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2005 Legislative Summary

During the first year of the 2005–2006 Legislative Session, the Legislature and Governor enacted over 100 bills that affect the courts or are of general interest to the legal community. Brief descriptions of these measures follow, arranged according to subject matter. Designators in the index specify whether the measure is of primary interest to judges, court administrators, and/or practitioners in trial courts (T), appellate courts (A), or both.

The effective date of legislation is January 1, 2006, unless otherwise noted. Urgency measures normally take effect upon enactment, and some measures have delayed operative dates. Those dates are included where applicable.

The bill descriptions are intended to serve only as a guide to identifying bills of interest; they are not a complete statement of statutory changes. Code section references are to the sections most directly affected by the bill; not all sections are cited.

Until the annual pocket parts are issued, bill texts can be examined in their chaptered form in *West's California Legislative Service* or *Deering's Legislative Service*, where they are published by chapter number. In addition, chaptered bills and legislative committee analyses can be accessed on the Internet at www.leginfo.ca.gov/bilinfo.html. Individual chapters may be ordered directly from the Legislative Bill Room, State Capitol, Sacramento, California 95814, 916-445-2323.

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BUDGET

HOMICIDE TRIAL COSTS

AB 27, MULLIN, CH. 282
PEN 1037, 1037.1, 1037.2

Clarifies existing law regarding whether Penal Code section 1037 relates to courts and counties. Requires adoption of a financial policy that formalizes a procedure for court reimbursement in change of venue trials.

COURTS AND COUNTIES

AB 139, COMMITTEE ON BUDGET, CH. 74
URGENCY, EFFECTIVE JULY 19, 2005

Budget trailer bill that includes the undesignated fee agreement reached by the Administrative Office of the Courts (AOC) and the California State Association of Counties (CSAC). Incrementally reduces and eventually eliminates over a four-year period the counties' obligation to pay a $31 million annual obligation under Government Code section 68085.5. Increases the maximum civil assessment from $250 to $300. Freezes local civil assessment revenues at the fiscal year 2003–2004 level. Establishes a review process to make necessary adjustments to ensure fairness of payments by agreement between the CSAC and the AOC. Requires courts and counties to prorate collection costs under State Controller's Office guidelines.

BUDGET ACT OF 2005: COURT FEES

AB 145, COMMITTEE ON BUDGET, CH. 75
URGENCY, EFFECTIVE JULY 19, 2005

Budget trailer bill that enacts the Uniform Civil Fee proposal. Establishes statewide uniform first-paper and first-response paper fees at three graduated levels: the filing fee for limited civil cases where the demand is less than or equal to $10,000 is $180; the filing fee for limited civil cases where the demand is greater than $10,000 but less than $25,000 is $300; and the filing fee for unlimited civil cases is $320. Establishes a moratorium on fee changes through December 31, 2007, except for possible changes by the Legislature to implement recommendations of the Task Force on County Law Libraries or revise the graduated filing fee for probate petitions. Establishes a set-aside for increases in dispute resolution, law library, children's waiting rooms, and judges' retirement fees during the proposed moratorium. Authorizes the Judicial Council to establish bank accounts for the superior courts and requires the courts to deposit moneys from trial court operations and any other moneys under the control of the courts into those accounts. Provides that money, excluding restitution to victims, that has been deposited with a superior court or that a superior court is holding in trust for the lawful owner in a court bank account or in a court trust account in a county treasury and that remains unclaimed for three years is the property of the superior court if not claimed after specified notice and if no verified complaint is filed and served.

BUDGET ACT OF 2005: COURT FEES

SB 67, COMMITTEE ON BUDGET AND FISCAL REVIEW, CH. 705
GOV VARIOUS SECTIONS; PEN VARIOUS SECTIONS
URGENCY, EFFECTIVE OCTOBER 7, 2005

Makes a variety of clarifying and technical clean-up amendments to the undesignated fees agreement between courts and counties that was approved in budget trailer bill AB 139.

FY 2005–2006 BUDGET

SB 77, COMMITTEE ON BUDGET AND FISCAL REVIEW, CH. 38

Enacts the state budget of fiscal year 2005–2006.

BUDGET ACT OF 2004: CONTINGENCIES AND EMERGENCIES

SB 78, COMMITTEE ON BUDGET AND FISCAL REVIEW, CH. 246

Deficiency bill that includes $14.6 million for the trial courts to fund security and increased county charges.

BUDGET ACT OF 2005

SB 80, COMMITTEE ON BUDGET AND FISCAL REVIEW, CH. 39
URGENCY, EFFECTIVE JULY 11, 2005

Budget bill that amends the conference committee report and SB 77 to restore $7.7 million in funding for the Supreme Court, Courts of Appeal, and Administrative Office of the Courts.

CIVIL LAW AND PROCEDURE

CIVIL DISCOVERY

AB 333, HARMAN, CH. 294
VARIOUS CODES

Provides, among other things, that a deposition of an organization will be treated as a single deposition for purposes of the provisions applicable to discovery in a limited civil case, even when more than

ACKNOWLEDGMENTS

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one person may be designated or required to testify. Requires a deposition officer to put the deponent under oath or affirmation and requires the testimony and any stated objections, if taken stenographically, to be taken by a certified shorthand reporter. Authorizes a petitioner's successor in interest (consistent with a petitioner's rights under current law) who expects to be a party to a lawsuit in state court to petition to conduct discovery before the lawsuit is filed under specified conditions. Provides that a deposition is admissible in a court of this state if it was taken under the provisions of the Civil Discovery Act or under comparable provisions of another state, the federal courts, or a foreign nation in which it was taken.

ASSAULT TO CAPTURE AN IMAGE

AB 381, MONTANEZ, CH. 424
CIV 1708.8

Provides that an assault committed with the intent to capture any type of visual image, sound recording, or physical impression of the plaintiff subjects a person to liability for up to three times the amount of general and special damages proximately caused by that violation, punitive damages, and disgorgement to the plaintiff of any proceeds or other consideration as a result of the violation. Provides further that a person who directs, solicits, actually induces, or actually causes another person to commit an assault of this nature is liable for other specified damages.

ARBITRATION: LEGAL REPRESENTATION

AB 415, HARMAN, CH. 607
CCP 1282.4

Extends until January 1, 2007, the law that permits persons admitted to the bar of any other state to represent a party in an arbitration proceeding in this state or to render legal services in this state in connection with an arbitration proceeding in another state.

SERVICE OF PROCESS

AB 496, AGHAZARIAN, CH. 300
B&P 22350; CCP 412.10, 417.30, 583.210, 1010.6, 1985.3, 1985.6; PEN 4013

Makes a variety of changes to the law governing service of process. Among other things, requires the clerk to maintain the original summons in the court file.

COMMON INTEREST DEVELOPMENTS

AB 1098, JONES, CH. 458
CIV 1363.07, 1365.2

Requires a common interest development association to make available all association records, as opposed to just accounting books and records and meeting minutes, to a member of the association and applies this provision to related community service organizations. Allows a homeowner to file a claim in small claims court to enforce these provisions and increases the cap on the civil penalty a court may impose to $1,000 per violation. Makes this bill's provisions contingent upon the enactment of SB 61.

