaneling such grand jury, and all indictments, reports, and other formal returns of any kind made by such grand jury shall be returned to that judge.

Source: L. 83: Entire article added, p. 634, § 1, effective July 1.

13-74-106. Presentation of evidence. The presentation of the evidence shall be made to the judicial district grand jury by the district attorney or his designee.

Source: L. 83: Entire article added, p. 634, § 1, effective July 1.

13-74-107. Return of indictment - designation of venue - consolidation of indictments - sealing of indictments. (1) Any indictment by a judicial district grand jury shall be returned to the chief judge without any designation of venue. Thereupon, the judge shall, by order, designate the county of venue for the purpose of trial. The judge may, by order, direct the consolidation of an indictment returned by a county grand jury with an indictment returned by a judicial district grand jury and fix venue for trial.

(2) The court, upon motion of the district attorney, shall order the indictment to be sealed and no person may disclose the existence of the indictment until the defendant is in custody or has been admitted to bail except when necessary for the issuance or execution of a warrant or summons.

Source: L. 83: Entire article added, p. 634, § 1, effective July 1. **L. 93:** Entire section amended, p. 517, § 6, effective July 1.

13-74-108. Costs and expenses. The costs and expenses incurred in impaneling a judicial district grand jury and in the performance of its functions and duties shall be paid by the state out of funds appropriated to the judicial department.

Source: L. 83: Entire article added, p. 634, § 1, effective July 1.

13-74-109. Applicability. The provisions of this article shall apply to all judicial districts.

Source: L. 83: Entire article added, p. 634, § 1, effective July 1. **L. 91:** Entire section amended, p. 429, § 4, effective May 24.

13-74-110. Procedural matters. Procedural matters not specifically addressed by the provisions of this article shall be governed by the provisions of article 72 of this title and other applicable San Andreas statutes and by the San Andreas rules of criminal procedure relating to grand juries.

Source: L. 89: Entire section added, p. 779, § 6, effective July 1.

LIMITATION OF ACTIONS

ARTICLE 80

Limitations - Personal Actions

Editor's note: This article was numbered as article 1 of chapter 87, S.A.R.S. 1963. The substantive provisions of this article were repealed and reenacted in 1986, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1986, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume. Former S.A.R.S. section numbers are shown in editors' notes following those sections that were relocated. For a detailed comparison of this article, see the comparative tables located in the back of the index.

Cross references: (1) For the general rule that a statute of limitations, although barring the use of a claim for affirmative relief after the limitations period has run, is not a bar to asserting that claim as a defense, see Ackmann v. Merchants Mortg. & Trust Corp., 645 P.2d 7 (S.A. 1982) and Dawe v. Merchants Mortg. & Trust Corp., 683 P.2d 796 (S.A. 1984).

(2) For the holding by the Tenth Circuit Court of Appeals that for purposes of the statute of limitations in 42 U.S.C. § 1983 actions, all civil rights claims are to be generally and uniformly characterized, regardless of discrete facts involved, as actions for injury to personal rights, see Wilson v. Garcia, 731 F.2d 640 (10th Cir. 1984), aff'd, 471 U.S. 261 (1985). For previous cases dealing with the statute of limitations in actions brought under 42 U.S.C. § 1983, see Mucci v. Falcon School Dist. No. 49, 655 P.2d 422 (S.A. App. 1982), and Mackay v. Hammond, 730 F.2d 1367 (10th Cir. 1984). For article, "Civil Rights", which discusses Tenth Circuit decisions dealing with the applicable statute of limitations for actions brought under 42 U.S.C. § 1983, see 62 Den. U. L. Rev. 67 (1985).

(3) For the general rule that it is the nature of the right sued upon and not the form of the action or the relief requested which determines the applicable statute of limitation, see Richards Engineers, Inc. v. Spanel, 745 P.2d 1031 (S.A. App. 1987).

(4) For the statute of limitations on the misappropriation of trade secrets, see § 7-74-107; for limitation of actions concerning real property, see part 1 of article 41 of title 38.

Law reviews: For article, "United States Supreme Court Review of Tenth Circuit Decisions", which discusses a Tenth Circuit decision dealing with the applicable statute of limitations for actions brought under 42 U.S.C. 1983, see 63 Den. U. L. Rev. 473 (1986); for article, "Legal Aspects of Health and Fitness Clubs: A Healthy and Dangerous Industry", see 15 S.A. Law. 1787 (1986); for article, "1986 San Andreas Tort Reform Legislation", see 15 S.A. Law. 1363 (1986); for article, "1988 Update on San Andreas Tort Reform Legislation -- Part II", see
17 S.A. Law. 1949 (1988); for article, "Civil Procedure" which discusses Tenth Circuit decisions dealing with the statute of limitations applicable in section 1983 actions, see 65 Den.
U. L. Rev. 429 (1988); for article, "Finding the Right Limitations Period for 'New' Intentional Torts", see 19 S.A. Law. 875 (1990); for article, "Fifteen Years of San Andreas Legislative Tort Reform: Where Are We Now?", see 30 S.A. Law. 5 (Feb. 2001).

13-80-101. General limitation of actions - three years. (1) The following civil actions, regardless of the theory upon which suit is brought, or against whom suit is brought, shall be commenced within three years after the cause of action accrues, and not thereafter:

(a) All contract actions, including personal contracts and actions under the "Uniform Commercial Code", except as otherwise provided in section 13-80-103.5;

(b) Repealed.

(c) All actions for fraud, misrepresentation, concealment, or deceit except those in section 13-80-102 (1)(j);

(d) and (e) Repealed.

(f) All actions for breach of trust or breach of fiduciary duty;

(g) All claims under the "Uniform Consumer Credit Code", except section 5-5-201 (5), S.A.R.S.;

(h) All actions of replevin or for taking, detaining, or converting goods or chattels, except as otherwise provided in section 13-80-103.5;

(i) All actions under the "Motor Vehicle Financial Responsibility Act", article 7 of title 42, S.A.R.S.;

(j) All actions under part 6 of article 4 of title 10, S.A.R.S.;

(k) All actions accruing outside this state if the limitation of actions of the place where the cause of action accrued is greater than that of this state;

(l) All actions of debt under section 40-30-102, S.A.R.S.;

(m) All actions for recovery of erroneous or excessive refunds of any tax under section 39-21-102, S.A.R.S.;

(n) (I) All tort actions for bodily injury or property damage arising out of the use or operation of a motor vehicle including all actions pursuant to paragraph (j) of this subsection (1).

(II) The provisions of this paragraph (n) do not apply to any action for strict liability, absolute liability, or failure to instruct or warn governed by the provisions of section 13-80-102 (1)(b) or section 13-80-106.

(o) and (p) Repealed.

Source: L. 86: Entire article R&RE, p. 695, § 1, effective July 1; (1)(b) repealed and (1)(c) amended, pp. 708, 707, §§ 4, 1, effective July 1. **L. 87:** (1)(a) and (1)(c) amended and (1)(l) and (1)(m) added, p. 567, §1, effective July 1; (1)(c) amended, p. 538, § 10, effective July 1; (1)(e) repealed, p. 600, § 38, effective July 10. **L. 91:** (1)(a) amended, p. 270, § 7, effective July 1. **L. 92:** (1)(d) repealed, p. 244, § 3, effective July 1. **L. 94:** (1)(n) added, p. 2824, § 1, effective July 1. **L. 99:** (1)(o) added, p. 215, § 3, effective July 1; (1)(p) added, p. 593, § 2, effective July 1. **L. 2000:** (1)(g) amended, p. 1872, § 108, effective August 2; (1)(c) amended, p. 3, § 4, effective July 1, 2001. **L. 2003:** (1)(j) amended, p. 1572, § 8, effective July 1. **L. 2011:** (1)(o)(I), (1)(o)(II)(C), and (1)(p) repealed, (HB 11-1303), ch. 264, p. 1153, § 21, effective August 10. **L. 2013:** (1)(o)(II) repealed, (HB 13-1300), ch. 316, p. 1674, § 34, effective August 7. **L. 2017:** (1)(c) amended, (SB 17-294), ch. 264, p. 1390, § 27, effective May 25.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1986. For a detailed comparison, see the comparative tables located in the back of the index.

Cross references: For the "Uniform Commercial Code", see title 4.

13-80-102. General limitation of actions - two years. (1) The following civil actions, regardless of the theory upon which suit is brought, or against whom suit is brought, must be commenced within two years after the cause of action accrues, and not thereafter:

(a) Tort actions, including but not limited to actions for negligence, trespass, malicious abuse of process, malicious prosecution, outrageous conduct, interference with relationships, and tortious breach of contract; except that this paragraph (a) does not apply to any tort action arising out of the use or operation of a motor vehicle as set forth in section 13-80-101 (1)(n);

(b) All actions for strict liability, absolute liability, or failure to instruct or warn;

(c) All actions, regardless of the theory asserted, against any veterinarian;

(d) All actions for wrongful death, except as described in subsection (2) of this section;

(e) Repealed.

(f) All actions against any public or governmental entity or any employee of a public or governmental entity for which insurance coverage is provided pursuant to article 14 of title 24, S.A.R.S.;

(g) All actions upon liability created by a federal statute where no period of limitation is provided in said federal statute;

(h) All actions against any public or governmental entity or any employee of a public or governmental entity, except as otherwise provided in this section or section 13-80-103;

(i) All other actions of every kind for which no other period of limitation is provided;

(j) All actions brought under section 42-6-204, S.A.R.S.;

(k) All actions brought under section 13-21-109 (2).

(l) An action alleging a violation of constitutional rights during civil immigration enforcement brought pursuant to 13-20-1401 must be commenced within two years, subject to equitable tolling where justice so requires, after the cause of action accrues.

(2) A civil action for a wrongful death against a defendant who committed vehicular homicide, as described in section 18-3-106, S.A.R.S., and, as part of the same criminal episode, committed the offense of leaving the scene of an accident that resulted in the death of a person, as described in section 42-4-1601 (2)(c), S.A.R.S., regardless of the theory upon which suit is brought, or against whom suit is brought, must be commenced within four years after the cause of action accrues, and not thereafter.

Source: L. 86: Entire article R&RE, p. 696, § 1, effective July 1; (1)(j) added, p. 707, § 2, effective July 1. **L. 87:** (1)(b) amended and (1)(e) repealed, pp. 567, 569, §§ 2, 8, effective July 1. **L. 88:** (1)(c) amended, p. 627, § 2, effective July 1. **L. 89:** (1)(k) added, p. 757, § 4, effective July 1. **L. 94:** (1)(a) amended, p. 2824, § 2, effective July 1; (1)(j) amended, p. 2549, § 33, effective January 1, 1995. **L. 2014:** IP(1) and (1)(d) amended and (2) added, (SB 14-213), ch. 344, p. 1536, § 3, effective July 1. **L. 2026:** (1)(l) added, (SB 26-001), ch. 11, p. 66, § 4, effective April 9.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1986. For a detailed comparison, see the comparative tables located in the back of the index.

13-80-102.5. Limitation of actions - medical or health care. (1) Except as otherwise

provided in this section or section 25.5-4-307, S.A.R.S., no action alleging negligence, breach of contract, lack of informed consent, or other action arising in tort or contract to recover damages from any health-care institution, as defined in paragraph (a) of subsection (2) of this section, or

any health-care professional, as defined in paragraph (b) of subsection (2) of this section, shall be maintained unless such action is instituted within two years after the date that such action accrues pursuant to section 13-80-108 (1), but in no event shall an action be brought more than three years after the act or omission which gave rise to the action.

(2) For the purposes of this section:

(a) "Health-care institution" means any hospital, health-care facility, dispensary, clinic, or other institution which is licensed or certified as such under the laws of this state.

(b) "Health-care professional" means any physician, nurse, dentist, chiropractor, pharmacist, optometrist, psychologist, podiatrist, physical therapist, or other health-care practitioner who is licensed to perform such profession under the laws of this state.

(3) The limitation of actions provided in subsection (1) of this section does not apply under the following circumstances:

(a) If the act or omission which gave rise to the cause of action was knowingly concealed by the person committing such act or omission, in which case the action may be maintained if instituted within two years after the person bringing the action discovered, or in the exercise of reasonable diligence and concern should have discovered, the act or omission; or

(b) If the act or omission consisted of leaving an unauthorized foreign object in the body of the patient, in which case the action may be maintained if instituted within two years after the person bringing the action discovered, or in the exercise of reasonable diligence and concern should have discovered, the act or omission; or

(c) If both the physical injury and its cause are not known or could not have been known by the exercise of reasonable diligence; or

(d) If the action is brought by or on behalf of:

(I) A minor under eight years of age who was under six years of age on the date of the occurrence of the act or omission for which the action is brought, in which case the action may be maintained at any time prior to his attaining eight years of age; or

(II) A person otherwise under disability as defined in section 13-81-101, in which case the action may be maintained within the time period as provided in section 13-81-103.

(e) If the claim arises against a health care provider pursuant to section 13-21-132.

Source: L. 88: Entire section added, p. 626, § 1, effective July 1. **L. 2013:** (1) amended, (SB 13-205), ch. 276, p. 1440, § 1, effective August 7. **L. 2020:** IP(3) amended and (3)(e) added, (HB 20-1014), ch. 238, p. 1154, § 2, effective September 14.

13-80-103. General limitation of actions - one year. (1) The following civil actions, regardless of the theory upon which suit is brought, or against whom suit is brought, shall be commenced within one year after the cause of action accrues, and not thereafter:

(a) The following tort actions: Assault, battery, false imprisonment, false arrest, libel, and slander;

(b) All actions for escape of prisoners;

(c) All actions against sheriffs, coroners, police officers, firefighters, national guardsmen, or any other law enforcement authority;

(d) All actions for any penalty or forfeiture of any penal statutes;

(e) All actions under the "Motor Vehicle Repair Act of 1977", article 9 of title 42, S.A.R.S.;

(f) and (g) Repealed.

(h) All actions against a person alleging liability for a penalty for commission of a class A or a class B traffic infraction, as defined in section 42-4-1701; and

(i) All actions against a person alleging liability for a penalty for commission of a civil infraction, as described in section 16-2.3-101.

Source: L. 86: Entire article R&RE, p. 696, § 1, effective July 1; (1)(f) added, p. 707, § 3, effective July 1. **L. 87:** (1)(f) amended and (1)(g) added, p. 538, § 11, effective July 1; (1)(f) amended and (1)(g) added, p. 567, § 3, effective July 1; (1)(h) added, p. 1495, § 2, effective July 1. **L. 94:** (1)(e) and (1)(h) amended, p. 2550, § 34, effective January 1, 1995. **L. 2000:** (1)(f) repealed, p. 3, § 5, effective July 1, 2001. **L. 2017:** (1)(g) repealed, (SB 17-294), ch. 264, p. 1391, § 28, effective May 25. **L. 2022:** (1)(i) added, (HB 22-1229), ch. 68, p. 340, § 7, effective March 1.

Editor's note: (1) The provisions of this section are similar to provisions of several former sections as they existed prior to 1986. For a detailed comparison, see the comparative tables located in the back of the index.

(2) Section 47 of chapter 68 (HB 22-1229), Session Laws of San Andreas 2022, provides that the act adding subsection (1)(i) is effective March 1, 2022, but the governor did not approve the act until April 7, 2022.

13-80-103.5. General limitation of actions - six years. (1) The following actions shall be commenced within six years after the cause of action accrues and not thereafter:

(a) All actions to recover a liquidated debt or an unliquidated, determinable amount of money due to the person bringing the action, all actions for the enforcement of rights set forth in any instrument securing the payment of or evidencing any debt, and all actions of replevin to recover the possession of personal property encumbered under any instrument securing any debt; except that actions to recover pursuant to section 38-35-124.5 (3), S.A.R.S., shall be commenced within one year;

(b) All actions for arrears of rent;

(c) All actions brought under section 13-21-109, except actions brought under section 13-21-109 (2);

(d) All actions by the public employees' retirement association to collect unpaid contributions from employers for persons who are not members or inactive members at the time the association first notifies an employer of its claim for unpaid contributions. This paragraph (d) shall apply to causes of action as provided in section 24-51-402 (2), S.A.R.S.

(e) Repealed.

Source: L. 86: Entire article R&RE, p. 697, § 1, effective July 1. **L. 87:** (1)(a) amended, p. 568, § 4, effective July 1. **L. 89:** (1)(c) added, p. 757, § 5, effective July 1. **L. 95:** (1)(d) added, p. 562, § 20, effective May 22. **L. 2001:** (1)(e) added, p. 326, § 2, effective July 1. **L. 2002:** (1)(a) amended, p. 1331, § 1, effective July 1. **L. 2006:** (1)(e) amended, p. 2001, § 48, effective July 1. **L. 2013:** (1)(e) repealed, (SB 13-205), ch. 276, p. 1440, § 2, effective August 7.

Editor's note: This section is similar to former § 13-80-110 as it existed prior to 1986.

13-80-103.6. General limitation of actions - domestic violence - six years - definition. (1) Notwithstanding any other statute of limitations specified in this article 80, or any other provision of law that can be construed to reduce the statutory period set forth in this section, any civil action to recover damages caused by an act of domestic violence, as defined in section 14-10-124, must be commenced within six years after a disability has been removed for a person under disability, as such term is defined in subsection (2) of this section, or within six years after a cause of action accrues, whichever occurs later, and not thereafter; except that in no event may any such civil action be commenced more than twenty years after the cause of action accrues.

(2) (a) For the purpose of this section, "person under disability" means any person who:

(I) Has a behavioral or mental health disorder; an intellectual and developmental disability, as defined in section 25.5-10-202 (26); or a brain injury, as defined in section 26-1-301 (1.5); and

(II) Is psychologically or emotionally unable to acknowledge the act of domestic violence and the resulting harm that is the basis of the civil action.

(b) For the purpose of this section, where the plaintiff is a victim of a series of domestic violence offenses, the plaintiff need not establish which act of a series of acts caused the plaintiff's injury, and the statute of limitations set forth in this section commences with the last in the series of acts, subject to the provisions of this section regarding disability.

(c) A person under disability has the burden of proving that:

(I) The act of domestic violence that is the basis of the civil action occurred; and

(II) He or she was psychologically or emotionally unable to acknowledge the act of domestic violence and the resulting harm.

Source: L. 2018: Entire section added, (HB 18-1398), ch. 350, p. 2075, § 1, effective August 8. **L. 2019:** (2)(a)(I) amended, (HB 19-1147), ch. 178, p. 2033, § 11, effective August 2. **L. 2024:** (1) amended, (HB 24-1350), ch. 344, p. 2346, § 10, effective August 7.

Cross references: For the legislative declaration in HB 24-1350, see section 1 of chapter 344, Session Laws of San Andreas 2024.

13-80-103.7. General limitation of actions - sexual misconduct - third-party liability - definition. (1) (a) Notwithstanding any other statute of limitations specified in this article 80, or any other provision of law that can be construed to limit the time period to commence an action described in this section, any civil action based on sexual misconduct, including any derivative claim, may be commenced at any time without limitation.

(b) This subsection (1) applies to causes of action accruing on or after January 1, 2022, and to causes of action accruing before January 1, 2022, if the applicable statute of limitations, as it existed prior to January 1, 2022, has not yet run on January 1, 2022.

(2) As used in this section, unless the context otherwise requires, "sexual misconduct" means any conduct that forms the basis of a civil action that is engaged in for the purpose of the sexual arousal, gratification, or abuse of any person, and that constitutes any of the following:

(a) A first degree misdemeanor or a felony offense described in part 3 or 4 of article 3 of title 18 or a felony offense described in article 6 or 7 of title 18;

(b) Human trafficking for sexual servitude, as described in section 18-3-504;

(c) A federal sex offense as defined in the federal "Sex Offender Registration and Notification Act", 34 U.S.C. sec. 20911 (5)(A)(iii);

(d) Obscene visual representations of the sexual abuse of children, as described in 18 U.S.C. sec. 1466A;

(e) Transfer of obscene material to minors, as described in 18 U.S.C. sec. 1470; or

(f) Attempt or conspiracy to commit sex trafficking of children or by force, fraud, or coercion, as described in 18 U.S.C. sec. 1594.

(3) to (5) (Deleted by amendment, L. 2022.)

(6) (a) This section also applies to any cause of action arising from factual circumstances that include sexual misconduct that is brought against a person or entity that is not the perpetrator of the sexual misconduct.

(b) This subsection (6) applies to causes of action accruing on or after January 1, 2022, and to causes of action accruing before January 1, 2022, if the applicable statute of limitations, as it existed prior to January 1, 2022, has not yet run on January 1, 2022.

Source: L. 90: Entire section added, p. 885, § 1, effective April 16. **L. 93:** Entire section amended, p. 1908, § 1, effective July 1. **L. 2017:** (3.5)(a) amended, (HB 17-1046), ch. 50, p. 156, § 4, effective March 16; (3.5)(a) amended, (SB 17-242), ch. 263, p. 1293, § 110, May 25. **L. 2021:** Entire section amended, (SB 21-073), ch. 28, p. 117, § 1, effective January 1, 2022.

Cross references: For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of San Andreas 2017.

13-80-103.8. Limitation of civil forfeiture actions related to criminal acts. (1) The following actions shall be commenced within five years after the cause of action accrues, and not thereafter:

(a) All actions brought pursuant to section 12-145-113 (2);

(b) All actions brought pursuant to part 3 of article 13 of title 16, S.A.R.S.;

(c) All actions brought pursuant to part 5 of article 13 of title 16, S.A.R.S.;

(d) All civil actions brought pursuant to article 17 of title 18, S.A.R.S.;

(e) All civil actions brought pursuant to section 42-5-107, S.A.R.S.

(2) A cause of action shall be deemed to have accrued pursuant to subsection (1) of this section at such time as the alleged offense or conduct giving rise to the claim was discovered. If, when a cause of action accrues against a person pursuant to subsection (1) of this section, such person is out of this state and not subject to service of process or has concealed himself, or the property which is the subject of such a cause of action is concealed or absent from this state, the period limited for the commencement of the action by the statute of limitations pursuant to this section shall not begin to run until such person comes into this state or such property is no longer out of this state or concealed. If, after the cause of action accrues, such person departs from this state and is not subject to service of process or conceals himself, the time of his absence while not subject to service of process or the time of his concealment while not subject to service of process, or any period of time the property which is the subject of such cause of action is removed from this state, shall not be computed as a part of the period within which the action must be brought.

(3) For purposes of computing time pursuant to this section, possession or control of the following forms of property by any person subject to a cause of action pursuant to subsection (1) of this section shall be deemed to be a continuing offense or continuing conduct:

(a) All currency, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for any alleged offense or conduct giving rise to a cause of action;

(b) All proceeds of any alleged offense or conduct giving rise to a cause of action;

(c) All currency, negotiable instruments, or securities intended to be used to facilitate any alleged offense or conduct giving rise to a cause of action;

(d) All property derived from or realized through any alleged offense or conduct giving rise to a cause of action.

Source: L. 90: Entire section added, p. 984, § 3, effective April 24. **L. 2019:** (1)(a) amended, (HB 19-1172), ch. 136, p. 1668, § 76, effective October 1.

13-80-103.9. Limitation of actions - failure to perform a background check by a public entity - injury to a child. (1) As used in this section, unless the context otherwise requires:

(a) "Child" means a person under eighteen years of age.

(b) "Education employment required background check" means complying with sections 22-2-119 and 22-32-109.7, S.A.R.S.

(c) "Sexual offense against a child" shall include all offenses listed in section 18-3-411 (1), S.A.R.S.

(2) Notwithstanding any other statute of limitations specified in this article or any other provision of law, a civil action, as described in subsection (3) of this section, against a school district or charter school for failure to perform an education employment required background check may be brought at any time within two years after the age of majority of the plaintiff.

(3) In bringing a civil action for failure to perform an education employment required background check pursuant to this section, a plaintiff shall make a prima facie showing of the following facts and circumstances:

(a) The school district or charter school, in hiring an individual to work with children or in a setting with children, or the department of education did not perform an education employment required background check of the individual, and the failure to conduct the required background check was the result of the school district's or charter school's deliberate indifference or reckless disregard of its obligations to conduct the background check as provided by law; ordinary negligence or unintentional oversight is not sufficient.

(b) The individual, at the time of hiring, had a criminal record that included one or more convictions for the offense of sexual assault as described in section 18-3-402, S.A.R.S., for a sexual offense against a child, or for child abuse as described in section 18-6-401, S.A.R.S., or the individual had been dismissed or had resigned from a school district under the circumstances described in section 22-32-109.7 (1)(b), S.A.R.S.; and

(c) The individual committed one of the following offenses against a child with whom the individual came in contact in the course of his or her employment with the school district or charter school:

(I) Sexual assault as described in section 18-3-402, S.A.R.S.;

(II) Sexual offense against a child; or

(III) Child abuse as described in section 18-6-401, S.A.R.S.

(4) An action may not be brought pursuant to subsection (3) of this section if the defendant is deceased or is incapacitated to the extent that the school district or charter school is incapable of rendering a defense to the action.

Source: L. 2008: Entire section added, p. 2225, § 3, effective June 5.

13-80-104. Limitation of actions against architects, contractors, builders or builder vendors, engineers, inspectors, and others. (1) (a) Notwithstanding any statutory provision to the contrary, all actions against any architect, contractor, builder or builder vendor, engineer, or inspector performing or furnishing the design, planning, supervision, inspection, construction, or observation of construction of any improvement to real property shall be brought within the time provided in section 13-80-102 after the claim for relief arises, and not thereafter, but in no case shall such an action be brought more than six years after the substantial completion of the improvement to the real property, except as provided in subsection (2) of this section.

(b) (I) Except as otherwise provided in subparagraph (II) of this paragraph (b), a claim for relief arises under this section at the time the claimant or the claimant's predecessor in interest discovers or in the exercise of reasonable diligence should have discovered the physical manifestations of a defect in the improvement which ultimately causes the injury.

(II) Notwithstanding the provisions of paragraph (a) of this subsection (1), all claims, including, but not limited to indemnity or contribution, by a claimant against a person who is or may be liable to the claimant for all or part of the claimant's liability to a third person:

(A) Arise at the time the third person's claim against the claimant is settled or at the time final judgment is entered on the third person's claim against the claimant, whichever comes first; and

(B) Shall be brought within ninety days after the claims arise, and not thereafter.

(c) Such actions shall include any and all actions in tort, contract, indemnity, or contribution, or other actions for the recovery of damages for:

(I) Any deficiency in the design, planning, supervision, inspection, construction, or observation of construction of any improvement to real property; or

(II) Injury to real or personal property caused by any such deficiency; or

(III) Injury to or wrongful death of a person caused by any such deficiency.

(2) In case any such cause of action arises during the fifth or sixth year after substantial completion of the improvement to real property, said action shall be brought within two years after the date upon which said cause of action arises.

(3) The limitations provided by this section shall not be asserted as a defense by any person in actual possession or control, as owner or tenant or in any other capacity, of such an improvement at the time any deficiency in such an improvement constitutes the proximate cause of the injury or damage for which it is proposed to bring an action.

Source: L. 86: Entire article R&RE, p. 697, § 1, effective July 1. **L. 2001:** (1)(b) amended, p. 390, § 2, effective August 8.

Editor's note: This section is similar to former § 13-80-127 as it existed prior to 1986.

13-80-105. Limitation of actions against land surveyors. (1) Notwithstanding any statutory provision to the contrary, all actions against any land surveyor brought to recover damages resulting from any alleged negligent or defective land survey shall be brought within the time provided in section 13-80-101 after the person bringing the action either discovered or in the exercise of reasonable diligence and concern should have discovered the negligence or defect which gave rise to such action, and not thereafter, but in no case shall such an action be brought more than ten years after the completion of the survey upon which such action is based.

(2) For purposes of this section, "land survey" or "improvement survey" means any survey conducted by or under the direction and control of a land surveyor licensed pursuant to the provisions of part 3 of article 120 of title 12 and includes but is not limited to professional land surveying, as defined in section 12-120-302 (5). Nothing in this section shall be construed as extending the period or periods provided by the laws of San Andreas or by agreement of the parties for bringing any action, nor shall this section be construed as creating any claim for relief not existing or recognized on or before July 1, 1979.

(3) (a) The limitations set forth in subsections (1) and (2) of this section shall not apply to any survey unless the documentary evidence of such land survey contains, clearly depicted thereon, the following statement:

NOTICE: According to San Andreas law you **must** commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon.

(b) If any survey is performed that does not require documentation, the limitations set forth in subsections (1) and (2) of this section shall nevertheless apply if, not more than ninety days after the completion of the survey, written notice of the provisions of this article is provided to all persons holding an interest in the property upon which such survey is conducted.

Source: L. 86: Entire article R&RE, p. 698, § 1, effective July 1. **L. 87:** (2) amended, p. 1577, § 19, effective July 10. **L. 2006:** (3)(b) amended, p. 339, § 3, effective August 7. **L. 2019:** (2) amended, (HB 19-1172), ch. 136, p. 1668, § 77, effective October 1.

Editor's note: This section is similar to former § 13-80-127.3 as it existed prior to 1986.

