California Courts Review

Annual Supplement

A FORUM FOR THE STATE JUDICIAL BRANCH

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2006 Legislative Summary

During the final year of the 2005–2006 Legislative Session, the Legislature and the Governor enacted more than 100 bills that affect the courts or are of general interest to the court community. Brief descriptions of these measures follow, arranged according to subject matter.

The effective date of the legislation is January 1, 2007, 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 affecting the courts; not all sections are cited.

Until the annual pocket parts are issued, amendments to the codes can be examined in the bills' chaptered form in *West's California Legislative Service* or *Deering's Legislative Service*, where the bills 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

BUDGET ACT OF 2006: COURT OPERATIONS

AB 1801, LAIRD, CH. 47
CAL. CONSTITUTION, ARTICLE IV, SECTION 12
URGENCY, EFFECTIVE JUNE 30, 2006

Makes necessary statutory changes to enact the 2006 Budget Act. Provides $3.4 billion for trial court and appellate court operations. Provides $113 million State Appropriations Limit funding for allocation to the trial courts.

BUDGET ACT OF 2006: OMNIBUS TRAILER BILL

AB 1806, COMMITTEE ON BUDGET, CH. 69
VARIOUS CODES
URGENCY, EFFECTIVE JULY 12, 2006

Makes necessary statutory changes to enact the 2006 Budget Act. Makes technical changes to statutes related to the calculation of State Appropriations Limit funding for trial courts. Provides judicial officers with an 8.5 percent salary increase effective January 1, 2007. Adds a $1 penalty assessment for every $10 of fine, penalty, or forfeiture to be deposited with the state's DNA Identification Fund. This bill is the omnibus general government trailer bill for the Budget Act of 2006.

BUDGET ACT OF 2006: JUDICIAL OFFICERS

AB 1811, LAIRD, CH. 48
VARIOUS CODES
URGENCY, EFFECTIVE JUNE 30, 2006

Makes necessary statutory changes to enact the 2006 Budget Act. Amends the budget conference committee report to provide funding for an 8.5 percent salary increase for judicial officers and 50 new judges.

CIVIL LAW AND PROCEDURE

REAL PROPERTY: RENTALS

AB 1169, TORRICO, CH. 842
CIV 1946.1

Reenacts until January 1, 2010, requirements for owners of residential property to provide at least 60 days' notice to terminate a periodic tenancy when the tenant has resided in the dwelling for one year or more. Provides until January 1, 2010, that, in the case of a tenant or resident who has resided in the dwelling unit for less than one year, notice shall be given at least 30 days prior to the proposed date of termination.

ARBITRATION

AB 1553, EVANS, CH. 266
CCP 1281.12

Provides that if an arbitration agreement requires that arbitration of a controversy be demanded or initiated within a specified period of time, a party's filing of a civil action in court within that period of time shall toll the applicable time limitations set forth in the arbitration agreement with respect to that controversy. The time shall be tolled from the date the civil action is commenced until 30 days after a final determination by the court that the party is required to arbitrate the controversy, or 30 days after the final termination of the civil action that was commenced and initiated the tolling, whichever date occurs first.

ENFORCEMENT OF JUDGMENTS

AB 2126, LIEU, CH. 86
CCP 580; FAM 290, 291, 4502

Requires the Judicial Council, on or before January 1, 2008, to publish self-help materials that describe the remedies available for enforcement of a judgment under the Family Code and give practical advice on how to avoid disputes relating to the enforcement of a support obligation.

CIVIL WARRANTS

AB 2369, LA SUER, CH. 277
CCP 491.160, 708.170, 1993; GOV 26744

Clarifies that a court may issue a warrant based on a failure to appear at a judgment debtor proceeding or at an examination in a civil attachment proceeding under either the existing procedure for issuance of contempt warrants or the process for issuance of failure-to-appear warrants established in 2005 pursuant to AB 1155 (La Suer); Stats. 2005, ch. 474, codified at Code Civ. Proc., § 1993.

SMALL CLAIMS COURT: JURISDICTION

AB 2455, NAKANISHI, CH. 150
CCP 116.220

Revises and recasts the provisions governing claims against defendant guarantors to provide that the jurisdiction of the small claims court includes (1) any action brought by a natural person against the Registrar of the Contractors' State License Board as the defendant guarantor if the demand does not exceed $7,500; (2) any action against

ACKNOWLEDGMENTS

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a defendant guarantor that does not charge a fee for its guarantor or surety services if the amount of the demand does not exceed $2,500; and (3) any action against a defendant guarantor that charges a fee for its guarantor or surety services or an action brought by an entity other than a natural person against the Registrar of the Contractors' State License Board as the defendant guarantor if the amount of the demand does not exceed $4,000.

SMALL CLAIMS COURT: ACTIONS

AB 2618, BERG, CH. 167
CIV 52.2, 1369.520, 1950.5; CCP 116.360, 116.390, 116.540, 116.610; PUC 311.4, 1702.1; W&I 742.16

Conforms various provisions in the Small Claims Act and other codes to the recently enacted law (AB 1459 [Canciamilla]; Stats. 2005, ch. 618, and SB 422 [Simitian]; Stats. 2005, ch. 600) that provides that the small claims court has jurisdiction in an action brought by a natural person if the amount of the demand does not exceed $7,500.

COMMON-INTEREST DEVELOPMENTS: NONJUDICIAL FORECLOSURE

AB 2624, HOUSTON, CH. 575
CIV 882.020, 1367.1, 1367.4, 2924, 2924A; CCP 729.040, 729.050, 729.070, 729.080

Among other things, adapts certain procedures concerning the rights of redemption for judicial foreclosures to use with the 90-day right of redemption in nonjudicial homeowner association foreclosures.

CIVIL ACTIONS: TIME OF COMMENCING

AB 2864, HARMAN, CH. 221
CCP 366.2, 366.3

Conforms certain statutes of limitation to more general rules for calculating legal time periods. Specifically, this bill provides that the one-year statute of limitations for filing actions against a person who has since deceased, whether in contract, tort, or otherwise, or actions to enforce a promise by a decedent for distribution from an estate or trust, must adhere to the following rules regarding determination of time for commencing the action: (1) the time period is computed by excluding the first day and including the last, unless it is a holiday; and (2) if the last day is a holiday, then the statute of limitations is extended to include the next day that is not a holiday.

CONFIDENTIAL SETTLEMENT AGREEMENTS: SEX OFFENSES

AB 2875, PAVLEY, CH. 151
CCP 1002

Prohibits a confidential settlement agreement in any civil action involving an act that may be prosecuted as a felony sex offense.

WATERMASTERS: COURT APPOINTMENTS

SB 775, COX, CH. 246
WAT 4050

Establishes a process by which a court is authorized to replace the public agency that was appointed by the Department of Water Resources to act as a watermaster to supervise water distribution within a water service area. Provides that a watermaster appointed pursuant to this provision would have the powers and duties prescribed by the court pursuant to the exercise of its judicial authority.

SKATEBOARDING

SB 1179, MORROW, CH. 140
H&S 115800

Extends until January 1, 2012, the existing sunset date for the legal liability protections covering cities, counties, and other public agencies that build public skateboard parks. Lowers the minimum age for qualified immunity from liability for skateboarders in public skateboard parks from 14 to 12 years of age. Extends until March 31, 2011, the date that the Judicial Council must report to the Legislature regarding injuries, claims, and results of lawsuits in public skateboard parks.

