California Courts Review

Annual Supplement

A FORUM FOR THE STATE JUDICIAL BRANCH

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2007 Legislative Summary

During the first year of the 2007–2008 Legislative Session, the Legislature and Governor enacted nearly 90 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.

The effective date of legislation is January 1, 2008, 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

TRIAL COURT FUNDING

AB 227, BEALL, CH. 383
GOV 77200, 77201.1, 77201.2, 77201.3

Codifies changes to the maintenance-of-effort payments made by counties to the state for trial court funding. Changes are consistent with negotiated buyouts already in effect related to undesignated fees and civil fees buyouts.

BUDGET ACT OF 2007

SB 77, DUCHENY, CH. 171
URGENCY, EFFECTIVE AUGUST 24, 2007

Enacts the 2007 Budget Act, providing funding for the judicial branch. Delays for one year funding for the Omnibus Conservatorship and Guardianship Reform Act of 2006.

BUDGET ACT OF 2007

SB 78, DUCHENY, CH. 172
URGENCY, EFFECTIVE AUGUST 24, 2007

Makes necessary changes to enact the 2007 Budget Act as approved by the Budget Conference Committee. Does not change the judicial branch budget set forth in SB 77.

BUDGET ACT OF 2007: TRAILER BILL

SB 82, COMMITTEE ON BUDGET AND FISCAL REVIEW, CH. 176
GOV 70374.2, 70391, 70391.5; PEN 1465.7
URGENCY, EFFECTIVE AUGUST 24, 2007

Requires the Judicial Council to develop procedures for reviewing proposals to construct court facilities using nontraditional delivery methods. Establishes guidelines for the Department of Finance to approve nontraditional court construction proposals involving public-private partnerships. Restricts the Judicial Council from committing funds from the State Court Facilities Construction Fund for anything other than the nine capital projects included in the 2007–2008 budget unless the expenditures are replaced with other funds. Requires the Judicial Council to submit a plan for disposing of any courthouse replaced by new construction. Removes the sunset and makes permanent the 20 percent surcharge on criminal fines.

CIVIL LAW AND PROCEDURE

CIVIL ACTIONS: TELEPHONIC APPEARANCES

AB 500, LIEU, CH. 268
CCP 367.5

States generally that a party may appear by telephone in all general civil cases at all of the following: case management conferences, provided the party has made a good faith effort to meet and confer before the conference as required by law and has timely served and filed a case management statement; trial setting conferences; hearings on law and motion, except motions in limine; conferences to review the status of an arbitration or mediation; hearings to review the dismissal of an action; and any other hearing, conference, or proceeding if the court determines that a telephonic appearance is appropriate. Provides that a court may require a party to appear in person at any hearing, conference, or proceeding type listed above if the court determines, on a hearing-by-hearing basis, that a personal appearance would materially assist in the determination of the proceedings or in the effective management or resolution of the particular case.

TENANT CITIZENSHIP OR IMMIGRATION STATUS

AB 976, CALDERON, CH. 403
CIV 1940.3

Prohibits a city or county from enacting an ordinance that compels a landlord to inquire, compile, report, or disclose any information about the citizenship or immigration status of a tenant or prospective tenant or that prohibits a landlord from offering or continuing to offer accommodations for rent or lease based on the citizenship or immigration status of a tenant or prospective tenant.

UNLAWFUL DETAINER: NUISANCE ABATEMENT

AB 1013, KREKORIAN, CH. 456
CIV 3485; CCP 1161

Adds the circumstance of a person who commits an offense involving unlawful possession or use of illegal weapons or ammunition or uses the premises to further that purpose to circumstances deemed to constitute a nuisance. Creates pilot programs in specified cities in Alameda, Los Angeles, Sacramento, and San Diego Counties to permit weapons-related conduct to form the basis of an unlawful

ACKNOWLEDGMENTS

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detainer action brought in the name of the People. Requires the Judicial Council to compile information provided by the cities involved and report on the merits of the pilot programs to the Legislature by April 15, 2009.