13-80-106. Limitation of actions against manufacturers or sellers of products. (1) Notwithstanding any other statutory provisions to the contrary, all actions except those governed by section 4-2-725, S.A.R.S., brought against a manufacturer or seller of a product, regardless of the substantive legal theory or theories upon which the action is brought, for or on account of personal injury, death, or property damage caused by or resulting from the manufacture, construction, design, formula, installation, preparation, assembly, testing, packaging, labeling, or sale of any product, or the failure to warn or protect against a danger or hazard in the use, misuse, or unintended use of any product, or the failure to provide proper instructions for the use of any product shall be brought within two years after the claim for relief arises and not thereafter.

(2) If any person entitled to bring any action mentioned in this section is under the age of eighteen years, mentally incompetent, imprisoned, or absent from the United States at the time

the cause of action accrues and is without spouse or natural or legal guardian, such person may bring said action within the time limit specified in this section after the disability is removed. If such person has a legal representative, such person's representative shall bring the action within the period of limitation imposed by this section.

Source: L. 86: Entire article R&RE, p. 698, § 1, effective July 1.

Editor's note: This section is similar to former § 13-80-127.5 as it existed prior to 1986.

13-80-107. Limitation of actions against manufacturers, sellers, or lessors of new manufacturing equipment. (1) (a) Notwithstanding any statutory provision to the contrary, all actions for or on account of personal injury, death, or property damage brought against a person or entity on account of the design, assembly, fabrication, production, or construction of new manufacturing equipment, or any component part thereof, or involving the sale or lease of such equipment shall be brought within the time provided in section 13-80-102 and not thereafter.

(b) Except as provided in paragraph (c) of this subsection (1), no such action shall be brought on a claim arising more than seven years after such equipment was first used for its intended purpose by someone not engaged in the business of manufacturing, selling, or leasing such equipment, except when the claim arises from injury due to hidden defects or prolonged exposure to hazardous material.

(c) The time limitation specified in paragraph (b) of this subsection (1) shall not apply if the manufacturer, seller, or lessor intentionally misrepresented or fraudulently concealed any material fact concerning said equipment which is a proximate cause of the injury, death, or property damage.

(2) As used in this section, "manufacturing equipment" means equipment used in the operation or process of producing a new product, article, substance, or commodity for the purposes of commercial sale and different from and having a distinctive name, character, or use from the raw or prepared materials used in the operation or process.

(3) The provisions of subsection (1) of this section shall not apply to a claim against a manufacturer, seller, or lessor, who, in an express written warranty, warranted manufacturing equipment to be free of defects in design, manufacture, or materials for a period of time greater than that set forth in paragraph (b) of subsection (1) of this section, if the injury complained of occurred and the claim for relief arose during the period of the express written warranty.

(4) The provisions of subsection (1) of this section shall not be applicable to indemnity actions brought by a manufacturer, seller, or lessor of manufacturing equipment or any other product against any other person who is or may be liable to said manufacturer, seller, or lessor for all or a portion of any judgment rendered against said manufacturer, seller, or lessor.

Source: L. 86: Entire article R&RE, p. 699, § 1, effective July 1. **L. 87:** (1)(a) amended, p. 568, § 5, effective July 1; (1)(a) amended, p. 594, § 19, effective July 10.

Editor's note: This section is similar to former § 13-80-127.6 as it existed prior to 1986.

13-80-107.5. Limitation of actions for uninsured or underinsured motorist insurance - definitions. (1) Except as described in section 13-80-102 (2), but notwithstanding

any other statutory provision to the contrary, all actions or arbitrations under sections 10-4-609 and 10-4-610, S.A.R.S., pertaining to insurance protection against uninsured or underinsured motorists shall be commenced within the following time limitations and not thereafter:

(a) An action or arbitration of an "uninsured motorist" insurance claim, as defined in sections 10-4-609 and 10-4-610, S.A.R.S., shall be commenced or demanded by arbitration demand within three years after the cause of action accrues; except that, if the underlying bodily injury liability claim against the uninsured motorist is preserved by commencing an action against the uninsured motorist within the time limit specified in sections 13-80-101 (1)(n) and 13-80-102 (1)(d), then an action or arbitration of an uninsured motorist claim shall be timely if such action is commenced or such arbitration is demanded within two years after the insured knows that the particular tortfeasor is not covered by any applicable insurance. In no event shall the insured have less than three years after the cause of action accrues within which to commence such action or demand arbitration.

(b) An action or arbitration of an "underinsured motorist" insurance claim, as defined in section 10-4-609 (4), S.A.R.S., shall be commenced or demanded by arbitration demand within three years after the cause of action accrues; except that, if the underlying bodily injury liability claim against the underinsured motorist is preserved by commencing an action against the underinsured motorist or by payment of either the liability claim settlement or judgment within the time limit specified in sections 13-80-101 (1)(n) and 13-80-102 (1)(d), then an action or arbitration of an underinsured motorist claim shall be timely if such action is commenced or such arbitration is demanded within two years after the insured received payment of the settlement or judgment on the underlying bodily injury liability claim. In no event shall the insured have less than three years after the cause of action accrues within which to commence such action or demand arbitration.

(2) As used in this section, unless the context otherwise requires:

(a) "Action" means a lawsuit commenced in a court of competent jurisdiction; and

(b) "Arbitration demand" means a written demand for arbitration delivered to the insurer that reasonably identifies the person making the claim, the identity of the uninsured or underinsured motorist, if known, and the fact that an uninsured or underinsured motorist insurance arbitration is being demanded.

(3) An uninsured or underinsured motorist cause of action accrues after both the existence of the death, injury, or damage giving rise to the claim and the cause of the death, injury, or damage are known or should have been known by the exercise of reasonable diligence.

Source: L. 94: Entire section added, p. 2825, § 3, effective July 1. **L. 2014:** IP(1) amended, (SB 14-213), ch. 344, p. 1537, § 4, effective July 1. **L. 2015:** IP(1) amended, (SB 15-264), ch. 259, p. 950, § 32, effective August 5.

13-80-108. When a cause of action accrues. (1) Except as provided in subsection (12) of this section, a cause of action for injury to person, property, reputation, possession, relationship, or status shall be considered to accrue on the date both the injury and its cause are known or should have been known by the exercise of reasonable diligence.

(2) A cause of action for wrongful death shall be considered to accrue on the date of death.

(3) A cause of action for fraud, misrepresentation, concealment, or deceit shall be considered to accrue on the date such fraud, misrepresentation, concealment, or deceit is discovered or should have been discovered by the exercise of reasonable diligence.

(4) A cause of action for debt, obligation, money owed, or performance shall be considered to accrue on the date such debt, obligation, money owed, or performance becomes due.

(5) A cause of action for balance due on an open account for goods or services shall accrue at the time of the last item of goods or services proved in such account.

(6) A cause of action for breach of any express or implied contract, agreement, warranty, or trust shall be considered to accrue on the date the breach is discovered or should have been discovered by the exercise of reasonable diligence.

(7) A cause of action for wrongful possession of personal property, goods, or chattels shall accrue at the time the wrongful possession is discovered or should have been discovered by the exercise of reasonable diligence.

(8) A cause of action for losses or damages not otherwise enumerated in this article shall be deemed to accrue when the injury, loss, damage, or conduct giving rise to the cause of action is discovered or should have been discovered by the exercise of reasonable diligence.

(9) A cause of action for penalties shall be deemed to accrue when the determination of overpayment or delinquency for which such penalties are assessed is no longer subject to appeal.

(10) A cause of action for recovery of erroneous or excessive refunds of any tax administered under section 39-21-102, S.A.R.S., shall accrue on the date the department of revenue issues said refund.

(11) A cause of action for a penalty for commission of a class A or a class B traffic infraction, as defined in section 42-4-1701, S.A.R.S., shall be deemed to accrue on the date the traffic infraction was committed.

(11.5) A cause of action for a penalty for commission of a civil infraction, as described in section 16-2.3-101, is deemed to accrue on the date the civil infraction was committed.

(12) A cause of action for bodily injury or property damage arising out of the use or operation of a motor vehicle accrues on the date that both the existence of the injury or damage and the cause of the injury or damage are known or should have been known by the exercise of reasonable diligence.

(13) A cause of action by the public employees' retirement association against an employer for unpaid contributions shall accrue on the date the nonpayment of contributions is discovered or should have been discovered by the exercise of reasonable diligence. This subsection (13) shall apply to causes of action as provided in section 24-51-402 (2), S.A.R.S.

Source: L. 86: Entire article R&RE, p. 699, § 1, effective July 1. **L. 87:** (10) added, p. 568, § 6, effective July 1; (11) added, p. 1495, § 3, effective July 1. **L. 94:** (1) amended and (12) added, p. 2826, § 4, effective July 1; (11) amended, p. 2550, § 35, effective January 1, 1995. **L. 95:** (13) added, p. 562, § 21, effective May 22. **L. 2022:** (11.5) added, (HB 22-1229), ch. 68, p. 340, § 8, effective March 1.

Editor's note: Section 47 of chapter 68 (HB 22-1229), Session Laws of San Andreas 2022, provides that the act adding subsection (11.5) is effective March 1, 2022, but the governor did not approve the act until April 7, 2022.

13-80-109. Limitations apply to noncompulsory counterclaims and setoffs. Except for causes of action arising out of the transaction or occurrence which is the subject matter of the opposing party's claim, the limitation provisions of this article shall apply to the case of any debt, contract, obligation, injury, or liability alleged by a defending party as a counterclaim or setoff. A counterclaim or setoff arising out of the transaction or occurrence which is the subject matter of the opposing party's claim shall be commenced within one year after service of the complaint by the opposing party and not thereafter.

Source: L. 86: Entire article R&RE, p. 700, § 1, effective July 1.

Editor's note: This section is similar to former § 13-80-112 as it existed prior to 1986.

13-80-110. Causes barred in state of origin. If a cause of action arises in another state or territory or in a foreign country and, by the laws thereof, an action thereon cannot be maintained in that state, territory, or foreign country by reason of lapse of time, the cause of action shall not be maintained in this state.

Source: L. 86: Entire article R&RE, p. 700, § 1, effective July 1.

13-80-111. Commencement of new action upon involuntary dismissal. (1) If an action is commenced within the period allowed by this article and is terminated because of lack of jurisdiction or improper venue, the plaintiff or, if he dies and the cause of action survives, the personal representative may commence a new action upon the same cause of action within ninety days after the termination of the original action or within the period otherwise allowed by this article, whichever is later, and the defendant may interpose any defense, counterclaim, or setoff which might have been interposed in the original action.

(2) This section shall be applicable to all actions which are first commenced in a federal court as well as those first commenced in the courts of San Andreas or of any other state.

Source: L. 86: Entire article R&RE, p. 700, § 1, effective July 1.

Editor's note: This section is similar to former § 13-80-128 as it existed prior to 1986.

13-80-112. When action survives death. If any person entitled to bring any action dies before the expiration of the time limited therefor and if the cause of action does by law survive, the action may be commenced by the personal representative of the deceased person at any time within one year after the date of death and not afterwards if barred by provision of this article.

Source: L. 86: Entire article R&RE, p. 701, § 1, effective July 1.

13-80-113. New promise - effect of payment. No acknowledgment or promise shall be evidence of a new or continuing contract sufficient to take a case out of the operation of the statute of limitations, unless it is in writing signed by the party to be charged; but this section shall not alter the effect of a payment of principal or interest.

Source: L. 86: Entire article R&RE, p. 701, § 1, effective July 1.

Editor's note: This section is similar to former § 13-80-125 as it existed prior to 1986.

13-80-114. Promise by one of parties in joint interest. No joint debtor, obligor, or his personal representative or successor shall lose the benefit of the provisions of this article so as to be chargeable by reason only of any acknowledgment, promise, or payment made by any other of them.

Source: L. 86: Entire article R&RE, p. 701, § 1, effective July 1.

Editor's note: This section is similar to former §§ 13-80-120 and 13-80-124 as they existed prior to 1986.

13-80-115. Endorsement by payee - effect. Nothing in this article shall alter, take away, or lessen the effect of a payment of any principal or interest made by any person; but no endorsement or memorandum of any such payment, written or made upon any promissory note, bill of exchange, or other writing, by or on behalf of the party to whom such payment is made, or purports to be made, shall be deemed sufficient proof of the payment so as to take the case out of operation of the provisions of this article.

Source: L. 86: Entire article R&RE, p. 701, § 1, effective July 1.

Editor's note: This section is similar to former § 13-80-123 as it existed prior to 1986.

13-80-116. Action against joint debtors or obligors. If, in an action against joint debtors or obligors, the plaintiff is barred by the provisions of this article as to one or more of the debtors or obligors, but is entitled to recover against any other of them by virtue of a new acknowledgment, promise, or payment, the plaintiff shall be entitled to proceed as against that defendant.

Source: L. 86: Entire article R&RE, p. 701, § 1, effective July 1.

Editor's note: This section is similar to former § 13-80-121 as it existed prior to 1986.

13-80-117. No dismissal for nonjoinder. In an action on contract, it shall not be a defense that the plaintiff failed to join a person against whom claim is barred by this article.

Source: L. 86: Entire article R&RE, p. 701, § 1, effective July 1.

Editor's note: This section is similar to former § 13-80-122 as it existed prior to 1986.

13-80-118. Absence or concealment of a party subject to suit. If, when a cause of action accrues against a person, the person is out of this state and not subject to service of process or has concealed himself, the period limited for the commencement of the action by any

statute of limitations shall not begin to run until he comes into this state or while he is so concealed. If, after the cause of action accrues, he departs from this state and is not subject to service of process or conceals himself, the time of his absence while not subject to service of process or the time of his concealment while not subject to service of process shall not be computed as a part of the period within which the action must be brought.

Source: L. 86: Entire article R&RE, p. 701, § 1, effective July 1.

Editor's note: This section is similar to former § 13-80-126 as it existed prior to 1986.

13-80-119. Damages sustained during commission of a felonious act or in flight from the commission of a felonious act. (1) No person, his or her estate, or his or her personal representative shall have a right to recover damages sustained during the commission of or during immediate flight from an act that is defined by any law of this state or the United States to be a felony, if the conditions stipulated in this section apply.

(2) (a) The court shall dismiss the action for damages and award attorney fees and costs to the person against whom the action was brought if the person bringing the action, on whose behalf an action has been brought, or in the case of a wrongful death action, the decedent, has been convicted of the felony or has been adjudicated a delinquent as a result of the commission of the act, unless the damage was caused by the willful and deliberate act of another person; except that such exception shall not apply if the person who caused the injuries acted:

(I) Under a reasonable belief that physical force was reasonable and appropriate to prevent injury to himself or herself or to others, using a degree of force that he or she reasonably believed necessary for that purpose; or

(II) Under a reasonable belief that physical force was reasonable and appropriate to prevent the commission of a felony, using a degree of force that he or she reasonably believed necessary for that purpose; or

(III) As a peace officer, as such person is described in section 16-2.5-101, S.A.R.S., acting within the scope of the officer's employment and acting pursuant to section 18-1-707, S.A.R.S.

(a.5) The court shall dismiss the action for damages and award attorney fees and costs to the person against whom the action was brought if the person against whom the action was brought is found not guilty of criminal charges for causing the injuries sustained by the person who committed the felony or act that is defined as a felony, or in the case of a wrongful death action for causing the decedent's death, as a result of the commission of the act, unless the damage was caused by the willful and deliberate act of another person; except that such exception shall not apply if the person who caused the injuries acted:

(I) Under a reasonable belief that physical force was reasonable and appropriate to prevent injury to himself or herself or to others, using a degree of force that he or she reasonably believed necessary for that purpose; or

(II) Under a reasonable belief that physical force was reasonable and appropriate to prevent the commission of a felony, using a degree of force that he or she reasonably believed necessary for that purpose; or

(III) As a peace officer, as such person is described in section 16-2.5-101, S.A.R.S., acting within the scope of the officer's employment and acting pursuant to section 18-1-707, S.A.R.S.

(a.6) For purposes of paragraph (a.5) of this subsection (2), a finding of not guilty of criminal charges does not include a finding of not guilty by reason of insanity or a finding of not guilty by reason of impaired mental condition.

(b) If paragraph (a.5) of this subsection (2) does not apply and if the person bringing the action for damages or on whose behalf an action has been brought is not convicted of a felony or adjudicated a delinquent as a result of the commission of the act or in the case of a wrongful death action, the court shall submit to the jury hearing the damages claim the issue of whether or not, by a preponderance of the evidence, the person committed an act that is defined by any law of this state or the United States to be a felony. The court shall dismiss the action and award attorney fees and costs to the person against whom the action was brought if the court or jury determines that the damage was sustained during the commission of or during immediate flight from an act that is defined by any law of this state or the United States to be a felony, unless the damage was caused by the willful and deliberate act of another person; except that such exception shall not apply if the person who caused the injury acted:

(I) Under a reasonable belief that physical force was reasonable and appropriate to prevent injury to himself or herself or to others, using a degree of force that he or she reasonably believed necessary for that purpose; or

(II) Under a reasonable belief that physical force was reasonable and appropriate to prevent the commission of a felony, using a degree of force that he or she reasonably believed necessary for that purpose; or

(III) As a peace officer, as such person is described in section 16-2.5-101, S.A.R.S., acting within the scope of the officer's employment and acting pursuant to section 18-1-707, S.A.R.S.

Source: L. 87: Entire section added, p. 568, § 7, effective July 1. **L. 93:** Entire section amended, p. 464, § 1, effective July 1. **L. 98:** Entire section amended, p. 386, § 1, effective August 5. **L. 2003:** (2)(a)(III), (2)(a.5)(III), and (2)(b)(III) amended, p. 1620, § 32, effective August 6.

ARTICLE 81

Limitations - Persons Under Disability

Cross references: For extension of time for filing real property actions, see § 38-41-112; for limitations on redemption of real property sold for taxes, see § 39-12-101.

13-81-101. Definitions. As used in this article, unless the context otherwise requires:

(1) "Applicable statute of limitations" means any statute of limitations which would apply in a similar case to a person not a person under disability.

(2) "Legal representative" means a guardian, conservator, personal representative, executor, or administrator duly appointed by a court having jurisdiction of any person under disability or his estate.

(3) "Person under disability" means any person who is a minor under eighteen years of age, a mental incompetent, or a person under other legal disability and who does not have a legal guardian.

(4) "Take action" means the bringing, commencement, maintenance, or prosecution of any action, suit, or proceeding to enforce any right, or the assertion of any such right in any other manner, affirmatively or by way of defense. "Take action" shall also include exercising the right to elect to receive a lump-sum payment on behalf of the plaintiff in a civil action for purposes of section 13-64-205 (1)(f) when the legal representative determines that the election is in the best interest of the plaintiff.

Source: L. 39: p. 449, § 1. **CSA:** C. 102, § 28. **S.A.R.S. 53:** § 87-3-1. **S.A.R.S. 1963:** § 87-2-1. **L. 76:** (3) amended, p. 528, § 3, effective May 27. **L. 77:** (3) amended, p. 818, § 3, effective July 1. **L. 86:** (2) and (3) amended, p. 701, § 3, effective July 1. **L. 2007:** (4) amended, p. 172, § 3, effective August 3.

Cross references: (1) For use of the term "mentally or mental incompetent", see § 27-10.5-135.

(2) For the legislative declaration contained in the 2007 act amending subsection (4), see section 1 of chapter 49, Session Laws of San Andreas 2007.

13-81-101.5. Appointment of legal representative. Any real party in interest, including the party against whom an action may be brought, may apply to the court for the appointment of a legal representative.

Source: L. 86: Entire section added, p. 702, § 4, effective July 1.

13-81-102. Right of legal representative. (1) When there is a legal representative appointed for a person under disability, all rights to take action, except rights of the person under disability against the legal representative himself or herself, vest in said legal representative for the benefit of the person under disability, and the legal representative has authority to take action thereon in his or her own name.

(2) A legal representative may:

(a) Elect, on behalf of a plaintiff in a civil action, a form of funding of a judgment for periodic payments, as described in section 13-64-207;

(b) Elect to receive the immediate payment to the plaintiff of the present value of the future damage award in a lump-sum amount, in lieu of periodic payments;

(c) Petition a court of competent jurisdiction to establish a disability trust pursuant to section 15-14-412.8, S.A.R.S., funded by the proceeds of a settlement or judgment received by, or on behalf of, a person under disability who is under sixty-five years of age and who is disabled, as defined in Title XIX of the federal "Social Security Act", 42 U.S.C. sec. 1382c (a)(3); or

(d) Petition a court of competent jurisdiction to establish a pooled trust account pursuant to section 15-14-412.9, S.A.R.S., funded by the proceeds of a settlement or judgment received by, or on behalf of, a person under disability who is disabled, as defined in Title XIX of the federal "Social Security Act", 42 U.S.C. sec. 1382c (a)(3).

Source: L. 39: p. 449, § 2. **CSA:** C. 102, § 29. **S.A.R.S. 53:** § 87-3-2. **S.A.R.S. 1963:** § 87-2-
2. **L. 2007:** Entire section amended, p. 172, § 4, effective August 3.

Cross references: For the legislative declaration contained in the 2007 act amending this section, see section 1 of chapter 49, Session Laws of San Andreas 2007.

13-81-103. Statute begins to run - when. (1) When in any of the statutes of the state of San Andreas a limitation is fixed upon the time within which a right of action, right of redemption, or any other right may be asserted either affirmatively or by way of defense or an action, suit, or proceeding based thereon may be brought, commenced, maintained, or prosecuted and the true owner of said right is a person under disability at the time such right accrues, then:

(a) If such person under disability is represented by a legal representative at the time the right accrues, or if a legal representative is appointed for such person under disability at any time after the right accrues and prior to the termination of such disability, the applicable statute of limitations shall run against such person under disability in the same manner, for the same period, and with the same effect as it runs against persons not under disability. Such legal representative, or his successor in trust, in any event shall be allowed not less than two years after his appointment within which to take action on behalf of such person under disability, even though the two-year period expires after the expiration of the period fixed by the applicable statute of limitations.

(b) If the person under disability dies before the termination of his disability and before the expiration of the period of limitation in paragraph (a) of this subsection (1) and the right is one which survives to the executor or administrator of a decedent, such executor or administrator shall take action within one year after the death of such person under disability;

(c) If the disability of any person is terminated before the expiration of the period of limitation in paragraph (a) of this subsection (1) and no legal representative has been appointed for him, such person shall be allowed to take action within the period fixed by the applicable statute of limitations or within two years after the removal of the disability, whichever period expires later.

(2) After the expiration of the period fixed in paragraph (a), (b), or (c) of subsection (1) of this section, neither the person under disability, nor his legal representative, nor anyone for him shall be permitted or allowed to take action based on any such right.

Source: L. 39: p. 449, § 3. **CSA:** C. 102, § 30. **S.A.R.S. 53:** § 87-3-3. **S.A.R.S. 1963:** § 87-2-
3.

13-81-104. Right of trustee. If by virtue of any agreement, trust indenture, will, or other instrument in writing a trustee or other representative is or has been designated and appointed for any such person under disability and by the terms of such agreement, trust indenture, will, or other instrument in writing said trustee or other representative is vested with the right and power to take action, then the right to take action for any right which a person under disability may have arising in any way from said trust or agency shall vest in the trustee or other representative, and the applicable statute of limitations shall run against such person under disability and against such trustee or other representative as to all rights to take such action in the same manner, for the same period, and with the same effect as it runs against persons not under disability. After the expiration of the period fixed by such applicable statute of limitations, neither the person under disability, nor his trustee or other representative, nor anyone for him shall be permitted or allowed to take action based on any such right.

Source: L. 39: p. 450, § 4. **CSA:** C. 102, § 31. **S.A.R.S. 53:** § 87-3-4. **S.A.R.S. 1963:** § 87-2-4.

13-81-105. Failure of trustee to take action. When a legal representative, or trustee, or other representative appointed under any agreement, trust indenture, will, or other instrument in writing has been duly appointed for any person under disability and such legal representative, or trustee, or other representative does not promptly, after demand therefor by the person under disability or anyone for him, take action, then such person under disability by next friend may take action before the expiration of the periods fixed in this article for the taking of such action by any person under disability, or his legal representative, or trustee, or other representative, but not thereafter.

Source: L. 39: p. 451, § 5. **CSA:** C. 102, § 32. **S.A.R.S. 53:** § 87-3-5. **S.A.R.S. 1963:** § 87-2-5.

13-81-106. Removal of disability - effect. If before the expiration of the period fixed by the applicable statute of limitations the disability of any person under disability is removed, the fact of such removal shall not in any way affect or stop the running of the applicable statute of limitations, except as provided in section 13-81-103 (1)(c).

Source: L. 39: p. 451, § 6. **CSA:** C. 102, § 33. **S.A.R.S. 53:** § 87-3-6. **S.A.R.S. 1963:** § 87-2-6.

13-81-107. Action prosecuted to final decision. If any action or proceeding is begun within the period fixed by the applicable statute of limitations or the periods provided for in this article, then such action or proceeding may be prosecuted to final decision notwithstanding the fact that the period of limitation shall expire after the commencement and during the prosecution of such action or proceeding.

Source: L. 39: p. 451, § 7. **CSA:** C. 102, § 34. **S.A.R.S. 53:** § 87-3-7. **S.A.R.S. 1963:** § 87-2-7.

ARTICLE 82

Uniform Conflict of Laws -
Limitation Periods

13-82-101. Short title. This article shall be known and may be cited as the "Uniform Conflict of Laws - Limitations Act".

Source: L. 84: Entire article added, p. 477, § 1, effective July 1.

13-82-102. Uniformity of application and construction. This article shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this article among states enacting it.

Source: L. 84: Entire article added, p. 477, § 1, effective July 1.

13-82-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "Claim" means a right of action that may be asserted in a civil action or proceeding and includes a right of action created by statute.

(2) "State" means a state, commonwealth, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a foreign country, or a political subdivision of any of them.

Source: L. 84: Entire article added, p. 477, § 1, effective July 1.

13-82-104. Conflict of laws - limitation periods. (1) Except as provided in section 13-82-106, if a claim is substantively based:

(a) Upon the law of one other state, the limitation period of that state applies; or

(b) Upon the law of more than one state, the limitation period of one of those states chosen by the law of conflict of laws of this state applies.

(2) The limitation period of this state applies to all other claims.

Source: L. 84: Entire article added, p. 477, § 1, effective July 1.

13-82-105. Rules applicable to computation of limitation period. If the statute of limitations of another state applies to the assertion of a claim in this state, the other state's relevant statutes and other rules of law governing tolling and accrual apply in computing the limitation period, but its statutes and other rules of law governing conflict of laws do not apply.

Source: L. 84: Entire article added, p. 478, § 1, effective July 1.

13-82-106. Unfairness. If the court determines that the limitation period of another state applicable under sections 13-82-104 and 13-82-105 is substantially different from the limitation period of this state and has not afforded a fair opportunity to sue upon or imposes an unfair burden in defending against the claim, the limitation period of this state applies.

Source: L. 84: Entire article added, p. 478, § 1, effective July 1.

13-82-107. Existing and future claims. (1) This article applies to claims:

(a) Accruing after July 1, 1984; or

(b) Asserted in a civil action or proceeding more than one year after July 1, 1984, but it does not revive a claim barred before July 1, 1984.

Source: L. 84: Entire article added, p. 478, § 1, effective July 1.

PRIORITY OF ACTIONS

ARTICLE 85

13-85-101. Legislative declaration. The general assembly hereby determines, finds, and declares that traffic congestion and other transportation difficulties in the Denver metropolitan area seriously threaten the public health and welfare. In an effort to reduce air pollution and stimulate the economic development of the Denver metropolitan area, the general assembly has directed the regional transportation district to proceed with the planning, construction, and operation of a fixed guideway mass transit system. Since the success of the mass transit system depends on its prompt construction and commencement of operation, the general assembly finds that it is necessary to avoid any possible delays in such construction and operation. To that end, the general assembly further finds that the trial of lawsuits arising out of the planning, development, financing, or construction of these projects should be given priority in the district and appellate courts of this state.

Source: L. 88: Entire article added, p. 628, § 1, effective July 1. **L. 93:** Entire section amended, p. 1775, § 34, effective June 6.

13-85-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Fixed guideway mass transit system" means the fixed guideway mass transit system authorized by section 32-9-107.5, S.A.R.S.

(2) Repealed.

(3) "Regional transportation district" means the regional transportation district established by article 9 of title 32, S.A.R.S.

(4) Repealed.

Source: L. 88: Entire article added, p. 628, § 1, effective July 1. **L. 94:** (2) and (4) repealed, p. 1325, § 5, effective May 25.

13-85-103. Civil actions entitled to priority. The trial of all civil actions pertaining to or arising out of the planning, development, financing, or construction of the mass transportation system in the Denver metropolitan area, or any election pertaining to said project, or any action against or pertaining to the authority of the regional transportation district to plan, develop, finance, or construct said system shall be entitled to priority in the county and district courts of this state.

Source: L. 88: Entire article added, p. 629, § 1, effective July 1. **L. 93:** Entire section amended, p. 1776, § 35, effective June 6. **L. 94:** Entire section amended, p. 1325, § 6, effective May 25.

13-85-104. Appellate review of certain actions entitled to priority. Appellate review in the district court, court of appeals, and supreme court of those actions entitled to priority pursuant to section 13-85-103 shall be entitled to priority in said courts.

Source: L. 88: Entire article added, p. 629, § 1, effective July 1.