COURT OPERATIONS

JUDICIARY: OMNIBUS BILL

AB 2303, COMMITTEE ON JUDICIARY, CH. 567
VARIOUS CODES

Contains the following provisions sponsored by the Judicial Council: (1) clarifies the statutes governing a change of name, including the procedures for persons to object to a name change and give notice thereto; (2) makes the service-of-process time frames for elder abuse protective orders consistent with the service time frames for other types of protective orders; (3) authorizes electronic submission of notice-to-appear citations for nonparking Vehicle Code violations; (4) extends until 2010 the sunset date on provisions granting courts the authority to impose modest monetary sanctions on jurors who fail to respond to a jury summons and requires a new Judicial Council report on the program; and (5) extends until April 1, 2007, the time to transfer the Merced court facilities for the purpose of compliance with funding provided in a previous budget. The bill also authorizes the juvenile court to hold review hearings more often than every six months after termination of parental rights.

COURT REPORTERS

TRANSCRIPT REIMBURSEMENT FUND

AB 1293, OROPEZA, CH. 457
B&P 8030.2, 8030.4, 8030.6, 8030.8

Revises the existing sunset and inoperative dates of the Transcript Reimbursement Fund (TRF), which funds shorthand reporting services for qualified legal service projects, by making the TRF statutes inoperative on July 1, 2009. Limits the size of the fund each fiscal year to $300,000 and revises the definition of "indigent person" for the purpose of expanding eligibility for the TRF.

CRIMINAL LAW AND PROCEDURE

WIRELESS COMMUNICATION DEVICE

AB 44, COHN, CH. 695
PEN 591.5

Makes it a crime to obstruct the use of a wireless communication device to prevent the device from summoning law enforcement assistance.

RECORDING CRIMES

AB 64, COHN, CH. 9
PEN 653W

Makes it easier to prosecute as a felony rather than a misdemeanor the failure to disclose the origin of a recording or an audiovisual work by reducing the required number of audio recordings involved in the offense.

FINANCIAL INSTITUTIONS

AB 618, COGDILL, CH. 705
GOV 7480

Expands the list of information that a bank, credit union, or savings association shall furnish to the police, sheriff's department, or district attorney when a crime report alleging fraud has been filed to include surveillance photographs and video recordings of persons accessing the crime victim's financial account via an automated teller machine or from within the financial institution.

SEX OFFENDER MANAGEMENT BOARD

AB 1015, CHU, CH. 338
PEN 9000 ET SEQ.
URGENCY, EFFECTIVE SEPTEMBER 20, 2006

Creates a Sex Offender Management Board under the jurisdiction of the California Department of Corrections and Rehabilitation to address any issues, concerns, and problems related to the community management of adult sex offenders. Membership will include, among others, one California state judge to be appointed by the Judicial Council.

JURIES

AB 1160, LIEBER, CH. 550
PEN 1127H

Makes legislative findings and declarations expressing disapproval of the use of "panic strategies" by criminal defendants in order to appeal to the societal bias of jurors against the victim's actual or perceived gender or sexual orientation. Requires the court to instruct juries that their decision should not be influenced by bias against a victim.

GREASE WASTE HAULERS

AB 1333, FROMMER, CH. 186
PEN 374.5

Makes it a misdemeanor to improperly discard grease or incompletely remove grease from a grease trap or interceptor.

SEX OFFENDERS

AB 1683, HORTON, SHIRLEY, CH. 339
W&I 6608.8

Requires the Department of Mental Health to provide the court with information relating to the monitoring and supervision of a sexually violent predator proposed for outpatient treatment in the community. Authorizes the court to order the department to provide a copy of the written terms and conditions of conditional release to the sheriff or chief of police, or both, who has jurisdiction over the proposed or actual placement community. Prohibits the department or its designee from altering the terms and conditions of conditional release without the prior approval of the court. Authorizes the court to set a hearing on the proposed change, which shall be held as soon as practicable. Requires the court to state its findings on the record. If the court approves a change in the terms and conditions of conditional release without a hearing, the court shall issue a written order.

ARRESTS

AB 1942, NAVA, CH. 729
PEN 833.2, 13517.7

Expresses the Legislature's intent to encourage law enforcement and county child welfare agencies to develop protocols in collaboration with other local entities, which may include local educational, judicial, correctional, and community-based organizations, regarding how best to cooperate in their response to the arrest of a caretaker parent or guardian of a minor child to ensure the child's safety and well-being.

WITNESS TESTIMONY: SEXUAL OFFENSES

AB 1996, BOGH, CH. 225
EVID 782

Extends existing procedures that apply when the sexual history of a testifying witness is offered to attack his or her credibility to witnesses testifying about a defendant's prior sexual offenses.

TOW TRUCKS

AB 2210, GOLDBERG, CH. 609
VEH 21100, 22651.7, 22658, 22658.2, 22953, 40000.15

Makes it a misdemeanor for a towing company or its driver not to immediately and unconditionally release a vehicle that is not yet removed from private property and in transit or to knowingly charge a vehicle owner a fee that exceeds statutorily imposed rates. Makes it a misdemeanor for a towing operator to fail to make available for inspection and copying, within 24 hours of a request, his or her rate approved by the California Highway Patrol.

AMBER ALERTS

AB 2225, MOUNTJOY, CH. 227
PEN 148.3

Adds activation of the Emergency Alert System (commonly known as the Amber Alert System) to the definition of an "emergency" that results in a misdemeanor offense for an individual making a knowingly false report.

SEX OFFENDERS: WORKING WITH MINORS

AB 2263, SPITZER, CH. 341
PEN 290.95

Makes it a misdemeanor for registered sex offenders to fail to disclose their status as registrants if they will work or volunteer in a setting with minors, where the registrant, even if accompanied, would be required to touch the minor on more than an incidental and occasional basis.

WRIT OF HABEAS CORPUS: NOTICE TO PROSECUTING AGENCY

AB 2272, PARRA, CH. 274
PEN 1475

Provides that, if a writ challenging a denial of parole or the applicant's suitability for parole is made returnable, at least three business days before the time at which the writ is made returnable a copy of the application for the writ and the related order to show cause shall be served by the superior court upon the Office of the Attorney General and the district attorney of the county in which the underlying judgment was rendered. Provides that no application for the writ can be heard without proof of such service.

CRIMINAL PENALTIES

AB 2367, LA SUER, CH. 347
VARIOUS CODES

Converts anomalous indeterminate sentencing provisions, for terms other than life, to determinate terms to create consistency in criminal sentencing.

FIREARMS

AB 2521, JONES, CH. 784
PEN 12071, 12072, 12078, 12082, 12083

Makes it a misdemeanor for a federal firearms licensee to furnish false statements to the state Department of Justice (DOJ) when applying for an exemption from state dealer licensing requirements. Makes it a misdemeanor for a federal firearms dealer to import or receive firearms from any source unless the dealer is listed on DOJ's centralized list of exempt dealers.

DRIVING UNDER THE INFLUENCE: MANSLAUGHTER

AB 2559, BENOIT, CH. 91
PEN 191.5, 192, 192.5, 193, 193.5

Adds to the elements constituting vehicular manslaughter while intoxicated the requirement that the death be the proximate result of the driver's actions.