UNLAWFUL DETAINER: SUBPOENAS

AB 1126, ENG, CH. 113
VARIOUS CODES

Provides that in unlawful detainer actions and other specified summary proceedings involving the possession of real property that a discovery motion may be made at any time on giving five days' notice. Requires the Judicial Council to adopt rules prescribing the time for the filing and service of opposition and reply papers relating to specified motions. Allows a plaintiff in those summary proceedings to propound interrogatories, make a demand for inspection, and make requests for admission without leave of court at any time five days after service of the summons on or the appearance by the relevant party, whichever occurs first.

DEPOSITIONS: COSTS

AB 1211, PRICE, CH. 115
CCP 2025.510

Clarifies responsibility for paying deposition reporters. Among other things, provides that the obligation to timely pay the deposition officer or entity providing the services of the deposition officer for a deposition transcript and any other deposition products or services that are requested shall be the responsibility of the requesting attorney or party appearing in pro per. Makes an exception to the above if responsibility for payment is otherwise provided by law or if the deposition officer or entity is notified in writing at the time the services and products are requested that the party or another identified person will be responsible for payment.

DELAY REDUCTION: UNNAMED DEFENDANTS

AB 1264, ENG, CH. 146
GOV 68616

Prohibits delay reduction rules from requiring the severance of unnamed defendants before the conclusion of the introduction of evidence at trial, except on stipulation or motion of the parties.

FOREIGN-COUNTRY MONEY JUDGMENTS

SB 639, HARMAN, CH. 212
VARIOUS CODES

Repeals the Uniform Foreign Money-Judgments Recognition Act and enacts in its place the Uniform Foreign-Country Money Judgments Recognition Act. Among other things, allocates the burden of proof for parties seeking or resisting recognition of a foreign-country judgment, as defined. Provides a procedure for recognition of a foreign-country judgment, establishes a statute of limitations on an action to recognize a foreign-country judgment, and specifies the effective date of the act in relation to the date of the foreign-country judgment.

TRIAL COURT RESTRUCTURING

SB 649, COMMITTEE ON JUDICIARY, CH. 43
VARIOUS CODES

Deletes obsolete references to municipal courts and makes related statutory changes with respect to the classification of limited civil cases, appeals in limited civil cases and misdemeanor and infraction cases, and arraignment by two-way electronic audiovisual communication.

UNLAWFUL DETAINER: CONTROLLED SUBSTANCES

SB 706, RUNNER, CH. 95
H&S 11571.1

Adds the city of Palmdale in Los Angeles County to the existing pilot project that allows city prosecutors or city attorneys to file partial eviction unlawful detainer actions to evict drug dealers and users from a rental property while allowing innocent tenants to maintain their residence. Requires the Judicial Council to submit a brief report to the Senate and Assembly Judiciary Committees once on or before April 15, 2009, summarizing specified information provided by the pilot cities and evaluating the merits of the pilot programs.

COURT OPERATIONS

COURT PROCEDURES

AB 1248, EVANS, CH. 738
VARIOUS CODES

Makes technical and clarifying changes to the Uniform Civil Fees and Standard Fee Schedule Act of 2005, makes a technical change to the court records statute, changes the frequency of a report that the Judicial Council submits to the Legislature regarding access and visitation, increases the cap on habeas investigation costs paid by the Supreme Court, allows staff of the Administrative Office of the Courts to staff a nonprofit organization created by the Judicial Council, allows the courts to charge the current night court assessment for court sessions held on weekends, allows the courts to collect bail forfeitures in installment payments without requiring the individual to make an appearance in court, and requires the Judicial Council to establish a travel policy for the judicial

branch. Also clarifies that documents are to be produced or made available for inspection on the date specified in requests for production or inspection of documents or as agreed to by the parties pursuant to an extension.

COURT RECORDS: SOCIAL SECURITY NUMBERS

SB 644, CORREA, CH. 189
CCP 674

Removes the requirement that abstracts of judgment for non-child-support matters contain the creditor's social security number and instead provides that only the last four digits of the social security number be provided.