CIVIL WARRANTS

AB 1150, LA SUER, CH. 474
CCP 1992, 1993, 1993.1, 1993.2, 1994; GOV 26744.5

Enacts a series of new requirements to govern the issuance and execution of civil arrest warrants for failure to appear under a subpoena or court order. For a failure to appear under a subpoena (but not under a court order), requires a person to be given notice and a second opportunity to appear before issuance of a warrant, except on a showing of urgency and materiality. Once issuance of a warrant is appropriate, requires that specified information be listed on the warrant. Requires the sheriff serving the warrant to offer the arrestee an opportunity to be immediately released from custody by signing a promise to appear, except when the court has made a written finding that urgency and materiality preclude use of that process. If a person is arrested and held in custody under the warrant, limits the term of that custody to 12 hours and prohibits an arrest if the issuing court or the nearest court will not be in session in the 12-hour period immediately following the arrest. Establishes that the sheriff may obtain specified fees for the processing and execution of a warrant. Requires the person seeking enforcement of the subpoena or court order to pay those fees but permits that person to seek $500 plus damages and costs in a civil suit against the person named in the subpoena or court order. Permits the court to make a civil assessment of up to $1,000 against a person who fails to appear in court after signing a promise to appear.

STRATEGIC LAWSUIT AGAINST PUBLIC PARTICIPATION (SLAPP)

AB 1158, LIEBER, CH. 535
CCP 425.16, 425.18

Among other things, provides that the court's denial of an anti-SLAPP motion would be inadmissible for any purpose in any subsequent action and would not affect any burden of proof or degree of proof otherwise applicable. Requires that an anti-SLAPP motion be scheduled by the court clerk for hearing within 30 days after the service of the motion unless the docket conditions require a later hearing. Enacts new Code of Civil Procedure section 425.18 to govern SLAPPback lawsuits (defined as a cause of action for malicious prosecution or abuse of process arising from the filing of a prior cause of action that was dismissed as a SLAPP lawsuit under an anti-SLAPP motion). Requires a special motion to strike a SLAPPback lawsuit to be filed within 120 days of the service of the complaint or, at the court's discretion, within six months of the service of the complaint or at any later time in extraordinary cases, as specified. Authorizes a party opposing a special motion to strike a SLAPPback lawsuit to file an ex parte application for a continuance to

obtain necessary discovery. Requires the court to award costs and reasonable attorney fees to a plaintiff prevailing on a special motion to strike a SLAPPback lawsuit if the court finds that the motion is frivolous or solely intended to cause unnecessary delay. Provides that these provisions do not apply to a SLAPPback lawsuit filed by a public entity.

JUDGES: DISQUALIFICATION

AB 1322, EVANS, CH. 332
CCP 170.1
URGENCY, EFFECTIVE SEPTEMBER 22, 2005

Responds to a recent decision by the Court of Appeal (*Hartford Casualty Insurance Co. v. Superior Court* (2004) 125 Cal. App.4th 250, review granted March 23, 2005), which took an unexpectedly broad interpretation of the disqualification provisions of Code of Civil Procedure section 170.1(a)(8). Adds prior employment or service as a dispute resolution neutral to subdivision (a)(8) as a ground for disqualification. Requires disqualification if (1) the judge directs the parties to participate in an alternative dispute resolution process in which the dispute resolution neutral will be an individual or entity with whom the judge has an arrangement concerning prospective employment or other compensated service as a dispute resolution neutral, has previously been employed or served, or is discussing or has discussed employment or service or (2) the judge will select a dispute resolution neutral or entity to conduct an alternative dispute resolution process in the matter before the judge and among those available for selection is an individual or entity with whom the judge has such an arrangement or with whom the judge is discussing or has discussed employment or service. Defines participating in discussions or has participated in discussions for the purposes of these provisions.

SMALL CLAIMS COURT: JURISDICTION

AB 1459, CANCIAMILLA, CH. 618
CCP 116.240, 116.610, 116.940, 116.221, 116.222

Effective January 1, 2006, except for training requirements for temporary judges, which become effective July 1, 2006. Increases the small claims jurisdiction over actions brought by a natural person from $5,000 to $7,500. Provides that before serving as a temporary judge in small claims court (and at least every three years thereafter), each temporary judge must take a course of study under rules adopted by the Judicial Council. Provides that the course include specified areas of state and federal law relevant to small claims cases. Also provides that the individual personal advisory services provided to small claims litigants must cover specified topics relating to small claims court rules, filings, and procedures. Contains legislative findings and declarations addressing (1) the variation in quality of and access to justice in small claims courts across jurisdictions, (2) the need for better and timely training of temporary judges, (3) the need for improvements in the availability, knowledge, and experience of advisors, and (4) the need for qualified interpreters. Specifies the intent of the Legislature that the jurisdictional limits should not be raised again, particularly with respect to individuals as defendants, until certain small claims court services are funded at sufficient levels (identical to SB 422).

COURTS

AB 1742, COMMITTEE ON JUDICIARY, CH. 706
VARIOUS CODES

Among other things, deletes the repeal date of January 1, 2006, in Code of Civil Procedure section 128.7, which authorizes sanctions for the filing of frivolous lawsuits, thereby continuing indefinitely the courts' sanctioning authority in this area. Amends Code of Civil Procedure section 998 to require that acceptances of offers be in writing in order to reduce uncertainty and reduce the number of appeals related to ambiguous acceptances of settlement offers. Contains a variety of clean-up provisions to the Small Claims Act, including simplifying the process for scheduling hearings and filing proofs of service of claims and orders, clarifying the process governing motions to correct or vacate judgments, and streamlining the process for handling transfers of judgments after appeal. Allows courts to make temporary custody and visitation orders before a venue change (currently they can only make support orders) and adds actions under the Uniform Parentage Act to the existing authority to make these temporary orders in separation and dissolution cases. Grants court personnel access to electronic data on insurance coverage through state Department of Motor Vehicles records in the same manner that the data is provided to law enforcement officers.

COMMON INTEREST DEVELOPMENTS: ELECTIONS

SB 61, BATTIN, CH. 450
CCP VARIOUS SECTIONS

Establishes procedures for elections in common interest developments. Among other things, authorizes actions regarding access to association resources by candidates and advocates, as well as other specified claims regarding common interest development elections, to be brought in small claims court if the amount of the demand does not exceed the jurisdiction of that court. Makes this bill's provisions contingent on the enactment of AB 1098.

COMMON INTEREST DEVELOPMENTS: ASSESSMENTS

SB 137, DUCHENY, CH. 452
CIV VARIOUS SECTIONS; CCP 116.540, 729.035

Changes the procedure for collecting delinquent assessments in common interest developments. Among other things, provides that after January 1, 2006, foreclosure is not permitted as a remedy when a homeowners' association seeks to collect delinquent assessments of less than $1,800. Allows a homeowners' association to seek sums of less than $1,800 in small claims court and to record a lien on the owner's separate interest. Permits a management company representative or bookkeeper to appear on behalf of a common interest development association in small claims court. Allows the small claims court to award the total amount of accrued unpaid assessments, late charges and fees, the cost of collection attorney fees, and interest up to the jurisdictional limit of the small claims court. Provides that, after January 1, 2006, an association may foreclose on a lien for delinquent assessments of $1,800 or more if specified conditions are met.