SENTENCING VETERANS TO TREATMENT

AB 2586, PARRA, CH. 788
PEN 1170.9

Requires the court, if a person is convicted of a criminal offense and alleges that he or she committed the offense as a result of posttraumatic stress disorder, substance abuse, or psychological problems stemming from combat service in the United States military, to hold a hearing prior to sentencing to make a determination on that allegation. Authorizes the court to place the person in a treatment program if the court finds that the defendant's crime was committed as a result of one of those factors related to serving in combat and the court places the person on probation.

FREE NEWSPAPERS

AB 2612, PLESCIA, CH. 228
PEN 19.8, 490.7

Makes it an alternate infraction/misdemeanor to take more than 25 copies of the current issue of a free newspaper if the purpose is to recycle the papers for cash or other payment, sell or barter the newspapers, deprive others of the opportunity to read or enjoy the newspaper, or harm a business competitor.

VICTIMS OF CRIME: INFORMATION CARD

AB 2705, SPITZER, CH. 94
PEN 679.08

Authorizes law enforcement officers to provide victims of crime with a "Victim's Rights Card" in jurisdictions where the city council or board of supervisors adopts this provision by resolution.

FIREARMS

AB 2728, KLEHS, CH. 793
PEN 12276.5, 12282

Repeals provisions establishing a judicial procedure for declaring a firearm to be an assault weapon. Makes it a public nuisance to illegally possess any assault weapon or

.50 caliber Barrett machine gun (BMG) rifle. Authorizes the Attorney General, any district attorney, or any city attorney to enjoin the possession of such firearms in lieu of criminal prosecution. Provides that, upon conviction of any misdemeanor or felony involving an assault weapon, the weapon shall be deemed a nuisance and disposed of.

MENTAL COMPETENCE OF DEFENDANT

AB 2858, LENO, CH. 799
PEN 1370; W&I 5350

Requires the court to provide notice to the defense attorney, sheriff, and district attorney if a defendant found mentally incompetent to stand trial on a violent felony is placed on outpatient status. Requires the court to also provide notice to them when a conservatorship over the defendant is initiated, and provides that the court shall not appoint a conservator if the appointment will not result in adequate protection of the public.

CORRECTIONAL INSTITUTIONS: COMMUNICABLE DISEASES

AB 2870, DE LA TORRE, CH. 800
PEN 7500, 7501, 7502, 7510, 7511, 7512, 7512.5, 7513, 7514, 7515, 7518, 7520, 7521, 7522, 7530, 7552

Allows a judge, courtroom personnel, or any other individual who is the victim of an assault by a defendant in a court facility to request that the defendant be tested for hepatitis B and C, HIV, and AIDS.

PERSONAL IDENTIFYING INFORMATION

AB 2886, FROMMER, CH. 522
PEN 530.5, 530.55

Makes it an alternate misdemeanor/felony for an individual who has been convicted of a prior identity theft offense to possess or acquire personal identifying information. Makes it an alternate misdemeanor/felony to possess or acquire the personal identifying information of 10 or more individuals. Makes it an alternate misdemeanor/felony to sell or transfer personal identifying information with the intent to defraud or with the knowledge that the information will be used to commit identity theft. Makes mail theft of personal identifying information a misdemeanor.

BB DEVICES

SB 532, TORLAKSON, CH. 180
PEN 246.3

Provides that any person who willfully discharges a BB device in a grossly negligent manner that could result in injury or death to another person is guilty of a public offense punishable by imprisonment in a county jail not exceeding one year.

SEX OFFENDER PUNISHMENT, CONTROL, AND CONTAINMENT ACT OF 2006

SB 1128, ALQUIST, CH. 337
VARIOUS CODES
URGENCY, EFFECTIVE SEPTEMBER 20, 2006

Among other changes to Jessica's Law and the sex crime statutes, increases the fine to be imposed upon conviction of an offense for which a defendant is required to register as a sex offender and requires courts to retain for 75 years records of misdemeanor actions resulting in a requirement that the defendant register as a sex offender. Provides that the record-retention provision apply only to convictions occurring after the bill's enactment.

DRUG TREATMENT

SB 1137, DUCHENY, CH. 63
H&S 11999.6, 11999.9, 11999.10, 11999.12; PEN 1210, 1210.1, 3063.1
URGENCY, EFFECTIVE JULY 12, 2006

Modifies Proposition 36, the Substance Abuse and Crime Prevention Act, approved by voters in 2000, to, among other things, allow short-term jail sentences for certain nonviolent drug offenders who fail to complete court-ordered treatment programs. Declares that it is the intent of the Legislature to provide for closer judicial monitoring through dedicated calendars and close collaboration between the court, probation, and treatment to improve offender outcomes.

Note: Backers of Proposition 36 obtained a preliminary injunction on September 14, 2006, enjoining implementation of SB 1137, contending that the bill is unconstitutional because it makes a substantive change to the proposition without the electorate's approval. The injunction remains in effect until a trial is held. A trial date was not yet set at the time of publication.

SEX OFFENDERS: CONTINUOUS ELECTRONIC MONITORING

SB 1178, SPEIER, CH. 336
PEN 290.04, 290.05, 290.06, 1202.8, 3004
URGENCY, EFFECTIVE SEPTEMBER 20, 2006

Beginning July 1, 2008, requires registered sex offenders to undergo a risk assessment and, if assessed as a high risk for reoffending, to be electronically monitored while on probation or parole.

CRIMINAL GANGS

SB 1222, ACKERMAN, CH. 596
PEN 186.22

Adds crimes relating to prohibited possession of a firearm, carrying a concealed firearm, and carrying a loaded firearm to those offenses that, if committed by members of a criminal street gang, establish a pattern of criminal gang activity.

BRIBERY

SB 1308, BATTIN, CH. 435
PEN 85, 86, 88
URGENCY, EFFECTIVE SEPTEMBER 24, 2006

Makes it a felony to bribe any member of the legislative body of a city, county, or city and county, school district, or other special district. Prohibits a person convicted of this offense from holding office in any political subdivision of the state.

ANIMAL FIGHTING EXHIBITIONS

SB 1349, SOTO, CH. 430
PEN 597B, 597C, 597J

Makes it an alternate misdemeanor/felony, rather than a misdemeanor, to own, possess, keep, or train any bird or animal with the intent to use it in an exhibition of fighting. Makes it a misdemeanor to knowingly be present as a spectator at any place, building, or tenement for an exhibition of animal fighting or to be knowingly present at the exhibition or a place where preparations for an exhibition are being made.

SPOUSAL RAPE

SB 1402, KUEHL, CH. 45
PEN 262

Deletes the requirement that spousal rape can be prosecuted only if the victim reports the attack within one year of the offense or if the offense is corroborated by independent evidence that would otherwise be admissible at trial.

HAZING

SB 1454, TORLAKSON, CH. 601
ED 32050, 32051, 48900; PEN 245.6

Makes it a misdemeanor to engage in hazing that does not result in serious bodily injury and an alternate misdemeanor/felony to engage in hazing that causes death or serious bodily injury.

DOG TETHERING PROHIBITION

SB 1578, LOWENTHAL, CH. 489
H&S 122335

Makes it an alternate infraction/misdemeanor for a person to tether, fasten, chain, or otherwise tie a dog to a doghouse, tree, fence, or other stationary object.

