

The Capitol Connection

A publication of the Judicial Council of California, Office of Governmental Affairs
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The Bench-Bar Coalition has its "Day in Sacramento"

On Tuesday, February 29, 2000, the Bench-Bar Coalition held its "Day in Sacramento," an annual trek to the capital city to visit legislators and discuss issues of mutual concern to the bench and the bar.

This year, all participants reported that their visits were very upbeat and positive, and that they were well received by legislators. As in past years, participants were divided into geographic groups and met with legislators representing their cities and counties.

The day began in the Judicial Council's Office of Governmental Affairs with a continental breakfast hosted by the California Judges Association. Ray LeBov, Director of the Office of Governmental Affairs and Mike Belote, Legislative Advocate for the California Judges Association provided a briefing and distributed materials on issues of potential interest to legislators. Local bar leaders and Judicial Council members invited to participate in this event visited a total of thirty-four legislators and their staff throughout the day.

At the end of the day participants met at the Office of Governmental Affairs to share information from their visits. Members of the Bench-Bar Coalition commented that the annual visits to Sacramento are a beneficial and worthwhile activity that enhance relationships with legislators. ♦

Bills, bills, and more bills...

February 25, 2000 marked the deadline for introduction of legislation and produced hundreds of new bills during the final week of session. The Public Safety and Judiciary Committees, and others, have been hearing a wide array of legislation affecting criminal procedure, alternative dispute resolution, personal privacy, family law, and the disposition of juveniles, to name a few. As we move through the legislative calendar, *The Capitol Connection* will regularly profile a selection of bills that affect the judiciary.



Criminal Law:

SB 1342 (Burton) – Grants to a defendant who was convicted in a criminal case the right to file a motion after entry of judgment of conviction for the performance of fingerprint or forensic DNA testing on evidence that is relevant to the charges that resulted in the conviction, but was not subject to testing.

AB 1897 (Davis) – Grants a person who reasonably believes she or he is a victim of identity theft the right to file a police report and permits that report to be used to petition the court for a judicial determination of innocence if another person has used the petitioner's personal identifying information to commit a crime.

Please see BILLS, page 2...

IN THIS ISSUE

- 1 BBC "DAY IN SACRAMENTO"
- 1 BILLS, BILLS, AND MORE BILLS
- 3 MARCH 2000 PRIMARY ELECTION RESULTS
- 4 PROFILE: ASSEMBLY MEMBER CARL WASHINGTON
CHAIR, ASSEMBLY PUBLIC SAFETY COMMITTEE

Domestic Violence:

AB 1705 (Gallegos) – Appropriates \$15 million from the General Fund to the Judicial Council for allocation and distribution to trial courts for local domestic violence courts.

AB 1754 (Robert Pacheco) – Creates a pilot project related to domestic violence courts.

SB 1340 (Solis) – Creates a task force charged with establishing model guidelines for the operation of domestic violence courts.

SB 1716 (Ortiz) – Requires court-connected and private child custody mediators and evaluators to participate in domestic violence and child abuse training. Requires the Judicial Council to develop the standards for the training. Authorizes the court to take any reasonable temporary steps necessary to protect the child where unsubstantiated allegations of child sexual abuse are raised during a child custody proceeding and the court has concerns about the child's safety. Requires referral of family law child custody cases to Child Protective Services for investigation when there are allegations of child abuse or neglect and one parent is determined fit. Requires CPS to file a report with the family court.

Family Law:

SB 1791 (Rainey) – Authorizes the State Department of Social Services to carry out specified powers and duties relating to child support. Authorizes the Director of Social Services to hold adjudicative proceedings, which would be an alternative to court-ordered child support and grants the department authority to take enforcement action for collection of support obligations.

SB 2124 (Figueroa) – Prohibits family court mediators from making recommendations to the court regarding custody and visitation issues.