CRIMINAL LAW AND PROCEDURE

TANNING FACILITIES

AB 105, LIEU, CH. 590
B&P 22702, 22705, 22706

Prohibits a person under 14 years of age from using a tanning device and requires a person between 14 and 18 years of age to provide the tanning facility with a statement signed by his or her parent or legal guardian consenting to the minor's use of the tanning device. Prohibits a tanning facility from allowing a person between 14 and 18 years of age to use an ultraviolet tanning device unless that person's parent or legal guardian provides consent by appearing in person and signing a form in the presence of the facility owner or employee.

MISUSE OF MILITARY DECORATIONS

AB 282, COOK, CH. 360
M&V 648.1

Makes it an infraction for a person with the intent to defraud to falsely represent himself or herself, orally, in writing, or by wearing any military decoration, to have been awarded any military decoration.

VOTER INTIMIDATION RESTITUTION FUND

AB 288, PRICE, CH. 491
ELEC 18547, 18548

Authorizes a court to order any person convicted of voter intimidation to pay a restitution fine, in an amount determined by the court, to be deposited in the Voter Intimidation Restitution Fund created by this bill. Upon appropriation by the Legislature, allocates the money in this fund to the Secretary of State for purposes of voter education campaigns that address the specific crime committed by anyone convicted of violating this prohibition.

CRIMINAL PROCEDURE: MOTIONS

AB 475, EMMERSON, CH. 390
PEN 851.8

Requires a person seeking to have a court order the record of his or her arrest destroyed to serve a copy of the petition on the law enforcement agency having jurisdiction over the offense in addition to serving the prosecutor having jurisdiction over the offense. Allows the law enforcement agency to present evidence at the motion through the district attorney.

VEHICULAR MANSLAUGHTER: FLEEING AN ACCIDENT SCENE

AB 678, GAINES, CH. 747
VARIOUS CODES

Adds the following to the crimes subject to a five-year sentence enhancement: the commission of vehicular manslaughter while operating a vessel under the influence of alcohol or a drug while in the commission of an unlawful act, not amounting to a felony, and with gross negligence or operating a vessel under the influence of alcohol or a drug while in the commission of a lawful act that might produce death, in an unlawful manner, and with gross negligence.

ILLEGAL DUMPING: FINES

AB 679, BENOIT, CH. 394
PEN 1202.51

Requires the court to impose a new fine on conviction of illegal dumping, in addition to any other penalty or fine. Requires that the money from the fines be deposited in the city's or county's general fund for use for illegal dumping enforcement.

DISCLOSURE OF CRIME INFORMATION

AB 920, BROWNLEY, CH. 401
PEN 146g

Makes it a misdemeanor for any peace officer, law enforcement employee, trial court employee, or attorney to disclose or solicit for financial gain any information obtained in the course of a criminal investigation.

VEHICLE THEFT

AB 924, EMMERSON, CH. 111
PEN 186.2

Adds offenses involving vehicle theft to the crime of "criminal profiteering activity."

ALCOHOLIC BEVERAGES: POSSESSION

AB 951, JONES, CH. 19
B&P 25608.5
URGENCY, EFFECTIVE JUNE 28, 2007

Makes it an infraction for a person in a nonmotorized vessel on certain portions of the Lower American River to possess a container with an alcoholic beverage, whether opened or closed, during the summer holiday periods during which the Sacramento County Board of Supervisors prohibits the possession of an open alcoholic beverage container on the land portions along the river.

CRIME LABORATORIES

AB 1079, RICHARDSON, CH. 405
PEN 11062
URGENCY, EFFECTIVE OCTOBER 10, 2007

Requires the Department of Justice to establish a task force to conduct a review of California's crime laboratory system. The task force would be required to review and make recommendations about how best to configure, fund, and improve the delivery of state and local crime laboratory services in the future and to report its findings to the Department of Finance and specified legislative committees by July 1, 2009.