EMERGENCY VEHICLES

SB 1610, SIMITIAN, CH. 375
VEH 21706.5, 21809, 25253

Makes it an infraction for a person driving a vehicle on a freeway and approaching a stationary emergency vehicle that is displaying emergency lights, or a stationary tow truck that is displaying flashing amber warning lights, to approach without exercising due caution and, before passing in a lane immediately adjacent to the emergency vehicle or tow truck, absent any other direction by a peace officer, to fail to change lanes or, if doing so would be unsafe or impracticable, to slow to a reasonable and prudent speed that is safe for existing weather, road, and vehicular or pedestrian traffic conditions.

INTERCEPTION OF COMMUNICATIONS: ORDER AND APPLICATION

SB 1714, MARGETT, CH. 146
PEN 629.50

Requires a judge to accept a facsimile copy of the signature of the Attorney General, district attorney, or a designee in support of an application for an order authorizing a wiretap. Requires that the original signed application be filed at and sealed by the court.

POLICE PURSUITS

SB 1735, COX, CH. 688
VEH 2800.4

Makes it an alternate felony/misdemeanor to attempt to elude a pursuing peace officer by driving a vehicle in the wrong direction on a highway.

ANIMAL ABUSE

SB 1806, FIGUEROA, CH. 431
PEN 597.7

Makes it an infraction to leave an animal unattended in a vehicle under conditions that endanger its health or well-being. Makes it a misdemeanor on a second or subsequent conviction of leaving an animal in a vehicle. Makes it a misdemeanor for a first offense of leaving an animal in a vehicle if the animal suffers great bodily injury.

DOMESTIC VIOLENCE

PROTECTIVE ORDERS: SERVICE

AB 1787, COHN, CH. 82
FAM 6250.3

Requires that all emergency protective orders be issued by a judge in response to a specific request by a law enforcement officer.

TRAINING AND EDUCATION

AB 2051, COHN, CH. 856
FAM 298, 298.5, 358; H&S 124250; PEN 13519, 13823.15, 13823.16, 13823.17

Establishes a $23 registration fee for a domestic partnership for the purpose of developing and supporting a training curriculum specific to lesbian, gay, bisexual, and transgender domestic abuse; supporting service providers who serve that community in regard to domestic violence; and providing brochures specific to lesbian, gay, bisexual, and transgender domestic abuse.

SHELTER-BASED PROGRAMS

AB 2084, KARNETTE, CH. 857
GOV 26840.7, 26840.8; W&I 18290 ET SEQ.

Redesignates specified county-funded domestic violence programs and requires that the funding be directed exclusively to shelter-based programs for direct and indirect services. Recasts and revises the requirements applicable to these programs, including revising the definitions of "domestic violence" and "cohabitants" for purposes of the bill. Limits a county's ability to require information from domestic violence shelter-based programs funded by the bill to protect the confidentiality of shelter locations and clients.

PROTECTIVE ORDERS: RELINQUISHMENT OF FIREARMS

AB 2129, SPITZER, CH. 474
CCP 527.9

Requires that any firearms in the possession of a person subject to a protective order issued by a criminal court or a civil harassment, workplace violence, or elder and dependent adult abuse protective order be relinquished within 24 hours of the order's service on the restrained person. Requires a receipt demonstrating firearms relinquishment to be filed with the court within 48 hours of receiving the order.

REQUESTS FOR EMERGENCY PROTECTIVE ORDERS

AB 2139, GARCIA, CH. 479
FAM 6275

Requires that a law enforcement officer who responds to a situation involving domestic violence, if the officer believes that there are grounds to request an emergency protective order (EPO), inform the victim of violence that he or she may request that the officer seek the order. Requires the officer to request an EPO if he or she believes the victim is in immediate and present danger.

PUBLIC RECORDS: CONFIDENTIALITY

AB 2169, MONTAÑEZ, CH. 475
GOV 6211, 6217

Extends until January 1, 2013, the sunset date of the Secretary of State's confidential home-address program for victims of domestic violence and stalking and for providers of reproductive health-care services and their patients.

PROBATION CONDITIONS

AB 2695, GOLDBERG, CH. 476
CCP 527.6, 527.8; FAM 6222; GOV 6103.2; PEN 1203.097

Expands the ability of employers to seek workplace harassment orders by allowing orders to cover multiple employees. Extends until 2010 the minimum $400 fee for those on probation for domestic violence offenses. Makes permanent an existing provision allowing for free service of process by the sheriff for specified protective orders and subpoenas, and authorizes the sheriff to bill the court issuing the order for these costs regardless of the in forma pauperis status of the petitioner.

PROTECTIVE ORDERS: FIREARMS

SB 585, KEHOE, CH. 467
FAM 6389

Requires the court to order a person restrained under a Domestic Violence Prevention Act order to relinquish any firearms in his or her possession within 24 hours of receiving the order or immediately upon request by law enforcement and to notify the court regarding the relinquishment within 48 hours. Requires the Judicial Council form requesting a protective order to include space for the petitioner to identify the presence and possible location of any firearms owned by the respondent.

FUNDING: CONTRA COSTA COUNTY

SB 968, TORLAKSON, CH. 635
H&S 103626; W&I 18308

Repeals the sunset date on a statutory provision allowing Contra Costa County to charge an additional $2 for marriage licenses to provide funding for domestic violence services.

VICTIMS OF CRIME: DOMESTIC VIOLENCE AND SEXUAL ASSAULT

SB 1062, BOWEN, CH. 639
GOV 6205, 6205.5, 6206; H&S 124250; PEN 13823.15

Adds victims of sexual assault to the confidential address program ("Safe at Home") operated by the Secretary of State.

PERSONAL INFORMATION

SB 1491, KUEHL, CH. 54
CIV 1798.79.8 ET SEQ.

Prohibits any person or entity that awards grants to victim service providers, as defined, from requesting or requiring, as a condition of an award, the personally identifying information of a domestic violence victim, as specified, or from using specified computer programs or systems that require the disclosure of personally identifying information. The bill also makes injunctive relief, court costs, and attorney fees available to any victim service provider aggrieved by a violation of those provisions.

EMPLOYEE/ EMPLOYER ISSUES

STATE COMPUTERS: PROHIBITED USE

AB 546, GARCIA, CH. 848
GOV 8314.5

Makes it unlawful for any elected state or local officer, including any state or local appointee, employee, or consultant, to knowingly use a state-owned or state-leased computer to access, view, download, or otherwise obtain obscene matter.

MINIMUM WAGE

AB 1835, LIEBER, CH. 230
LAB 1182.12, 1182.13

Increases the minimum wage to $7.50 per hour, effective January 1, 2007, and to $8.00 per hour, effective January 1, 2008.

TRIAL COURT EMPLOYEES: PERSONNEL FILES

AB 1995, KORETZ, CH. 187
GOV 71660

Requires a trial court to make available for inspection any personnel file, not just official files, used to determine an employee's qualifications for employment, promotion, or discipline.

PUBLIC EMPLOYEES: RETIREMENT

AB 2863, KARNETTE, CH. 846
GOV VARIOUS SECTIONS
URGENCY, EFFECTIVE SEPTEMBER 30, 2006

Among other provisions, defines, for purposes of providing retirement benefits, the compensation of a regular official court reporter in Fresno County as including, in addition to his or her salary, the total of all per diem and transcription fees paid by the county or court to that regular official court reporter for all reporting services.

