



**Judicial Council of California**  
**ADMINISTRATIVE OFFICE OF THE COURTS**

OFFICE OF GOVERNMENTAL AFFAIRS  
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TANI G. CANTIL-SAKAUYE  
*Chief Justice of California*  
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CORY T. JASPERSON  
*Director, Office of Governmental Affairs*

June 19, 2014

Hon. Tom Ammiano, Chair  
Assembly Public Safety Committee  
State Capitol, Room 3146  
Sacramento, California 95814

Subject: SB 1193 (Evans), as amended May 20, 2014 – Oppose unless amended  
Hearing: Assembly Public Safety Committee – June 24, 2014

Dear Assembly Member Ammiano:

The Judicial Council opposes, unless amended, SB 1193, which, among other things, provides, upon a court order, for the following in a criminal prosecution in which the defendant is acquitted or the case is dismissed:

- Any marijuana, instrument, or paraphernalia seized in the case that was lawfully possessed by the defendant must be returned to the defendant.
- If any marijuana, instrument, or paraphernalia was damaged or destroyed, the defendant must receive reasonable compensation for the damage or loss.
- A claim must be presented not later than six months after acquittal or dismissal.

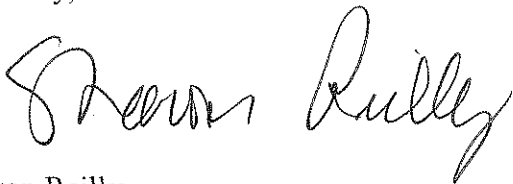
The council opposes SB 1193, unless it is amended to delete the above-referenced provisions of the bill because the council believes these provisions are unnecessary, ambiguous, and will result in costly and potentially duplicative hearings.

Existing law clearly establishes provisions relating to how individuals may submit a claim against a public entity relating to a cause of action for injury to personal property or growing crops (Gov. C., Pt. 3, (commencing with § 900)).<sup>1</sup> Those claims must be submitted within six months of the claimed injury. If the claim is rejected, the individual may then file a claim in civil court for damages against a public entity within six months of the service of notice of rejection (Gov. § 913). This process is available for any claim for recovery against any public entity in California. That availability necessarily extends to claimants who have had charges dismissed or who have been found not guilty and who are entitled to the return of their legally-possessed belongings that were seized by law enforcement. Moreover, to the extent that any of those belongings are lost or damaged, the claimant may file an administrative claim for compensation of the value of those lost or damaged possessions.

The language of SB 1193 is unclear as to whether it contemplates that a criminal court take the action relating to marijuana and related paraphernalia that is damaged or destroyed or whether the author intends that it be done through the existing public entity claims process. Further, if the bill is intended to create a new process for criminal courts, it is unclear whether that is completely independent of the existing provisions set forth in the Government Code relating to claims for damages against public entities. This, as currently written, SB 1193 appears in conflict with existing law. The council believes that the ambiguous and conflicting language will likely lead to unnecessary and costly litigation, further burdening courts when they can least afford it. If the intent is to require criminal courts to make determination of the lost or damaged property, it will require courts to hold hearings on the issue of the value of that material, thus also increasing the burdens on criminal courts.

For these reasons, the Judicial Council opposes SB 1193, unless amended as provided above.

Sincerely,

A handwritten signature in black ink, appearing to read "Sharon Reilly". The signature is fluid and cursive, with the first name "Sharon" and last name "Reilly" clearly distinguishable.

Sharon Reilly  
Senior Attorney

SR/yc-s

cc: Members, Assembly Public Safety Committee

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<sup>1</sup> For an example of a local public entity claim form see: <http://www.personnel.saccounty.net/Documents/FilingClaim.pdf>

Hon. Noreen Evans, Member Senate

Mr. Randy Perry, Peace Officers Research Association of California

Mr. Gabriel Caswell, Counsel, Assembly Public Safety Committee

Ms. June Clark, Deputy Legislative Secretary, Office of the Governor

Mr. Gary Olson, Consultant, Assembly Republican Office of Policy



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August 28, 2014

Hon. Noreen Evans  
Member of the Senate  
State Capitol, Room 4085  
Sacramento, California 95814

Subject: SB 1193 (Evans), as amended August 18, 2014 – Opposition removed

Dear Senator Evans:

The Judicial Council is pleased to inform you that it has removed its opposition to SB 1193. As amended on August 18, 2014, SB 1193 removes the provision of the bill that the council was opposed to that would have required that any marijuana, instrument, or paraphernalia seized that was lawfully possessed by a defendant be returned to the defendant upon the order of the court if the case is dismissed or the defendant is acquitted based on a defense or protection provided in the Compassionate Use Act of 1996 or the Medical Marijuana.

The council greatly appreciates your consideration, and that of your sponsor, to the concerns of the council that this provision is unnecessary as the process for recovery of these items is already provided under the existing law (Gov. C., Pt. 3, (commencing with § 900) and thus this provision

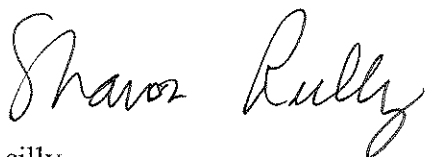
Hon. Noreen Evans

August 28, 2014

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would have resulted in costly and potentially duplicative hearings. As a result, it is no longer necessary for the council to oppose SB 1193. If you have any questions, please feel free to contact me at 916-323-3121.

Sincerely,

A handwritten signature in black ink that reads "Sharon Reilly". The script is fluid and cursive, with the first name "Sharon" and last name "Reilly" clearly distinguishable.

Sharon Reilly  
Senior Attorney

SR/yc-s

cc: Mr. Randy Perry, Peace Officers Research Association of California  
Ms. June Clark, Deputy Legislative Secretary, Office of the Governor