INMATE RELEASE

AB 1172, RUNNER, CH. 571
PEN 3058.65, 3058.8; W&I 6608, 6609.1

Increases from 45 days to 60 days the notice that must be provided to specified persons before the release of a parolee convicted of certain crimes against minors or an act of domestic violence. Increases the notification of the hearing date for conditional release of a sexually violent predator (SVP) from 15 days to 30 days. Increases from 21 days to 30 days the time for the necessary arrangements to be made before placement of an SVP in a conditional release program. Increases from 15 days to 30 days the notice the Department of Mental Health (DMH) must provide to local officials on determination that an SVP is recommended for community treatment. Specifies that certain written comments provided to the court by law enforcement for consideration at the conditional release hearing be filed with the court when the comments are provided to the DMH.

WHITE COLLAR CRIME: ENHANCEMENT

AB 1199, RICHARDSON, CH. 408
PEN 186.11

Allows application of enhanced penalties against any person who commits two or more related felonies, a material element of which is fraud or embezzlement and that involves a pattern of related felony conduct resulting in the loss by another person or entity of more than $100,000.

OFFICE OF GANG AND YOUTH VIOLENCE POLICY

AB 1381, NÚÑEZ, CH. 459
PEN 13827, 13827.1, 13827.2

Establishes the Office of Gang and Youth Violence Policy, responsible for identifying and evaluating state, local, and federal gang and youth violence suppression and prevention programs and strategies, along with funding for those efforts. Requires the office to report its findings and recommendations to the Legislature on or before March 1, 2009.

EARLY INMATE RELEASE

AB 1539, KREKORIAN AND LIEBER, CH. 740
PEN 1170

Extends provisions for early release of a prison inmate to prisoners who are permanently medically incapacitated and whose release is deemed not to threaten public safety.

ASSAULT OF PARKING CONTROL OFFICER

AB 1686, LENO, CH. 243
PEN 241

Makes it a misdemeanor to assault a parking control officer engaged in the performance of his or her duties if the person committing the assault knew or should have known the victim was a parking control officer.

SENTENCE ENHANCEMENT: EXCESSIVE TAKING

AB 1705, NIELLO, CH. 420
PEN 12022.6

Extends by 10 years the sunset provisions in Penal Code section 12022.6, which imposes sentence enhancements of one, two, three, or four years for felony convictions in which the crime involved taking or damage to property that exceeded $50,000, $150,000, $1 million, and $2.5 million respectively. Increases the monetary thresholds for these crimes.

SENTENCING: TERM TRIADS

SB 40, ROMERO, CH. 3
PEN 1170, 1170.3
URGENCY, EFFECTIVE MARCH 30, 2007

Responds to *Cunningham v. California* (2007) 549 U.S. ____ [127 S.Ct. 856], the U.S. Supreme Court's decision declaring California's determinate sentencing laws unconstitutional. Provides that when a felony is punishable by a triad of terms of incarceration in state prison, the choice of the appropriate term rests within the sound discretion of the court. Requires the court to state the reasons for its sentence choice on the record at the time of sentencing. Requires the California Department of Corrections and Rehabilitation, beginning July 1, 2007, to post on its Internet Web site biannual updates of the number of felons admitted to state prison with at least one upper-term sentence and requires the Judicial Council to report to the Legislature on or before January 1, 2008, on

the implementation of the provisions of the bill, including the development of revised rules of court and any consequences relating to the effect of the bill. Sunsets on January 1, 2009, unless a later-enacted statute deletes or extends that date.

PENALTY ASSESSMENT: CLARIFICATION

SB 425, MARGETT, CH. 302
GOV 29551, 70372, 70375, 76000, 76000.5, 76104.1, 76104.6, 76104.7; VARIOUS CODES

In addition to numerous corrections and minor amendments to various Penal Code provisions, abrogates the holding in *People v. Chavez* (2007) 150 Cal.App.4th 1288. Clarifies the statutes regarding how penalty assessments should be applied in criminal cases so that the plain language of the statutes implements the original legislative intent and conforms to the current understanding and practice of how fines and penalties are imposed by the courts.