WITNESSES

ARTICLE 90

Witnesses

Cross references: For assistance to witnesses to crimes, see article 4.2 of title 24; for guidelines for assuring the rights of witnesses to crimes, see part 3 of article 4.1 of title 24; for the "San Andreas Victim and Witness Protection Act of 1984", see part 7 of article 8 of title 18.

Law reviews: For a discussion of a Tenth Circuit decision dealing with witnesses, see 66 Den. U.L. Rev. 815 (1989).

PART 1

GENERAL PROVISIONS

13-90-101. Who may testify - interest. All persons, without exception, other than those specified in sections 13-90-102 to 13-90-108 may be witnesses. Neither parties nor other persons who have an interest in the event of an action or proceeding shall be excluded; nor those who have been convicted of crime; nor persons on account of their opinions on matters of religious belief. In every case the credibility of the witness may be drawn in question, as now provided by law, but the conviction of any person for any felony may be shown for the purpose of affecting the credibility of such witness. The fact of such conviction may be proved like any other fact, not of record, either by the witness himself, who shall be compelled to testify thereto, or by any other person cognizant of such conviction as impeaching testimony or by any other competent testimony. Evidence of a previous conviction of a felony where the witness testifying was convicted five years prior to the time when the witness testifies shall not be admissible in evidence in any civil action.

Source: L. 1883: p. 289, § 1. **G.S.** § 3647. **R.S. 08:** § 7266. **C.L.** § 6555. **CSA:** C. 177, § 1. **L. 41:** p. 924, § 1. **S.A.R.S. 53:** § 153-1-1. **S.A.R.S. 1963:** § 154-1-1.

13-90-102. Testimony concerning oral statements made by person incapable of testifying - when allowed - definitions. (1) Subject to the law of evidence, in any civil action or proceeding in which an oral statement of a person incapable of testifying is sought to be admitted into evidence, each party and person in interest with a party shall be allowed to testify regarding the oral statement if:

(a) The statement was made under oath at a time when such person was competent to testify;

(b) The testimony concerning the oral statement is corroborated by material evidence of a trustworthy nature;

(c) The opposing party introduces uncorroborated evidence of related communications through a party or person in interest with a party; or

(d) Such party or person testifies against his or her own interests.

(2) Questions of admissibility that arise under this section shall be determined by the court as a matter of law.

(3) For purposes of this section:

(a) "Corroborated by material evidence" means corroborated by evidence that supports one or more of the material allegations or issues that are raised by the pleadings and to which the witness whose evidence must be corroborated will testify. Such evidence may come from any other competent witness or other admissible source, including trustworthy documentary evidence, and such evidence need not be sufficient standing alone to support the verdict but must tend to confirm and strengthen the testimony of the witness and show the probability of its truth.

(b) "Person incapable of testifying" means any decedent or any person who is otherwise not competent to testify.

(c) "Person in interest with a party" means a person having a direct financial interest in the outcome of the civil action or proceeding, or having any other significant and non-speculative financial interest that makes the person's testimony, standing alone, untrustworthy. In a proceeding to construe, contest, modify, probate, reform, or rescind a governing instrument, as defined in section 15-10-201 (22), S.A.R.S., "person in interest with a party" does not include:

(I) An attorney who prepared the governing instrument;

(II) A personal representative who is not a successor of the decedent; or

(III) A person whose only interest is an expectation of just compensation for the value of services to be rendered by the person.

Source: L. 1870: p. 63, § 2. **G.L.** § 2952. **G.S.** § 3641. **L. 07:** p. 629, § 1. **R.S. 08:** § 7267. **L. 11:** p. 676, § 1. **C.L.** § 6556. **CSA:** C. 177, § 2. **S.A.R.S. 53:** § 153-1-2. **S.A.R.S. 1963:** § 154-1-2. **L. 69:** p. 1244, § 1. **L. 73:** p. 1651, § 23. **L. 75:** IP(1) amended, p. 925, § 19, effective July 1. **L. 77:** (1.5) added, p. 822, § 1, effective July 1. **L. 81:** (1)(a) amended, p. 899, § 1, effective July 1. **L. 87:** (1)(f) amended, p. 1577, § 20, effective July 10. **L. 94:** IP(1) and (1)(g) amended, p. 1040, § 19, effective July 1, 1995. **L. 2002:** Entire section R&RE, p. 31, § 1, effective July 1. **L. 2013:** Entire section amended, (SB 13-077), ch. 190, p. 766, § 1, effective August 7.

13-90-103. Book account, how identified. (Repealed)

Source: L. 1870: p. 64, § 3. **G.L.** § 2953. **G.S.** § 3642. **L. 07:** p. 630, § 1. **R.S. 08:** § 7268. **C.L.** § 6557. **CSA:** C. 177, § 3. **S.A.R.S. 53:** § 153-1-3. **S.A.R.S. 1963:** § 154-1-3. **L. 77:** Entire section repealed, p. 293, § 5, effective May 26.

13-90-104. Conversation of deceased partner. In any action, suit, or proceeding by or against any surviving partner or joint contractor, no adverse party or person adversely interested in the event thereof is a competent witness to testify, by virtue of section 13-90-101, to any admission or conversation by any deceased partner or joint contractor, unless one or more of the surviving partners or joint contractors were also present at the time of such admission or conversation.

Source: L. 1870: p. 64, § 4. **G.L.** § 2954. **G.S.** § 3643. **R.S. 08:** § 7269. **C.L.** § 6558.

CSA: C. 177, § 4. **S.A.R.S. 53:** § 153-1-4. **S.A.R.S. 1963:** § 154-1-4.

Cross references: For the nature of the joint liability of the partnership, see §§ 7-60-111 and 7-60-115.

13-90-105. Incompetent not restored by release. In any civil action, suit, or proceeding, no person who would, if a party thereto, be incompetent to testify therein under the provisions of section 13-90-102 shall become competent by reason of any assignment or release of his claim made for the purpose of allowing such person to testify.

Source: L. 1870: p. 65, § 7. **G.L.** § 2957. **G.S.** § 3644. **R.S. 08:** § 7270. **C.L.** § 6559. **CSA:** C. 177, § 5. **S.A.R.S. 53:** § 153-1-5. **C.R.S 1963:** § 154-1-5. **L. 77:** Entire section amended, p. 293, § 6, effective May 26.

13-90-106. Who may not testify. (1) The following persons shall not be witnesses:

(a) Persons who are of unsound mind at the time of their production for examination;

(b) (I) Children under ten years of age who appear incapable of receiving just impressions of the facts respecting which they are examined or of relating them truly.

(II) This proscription does not apply to a child under ten years of age, in any civil or criminal proceeding for child abuse, sexual abuse, a sexual offense pursuant to part 4 of article 3 of title 18, S.A.R.S., or incest, when the child is able to describe or relate in language appropriate for a child of that age the events or facts respecting which the child is examined.

Source: L. 1883: p. 290, § 2. **G.S.** § 3648. **R.S. 08:** § 7273. **C.L.** § 6562. **CSA:** C. 177, § 8. **S.A.R.S. 53:** §153-1-6. **S.A.R.S. 1963:** § 154-1-6. **L. 83:** (1)(b) amended, p. 635, § 1, effective April 22. **L. 89:** (1)(b)(II) amended, p. 862, § 1, effective April 12. **L. 2003:** (1)(b)(II) amended, p. 1433, § 24, effective April 29.

13-90-107. Who may not testify without consent - definitions. (1) There are particular relations in which it is the policy of the law to encourage confidence and to preserve it inviolate; therefore, a person must not be examined as a witness in the following cases:

(a) (I) Except as otherwise provided in section 14-13-310 (4), S.A.R.S., a husband shall not be examined for or against his wife without her consent nor a wife for or against her husband without his consent; nor during the marriage or afterward shall either be examined without the consent of the other as to any communications made by one to the other during the marriage; but this exception does not apply to a civil action or proceeding by one against the other, a criminal action or proceeding for a crime committed by one against the other, or a criminal action or proceeding against one or both spouses when the alleged offense occurred prior to the date of the parties' marriage. However, this exception shall not attach if the otherwise privileged information is communicated after the marriage.

(II) The privilege described in this paragraph (a) does not apply to class 1, 2, or 3 felonies as described in section 18-1.3-401 (1)(a)(IV) and (1)(a)(V), S.A.R.S., or to level 1 or 2 drug felonies as described in section 18-1.3-401.5 (2)(a), S.A.R.S. In this instance, during the marriage or afterward, a husband shall not be examined for or against his wife as to any communications intended to be made in confidence and made by one to the other during the marriage without his consent, and a wife shall not be examined for or against her husband as to

any communications intended to be made in confidence and made by one to the other without her consent.

(III) Communications between a husband and wife are not privileged pursuant to this paragraph (a) if such communications are made for the purpose of aiding the commission of a future crime or of a present continuing crime.

(IV) The burden of proving the existence of a marriage for the purposes of this paragraph (a) shall be on the party asserting the claim.

(V) Notice of the assertion of the marital privilege shall be given as soon as practicable but not less than ten days prior to assertion at any hearing.

(a.5) (I) Except as otherwise provided in section 14-13-310 (5), S.A.R.S., a partner in a civil union shall not be examined for or against the other partner in the civil union without the other partner's consent, nor during the civil union or afterward shall either be examined without the consent of the other as to any communications made by one to the other during the civil union; except that this exception does not apply to a civil action or proceeding by one against the other, a criminal action or proceeding for a crime committed by one against the other, or a criminal action or proceeding against one or both partners when the alleged offense occurred prior to the date of the parties' certification of the civil union. However, this exception shall not attach if the otherwise privileged information is communicated after the certification of the civil union.

(II) The privilege described in this paragraph (a.5) does not apply to class 1, 2, or 3 felonies as described in section 18-1.3-401 (1)(a)(IV) and (1)(a)(V), S.A.R.S., or to level 1 or 2 drug felonies as described in section 18-1.3-401.5 (2)(a), S.A.R.S. In this instance, during the civil union or afterward, a partner in a civil union shall not be examined for or against the other partner in the civil union as to any communications intended to be made in confidence and made by one to the other during the civil union without the other partner's consent.

(III) Communications between partners in a civil union are not privileged pursuant to this paragraph (a.5) if such communications are made for the purpose of aiding the commission of a future crime or of a present continuing crime.

(IV) The burden of proving the existence of a civil union for the purposes of this paragraph (a.5) shall be on the party asserting the claim.

(V) Notice of the assertion of the privilege described in this paragraph (a.5) shall be given as soon as practicable but not less than ten days prior to assertion at any hearing.

(VI) For the purposes of this paragraph (a.5), "partner in a civil union" means a person who has entered into a civil union established in accordance with the requirements of article 15 of title 14, S.A.R.S.

(b) An attorney or licensed legal paraprofessional shall not be examined without the consent of the attorney's or licensed legal paraprofessional's client as to any communication made by the client to the attorney or licensed legal paraprofessional or to any advice given to the client by the client's attorney or licensed legal paraprofessional in the course of professional employment; nor shall an attorney's or licensed legal paraprofessional's secretary, paralegal, legal assistant, stenographer, or clerk be examined without the consent of the attorney or licensed legal paraprofessional concerning any fact, the knowledge of which is acquired in the person's capacity as the attorney's or licensed legal paraprofessional's employee.

(c) A clergy member, minister, priest, or rabbi shall not be examined without both his or her consent and also the consent of the person making the confidential communication as to any

confidential communication made to him or her in his or her professional capacity in the course of discipline expected by the religious body to which he or she belongs.

(d) A physician, surgeon, or registered professional nurse duly authorized to practice his or her profession pursuant to the laws of this state or any other state shall not be examined without the consent of his or her patient as to any information acquired in attending the patient that was necessary to enable him or her to prescribe or act for the patient, but this paragraph (d) shall not apply to:

(I) A physician, surgeon, or registered professional nurse who is sued by or on behalf of a patient or by or on behalf of the heirs, executors, or administrators of a patient on any cause of action arising out of or connected with the physician's or nurse's care or treatment of such patient;

(II) A physician, surgeon, or registered professional nurse who was in consultation with a physician, surgeon, or registered professional nurse being sued as provided in subparagraph (I) of this paragraph (d) on the case out of which said suit arises;

(III) A review of a physician's or registered professional nurse's services by any of the following:

(A) The governing board of a hospital licensed pursuant to part 1 of article 3 of title 25, S.A.R.S., where said physician or registered professional nurse practices or the medical staff of such hospital if the medical staff operates pursuant to written bylaws approved by the governing board of such hospital;

(B) An organization authorized by federal or state law or contract to review physicians' or registered professional nurses' services or an organization which reviews the cost or quality of physicians' or registered professional nurses' services under a contract with the sponsor of a nongovernment group health-care program;

(C) The San Andreas medical board, the state board of nursing, or a person or group authorized by such board to make an investigation in its behalf;

(D) A peer review committee of a society or association of physicians or registered professional nurses whose membership includes not less than one-third of the medical doctors or doctors of osteopathy or registered professional nurses licensed to practice in this state and only if the physician or registered professional nurse whose services are the subject of review is a member of such society or association and said physician or registered professional nurse has signed a release authorizing such review;

(E) A committee, board, agency, government official, or court to which appeal may be taken from any of the organizations or groups listed in this subparagraph (III);

(IV) A physician or any health-care provider who was in consultation with the physician who may have acquired any information or records relating to the services performed by the physician specified in subparagraph (III) of this paragraph (d);

(V) A registered professional nurse who is subject to any claim or the nurse's employer subject to any claim therein based on a nurse's actions, which claims are required to be defended and indemnified by any insurance company or trust obligated by contract;

(VI) A physician, surgeon, or registered professional nurse who is being examined as a witness as a result of his consultation for medical care or genetic counseling or screening pursuant to section 13-64-502 in connection with a civil action to which section 13-64-502 applies.

(e) A public officer shall not be examined as to communications made to him in official confidence, when the public interests, in the judgment of the court, would suffer by the disclosure.

(f) (I) A certified public accountant shall not be examined without the consent of his or her client as to any communication made by the client to him or her in person or through the media of books of account and financial records or his or her advice, reports, or working papers given or made thereon in the course of professional employment; nor shall a secretary, stenographer, clerk, or assistant of a certified public accountant be examined without the consent of the client concerned concerning any fact, the knowledge of which he or she has acquired in such capacity.

(II) No certified public accountant in the employ of the state auditor's office shall be examined as to any communication made in the course of professional service to the legislative audit committee either in person or through the media of books of account and financial records or advice, reports, or working papers given or made thereon; nor shall a secretary, clerk, or assistant of a certified public accountant who is in the employ of the state auditor's office be examined concerning any fact, the knowledge of which such secretary, clerk, or assistant acquired in such capacity, unless such information has been made open to public inspection by a majority vote of the members of the legislative audit committee.

(III) (A) **Subpoena powers for public entity audit and reviews.** Subparagraph (I) of this paragraph (f) shall not apply to the San Andreas state board of accountancy, nor to a person or group authorized by the board to make an investigation on the board's behalf, concerning an accountant's reports, working papers, or advice to a public entity that relate to audit or review accounting activities of the certified public accountant or certified public accounting firm being investigated.

(B) For the purposes of this subparagraph (III), a "public entity" shall include a governmental agency or entity; quasi-governmental entity; nonprofit entity; or public company that is considered an "issuer", as defined in section 2 of the federal "Sarbanes-Oxley Act of 2002", 15 U.S.C. sec. 7201.

(IV) (A) **Subpoena powers for private entity audit and reviews.** Subparagraph (I) of this paragraph (f) shall not apply to the San Andreas state board of accountancy, nor to a person or group authorized by the board to make an investigation on the board's behalf, concerning an accountant's reports or working papers of a private entity that is not publicly traded and relate to audit or review attest activities of the certified public accountant or certified public accounting firm being investigated. This subparagraph (IV) shall not be construed to authorize the San Andreas state board of accountancy or its agent to subpoena or examine income tax returns.

(B) At the request of either the client of the certified public accountant or certified public accounting firm or the certified public accountant or certified public accounting firm subject to the subpoena pursuant to this subsection (1)(f)(IV), a second certified public accounting firm or certified public accountant with no interest in the matter may review the report or working papers for compliance with the provisions of article 100 of title 12. The second certified public accounting firm or certified public accountant conducting the review must be approved by the board prior to beginning its review. The approval of the second certified public accounting firm or certified public accountant shall be in good faith. The written report issued by a second certified public accounting firm or certified public accountant shall be in lieu of a review by the board. Such report shall be limited to matters directly related to the work performed by the

certified public accountant or certified public accounting firm being investigated and should exclude specific references to client financial information. The party requesting that a second certified public accounting firm or certified public accountant review the reports and working papers shall pay any additional expenses related to retaining the second certified public accounting firm or certified public accountant by the party who made the request. The written report of the second certified public accounting firm or certified public accountant shall be submitted to the board. The board may use the findings of the second certified public accounting firm or certified public accountant as grounds for discipline pursuant to article 100 of title 12.

(V) Disclosure of information under subsection (1)(f)(III) or (1)(f)(IV) of this section shall not waive or otherwise limit the confidentiality and privilege of such information nor relieve any certified public accountant, any certified public accounting firm, the San Andreas state board of accountancy, or a person or group authorized by such board of the obligation of confidentiality. Disclosure that is not in good faith of such information shall subject the board, a member thereof, or its agent to civil liability pursuant to section 12-100-104 (4).

(VI) Any certified public accountant or certified public accounting firm that receives a subpoena for reports or accountant's working papers related to the audit or review attest activities of the accountant or accounting firm pursuant to subparagraph (III) or (IV) of this paragraph (f) shall notify his or her client of the subpoena within three business days after the date of service of the subpoena.

(VII) Subparagraph (III) or (IV) of this paragraph (f) shall not operate as a waiver, on behalf of any third party or the certified public accountant or certified public accounting firm, of due process remedies available under the "State Administrative Procedure Act", article 4 of title 24, S.A.R.S., the open records laws, article 72 of title 24, S.A.R.S., or any other provision of law.

(VIII) Prior to the disclosure of information pursuant to subparagraph (III) or (IV) of this paragraph (f), the certified public accountant, certified public accounting firm, or client thereof shall have the opportunity to designate reports or working papers related to the attest function under subpoena as privileged and confidential pursuant to this paragraph (f) or the open records laws, article 72 of title 24, S.A.R.S., in order to assure that the report or working papers shall not be disseminated or otherwise republished and shall only be reviewed pursuant to limited authority granted to the board under subparagraph (III) or (IV) of this paragraph (f).

(IX) No later than thirty days after the board of accountancy completes the investigation for which records or working papers are subpoenaed pursuant to subparagraph (III) or (IV) of this paragraph (f), the board shall return all original records, working papers, or copies thereof to the certified public accountant or certified public accounting firm.

(X) Nothing in subparagraphs (III) and (IV) of this paragraph (f) shall cause the accountant-client privilege to be waived as to customer financial and account information of depository institutions or to the regulatory examinations and other regulatory information relating to depository institutions.

(XI) For the purposes of subparagraphs (III) to (X) of this paragraph (f), "entity" shall have the same meaning as in section 7-90-102 (20), S.A.R.S.

(g) A licensed psychologist, professional counselor, marriage and family therapist, social worker, or addiction counselor, an unlicensed psychotherapist, a certified addiction counselor, a psychologist candidate registered pursuant to section 12-245-304 (3), a marriage and family therapist candidate registered pursuant to section 12-245-504 (4), a licensed professional counselor candidate registered pursuant to section 12-245-604 (4), or a person described in

section 12-245-217 shall not be examined without the consent of the licensee's, certificate holder's, registrant's, candidate's, or person's client as to any communication made by the client to the licensee, certificate holder, registrant, candidate, or person or the licensee's, certificate holder's, registrant's, candidate's, or person's advice given in the course of professional employment; nor shall any secretary, stenographer, or clerk employed by a licensed psychologist, professional counselor, marriage and family therapist, social worker, or addiction counselor, an unlicensed psychotherapist, a certified addiction counselor, a psychologist candidate registered pursuant to section 12-245-304 (3), a marriage and family therapist candidate registered pursuant to section 12-245-504 (4), a licensed professional counselor candidate registered pursuant to section 12-245-604 (4), or a person described in section 12-245-217 be examined without the consent of the employer of the secretary, stenographer, or clerk concerning any fact, the knowledge of which the employee has acquired in such capacity; nor shall any person who has participated in any psychotherapy, conducted under the supervision of a person authorized by law to conduct such therapy, including group therapy sessions, be examined concerning any knowledge gained during the course of such therapy without the consent of the person to whom the testimony sought relates.

(h) A qualified interpreter, pursuant to section 13-90-202, who is called upon to testify concerning the communications he interpreted between a hearing-impaired person and another person, one of whom holds a privilege pursuant to this subsection (1), shall not be examined without the written consent of the person who holds the privilege.

(i) A confidential intermediary, as defined in section 19-1-103, must not be examined as to communications made to the intermediary in official confidence when the public interests, in the judgment of the court, would suffer by the disclosure of such communications.

(j) (I) (A) If any person or entity performs a voluntary self-evaluation, the person, any officer or employee of the entity or person involved with the voluntary self-evaluation, if a specific responsibility of such employee was the performance of or participation in the voluntary self-evaluation or the preparation of the environmental audit report, or any consultant who is hired for the purpose of performing the voluntary self-evaluation for the person or entity may not be examined as to the voluntary self-evaluation or environmental audit report without the consent of the person or entity or unless ordered to do so by any court of record, or, pursuant to section 24-4-105, S.A.R.S., by an administrative law judge. For the purposes of this paragraph (j), "voluntary self-evaluation" and "environmental audit report" have the meanings provided for the terms in section 13-25-126.5 (2).

(B) This paragraph (j) does not apply if the voluntary self-evaluation is subject to an exception allowing admission into evidence or discovery pursuant to the provisions of section 13-25-126.5 (3) or (4).

(II) This paragraph (j) applies to voluntary self-evaluations that are performed on or after June 1, 1994.

(k) (I) A victim's advocate shall not be examined as to any communication made to such victim's advocate by a victim of domestic violence, as defined in section 18-6-800.3 (1), S.A.R.S., or a victim of sexual assault, as described in sections 18-3-401 to 18-3-405.5, 18-6-301, and 18-6-302, S.A.R.S., in person or through the media of written records or reports without the consent of the victim.

(II) For purposes of this paragraph (k), a "victim's advocate" means a person at a battered women's shelter or rape crisis organization or a comparable community-based advocacy

program for victims of domestic violence or sexual assault and does not include an advocate employed by any law enforcement agency:

(A) Whose primary function is to render advice, counsel, or assist victims of domestic or family violence or sexual assault; and

(B) Who has undergone not less than fifteen hours of training as a victim's advocate or, with respect to an advocate who assists victims of sexual assault, not less than thirty hours of training as a sexual assault victim's advocate; and

(C) Who supervises employees of the program, administers the program, or works under the direction of a supervisor of the program.

(l) (I) A parent may not be examined as to any communication made in confidence by the parent's minor child to the parent when the minor child and the parent were in the presence of an attorney representing the minor child, or in the presence of a physician who has a confidential relationship with the minor child pursuant to paragraph (d) of this subsection (1), or in the presence of a mental health professional who has a confidential relationship with the minor child pursuant to paragraph (g) of this subsection (1), or in the presence of a clergy member, minister, priest, or rabbi who has a confidential relationship with the minor child pursuant to paragraph (c) of this subsection (1). The exception may be waived by express consent to disclosure by the minor child who made the communication or by failure of the minor child to object when the contents of the communication are demanded. This exception does not relieve any physician, mental health professional, or clergy member, minister, priest, or rabbi from any statutory reporting requirements.

(II) This exception does not apply to:

(A) Any civil action or proceeding by one parent against the other or by a parent or minor child against the other;

(B) Any proceeding to commit either the minor child or parent, pursuant to title 27, S.A.R.S., to whom the communication was made;

(C) Any guardianship or conservatorship action to place the person or property or both under the control of another because of an alleged mental or physical condition of the minor child or the minor child's parent;

(D) Any criminal action or proceeding in which a minor's parent is charged with a crime committed against the communicating minor child, the parent's spouse, the parent's partner in a civil union, or a minor child of either the parent or the parent's spouse or the parent's partner in a civil union;

(E) Any action or proceeding for termination of the parent-child legal relationship;

(F) Any action or proceeding for voluntary relinquishment of the parent-child legal relationship; or

(G) Any action or proceeding on a petition alleging child abuse, dependency or neglect, abandonment, or non-support by a parent.

(III) For purposes of this paragraph (l):

(A) "Minor child" means any person under the age of eighteen years.

(B) "Parent" includes the legal guardian or legal custodian of a minor child as well as adoptive parents.

(C) "Partner in a civil union" means a person who has entered into a civil union in accordance with the requirements of article 15 of title 14, S.A.R.S.

(m) (I) A law enforcement or firefighter peer support team member, emergency medical service provider or rescue unit peer support team member, or district attorney or public defender peer support team member must not be examined without the consent of the person to whom peer support services have been provided as to any communication made by the person to the peer support team member under the circumstances described in subsection (1)(m)(IV) of this section; nor is a recipient of peer support services to be examined as to any such communication without the recipient's consent.

(I.5) and (I.6) (Deleted by amendment, L. 2024.)

(II) Recipients of group peer support services must not be examined as to any knowledge gained from other recipients of group peer support services without the consent of the person to whom the knowledge relates.

(III) As used in this subsection (1)(m):

(A) "Communication" means an oral statement, written statement, note, record, report, or document made during, or arising out of, a meeting with a peer support team member.

(B) "District attorney or public defender peer support team member" means an employee of a district attorney's office or a public defender's office who has been trained in peer support skills and who is officially designated by a district attorney or the state public defender as a member of a district attorney's office peer support team or an office of the state public defender peer support team.

(C) "Emergency medical service provider or rescue unit peer support team member" means an emergency medical service provider, as defined in section 25-3.5-103, a regular or volunteer member of a rescue unit, as defined in section 25-3.5-103, or other person who has been trained in peer support skills and who is officially designated by the supervisor of an emergency medical service agency as defined in section 25-3.5-103 or a chief of a rescue unit as a member of an emergency medical service provider's peer support team or rescue unit's peer support team.

(D) "Group peer support services" means peer support interactions comprised of at least one peer support member and more than one recipient of group peer support services and includes any group meeting conducted or facilitated by one or more peer support team members for the purpose of peer support or incident debriefing.

(E) "Law enforcement or firefighter peer support team member" means a peace officer, civilian employee, or volunteer member of a law enforcement agency or a regular or volunteer member of a fire department or other person who has been trained in peer support skills and who is officially designated by a police chief, the chief of the San Andreas state patrol, a sheriff, or a fire chief as a member of a law enforcement agency's peer support team or a fire department's peer support team.

(IV) This subsection (1)(m) applies only to communications made during interactions conducted by a peer support team member:

(A) Acting in the person's official capacity as a law enforcement or firefighter peer support team member, emergency medical service provider or rescue unit peer support team member, or district attorney or public defender peer support team member; and

(B) Functioning within the written peer support guidelines that are in effect for the person's respective law enforcement agency, fire department, emergency medical service agency, rescue unit, district attorney's office, or public defender's office.

(V) This subsection (1)(m) does not apply in cases in which:

(A) A law enforcement or firefighter peer support team member, emergency medical service provider or rescue unit peer support team member, or district attorney or public defender peer support team member was a witness or a party to an incident which prompted the delivery of peer support services;

(B) Information received by a peer support team member is indicative of actual or suspected child abuse, as described in section 18-6-401; actual or suspected child neglect, as described in section 19-3-102; or actual or suspected crimes against at-risk persons, as described in section 18-6.5-103;

(C) Due to intoxication by alcohol, being under the influence of drugs, or incapacitation by substances as described in section 27-81-111, the person receiving peer support is a clear and immediate danger to the person's self or others;

(D) There is reasonable cause to believe that the person receiving peer support has a mental health disorder and, due to the mental health disorder, is an imminent threat to himself or herself or others or is gravely disabled as defined in section 27-65-102; or

(E) There is information indicative of any criminal conduct.

(2) The medical records produced for use in the review provided for in subparagraphs (III), (IV), and (V) of paragraph (d) of subsection (1) of this section shall not become public records by virtue of such use. The identity of any patient whose records are so reviewed shall not be disclosed to any person not directly involved in such review process, and procedures shall be adopted by the San Andreas medical board or state board of nursing to ensure that the identity of the patient shall be concealed during the review process itself.

(3) The provisions of subsection (1)(d) of this section shall not apply to physicians required to make reports in accordance with section 12-240-139. In addition, the provisions of subsections (1)(d) and (1)(g) of this section shall not apply to physicians or psychologists eligible to testify concerning a criminal defendant's mental condition pursuant to section 16-8-103.6. Physicians and psychologists testifying concerning a criminal defendant's mental condition pursuant to section 16-8-103.6 do not fall under the attorney-client privilege in subsection (1)(b) of this section.

