



HOW TO FILL A VACANCY FOR SUPERIOR COURT JUDGE

THIS REFERENCE GUIDE HAS BEEN PREPARED IN AN EFFORT TO PROVIDE ANSWERS TO FREQUENTLY ASKED QUESTIONS CONCERNING VACANCIES IN LOCAL OFFICES. IT IS FOR GENERAL INFORMATION ONLY AND DOES NOT HAVE THE FORCE AND EFFECT OF LAW.

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SUPERIOR COURT JUDGE OFFICE VACANCY FILLING PROCESS

Pursuant to **Government Code § 1770** an office becomes vacant on the happening of any of the following events before the expiration of the term:

- (a) The death of the incumbent.
- (b) An adjudication pursuant to a quo warranto proceeding declaring that the incumbent is physically or mentally incapacitated due to disease, illness, or accident, and that there is reasonable cause to believe that the incumbent will not be able to perform the duties of his or her office for the remainder of his or her term. This subdivision shall not apply to offices created by the California Constitution nor to federal or state legislators.
- (c) (1) His or her resignation, except as provided in paragraph (2).
(2) In the case of the office of city council member, upon the delivery of a letter of resignation by the resigning council member to the city clerk. The letter of resignation may specify a date on which the resignation will become effective.
- (d) His or her removal from office.
- (e) His or her ceasing to be an inhabitant of the state, or if the office be local and one for which local residence is required by law, of the district, county, or city for which the officer was chosen or appointed, or within which the duties of his or her office are required to be discharged.
- (f) His or her absence from the state without the permission required by law beyond the period allowed by law.
- (g) His or her ceasing to discharge the duties of his or her office for the period of three consecutive months, except when prevented by sickness, or when absent from the state with the permission required by law.
- (h) His or her conviction of a felony or of any offense involving a violation of his or her official duties. An officer shall be deemed to have been convicted under this subdivision when trial court judgment is entered. For purposes of this subdivision, "trial court judgment" means a judgment by the trial court either sentencing the officer or otherwise upholding and implementing the plea, verdict, or finding.
- (i) His or her refusal or neglect to file his or her required oath or bond within the time prescribed.
- (j) The decision of a competent tribunal declaring void his or her election or appointment.
- (k) The making of an order vacating his or her office or declaring the office vacant when the officer fails to furnish an additional or supplemental bond.

SUPERIOR COURT JUDGE OFFICE VACANCY FILLING PROCESS (Cont.)

- (l) His or her commitment to a hospital or sanitarium by a court of competent jurisdiction as a drug addict, dipsomaniac, inebriate, or stimulant addict; but in that event the office shall not be deemed vacant until the order of commitment has become final.

VACANCY IN OFFICE OF SUPERIOR COURT JUDGE

The Judges of superior courts shall be elected in their counties at general elections except as otherwise necessary to meet the requirements of federal law.

Ca. Const., § 16 (b)

A vacancy shall be filled by election to a full term at the next general election after the second January 1 following the vacancy, but the Governor shall appoint a person to fill the vacancy temporarily until the elected judge's term begins.

Ca. Const., § 16 (c)

TERM OF OFFICE

The terms of judges of superior courts are six years beginning the Monday after January 1 following their election.

Ca. Const., § 16 (c)