SMALL CLAIMS COURT: JURISDICTION

SB 422, SIMITIAN, CH. 600
CCP 116.240, 116.610, 116.940, 116.221, 116.222

Effective January 1, 2006, except for training requirements for temporary judges, which become effective July 1, 2006. Increases the small claims jurisdiction over actions brought by a natural person from $5,000 to $7,500. Provides that before serving as a temporary judge in small claims court (and at least every three years thereafter), each temporary judge must take a course of study under rules adopted by the Judicial Council. Provides that the course include specified areas of state and federal law relevant to small claims cases. Also provides that the individual personal advisory services provided to small claims litigants must cover specified topics relating to small claims court rules, filings, and procedures. Contains legislative findings and declarations addressing (1) the variation in quality of and access to justice in small claims courts across jurisdictions, (2) the need for better and timely training of temporary judges, (3) the need for improvements in the availability, knowledge, and experience of advisors, and (4) the need for qualified interpreters. Specifies the intent of the Legislature that the jurisdictional limits should not be raised again, particularly with respect to individuals as defendants, until certain small claims court services are funded at sufficient levels (identical to AB 1459).

UNSOLICITED ADVERTISING FAXES

SB 833, BOWEN, CH. 667
B&P 17538.43

Among other things, makes it unlawful for a person or entity, if located in California or if the recipient is located in California, to use any device to send, or cause any other person or entity to use a device to send, an unsolicited advertisement to a fax machine, except as specified. Authorizes the recipient of an unsolicited advertising fax to bring an action for a violation of these provisions for injunctive relief, actual damages or statutory damages of $500 per violation, whichever is greater, or both injunctive relief and damages and, if the violation was willful, authorizes a court to award treble damages.

COURT FACILITIES

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AB 1435, EVANS, CH. 410
GOV 70063, 70312, 70325, 70375, 70391, 70403, 76100

Makes technical changes to the Trial Court Facilities Act. Removes obsolete language regarding court reporters in Mendocino County. Clarifies allowable expenditures from the local courthouse construction fund and expands the reporting requirement of the Judicial Council regarding those expenditures. Provides counties with first right of refusal at fair market value for court facilities that transfer to the state if the state later decides to sell the facilities.

COURT OPERATIONS

ADMINISTRATION OF THE STATE BAR

AB 664, JONES, CH. 610
B&P 6060.6; CCP 1161.2

Allows courts to list any qualified legal services project receiving funds from specified State Bar programs on the notice to a defendant in an unlawful detainer action, rather than limiting the list to those providers funded by the federal Legal Services Corporation. Allows the State Bar to accept identification numbers other than social security numbers for bar exam applicants under specified circumstances.

CRIMINAL LAW AND PROCEDURE

TRAFFICKING IN PERSONS

AB 22, LIEBER, CH. 240
VARIOUS CODES

Establishes the crime of trafficking of a person for forced labor or services or for carrying out other felonies, punishable by a term of imprisonment in the state prison for three, four, or five years. Establishes the crime of trafficking of a minor for those purposes, punishable by a term of imprisonment of four, six, or eight years. Permits a victim of trafficking to bring a civil action for actual damages, provides for restitution and punitive damages, and establishes a victim-caseworker privilege. Establishes a task force to study various issues in connection with human trafficking and to advise the Legislature on those issues. Provides that, on conviction for a violation of the human trafficking laws, the defendant shall, in addition to any other penalty or restitution, be ordered by the court to pay restitution to the victim in any case in which a victim has suffered economic loss as a result of the defendant's conduct. The court shall base its order to provide reparations to the victim on the greater of the gross value of the victim's labor or services based upon the comparable value of similar services in the labor market in which the offense occurred, the value of the victim's labor as guaranteed under California law, the actual income derived by the defendant from the victim's labor or services, or any other appropriate means.

CONTACT WITH MINOR

AB 33, RUNNER, SHARON, CH. 461
PEN 272, 502.01

Makes it an alternate misdemeanor or infraction for an adult stranger to contact or communicate with a minor under the age of 14, who the adult knew or should have known was under that age, to lure him or her away for any purpose. Provides that if the defendant used his or her computer to communicate with the victim in the attempt to lure the victim, that computer is subject to forfeiture.

ASSAULT WEAPONS

AB 88, KORETZ, CH. 690
PEN 12280

Provides that, with the exception of a first violation involving no more than two firearms, each assault weapon or .50 BMG rifle possessed by a defendant can be the basis of a separate punishable offense.

CHILD ABUSE

AB 114, COHN, CH. 464
EVID 1109

Provides that in a criminal prosecution for child abuse evidence of a defendant's prior acts of child abuse would be admitted to prove the defendant's conduct.

SEARCH WARRANTS: INDIVIDUALS AUTHORIZED TO SERVE

AB 182, BENOIT, CH. 181
PEN 1529

Allows any peace officer, including a district attorney investigator, to serve a search warrant rather than only a sheriff, marshal, or police officer.

TRESPASS

AB 280, OROPEZA, CH. 289
PEN 171.5, 602

Expands the law prohibiting a person from knowingly possessing weapons within any sterile area of an airport to apply to the sterile area of a passenger vessel terminal. Expands the law prohibiting an unauthorized person from knowingly entering an airport operations area if the area has been posted with certain notices to apply to the shoreside boundary of a passenger vessel terminal operations area and the waterside boundary of such an operations area if notices have been posted. Expands the law prohibiting a person from intentionally avoiding submission to screening and inspection when entering or reentering a sterile area of an airport to apply to the sterile area of a passenger vessel terminal.

NOTARIES PUBLIC

AB 361, RUNNER, SHARON, CH. 295
CIV 1189; GOV 8214.8, 8225, 8228.1;
PEN 470

Makes it a misdemeanor for a notary public to willfully fail to perform the required duties of a notary public or to willfully fail to keep the seal of the notary under his or her direct and exclusive control. Requires a court to revoke the commission of a notary public on conviction of any offense related to his or her duties or of any felony and requires surrender to the court of the seal of the notary public, which would then be forwarded to the Secretary of State.

BAIL LICENSEES: CONTINUING EDUCATION

AB 404, LENO, CH. 389
INS 1810.7

Allows bail licensees to complete their specified continuing education requirements through Internet or correspondence instruction. Requires licensees to obtain a passing grade of at least 70 percent on a written final examination.

SEX OFFENDERS: MEGAN'S LAW

AB 437, PARRA, CH. 721
PEN 290.46

Requires the state Department of Justice (DOJ) to include on the Megan's Law Web site the dates of conviction for the crimes requiring registration and the dates of release from incarceration for those crimes if sufficient funding is available for this purpose and DOJ has access to complete and accurate information on those dates.

CONTROLLED SUBSTANCES: IODINE

AB 465, COGDILL, CH. 468
H&S 11100 ET SEQ.

Adds iodine and tincture of iodine to the list of regulated chemicals for which transactions are to be reported to the state Department of Justice. Adds phosphorus acid and its salts to the list of substances that require a DOJ report from any manufacturer, wholesaler, retailer, or other person or entity that sells, transfers, or furnishes the listed substances. Deletes the $100 threshold from misdemeanor provisions of law regulating the possession, sale, or transfer of chemicals, supplies, or apparatus used in the unlawful manufacture of a controlled substance. Adds wholesaler or wholesale distributor to those exempt from obtaining a permit from DOJ to sell, transfer, or otherwise furnish specified substances.

TESTIMONY OF RETIRED PEACE OFFICERS

AB 557, KARNETTE, CH. 18
PEN 872

Allows an honorably retired law enforcement officer to testify to hearsay statements at a preliminary hearing.