JUDICIAL BRANCH EMPLOYEES: EXCLUDED EMPLOYEES

AB 2936, RIDLEY-THOMAS, CH. 240
GOV 19825.5, 20035.1, 21428.1
URGENCY, EFFECTIVE SEPTEMBER 13, 2006

Includes funding for state employee compensation and authorizes adjustments to salary ranges for employees of the judicial branch.

FAMILY LAW

MARITAL DISSOLUTION

AB 402, DYMALLY, CH. 496
FAM 2013, 3022.3

Establishes a statutory definition for the collaborative law process in marital dissolution matters, and states the Legislature's intent to enact legislation setting forth the procedural framework for collaborative law practice in the 2007–2008 session. To achieve that intent, it directs the Senate and Assembly Judiciary Committees to assemble a workgroup to study and make recommendations on this matter. In addition, requires the Judicial Council to develop a child custody information sheet by January 1, 2008.

MARRIAGE LICENSES

AB 1102, HANCOCK, CH. 816
VARIOUS CODES

Revises various provisions concerning the issuance of marriage licenses. Requires the clerk of the court to send notice to the Bureau of Vital Statistics for each dissolution of marriage. Takes effect January 1, 2008.

CHILD SUPPORT OBLIGATIONS: LIABILITY

AB 2440, KLEHS, CH. 820
CIV 1714.4, 1714.41

Makes parties who knowingly assist a child support obligor in evading payment of his or her obligations liable for those obligations up to three times the value of the assistance provided. The maximum liability shall not exceed the entire child support obligation.

ADOPTION: IDENTIFICATION OF SIBLINGS

AB 2488, LENO, CH. 386
FAM 9205

Lowers from 21 to 18 the age at which an adopted child can waive his or her rights to keep information at an adoption agency regarding biological siblings confidential. Provides that a child under 18 may allow sibling information exchange with the consent of his or her adoptive parents. Allows the juvenile court to provide such consent for a dependent child. Allows the court to appoint a confidential intermediary to attempt to obtain the required consent of the adoptee, sibling, or adoptive birth parent, provided that contact would not be detrimental to the adoptee or sibling with whom contact is sought.

MINOR CHILDREN: VISITATION RIGHTS

AB 2517, TRAN, CH. 138
FAM 3104

Provides standing for grandparents whose grandchildren were adopted by a stepparent to petition the court for visitation.

CHILD SUPPORT COLLECTORS

AB 2781, LENO, CH. 797
FAM 5610 ET SEQ.

Regulates the activities of private child support collection entities, including the required contents of a contract between the entity and the obligee, the right of an obligee to cancel the contract, and the duties of the collection firm. Requires that every court order for child support issued on or after January 1, 2010, and every child support agreement providing for the payment of child support approved by the court on or after January 1, 2010, include a separate money judgment owed by the child support obligor, not to exceed one-third of the amount in arrears or one-half of the fee charged by a private child support collector.

CHILD CUSTODY MEDIATORS: TRAINING

AB 2853, SALINAS, CH. 130
FAM 1815, 1816

Requires child custody mediators to complete the advanced domestic violence training required for child custody evaluators as set forth in rule 5.230 of the California Rules of Court.

SEX OFFENDERS: CHILD CUSTODY AND VISITATION

AB 2893, MOUNTJOY, CH. 207
FAM 3030

Clarifies existing law that prohibits a person from having custody of, or unsupervised visitation with, a child if the person or anyone residing in the household is required to be registered as a sex offender. Provides that the child may not be placed with the person unless the court states, in writing or on the record, its reasons for finding that there is no significant risk to the child.

ADOPTION

SB 1325, SCOTT, CH. 806
FAM 7606, 7620, 7630, 7633, 7825, 8613.5, 8700

Revises procedures governing adoption proceedings. Requires that an action to determine the existence or nonexistence of a parent-child relationship between a presumed father and child be consolidated with a proceeding that has been filed for the emancipation of the child. Allows a person who enters into an assisted-reproduction contract to bring an action to establish parentage before the child is born in the venue where the child is expected to be born. Provides that enforcement of such a judgment will not take place until after the birth of the child. Permits the court, as part of a proceeding to terminate parental rights, to consider a parent's criminal record, as specified, in making a finding that a parent is unfit to have future custody or control of his or her child. Allows the court to waive the requirement that a prospective adoptive parent personally appear at the adoption proceeding upon a showing of impossibility or impractability, and provides that if neither prospective adoptive parent needs to appear, then the child need not appear.

INTERCOUNTRY ADOPTIONS

SB 1393, FLOREZ, CH. 809
FAM 8919; H&S 102635

Creates a streamlined readoption process for state residents who finalize an adoption in a foreign country whose adoption standards meet or exceed those of California.

CHILD SUPPORT

SB 1483, ALQUIST, CH. 876
FAM 17441

Establishes a pilot project in five counties until 2010 to expedite the modification of child support orders where neither party contests the change. Requires the Judicial Council, in cooperation with the Department of Child Support Services, to evaluate the pilot efforts and report to the Legislature by the end of 2009.

ADOPTION FACILITATORS

SB 1758, FIGUEROA, CH. 754
FAM 8625, 8632.5, 8635, 8636, 8638

Tightens regulations governing adoption facilitators and requires that they post a $25,000 bond and register with the Department of Social Services.

TAXATION: DOMESTIC PARTNERS

SB 1827, MIGDEN, CH. 802
FAM 297.5; R&T 17024.5, 18521

Requires registered domestic partners to file state income tax returns as either married filing jointly or married filing separately.

JUDICIAL OFFICERS

NEW TRIAL COURT JUDGESHIPS

SB 56, DUNN, CH. 390
B&P 6009.5; GOV 12011.5, 69614, 77001.5

Creates 50 new judgeships pursuant to uniform criteria established by the Judicial Council. Includes specified reporting requirements on demographic data provided by judicial applicants and existing judicial officers.

PUBLIC OFFICIALS

SB 506, POOCHIGIAN, CH. 466
ELEC 2166.7, 8023

Requires a local elections official to extend to public safety officials existing voter registration confidentiality programs for victims of domestic violence and stalking and reproductive health-care service providers, employees, volunteers, and patients, upon application, for a period of no more than two years, if authorized by the county board of supervisors. The application of a public safety official would be a public record. Adds to the definition of "public safety officials" state and federal judges and court commissioners. Restores procedures requiring each candidate for judicial office to file a declaration of intention to become a candidate and to pay the appropriate filing fee for filing the declaration.

MARRIAGE LICENSES: ADDRESS INFORMATION

SB 1364, BATTIN, CH. 60
FAM 351.5

Allows an applicant for or witness to a marriage license or certificate of registry to use his or her mailing address instead of a residential address for verification purposes.

JUVENILE DELINQUENCY

TRUANTS: COURT AUTHORITY

AB 2181, SALINAS, CH. 273
ED 48293
URGENCY, EFFECTIVE SEPTEMBER 14, 2006

Deletes the sunset date on the authority of a court to order parents convicted of violating truancy laws to enroll a child in school and provide proof to the court. Authorizes the court to find a parent in contempt if he or she fails to do so and imposes a fine of $1,000.