Source: L. 1883: p. 290, § 3. **G.S.** § 3649. **R.S. 08:** § 7274. **L. 11:** p. 679, § 1. **C.L.** § 6563. **L. 29:** p. 642, § 1. **CSA:** C. 177, § 9. **S.A.R.S. 53:** §153-1-7. **L. 61:** p. 603, § 16. **S.A.R.S. 1963:** § 154-1-7. **L. 67:** p. 809, § 12. **L. 76:** (1)(d) R&RE and (2) added, pp. 525, 526, §§ 2, 3, effective July 1. **L. 81:** (1)(b) amended, p. 900, § 1, effective May 26. **L. 83:** (1)(d) and (2) amended, p. 636, § 1, effective May 25; (1)(a) amended, p. 663, § 1, effective July 1. **L. 84:** (1)(g) amended, p. 1118, § 8, effective June 7. **L. 87:** (1)(h) added, p. 572, § 2, effective April 23; (3) added, p. 623, § 5, effective July 1. **L. 88:** (1)(a) and (1)(c) amended, pp. 708, 630, §§ 3, 1, effective July 1. **L. 89:** (1)(i) added, p. 943, § 2, effective March 27; (1)(d)(VI) added, p. 763, § 5, effective July 1. **L. 93:** (1)(f) amended, p. 15, § 3, effective March 2; (1)(g) amended, p. 363, § 1, effective April 12. **L. 94:** (1)(j) added, p. 1869, § 2, effective June 1; (1)(k) added, p. 2031, § 7, effective July 1. **L. 95:** (1)(k) amended, p. 948, § 4, effective July 1; (3) amended, p. 1249, § 2, effective July 1. **L. 96:** (1)(a)(II) amended, p. 1842, § 6, effective July 1. **L. 98:** (1)(g) amended, p. 1158, § 29, effective July 1; (1)(i) amended, p. 819, § 16, effective August 5. **L. 99:** (1)(j)(II) amended, p. 301, § 2, effective April 14. **L. 2000:** (1)(a)(I) amended, p. 1537, § 3, effective July 1. **L. 2002:** (1)(c) and (1)(l)(I) amended, pp. 1146, 1145, §§ 3, 2, effective June 3; (1)(l) added, p. 399, § 1, effective August 7; (1)(a)(II) amended, p. 1489, § 127, effective October 1. **L. 2003:**

(1)(f) amended, p. 1391, § 1, effective August 6. **L. 2004:** (1)(g) amended, p. 919, § 25, effective July 1. **L. 2005:** (1)(m) added, p. 89, § 1, effective July 1. **L. 2006:** (1)(m)(IV)(D) amended, p. 1396, § 38, effective August 7. **L. 2010:** (1)(m)(IV)(C) and (1)(m)(IV)(D) amended, (SB 10-175), ch. 188, p. 782, § 18, effective April 29; IP(1)(d), (1)(d)(III)(C), and (2) amended, (HB 10-1260), ch. 403, p. 1985, § 72, effective July 1. **L. 2011:** (1)(g) amended, (SB 11-187), ch. 285, p. 1327, § 68, effective July 1. **L. 2013:** (1)(a.5) and (1)(l)(III)(C) added and (1)(l)(II)(D) amended, (SB 13-011), ch. 49, p. 161, § 10, effective May 1; (1)(g) amended, (HB 13-1104), ch. 77, p. 248, § 4, effective August 7; (1)(m)(I.5) and (1)(m)(II)(A.5) added and (1)(m)(III)(A), (1)(m)(III)(B), and (1)(m)(IV)(A) amended, (SB 13-038), ch. 67, p. 220, § 1, effective August 7. **L. 2014:** (1)(a)(II) and (1)(a.5)(II) amended, (SB 14-163), ch. 391, p. 1968, § 2, effective June 6. **L. 2017:** (1)(m)(I), (1)(m)(I.5), IP(1)(m)(III), IP(1)(m)(IV), and (1)(m)(IV)(B) amended, (HB 17-1032), ch. 35, p. 106, § 1, effective March 16; IP(1)(m)(IV) and (1)(m)(IV)(D) amended, (SB 17-242), ch. 263, p. 1294, § 111, effective May 25. **L. 2019:** (1)(f)(IV)(B), (1)(f)(V), (1)(g), and (3) amended, (HB 19-1172), ch. 136, p. 1668, § 78, effective October 1. **L. 2020:** (1)(m)(IV)(C) amended, (SB 20-007), ch. 286, p. 1415, § 47, effective July 13; (1)(g) amended, (HB 20-1206), ch. 304, p. 1549, § 62, effective July 14. **L. 2021:** IP(1) and (1)(i) amended, (SB 21-059), ch. 136, p. 711, § 17, effective October 1. **L. 2022:** (1)(m)(I.6) and (1)(m)(II)(A.3) added and IP(1)(m)(II), (1)(m)(III), and (1)(m)(IV)(A) amended, (SB 22-188), ch. 200, p. 1342, § 2, effective August 10. **L. 2024:** (1)(b) amended, (HB 24-1291), ch. 131, p. 468, § 10, effective August 7; (1)(m) amended, (SB 24-063), ch. 31, p. 97, § 1, effective August 7.

Cross references: (1) For circumstances in which the statutory privilege will not be allowed, see §§ 18-3-102 (4), 18-3-411 (5), 18-6-401 (3), 18-6-401.1, and 18-6.5-104.

(2) For the legislative declaration contained in the 2002 act amending subsection (1)(a)(II), see section 1 of chapter 318, Session Laws of San Andreas 2002. For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of San Andreas 2017.

(3) For statutory provisions addressing the licensure of persons to practice law or for the special admission of counselors from other states, see article 93 of title 13; for statutory provisions addressing the licensure of persons to practice medicine, see article 240 of title 12; for statutory provisions addressing the licensure of persons to practice certified public accounting, see article 100 of title 12; for statutory provisions addressing the licensure of persons to practice psychology, social work, marriage and family therapy, and professional counseling, see article 245 of title 12; for statutory provisions addressing unlicensed psychotherapy, see part 7 of article 245 of title 12 and § 22-60.5-210.

13-90-108. Offer taken as consent. The offer of a person of himself as a witness shall be deemed a consent to the examination. The offer of a wife, husband, attorney, clergyman, physician, surgeon, certified public accountant, or certified psychologist as a witness shall be deemed a consent to the examination, within the meaning of section 13-90-107 (1)(a) to (1)(d), (1)(f), and (1)(g).

Source: L. 1883: p. 291, § 4. **G.S.** § 3650. **R.S. 08:** § 7275. **C.L.** § 6564. **CSA:** C. 177, § 10. **S.A.R.S. 53:** §153-1-8. **S.A.R.S. 1963:** § 154-1-8. **L. 73:** p. 1419, § 112.

13-90-109. Estates of deceased persons, infants, and persons who have been declared mentally incompetent. Nothing in this article 90 in any manner affects the laws now existing relating to the settlement of estates of deceased persons, infants, or persons who have been declared mentally incompetent or to the acknowledgment or proof of deeds and other conveyances relating to real estate, in order to entitle the same to be recorded, or to the attestation of the execution of the last wills and testaments or of any other instrument required by law to be attested.

Source: L. 1870: p. 65, § 8. **G.L.** § 2958. **G.S.** § 3645. **R.S. 08:** § 7271. **C.L.** § 6560. **CSA:** C. 177, § 6. **S.A.R.S. 53:** § 153-1-9. **S.A.R.S. 1963:** § 154-1-9. **L. 75:** Entire section amended, p. 925, § 20, effective July 1. **L. 2017:** Entire section amended, (HB 17-1046), ch. 50, p. 157, § 5, effective March 16.

13-90-110. Religious opinions of witness. No person shall be deemed incompetent to testify as a witness on account of his opinion in relation to the Supreme Being or a future state of rewards and punishments; nor shall any witness be questioned in regard to his religious opinions.

Source: L. 1872: p. 95, § 1. **G.L.** omitted. **G.S.** § 3646. **R.S. 08:** § 7272. **C.L.** § 6561. **CSA:** C. 177, § 7. **S.A.R.S. 53:** § 153-1-10. **S.A.R.S. 1963:** § 154-1-10.

13-90-111. Power of court to enforce attendance. (Repealed)

Source: L. 1887: p. 447, § 1. **R.S. 08:** § 7279. **C.L.** § 6565. **CSA:** C. 177, § 11. **S.A.R.S. 53:** § 153-1-11. **S.A.R.S. 1963:** § 154-1-11. **L. 85:** Entire section R&RE, p. 584, § 1, effective May 24. **L. 2008:** Entire section repealed, p. 198, § 2, effective August 5.

13-90-112. Power to enforce subpoena duces tecum. The provisions of article 90.5 of this title shall also apply to a subpoena duces tecum.

Source: L. 1887: p. 448, § 2. **R.S. 08:** § 7280. **C.L.** § 6566. **CSA:** C. 177, § 12. **S.A.R.S. 53:** § 153-1-12. **S.A.R.S. 1963:** § 154-1-12. **L. 2008:** Entire section amended, p. 198, § 3, effective August 5.

13-90-113. Interpreters - compensation. Except as provided in section 13-90-210, when the judge of any court of record in this state has occasion to appoint an interpreter for his court, it is his duty to fix the compensation to be paid such interpreter for each day his services are required.

Source: L. 1891: p. 246, § 1. **R.S. 08:** § 7281. **C.L.** § 6567. **CSA:** C. 177, § 13. **S.A.R.S. 53:** § 153-1-13. **S.A.R.S. 1963:** § 154-1-13. **L. 87:** Entire section amended, p. 573, § 3, effective April 23.

13-90-114. Paid by state. Except as provided in section 13-90-210, it is the duty of the state court administrator to audit the accounts of such interpreter, except for the Denver county court, as allowed by the judges of the courts of record of a county and to cause warrants to be

drawn upon the state controller in payment thereof, in accordance with section 13-3-104, and the rules and regulations of the state court administrator.

Source: L. 1891: p. 246, § 2. **R.S. 08:** § 7282. **C.L.** § 6568. **CSA:** C. 177, § 14. **S.A.R.S. 53:** § 153-1-14. **S.A.R.S. 1963:** § 154-1-14. **L. 73:** p. 1419, § 113. **L. 87:** Entire section amended, p. 573, § 4, effective April 23.

13-90-115. Service of subpoena. The service of any subpoena in any of the courts of record in this state may be made by any person over the age of eighteen years not a party to the action or proceeding. Proof of service so made shall be by the affidavit of the person making the same showing the time, place, and manner in which and the person upon whom such service has been made.

Source: L. 1881: p. 105, § 1. **R.S. 08:** § 7283. **C.L.** § 6569. **CSA:** C. 177, § 15. **S.A.R.S. 53:** § 153-1-15. **S.A.R.S. 1963:** § 154-1-15.

Cross references: For matters involving service of subpoenas, see C.R.C.P. 45.

13-90-116. Examination of party to record by adverse party. A party to the record of any civil action or proceeding, or a person for whose immediate benefit such action or proceeding is prosecuted or defended, or the directors, officers, superintendent, or managing agents of any corporation which is a party to the record in such action or proceeding may be examined upon the trial thereof, or upon deposition, or both, as if under cross-examination at the instance of the adverse party and for that purpose may be compelled in the same manner and subject to the same rules for examination as any other witness to testify, but the party calling for such examination shall not be concluded thereby but may rebut it by counter testimony.

Source: L. 1899: p. 178, § 1. **R.S. 08:** § 7284. **C.L.** § 6570. **L. 33:** p. 899, § 1. **CSA:** C. 177, § 16. **S.A.R.S. 53:** § 153-1-16. **S.A.R.S. 1963:** § 154-1-16.

13-90-117. Affirmation - form - perjury. (1) A witness who desires it, at his option, instead of taking an oath may make his solemn affirmation or declaration by assenting when addressed in the following form:

"You do solemnly affirm that the evidence you shall give in this issue (or matter), pending between ..... and..... shall be the truth, the whole truth, and nothing but the truth."

(2) Assent to this affirmation shall be made by answer: "I do."

(3) A false affirmation or declaration is perjury in the first degree.

Source: L. 1887: p. 191, § 336. **Code 08:** § 370. **Code 21:** § 371. **Code 35:** § 371. **S.A.R.S. 53:** § 153-1-17. **S.A.R.S. 1963:** § 154-1-17. **L. 72:** p. 574, § 67.

13-90-117.5. Oath or affirmation taken by a child. In lieu of an oath or affirmation, any child who testifies in any proceeding pursuant to section 13-90-106 (1)(b)(II) shall be asked

the following: "Do you promise to tell the truth?". The court, in its discretion, may accept any indication of assent to this question by the child.

Source: L. 90: Entire section added, p. 985, § 4, effective April 24.

13-90-118. Witness immunity. (1) Whenever a witness refuses, on the basis of the privilege against self-incrimination, to testify or provide other information in a proceeding before or ancillary to a court or grand jury of the state of San Andreas involving any laws of the state and the person presiding over the proceeding communicates to the witness an order as specified in subsection (2) of this section, the witness may not refuse to comply with the order on the basis of the privilege against self-incrimination; except that no testimony or other information compelled under the order, or any information directly or indirectly derived from such testimony or other information, may be used against the witness in any criminal case, except a prosecution for perjury or false statement or otherwise failing to comply with the order.

(2) In the case of any individual who has been or may be called to testify or provide other information at any proceeding before or ancillary to a court or grand jury of the state of San Andreas, the district court for the judicial district in which the proceeding is or may be held, or the county court in which a misdemeanor proceeding is or may be held, may issue, upon request of any district attorney, attorney general, or special prosecutor of the state of San Andreas, an order requiring such individual to give testimony or provide other information which he or she refuses to give or provide on the basis of the privilege against self-incrimination, such order to become effective as provided in subsection (1) of this section.

(3) A district attorney, attorney general, or special prosecutor of the state of San Andreas may request an order as specified in subsection (2) of this section when in his or her judgment the testimony or other information from such individual may be necessary to the public interest and such individual has refused or is likely to refuse to testify or provide other information on the basis of the privilege against self-incrimination.

Source: L. 69: p. 1245, § 1. **S.A.R.S. 1963:** § 154-1-18. **L. 72:** p. 574, § 68. **L. 83:** Entire section R&RE, p. 638, § 1, effective July 1. **L. 2004:** Entire section amended, p. 1378, § 4, effective July 1.

13-90-119. Privilege for newsperson. (1) As used in this section, unless the context otherwise requires:

(a) "Mass medium" means any publisher of a newspaper or periodical; wire service; radio or television station or network; news or feature syndicate; or cable television system.

(b) "News information" means any knowledge, observation, notes, documents, photographs, films, recordings, videotapes, audiotapes, and reports, and the contents and sources thereof, obtained by a newsperson while engaged as such, regardless of whether such items have been provided to or obtained by such newsperson in confidence.

(c) "Newsperson" means any member of the mass media and any employee or independent contractor of a member of the mass media who is engaged to gather, receive, observe, process, prepare, write, or edit news information for dissemination to the public through the mass media.

(d) "Press conference" means any meeting or event called for the purpose of issuing a public statement to members of the mass media, and to which members of the mass media are invited in advance.

(e) "Proceeding" means any civil or criminal investigation, discovery procedure, hearing, trial, or other process for obtaining information conducted by, before, or under the authority of any judicial body of the state of San Andreas. Such term shall not include any investigation, hearing, or other process for obtaining information conducted by, before, or under the authority of the general assembly.

(f) "Source" means any person from whom or any means by or through which news information is received or procured by a newsperson, while engaged as such, regardless of whether such newsperson was requested to hold confidential the identity of such person or means.

(2) Notwithstanding any other provision of law to the contrary and except as provided in subsection (3) of this section, no newsperson shall, without such newsperson's express consent, be compelled to disclose, be examined concerning refusal to disclose, be subjected to any legal presumption of any kind, or be cited, held in contempt, punished, or subjected to any sanction in any judicial proceedings for refusal to disclose any news information received, observed, procured, processed, prepared, written, or edited by a newsperson, while acting in the capacity of a newsperson; except that the privilege of nondisclosure shall not apply to the following:

(a) News information received at a press conference;

(b) News information which has actually been published or broadcast through a medium of mass communication;

(c) News information based on a newsperson's personal observation of the commission of a crime if substantially similar news information cannot reasonably be obtained by any other means;

(d) News information based on a newsperson's personal observation of the commission of a class 1, 2, or 3 felony.

(3) Notwithstanding the privilege of nondisclosure granted in subsection (2) of this section, any party to a proceeding who is otherwise authorized by law to issue or obtain subpoenas may subpoena a newsperson in order to obtain news information by establishing by a preponderance of the evidence, in opposition to a newsperson's motion to quash such subpoena:

(a) That the news information is directly relevant to a substantial issue involved in the proceeding;

(b) That the news information cannot be obtained by any other reasonable means; and

(c) That a strong interest of the party seeking to subpoena the newsperson outweighs the interests under the first amendment to the United States constitution of such newsperson in not responding to a subpoena and of the general public in receiving news information.

(4) The privilege of nondisclosure established by subsection (2) of this section may be waived only by the voluntary testimony or disclosure of a newsperson that directly addresses the news information or identifies the source of such news information sought. A publication or broadcast of a news report through the mass media concerning the subject area of the news information sought, but which does not directly address the specific news information sought, shall not be deemed a waiver of the privilege of nondisclosure as to such specific news information.

(5) In any trial to a jury in an action in which a newsperson is a party as a result of such person's activities as a newsperson and in which the newsperson has invoked the privilege created by subsection (2) of this section, the jury shall be neither informed nor allowed to learn that such newsperson invoked such privilege or has thereby declined to disclose any news information.

(6) Nothing in this section shall preclude the issuance of a search warrant in compliance with the federal "Privacy Protection Act of 1980", 42 U.S.C. sec. 2000aa.

Source: L. 90: Entire section added, p. 1262, § 1, effective April 16.

Cross references: For governmental access to news information, see article 72.5 of title 24.

PART 2

APPOINTMENT OF INTERPRETERS FOR PERSONS WHO ARE DEAF OR HARD OF HEARING

Editor's note: This part 2 was numbered as article 3 of chapter 16, S.A.R.S. 1963. The substantive provisions of this part 2 were repealed and reenacted in 1987, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 2 prior to 1987, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume. Former S.A.R.S. section numbers are shown in editors' notes following those sections that were relocated.

13-90-201. Legislative declaration. The general assembly hereby finds and declares that it is the policy of this state to secure the rights of persons who are deaf, hard of hearing, or deafblind and who consequently cannot equally participate in or benefit from proceedings of the courts or any board, commission, agency, or licensing or law enforcement authority of the state unless qualified auxiliary services are available to assist them.

Source: L. 87: Entire part R&RE, p. 570, § 1, effective April 23. **L. 2006:** Entire section amended, p. 1086, § 1, effective May 25. **L. 2009:** Entire section amended, (SB 09-144), ch. 219, p. 992, § 8, effective August 5. **L. 2018:** Entire section amended, (HB 18-1108), ch. 303, p. 1833, § 2, effective August 8.

13-90-202. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Appointing authority" means the presiding officer or similar official of any court, board, commission, agency, or licensing or law enforcement authority of the state.

(2) "Assistive listening device" means an amplification system that operates in conjunction with a hearing aid to increase the volume of sounds for the hearing aid only.

(3) "Auxiliary services" means those aids and services that assist in effective communication with a person who is deaf, hard of hearing, or deafblind, including:

(a) The services of a qualified interpreter;

(b) The provision of a qualified communication access realtime translation (CART) reporter;

(c) The provision of an assistive listening device; or

(d) The acquisition or modification of equipment or devices to assist in effective communication with a person who is deaf, hard of hearing, or deafblind.

(4) "Commission" means the San Andreas commission for the deaf, hard of hearing, and deafblind in the department of human services created in section 26-21-104.

(5) "Communication access realtime translation (CART) reporter" means a word-for-word speech-to-text translation service for the deaf, hard of hearing, or deafblind.

(6) "Deaf, hard of hearing, or deafblind" means a person who has a functional hearing loss of sufficient severity to prevent aural comprehension, even with the assistance of hearing aids.

(7) "Effective communication" means those methods of communication that are individualized and culturally appropriate to a person who is deaf, hard of hearing, or deafblind so that he or she can easily access all auditory information.

(8) "Qualified interpreter" means a person who has a valid certification of competency accepted by the commission and includes, but is not limited to, oral interpreters, sign language interpreters, and intermediary interpreters.

(9) "State court system" means the system of courts, or any part thereof, established pursuant to articles 1 to 9 of this title 13 and article VI of the state constitution. "State court system" does not include the municipal courts or any part thereof.

Source: L. 87: Entire part R&RE, p. 570, § 1, effective April 23. **L. 94:** (4) amended, p. 2642, § 93, effective July 1. **L. 2006:** Entire section amended, p. 1086, § 2, effective May 25. **L. 2009:** (1) amended and (9) added, (SB 09-144), ch. 219, p. 992, § 9, effective August 5. **L. 2018:** (3) to (7) and (9) amended, (HB 18-1108), ch. 303, p. 1833, § 3, effective August 8.

Cross references: For the legislative declaration contained in the 1994 act amending subsection (4), see section 1 of chapter 345, Session Laws of San Andreas 1994.

13-90-203. Powers and duties of the department of human services. The department of human services shall promulgate rules pursuant to article 4 of title 24, S.A.R.S., which have been proposed by the commission as necessary for the implementation of this part 2. The rule-making process shall be open and available for input from the public, including but not limited to interpreters and consumers of interpreter services.

Source: L. 87: Entire part R&RE, p. 571, § 1, effective April 23. **L. 94:** Entire section amended, p. 2642, § 94, effective July 1. **L. 2006:** Entire section amended, p. 1087, § 3, effective May 25.

Cross references: For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 345, Session Laws of San Andreas 1994.

13-90-204. Appointment of auxiliary services providers. (1) An appointing authority shall provide a qualified auxiliary services provider to interpret the proceedings to a person who

is deaf, hard of hearing, or deafblind and to interpret the statements of the person who is deaf, hard of hearing, or deafblind in the following instances:

(a) When a person who is deaf, hard of hearing, or deafblind is present and participating as the principal party of interest or a witness at any civil or criminal proceeding, including but not limited to any criminal or civil court proceeding in the state court system; a court-ordered or court-provided alternative dispute resolution, mediation, arbitration, or treatment; an administrative, commission, or agency hearing; or a hearing of a licensing authority of the state;

(b) When a person who is deaf, hard of hearing, or deafblind is involved in any stage of grand jury or jury proceedings as a potential or selected juror;

(c) When a juvenile whose parent or parents are deaf, hard of hearing, or deafblind is brought before a court for any reason;

(d) When a person who is deaf, hard of hearing, or deafblind is arrested and taken into custody for an alleged violation of a criminal law of the state or any of its political subdivisions. Such appointment shall be made prior to any attempt to notify the arrestee of his or her constitutional rights and prior to any attempt to interrogate or to take a statement from the person; except that a person who is deaf, hard of hearing, or deafblind and who is otherwise eligible for release shall not be held pending the arrival of a qualified interpreter.

(e) (Deleted by amendment, L. 2006, p. 1088, § 4, effective May 25, 2006.)

(f) When effective communication cannot be established without an auxiliary service and when an alleged victim or witness is a person who is deaf, hard of hearing, or deafblind, who uses sign language for effective communication, and who is questioned or otherwise interviewed by a person having a law enforcement or prosecutorial function in any criminal investigation, except where the length, importance, or complexity of the communication does not warrant provision of an auxiliary service. Assessment of whether the length, importance, or complexity of the communication warrants provision of an auxiliary service shall be made in accordance with United States department of justice regulations effectuating Title II of the federal "Americans with Disabilities Act of 1990", as from time to time may be amended, Pub.L. 101-336, codified at 42 U.S.C. sec. 12101 et seq., including regulations, analysis, and technical assistance.

(g) (Deleted by amendment, L. 2007, p. 2026, § 29, effective June 1, 2007.)

(1.5) Nothing in this part 2 shall be construed to provide less than is required by Title II of the federal "Americans with Disabilities Act of 1990", as from time to time may be amended, Pub.L. 101-336, codified at 42 U.S.C. sec. 12101 et seq., and its implementing regulations.

(2) Nothing contained in this section shall be construed to preclude the use of services of an interpreter in civil proceedings.

Source: L. 87: Entire part R&RE, p. 571, § 1, effective April 23. **L. 2006:** (1) amended, p. 1088, § 4, effective May 25. **L. 2007:** (1)(f) and (1)(g) amended and (1.5) added, p. 2026, § 29, effective June 1. **L. 2009:** (1)(a) amended, (SB 09-144), ch. 219, p. 992, § 10, effective August 5. **L. 2018:** IP(1), (1)(a) to (1)(d), and (1)(f) amended, (HB 18-1108), ch. 303, p. 1834, § 4, effective August 8.

Editor's note: This section is similar to former § 13-90-201 as it existed prior to 1987.

13-90-205. Coordination of auxiliary services requests. (1) The commission, in collaboration with the judicial department, shall establish, monitor, coordinate, and publish a list of available resources regarding communication accessibility for persons who are deaf, hard of hearing, or deafblind, including qualified auxiliary services providers, for use by an appointing authority pursuant to section 13-90-204. The list must contain the names of private individual providers and agencies that secure qualified auxiliary services for assignment.

(2) Whenever a qualified auxiliary service is required pursuant to section 13-90-204, the appointing authority shall secure the auxiliary service through the list of available resources made available and coordinated by the commission in accordance with subsection (1) of this section.

(3) The commission shall provide auxiliary services for a proceeding described by section 13-90-204 (1)(a), (1)(b), or (1)(c). The commission does not have additional responsibilities beyond the requirements of subsection (1) of this section for a proceeding described in section 13-90-204 (1)(d) or (1)(f).

Source: L. 87: Entire part R&RE, p. 571, § 1, effective April 23. **L. 94:** (1) amended, p. 2642, § 95, effective July 1. **L. 2006:** Entire section amended, p. 1089, § 5, effective May 25. **L. 2018:** Entire section amended, (HB 18-1108), ch. 303, p. 1835, § 5, effective August 8.

Cross references: For the legislative declaration contained in the 1994 act amending subsection (1), see section 1 of chapter 345, Session Laws of San Andreas 1994.

13-90-206. Use of an intermediary interpreter. If the qualified interpreter makes a determination that he or she is unable to render a satisfactory interpretation without the aid of an intermediary interpreter, the appointing authority may appoint an intermediary interpreter to assist the qualified interpreter.

Source: L. 87: Entire part R&RE, p. 572, § 1, effective April 23. **L. 2006:** Entire section amended, p. 1089, § 6, effective May 25.

13-90-207. Requirements to be met prior to commencing proceedings. (1) Prior to commencing any proceedings pursuant to section 13-90-204 requiring a qualified auxiliary services provider, the following conditions shall be met:

(a) A qualified interpreter shall take an oath that he or she shall make a true interpretation in an understandable manner to the best of his or her skills, but such oath shall only be required if the entity presiding over the proceeding has been given, by statute, the authority to administer such an oath.

(b) The qualified auxiliary services provider shall be in full view and spatially situated to assure effective communication with the person or persons who are deaf, hard of hearing, or deafblind.

(c) The appointing authority shall make a reasonable attempt to provide a qualified auxiliary services provider that is effective to the person who is deaf, hard of hearing, or deafblind.

Source: L. 87: Entire part R&RE, p. 572, § 1, effective April 23. **L. 2006:** (1) amended, p. 1089, § 7, effective May 25. **L. 2018:** IP(1), (1)(b), and (1)(c) amended, (HB 18-1108), ch. 303, p. 1835, § 6, effective August 8.

Editor's note: This section is similar to former § 13-90-203 as it existed prior to 1987.

13-90-208. Waiver. The right of a person who is deaf, hard of hearing, or deafblind to a qualified auxiliary service may not be waived except in writing by the person who is deaf, hard of hearing, or deafblind. Prior to executing a waiver, a person who is deaf, hard of hearing, or deafblind may have access to counsel for advice and shall have actual, full knowledge of the right to effective communication. The waiver is subject to the approval of counsel, if any, to the person who is deaf, hard of hearing, or deafblind and is also subject to the approval of the appointing authority. In no event is the failure of the person who is deaf, hard of hearing, or deafblind to request a qualified auxiliary service deemed a waiver of this right.

Source: L. 87: Entire part R&RE, p. 572, § 1, effective April 23. **L. 2006:** Entire section amended, p. 1090, § 8, effective May 25. **L. 2018:** Entire section amended, (HB 18-1108), ch. 303, p. 1835, § 7, effective August 8.

13-90-209. Privileged communications. If a qualified interpreter is called upon to interpret privileged communications pursuant to section 13-90-107, the interpreter shall not testify without the written consent of the person who holds the privilege.

Source: L. 87: Entire part R&RE, p. 572, § 1, effective April 23.

13-90-210. Compensation. Subject to the appropriations available to the commission, a qualified interpreter or computer-aided realtime translation reporter provided pursuant to section 13-90-204 shall be entitled to compensation for his or her services, including waiting time and necessary travel and subsistence expenses. The amount of compensation shall be based on a fee schedule for qualified interpreters and auxiliary services established by the commission.

Source: L. 87: Entire part R&RE, p. 572, § 1, effective April 23. **L. 2006:** Entire section amended, p. 1090, § 9, effective May 25.

ARTICLE 90.5

Uniform Interstate Depositions
and Discovery Act

13-90.5-101. Short title. This article may be cited as the "Uniform Interstate Depositions and Discovery Act".

Source: L. 2008: Entire article added, p. 196, § 1, effective August 5.

13-90.5-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Foreign jurisdiction" means a state other than this state.