EXAMINATION OF WITNESSES

AB 620, NEGRETE MCLEOD, CH. 305
PEN 1335, 1336, 1337, 1341

Lowers the age from 70 to 65 years as a ground for conducting a conditional examination of a witness to preserve his or her testimony in cases involving the commission of serious felonies. Extends the right to defendants as well as the prosecution to request a conditional examination of a witness if there is evidence that the witness's life is in jeopardy.

BODY PIERCING

AB 646, RUNNER, SHARON, CH. 307
PEN 19.8, 652

Makes it an infraction, punishable by a fine not to exceed $250, for a person to perform, or offer to perform, a body piercing on a person under the age of 18 unless the body piercing is performed in the presence of, or as directed by a notarized writing by, the person's parent or guardian. Does not apply to the body piercing of an emancipated minor.

TELEPHONE CALLS DURING BOOKING

AB 760, NAVA, CH. 635
PEN 851.5

Requires that if during the booking process an arrested person is identified as a custodial parent with responsibility for a minor child, the arrested person shall be given two additional phone calls for the purpose of arranging for the care of the minor child or children.

IMPERSONATING A VETERAN

AB 787, DEVORE, CH. 457
PEN 532b

Makes it a misdemeanor for a person to falsely claim to be, or present himself or herself to be, a veteran member of the armed forces of the United States with the intent to defraud. Does not apply to face-to-face solicitations involving less than $10.

SEX OFFENDERS: COMMUNITY PLACEMENT

AB 893, HORTON, SHIRLEY, CH. 162
W&I 6608.5

Requires that the state Department of Mental Health consider the age and profile of the victim when it proposes a specific placement for the outpatient treatment of a sexually violent predator.

CRIMINAL PROFITEERING

AB 988, BOGH, CH. 53
PEN 186.2

Adds identity theft to the list of crimes subject to prosecution for criminal profiteering activity.

ATTEMPTED MURDER: CUSTODIAL OFFICERS

AB 999, LA MALFA, CH. 52
PEN 664

Makes the penalty for the attempted murder of a custodial officer the same as the penalty for the attempted murder of a peace officer.

DECEPTIVE IDENTIFICATION DOCUMENTS

AB 1069, MONTANEZ, CH. 326
PEN 483.5

Makes it a misdemeanor to possess a document-making device with the intent to use the device to manufacture, alter, or authenticate a deceptive identification document.

ABUSE: REPORTING

AB 1188, WOLK, CH. 163
PEN 11166.01; W&I 15630

Makes it a misdemeanor rather than an infraction for a supervisor or administrator to impede or inhibit the report of child, elder, or dependent abuse. Makes it a misdemeanor rather than an infraction for any mandated reporter to willfully and unlawfully fail to report abuse or neglect or for any person to impede or inhibit a report of abuse or neglect, if that abuse or neglect results in death or great bodily injury.

ENTERTAINMENT: EMERGENCY EXITS

AB 1194, OROPEZA, CH. 537
H&S 13113.6

Makes it a misdemeanor for any person who owns, rents, leases, or manages a facility that hosts a ticketed event for live entertainment to fail to make an announcement of the availability of emergency exits before the beginning of the live entertainment.

IDENTITY THEFT

AB 1566, CALDERON, CH. 432
PEN 530.5

Makes it a misdemeanor for a person who, with the intent to defraud, acquires, transfers, or retains possession of the personal identifying information of a member of the armed forces who has been called to active duty or active service and is deployed outside of the state.

CHILD SEXUAL ABUSE

SB 33, BATTIN, CH. 477
PEN 285, 288.1, 1000.12, 1000.13, 1203.066

Expands the definition of the felony of incest, which prohibits persons within degrees of consanguinity within which marriages are declared by law to be incestuous and void to commit fornication or adultery with one another, to apply to persons within that degree of consanguinity who are 14 years of age or older. Eliminates distinctions in probation eligibility between defendants who are family members of the victim and other defendants in cases involving sexual conduct with a child under 14. Eliminates probation eligibility for certain treatment programs for persons convicted of intrafamily lewd conduct or continuous sexual abuse that involved multiple victims, pornography, or substantial sexual conduct. Eliminates an exception to life terms under the one-strike law for persons convicted of intrafamily lewd conduct and continuous sexual abuse who are granted probation. Eliminates the option of deferred entry of judgment programs in physical and sexual abuse cases.

AMMUNITION

SB 48, SCOTT, CH. 681
PEN 12316

Changes the law regarding prohibited ammunition sales to persons under 18 and 21 years of age by deleting the phrase "knowing that person to be" under the minimum age for rifle and handgun ammunition and adding "reasonable" as a modifier to the existing defense of "reliance" on "bona fide evidence of majority and identity."

COMMERCIAL ELECTRONIC MAIL: PENALTIES

SB 97, MURRAY, CH. 247
B&P 17529.5

Makes it a misdemeanor for a person or entity to use commercial e-mail advertisements containing falsified, misrepresented, obscured, or misleading information.

STATUTE OF LIMITATIONS: SEX CRIMES

SB 111, ALQUIST, CH. 479
PEN 801.1, 803

Extends the statute of limitations to allow prosecution for rape, sodomy, child molestation, oral copulation, continuous sexual abuse of a child, or forcible sexual penetration, when the victim was under the age of 18, to be commenced any time before the victim's 28th birthday.

ALCOHOLIC BEVERAGES: LICENSES AND FEES

SB 118, CHESBRO, CH. 157
B&P 23661.2, 23661.3; R&T 32101

Conforms California law regulating interstate wine sales with the U.S. Supreme Court decision in *Granholm v. Heald L.* (2005), 125 S.Ct. 2195 by repealing the reciprocity provisions, which had provided that individuals can be licensed to receive shipments of wine only from states that allow shipments of wine to their residents from California.

CLOSED-CIRCUIT TESTIMONY

SB 138, MALDONADO, CH. 480
PEN 1347

Expands current provisions allowing the court in a criminal proceeding to order that the testimony of a child 13 years of age or younger be taken by closed-circuit television to apply to cases involving child abuse and endangerment charges. Permits the court, when a defendant has been charged with a child abuse or sex offense, to order that the testimony of a child victim 13 years of age or younger be taken by closed-circuit television if the court determines that testimony by the minor in the presence of the defendant would result in the child suffering serious emotional distress so that the child would be unavailable as a witness, or the child would be unavailable as a witness for other reasons.

HUMAN TRAFFICKING

SB 180, KUEHL, CH. 239
PEN 13519.14, 13990 ET SEQ.

Establishes the California Alliance to Combat Trafficking and Slavery (California ACTS) Task Force and requires it to evaluate programs available to victims of human trafficking and various criminal statutes addressing human trafficking and report to the Legislature, Governor, and Attorney General on or before July 1, 2007.

MENTAL COMPETENCY

SB 330, CEDILLO, CH. 36
PEN 1382

Requires a criminal action to be dismissed if a defendant in a misdemeanor or infraction case is not brought to trial within 30 days after the date of the reinstatement of criminal proceedings under the provisions of law governing the mental competency of defendants.

SEXUALLY VIOLENT PREDATORS

SB 383, MALDONADO, CH. 137
W&I 6608.7

Authorizes the state Department of Mental Health to enter into an interagency agreement or contract with the Department of Corrections or with local law enforcement agencies for services related to supervision or monitoring of sexually violent predators who have been conditionally released by the court into the community under the forensic conditional release program.