SEXUALLY VIOLENT PREDATORS: DNA TESTING

SB 542, ROMERO, CH. 208
W&I 6603

Clarifies that existing procedures established for incarcerated persons seeking postconviction DNA testing apply to sexually violent predators.

DEFENDANTS: PSYCHOTROPIC MEDICATION

SB 568, WIGGINS, CH. 556
PEN 1369, 1369.1

Allows county jails to be used as "treatment facilities" for purposes of administering court-ordered psychotropic medication to restore a criminal defendant's mental competency to stand trial. Requires the court-appointed evaluating psychiatrist's report to the court to include information about whether it is medically appropriate to administer antipsychotic medication in the county jail. Sunsets January 1, 2010, unless a later-enacted statute deletes or extends that deadline.

INMATES: PROHIBITED ITEMS

SB 655, MARGETT, CH. 655
PEN 4575

Makes the unauthorized possession of a wireless communication device in a local correctional facility a misdemeanor. Makes possession of tobacco products by a person housed in a local correctional facility an infraction in a county in which the board of supervisors has adopted an ordinance or passed a resolution banning tobacco in its correctional facilities.

FIREWORKS

SB 839, CALDERON, CH. 563
H&S 12551, 12552, 12556, 12557, 12700, 12702, 12703, 12704, 12706, 12726, 12727, 12728; VEH 15301

Revises the penalties for possession and transportation of dangerous fireworks. Requires fines and forfeitures imposed or collected by the court as a result of citations issued by a public safety agency for fireworks violations, except for administrative fees imposed by local jurisdictions, be deposited with the county treasurer as soon as practical after the receipt of the fine or forfeiture. Establishes the State Fire Marshal Fireworks Enforcement and Disposal Fund in the State Treasury and requires the county to deposit all monies collected for fireworks violations and from the sale of safe fireworks into the fund and be awarded, upon appropriation by the Legislature, to the State Fire Marshal for exclusive use in statewide fire safety programs.

SALE OF KANGAROO PRODUCTS

SB 880, CALDERON, CH. 576
PEN 653o

Repeals until January 1, 2011, the state prohibition against and criminal penalty on the importation or sale of kangaroo parts or products in California.

INVOLUNTARY HOME DETENTION

SB 959, ROMERO AND RUNNER, CH. 252
PEN 1203.017
URGENCY, EFFECTIVE SEPTEMBER 26, 2007

Permits a county board of supervisors to authorize an involuntary home detention program, including electronic monitoring, in lieu of jail time, on a determination that overcrowded jail conditions would otherwise require early release of inmates.

DOMESTIC VIOLENCE

PROTECTIVE ORDERS

AB 289, SPITZER, CH. 582
PEN 273.5, 646.9

Requires sentencing courts in felony domestic violence cases and stalking cases to consider issuing a protective order, which may be valid for up to 10 years. Specifies that in cases involving a conviction for felony domestic violence or stalking, a protective order may be issued regardless of the particular disposition of the case.

PROTECTIVE ORDERS: COMPANION ANIMALS

SB 353, KUEHL, CH. 205
FAM 6320

Expands the scope of protective orders to allow courts to make orders regarding the care and custody of companion animals or livestock and to require a restrained person to stay away from such animals. Requires the Judicial Council to modify its forms consistent with these provisions by July 1, 2009.

DOMESTIC VIOLENCE COUNSELORS

SB 407, ROMERO, CH. 206
EVID 1037.1, 1037.2, 1037.4, 1037.5; PEN 679.05

Clarifies who may be granted the domestic violence victim/counselor evidentiary privilege and excludes counselors employed by governmental agencies.

EMPLOYMENT ISSUES

PUBLIC EMPLOYEES' RETIREMENT: BUTTE, SOLANO COUNTIES

SB 431, AANESTAD AND WIGGINS, CH. 256
GOV 20815.5

Requires the Board of Administration of the Public Employees' Retirement System for Butte and Solano Counties to prepare a separate computation of the assets and liabilities of the trial court and each county.