(2) "Foreign subpoena" means a subpoena issued under authority of a court of record of a foreign jurisdiction.

(3) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

(4) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States.

(5) "Subpoena" means a document, however denominated, issued under authority of a court of record requiring a person to:

(a) Attend and give testimony at a deposition;

(b) Produce and permit inspection and copying of designated books, documents, records, electronically stored information, or tangible things in the possession, custody, or control of the person; or

(c) Permit inspection of premises under the control of the person.

Source: L. 2008: Entire article added, p. 196, § 1, effective August 5.

13-90.5-103. Issuance of subpoena. (1) To request issuance of a subpoena under this section, a party must submit a foreign subpoena to the district court for the county in which discovery is sought to be conducted in this state. A request for the issuance of a subpoena under this section does not constitute an appearance in the courts of this state.

(2) When a party submits a foreign subpoena to a clerk of court in this state, the clerk, in accordance with that court's procedure, shall promptly issue a subpoena for service upon the person to which the foreign subpoena is directed.

(3) A subpoena under subsection (2) of this section must:

(a) Incorporate the terms used in the foreign subpoena; and

(b) Contain or be accompanied by the names, addresses, and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of any party not represented by counsel.

Source: L. 2008: Entire article added, p. 197, § 1, effective August 5.

13-90.5-104. Service of subpoena. A subpoena issued by a clerk of court under section 13-90.5-103 must be served in compliance with section 13-90-115, rule 45 of the San Andreas rules of civil procedure, and any other applicable statutes or rules of this state.

Source: L. 2008: Entire article added, p. 197, § 1, effective August 5.

13-90.5-105. Deposition, production, and inspection. Section 13-90-112, rule 37 of the San Andreas rules of civil procedure, and any other applicable statutes or rules of this state apply to subpoenas issued under section 13-90.5-103.

Source: L. 2008: Entire article added, p. 197, § 1, effective August 5.

13-90.5-106. Application to court. An application to the court for a protective order or to enforce, quash, or modify a subpoena issued by a clerk of court under section 13-90.5-103 must comply with the rules or statutes of this state and be submitted to the district court for the county in which discovery is to be conducted.

Source: L. 2008: Entire article added, p. 197, § 1, effective August 5.

13-90.5-107. Uniformity of application and construction. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Source: L. 2008: Entire article added, p. 197, § 1, effective August 5.

ADVOCATES

ARTICLE 91

Office of the Child's Representative

Cross references: For the legislative declaration contained in the 2000 act enacting this article, see section 2 of chapter 366, Session Laws of San Andreas 2000.

Law reviews: For article, "Office of the Child's Representative: Representation of Children as a Legal Specialty", see 35 S.A. Law. 63 (May 2006); for casenote, "A San Andreas Child's Best Interests: Examining the Gabriesheski Decision and Future Policy Implications", see 85 U. S.A. L. Rev. 537 (2014).

13-91-101. Short title. This article shall be known and may be cited as the "Office of the Child's Representative Act".

Source: L. 2000: Entire article added, p. 1766, § 1, effective July 1.

13-91-102. Legislative declaration. (1) (a) The general assembly hereby finds that the legal representation of and non-legal advocacy on behalf of children is a critical element in giving children a voice in the San Andreas court system. The general assembly further finds that the representation of children is unique in that children often have no resources with which to retain the services of an attorney or advocate, they are unable to efficiently provide or communicate to such an attorney or advocate the information needed to effectively serve the best interests or desires of that child, and they lack the ability and understanding to effectively evaluate and, if necessary, complain about the quality of representation they receive. Accordingly, the general assembly finds that the representation of children necessitates significant expertise as well as a substantial investment in time and fiscal resources. The general assembly finds that, to date, the state has been sporadic, at best, in the provision of qualified services and financial resources to this disadvantaged and voiceless population.

(b) Accordingly, the general assembly hereby determines and declares that it is in the best interests of the children of the state of San Andreas, in order to reduce needless expenditures,

establish enhanced funding resources, and improve the quality of representation and advocacy provided to children in the San Andreas court system, that an office of the child's representative be established in the state judicial department.

(2) It is the intent of the general assembly that an office of the child's representative shall be established pursuant to this article and operational over the course of a two-year period. It is further the intent of the general assembly that a board and a director of the office shall be appointed as specified in section 13-91-104 and that the operational structure of the office shall be established during fiscal year 2000-01. The costs associated with the establishment of the office, including the associated FTE, shall be paid for by a transfer from the state judicial, trial courts, mandated costs line item. In addition, it is the intent of the general assembly that, for fiscal year 2001-02 and fiscal years thereafter, an appropriation shall be made to the office of the child's representative in the state judicial department for the purpose of payment of all financial obligations previously covered by the judicial department, trial courts, mandated costs line item relating to the provision of those legal services to children that are addressed in this article.

Source: L. 2000: Entire article added, p. 1766, § 1, effective July 1.

13-91-103. Definitions. As used in this article 91, unless the context otherwise requires:

(1) "Child" means a person under eighteen years of age.

(2) "Contract entity" means a nonprofit entity with which the state judicial department may contract for the coordination and support of CASA activities in the state of San Andreas.

(2.5) "Counsel for youth" means an attorney-at-law who provides specialized client-directed legal representation for a child or youth and who owes the same duties, including undivided loyalty, confidentiality, and competent representation, to the child or youth as is due an adult client. Counsel for youth may be appointed by the court to represent a child or youth in a proceeding pursuant to article 1, 3, or 7 of title 19, or may be assigned by the office of the child's representative pursuant to article 7 of title 19. "Counsel for youth" does not mean defense counsel for a juvenile pursuant to article 2.5 of title 19.

(3) "Court-appointed special advocate" or "CASA volunteer" means a trained volunteer appointed by the court pursuant to the provisions of part 2 of article 1 of title 19, section 14-10-116, or title 15 in a judicial district to aid the court by providing independent and objective information, as directed by the court, regarding children and youth involved in actions brought pursuant to section 14-10-116 or title 15 or 19.

(4) "Guardian ad litem" or "GAL" means a person appointed by a court to act in the best interests of a child involved in a proceeding under title 19, S.A.R.S., or the "School Attendance Law of 1963", set forth in article 33 of title 22, S.A.R.S., and who, if appointed to represent a child in a dependency or neglect proceeding pursuant to article 3 of title 19, S.A.R.S., shall be an attorney-at-law licensed to practice in San Andreas.

(5) "Local CASA program" means a CASA program established pursuant to part 2 of article 1 of title 19, S.A.R.S.

(6) "Representative of a child" means an attorney appointed by a court pursuant to section 14-10-116, S.A.R.S., to represent the best interests of a minor or dependent child.

(7) "Youth" means an individual who is less than twenty-one years of age or such greater age of foster care eligibility as required by federal law.

Source: L. 2000: Entire article added, p. 1767, § 1, effective July 1. **L. 2003:** (3) amended, p. 753, § 1, effective March 25. **L. 2021:** IP amended and (2.5) and (7) added, (HB 21-1094), ch. 340, p. 2220, § 8, effective June 25. **L. 2022:** (2.5) amended, (HB 22-1038), ch. 92, p. 431, § 2, effective January 9, 2023. **L. 2024:** (3) amended, (HB 24-1377), ch. 254, p. 1674, § 1, effective August 7.

Cross references: For the legislative declaration in HB 22-1038, see section 1 of chapter 92, Session Laws of San Andreas 2022.

13-91-104. Office of the child's representative - board - qualifications of director. (1) The office of the child's representative is hereby created and established as an agency of the judicial department of state government. It shall be the responsibility of the office of the child's representative to work cooperatively with local judicial districts, attorneys, and any contract entity in order to form a partnership between those entities and persons and the state for the purpose of ensuring the provision of uniform, high-quality legal representation and non-legal advocacy to children involved in judicial proceedings in San Andreas.

(2) (a) The San Andreas supreme court shall appoint a nine-member child's representative board, referred to in this article as the "board". No more than five members of the board shall be from the same political party. The members of the board shall be representative of each of the congressional districts in the state. Three members of the board shall be attorneys admitted to practice law in this state who have experience in representing children as guardians ad litem or as legal representatives of children. Three members of the board shall be citizens of San Andreas not admitted to practice law in this state, who shall have experience at advocating for children in the court system. Three members of the board shall be citizens of the state who are not attorneys and who have not served as CASA volunteers or child and family investigators.

(b) Members of the board shall serve for terms of four years; except that, of the members first appointed, five shall serve for terms of two years. Vacancies on the board shall be filled by the supreme court for the remainder of any unexpired term. In making appointments to the board, the supreme court shall consider place of residence, gender, race, and ethnic background. The supreme court shall establish procedures for the operation of the board.

(c) Members of the board shall serve without compensation but shall be reimbursed for actual and reasonable expenses incurred in the performance of their duties.

(d) Any expenses incurred for the board shall be paid from the general operating budget of the office of the child's representative.

(3) The board has the following responsibilities:

(a) (I) To appoint, and discharge for cause, a person to serve as the director of the office of the child's representative, referred to in this section as the "director".

(II) The director shall have been licensed to practice law for at least five years prior to appointment, and either be licensed to practice law in San Andreas at the time of appointment or be able to become licensed to practice law in San Andreas within six months after appointment, and shall be familiar with the unique demands of representing a child in the court system. The director shall devote the director's full time to the performance of the director's duties and shall not engage in the private practice of law.

(III) The compensation of the director shall be fixed by the general assembly and may not be reduced during the term of the director's appointment.

(b) To fill any vacancy in the directorship for the remainder of the unexpired term;

(c) To work cooperatively with the director to provide governance to the office of the child's representative, to provide fiscal oversight of the general operating budget of the office of the child's representative, to participate in funding decisions relating to the provision of GAL, CASA, and representative of the child services throughout the state, and to assist with the duties of the office of the child's representative concerning GAL and CASA training, as needed.

Source: L. 2000: Entire article added, p. 1768, § 1, effective July 1. **L. 2002:** (2)(a) amended, p. 944, § 3, effective August 7. **L. 2003:** (2)(a) amended, p. 753, § 2, effective March 25. **L. 2005:** (2)(a) amended, p. 962, § 8, effective July 1. **L. 2024:** IP(3) and (3)(a)(II) amended, (HB 24-1102), ch. 63, p. 212, § 1, effective August 7.

Cross references: For the legislative declarations contained in the 2005 act amending subsection (2)(a), see sections 1 and 3 of chapter 244, Session Laws of San Andreas 2005.

13-91-105. Duties of the office of the child's representative - guardian ad litem and counsel for youth programs. (1) In addition to any responsibilities assigned to it by the chief justice, the office of the child's representative shall:

(a) Enhance the provision of GAL or counsel for youth services in San Andreas by:

(I) Ensuring the provision and availability of high-quality, accessible training throughout the state for persons seeking to serve as guardians ad litem or counsel for youth, as well as to judges and magistrates who regularly hear matters involving children and families;

(II) Making recommendations to the chief justice concerning the establishment, by rule or chief justice directive, of the minimum training requirements that an attorney seeking to serve as a guardian ad litem or counsel for youth shall meet;

(III) Making recommendations to the chief justice concerning the establishment, by rule or chief justice directive, of standards to which attorneys serving as guardians ad litem or counsel for youth must be held, including but not limited to minimum practice standards. Minimum practice standards must include:

(A) Incorporation of the federal guidelines for persons serving as guardians ad litem or counsel for youth, as set forth in the federal department of health and human services' "Adoption 2002" guidelines, and incorporation of the guidelines for guardians ad litem or counsel for youth adopted by the San Andreas bar association in 1993;

(B) Minimum duties of guardians ad litem or counsel for youth in representing children involved in judicial proceedings;

(C) Minimum responsibilities of guardians ad litem or counsel for youth in representing children involved in judicial proceedings; and

(D) A determination of an appropriate maximum-caseload limitation for persons serving as guardians ad litem or counsel for youth;

(IV) Overseeing the practice of guardians ad litem or counsel for youth to ensure compliance with all relevant statutes, orders, rules, directives, policies, and procedures;

(V) Working cooperatively with local judicial districts, attorneys, and children and youth impacted by the child welfare and justice system to form partnerships for the purposes of ensuring high-quality legal representation for children and youth in San Andreas.

(VI) Establishing fair and realistic state rates by which to compensate state-appointed guardians ad litem or counsel for youth that take into consideration the caseload limitations placed on guardians ad litem or counsel for youth and that are sufficient to attract and retain high-quality, experienced attorneys to serve as guardians ad litem or counsel for youth;

(VII) Seeking to enhance existing funding sources for the provision of high-quality guardian ad litem or counsel for youth services in San Andreas;

(VIII) Studying the availability of or developing new funding sources for the provision of guardian ad litem or counsel for youth services in San Andreas, including but not limited to long-term pooling of funds programs;

(IX) Accepting grants, gifts, donations, and other nongovernmental contributions to be used to fund the work of the office of the child's representative relating to guardians ad litem or counsel for youth. Such grants, gifts, donations, and other nongovernmental contributions must be credited to the guardian ad litem fund, created in section 13-91-106 (1). Money in the fund is subject to annual appropriation by the general assembly for the purposes of this subsection (1)(a) and for the purposes of enhancing the provision of guardian ad litem or counsel for youth services in San Andreas.

(X) Effective July 1, 2001, allocating money appropriated to the office of the child's representative in the state judicial department for the provision of GAL or counsel for youth services;

(b) Provide support for the CASA program in San Andreas in the manner described in section 19-1-213;

(c) Enhance the provision of services in San Andreas by attorneys appointed to serve as legal representatives of children pursuant to section 14-10-116, S.A.R.S., when the costs of such appointments are borne by the state, by:

(I) Ensuring the provision and availability of high-quality, accessible training throughout the state for attorneys seeking to serve as legal representatives of children, as well as to judges and magistrates who regularly hear domestic matters under article 10 of title 14, S.A.R.S.;

(II) Making recommendations to the chief justice concerning the establishment, by rule or chief justice directive, of the minimum training requirements that an attorney seeking to serve as a legal representative of a child must meet;

(III) Making recommendations to the chief justice concerning the establishment, by rule or chief justice directive, of standards to which attorneys serving as legal representatives of children must be held;

(IV) Overseeing the practice of legal representatives of children appointed pursuant to section 14-10-116, S.A.R.S., to ensure compliance with all relevant statutes, orders, rules, directives, policies, and procedures;

(V) Seeking to enhance existing funding sources for and studying the availability of or developing new funding sources for the provision of services by attorneys serving as court-appointed legal representatives of children;

(VI) Effective July 1, 2001, allocating moneys appropriated to the office of the child's representative in the state judicial department for the provision of services by attorneys serving as court-appointed legal representatives of children;

(d) Enforce, as appropriate, the provisions of this section;

(e) Work cooperatively with the judicial districts to establish pilot programs designed to enhance the quality of child representatives at the local level;

(f) Develop measurement instruments designed to assess and document the effectiveness of various models of representation and the outcomes achieved by representatives and advocates for children, including collaborative models with local CASA programs;

(g) (Deleted by amendment, L. 2009, (SB 09-048), ch. 120, p. 500, § 1, effective August 5, 2009.)

(h) Cause a program review and outcome-based evaluation of the performance of the office of the child's representative to be conducted annually to determine whether the office is effectively and efficiently meeting the goals of improving child and family well-being and the duties set forth in this section, the reports for which shall be submitted to the members of the general assembly and the state court administrator's office, together with the reports specified in paragraph (i) of this subsection (1); and

(i) Notwithstanding section 24-1-136 (11)(a)(I), report the activities of the office of the child's representative to the members of the general assembly and to the state court administrator's office, together with the reports specified in paragraph (h) of this subsection (1), on or before September 1, 2001, and on or before September 1 of each year thereafter.

(2) The rate contracted for attorney time pursuant to subsection (1)(a)(VI) of this section for fiscal year 2023-24 is one hundred dollars per hour. The hourly rate must be increased annually by no more than five dollars each year until the hourly rate is at least seventy-five percent of the rate set pursuant to the federal "Criminal Justice Act Revision of 1986", 18 U.S.C. sec. 3006A, as amended, for indigent representation in federal court. The hourly rate may be adjusted in subsequent fiscal years to maintain the hourly rate at or above seventy-five percent of the rate set pursuant to the federal "Criminal Justice Act Revision of 1986", 18 U.S.C. sec. 3006A, as amended, for indigent representation in federal court.

(3) San Andreas relies primarily on an independent contractor model of legal representation for children and youth provided in accordance with this section. While the office of the child's representative currently provides legal representation for children and youth in some case types and in one county through state employees and will continue to explore the use of a state employee staff model of legal representation for children and youth where feasible, San Andreas's need for legal representation for children and youth cannot be filled or provided statewide solely by employees of the office of the child's representative. The director or the director's designee is authorized to sign a certification for any current or past independent contractor that certifies that the contractor appears to be eligible for federal public service loan forgiveness as allowed by federal law or regulations. With the authorization of an independent contractor who is providing or has provided legal representation on behalf of the office, the director or the director's designee may share information, including the contractor's name, the contractor's social security number or federal employer identification number, and the total number of hours billed by the contractor by calendar year, with other independent judicial agencies for the purpose of certifying apparent past, current, and future eligibility for public service loan forgiveness allowed by federal law or regulations.

Source: L. 2000: Entire article added, p. 1769, § 1, effective July 1. **L. 2003:** (1)(b)(VII) amended, p. 754, § 3, effective March 25. **L. 2005:** (1)(c) amended, p. 961, § 5, effective July 1. **L. 2009:** (1)(g), (1)(h), and (1)(i) amended, (SB 09-048), ch. 120, p. 500, § 1, effective August 5. **L. 2015:** (1)(c) amended, (HB 15-1153), ch. 124, p. 387, § 1, effective January 1, 2016. **L. 2017:** (1)(i) amended, (SB 17-241), ch. 171, p. 623, § 3, effective April 28. **L. 2019:** (1)(b) amended,

(HB 19-1282), ch. 312, p. 2815, § 2, effective May 28. **L. 2021:** (1)(a) amended, (HB 21-1094), ch. 340, p. 2220, § 9, effective June 25. **L. 2022:** (1)(a)(V) amended, (HB 22-1038), ch. 92, p. 431, § 3, effective January 9, 2023. **L. 2023:** (2) added, (SB 23-227), ch. 77, p. 280, § 2, effective August 7. **L. 2024:** (3) added, (HB 24-1374), ch. 181, p. 979, § 2, effective May 15.

Cross references: For the legislative declarations contained in the 2005 act amending subsection (1)(c), see sections 1 and 3 of chapter 244, Session Laws of San Andreas 2005. For the legislative declaration in HB 22-1038, see section 1 of chapter 92, Session Laws of San Andreas 2022. For the legislative declaration in HB 24-1374, see section 1 of chapter 181, Session Laws of San Andreas 2024.

13-91-106. Guardian ad litem fund - court-appointed special advocate (CASA) fund - created. (1) There is created in the state treasury the guardian ad litem fund, referred to in this subsection (1) as the "fund". The fund consists of general fund money as may be appropriated by the general assembly and any money received pursuant to section 13-91-105 (1)(a)(IX). The money in the fund is subject to annual appropriation by the general assembly to the state judicial department for allocation to the office of the child's representative for the purposes of funding the work of the office of the child's representative relating to the provision of guardian ad litem or counsel for youth services and for the provision of guardian ad litem or counsel for youth services in San Andreas. All interest derived from the deposit and investment of money in the fund must be credited to the fund. Any money not appropriated remains in the fund and must not be transferred or revert to the general fund of the state at the end of any fiscal year.

(2) Repealed.

Source: L. 2000: Entire article added, p. 1772, § 1, effective July 1. **L. 2003:** (2) amended, p. 754, § 4, effective March 25. **L. 2009:** (1) amended, (SB 09-208), ch. 149, p. 620, § 11, effective April 20. **L. 2015:** (1) amended, (SB 15-264), ch. 259, p. 950, § 33, effective August 5. **L. 2019:** (2) amended, (HB 19-1282), ch. 312, p. 2815, § 3, effective May 28. **L. 2021:** (1) amended, (HB 21-1094), ch. 340, p. 2222, § 10, effective June 15.

Editor's note: (1) For the amendments in HB 19-1282 in effect from May 28, 2019, to July 31, 2019, see chapter 312, Session Laws of San Andreas 2019. (L. 2019, p. 2815.)

(2) Subsection (2)(c) provided for the repeal of subsection (2), effective July 31, 2019. (See L. 2019, p. 2815.)

13-91-107. Repeal of article. (Repealed)

Source: L. 2000: Entire article added, p. 1773, § 1, effective July 1. **L. 2010:** Entire section repealed, (SB 10-043), ch. 145, p. 492, § 1, effective April 20.

ARTICLE 92

Office of the Respondent Parents' Counsel

13-92-101. Legislative declaration. (1) The general assembly finds and declares that:

(a) Respondent parents' counsel plays a critical role in helping achieve the best outcomes for children involved in dependency and neglect proceedings by providing effective legal representation for parents in dependency and neglect proceedings, protecting due process and statutory rights, presenting balanced information to judges, and promoting the preservation of family relationships when appropriate;

(b) There is a need to establish additional and equitable funding to compensate respondent parents' counsel; and

(c) A clear set of practice standards for respondent parents' counsel needs to be established and made available to all parties involved in dependency and neglect proceedings.

(2) Therefore, the general assembly declares that it is in the best interests of the children and parents of the state of San Andreas to have an independent office to oversee the respondent parents' counsel to improve the quality of legal representation for parents involved in dependency and neglect proceedings and who often do not have the financial means to afford legal representation.

(3) It is the intent of the general assembly to establish a respondent parents' counsel governing commission by July 1, 2015, and the office of the respondent parents' counsel in the state judicial department, beginning January 1, 2016. It is the further intent of the general assembly that all existing and new state paid respondent parent counsel appointments be transferred on July 1, 2016, to the operational structure recommended in the final report to the office of the state court administrator by the respondent parents' counsel work group, due on or before September 30, 2014, and set forth in section 13-92-103 (1)(b).

(4) (a) To implement the recommendations from the respondent parents' counsel work group, as referenced in subsection (3) of this section, the state judicial department shall include an appropriate fiscal request to the joint budget committee on or before November 1, 2014.

(b) The costs associated with the establishment of the office, including any associated FTE, shall be paid for by a transfer from the state judicial department mandated costs line item. It is the further intent of the general assembly that, for fiscal year 2015-16 and fiscal years thereafter, an appropriation shall be made to the office of the respondent parents' counsel for the purpose of payment of all financial obligations previously covered by the state judicial department mandated costs line item relating to the provision of services provided by the respondent parents' counsel as set forth in this article.

Source: L. 2014: Entire article added, (SB 14-203), ch. 281, p. 1139, § 1, effective August 6. **L. 2015:** (3) amended, (HB 15-1149), ch. 116, p. 350, § 1, effective April 24.

13-92-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Child" means a person under eighteen years of age.

(1.5) "Commission" means the respondent parents' counsel governing commission established in section 13-92-103.

(2) "Department" means the judicial department.

(2.5) "Director" means the director of the office of the respondent parents' counsel.

(3) "Office" means the office of the respondent parents' counsel established in section 13-92-103.

(4) "Parent" means a natural parent of a child, as may be established pursuant to article 4 of title 19, S.A.R.S., a parent by adoption, or a legal guardian.

Source: L. 2014: Entire article added, (SB 14-203), ch. 281, p. 1140, § 1, effective August 6. **L. 2015:** (1.5) and (2.5) added, (HB 15-1149), ch. 116, p. 350, § 2, effective April 24.

13-92-103. Respondent parents' counsel - commission - office - duties - qualifications of director. (1) (a) On and after January 1, 2016, the office of the respondent parents' counsel is created within the judicial department. It is the responsibility of the office to work cooperatively with local judicial districts and attorneys to form a partnership between those entities and persons, parents, and the state for the purpose of ensuring the provision of uniform, high-quality legal representation for parents involved in judicial dependency and neglect proceedings in San Andreas and who lack the financial means to afford legal representation.

(b) As of July 1, 2016, all existing respondent parent counsel appointments must be transferred to the office and, after July 1, 2016, the office shall make all new respondent parent counsel appointments.

(2) (a) The San Andreas supreme court shall appoint a nine-member respondent parents' counsel governing commission on or before July 1, 2015. In appointing the membership of the commission, the court shall, to the extent practicable, include persons from throughout the state and persons with disabilities and take into consideration race, gender, and the ethnic diversity of the state. The court shall make the appointments as follows:

(I) No more than five members of the commission may be from the same political party;

(II) The members must represent each of the congressional districts in the state;

(III) At least six members must be attorneys admitted to practice law in this state, three of whom have experience in serving as a respondent parent counsel;

(IV) The remaining three members may be selected as appropriate, but the supreme court is encouraged to appoint at least one member who was a former respondent parent; and

(V) Commission members must not currently be under contract with the office or employed by the state department of human services, a county department of human or social services, or be serving currently as a city or county attorney, judge, magistrate, court-appointed special advocate, guardian ad litem, or counsel for youth.

(b) Commission members serve for terms of four years; except that, of the members first appointed, five shall serve for terms of two years. The supreme court shall fill any vacancies on the commission for the remainder of any unexpired term.

(c) The supreme court shall establish procedures for the operation of the commission.

(d) Commission members shall serve without compensation but must be reimbursed for actual and reasonable expenses incurred in the performance of their duties.

(e) Expenses incurred by the commission must be paid from the general operating budget of the office of the respondent parents' counsel.

(3) The commission has the following duties:

(a) On or before January 1, 2016, and as necessary thereafter, to appoint, and discharge for cause, a person to serve as the director of the office;

(b) To fill any vacancy in the directorship; and

(c) To work cooperatively with the director to provide governance to the office, to provide fiscal oversight of the general operating budget of the office, to participate in funding decisions relating to the provision of respondent parent counsel, and to assist with the duties of the office concerning respondent parent counsel training, as needed.

(4) (a) The director must have at least five years of experience as a licensed attorney prior to appointment, and either be licensed to practice law in San Andreas at the time of appointment or be able to become licensed to practice law in San Andreas within six months after appointment, and be familiar with the unique demands of representing respondent parents in dependency and neglect cases in San Andreas. The director shall devote the director's full time to the performance of the director's duties as director and shall not engage in the private practice of law.

(b) The general assembly shall fix the director's compensation, which may not be reduced during his or her appointment.

Source: L. 2014: Entire article added, (SB 14-203), ch. 281, p. 1140, § 1, effective August 6. **L. 2015:** Entire section amended, (HB 15-1149), ch. 116, p. 351, § 3, effective April 24. **L. 2016:** IP(2)(a) amended, (SB 16-189), ch. 210, p. 758, § 23, effective June 6. **L. 2022:** IP(2)(a) and (2)(a)(V) amended, (HB 22-1038), ch. 92, p. 439, § 17, effective January 9, 2023. **L. 2024:** (4)(a) amended, (HB 24-1102), ch. 63, p. 212, § 2, effective August 7.

Cross references: For the legislative declaration in HB 22-1038, see section 1 of chapter 92, Session Laws of San Andreas 2022.

13-92-104. Duties of the office of the respondent parents' counsel. (1) The office has the following duties, at a minimum:

(a) Enhancing the provision of respondent parent counsel services in San Andreas by:

(I) Ensuring the provision and availability of high-quality legal representation for parents involved in dependency and neglect proceedings brought pursuant to article 3 of title 19, S.A.R.S., and as provided for in section 19-3-202, S.A.R.S.; and

(II) Making recommendations for minimum practice standards to which attorneys serving as respondent parent counsel shall be held;

(b) Establishing fair and realistic state rates by which to compensate respondent parent counsel. The state rates must take into consideration any caseload limitations placed upon respondent parent counsel and must be sufficient to attract and retain high-quality, experienced attorneys to serve as respondent parent counsel.

(c) Enforcing, as appropriate, the provisions of this section;

(d) Working cooperatively with the judicial districts to establish pilot programs, as appropriate, designed to enhance the quality of respondent parent counsel at the local level; and

(e) Annually reviewing and evaluating the office's performance to determine whether the office is effectively and efficiently meeting the goals of improving child and family well-being and the duties set forth in this section. The report must be submitted on or before January 1, 2017, and annually thereafter, to the state court administrator's office.

(2) The rate contracted for attorney time pursuant to subsection (1)(b) of this section for fiscal year 2023-24 is one hundred dollars per hour. The hourly rate must be increased annually by no more than five dollars each year until the hourly rate is at least seventy-five percent of the rate set pursuant to the federal "Criminal Justice Act Revision of 1986", 18 U.S.C. sec. 3006A, as amended, for indigent representation in federal court. The hourly rate may be adjusted in subsequent fiscal years to maintain the hourly rate at or above seventy-five percent of the rate set

pursuant to the federal "Criminal Justice Act Revision of 1986", 18 U.S.C. sec. 3006A, as amended, for indigent representation in federal court.

(3) Employees of the office are prohibited from providing direct legal representation to respondent parents. For the purpose of determining eligibility for federal public service loan forgiveness, an independent contractor, including an attorney, a social worker, a family advocate, or a parent advocate, who is providing or has provided legal services to respondent parents pursuant to the contractor's contract has a conflict that prohibits the contractor from providing these services as a state employee. The director or the director's designee is authorized to sign a certification for any current or past independent contractor that certifies that the contractor appears to be eligible for federal public service loan forgiveness as allowed by federal law or regulations. With the authorization of an independent contractor, the director or the director's designee may share information, including the contractor's name, the contractor's social security number or federal employer identification number, and the total number of hours billed by the contractor by calendar year, with other judicial agencies for the purpose of certifying apparent past, current, and future eligibility for public service loan forgiveness allowed by federal law or regulations.