CRIMINAL GANG ACTIVITY

SB 444, ACKERMAN, CH. 482
PEN 186.22

Expands the definition of pattern of criminal gang activity to include commission of crimes relating to identity theft and the manufacture and sale of false identification and access cards.

TRESPASS

SB 584, SOTO, CH. 378
PEN 602

Expands the definition of the misdemeanor of trespass to include entering or reentering a courthouse or a city, county, city and county, or state building after intentionally avoiding submission to the screening and inspection of one's person and accessible property in accordance with the procedures being applied to control access, if the building's entrances have been posted so as to give reasonable notice that prosecution may result from that act.

SENTENCING: PROGRAMS

SB 618, SPEIER, CH. 603
PEN 1203.8

Authorizes a county to develop a multiagency plan to prepare and enhance nonviolent felony offenders' successful reentry into the community. Requires that the plan be developed by, and have the concurrence of, the presiding judge, chief probation officer, district attorney, local custodial agency, and public defender, or their designees, for submission to the board of supervisors for its approval. Authorizes the state Department of Corrections and Rehabilitation to enter into an agreement with up to three counties to implement these provisions and to provide funding for the purpose of the probation department carrying out its assessments.

ELECTRONIC MONITORING OF OFFENDERS

SB 619, SPEIER, CH. 484
PEN 1210.7 ET SEQ., 3010 ET SEQ.
URGENCY, EFFECTIVE OCTOBER 4, 2005

Authorizes county probation departments to use global positioning system technology to supervise persons on probation. Authorizes the state Department of Corrections and Rehabilitation to use global positioning system technology to supervise persons on parole.

POLICE PURSUITS

SB 719, ROMERO, CH. 485
GOV 13955; PEN 13519.8; VEH VARIOUS SECTIONS

Increases misdemeanor penalties for fleeing in a motor vehicle from police from a maximum of six months in county jail to a maximum of one year in county jail. Increases the maximum state prison term for the alternate misdemeanor/felony offense of fleeing in a motor vehicle from police from three, four, or five years to three, five, or seven years, when the act proximately causes serious bodily injury, and to four, six, or ten years when the act proximately causes death. Conditions immunity for law enforcement agencies from liability for injuries from police vehicle pursuits on adoption and promulgation of a pursuit policy and regular and periodic training.

SEXUALLY VIOLENT PREDATORS: CONDITIONAL RELEASE PROGRAM

SB 723, DENHAM, CH. 486
W&I 6608.5

Prohibits sexually violent predators released under the conditional release program from being placed within one-fourth mile of any public or private school providing instruction in kindergarten or any of grades 1 through 12, if the person has been convicted of certain offenses or the court finds that the person has a history of improper sexual conduct with children.

CORRECTIONS

SB 737, ROMERO, CH. 10
URGENCY, EFFECTIVE MAY 10, 2005

Eliminates the California Department of Corrections and the Youth and Adult Corrections Agency and creates the Department of Corrections and Rehabilitation. Creates the Corrections Standards Authority, which will assume the functions of the Board of Corrections and the Correctional Peace Officer Standards and Training. Creates the Board of Parole Hearings, which replaces the Board of Prison Terms, the Youth Authority Board, and the Narcotic Addict Evaluation Authority. Provides that the Board of Parole Hearings shall hear parole matters for both adult and juvenile offenders. Creates the Division of Adult Operations, which replaces the Board of Corrections and will be responsible for securing custody of inmates while providing for effective programming to improve chances of success when released on parole. Creates an inspector general process for reviewing and making recommendations regarding Governor-appointed wardens. Creates the Division of Juvenile Justice, which replaces the California Youth Authority. Creates a new State Commission on

Juvenile Justice to advise the secretary and deputy secretary for juvenile justice on efforts to improve juvenile justice among state and local agencies.

ANIMAL CRUELTY

SB 914, KEHOE, CH. 669
PEN 597z

Makes it an alternate infraction or misdemeanor for any person, other than an organization that provides services as a public animal sheltering agency or pet dealers or rescue groups, to sell one or more dogs under eight weeks of age unless, before any physical transfer of the dog or dogs from the seller to the purchaser, the dog or dogs are approved for sale, as evidenced by written documentation from a licensed veterinarian. Provides that each dog unlawfully sold shall represent a separate offense.

HOME DETENTION: ELECTRONIC MONITORING

SB 963, ASHBURN, CH. 488
PEN 1203.016
URGENCY, EFFECTIVE OCTOBER 4, 2005

Expressly authorizes the use of global positioning system devices and other supervising devices in local voluntary home detention programs approved by a board of supervisors.

CRIME VICTIMS: RESTITUTION

SB 972, POOCHIGIAN, CH. 238
PEN 1202.4, 1202.41; PROB 216, 9202; W&I 730.6

Authorizes a court to specify that funds confiscated from a defendant at the time of arrest may be applied to the defendant's restitution fine or order if the funds are not otherwise exempt from confiscation. Authorizes the state Department of Corrections and Rehabilitation to collaborate with a court in any county to arrange for a hearing to impose or amend a restitution order if a defendant is incarcerated in a state prison with two-way audio-video communication capability and if the victim has received assistance from the state Restitution Fund.

DOMESTIC VIOLENCE

PROTECTIVE ORDERS: EXPIRATION

AB 99, COHN, CH. 125
FAM 6345, 6361

Extends from three years to five years the maximum allowable time for a domestic violence civil protective order to remain in effect.

PAROLE: HIGH-RISK SEX OFFENDERS

AB 102, COHN, CH. 55
PEN 3005

Eliminates the July 1, 2006, repeal date of and extends indefinitely the requirement that the state Department of Corrections ensures that all parolees deemed to pose a high risk to the public of committing a violent sex crime are placed on an intensive and specialized parole supervision caseload.

PROTECTIVE ORDERS: ENFORCEMENT PRIORITY

AB 112, COHN, CH. 132
PEN 136.2

Provides that an emergency protective order (EPO) has enforcement precedence over a criminal protective order (CPO) when the EPO protects parties subject to the CPO, the restrained person is the same, and the EPO is more restrictive than the CPO.

PROTECTIVE ORDERS: MINOR CHILDREN

AB 118, COHN, CH. 465
FAM 3100; PEN 136.2

Requires the family court, when issuing a custody or visitation order in a case in which a criminal protective order is in effect, to reference the criminal protective order in the custody or visitation order. Requires form changes to implement this requirement by July 1, 2006.

INTIMATE PARTNER BATTERING

AB 220, COMMITTEE ON PUBLIC SAFETY, CH. 215
PEN 4801, 5075.5, 13823.9; FAM 3030; CCP 340.3

Changes references in various codes from "battered women's syndrome" to "intimate partner battering."

PROTECTIVE ORDERS AND TEMPORARY RESTRAINING ORDERS

AB 429, CHU, CH. 467
CCP 527.8; FAM 6383; W&I 15657.03

Requires law enforcement officers to serve workplace violence protective orders when they are called to the scene for enforcement purposes in a manner analogous to the requirements in current law for service of domestic violence, elder abuse, and civil harassment protective orders. Additionally requires law enforcement officers, when providing service at the scene, to inform the restrained person where a copy of the order can be obtained. Changes references in current law to "certified" copies of orders to "endorsed" copies.