FAMILY LAW

MARRIAGE AND DOMESTIC PARTNERSHIPS: NAME CHANGE

AB 102, MA, CH. 567
FAM 298, 298.5, 298.6, 306.5

Requires that marriage license and domestic partnership forms allow either party to indicate a change of name as of January 1, 2009.

CALWORKS: CHILD SUPPORT

AB 176, JONES, CH. 488
FAM 3680.5; W&I 11477

Requires, as of October 1, 2009, that recipients of public benefits be required to assign to the state child support payments accrued only during the time that the public benefits are being paid.

DISSOLUTION OF MARRIAGE: ESTATES AND TRUSTS

AB 861, TRAN, CH. 141
FAM 2337

Revises the conditions that a court may impose on a party to a dissolution when the court is severing the issue of marriage status from other issues. Provides that the court can impose those conditions on the moving party and may impose some or all of the conditions on the nonmoving party as considerations of justice and fairness require, taking into account the burden of compliance. Also adds conditions relating to retirement accounts and pension benefits.

DISABLED PERSONS: SUPPORT AND HEALTH-CARE COVERAGE

AB 910, KARNETTE, CH. 617
FAM 3751, 3752.5

Requires a support order to direct the parent or parents who, at the time of the order or subsequently, provide health insurance coverage for a supported child to seek continuation of coverage for the child on his or her attaining the limiting age under the coverage if the child is incapable of self-sustaining employment because of a disability.

ADOPTION

SB 313, SCOTT, CH. 47
FAM 7630, 7822, 7841, 8604, 8802

Revises adoption statutes to provide that (1) prospective adoptive parents with physical custody or adoption agencies with legal custody of a child must be joined in an action for parentage of the child, and the party petitioning for paternity must serve the petition on the adoption agency and the prospective adoptive parents; (2) a court may disregard token efforts by a birth parent to maintain a connection with a child in determining whether that parent's consent to an adoption is required under Family Code section 8604; and (3) a guardian of a child may petition to adopt the child if the guardian alleges that the child has been abandoned. This allows the guardian to file the petition to declare the child abandoned at the same time as the adoption petition.

CHILD CUSTODY AND VISITATION: DRUG AND ALCOHOL TESTING

SB 403, HARMAN, CH. 152
FAM 3041.5

Extends the sunset date on the courts' authority to order drug and alcohol testing in child custody cases until January 1, 2009.

SPOUSAL SUPPORT: CHANGE OF CIRCUMSTANCES

SB 415, HARMAN, CH. 247
FAM 4326

Allows, until January 1, 2011, the termination of a child support obligation due to the maturation of the child to be considered as a change of circumstances allowing the court to consider a modification of a spousal support order.

CHILD SUPPORT: ORDER TO SEEK EMPLOYMENT

SB 523, YEE, CH. 249
FAM 4505

Creates a pilot program in San Mateo County to allow the court to order a nondeliquent obligor parent, under specified conditions, to seek employment. Requires the San Mateo child support enforcement agency to report to the California Department of Child Support Services and the Legislature, on or before January 1, 2010, on the cost and performance of the pilot program. Authorizes local child support agencies to use electronically generated signatures on child support pleadings.

CHILD SUPPORT

SB 892, CORBETT, CH. 441
FAM 4565, 17523.5

Allows the California Department of Child Support Services or local child support agencies to transmit, file, and record property liens electronically through the use of the California Child Support Automation System. Requires that a child support obligor seeking to reduce a child support–related security deposit serve the request on the obligee and any other party to the matter.

FINES, FEES, AND FORFEITURES

TRIAL COURT TRUST FUND

SB 539, MARGETT, CH. 435
GOV 68085

Establishes a tiered interest and penalty structure that reduces the retroactive penalty, paid when revenues are remitted late to the state, to the amount that the revenue would have earned had it been receiving the Local Agency Investment Fund rate (approximately 4 to 6 percent) as long as the court or county remits the revenue within 30 to 45 days, as specified, from the time the error is discovered. Establishes that the higher penalty rate begins 30 days after the date of the issuance by the controller of the final audit report concerning the failure to pay. Requires the entity found in error to make the payment directly to the state (currently, the county is required to pay the state and seek reimbursement from the court, if the court is at fault).