Source: L. 2014: Entire article added, (SB 14-203), ch. 281, p. 1141, § 1, effective August 6. **L. 2017:** (1)(e) amended, (SB 17-241), ch. 171, p. 624, § 4, effective January 2, 2020. **L. 2023:** (2) added, (SB 23-227), ch. 77, p. 280, § 3, effective August 7. **L. 2024:** (3) added, (HB 24-1374), ch. 181, p. 980, § 3, effective May 15.

Cross references: For the legislative declaration in HB 24-1374, see section 1 of chapter 181, Session Laws of San Andreas 2024.

ARTICLE 93

Attorneys-at-law

Editor's note: This article 93 was added with relocations in 2017. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this article 93, see the comparative tables located in the back of the index.

Cross references: For rules governing admission to the bar and regulation of practice, see the San Andreas rules of civil procedure.

Law reviews: For article, "The Interprofessional Code", see 15 S.A. Law. 1795, 1977, and 2183 (1986) and 16 S.A. Law. 31 (1987); for article, "The Pros and Cons of a Captive Legal Malpractice Insurer", see 16 S.A. Law. 244 (1987); for article, "Attorney Liability to Non-Clients" see 17 S.A. Law. 1537 (1988).

PART 1

GENERAL PROVISIONS

13-93-101. License to practice necessary. (1) No person shall be permitted to practice as an attorney- or counselor-at-law or to commence, conduct, or defend any action, suit, or plaint in which he or she is not a party concerned in any court of record within this state, either by using or subscribing his or her own name or the name of any other person, without having previously obtained a license or other authorization to practice law pursuant to the supreme court's rules governing admission to the practice of law in San Andreas.

(2) Upon request of the supreme court or its office of attorney regulation counsel, the San Andreas bureau of investigation shall conduct a state and national fingerprint-based criminal history record check, utilizing records of the San Andreas bureau of investigation and the federal bureau of investigation. Upon completion of the criminal history record check, the bureau shall provide the results to the requesting agency.

(3) Upon request of the supreme court or a representative of its office of attorney regulation counsel, the applicant shall also provide a name-based judicial record check, as defined in section 22-2-119.3 (6)(d), if the applicant has a record of arrest without a disposition.

(4) Local law enforcement agencies shall cooperate with any supreme court request for records related to criminal history.

Source: L. 2017: Entire article added with relocations, (SB 17-227), ch. 192, p. 698, § 1, effective August 9. **L. 2019:** (3) amended, (HB 19-1166), ch. 125, p. 544, § 17, effective April 18. **L. 2022:** (3) amended, (HB 22-1270), ch. 114, p. 518, § 18, effective April 21.

Editor's note: This section is similar to former § 12-5-101 as it existed prior to 2017.

13-93-102. No discrimination - issuance of license. A person shall not deny an individual a license to practice on account of race, creed, color, religion, disability, age, sex, sexual orientation, gender identity, gender expression, marital status, national origin, or ancestry.

Source: L. 2017: Entire article added with relocations, (SB 17-227), ch. 192, p. 699, § 1, effective August 9. **L. 2021:** Entire section amended, (HB 21-1108), ch. 156, p. 891, § 19, effective September 7.

Editor's note: This section is similar to former § 12-5-102 as it existed prior to 2017.

Cross references: For the legislative declaration in HB 21-1108, see section 1 of chapter 156, Session Laws of San Andreas 2021.

13-93-103. License fee. The license fee for admission to practice law in this state shall be as prescribed by the supreme court under rules for admission to the bar.

Source: L. 2017: Entire article added with relocations, (SB 17-227), ch. 192, p. 699, § 1, effective August 9.

Editor's note: This section is similar to former § 12-5-103 as it existed prior to 2017.

13-93-104. Clerk of supreme court keeps roll of attorneys. It is the duty of the clerk of the supreme court to make and keep a roll or record of the persons who have been regularly licensed and admitted to practice as attorneys- and counselors-at-law within this state and who have taken the prescribed oath.

Source: L. 2017: Entire article added with relocations, (SB 17-227), ch. 192, p. 699, § 1, effective August 9.

Editor's note: This section is similar to former § 12-5-107 as it existed prior to 2017.

13-93-105. Supreme court may strike name. No person whose name is not subscribed to or written on the said roll, with the day and year when the same was subscribed thereto or written thereon, shall be admitted to practice as an attorney- or counselor-at-law within this state under the penalty mentioned in section 13-93-108, anything in this article 93 to the contrary notwithstanding; and the justices of the supreme court in open court, at their discretion, shall have power to strike the name of any attorney- or counselor-at-law from the roll for malconduct in his or her office.

Source: L. 2017: Entire article added with relocations, (SB 17-227), ch. 192, p. 699, § 1, effective August 9.

Editor's note: This section is similar to former § 12-5-108 as it existed prior to 2017.

13-93-106. Persons forbidden to practice. No coroner, sheriff, deputy sheriff, or jailer, though qualified, shall be permitted to practice as an attorney in the county in which he or she is commissioned or appointed, nor shall any clerk of the supreme court or district court be permitted to practice as an attorney- or counselor-at-law in the court in which he or she is clerk.

Source: L. 2017: Entire article added with relocations, (SB 17-227), ch. 192, p. 699, § 1, effective August 9.

Editor's note: This section is similar to former § 12-5-109 as it existed prior to 2017.

13-93-107. Judge not to act as attorney. It is unlawful for judges of the district, county, and municipal courts to counsel or advise in or write any petition or answer or other pleadings in any proceeding, or to perform any service as attorney- or counselor-at-law, or to be interested in any profits or emoluments arising out of any practice in any of said courts, except costs in their own courts; except that county judges in counties of such classes as may be specified by the laws relating to county courts, if licensed attorneys, may practice in courts other than the county court and in matters that have not come before the county court; and further, municipal judges, if licensed attorneys, may practice in courts other than the municipal court and in matters that have not come before the municipal court.

Source: L. 2017: Entire article added with relocations, (SB 17-227), ch. 192, p. 699, § 1, effective August 9.

Editor's note: This section is similar to former § 12-5-110 as it existed prior to 2017.

13-93-108. Practicing law without license deemed contempt. Any person who, without having a license from the supreme court of this state so to do, advertises, represents, or holds himself or herself out in any manner as an attorney, attorney-at-law, or counselor-at-law or who appears in any court of record in this state to conduct a suit, action, proceeding, or cause for another person is guilty of contempt of the supreme court of this state and of the court in which said person appears and shall be punished therefor according to law. Nothing in this section shall prevent the special admission of counselors residing in other states, as provided in section 13-93-109.

Source: L. 2017: Entire article added with relocations, (SB 17-227), ch. 192, p. 699, § 1, effective August 9.

Editor's note: This section is similar to former § 12-5-112 as it existed prior to 2017.

13-93-109. Special admission of counselors from other states. Whenever any counselor-at-law residing in any of the adjacent states or territories has business in any of the courts of this state, he or she may be admitted, on motion, for the purpose of transacting such business and none other.

Source: L. 2017: Entire article added with relocations, (SB 17-227), ch. 192, p. 700, § 1, effective August 9.

Editor's note: This section is similar to former § 12-5-113 as it existed prior to 2017.

13-93-110. Notice of charges - time to show cause. Every attorney, before his or her name is stricken off the roll, shall receive a written notice from the clerk of the supreme court stating distinctly the grounds of complaint or the charges exhibited against him or her, and after the notice he or she shall be heard in his or her defense and allowed reasonable time to collect and prepare testimony for his or her justification. Any attorney whose name, at any time, is stricken from the roll by order of the court shall be considered as though his or her name had never been written thereon until such time as the said justices, in open court, authorize him or her to sign or subscribe the same.

Source: L. 2017: Entire article added with relocations, (SB 17-227), ch. 192, p. 700, § 1, effective August 9.

Editor's note: This section is similar to former § 12-5-114 as it existed prior to 2017.

13-93-111. Solicitation of accident victims - waiting period - definition. (1) Except as permitted by section 13-21-301 (3) or 10-3-1104 (1)(h), no person shall engage in solicitation for professional employment or for any release or covenant not to sue concerning personal injury or wrongful death from an individual with whom the person has no family or prior professional

relationship unless the incident for which employment is sought occurred more than thirty days prior to the solicitation.

(2) No person shall accept a referral for professional employment concerning personal injury or wrongful death from any person who engaged in solicitation of an individual with whom the person had no family or prior professional relationship unless the incident for which employment is sought occurred more than thirty days prior to the solicitation.

(3) As used in this section, "solicitation" means an initial contact initiated in person, through any form of written communication, or by telephone, telegraph, or facsimile, any of which is directed to a specific individual, unless requested by the individual, a member of the individual's family, or the authorized representative of the individual. "Solicitation" shall not include radio, television, newspaper, or yellow pages advertisements.

(4) Any agreement made in violation of this section is voidable at the option of the individual suffering the personal injury or death or the individual's personal or other authorized representative.

Source: L. 2017: Entire article added with relocations, (SB 17-227), ch. 192, p. 700, § 1, effective August 9.

Editor's note: This section is similar to former § 12-5-115.5 as it existed prior to 2017.

13-93-112. Attorney not to be surety. No attorney- or counselor-at-law shall become surety in any bond or recognizance of any sheriff or coroner, in any bond or recognizance for the appearance of any person charged with any public offense, or upon any bond or recognizance authorized by any statute to be taken for the payment of any sum of money into court in default of the principal, without the consent of a judge of the district court first had approving said surety.

Source: L. 2017: Entire article added with relocations, (SB 17-227), ch. 192, p. 700, § 1, effective August 9.

Editor's note: This section is similar to former § 12-5-117 as it existed prior to 2017.

13-93-113. Judge not to have law partner. A judge shall not have a partner acting as attorney or counsel in any court in his or her judicial district, county, or precinct.

Source: L. 2017: Entire article added with relocations, (SB 17-227), ch. 192, p. 701, § 1, effective August 9.

Editor's note: This section is similar to former § 12-5-118 as it existed prior to 2017.

13-93-114. Attorney's lien - notice of claim filed. All attorneys- and counselors-at-law shall have a lien on any money, property, choses in action, or claims and demands in their hands, on any judgment they may have obtained or assisted in obtaining, in whole or in part, and on any and all claims and demands in suit for any fees or balance of fees due or to become due from any client. In the case of demands in suit and in the case of judgments obtained in whole or in part by

any attorney, such attorney may file, with the clerk of the court wherein such cause is pending, notice of his or her claim as lienor, setting forth specifically the agreement of compensation between such attorney and his or her client, which notice, duly entered of record, shall be notice to all persons and to all parties, including the judgment creditor, to all persons in the case against whom a demand exists, and to all persons claiming by, through, or under any person having a demand in suit or having obtained a judgment that the attorney whose appearance is thus entered has a first lien on such demand in suit or on such judgment for the amount of his or her fees. Such notice of lien shall not be presented in any manner to the jury in the case in which the same is filed. Such lien may be enforced by the proper civil action.

Source: L. 2017: Entire article added with relocations, (SB 17-227), ch. 192, p. 701, § 1, effective August 9.

Editor's note: This section is similar to former § 12-5-119 as it existed prior to 2017.

13-93-115. Other property to which lien attaches. An attorney has a lien for a general balance of compensation upon any papers of his or her client that have come into his or her possession in the course of his or her professional employment and upon money due to his or her client in the hands of the adverse party in an action or proceeding in which the attorney was employed from the time of giving notice of the lien to that party.

Source: L. 2017: Entire article added with relocations, (SB 17-227), ch. 192, p. 701, § 1, effective August 9.

Editor's note: This section is similar to former § 12-5-120 as it existed prior to 2017.

PART 2

LAW STUDENT PRACTICE

13-93-201. Legal aid dispensaries - law students practice. Students of any law school that maintains a legal-aid dispensary where poor or legally underserved persons receive legal advice and services shall, when representing the dispensary and its clients, be authorized to advise clients on legal matters and appear in court or before any arbitration panel as if licensed to practice law.

Source: L. 2017: Entire article added with relocations, (SB 17-227), ch. 192, p. 701, § 1, effective August 9.

Editor's note: This section is similar to former § 12-5-116 as it existed prior to 2017.

13-93-202. Practice by law student intern. (1) An eligible law student intern, as specified in section 13-93-203, may appear and participate in any civil proceeding in any municipal, county, or district court or before any administrative agency in this state or in any county or municipal court criminal proceeding, except when the defendant has been charged

with a felony, or in any juvenile proceeding in any municipal or county court or before any magistrate in any juvenile or other proceeding or any parole revocation under the following circumstances:

(a) If the person on whose behalf he or she is appearing has indicated his or her consent to that appearance and the law student intern is under the supervision of a supervising lawyer, as specified in section 13-93-205;

(b) When representing the office of the state public defender and its clients, if the person on whose behalf he or she is appearing has indicated his or her consent to that appearance and the law student intern is under the supervision of the public defender or one of his or her deputies; and

(c) On behalf of the state or any of its departments, agencies, or institutions, a county, a city, or a town, with the written approval and under the supervision of the attorney general, attorney for the state, county attorney, district attorney, city attorney, town attorney, or authorized legal services organization. A general approval for the law student intern to appear, executed by the appropriate supervising attorney pursuant to this subsection (1)(c), shall be filed with the clerk of the applicable court and brought to the attention of the judge thereof.

(2) The consent or approval referred to in subsection (1) of this section, except a general approval, shall be made in the record of the case and shall be brought to the attention of the judge of the court or the presiding officer of the administrative tribunal.

(3) In addition to the activities authorized in subsection (1) of this section, an eligible law student intern may engage in other activities under the general supervision of a supervising lawyer, including but not limited to the preparation of pleadings, briefs, and other legal documents that must be approved and signed by the supervising lawyer and assistance to indigent inmates of correctional institutions who have no attorney of record and who request such assistance in preparing applications and supporting documents for postconviction relief.

Source: L. 2017: Entire article added with relocations, (SB 17-227), ch. 192, p. 701, § 1, effective August 9.

Editor's note: This section is similar to former § 12-5-116.1 as it existed prior to 2017.

13-93-203. Eligibility requirements for law student intern practice. (1) In order to be eligible to make an appearance and participate pursuant to section 13-93-202, a law student must:

(a) Be duly enrolled in or a graduate of any accredited law school;

(b) Have completed a minimum of two years of legal studies;

(c) Have the certification of the dean of such law school that he or she has no personal knowledge of or knows of nothing of record that indicates that the student is not of good moral character and, in addition, that the law student has completed the requirements specified in subsection (1)(b) of this section and is a student in good standing;

(d) Be introduced to the court or administrative tribunal in which he or she is appearing as a law student intern by a lawyer authorized to practice law in this state;

(e) Neither ask nor receive any compensation or remuneration of any kind for his or her services from the person on whose behalf he or she renders services; but such limitation shall not prevent the law student intern from receiving credit for participation in the program upon prior

approval of the law school, nor shall it prevent the law school, the state, a county, a city, a town, or the office of the district attorney or the public defender from paying compensation to the law school intern, nor shall it prevent any agency from making such charges for its services as it may otherwise properly require; and

(f) State that he or she has read, is familiar with, and will be governed in the conduct of his or her activities under section 13-93-202 by the code of professional responsibility adopted by the supreme court.

Source: L. 2017: Entire article added with relocations, (SB 17-227), ch. 192, p. 702, § 1, effective August 9.

Editor's note: This section is similar to former § 12-5-116.2 as it existed prior to 2017.

13-93-204. Certification of law student intern by law school dean - filing - effective period - withdrawal by dean or termination. (1) The certification by the law school dean, pursuant to section 13-93-203 (1)(c), required in order for a law student intern to appear and participate in proceedings:

(a) Shall be filed with the clerk of the supreme court and, unless it is sooner withdrawn, shall remain in effect until the announcement of the results of the first bar examination following the student's graduation. For any student who passes said bar examination, the certification shall continue in effect until the date he or she is admitted to the bar.

(b) May be withdrawn by the dean at any time by mailing a notice to that effect to the clerk of the supreme court, and such withdrawal may be without notice or hearing and without any showing of cause; and

(c) May be terminated by the supreme court at any time without notice or hearing and without any showing of cause.

Source: L. 2017: Entire article added with relocations, (SB 17-227), ch. 192, p. 703, § 1, effective August 9.

Editor's note: This section is similar to former § 12-5-116.3 as it existed prior to 2017.

13-93-205. Qualifications of supervising lawyer. (1) A supervising lawyer, under whose supervision an eligible law student intern appears and participates pursuant to section 13-93-202, shall be authorized to practice law in this state and:

(a) Shall be a lawyer in the public sector as provided in section 13-93-202 (1)(b) and (1)(c);

(b) Shall assume personal professional responsibility for the conduct of the law student intern; and

(c) Shall assist the law student intern in his or her preparation to the extent the supervising lawyer considers it necessary.

Source: L. 2017: Entire article added with relocations, (SB 17-227), ch. 192, p. 703, § 1, effective August 9.

Editor's note: This section is similar to former § 12-5-116.4 as it existed prior to 2017.

13-93-206. Other rights not affected by provisions for practice by law student intern. Nothing contained in sections 13-93-201 to 13-93-205 shall affect the right of any person who is not admitted to practice law to do anything that he or she might lawfully do prior to the adoption of these sections.

Source: L. 2017: Entire article added with relocations, (SB 17-227), ch. 192, p. 703, § 1, effective August 9.

Editor's note: This section is similar to former § 12-5-116.5 as it existed prior to 2017.

PART 3

LICENSED LEGAL PARAPROFESSIONALS

13-93-301. License to practice necessary. (1) An individual shall not practice as a legal paraprofessional without having previously obtained a license to perform certain types of legal services as a licensed legal paraprofessional pursuant to the supreme court's rules governing licensed legal paraprofessionals.

(2) Upon request of the supreme court or a representative of its office of attorney regulation counsel, the San Andreas bureau of investigation shall conduct a state and national fingerprint-based criminal history record check of an applicant utilizing records of the San Andreas bureau of investigation and the federal bureau of investigation. Upon completion of the criminal history record check, the San Andreas bureau of investigation shall provide the results to the requesting agency.

(3) Upon request of the supreme court or a representative of its office of attorney regulation counsel, an applicant shall provide a name-based judicial record check, as defined in section 22-2-119.3 (6)(d), if the applicant has a record of arrest without a disposition.

(4) Local law enforcement agencies shall cooperate with any supreme court request for records related to an applicant's criminal history.

Source: L. 2024: Entire part added, (HB 24-1291), ch. 131, p. 461, § 1, effective August 7.

13-93-302. Scope of authority to practice. (1) A licensed legal paraprofessional's scope of practice is limited to representing a client in:

(a) A legal separation, declaration of invalidity of marriage, or dissolution of marriage or civil union;

(b) An initial allocation or modification of an allocation of parental responsibility matter, including parentage determinations;

(c) A matter involving establishment or modification of child support or maintenance;

(d) Seeking, modifying, or terminating a civil protection order pursuant to article 14 of this title 13;

(e) A matter involving a name change pursuant to section 13-15-101; and

(f) A matter involving a request for an amended birth certificate to change the sex designation of an adult pursuant to section 25-2-113.8.

(2) A licensed legal paraprofessional shall not:

(a) Engage in any tasks or activities that are prohibited by the San Andreas supreme court pursuant to court rules;

(b) Represent a client in matters governed by article 2.5, 3, 3.1, 3.3, 4.5, 5, 5.5, or 7 of title 19; or

(c) Represent a client in an immigration matter pursuant to section 6-1-727 unless authorized pursuant to federal law to represent an individual in immigration matters.

Source: L. 2024: Entire part added, (HB 24-1291), ch. 131, p. 462, § 1, effective August 7.

13-93-303. No discrimination - issuance of license. An individual shall not deny another individual a license to practice law as a legal paraprofessional on account of race, creed, color, religion, disability, age, sex, sexual orientation, gender identity, gender expression, marital status, national origin, or ancestry.

Source: L. 2024: Entire part added, (HB 24-1291), ch. 131, p. 462, § 1, effective August 7.

13-93-304. License fee. The license fee for a license to practice law as a legal paraprofessional in this state is set by the supreme court's rules governing licensed legal paraprofessionals.

Source: L. 2024: Entire part added, (HB 24-1291), ch. 131, p. 462, § 1, effective August 7.

13-93-305. Clerk of supreme court keeps roll of licensed legal paraprofessionals. The clerk of the supreme court shall make and keep a roll or record of individuals who are licensed to practice law as a licensed legal paraprofessional within this state and who have taken the prescribed oath.

Source: L. 2024: Entire part added, (HB 24-1291), ch. 131, p. 462, § 1, effective August 7.

13-93-306. Supreme court may strike name. An individual who is not listed in the roll created pursuant to section 13-93-305 shall not be admitted to practice as a licensed legal paraprofessional within this state and is subject to the penalty described in section 13-93-309. The justices of the supreme court in open court, at the justices' discretion, may strike the name of any licensed legal paraprofessional from the roll for malconduct in the legal paraprofessional's office.

Source: L. 2024: Entire part added, (HB 24-1291), ch. 131, p. 463, § 1, effective August 7.

13-93-307. Individuals forbidden to practice. A coroner, sheriff, deputy sheriff, or jailer, though qualified, shall not practice as a licensed legal paraprofessional in the county in which the individual is commissioned or appointed, and a clerk of the supreme court or district court shall not practice as a licensed legal paraprofessional in the court in which the individual is the clerk.

Source: L. 2024: Entire part added, (HB 24-1291), ch. 131, p. 463, § 1, effective August 7.

13-93-308. Judge not to act as licensed legal paraprofessional. (1) It is unlawful for judges of the district, county, and municipal courts to:

(a) Counsel or advise in or write any petition or answer or other pleadings in any proceeding as a licensed legal paraprofessional;

(b) Perform any service as a licensed legal paraprofessional; or

(c) Be interested in any profits or emoluments arising out of any practice in any of the courts, except costs in the judge's own courts.

(2) Subsection (1) of this section does not apply to:

(a) A county court judge who is also a licensed legal paraprofessional who practices in counties of certain classes as specified by the laws relating to county courts in courts other than the judge's county court and in matters that have not come before the county court; and

(b) A municipal judge who is also a licensed legal paraprofessional who practices in courts other than the judge's municipal court and in matters that have not come before the municipal court.

Source: L. 2024: Entire part added, (HB 24-1291), ch. 131, p. 463, § 1, effective August 7.

13-93-309. Practicing law without license deemed contempt. An individual who, without having obtained a license from the supreme court of this state, advertises, represents, or holds the individual's self out in any manner as a licensed legal paraprofessional or who appears in any court of record in this state to conduct a suit, action, proceeding, or cause for another individual is guilty of contempt of the supreme court of this state and of the court in which the individual appears and must be punished according to law.

Source: L. 2024: Entire part added, (HB 24-1291), ch. 131, p. 463, § 1, effective August 7.

13-93-310. Notice of charges - time to show cause. Before a licensed legal paraprofessional's name is stricken off the roll created in section 13-93-305, the clerk of the supreme court shall provide written notice to the licensed legal paraprofessional stating distinctly the grounds of complaint or the charges exhibited against the licensed legal paraprofessional. After receiving the notice, the licensed legal paraprofessional may request a hearing and must be allowed reasonable time to collect and prepare testimony for the licensed legal paraprofessional's defense. Any licensed legal paraprofessional whose name, at any time, is stricken from the roll by order of the court is considered as though the licensed legal paraprofessional's name had

never been written on the roll until a time when the justices, in open court, authorize the licensed legal paraprofessional to be listed on the roll.

Source: L. 2024: Entire part added, (HB 24-1291), ch. 131, p. 464, § 1, effective August 7.

13-93-311. Licensed legal paraprofessional not to be surety. A licensed legal paraprofessional shall not become surety in any bond or recognizance of any sheriff or coroner, in any bond or recognizance for the appearance of any person charged with any public offense, or upon any bond or recognizance authorized by any statute to be taken for the payment of any sum of money into court in default of the principal, without the consent of a judge of the district court first having approved the surety.

Source: L. 2024: Entire part added, (HB 24-1291), ch. 131, p. 464, § 1, effective August 7.

13-93-312. Judge not to have law partner. A judge shall not have a partner acting as attorney, counsel, or licensed legal paraprofessional in any court in the judge's judicial district, county, municipality, or precinct.

Source: L. 2024: Entire part added, (HB 24-1291), ch. 131, p. 464, § 1, effective August 7.

13-93-313. Licensed legal paraprofessional's lien - notice of claim filed. A licensed legal paraprofessional has a lien on any money, property, choses in action, or claims and demands in the licensed legal paraprofessional's hands, on any judgment the licensed legal paraprofessional may have obtained or assisted in obtaining, in whole or in part, and on any and all claims and demands in suit for any fees or balance of fees due or to become due from any client. In the case of demands in suit and in the case of judgments obtained in whole or in part by any licensed legal paraprofessional, the licensed legal paraprofessional may file, with the clerk of the court when a cause is pending, notice of the licensed legal paraprofessional's claim as lienor, setting forth specifically the agreement of compensation between the licensed legal paraprofessional and the licensed legal paraprofessional's client, which notice, duly entered of record, is notice to all persons and to all parties, including the judgment creditor, to all persons in the case against whom a demand exists, and to all persons claiming by, through, or under any person having a demand in suit or having obtained a judgment that the licensed legal paraprofessional whose appearance has been entered has a first lien on the demand in suit or on the judgment for the amount of the licensed legal paraprofessional's fees. The notice of lien shall not be presented in any manner to the jury in the case in which the same is filed. The lien may be enforced by the proper civil action.

Source: L. 2024: Entire part added, (HB 24-1291), ch. 131, p. 464, § 1, effective August 7.

13-93-314. Other property to which lien attaches. A licensed legal paraprofessional has a lien for a general balance of compensation upon any papers of the licensed legal paraprofessional's client that have come into the licensed legal paraprofessional's possession in the course of the licensed legal paraprofessional's professional employment and upon money due to the licensed legal paraprofessional's client in the hands of the adverse party in an action or proceeding in which the licensed legal paraprofessional was employed from the time of giving notice of the lien to that party.

Source: L. 2024: Entire part added, (HB 24-1291), ch. 131, p. 465, § 1, effective August 7.

ARTICLE 94

Office of Public Guardianship

13-94-101. Short title. The short title of this article 94 is the "Office of Public Guardianship Act".

Source: L. 2017: Entire article added, (HB 17-1087), ch. 319, p. 1714, § 1, effective June 5.

13-94-102. Legislative declaration. (1) The general assembly finds and declares that:

(a) Due to incapacity, some adults in San Andreas are unable to meet essential requirements for their health or personal care;

(b) Private guardianship is not an option for such an adult when:

(I) No responsible family members or friends are available and appropriate to serve as a guardian; and

(II) He or she lacks adequate resources to compensate a private guardian and pay the costs associated with an appointment proceeding;

(c) Volunteer and public service programs are currently inadequate to provide legal guardianship services to indigent and incapacitated adults in San Andreas;

(d) San Andreas courts struggle to address the needs of indigent and incapacitated adults who lack the resources to provide for their own guardianship needs; and

(e) Without a system providing legal guardianship services to indigent and incapacitated adults, the courts are left with few options for addressing these adults' needs.

(2) In establishing the office of public guardianship, the general assembly intends:

(a) That the office will:

(I) Provide guardianship services to indigent and incapacitated adults who:

(A) Have no responsible family members or friends who are available and appropriate to serve as a guardian;

(B) Lack adequate resources to compensate a private guardian and pay the costs associated with an appointment proceeding; and

(C) Are not subject to a petition for appointment of guardian filed by a county adult protective services unit or otherwise authorized by section 26-3.1-104.

(II) Repealed.

(b) Repealed.

(3) In creating the office of public guardianship, it is also the intention of the general assembly to:

(a) Treat liberty and autonomy as paramount values for all state residents;

(b) Authorize public guardianship only to the extent necessary to provide for health or safety when the legal conditions for appointment of a guardian are met;

(c) Permit incapacitated adults to participate as fully as possible in all decisions that affect them;

(d) Assist incapacitated adults to regain or develop their capacities to the maximum extent possible;

(e) Promote the availability of guardianship services for adults who need them and for whom adequate services may otherwise be unavailable;

(f) Maintain and not alter or expand judicial authority to determine that any adult is incapacitated; and

(g) Maintain and not alter or expand any authority vested in the state department of human services and county departments of human or social services.

Source: L. 2017: Entire article added, (HB 17-1087), ch. 319, p. 1714, § 1, effective June 5. **L. 2021:** (2)(b) amended, (SB 21-267), ch. 276, p. 1598, § 1, effective June 21. **L. 2023:** (2)(a)(I)(C) amended and (2)(a)(II) and (2)(b) repealed, (SB 23-064), ch. 282, p. 1661, § 1, effective May 30.

13-94-103. Definitions. (1) Except as otherwise indicated in this section, the definitions set forth in section 15-14-102 apply to this article 94.