RESTRAINING ORDERS: STALKING

AB 978, RUNNER, SHARON, CH. 472
CCP 527.10; FAM 6252.5, 6322.7; PEN 136.3, 646.91A; W&I 213.7, 15657.04

Requires protective orders for stalking, civil harassment, domestic violence, elder abuse, and workplace violence to prohibit the restrained person from taking any action to determine the address or location of the protected person or that person's family members unless there is good cause for the court not to impose that prohibition.

COURT ORDERS: FIREARMS

AB 1288, CHU, CH. 702
PEN 136.2, 11106

Requires the court to consider issuing a protective order requiring a defendant convicted of domestic violence to relinquish any firearms if the court does not issue a protective order under Penal Code section 136.2(g) and has good cause to believe that the defendant is likely to harm the victim or a witness. Authorizes specified peace officers to whom dealers' records of sales of firearms are furnished to provide a record relating to a particular sale of a firearm if the purchaser has been arraigned for domestic violence or is the subject of a Domestic Violence Protection Act order and the record is released only to the victim or protected person and the person is also provided with a Victims of Domestic Violence card.

COURT ORDERS: CLETS

SB 720, KUEHL, CH. 631
CCP 1218; FAM 6380; PEN 136.2

Requires the court to transmit data filed with the court on the Judicial Council form related to any domestic violence protective order issued, modified, extended, or terminated under the Domestic Violence Prevention Act (DVPA) into the California Law Enforcement Telecommunications System (CLETS) or to submit it to the agency that performs CLETS entry within one business day. Authorizes a city attorney or district attorney to prosecute someone who violates a DVPA order for contempt of court.

EMPLOYMENT

STATE EMPLOYEES: MILITARY BENEFITS

AB 276, BACA, CH. 287
GOV 19775.18

Revises provisions regarding compensation for state employees who are military personnel. Increases the number of days that a state employee in the California National Guard or a U.S. military reserve organization is authorized to receive compensation benefits for time absent for military duty, to a period not to exceed 365 days.

WAGES

AB 1093, MATTHEWS, CH. 149
LAB 213, 515.5

Amends existing law related to the payment of wages by direct deposit by clarifying that the bank, savings and loan association, or credit union of the employee's choice has a "business location" in this state (and need not be headquartered in California). Authorizes an employee's final payment of wages to be made by such authorized direct deposit, as long as the existing time periods for payment of such wages are satisfied.

STATE EMPLOYMENT: MILITARY LEAVE OF ABSENCE

AB 1523, BLAKESLEE, CH. 151
GOV 19771

Extends the period for a military leave of absence for state employees from four to five years.

DISCRIMINATION OF MINOR EMPLOYEES

AB 1669, CHU, CH. 642
GOV 12960

Tolls, for an employee who is a minor, the one-year statute of limitation for filing a complaint based on an unlawful employment practice under the Fair Employment and Housing Act, so that the employee may file such a claim up to one year after he or she reaches the age of 18.

EMPLOYEE COMPENSATION

SB 101, BATTIN, CH. 103
LAB 226
URGENCY, EFFECTIVE JULY 21, 2005

Provides clean-up language to SB 1618 ([Battin] Stats. 2004, ch. 860), which requires employers by January 1, 2008, to use only the last four digits or less of an employee's social security number or an existing employee identification number on employee check drafts or vouchers. This bill specifies that only the last four digits of an employee's social security number may be shown on the itemized statement provided to an employee that accompanies the check, draft, or voucher (rather than the check itself). Strikes the word "existing" as it relates to employee identification numbers, which would allow employers to establish new employee identification numbers to implement the provisions of the bill.

PUBLIC EMPLOYEES' RETIREMENT: DOMESTIC PARTNERS

SB 973, KUEHL, CH. 418
VARIOUS CODES

Amends the Public Employees' Retirement System (PERS), the State Teachers Retirement System (STRS), and the County Employees Retirement Act of 1937 to entitle retired members to elect to change optional retirement allowances to provide for their domestic partners.

FAMILY LAW

CHILD SUPPORT

AB 1743, COMMITTEE ON JUDICIARY, CH. 198
FAM 17552

Expands the authority of the state Department of Social Services in consultation with the state Department of Child Support Services to promulgate regulations to allow the county welfare department to determine whether a child support enforcement action is in the best interest of a child to include children who are receiving assistance through the CalWORKS or Kin-GAP programs. Provides that reassessment of such decisions by the child welfare agency be made annually and not after each court hearing.

ADOPTION

SB 302, SCOTT, CH. 627
FAM 7620, 7630, 8604, 9003; W&I 294

Provides that the consent of a presumed father is not required for adoption unless he was a presumed father either before the mother's relinquishment or consent became irrevocable or before the mother's parental rights were terminated. Authorizes an adoption agency to whom the child has been relinquished or a prospective adoptive parent to bring an action to determine paternity and provides for venue in the county where the agency is located. Authorizes the court to order that a notice of termination of parental rights may be served by publication to unknown parents of the child if publication is likely to result in actual notice.

CUSTODY AND VISITATION: SEX OFFENDERS

SB 594, TORLAKSON, CH. 483
FAM 3030, 3030.5

Expands the prohibition on specified registered sex offenders receiving unsupervised access to their children to encompass parents who reside with a registered sex offender. Provides that unsupervised contact with a registered sex offender is prima facie evidence of a significant risk to the child and creates a presumption affecting the burden of producing evidence on the question of significant risk.

CHILD SUPPORT: MILITARY RESERVISTS

SB 1082, MORROW, CH. 154
FAM 3651, 3653, 17440, 17560, 3047
URGENCY, EFFECTIVE AUGUST 30, 2005

Specifies procedures for modifying the child support orders of military reservists deployed for active duty and for compromising their arrears if they pertain to a loss of income as a result of being deployed. Requires the Judicial Council to develop forms to implement these requirements within 90 days of the effective date.

MEDIATORS AND EVALUATORS: COMMUNICATIONS WITH THE COURT

SB 1088, BOWEN, CH. 489
FAM 216, 1818

Requires the Judicial Council, by March 1, 2006, to adopt a rule of court concerning ex parte communications among mediators and evaluators and the court, as well as mediators and evaluators and parties and attorneys.

GRAND JURY

GRAND JURIES

SB 416, ACKERMAN, CH. 25
PEN 904.6

Authorizes the presiding judge or his or her designee to empanel an additional grand jury at the request of the Attorney General or district attorney.

JUDICIAL OFFICERS

PUBLIC OFFICERS: RETIREMENT BENEFITS FORFEITURE

AB 1044, AGHAZARIAN, CH. 322
GOV 1243, 20343, 31563, 45310.3

Provides that any elected public officer who takes office or is reelected to office on or after January 1, 2006, shall forfeit retirement benefits that accrue during his or her term of office if the public officer is convicted of a felony arising out of his or her official duties, unless the governing body authorizes the public officer to receive benefits.

PUBLIC OFFICIAL: PERSONAL INFORMATION

AB 1595, EVANS, CH. 343
GOV 6254.21

Prohibits a person, business, or association from selling or trading for value on the Internet the home address or telephone number of any elected or appointed official if that official has made a written demand of that person, business, or association to not disclose his or her home address or telephone number. Adds to the list of elected or appointed officials covered by these provisions state administrative law judges, federal judges, federal defenders, members of the U.S. Congress, and appointees of the President.