JUDICIAL OFFICERS

COURTS: JUDGESHIPS

AB 159, JONES, CH. 722
GOV 12011.5, 69614.2, 69615

Creates 50 new superior court judgeships to be allocated under the methodology and in the manner approved by the Judicial Council in February 2007. Authorizes the conversion of 16 subordinate judicial officers to judgeships, on vacancy, in eligible courts, as determined by the Judicial Council. Further authorizes the conversion of an additional 146 subordinate judicial officer positions to judgeships, on vacancy, in subsequent years, at a rate of 16 per year. These conversions shall be subject to ratification by the Legislature either in the annual Budget Act or in legislation. Requires the Governor to report annually demographic gender, race, and ethnicity data of all judicial applicants as well as for all judicial appointments or nominations. Directs the State Bar, in considering the qualifications of a candidate for judicial office, to consider legal experience broadly, including litigation and nonlitigation experience.

JUVENILE DELINQUENCY

JUVENILE JUSTICE

AB 191, COMMITTEE ON BUDGET, CH. 257
VARIOUS CODES
URGENCY, EFFECTIVE SEPTEMBER 29, 2007

Revises provisions pertaining to wards of the Division of Juvenile Facilities (DJF) in the California Department of Corrections and Rehabilitation created by SB 81. Provides that the recall of specified wards to county jurisdiction by the juvenile court under Welfare and Institutions Code section 731.1 must be on the recommendation of the chief probation officer of the county that committed the ward. Requires that the court provide DJF with at least 15 days' notice of the date of the recall disposition hearing and that DJF transport the ward to the custody of the probation department of the committing county no fewer than 5 days before the hearing date. Requires that such recall disposition hearings are subject to the same deadlines and procedures as juvenile delinquency proceedings. Establishes the procedure by which courts and probation departments can assume responsibility for overseeing the

reentry of specified DJF parolees and provides that the court must set a reentry disposition hearing within 15 days of a ward's release. Clarifies the procedures by which courts and counties assume jurisdiction of specified DJF parole violators.

FITNESS HEARING: USE OF FIREARM BY MINOR

AB 686, GAINES, CH. 137
W&I 707

Clarifies that the personal use of a firearm during the commission or attempted commission of a felony includes certain felonies that are enumerated in a separate provision. Clarifies age requirements applicable to Welfare and Institutions Code section 707.

ANTI-GANG-VIOLENCE PARENTING CLASSES

AB 1291, MENDOZA, CH. 457
W&I 727.7

Authorizes the juvenile court to order parents of a ward who is found to have committed a first-time gang-related offense to attend anti-gang parenting classes. Requires the California Department of Justice to establish the curriculum for such classes. Requires the parent to pay for the classes unless the court finds the parent is unable to pay.

JUVENILES: PSYCHOTROPIC MEDICATION

AB 1514, MAZE, CH. 120
W&I 739.5

Requires the juvenile court to approve requests to administer psychotropic medications to delinquent wards removed from the custody of their parents and placed in foster care, unless the court specifically grants this authority to the parents.

JUVENILE OFFENDERS

SB 81, COMMITTEE ON BUDGET AND FISCAL REVIEW, CH. 175
VARIOUS CODES
URGENCY, EFFECTIVE AUGUST 24, 2007

Limits the types of juvenile wards who can be committed to the Division of Juvenile Justice (DJJ) to those whose most recent offense is listed in Welfare and Institutions Code section 707(b). Authorizes courts to recall the commitments of DJJ wards who did not commit 707(b) offenses. Shifts jurisdiction for parole for non-707(b) wards to the county and the court. Establishes a block grant funding stream on a formula basis to support juvenile justice programs at the local level and provides construction funding for such facilities.

YOUTH BILL OF RIGHTS

SB 518, MIGDEN, CH. 649
W&I 224.70 ET SEQ.

