



## Judicial Council of California

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March 23, 2006

Hon. Elaine Alquist  
Member of the Senate  
State Capitol, Room 4088  
Sacramento, California 95814

Subject: SB 1128 (Alquist), as amended March 7, 2006 – Oppose unless amended

Dear Senator Alquist:

The Judicial Council opposes SB 1128, unless it is amended to delete the provisions eliminating the court's authority under Penal Code section 1385 to dismiss an action in the furtherance of justice and to address the record retention issues described below.

The council has long advocated that, while the discretion is not absolute, dismissal of an action in the furtherance of justice is within the court's exclusive discretion. Elimination of this authority inappropriately interferes with a core judicial function, namely the court's ability to accommodate unusual or extraordinary facts.

In addition, the council is seeking amendments to make the record retention provisions more manageable. The bill would require courts to retain all records relating to persons required to register as sex offenders for the life of the offender. The council's concerns with this provision are twofold. First, the court has no way of knowing when a person subject to these provisions dies. Second, the court has no way of knowing which of its existing court records involve persons required to register as sex offenders, so would not know to retain the records beyond existing requirements.

Hon. Elaine Alquist

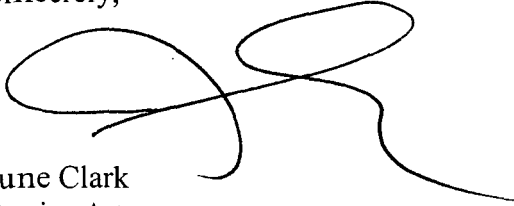
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The council requests that the bill be amended to provide that the records be retained for 75 years, which is the current requirement for felony records, or some other specified time, and to clarify that the new retention requirements apply only prospectively.

For these reasons, the Judicial Council opposes SB 1128, unless it is amended as described.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized 'J' and 'C' that are interconnected, followed by a long horizontal stroke.

June Clark  
Senior Attorney

JC/yt

cc: Mr. Eric Csizmar, Deputy Legislative Secretary, Office of the Governor  
Ms. Sue Blake, Director of Legislation, Office of Planning and Research