JUVENILE DELINQUENCY

YOUTH AUTHORITY

SB 447, POOCHIGIAN, CH. 110
W&I 1800, 1800.5, 1801, 1801.5
URGENCY, EFFECTIVE JULY 21, 2005

Limits the application of Welfare and Institutions Code section 1800 et seq., which allows the district attorney of the committing county to seek an extension from the court of a ward's stay in the California Youth Authority beyond the maximum age of confinement for that ward to cases where the ward has a disorder that causes him or her to have serious problems controlling his or her behavior.

MENTALLY INCOMPETENT MINORS

SB 570, MIGDEN, CH. 265
GOV 68553.5; W&I VARIOUS SECTIONS

Establishes specified procedures for referring a minor with specified mental health or developmental delay issues for assessment. Requires specified minors to receive a treatment plan from a multidisciplinary team as specified. These provisions are applicable only in counties where the board of supervisors adopts a resolution making the county subject to them. Requires the Judicial Council to provide training on mental health issues pertaining to youth under the jurisdiction of the juvenile court for delinquency to the extent that resources are available for this purpose.

CORRECTIONS

SB 737, ROMERO, CH. 10
VARIOUS CODES
URGENCY, EFFECTIVE MAY 10, 2005

Reorganizes and renames the Youth and Adult Correctional Agency as the California Department of Corrections and Rehabilitation, which encompasses both adult and juvenile facilities at the state level. Creates a California Council on Criminal Justice and a State Commission on Juvenile Justice, each of which includes a member designated by the chair of the Judicial Council.

JUVENILE DEPENDENCY

MANDATORY REPORTING

AB 299, MAZE, CH. 42
PEN 11166

Allows reports of child abuse to be transmitted by fax or electronic transmission.

PARENTAL RIGHTS

AB 519, LENO, CH. 634
W&I 213.5, 366.26

Authorizes a dependent child freed for adoption to petition the court for reinstatement of parental rights if the child has not been adopted within three years from the date that his or her parents' rights were terminated or on stipulation by all parties that the child is no longer adoptable. If it appears that reinstatement may promote the best interest of the child, the court shall set the matter for hearing and cause notice to be provided. The court shall grant the petition if it finds that the child is no longer adoptable and that reinstatement of parental rights is in the child's best interest. Allows the juvenile court to issue ex parte protective orders to protect the parents and guardians of a dependent child even if the court is not simultaneously issuing an order protecting the dependent child.

AFDC–FC BENEFITS: TRANSITIONAL HOUSING

AB 824, CHU, CH. 636
W&I 11403.2

Under the Aid to Families With Dependent Children–Foster Care (AFDC–FC) program, increases the age of eligibility for transitional housing assistance for children who emancipate from foster care from 21 to 24 in those counties that provide transitional housing assistance to youth 18 years old and older.

FOSTER CHILDREN: EDUCATION

AB 1261, LENO, CH. 369
EDU VARIOUS CODES; W&I 319, 361, 391

Revises provisions concerning educational rights of children in foster care in the areas of educational placement, coursework credit, records transfer, and educational programs offered to foster youth.

DEPENDENT CHILDREN: OUT-OF-HOME PLACEMENTS

AB 1412, LENO, CH. 640
W&I VARIOUS SECTIONS

Extends current case planning requirements that require a social worker to inquire about important relationships to a child who has been in out-of-home placement for six months or more and is 10 years or older to all children in foster care who are 10 years or older, subject to an appropriation in the budget and a phased-in expansion. Requires children in foster care who are 12 years or older to be involved in case planning.

FOSTER CHILDREN: HIGH SCHOOL: SOCIAL SECURITY ASSISTANCE

AB 1633, EVANS, CH. 641
W&I 11401.6, 11403, 13750 ET SEQ.

Allows foster care payments to be made to extend foster care placement beyond age 18 when a foster child is pursuing a high school equivalency certificate and other specified requirements are met. Requires the state Department of Social Services to convene a workgroup to establish best practices guidelines by December 2006 for county welfare departments to follow in assisting foster children to receive federal benefits under the Social Security Act.

COURT ADOPTION AND PERMANENCY MONTH

ACR 85, LENO, RES. CH. 136

Proclaims November 2005 to be Court Adoption and Permanency Month.

TERMINATION OF PARENTAL RIGHTS: PROSPECTIVE ADOPTIVE PARENTS

SB 218, SCOTT, CH. 626
W&I 366.26

Authorizes the court to designate specified caretakers as prospective adoptive parents if a dependent child's parents have had their rights terminated, the child has resided with the caretaker for at least six months, and the caretaker has made a commitment to adopt the child and taken a step toward achieving the adoption. When the court makes this designation, the social worker would need to provide notice to the prospective adoptive parent, the child's attorney, and the child regarding any plan to move the child. The prospective adoptive parent, the child, or the child's attorney could petition the court for a hearing on whether the move was in the child's best interest within seven court days of the notice. The court shall hold the hearing as soon as possible, but not longer than five court days from the filing of the petition unless good cause is shown.

AFDC–FC: PREGNANT AND PARENTING FOSTER YOUTH

SB 500, KUEHL, CH. 630
W&I VARIOUS SECTIONS

Authorizes the payment of AFDC–FC to dependents and their children placed together if they are both receiving reunification services. States that a child whose parent is a dependent child shall not automatically be considered to be at risk of abuse or neglect. Requires the teen parent to sign a shared responsibility plan to be developed with the caseworker and provides that the rate for the family shall be increased by $200 a month once the plan is completed. Requires the court to consider ordering visitation for the minor parent, the noncustodial parent, and any appropriate family members.

DEPENDENT CHILDREN: ADAM'S LAW

SB 726, FLOREZ, CH. 632
W&I 361.2, 366.23

Enacts Adam's Law, which would authorize a court to order that a social worker conduct a home visit within three months of placing a child with a noncustodial parent and to file a report with the court after conducting that home visit, as specified. The bill would also require a social worker to provide a Caregiver Information Form to a caregiver of a child for the purposes of providing information regarding a noncustodial parent.

PROBATE

DECEDENTS' ESTATES: POSTHUMOUSLY CONCEIVED CHILDREN

AB 204, HARMAN, CH. 285
PROB 249.5, 249.6, 249.8

Clarifies the conditions for distribution of property after the decedent's death for a posthumously conceived child. Among other things, requires the decedent's written specifications regarding the use of his or her genetic material posthumously to be dated, as well as signed. Deletes the requirement that the decedent's written specifications be signed by at least one competent witness. Requires that the decedent's written specifications specifically designate the person in control of the use of the decedent's genetic material and requires that such person provide required written notice regarding availability of the genetic material. Makes a person to whom payment, delivery, or transfer of the decedent's property is made personally liable to a posthumously conceived child with a superior right by testate or intestate succession to the property for the fair market value of the property at the time of transfer and for triple the market value if the payment, delivery, or transfer was obtained by fraud. Requires an action to recover a payment, delivery, or transfer erroneously paid or transferred to be barred three years after distribution to the holder of the property or three years after discovery of the fraud, whichever is later. Clarifies that the provisions apply to a posthumously conceived child or children.