MEDI-CAL ELIGIBILITY: JUVENILE OFFENDERS

SB 1469, CEDILLO, CH. 657
W&I 14029.5

Beginning 2008, requires a county juvenile detention facility to notify the county welfare department (CWD) when a juvenile is incarcerated, so that the CWD can determine if the juvenile will be eligible for Medi-Cal or Healthy Families on release from custody. Requires the CWD to initiate an application for Medi-Cal and Healthy Families with the cooperation of the juvenile's parent or guardian.

DEFERRED ENTRY OF JUDGMENT

SB 1626, ASHBURN, CH. 675
W&I 790

Provides that a court can order deferred entry of judgment (DEJ) for a child if it finds that the child is eligible and suitable. Requires the court to state its findings in support of the DEJ's suitability on the record.

JUVENILE COMMITMENTS

SB 1742, MACHADO, CH. 257
W&I 736

Revises provisions regarding commitments to the Division of Juvenile Justice and requires its chief deputy director and the director of the Department of Mental Health to confer annually to determine the types of cases that should be the responsibility of each department.

JUVENILE DEPENDENCY

CHILD ABUSE REPORTING

AB 525, CHU, CH. 701
PEN 11162.5, 11165.9, 11166, 11167, 11167.5, 11170

Largely conforms the procedures for authorized reporting of instances of child abuse or neglect involving emotional damage to certain existing procedures applicable to mandated child abuse reporting.

CHILD WELFARE SERVICES: CRIMINAL RECORD CHECKS

AB 1774, COMMITTEE ON HUMAN SERVICES, CH. 726
W&I 309, 361.4, 366.21, 366.22, 16504.5
URGENCY, EFFECTIVE SEPTEMBER 29, 2006

Clarifies CLETS and fingerprint provisions relating to child welfare placements. Provides that a child welfare agency may perform a CLETS check to determine whether reunification with a parent is appropriate and may then request a fingerprint criminal background check for follow-up. Requires the court to consider the criminal background information when determining whether reunification is appropriate.

HUMAN SERVICES

AB 1808, COMMITTEE ON BUDGET, CH. 75
VARIOUS CODES
URGENCY, EFFECTIVE JULY 12, 2006

Contains numerous budget-related provisions in the area of human services, including significant new initiatives in the area of child welfare. These include (1) the allocation of $98 million for improvements to county child welfare services systems; (2) creation of Kin-GAP Plus program to allow Kin-GAP recipients parity with foster caregivers; (3) elimination

of the required county share of cost for the Transitional Housing Placement Program; (4) creation of a pilot program to promote the adoption of older dependent youth; (5) expansion of the Kinship Support Services Program; and (6) a statutory framework for implementation of the federal Title IV-E waiver authority.

COMMUNITY CARE FACILITIES: FEES FOR CRIMINAL RECORD INFORMATION

AB 1979, BASS, CH. 382
H&S 1522.06

Prohibits the Department of Justice from charging fees for criminal background checks for nonprofit organizations that provide mentoring services to foster youth.

FOSTER CAREGIVERS: PLACEMENT OPTIONS

AB 2195, BASS, CH. 383
W&I 361.45

Establishes procedures for emergency assessment and approval of relatives or nonrelative extended family members as caregivers when the primary foster caregiver becomes unable to provide care, including an inspection of the home and assessment of the proposed caregiver, a criminal records check, and a check for prior reports of child abuse or neglect. Provides that a home can be approved prior to receiving an FBI criminal background check if each adult in the home attests that he or she has no nontraffic–related convictions.

CHILD WELFARE LEADERSHIP AND PERFORMANCE ACCOUNTABILITY ACT OF 2006

AB 2216, BASS, CH. 384
W&I 16540 ET SEQ.

Establishes the California Child Welfare Council, which is responsible for improving the collaboration of the multiple agencies and courts that provide services to children and youth in the child welfare and foster-care systems. Specifies the membership of the council to include as cochairs the Chief Justice of California or his or her designee and the Secretary of the California Health and Human Services Agency. Requires the council to issue advisory reports at least annually and specifies issues on which recommendations must be made. Requires the council to develop performance measures for the dependency court consistent with those in place for child welfare agencies based on the data available to the courts.

DEPENDENT CHILDREN: COUNSEL

AB 2480, EVANS, CH. 385
W&I 317, 395

Requires the appointment of appellate counsel for a dependent child if the child is an appellant or if the court finds that appointment would benefit the child. Requires the child's trial attorney to submit a recommendation to the court that counsel be appointed if counsel determines that the child's best interest cannot be protected without appointment of separate counsel for the appeal, and to set forth the reasons such appointment is necessary. Requires the Judicial Council to implement this provision by adoption of a rule of court by July 1, 2007, and to report on the status of appellate representation of dependent children by July 1, 2008. Provides that a child who is 12 or older is presumptively mature enough to invoke the physician-patient privilege.

FOSTER YOUTH: IDENTITY THEFT

AB 2985, MAZE, CH. 387
W&I 10618.6

Directs county welfare departments to request a consumer credit disclosure on behalf of each child in foster care when he or she reaches 16 years of age to determine whether the child has been a victim of identity theft and, if evidence of identity theft is discovered, to refer the child to a counseling service to remedy any problems.

INDIAN CHILDREN

SB 678, DUCHENY, CH. 838
VARIOUS CODES

Amends the Family Code, Probate Code, and Welfare and Institutions Code to codify the minimum federal standards of the Indian Child Welfare Act (ICWA) in order to clarify the interplay of these standards and existing state law. Clarifies what constitutes "active efforts" for ICWA purposes and incorporates language from Bureau of Indian Affairs guidelines on the types of individuals who may qualify as expert witnesses for ICWA purposes. Resolves issues surrounding the transfer of jurisdiction from a state court to a tribal court and clarifies the factors to be considered when determining which tribe can participate in a proceeding if a child is affiliated with more than one tribe. Allows limited participation by tribes in Indian child custody cases if the tribe is not covered by ICWA because the tribe is not federally recognized; provides that participation is at the discretion of the court.

FOSTER-CARE PROVIDERS

SB 1641, SOTO, CH. 388
H&S 1530.3, 1536.2; W&I 361.2

Requires the Department of Social Services to report to the Legislature during the 2007–2008 budget hearings regarding the progress of the Residential Regulations Work Group. Requires a placement agency that has placed a child with a relative caregiver, a nonrelative extended family member, a licensed foster family home, or a group home to ensure that the home best meets the needs of the child. Defines that standard to include a home that meets the child's health, safety, and well-being needs; is the least restrictive and most family-like environment; and allows the child to engage in reasonable and age-appropriate day-to-day activities.

DEPENDENT CHILDREN

SB 1667, KUEHL, CH. 389
W&I 295, 366.21

Requires social workers to provide foster parents a caregiver information form (Judicial Council form JV-290) with the required summary of their recommendations as well as instructions on how to file the form with the court. Authorizes foster caregivers, Indian custodians, community caregivers, and foster family agencies with custody of a child to attend all hearings regarding that child and provide written evidence to the court.

CHILD DEATH REVIEW TEAMS

SB 1668, BOWEN, CH. 813
PEN 11174.32

Provides that records exempt from disclosure to third parties pursuant to state or federal law remain exempt from disclosure when they are in the possession of a child death review team (CDRT). Requires that CDRTs make available to the public, no less than once each year, findings, conclusions, and recommendations of the CDRT, including specified data.