Juvenile Law:

AB 1913 (Cardenas) – Comprehensive juvenile justice bill. Increases the accountability of young people who commit crimes and fund programs

that reduce recidivism among juveniles. Provides that all minors eligible for alternative supervision diversion, as a condition of program participation, will be enrolled in a school program and provided alcohol and substance abuse services, counseling and mental health services.

AB 2375 (Honda) – Requires that the court, court appointed advocates, probation officers, and social workers, take specified actions to ensure that children in need of special education services receive the services and any accommodations they are entitled to under the law.

SB 1391 (Schiff) – Provides that hearings involving a child, who has been or may be declared a dependent of the juvenile court, be open to the public, unless the court finds on the record that admitting the public would seriously harm the child's best interest.

SB 1954 (Polanco) – Establishes "juvenile services facilities" for qualifying private, nonprofit or county-operated facilities. Grants juvenile courts the authority to commit eligible children who are between the age of 13 years and under 18 at the time of admission to such a facility. ❖

THE CAPITOL CONNECTION

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MARCH 2000 PRIMARY ELECTION RESULTS

The December 20, 1999 issue of *The Capitol Connection* (Vol. 1, No. 11) included a table of legislators running for offices other than the one they currently hold. The table below provides the primary election results.

PRIMARY RESULT	Legislator – Party	Current Office	Term Limited in 2000?	New Office the Legislator is Running for	Is this an open seat?	Incumbent (reason incumbent is leaving)
WON	Oller - R	AD 4	no	SD 1	yes	Leslie (termed out in 2000)
WON	Torlakson - D	AD 11	no	SD 7	no	Rainey**
WON	Machado - D	AD 17	yes	SD 5	yes	Johnston (termed out in 2000)
WON	Honda - D	AD 23	no	CD15	yes	T. Campbell (running for U.S. Senate)
WON	Cunneen - R	AD 24	yes	CD15	yes	T. Campbell (running for U.S. Senate)
WON	McClintock - R	AD 38	yes	SD 19	yes	C. Wright (termed out in 2000)
WON	Kuehl - D	AD 41	yes	SD 23	yes	Hayden (termed out in 2000)
LOST	Knox - D	AD 42	yes	SD 23	yes	Hayden (termed out in 2000)
LOST	Wildman - D	AD 43	no	SD 21	yes	Schiff (running for Congress)
WON	Scott - D	AD 44	no	SD 21	yes	Schiff (running for Congress)
WON	Vincent - D	AD 51	no	SD 25	yes	Hughes (termed out in 2000)
LOST	Floyd - D	AD 55	yes	SD 25	yes	Hughes (termed out in 2000)
WON	Margett - R	AD 59	yes	SD 29	yes	Mountjoy (termed out in 2000)
WON SPECIAL	Soto - D	AD 61	no	SD 32 – special	yes	None (Baca elected to Congress)
WON	Ackerman - R	AD 72	yes	SD 33	yes	Lewis (termed out in 2000)
WON	Davis - D	AD 76	yes	CD 49	no	Bilbray**
WON	Battin - R	AD 80	yes	SD 37	yes	Kelley (termed out in 2000)
WON	Leslie - R	SD 1	yes	AD 4	yes	Oller (running for Senate)
WON	Schiff - D	SD 21	no	CD 27	no	Rogan**
WON	Solis - D	SD 24	no	CD 31	no	Martinez
LOST	*Haynes - R	SD 36	no	U.S. Senate	no	Feinstein
WON	Kelley - R	SD 37	yes	AD 80	yes	Battin (termed out in 2000)
LOST	*Morrow - R	SD 38	no	CD 48	yes	Packard (retiring)

*retains current seat

** won Republican primary

AD = Assembly District
SD = Senate District
CD = Congressional District

PROFILE

Assembly Member

Carl Washington

Chair, Assembly Public Safety Committee

Elected in November 1996 to represent California's 52nd Assembly District, Assembly Member Carl Washington currently holds a unique position in the Legislature – he not only serves as chair of a powerful legislative committee, but he also serves as an ordained minister in Los Angeles.