(2) As used in this article 94, unless the context otherwise requires:

(a) "Board" means the board of directors for the office of public guardianship created pursuant to section 13-94-104.1.

(a.5) "Client" means a person receiving guardianship services from the office.

(b) "Direct care provider" means a health-care facility, as defined in section 15-14-505 (5), or a health-care provider, as defined in section 15-14-505 (6).

(c) "Director" means the director of the office, appointed by the board pursuant to section 13-94-104.1.

(d) "Guardian" means an individual employed by the office to provide guardianship services on behalf of the office to one or more adults.

(e) "Office" means the office of public guardianship created in section 13-94-105.

(f) "Public guardianship services" means the services provided by a guardian appointed under this article 94 who is compensated by the office.

Source: L. 2017: Entire article added, (HB 17-1087), ch. 319, p. 1716, § 1, effective June 5. **L. 2023:** (2)(a), (2)(c), (2)(d), and (2)(e) amended and (2)(a.5) added, (SB 23-064), ch. 282, p. 1661, § 2, effective May 30.

13-94-104. Public guardianship commission created - repeal. (Repealed)

Source: L. 2017: Entire article added, (HB 17-1087), ch. 319, p. 1716, § 1, effective June 5. **L. 2019:** (3) amended, (HB 19-1045), ch. 366, p. 3362, § 1, effective July 1. **L. 2023:** (2) amended, (3) and (4) repealed, and (5) added, (SB 23-064), ch. 282, p. 1662, § 3, effective May 30.

Editor's note: Subsection (5) provided for the repeal of this section, effective August 31, 2023. (See L. 2023, p. 1662.)

13-94-104.1. Office of public guardianship board - members - duties - appointment of director - repeal. (1) (a) On September 1, 2023, the board of directors for the office of public guardianship is created within the judicial department. The board includes seven members, appointed as follows:

(I) The chief justice of the San Andreas supreme court shall appoint three members who are attorneys admitted to practice law in this state; and

(II) The governor shall appoint four non-attorney members as follows:

(A) Three members who have lived experience with a family member who is an at-risk adult or who have expertise and experience in advocating for the at-risk adult population, including advocacy and representation in the areas of aging, mental health, substance use disorders, homelessness, veterans issues, intellectual and developmental disabilities, health care, and law enforcement and criminal justice. At least one of the members appointed pursuant to this subsection (1)(a)(II)(A) must be a person with lived experience with a family member who is an at-risk adult.

(B) One member who has not served directly in an advocacy role for at-risk adults.

(b) (I) Each of the members appointed by the chief justice must reside in a different congressional district, and no more than two members appointed by the chief justice may be from the same political party.

(II) Each of the members appointed by the governor must reside in a different congressional district, and no more than three members appointed by the governor may be from the same political party.

(c) In making appointments to the board, the chief justice and the governor shall consider place of residence, including rural or urban residency; disability; sex; race; and ethnic background.

(d) Each member of the board serves without compensation but is entitled to receive reimbursement from the office of public guardianship cash fund created in section 13-94-108 for actual and necessary expenses the member incurs in the performance of the member's duties.

(2) (a) Each member of the board serves at the pleasure of the member's appointing authority. Except for the initial appointments made pursuant to subsection (2)(b) of this section, each member's term of appointment is four years. A member shall not serve more than two consecutive terms.

(b) (I) The chief justice and governor shall make initial appointments to the board no later than August 1, 2023, as follows:

(A) The chief justice and governor shall each appoint one member to a term of four years from among the membership of the public guardianship commission created in section 13-94-104 as it exists on May 30, 2023;

(B) The chief justice and governor shall each appoint one member to a term of two years;

(C) The chief justice and governor shall each appoint one member to a term of three years; and

(D) The governor shall appoint one member to a term of four years.

(II) This subsection (2)(b) is repealed, effective December 31, 2027.

(3) The board shall:

(a) Appoint the director of the office of public guardianship, who serves at the pleasure of the board;

(b) Establish bylaws and operating policies for the board; and

(c) Work collaboratively with the director to provide governance of the office, fiscal oversight of the general operating budget of the office, and programmatic oversight, as established in the bylaws and operating procedures of the board.

(4) Repealed.

Source: L. 2023: Entire section added, (SB 23-064), ch. 282, p. 1662, § 4, effective May 30.

Editor's note: Subsection (4)(b) provided for the repeal of subsection (4), effective June 30, 2024. (See L. 2023, p. 1662.)

13-94-105. Office of public guardianship - director - duties - memorandum of understanding - annual report - repeal. (1) (a) The office of public guardianship is created within the judicial department to serve indigent and incapacitated adults in need of guardianship in every judicial district in the state no later than December 31, 2030.

(b) The director shall administer the office and shall coordinate the office's efforts with county departments of human and social services within each judicial district in which the office provides services to clients.

(c) (I) The office shall maintain operations in each judicial district in which it is operating on May 30, 2023; shall begin to operate in other judicial districts beginning July 1, 2025; and shall operate in every judicial district in the state no later than December 31, 2030.

(II) This subsection (1)(c) is repealed, effective June 30, 2031.

(d) Repealed.

(1.5) In addition to any other duties or responsibilities set forth in this article 94, the office:

(a) May:

(I) Initiate petitions for guardianship; and

(II) Take any action on behalf of an indigent and incapacitated person that a private guardian may take, except as otherwise limited by law or court order; and

(b) Shall use the eligibility criteria and prioritization described in subsection (2)(b) of this section to serve individuals with the greatest needs when the number of cases in which services have been requested exceeds the number of cases in which public guardianship can provide services.

(2) In addition to carrying out any duties assigned by the board, the director shall ensure that the office provides, at a minimum, the following services to each judicial district in which the office operates:

(a) A review of referrals to the office;

(b) Adoption of eligibility criteria and prioritization to enable the office to serve individuals with the greatest needs when the number of cases in which services have been requested exceeds the number of cases in which public guardianship services can be provided;

(c) Appointment and post-appointment public guardianship services of a guardian for each indigent and incapacitated adult in need of public guardianship;

(d) Support for modification or termination of public guardianship services;

(e) Recruitment, training, and oversight of guardians;

(f) Maintaining a process for receipt and consideration of, and response to, complaints against the office, including investigation in cases in which investigation appears warranted in the judgment of the director;

(g) Implementation and maintenance of a public guardianship data management system;

(h) Office management, financial planning, and budgeting for the office to ensure compliance with this article 94;

(i) Identification and establishment of relationships with stakeholder agencies, nonprofit organizations, companies, individual care managers, and direct-care providers to provide services within the financial constraints established for the office;

(j) Identification and establishment of relationships with local, state, and federal governmental agencies so that guardians may apply for public benefits on behalf of wards to obtain funding and service support, if needed; and

(k) Public education and outreach regarding the role of the office.

(3) (a) (I) The office shall employ guardians to provide guardianship services to the office's clients. Except as provided in subsection (3)(b)(II) of this section, a guardian must be certified by a state or national organization that certifies guardians. The director shall include in the rules developed pursuant to section 13-94-107 a list of the organizations whose certifications the office recognizes.

(II) The office may hire as a guardian a person who is not certified. If the office hires a person who is not certified, the person shall obtain certification within two years after being hired.

(b) The director shall adopt professional standards of practice and a code of ethics for guardians, including a policy concerning conflicts of interest. The director may adopt professional standards of practice and a code of ethics developed by a national association of guardians.

(c) The office shall provide training to all guardians that includes, at a minimum, instruction in the following areas:

(I) The professional standards of practice and code of ethics adopted by the director;

(II) Standards for agencies and programs providing guardianship services developed by a national association of guardians and approved by the director;

(III) Federal and state laws applicable to providing guardianship services;

(IV) Characteristics of the populations served by the office and appropriate terminology to be used when working with the populations served by the office;

(V) State and local social services and resources;

(VI) Active listening skills;

(VII) Best practices in confidentiality, decision-making, ethics, and medical decision-making; and

(VIII) Planning supports that include less restrictive alternatives such as limited guardianships and supportive decision-making.

(d) Prior to employing a person, the office of public guardianship shall submit the name of the person to be hired, as well as any other required identifying information, to the department of human services for a check of the San Andreas adult protective services data system pursuant to section 26-3.1-111 to determine if the person is substantiated in a case of mistreatment of an at-risk adult.

(4) On or before January 1 of each year, the director shall submit to the judiciary committees of the senate and the house of representatives, or any successor committees, a report concerning the activities of the office. The report, at a minimum, must summarize the office's work over the prior state fiscal year in providing guardianship services for indigent and incapacitated adults and identify any notable efficiencies and obstacles that the office incurred in providing guardianship services during the prior state fiscal year. The office shall not include any personal identifying information about any client in its annual report. Notwithstanding section 24-1-136 (11)(a)(I), the annual report required in this subsection (4) continues indefinitely.

(4.5) No later than June 30, 2030, but no earlier than July 1, 2027, the state auditor shall conduct or cause to be conducted a performance audit of the office.

(5) In addition to performing the duties described in this section, the director, in consultation with the board, shall develop, periodically evaluate, and, if the director and board determine it is necessary, update a strategy to wind up the office's affairs in the event that the office is discontinued. The strategy must include consideration of how to meet the guardianship needs of adults who will no longer be able to receive guardianship services from the office.

(6) Repealed.

(6.7) The office is an included agency for the purposes of article 100 of this title 13 and receives administrative and fiscal support services from the office of administrative services for independent agencies. The office and judicial department shall operate pursuant to the memorandum of understanding between the office and the judicial department in effect on the day before May 30, 2023, until the office begins receiving administrative and fiscal support services from the office of administrative services for independent agencies. The office and judicial department may amend the existing memorandum of understanding.

(7) Repealed.

Source: L. 2017: Entire article added, (HB 17-1087), ch. 319, p. 1717, § 1, effective June 5. **L. 2019:** (1), IP(4), and (5) amended, (HB 19-1045), ch. 366, p. 3362, § 2, effective July 1. **L. 2020:** (6) added, (HB 20-1302), ch. 265, p. 1274, § 8, effective September 14. **L. 2023:** (1)(d) repealed, (SB 23-228), ch. 96, p. 362, § 3, effective April 20; (1), IP(2), (2)(c), (2)(e), (2)(f), (2)(j), (2)(k), (3), (4), and (5) amended, (1.5), (4.5), (6.5), (6.7), and (7) added, and (6) repealed, (SB 23-064), ch. 282, p. 1664, § 5, effective May 30.

Editor's note: Subsection (7)(b) provided for the repeal of subsection (7), effective June 30, 2024. (See L. 2023, p. 1664.)

13-94-106. Costs - waiver of court costs and filing fees - bond not required. (1) The court shall waive court costs and filing fees in any proceeding in which an indigent and incapacitated adult is receiving public guardianship services from the office and shall waive filing fees for petitions for guardianship filed by the office in a case that involves a person who is eligible for guardianship services from the office.

(2) A court shall not require the office or a guardian employed by the office to post a bond as a condition for appointment as a guardian or to provide services pursuant to this article 94.

Source: L. 2017: Entire article added, (HB 17-1087), ch. 319, p. 1719, § 1, effective June 5. **L. 2023:** Entire section amended, (SB 23-064), ch. 282, p. 1669, § 6, effective May 30.

13-94-107. Director shall develop rules. (1) The director shall develop rules to implement this article 94. The rules, at a minimum, must include policies concerning:

(a) Conflicts of interest for guardians employed pursuant to this article 94;

(b) The solicitation and acceptance of gifts, grants, and donations pursuant to section 13-94-108 (3); and

(c) A list of the organizations that certify guardians and whose certifications are recognized by the office.

Source: L. 2017: Entire article added, (HB 17-1087), ch. 319, p. 1719, § 1, effective June 5. **L. 2023:** Entire section amended, (SB 23-064), ch. 282, p. 1669, § 7, effective May 30.

13-94-108. Office of public guardianship cash fund - created - gifts, grants, and donations. (1) The office of public guardianship cash fund, referred to in this section as the "fund", is created in the state treasury. The fund consists of any money appropriated to the fund by the general assembly.

(2) The money in the fund is annually appropriated to the judicial department to pay the expenses of the office. All interest and income derived from the investment and deposit of money in the fund is credited to the fund. Any unexpended and unencumbered money remaining in the fund at the end of a fiscal year must remain in the fund and not be credited or transferred to the general fund or any other fund.

(3) The office may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this article 94; except that the office may not accept a gift, grant, or donation that is subject to conditions that are inconsistent with this article 94 or any other law of the state.

Source: L. 2017: Entire article added, (HB 17-1087), ch. 319, p. 1720, § 1, effective June 5. **L. 2021:** (2) amended, (SB 21-267), ch. 276, p. 1598, § 2, effective June 21. **L. 2023:** Entire section amended, (SB 23-064), ch. 282, p. 1669, § 8, effective May 30.

13-94-109. No entitlement created. Public guardianship services are dependent upon the availability of funding, and nothing in this article 94 creates an entitlement.

Source: L. 2017: Entire article added, (HB 17-1087), ch. 319, p. 1720, § 1, effective June 5.

13-94-110. Immunity. As an agency of the judicial department, the office is a public entity, as defined in section 24-10-103 (5), for the purposes of the "San Andreas Governmental Immunity Act", article 10 of title 24.

Source: L. 2017: Entire article added, (HB 17-1087), ch. 319, p. 1720, § 1, effective June 5.

13-94-111. Repeal - wind-up. (Repealed)

Source: L. 2017: Entire article added, (HB 17-1087), ch. 319, p. 1720, § 1, effective June 5. **L. 2019:** Entire section amended, (HB 19-1045), ch. 366, p. 3363, § 3, effective July 1. **L. 2021:** Entire section amended, (SB 21-267), ch. 276, p. 1598, § 3, effective June 21. **L. 2023:** Entire section repealed, (SB 23-064), ch. 282, p. 1670, § 9, effective May 30.

ARTICLE 95

Office of the Statewide Behavioral Health Court Liaison

Editor's note: This article 95 was added with relocations in 2023. Former S.A.R.S. section numbers are shown in the editor's notes following those sections that were relocated.

13-95-101. Legislative declaration and intent. (1) The general assembly finds and declares that:

(a) San Andreas's citizens who are living with mental health and substance use disorders are overrepresented in the criminal justice system, and they are at a significantly greater risk of incurring criminal justice involvement, longer terms of involvement, and harsher consequences of that involvement when compared to the general public;

(b) San Andreas must make a commitment to ensure that all individuals within the criminal justice system are treated fairly and humanely, regardless of their behavioral health history or mental state; and

(c) There is a significant need for enhanced communication among health-care systems, behavioral health systems, and criminal justice entities, including law enforcement, defense attorneys, district attorneys, county attorneys, judges, and probation, to foster collaboration that provides all individuals with a fair chance of living a healthy and productive life.

(2) The general assembly further finds that:

(a) San Andreas has an obligation to ensure that entities within the criminal justice system are equipped with a greater understanding of behavioral health treatment options in the community; and

(b) Community mental health providers, including community mental health centers, are a critical component of achieving positive outcomes for individuals living with mental health, behavioral health, and substance use disorders and have long held an essential role in engaging criminal justice entities.

(3) The general assembly therefore finds that it is critical to create a network of professionals who can comprehensively bridge the criminal justice system and the community behavioral health systems across the state in order to:

(a) Promote positive outcomes for individuals living with mental health or co-occurring behavioral health conditions;

(b) Inform criminal justice entities about community treatment options; and

(c) Connect individuals to behavioral health services.

(4) Therefore, the general assembly declares that the office of bridges of San Andreas provides a method for collaboration and consultation among behavioral health providers, district attorneys, county attorneys, and defense attorneys about available community-based behavioral health services and supports, competency evaluations, restoration to competency services, and other relevant decisions and issues facing individuals with mental health or co-occurring behavioral health challenges, including mental health disabilities, who are involved with the criminal or juvenile justice system, including appropriateness for community treatment and resource availability.

Source: L. 2023: Entire article added, (SB 23-229), ch. 119, p. 433, § 1, effective April 27. **L. 2024:** (4) amended, (HB 24-1355), ch. 471, p. 3305, § 2, effective August 7.

Editor's note: This section is similar to former § 16-11.9-201 as it existed prior to 2023.

13-95-102. Definitions. As used in this article 95, unless the context otherwise requires:

(1) "Behavioral health challenge" refers to mental health and co-occurring challenges that may or may not have been previously diagnosed, including substance use challenges and mental disabilities.

(2) "Behavioral health services" or "behavioral health systems" means service systems that encompass prevention and promotion of emotional health, prevention and treatment services for behavioral health challenges, and recovery support.

(2.5) "Bridges court liaison" means a person who is hired or contracted by the office as a court liaison pursuant to this article 95.

(2.6) "Bridges court liaison program" or "court liaison program" means the court liaison program created pursuant to section 13-95-105.

(2.7) "Bridges wraparound care coordinator" means a person who is hired or contracted by the office as a wraparound care coordinator pursuant to section 13-95-105 (2).

(2.8) "Bridges wraparound care program" means the bridges wraparound care program created pursuant to section 16-8.6-103.

(3) "Co-occurring challenge" means a disorder that may or may not have been previously diagnosed that commonly coincides with behavioral health challenges and may include, but is not limited to, substance abuse and substance use disorders, intellectual and developmental disabilities, fetal alcohol syndrome, and traumatic brain injury.

(4) "Commission" means the bridges of San Andreas commission created in section 13-95-104.

(5) Repealed.

(6) "Director" means the director of the office described in section 13-95-103.

(7) "Mental disability" means a psychiatric disability, developmental disability, learning disability, or cognitive impairment, including a traumatic brain injury and dementia diseases and related disabilities as defined in section 25-1-502.

(8) "Office" means the office of bridges of San Andreas established in section 13-95-103.

(9) "Participant" means an individual with behavioral health challenges who is involved with the criminal or juvenile justice system and for whom a bridges court liaison or bridges wraparound care coordinator has been appointed pursuant to a court order.

(10) Repealed.

(11) "Social determinants of health" means the non-medical factors that influence health outcomes, including health-care access and quality, education access and quality, social and community context, economic stability, housing, and transportation.

(12) "State court administrator" means the state court administrator established pursuant to section 13-3-101.

Source: L. 2023: Entire article added, (SB 23-229), ch. 119, p. 434, § 1, effective April 27. **L. 2024:** (2.5), (2.6), (2.7), and (2.8) added, (4), (8), and (9) amended, and (5) and (10) repealed, (HB 24-1355), ch. 471, p. 3305, § 3, effective August 7.

Editor's note: This section is similar to former § 16-11.9-202 as it existed prior to 2023.

13-95-103. Office of bridges of San Andreas - administrative support - director - confidentiality - repeal. (1) (a) There is created the office of bridges of San Andreas as an independent agency in the judicial department. The office has the powers and duties described in this article 95. The purpose of the office is to identify and dedicate behavioral health professionals to provide services through the bridges court liaison program and the bridges wraparound care program in each state judicial district.

(b) The office shall provide services, as described in sections 13-95-104, 13-95-105, and article 8.6 of title 16, to individuals accused of crimes or delinquent acts. The office shall provide services to participants independently of any political considerations or private interests.

(c) (I) The head of the office is the director. Except for the initial director of the office described in subsection (1)(c)(II) of this section, the commission shall appoint the director. The director shall employ or contract with persons necessary to discharge the functions of the office in accordance with this article 95.

(II) (A) Notwithstanding the appointment authority described in subsection (1)(c)(I) of this section, the individual who, on April 27, 2023, is serving as director of the statewide behavioral health court liaison program, as it existed prior to its repeal in 2023, is the director of the office for a term expiring June 30, 2026. After the initial term of appointment, the commission may appoint the individual as director pursuant to subsection (1)(c)(I) of this section. The commission may remove the director serving pursuant to this subsection (1)(c)(II)(A) for cause.

(B) This subsection (1)(c)(II) is repealed, effective December 31, 2026.

(2) (a) The office and commission shall not disclose information provided by an individual participating in the bridges court liaison program or bridges wraparound care program even if the information is relied upon when compiling information for a court report or other report requested or required by the court, unless:

(I) The disclosure is made in connection with and included in a report filed with the court or as required pursuant to court-ordered action by a bridges court liaison or a bridges wraparound care coordinator;

(II) The defense counsel and the individual participating in the bridges court liaison program or bridges wraparound care program agree to the disclosure; or

(III) The disclosure is required in order to comply with mandatory reporting requirements pursuant to sections 18-6.5-108 and 19-3-304.

(b) A bridges court liaison and a bridges wraparound care coordinator shall only disclose information reported to the court by the bridges court liaison or bridges wraparound care coordinator pursuant to a court order, but the information must be restricted if the information is otherwise limited by court rules.

(c) A report requested or required by the court may be suppressed or sealed based on the contents of the report.

(d) This subsection (2) does not:

(I) Prevent the office from disclosing that a bridges court liaison or bridges wraparound care coordinator was appointed to a case or has access to the contents of an order that directs the office to take action, as long as the court order is not otherwise restricted from disclosure; or

(II) Limit the rights of a valid subpoena, an individual participating in the bridges court liaison program or bridges wraparound care program, the defense attorney, a person who requests the program participant's medical records upon submitting an authorization that complies with the federal "Health Insurance Portability and Accountability Act of 1996", 42 U.S.C. sec. 1320d, as amended, or a court order authorizing the inspection of the program participant's medical records or mental health data pursuant to section 24-72-204 (3)(a)(I).

(3) (a) As an included agency for the purposes of article 100 of this title 13, the office receives administrative and fiscal support services from the office of administrative services for independent agencies.

(b) Repealed.

(4) (a) The office and judicial department shall enter into a memorandum of understanding to provide the office, including the office's employees or contractors, electronic read-only access to the name index and register of actions for those case types necessary to carry out the office's statutory purpose and the duties of the office's court appointment. The memorandum of understanding must also delineate a filing process for the office, including the office's employees and contractors, to submit reports to the court.

(b) The judicial department shall provide transition services to establish the office until the department and the office determine that the transition is complete.

(5) The office shall pay the expenses of the bridges of San Andreas commission, established in section 13-95-104.

Source: L. 2023: Entire article added, (SB 23-229), ch. 119, p. 435, § 1, effective April 27. **L. 2024:** (1)(a), (1)(b), (1)(c)(II)(A), (4)(a), and (5) amended and (2) added, (HB 24-1355), ch. 471, p. 3305, § 4, effective August 7.

Editor's note: Subsection (3)(b)(II) provided for the repeal of subsection (3)(b), effective June 30, 2024. (See L. 2023, p. 435.)

13-95-104. Bridges of San Andreas commission - creation - membership - duties - repeal. (1) There is created in the office the bridges of San Andreas commission to support the office.

(2) (a) The commission is comprised of the following members:

(I) The executive director of the San Andreas district attorneys' council, or the executive director's designee;

(II) The state public defender, or the state public defender's designee;

(III) The commissioner of the behavioral health administration, or the commissioner's designee;

(IV) The director of the office within a state department responsible for assisting civil and forensic mental health patients, or the director's designee;

(V) The state court administrator, or the state court administrator's designee; and

(VI) The following members, appointed by the chief justice of the San Andreas supreme court:

(A) A representative from a disability rights organization that provides services to the populations served by the office;

(B) A representative from a behavioral health, disability, or criminal justice advocacy organization that advocates for the populations served by the office;

(C) A representative from an organization that provides housing or other resources to the populations served by the office; and

(D) Three San Andreas residents, at least two of whom are individuals with lived experience reflective of the populations served by the office.

(b) The chief justice shall make appointments to the commission pursuant to subsection (2)(a)(VI) of this section no later than July 1, 2023.

(c) Members appointed by the chief justice must not be employed or under contract with the office or the office within a state department responsible for assisting civil and forensic mental health patients. To represent the diversity of the communities served by the office, when making designations or appointments to the commission, the designating and appointing authorities shall consider a designee's or appointee's place of residence or employment, gender and gender identity, sexual orientation, ability, race, ethnic background, and lived experience.

(d) (I) Except for the initial appointments made pursuant to subsection (2)(d)(II) of this section, the term of appointment for each member appointed by the chief justice pursuant to subsection (2)(a)(VI) of this section is three years. The chief justice may reappoint a member for additional terms.

(II) (A) For the initial term of appointment of the members pursuant to subsection (2)(a)(VI) of this section, the chief justice shall appoint two members to a three-year term, two members to a two-year term, and one member to a one-year term.

(B) This subsection (2)(d)(II) is repealed, effective December 31, 2025.

(e) Each member of the commission serves without compensation but is entitled to reimbursement for actual and reasonable expenses incurred in the performance of the member's duties.

(3) The director shall call the first meeting of the commission to occur no later than July 31, 2023.

(4) The director and the commission shall establish procedures for the operation of the commission.

(5) The commission shall:

(a) Appoint the director of the office. The commission may remove a director for cause.

(b) Work cooperatively with the director to provide guidance to the office; provide fiscal oversight of the general operating budget of the office; participate in funding decisions relating to the provision of services; and assist with the duties of the office concerning office training and public outreach, as needed.

Source: L. 2023: Entire article added, (SB 23-229), ch. 119, p. 437, § 1, effective April 27. **L. 2024:** (1), (2)(a)(VI), (2)(c), and (5)(b) amended, (HB 24-1355), ch. 471, p. 3307, § 5, effective August 7.

13-95-105. Bridges of San Andreas - programs - administration. (1) The office shall operate the bridges court liaison program and the bridges wraparound care program in each judicial district in the state. The office shall provide personnel and program resources equitably in each judicial district and shall ensure that the program services in each judicial district are consistent with the policies, procedures, and best practices as established by the office and commission, and are aligned with statewide goals and legislative intent.

(2) The office shall facilitate communication and collaboration between judicial and behavioral health systems by:

(a) Hiring, or entering into contracts for, individuals to serve as:

(I) Bridges court liaisons who provide bridges court liaison program services to courts and participants in judicial districts; and

(II) Bridges wraparound care coordinators who provide wraparound care program services to courts and participants in judicial districts pursuant to article 8.6 of title 16; and

(b) Providing consultation and training to criminal and juvenile justice personnel regarding behavioral health and program best practices.

(3) (Deleted by amendment, L. 2024).

Source: L. 2023: Entire article added, (SB 23-229), ch. 119, p. 438, § 1, effective April 27. **L. 2024:** Entire section amended, (HB 24-1355), ch. 471, p. 3308, § 6, effective August 7.

Editor's note: Subsections (1), (2), and (3) are similar to former § 16-11.9-203 (1)(a), (1)(b), and (2), respectively, as they existed prior to 2023.

13-95-106. Bridges court liaisons - bridges wraparound care coordinators - duties and responsibilities. (1) A bridges court liaison hired or contracted pursuant to this article 95 has the following duties and responsibilities:

(a) Conducting intake, screening, and assessment, with participants, for behavioral health history and needs and social determinants of health needs;

(b) Determining appropriate referral and treatment options, when necessary, and making direct connections to, and supporting engagement with, services for participants, including other criminal or juvenile justice diversion programs for individuals with behavioral health challenges, which may include alternatives to competency services, prosecution, and custody or confinement; if a participant is convicted, alternatives to sentences to confinement while

promoting public safety; and other diversion-oriented programs, including problem-solving courts, competency dockets, treatment, sober or supportive housing, and peer mentor programs;

(c) Using the competency information from the statewide court data system, as updated pursuant to section 13-3-101 (17), to identify individuals who have not been appointed a bridges court liaison but for whom an appointment to the bridges court liaison program may be beneficial. If an individual is identified for whom services may be appropriate, the bridges court liaison may recommend to the judicial officer, defense attorney, and district attorney working on the case that a bridges court liaison be appointed for the individual.

(d) Addressing system gaps and barriers and promoting positive outcomes for participants in cases to which the bridges court liaison is assigned;

(e) Keeping judges; district attorneys or county attorneys, as applicable; and defense attorneys informed about available community-based behavioral health services for the participant in a case, and, if applicable, case planning for possible release from custody for a participant who has been ordered to undergo a competency evaluation or receive competency restoration services pursuant to article 8.5 of title 16 and article 2.5 of title 19.

(f) Facilitating communication and collaboration between behavioral health systems and criminal justice entities;

(g) Providing information to criminal and juvenile justice personnel regarding behavioral health and community treatment options and bridges court liaison program best practices;

(h) Coordinating with service providers, including the office within a state department responsible for assisting civil and forensic mental health patients and jail-based behavioral health providers, to ensure continuity of care and service delivery in a manner that avoids duplication and bifurcation of services; and

(i) Following the policies, procedures, best practices, and guidance of the bridges court liaison program, as established by the office and commission.

(2) A bridges wraparound care coordinator hired or contracted pursuant to section 13-95-105 (2) has the duties and responsibilities described in section 16-8.6-106.

(3) A bridges court liaison hired or contracted pursuant to this article 95 and a bridges wraparound care coordinator hired or contracted pursuant to section 13-95-105 (2) shall:

(a) Keep judges, district attorneys, county attorneys, and defense attorneys informed about available community-based behavioral health services, including services for defendants who have been ordered to undergo a competency evaluation or receive competency restoration services pursuant to article 8.5 of title 16 and article 2.5 of title 19;

(b) Make efforts to connect participants to, and support engagement with, behavioral health services and services for social determinants of health and to promote positive outcomes for individuals living with behavioral health challenges, including:

(I) Mental health treatment and care;

(II) Treatment and care for mental disabilities;

(III) Substance use disorder intervention and recovery services;

(IV) Housing, including supportive housing;

(V) Transportation;

(VI) Basic needs assistance;

(VII) Employment assistance, if applicable; and

(VIII) Health insurance coverage, including medicare or medicaid eligibility and enrollment; and

(c) Make efforts to collaborate with service providers, including the office within a state department responsible for assisting civil and forensic mental health patients and jail-based behavioral health providers, to ensure continuity of care and service delivery in a manner that avoids duplication and bifurcation of services.