GUARDIANS

AB 541, HARMAN, CH. 302
FAM 3041.5; PROB 2341, 2854

Authorizes the court to order drug and alcohol testing for a person seeking guardianship or visitation in a guardianship. Eliminates the requirement that individuals appointed by the court as guardians of the person only register with the statewide registry. Allows the court, in its discretion, to require any person who is a guardian of the person not related to the ward by blood or marriage and who receives compensation for acting as guardian of the person to comply with the registration requirements.

POWERS OF ATTORNEY: SOCIAL SECURITY NUMBERS

SB 158, MACHADO, CH. 251
PROB 4401

Revises the statutory form power of attorney to delete the social security number from the form. Notifies a person on the form that a third party may require additional identification.

TRUSTS

SB 296, CAMPBELL, CH. 51
PROB 16350
URGENCY, EFFECTIVE JULY 18, 2005

Corrects the court's interpretation of Probate Code section 6350 in *Estate of Thomas* (2004) 124 Cal.App.4th 711, 720 and provides that money is received by a trust in partial liquidation of an entity if the total amount of money received by all owners, collectively, in a distribution or series of related distributions is greater than 20 percent of the entity's gross assets as described. Provides that a trustee who receives money from a distribution by an entity between December 2, 2004, (the date of the *Thomas* decision) and the operative date of the act and allocated the money to income shall not be liable if the amount received by the trustee, when added to other amounts received by all owners, exceeds 20 percent of the entity's gross assets, but the amount received itself does not exceed 20 percent of the entity's gross assets.

PROBATE ASSIGNMENTS: CASH ADVANCES

SB 390, BOWEN, CH. 438
PROB 11604.5

Regulates the assignment for cash or other consideration of a beneficiary's interest in a decedent's estate. Requires that the executed written agreement, with the beneficiary's personally identifying and financial information redacted, along with the declaration of the transferee for value be timely filed with the court and provided to the personal representative within 30 days of execution or, if no probate proceeding is pending, within 30 days of the opening of probate, as specified. Requires the written agreement to include, among other things, (1) the amount of consideration paid, (2) a description of the transferred interest, and (3) a statement of the total of all costs and fees charged to the beneficiary. Authorizes the court to examine the written agreement and refuse to order distribution, or order distribution on other equitable terms, if the court finds that the transferee for value did not substantially comply with specified requirements; the consideration paid or to be paid by the beneficiary was grossly unreasonable; or the agreement was obtained by fraud, duress, or undue influence.

UNITRUST CONVERSIONS

SB 754, POOCHIGIAN, CH. 100
PROB VARIOUS SECTIONS

Allows a trustee, under specified terms and conditions, to convert a trust into a unitrust, reconvert from a unitrust to a trust, and change the distribution payout of the unitrust. Requires a fiduciary administering a unitrust, reconverting a trust, or changing the percentage payout from a unitrust to administer the trust impartially.

STATE BAR AND PRACTICE OF LAW

ATTORNEYS: MEMBERSHIP FEES

AB 1529, JONES, CH. 341
B&P VARIOUS SECTIONS

Among other things, authorizes the State Bar of California to collect up to $395 as total active membership dues for 2006 (a $5 increase from the present $390 maximum) and up to $400 in total active membership dues for 2007 (a $10 increase from the present). Increases annual dues for inactive members from the current $50 total to $115 total in 2006 and $125 total in 2007. Narrows the current fee scaling provision from a maximum 50 percent deduction for those attorneys having less than $30,000 in annual income to a maximum 25 percent deduction if the attorney has total income of less than $40,000. Requires self-disqualification by a member with regard to any decision in which he or she has a financial interest, as defined, which it is reasonably foreseeable may be affected materially by the decision.

PRACTICE OF LAW

SB 894, DUNN, CH. 273
B&P 6126.3, 6233

Provides the courts and the State Bar with the authority to exercise specified civil remedies in order to prevent the unauthorized practice of law by non-attorneys. Seeks to credit attorneys who have been placed on inactive status with the State Bar while they successfully complete required activities through the Lawyer Assistance Program for the time on inactive status toward any period of actual suspension imposed by the court.

TRAFFIC

LICENSE PLATES: RAPE VICTIMS

AB 70, MAZE, CH. 60
VEH 4467

Requires the state Department of Motor Vehicles to immediately issue replacement license plates when requested by a victim of rape or sexual battery who submits evidence of being a victim of domestic violence or stalking.

DRIVING UNDER THE INFLUENCE (DUI): BLOOD-ALCOHOL CONCENTRATION

AB 571, LEVINE, CH. 89
VEH 23578

Decreases the blood-alcohol concentration threshold necessary to create a special circumstance that a court would consider in deciding whether to enhance penalties or grant probation from 0.20 percent to 0.15 percent.

DUI: RESTRICTED DRIVER'S LICENSE

AB 979, RUNNER, SHARON, CH. 646
VEH 13352, 14602.6

Permits an individual to apply for a restricted driver's license after completing 12 months of a suspension or revocation period imposed under a repeat DUI conviction, in lieu of the current 12- to 30-month period.

POCKET BIKES: RESTRICTIONS

AB 1051, BENOIT, CH. 323
VEH 473, 9955, 21720, 21721

Prohibits the operation of a pocket bike on a California roadway or bike trail and authorizes a peace officer to seize, for a specified minimum period, a pocket bike being operated in violation of this section.

VEHICLES IN STATE WILDERNESS AREAS

AB 1086, LIEBER, CH. 571
VEH 1803, 1807, 12810, 38301.3

Makes it a public offense punishable as an infraction or a misdemeanor to violate state or federal regulations prohibiting entry of motor vehicles into designated wilderness areas. Specifies that the clerk of the court in which a person is convicted of violating these provisions shall forward to the state Department of Motor Vehicles an abstract of the record of the court covering the case in which the person was convicted.

MOTOR VEHICLE SPEED CONTEST

AB 1325, VARGAS, CH. 475
VEH 23109

Increases the misdemeanor penalties for violations of the prohibition against speed contests when there is bodily injury to a person other than the driver.

DUI OFFENDERS: EDUCATION AND COUNSELING ROGRAMS

AB 1353, LIU, CH. 164
H&S 11837; VEH 23538, 23556

Modifies the requirements pertaining to the number of hours of instruction that an individual who has been granted probation as punishment for driving under the influence with a blood-alcohol concentration greater than .2 percent must complete in a licensed DUI education program.

PROVISIONAL LICENSE PROGRAM

AB 1474, MAZE, CH. 337
VEH 12814.6

Extends the window during the first 12 months after the issuance of a provisional driver's license under which a provisional licensee is prohibited from driving from 12 p.m.–5 a.m. to 11 p.m.–5 a.m. Extends the time frame under which a provisional licensee is prohibited from transporting passengers under 20 years of age from the first 6 months after issuance of the provisional license to the first 12 months after issuance of the provisional license.

DUI: VEHICLE IMPOUNDMENT

SB 207, SCOTT, CH. 656
VEH 14602.8

Authorizes a peace officer to immediately seize a vehicle for impoundment when a person is driving the vehicle under the influence and has had a prior DUI within the preceding seven years.

DUI: VEHICLE IMPOUNDMENT PILOT PROGRAM

SB 547, COX, CH. 159
VEH 22651.10

Establishes a pilot program in Sacramento County that would authorize, until January 1, 2009, the impoundment (for a period not to exceed 30 days) of a person's vehicle by a peace officer for a DUI offense if the person has had one or more prior DUI convictions within the past 10 years.

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