PROBATE

CONSERVATORSHIPS

AB 1363, JONES, CH. 493
PROB VARIOUS SECTIONS

Enacts, together with SB 1116 (Scott), SB 1550 (Figueroa), and SB 1716 (Bowen), the Omnibus Conservatorship and Guardianship Reform Act of 2006. Among other things, requires the court, on and after July 1, 2007, to review probate conservatorships six months after appointment of the conservator and annually thereafter, unless the court determines at the first-year review and every subsequent review that the conservator is acting in the best interests of the conservatee, in which case the court may set the next review in two years. Imposes a variety of new duties on court investigators, including conducting new investigations of all temporary conservatorships; conducting new, full investigations six months after the initial appointment of conservators; conducting new status investigations at specified one-year intervals; and expanding the scope of investigations to focus on the conservatee's placement, quality of care, and finances. Requires accountings, on and after July 1, 2007, to include specified supporting documentation and to be subject to random and full review and verification by the court. Requires the Judicial Council to develop qualifications and continuing education requirements for probate court judges, attorneys, examiners, investigators, and court-appointed attorneys; establish uniform standards of conduct for conservators and guardians regarding asset management and the fees that may be charged; and report to the Legislature, by January 1, 2008, on measures of court effectiveness in conservatorship cases.

DONATIVE TRANSFERS

AB 2034, SPITZER, CH. 215

Requires the California Law Revision Commission to study the operation and effectiveness of provisions restricting donative transfers to certain classes of individuals and to report to the Legislature on or before January 1, 2009, its findings and recommendations regarding revisions and improvements to those provisions.

TRUSTEES: REMOVAL

AB 2042, SPITZER, CH. 84
PROB 15642

Permits a trustee to be removed if the trustee is substantially unable to manage the trust's financial resources or is otherwise substantially unable to properly execute the duties of trustee or if the trustee is substantially unable to resist fraud or undue influence. Provides that when the trustee holds the power to revoke the trust, substantial inability to manage the trust's financial resources or otherwise properly execute the duties of the office may not be proved solely by isolated incidents of negligence or improvidence.

TRUSTS: DISTRIBUTION

AB 2347, HARMAN, CH. 569
PROB 16340, 16361, 16363, 16364, 16374.5

Provides that a specific gift distributable under a trust shall carry with it the same benefits and burdens as a specific devise under a will. Expands the definition of, and revises the provisions governing the allocation of, payments received by a trustee. Specifies and clarifies the allocation of receipts from interests owned by a trust in specified natural resources and limits trustee liability for making that allocation. Sets forth a priority of sources from which distributions from a trust payable to beneficiaries would be made, except as otherwise provided by the governing instrument, as determined by the trustee, or as ordered by the court.

ASSISTED OUTPATIENT MENTAL HEALTH TREATMENT

AB 2357, KARNETTE, CH. 774
W&I 5349.5

Extends until January 1, 2013, the sunset date of Laura's Law (AB 1421 [Thomson]; Stats. 2002, ch. 1017), which created an assisted outpatient treatment demonstration program for certain persons with mental disabilities. Requires the Department of Mental Health to submit to the Governor and the Legislature by July 31, 2011, a report and evaluation of all counties implementing any component of AB 1421.

WILLS: PERSONAL PROPERTY

AB 2568, HARMAN, CH. 280
PROB 6132

Authorizes a will to refer to a writing directing disposition of tangible personal property, as defined, that the will does not otherwise specifically dispose of, except for property used primarily in a trade or business. Provides that a writing that meets the conditions and requirements set forth in that provision shall be given effect as if the writing were actually contained in the will itself. Requires the writing to be filed with the court at the time of the filing of the inventory and appraisal or, if the writing has not been found or is not available at the time the inventory and appraisal are filed, no later than 60 days prior to filing the petition for final distribution. Requires tangible personal property with a value in excess of $5,000 to be disposed of by the will. Prohibits the disposal of tangible personal property by a writing if the total value of that tangible personal property exceeds $25,000.

CONSERVATORSHIPS: PERSONAL RESIDENCE

SB 1116, SCOTT, CH. 490
PROB 2352, 2352.5, 2540, 2543, 2590, 2591, 2591.5

Enacts, together with AB 1363 (Jones), SB 1550 (Figueroa), and SB 1716 (Bowen), the Omnibus Conservatorship and Guardianship Reform Act of 2006. Among other things, creates a presumption that the personal residence of the conservatee at the time of the conservatorship proceeding's commencement is the least restrictive appropriate setting for the conservatee, absent the conservator's showing to the contrary by a preponderance of evidence. Requires the conservator, when seeking authorization to sell the conservatee's personal residence, to inform the court why other alternatives, including but not limited to in-home care services, are not available. Authorizes the conservator to sell the personal residence of the conservatee if the conservator (1) demonstrates that the sale and the commissions to be paid out of the estate are in the best interests of the conservatee; (2) complies with requirements for appraisal and sale at a minimum price; and (3) within 15 days serves a copy of the escrow settlement statement on specified individuals but allows the court to waive this notice in order to prevent abuse.

PROFESSIONAL FIDUCIARIES ACT

SB 1550, FIGUEROA, CH. 491
VARIOUS B&P, PROB SECTIONS

Enacts, together with AB 1363 (Jones), SB 1116 (Scott), and SB 1716 (Bowen), the Omnibus Conservatorship and Guardianship Reform Act of 2006. Among other things, creates the Professional Fiduciaries Bureau, located in the Department of Consumer Affairs, and establishes a new licensing and disciplinary scheme for "professional fiduciaries." Sets forth qualifications for licensure, including a criminal background check, passing a licensing examination administered by the bureau, specified experience, and prelicensing education and continuing education requirements for license renewals. Prohibits, on and after July 1, 2008, a person from holding himself or herself out to the public as a professional fiduciary unless he or she is licensed, and prohibits a court from appointing a person to carry out the duties of a professional fiduciary unless he or she is licensed. Sunsets, effective July 1, 2008, the Statewide Registry and the local court registry for professional fiduciaries.

CONSERVATORSHIPS: INFORMAL COMPLAINTS

SB 1716, BOWEN, CH. 492
PROB 1051, 1850, 1851; W&I 5372

Enacts, together with AB 1363 (Jones), SB 1116 (Scott), and SB 1550 (Figueroa), the Omnibus Conservatorship and Guardianship Reform Act of 2006. Among other things, permits the court, on and after January 1, 2008, to refer a matter to the court investigator or take other appropriate action in response to an ex parte communication regarding (1) a fiduciary (conservator, guardian, trustee, personal representative, attorney-in-fact, custodian under the California Uniform Transfer to Minors Act, or other legal representative) about the fiduciary's performance of his or her duties and responsibilities; or (2) a person who is the subject of a conservatorship or guardianship proceeding. Specifies that any such action taken by the court shall be consistent with due process and requirements prescribed by existing law. Requires the court to disclose the ex parte communication to all parties and counsel. However, the court may, for good cause, dispense with the disclosure if necessary to protect the ward or conservatee from harm. Requires the Judicial Council, by January 1, 2008, to adopt a rule of court implementing these provisions.

STATE BAR AND PRACTICE OF LAW

STATE BAR: LEGAL SERVICES TO THE POOR

AB 2301, COMMITTEE ON JUDICIARY, CH. 165
B&P 6033

Provides the State Bar with the authority to collect voluntary financial support from its membership to support organizations that provide free legal services to those of limited means. Requires the State Bar Board of Governors, in consultation with the Chief Justice, to appoint a task force to propose a method for collection and distribution of the funds.