One of the youngest members in the Assembly, Rev. Washington is respected on both sides of the aisle and has risen from the ranks to become the new Chair of the Assembly Public Safety Committee, whose primary jurisdiction is the California Penal Code. He succeeds Assembly Member Mike Honda, who is running for Congress. Mr. Washington's legislative term limit is 2002.

Assembly Member Washington has lived in Los Angeles since he was 1, but returned to his birthplace of Texas to attend Bishop College, a minister's college and was ordained in California in 1988. Under the tutelage of former Assembly Member and Los Angeles County Supervisor Yvonne Burke, Mr. Washington took his first and successful step into elective politics when he ran for the seat he now holds.

Some of his legislative accomplishments include the Carl Washington School Safety and Violence Prevention Act of 1999 (AB 1738) and increasing efforts to reduce recidivism. He is a member of the National Conference of State Legislators Committee on Criminal Justice.

Carl Washington spoke with *The Capitol Connection* as he began his new duties as Chair of the Assembly Public Safety Committee.

CC: What are the top priorities of the Public Safety Committee this year? What are your personal priorities?

CW: Our top priority is to provide an open, fair, efficient, and thoughtful process to hear the approximately 350 legislative proposals that are assigned to us over the course of a 2-year session. The public safety committee has traditionally been the policy committee in the Legislature with the highest bill load. This year is no exception. Despite all of the criticism of the electorate, this presidential election has energized a lot of people who previously were not involved in the political process. Of course this hasn't gone unnoticed by the members of the Assembly so

my colleagues seem to be unusually active in introducing legislation this year.

From my personal perspective, I would like to see the ongoing debate about the criminal justice system move away from merely being an argument between those who want to incarcerate and those who want to focus on the root causes of crime. In many ways I see my role as being someone who can bring people together to understand that if we are to progress as a society, we must achieve a better balance between prevention, treatment, and punishment. We have within our reach, a historic opportunity to re-define how the citizens of this state see crime. With unemployment at an all-time low, with crime rates dropping, why is it that people do not feel any safer than before? All of us are responsible to a certain degree for not creating the type of programs that restore a sense of community to our neighborhoods, for not creating the opportunities for our young people to realize their full potential, for not creating the type of environment that will restore trust between police and citizens. We can do all of this and more if we commit ourselves to thinking about public safety in terms other than harsh mandatory sentences and runaway prison construction.

There has been a lot of talk in the Legislature the past two years how record budget surpluses give us the chance to make long-overdue repairs to our infrastructure. What has been missing from the discussion is the recognition that our young people are part of that infrastructure as well. I read an article recently that repeated a shocking statistic. In the year 2000, 1 out of 4 African American youth will be incarcerated in prison or jail or be under the supervision of a parole or probation officer. Does anyone doubt that if 1 out of 4 white children were faced with a similar fate, that there would be a sense of urgency about reforming the criminal justice system? We have to act now. It's long overdue.

CC: Will there be any differences in how you will conduct committee business as compared to your predecessors?

CW: I don't think so. Last year, Mike Honda from San Jose was the chair and he created the type of process that I have always believed in--open and respectful of different opinions.

CC: In the last issue of the *Capitol Connection*, Assembly Member Keeley cited DNA testing as being a "frontburner" issue this year. What are your thoughts regarding what type of legislation is needed in this area?

CW: No other issue holds greater promise for revolutionizing police work while posing important questions about privacy and civil liberties. How far should we go in expanding the class of persons required to provide DNA samples to law enforcement? Should persons who are not convicted but who are suspects have their DNA remain in our files? We

recently passed a bill that I supported that created an exception to the existing statute of limitations in sexual assault cases. The bill is currently in the Senate and it allows the police to prosecute sex offenders beyond the 6-year limit if the only means of identifying the suspect was through DNA typing. We worked closely with the author to draft a narrow exception that would balance the need to investigate crime while respecting the right of the accused to due process of law.