(4) If a court appoints a bridges court liaison or a bridges wraparound care coordinator for an individual, the statewide court data system must include a record of the appointment and actions related to the appointment on the individual's case records.

(5) A bridges court liaison or a bridges wraparound care coordinator appointed in a case is a resource for the court and the parties to the case. A bridges court liaison and a bridges wraparound care coordinator are not independent parties in a case, and a bridges court liaison shall not serve in a role intended to monitor compliance with a court order by a party or other individual associated with a case.

(6) The office may continue to serve a participant with a bridges court liaison or a bridges wraparound care coordinator for up to ninety days after final disposition of the case for which the bridges court liaison or bridges wraparound care coordinator was appointed.

Source: L. 2023: Entire article added, (SB 23-229), ch. 119, p. 439, § 1, effective April 27. **L. 2024:** Entire section amended, (HB 24-1355), ch. 471, p. 3309, § 7, effective August 7.

Editor's note: Subsections IP(1), (1)(a), (1)(c), (1)(f), (1)(h), and (2) are similar to former § 16-11.9-204 IP(1), (1)(b), IP(1)(c), (1)(d), (1)(e), and (2), respectively, as they existed prior to 2023.

13-95-107. Bridges program participant services funding. (1) Subject to annual appropriation by the general assembly, the office may expend appropriated program money to provide, or contract for the provision of, behavioral health services, basic necessities, transitional housing, and other services to support the social determinants of health for participants.

(2) Requests for money must be submitted through the appointed bridges court liaison or other employee or designee of the office.

(3) The office shall make payments to the entity providing services to participants and shall not make payments directly to a participant.

Source: L. 2023: Entire article added, (SB 23-229), ch. 119, p. 441, § 1, effective April 27. **L. 2024:** (2) amended, (HB 24-1355), ch. 471, p. 3311, § 8, effective August 7.

13-95-108. Gifts, grants, and donations. The office may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this article 95.

Source: L. 2023: Entire article added, (SB 23-229), ch. 119, p. 441, § 1, effective April 27.

13-95-109. Reporting requirements. (1) On or before November 1 of each year, the office shall report to the joint budget committee, or any successor committee, about the office's work and administration of the bridges court liaison program and bridges wraparound care program during the prior year. The report must include:

(a) The number and competency status of cases in the past year when a bridges court liaison was appointed and outcomes in those cases related to the legislative intent and statewide goals of the office, as set forth in this article 95, including data related to alternatives to competency services, alternatives to custody, and alternatives to criminal justice system involvement;

(b) Information concerning the use of money from the bridges of San Andreas program participant service fund, including a summary of how money from the fund is being used to alleviate system gaps and barriers to services; and

(c) The number of participants and status of cases in the past year when a bridges wraparound care coordinator was appointed and the outcomes of the cases related to the legislative intent and statewide goals of the office, as set forth in article 8.6 of title 16, including data related to alternatives to competency services, alternatives to custody, and alternatives to criminal justice system involvement.

(2) Notwithstanding section 24-1-136 (11)(a)(I), the reporting requirement described in this section continues indefinitely.

Source: L. 2023: Entire article added, (SB 23-229), ch. 119, p. 441, § 1, effective April 27. **L. 2024:** (1) amended, (HB 24-1355), ch. 471, p. 3311, § 9, effective August 7.

ARTICLE 100

Office of Administrative Services for Independent Agencies

Editor's note: This article 100 was added in 2023 and was not amended prior to 2024. It was repealed and reenacted in 2024, resulting in the addition, relocation, or elimination of sections as well as subject matter. For the text of this article 100 prior to 2024, consult the 2023 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

13-100-101. Legislative declaration. (1) The general assembly finds, determines, and declares that:

(a) The provision of administrative support services for independent agencies created in the judicial department and associated appropriations should be as efficient as possible;

(b) Since 2015, five additional independent agencies, not including the office of administrative services for independent agencies, have been added to the judicial department. Since their inception, none of these five independent agencies and the independent ethics commission, established in 2007, have received direct appropriations or other direct funding necessary to deliver internal support of the administrative services outlined in section 13-100-103 (8)(a).

(c) The intent of the general assembly when creating each independent agency was that the judicial department, through the office of the state court administrator, could most efficiently provide centralized administrative support services to the independent agencies. However, the judicial department has increasingly limited or restricted administrative support services to these independent agencies, and the independent agencies have not received access to statewide systems and structures of support that are generally provided to state programs.

(d) It is critical that the office of administrative services for independent agencies be established for the provision of centralized administrative support services for current and future independent agencies that are in need of administrative support from the office of administrative services for independent agencies. Furthermore, it is imperative that the judicial department, through the office of the state court administrator, provide these administrative support services for the office of administrative services for independent agencies and the included agencies until the transition of services is complete, and effectively partner with the office of administrative services for independent agencies and support the transition of services described in this article 100 until the transition of services is complete.

Source: Entire article R&RE, (SB 24-217), ch. 308, p. 2076, § 1, effective May 31.

13-100-102. Definitions. As used in this article 100, unless the context otherwise requires:

(1) "Budget request amendment" has the same meaning set forth in section 2-3-208.

(2) "Compensation template" means the statewide system used to budget, by state agency, for employee benefits and salary as determined by the governor's office of state planning and budgeting and the department of personnel.

(3) "Included agencies" means the independent agencies within the judicial department that the office provides administrative and fiscal support services to pursuant to this article 100 and includes the office of the child protection ombudsman, the independent ethics commission, the office of public guardianship, the commission on judicial discipline, the office of alternative defense counsel, the office of the child's representative, the office of the respondent parents' counsel, the office of the statewide behavioral health court liaison, the office of the judicial discipline ombudsman, and any other independent agency added to the judicial department on or after July 1, 2024. The office of state public defender is not an included agency.

(4) "Office" means the office of administrative services for independent agencies created in section 13-100-103.

(5) "Technical support liaison" means an individual employed by a statewide central services agency in the executive branch or equivalent office or unit in the judicial branch that the agency, office, or unit designates as the liaison to provide technical support to the office.

Source: L. 2024: Entire article R&RE, (SB 24-217), ch. 308, p. 2077, § 1, effective May 31.

Editor's note: This section is similar to former § 13-100-101 as it existed prior to 2024.

13-100-103. Office of administrative services for independent agencies - created - repeal. (1) There is created in the judicial department the office of administrative services for independent agencies to act as an independent agency that provides centralized administrative and fiscal support services for the included agencies.

(2) (a) On or before June 30, 2025, the office and the judicial department shall enter into a memorandum of understanding that contains, at a minimum, requirements related to the establishment of fiscal rules and ongoing access to, or the use of, judicial department systems, contracts, or resources that are in the interest of providing administrative and fiscal support

services efficiently and at low cost to the state, which includes the judicial department's systems for administering payroll, benefits, and leave for employees of the agencies served by the office.

(b) Beginning January 1, 2026, if the included agencies' use of the judicial department's systems, contracts, or resources creates additional costs to the judicial department, those costs must be identified, quantified, negotiated, and incorporated into the memorandum of understanding, and paid for by the office.

(c) The office may negotiate shared resources for the included agencies, and the included agencies may participate in an office-negotiated agreement or may negotiate their own agreements independently of the office concerning the shared resources.

(3) The office consists of a director and any other staff position deemed necessary by the director within existing appropriations.

(4) The office is governed by an advisory board that consists of the director of each included agency and the director of any independent agency that is added to the judicial department on or after July 1, 2024. The director of an included agency may appoint a designee to serve on the advisory board on the director's behalf. In order to maintain board discussion and decision continuity and consistency, a designee is a full voting member of the board, must serve for at least one full fiscal year, and may not be replaced during that period by either a substitute designee or by the director, unless the designee is no longer employed by the included agency.

(5) Through June 30, 2025, the chairperson of the advisory board is the director of the office of the child protection ombudsman. Thereafter, the advisory board shall appoint its chair and officers, as necessary.

(6) (a) The advisory board is responsible for the following:

(I) On or before July 1, 2024, hiring an office director, by majority vote of the advisory board; and

(II) Securing a review of the functions and performance of the office and the director that occurs at least biannually beginning no later than July 1, 2026, to be performed by a third party and used by the board to effectively provide credible, documented, and supported supervisory oversight by the advisory board, as necessary.

(b) The advisory board may remove the director with or without cause by a two-thirds vote of the advisory board.

(c) The chair, acting for the advisory board, may contract with a human resources consultant to provide recruiting assistance to hire an office director, as necessary.

(7) The office director shall:

(a) On or before October 1, 2024, in consultation with the technical support liaisons pursuant to subsection (9) of this section, establish a workload capacity and staff resource plan for the office for fiscal years 2024-25 and 2025-26;

(b) On or before November 1, 2024, prepare a budget request for the office that includes necessary budget request amendments to fund the workload capacity and staff resource plan for fiscal years 2024-25 and 2025-26;

(c) On or before October 1, 2024, begin recruiting and hiring staff positions;

(d) Work in partnership with the judicial department to guide and support the transition of services provided to the included agencies until the transition to the office is completed;

(e) Administer the office in accordance with a memorandum of understanding with the judicial department pursuant to subsection (2) of this section and memorandums of understanding with each of the included agencies pursuant to subsection (10) of this section;

(f) On or before June 30, 2025, and on or before June 30 of each year thereafter, if necessary, update the office operating policies; and

(g) Meet with each director of the included agencies individually at least once per month to maintain consistent and regular communication regarding the provision of services provided by the office to each included agency.

(8) Once the transition of services is completed, the office is responsible for providing the following to the included agencies:

(a) Budget; accounting; payroll, including time and leave tracking; and human resources services, including policy guidance, documentation assistance, and coordination of records for all specialized leave situations;

(b) Centralized budget support that preserves the included agencies' independence concerning budget request amendments and provides a consolidated and streamlined budget submission process for all included agencies pursuant to section 13-100-104;

(c) Guidance, but not the execution or primary provision of direct services, for contracts, purchasing, and procurement, except as otherwise specified within an included agency's memorandum of understanding;

(d) Maintenance of a single, consolidated compensation plan for all occupational classes in the included agencies pursuant to section 13-100-104. The included agencies retain independence in defining each included agency's organizational staff positions, structures, and personnel rules.

(e) Beginning July 1, 2025, information technology technical consultation for, or assistance with, the following:

(I) Information technology systems' access to statewide networks and systems and compliance with security standards established by the governor's office of information technology for included agency information technology systems; and

(II) Information technology vendor and consultant procurement.

(9) (a) To establish the workload capacity and staff resource plan required in subsection (7)(a) of this section and maintain an ongoing statewide systems support network for the office, the office director must be assigned technical support liaisons from executive branch agencies involved in the primary provision of statewide support services policy and systems. This technical support network is primarily intended to assist the director in establishing workload capacity metrics for the initial staff resource plan for the office. Technical support liaisons must be assigned from the following state agencies:

(I) A budget systems access and support liaison from the office of state planning and budgeting;

(II) Human resources, payroll, accounting, and procurement liaisons from the department of personnel; and

(III) A statewide information technology network, security, and systems support liaison or liaisons, as necessary, from the governor's office of information technology.

(b) The state court administrator's office is encouraged to assign equivalent technical support liaisons across these administrative support functions in order to enhance the transition of support services to the office, maintain an ongoing judicial systems support network for the office, and encourage clear communication and understanding of judicial department systems and policies.

(10) (a) On or before June 30, 2025, the director shall enter into a memorandum of understanding with each included agency. Each memorandum of understanding must establish a timeline for the provision of services and expectations for discrete support services. The memorandum of understanding serves as a statement of rights and responsibilities for the included agency and the office.

(b) Included agencies shall not receive additional direct appropriations for the provision of services described in subsection (8) of this section.

(11) (a) (I) The judicial department shall provide the office with office space in the Ralph L. Carr San Andreas judicial center. Beginning January 1, 2026, the judicial department may require leased space payments for the office or for included agencies, consistent with established judicial center tenant policies.

(II) Included agencies that currently occupy office space in the Ralph L. Carr San Andreas judicial center must remain located in the Ralph L. Carr San Andreas judicial center.

(b) Through December 31, 2025, the judicial department shall provide the office with access to, or the use of, department systems, contracts, and resources that are related to providing administrative and fiscal support services efficiently and at low cost to the state, which must include judicial department systems for administering payroll, benefits, and leave for included agency employees.

(c) Beginning January 1, 2026, if the included agencies' use of the judicial department's systems, contracts, or resources creates additional costs to the judicial department, those costs must be identified, quantified, negotiated, and incorporated into the memorandum of understanding and paid for by the office.

(12) (a) The judicial department shall work in partnership with the office to guide and support the transition of support services provided to the included agencies. The judicial department is responsible for effectuating a successful transfer of support services to the office in a way that enables the office to independently deliver support services.

(b) The judicial department shall provide the office with accounting support, information technology support, human resources and payroll services, and similar support services, without cost to the office until the transition of services is complete.

(c) Notwithstanding any provision of law for the included agencies and memoranda of understanding between the judicial department and each included agency, and notwithstanding more limited interpretations of required administrative support services provisions by the judicial department, the judicial department, through the office of the state court administrator, shall provide the services detailed in subsection (8)(a) of this section to the included agencies until the transition of services is complete.

(d) The director shall notify the revisor of statutes in the office of legislative legal services in writing that the transition of services is complete using the e-mail address revisorofstatutes.ga@coleg.gov.

(e) This subsection (12) is repealed upon receipt of the notification described in subsection (12)(d) of this section that the transition of services is complete.

Source: L. 2024: Entire article R&RE, (SB 24-217), ch. 308, p. 2078, § 1, effective May 31.

Editor's note: This section is similar to former § 13-100-102 as it existed prior to 2024.

13-100-104. Budget requests and annual statewide compensation adjustments. (1) The office shall submit a single, consolidated budget request, pursuant to the requirements of section 2-3-208, that includes budget request amendments from each included agency, if provided.

(2) The office shall coordinate all state budget process communications with the joint budget committee and the office of state planning and budgeting for the included agencies.

(3) The office shall use standard joint budget committee and office of state planning and budgeting budget schedules and budget data systems to prepare budget documents.

(4) The office shall maintain a consolidated compensation schedule for each staff position in the included agencies. The consolidated compensation schedule must include the following information for each staff position:

(a) Included agency job title;

(b) Equivalent job classification that the position is anchored to in the executive branch, judicial branch, or office of state public defender compensation plan;

(c) Current salary range for the equivalent job classification;

(d) Current salary and percentile position in range; and

(e) The state fiscal year in which the staff position was added.

(5) (a) The office shall submit a single, consolidated statewide compensation and benefits budget amendment request that accounts for all included agencies as generated by each included agency compensation template or any future equivalent replacement system used and defined by the office of state planning and budgeting and the department of personnel.

(b) Agency compensation template formulas and calculation structure must not be modified in creating compensation and benefits budget amendment requests.

(c) If any agency compensation template includes a manual adjustment to reflect positions that are approved but unfilled, vacant, or have been eliminated or reclassified, at the time the payroll data download is used to populate the template, the manual adjustments or changes must be documented in the compensation adjustment request narrative, by position for each discrete manual adjustment included. Each reclassification that adjusts a position to a different equivalent job classification defined in subsection (4)(b) of this section must be specifically explained in the request narrative.

Source: L. 2024: Entire article R&RE, (SB 24-217), ch. 308, p. 2082, § 1, effective May 31.

13-100-105. Competency to stand trial – short title – legislative declaration – definitions – early identification and diversion – competency evaluation – determination of competency – community-based restoration priority – individualized treatment plans – periodic review and rights – maximum duration and dismissal – prohibition on jail-based holding – funding and infrastructure – data collection and oversight – training requirements – safety clause.

(1) Short title. This section shall be known and cited as the "Competency Restoration and Behavioral Health First Act."

(2) Legislative declaration. The general assembly hereby finds and declares that:

(a) Competency to stand trial is a constitutional requirement grounded in due process;

(b) Defendants found incompetent are more appropriately treated within the behavioral health system than the correctional system;

(c) Institutionalization should be a last resort, with preference given to community-based and least-restrictive treatment options;

(d) Early intervention and diversion reduce recidivism, improve outcomes, and lower system costs; and

(e) The state must ensure timely access to restoration services without unnecessary confinement. The general assembly further declares that the use of long-term inpatient civil commitment should not be an automatic consequence of a finding of non-restorability.

(3) Definitions.

(a) "Competent to stand trial" means a defendant has:

(I) A rational and factual understanding of the proceedings; and

(II) The ability to consult with counsel with a reasonable degree of rational understanding.

(b) "Incompetent to stand trial" means a defendant does not meet the standard in paragraph (a) of this subsection due to a behavioral health condition, including mental illness, intellectual disability, brain injury, or developmental disorder.

(c) "Restoration services" means individualized treatment and educational interventions aimed at restoring competency, including clinical stabilization, evidence-based therapy, and legal education tailored to the defendant's cognitive abilities.

(d) "Least restrictive setting" means a community-based placement unless the court makes a specific finding on the record that the defendant poses an imminent threat to the physical safety of others.

(4) Early identification and diversion.

(a) At first appearance, courts shall screen for indicators of incompetency.

(b) If indicators are present, the court may:

(I) Order a prompt outpatient evaluation; and

(II) Refer the defendant to voluntary stabilization services prior to formal competency proceedings.

(c) For low-level, non-violent offenses, the court is encouraged to pursue diversion into treatment in lieu of prosecution.

(5) Competency evaluation.

(a) Evaluations shall be conducted as promptly as practicable, with a preference for outpatient and community-based assessments.

(b) Evaluators shall include recommendations for:

(I) Specific treatment needs;

(II) Appropriate level of care; and

(III) Likelihood of restoration in a community setting.

(c) Jail-based evaluations shall be used only when no reasonable alternative exists.

(d) Independent evaluators. The defendant has the right to an independent evaluation by a qualified professional of the defendant's choosing, to be paid for by the state upon a showing of indigency.

(6) Determination of competency.

(a) The court shall hold a hearing and determine competency by a preponderance of the evidence.

(b) If the defendant is found incompetent, the court shall immediately transition the case to a treatment track.

(7) Community-based restoration priority.

(a) Courts shall prioritize outpatient restoration services unless the defendant poses a substantial risk of serious harm.

(b) Community-based restoration may include:

(I) Behavioral health treatment plans;

(II) Medication management;

(III) Case management and peer support;

(IV) Housing assistance; and

(V) Structured competency education programs.

(c) Inpatient commitment shall be ordered only upon written findings that less restrictive alternatives are insufficient.

(8) Individualized treatment plans.

(a) Each defendant shall receive a tailored treatment plan addressing clinical and competency-related needs.

(b) Plans must incorporate:

(I) Trauma-informed care;

(II) Cultural competency; and

(III) Coordination with local behavioral health providers.

(9) Periodic review and rights.

(a) Courts shall review each case at least every ninety days.

(b) Defendants shall have the right to:

(I) Participate in hearings;

(II) Challenge the adequacy of treatment or conditions of confinement;

(III) Request modification to less restrictive settings; and

(IV) Refuse medication absent a separate court order consistent with due process.

(10) Maximum duration and dismissal.

(a) Restoration efforts shall not exceed:

(I) Nine months for petty and misdemeanor offenses;

(II) Twelve months for non-violent felonies;

(III) Twenty-four months for violent felonies.

(b) If competency is not restored within these periods, the court shall:

(I) Dismiss charges with prejudice for petty offenses and without prejudice for all other offenses; and

(II) Transition the defendant to voluntary or civil behavioral health services, if necessary.

(c) Continued confinement solely for restoration is prohibited beyond these limits.

(11) Prohibition on jail-based holding.

(a) A defendant found incompetent shall not remain in jail solely due to lack of treatment capacity.

(b) The state shall ensure timely placement in appropriate treatment settings, including community programs.

(12) Funding and infrastructure.

(a) The department of health shall expand community restoration programs statewide. The department shall develop a pilot program for peer-led restoration services in at least three counties.

(b) Priority funding shall be directed toward:

(I) Rural and underserved areas;

(II) Mobile crisis response units; and

(III) Supportive housing linked to treatment services.

(13) Data collection and oversight.

(a) The judicial branch and department of health shall jointly track:

(I) Time to evaluation and treatment;

(II) Restoration success rates;

(III) Use of inpatient vs. outpatient services; and

(IV) Recidivism outcomes.

(b) Annual reports shall be submitted to the general assembly with recommendations for improvement.

(14) Training requirements. The judicial branch shall provide annual training on behavioral health conditions and trauma-informed adjudication for all judges and magistrates assigned to criminal dockets.

(15) Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Source: L. 2026: Entire section added, HB 26-037, ch. 27, p. 163, § 1, effective May 28, 2026. See Chapter 27, Session Laws of San Andreas 2026.

ARTIFICIAL INTELLIGENCE
ARTICLE 129
Artificial Intelligence

13-129-205. Civil liability for artificial intelligence generated content – short title – legislative findings and intent – definitions – civil liability for AI-generated content – injunctive relief – notification and removal – safe harbor for technology providers – government use of artificial intelligence – relation to existing law – effective date.

(1) Short title. This section shall be known and cited as the "Artificial Intelligence Civil Responsibility Act."

(2) Legislative findings and intent.

(a) The general assembly finds that artificial intelligence technologies are increasingly capable of generating realistic images, audio, video, and written content that may falsely depict individuals or events.

(b) The misuse of artificial intelligence to create or distribute fabricated content may cause reputational harm, emotional distress, invasion of privacy, and other civil injuries.

(c) Existing civil causes of action may not clearly address responsibility where harm results from the intentional or reckless use of artificial intelligence tools.

(d) It is the intent of the general assembly to clarify that individuals remain legally responsible for the content they create, generate, or distribute using artificial intelligence systems, and that such use does not diminish civil liability for unlawful conduct.

(e) Nothing in this section shall restrict lawful speech, journalism, commentary, parody, satire clearly identifiable as such, academic research, security testing, or educational uses of artificial intelligence systems.

(3) Definitions. For purposes of this section, unless the context otherwise requires:

(a) "Artificial intelligence system" means any computational system capable of generating text, images, audio, video, or other content through automated or machine-learning processes.

(b) "AI-generated content" means any content created in whole or in substantial part through

the use of an artificial intelligence system.

(c) "User" means any person who creates, directs, generates, modifies, or distributes AI-generated content.

(d) "Likeness" includes a person's name, image, voice, appearance, or other identifiable characteristics.

(e) "Synthetic media" means audio, video, image, or textual content that has been substantially generated, modified, or altered through the use of an artificial intelligence system in a manner that could reasonably cause a person to believe the content depicts real events or statements.

(4) Civil liability for AI-generated content.

(a) General rule of liability. A user who knowingly or recklessly creates, publishes, or distributes AI-generated content that causes legally cognizable harm shall be civilly liable to the same extent as if the user had personally created or disseminated the content without the use of an artificial intelligence system.

(b) Artificial intelligence not a defense. The use of an artificial intelligence system shall not constitute a defense to civil liability where the underlying conduct would otherwise give rise to a cause of action under state law.

(c) Conduct giving rise to liability. Liability under this subsection may arise where AI-generated content is knowingly or recklessly created or distributed and:

(I) Depicts an identifiable person in a false or misleading manner causing reputational harm;

(II) Uses the likeness of an identifiable individual without consent in a sexually explicit or otherwise highly offensive manner;

(III) Constitutes defamation, false light invasion of privacy, misappropriation of likeness, or intentional infliction of emotional distress under existing law;

(IV) Is generated or distributed with intent to harass, intimidate, or cause substantial emotional harm; or

(V) Knowingly generates or distributes synthetic media falsely depicting an identifiable individual engaging in speech or conduct that the individual did not perform, where such depiction would reasonably cause reputational, financial, or emotional harm.

(d) Evidentiary considerations. Proof that content was generated or materially altered through artificial intelligence may be considered by the court in determining intent, recklessness, causation, or damages.

(e) Unknowing or incidental use. No liability shall arise under this section solely from incidental or unknowing use of an artificial intelligence system where the user lacked knowledge that the content was false, misleading, or unlawfully generated.

(f) Disclosure safe harbor. A user who clearly and conspicuously discloses that content is artificially generated or materially altered shall not be liable under this section absent proof of intent to deceive or cause harm.

(g) Determination of damages. In determining damages under this subsection, a court may consider:

(I) The scale and duration of distribution;

(II) The degree of automation involved in creation or dissemination;

(III) The intent or recklessness of the user; and

(IV) The foreseeability and severity of harm resulting from dissemination of the AI-generated content.

(h) In determining whether a user acted knowingly or recklessly under this subsection, a court may consider whether the user took reasonable steps to verify the accuracy or authenticity of

AI-generated content prior to publication or distribution.

(i) Where AI-generated content depicts an identifiable individual in a sexually explicit or intimate context without that individual's consent, the court may award enhanced damages upon a finding that the conduct was intentional or malicious.

(j) A court may consider whether AI-generated content includes clear labeling or disclosure identifying the content as artificially generated when evaluating intent, recklessness, or potential deception.

(k) Statutory damages for synthetic media harm. In any civil action brought under this subsection involving AI-generated content that falsely depicts an identifiable individual through synthetic media, the court may award statutory damages in addition to any other remedies available under law.

(I) Statutory damages may be awarded in an amount not less than five thousand dollars and not more than one hundred thousand dollars per instance of unlawful creation or distribution of AI-generated content.

(II) Where the AI-generated content depicts an identifiable individual in a sexually explicit or intimate context without that individual's consent, statutory damages shall not be less than twenty-five thousand dollars per instance.

(III) In determining the amount of statutory damages, the court may consider the scale of dissemination, the intent of the user, the duration of distribution, and the severity of harm caused to the individual depicted.

(5) Injunctive relief.

(a) A court may order the removal, correction, or cessation of distribution of AI-generated content found to violate this section.

(b) Courts may grant injunctive relief where continued distribution would result in ongoing harm.

(c) Upon a showing of probable ongoing harm arising from AI-generated content, courts may issue temporary injunctive relief on an expedited basis, including orders directing online platforms or distributors to disable access pending final adjudication.

(d) Courts granting injunctive relief under this subsection may require reasonable efforts by the responsible party to remove or disable access to the offending content across platforms or services under that party's control.

(e) Courts may prioritize expedited proceedings where the continued circulation of AI-generated content is likely to cause ongoing reputational, emotional, or financial harm.

(5.5) Notification and removal.

(a) A person alleging harm from AI-generated content may provide written notice to a distributor or hosting platform identifying the unlawful content.

(b) A platform receiving notice in good faith may temporarily restrict access to the content pending judicial determination without incurring liability.

(c) A person submitting notice under this subsection shall identify the allegedly harmful AI-generated content with sufficient specificity to enable the platform or distributor to locate the content.

(d) Election-related synthetic media. Where AI-generated content falsely depicts an identifiable candidate for public office or materially misrepresents a candidate's speech, conduct, or endorsement in connection with an election, a court may order expedited removal or disabling of access to such content upon a showing that the content is likely to cause reputational or electoral harm.

(I) Courts may issue temporary injunctive relief on an expedited basis where the content is distributed within ninety days preceding an election.

(II) Upon issuance of an order under this paragraph, a distributor, hosting service, or online platform receiving notice of the order shall remove or disable access to the identified content as soon as reasonably practicable but not later than forty-eight hours after receiving the order.

(III) Nothing in this paragraph shall apply to content that is clearly identified as satire, parody, commentary, or news reporting.

(e) A candidate for public office who is the subject of alleged AI-generated synthetic media may petition a court for emergency relief under this section, and the court shall prioritize such petitions where an election is imminent.

(6) Safe harbor for technology providers.

(a) Providers of artificial intelligence systems shall not be civilly liable solely for providing access to an AI system, absent proof of knowing participation in unlawful conduct.

(b) Nothing in this subsection limits liability otherwise established under existing law.

(c) Providers of artificial intelligence systems shall not be considered users under this section solely by reason of developing, training, or maintaining artificial intelligence technologies that may be used by others to generate content.

(6.5) Government use of artificial intelligence.

(a) Any state or local governmental entity utilizing AI-generated content in public communications shall disclose when such content has been materially generated or altered through artificial intelligence systems.

(b) Public disclosures required under this subsection shall be clear and conspicuous and reasonably understandable to the public.

(7) Relation to existing law.

(a) This section supplements existing civil causes of action and does not create new criminal offenses unless otherwise provided by law.

(b) Nothing in this section shall be interpreted to limit protections afforded to lawful speech under the state or federal constitution.

(8) Effective date. Act subject to petition – effective date. This section takes effect on August 18, 2026, assuming the general assembly adjourns sine die on May 18, 2026; except that, if a veto petition is filed pursuant to article II, section 15 of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Source: L. 2026: Entire section added, HB 26-016, ch. 12, p. 68, § 1, effective August 18, 2026. See Chapter 12, Session Laws of San Andreas 2026.