ARBITRATION: LEGAL REPRESENTATION

AB 2482, HARMAN, CH. 357
CCP 1282.4

Extends until January 1, 2011, and revises the statute authorizing appearances by out-of-state attorneys in arbitrations. Among other things, requires out-of-state attorneys to serve upon the arbitrator, the parties, the State Bar of California, and counsel a certificate containing specified information within a reasonable period of time after the attorney expresses his or her intent to appear in an arbitration. Provides that if the certificate of that attorney is approved by the arbitrator, the attorney must file the approved certificate with the State Bar. Requires the State Bar to report its findings and recommendations regarding the appearance of out-of-state attorneys in arbitration proceedings to the Legislature by December 31, 2009. Also requires the State Bar to promptly notify the chairs of the Senate and Assembly Judiciary Committees if the State Bar finds a pattern of noncompliance with or abuse of the bill's provisions.

LAW SCHOOLS AND LAW DEGREE PROGRAMS

SB 1568, DUNN, CH. 534
B&P 6046.7, 6060.7, 6061, 6061.5; ED 94364, 94900

Transfers regulation and oversight of unaccredited law schools and correspondence law schools from the Bureau for Private Postsecondary and Vocational Education to the State Bar's Committee of Bar Examiners. Requires correspondence law schools to disclose their faculty-to-student ratios and passage rates of their First-Year Law Students' Examination ("baby bar") and of the general bar exam to prospective students, in the same manner required of unaccredited schools.

TRAFFIC

PASSENGERS IN TRUNKS

AB 1850, MOUNTJOY, CH. 900
VEH 12810, 21712, 42001, 42002.1

Makes it an infraction for a person driving a motor vehicle to knowingly permit a person to ride in the trunk of that motor vehicle. Makes it an infraction for a person to ride in the trunk of a motor vehicle.

CRIMINAL PROCEDURE: DEFENDANT'S APPEARANCE

AB 2174, VILLINES, CH. 744
PEN 977

Provides that the court may order a person charged with a misdemeanor driving-under-the-influence offense to be personally present at arraignment, plea, or sentencing.

RECKLESS DRIVING AND MOTOR VEHICLE SPEED CONTESTS

AB 2190, BENOIT, CH. 432
VEH 23105, 23109.1

Makes reckless driving or engaging in a motor vehicle speed contest that proximately causes one or more of various specified injuries to a person other than the driver an alternate misdemeanor/felony.

ILLEGAL DUMPING

AB 2253, HANCOCK, CH. 765
VEH 23112.7

Authorizes a court to impound for up to six months a vehicle used in the illegal dumping of waste matter or harmful waste matter, upon misdemeanor or felony conviction of the offense, if the person is the registered owner of the vehicle or registered owner's agent and has one or more prior convictions for illegally dumping waste matter or harmful waste matter that are not infractions. Makes this impoundment procedure inapplicable if there is a community property interest in the vehicle that belongs to a person other than the defendant. Authorizes the court in a criminal action against a person who is charged with a misdemeanor or felony violation of illegally dumping harmful waste matter, on the motion of the prosecutor or county counsel, to declare a vehicle used in the commission of the violation, upon conviction, to be a nuisance and to order it sold. This may apply only if the person has two or more prior convictions that are not infractions for illegally dumping waste matter, and the person is the registered owner or the registered owner's agent or employee.

DRIVING UNDER THE INFLUENCE

AB 2752, SPITZER, CH. 899
VEH 13390, 42001, 42001.25, 42002.1

Makes it an infraction instead of a civil violation to be under 21 years old and drive with a blood alcohol level of .01 percent or greater and increases the infraction penalties for being under 21 and driving with a blood alcohol level of .05 percent or greater.

ALL-TERRAIN VEHICLES: OPERATING VIOLATIONS

AB 2755, BLAKESLEE, CH. 195
VEH 38504.1, 38504.2

Makes it an infraction for a parent or guardian or another adult authorized by the parent or guardian to grant permission or knowingly allow a child under age 14 to operate an all-terrain vehicle (ATV) unless that child has a safety certificate, has taken a safety training course, or is under the direct supervision of an adult who has a safety certificate. Authorizes the court to order the child to take an ATV safety training course and then to provide the court with a certificate to prove that the course was completed if the child's parent, guardian, or the adult authorized by the parent or guardian is convicted of allowing a child to operate an ATV without a safety certificate. Requires an adult to accompany the child to the court-ordered ATV safety training course.

GRAFFITI AND VANDALISM: DRIVER'S LICENSE

AB 2923, CALDERON, CH. 434
VEH 13202.6

Increases to two years the maximum length of time that a court may suspend the driver's license of a person convicted of a graffiti-related offense. Increases to three years the maximum length of time that a court may order the Department of Motor Vehicles to delay issuing a license after a person becomes eligible to drive if convicted of a graffiti-related offense.

IGNITION INTERLOCK DEVICE

AB 3045, KORETZ, CH. 835
VEH 13386, 14601.2, 14601.4, 14601.5

Requires proof of installation of an ignition interlock device before a person can obtain a restricted license if the court has ordered an ignition interlock device. Prohibits tampering with an ignition interlock device by an installer, a service center, or a technician.

SAFETY: INFRACTIONS

SB 1021, BOWEN, CH. 898
VEH 1656.3, 11219.3, 21070, 42001, 42001.19, 42002.1

Makes it an infraction to engage in the unsafe operation of a motor vehicle resulting in bodily injury or great bodily injury.

WIRELESS TELEPHONES

SB 1613, SIMITIAN, CH. 290
VEH 12810.3, 23123

Beginning July 1, 2008, with limited exceptions, makes it an infraction for a person to use a cell phone while operating a motor vehicle unless the telephone is designed and configured to allow hands-free listening and talking operation and is used in that manner while driving.

DRIVING UNDER THE INFLUENCE: SUSPENDED OR RESTRICTED LICENSE

SB 1756, MIGDEN, CH. 692
H&S 11836; VEH 13352, 13352.1, 13352.4, 23536, 23538

For persons placed on probation, increases from 6 to 10 months the period of driver's license suspension for a person convicted of a first DUI offense not causing bodily injury to another if the person had a blood alcohol level of .20 percent or greater or refused to take a chemical test.

FINES AND FORFEITURES

SB 1773, ALARCON, CH. 841
GOV 76000.5; H&S 1797.98A

Authorizes until January 1, 2009, counties to elect to levy an additional $2 for every $10 in base fines for purposes of supporting emergency medical services and requires the additional assessment to be deposited in local Maddy Emergency Medical Services (EMS) Funds.

TRIAL COURT FACILITIES

TRIAL COURT FACILITIES

SB 10, DUNN, CH. 444
GOV 70301, 70324, 70351.5

Revises the Trial Court Facilities Act of 2002 to allow buildings with a seismic level V rating to transfer to the state as long as counties remain liable for earthquake-related damage, replacement, injury, and loss to the same extent that they would have been liable if the responsibility for court facilities had not transferred to the state. This liability will attach to the county until on or after the earliest of the following: (1) the seismic rating is improved; (2) the building no longer contains court facilities; (3) 35 years have passed from the date of transfer of the facilities; or (4) the county has complied with the conditions for relief from liability contained in an agreement, as specified.

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