In keeping with my previous comments about the need for a more balanced approach in the justice system, I think it essential for the Legislature to provide some mechanism for those persons who have been wrongfully convicted to have access to DNA technology. How will the state provide access to this technology? What are some reasonable limits so that the system does not collapse while we ensure that those persons wrongfully convicted have access to justice. I believe that this will be one of the most important policy issues before us this year.

CC: You recently Vice Chaired a Joint Legislative Committee on Prison Construction and Operations hearing on using technology to enhance public safety, especially in the area of tracking the state parolee population. What were some of the concerns of local law enforcement and what suggestions were made?

CW: The Department of Corrections, SPD, and seven technology companies presented information on some of the latest advances in dealing with inmate management and parole tracking. It was an informational hearing so the Committee received an earful of ideas, which were helpful. Technology and law enforcement is truly a hand in glove relationship and the State must be sure not to handcuff itself to costly propositions that don't pan out or solve the problem. The information was great. It gave us an opportunity to begin an early focus on the future.

CC: You bring a unique background to your role as a legislator. In what ways, if any, does your background give you a different perspective toward lawmaking?

I'm originally from Los Angeles, California. I attended local schools and by the grace of God and my mother, I managed to stay out of trouble. At the age of 17, I was called to the ministry, went to college and came back home to see what I could do to help my community. I founded an organization Hands Across Watts. During the 1992 civil unrest in LA, I brokered a truce between the gangs, for which I won an international human rights award. People often ask why did I get in the middle of all of that. It's in my nature to get in the middle of things, to make peace, to bring warring factions together and to hammer out balanced solutions. After working for many years as Los Angeles Supervisor Yvonne Burke's Chief Field Officer, I decided to run for the Assembly in 1996 and won. Regardless of the positions I've earned, I

continue to see my role as an advocate for social and economic justice for all of the people of the greater Los Angeles community.

CC: With passage of Proposition 21, juvenile crime will undoubtedly take center stage as an issue confronting the courts, prosecutors and defense attorneys. How should the Legislature respond?

CW: Based on all of the projections that I reviewed prepared by the non-partisan Legislative Analysts Office, Prop 21 is going to place a heavy financial burden on every component of the criminal justice system--the courts, the district attorney, the public defender, and the probation departments.

I opposed the initiative and shared my feelings with everyone I knew, on both sides of the debate. Juvenile arrests for violent offenses have been falling. Juvenile homicide arrests have been cut in half since the peak. Adults are being arrested for violent offenses at higher rates than juveniles currently. So why did the voters choose this expensive and fundamentally flawed approach to juvenile justice? It's frustrating. Do you remember in the mid to late 1980's, based on population projections, certain social scientists were predicting a wave, a virtual invasion of juvenile "super-predators." Well, it never materialized. Our cities have not been over-run by hordes of vicious young people. The proponents of Prop 21 used the same tactic of stirring up fear in the voters.

The proponents of the initiative never were able to answer my questions: How does eliminating judicial involvement and discretion make the system better? How does removing experienced juvenile court judges from a decision-making role in the process make us any safer? How does putting more young people in prison at an early age make our communities safer? The experience of Florida, which engages in widespread transfers of juveniles to the adult system, shows us that just the opposite is true. During our informational hearing, I heard the argument that because judges agree with prosecutors roughly 80% of the time, why do we need expensive and time-consuming fitness hearings. One of your members, a judge from San Diego, had the best response: What would you think if you were one of those 2 out of the 10 kids where the judge disagreed with the prosecutor.

Having said that, we need to look forward. Our first job in the legislature will of course be to make sure the system continues to function. I expect that it will take some time for people to understand how these changes will be implemented and for the various legal challenges to work their way through the courts. However, our main task as a Legislature will be to try to focus on keeping youth out of the system. Now more than ever, we have to shift the emphasis to funding prevention efforts and intervention strategies that we know are effective. ❖