Establishes a Youth Bill of Rights for all wards housed by the Division of Juvenile Facilities (DJF). Establishes the Office of the Ombudsperson within the Corrections Standards Authority to serve youth in DJF.

JUVENILE DEPENDENCY

RELATIVE CAREGIVERS

AB 298, MAZE, CH. 565
W&I 361.5, 366.21, 366.22, 366.26, 366.3

Revises provisions pertaining to placement preferences for children who cannot be reunified with their parents to elevate placing with a relative guardian above seeking an adoptive placement. Allows the court to deviate from the requirements regarding termination of parental rights if the child is with a relative caregiver whose preference for legal guardianship rather than adoption is not based on an unwillingness to accept legal or financial responsibility for the child.

FAMILY APPROVAL PILOT PROGRAM

AB 340, HANCOCK, CH. 464
FAM 8712; W&I 16519, 16519.5, 18260

Requires the California Department of Social Services, in consultation with county welfare agencies, to implement a pilot program to establish a unified resource family approval process to replace the existing multiple processes for licensing foster family homes, approving relatives and nonrelative extended family members as foster-care providers, and approving adoptive families.

CHILD ABUSE: BACKGROUND CHECKS

AB 369, SOLORIO, CH. 160
PEN 11105.04, 11170

Allows Court Appointed Special Advocate programs to obtain background information on potential volunteers and employees from the Child Abuse Central Index maintained by the California Department of Justice.

CHILD ABUSE OR NEGLECT: MANDATED REPORTS

AB 673, HAYASHI, CH. 393
PEN 11165.5, 11165.6, 11166

Adds knowledge about the nonaccidental death of a child to those suspected acts that must be reported by a mandated reporter of child abuse or neglect. Provides that a mandated reporter may report suspected abuse when acting in a private capacity outside the scope of his or her employment.

MEDI-CAL: FOSTER CHILDREN

AB 1512, TORRICO, CH. 467
W&I 14093.10

Requires expedited disenrollment of a foster child from a county-operated health system when that child is placed out of county so that the child may be enrolled in the plan of the county of residence.

CHILD ABUSE OR NEGLECT: RELEASE OF FILES

SB 39, MIGDEN, CH. 468
W&I 826.7, 10850.4

Requires the custodian of the case record in a child welfare agency to release specified information pertaining to children whose deaths are the result of abuse or neglect. Clarifies the procedure required to seek juvenile case files for such cases through the court and establishes mandatory time frames for action on petitions for the release of court records.

PLACEMENT OF CHILDREN

SB 703, DUCHENY, CH. 583
VARIOUS CODES

Requires counties to act on requests for home studies from other states under the Interstate Compact for the Placement of Children within 60 days unless specified conditions exist. Requires a county to accept a home study from another state or an Indian tribe unless it notifies the placing agency within 14 days why such acceptance would be contrary to the welfare of the child. Allows tribal child welfare agencies access to criminal history information in specified circumstances and makes them mandated reporters of child abuse. Authorizes social workers to release a child into the custody of a tribe unless the tribe has refused custody of the child. Requires a check of the Child Abuse Central Index in other states for adults living with foster children who have resided in other states in the past five years. Clarifies requirements for notice of dependency proceedings to caregivers.

FOSTER CHILDREN

SB 720, KUEHL, CH. 475
W&I 11400

Expands the definition of "whole family foster home" to encourage the placement of infants with teen mothers when both are juvenile dependents in foster care.

FOSTER CHILDREN: MENTAL HEALTH SERVICES

SB 785, STEINBERG, CH. 469
W&I 5777.7, 11376, 16125

Requires the California Department of Mental Health to take various measures to assist foster children placed outside the county of original jurisdiction to obtain mental health services.

ADOPTION MONTH

SCR 65, STEINBERG, CH. 131

Declares November 2007 to be Court Adoption and Permanency Month.

MISCELLANEOUS

UNDOMESTICATED BURROS

AB 222, EMMERSON, CH. 128
F&G 4600; GOV 53074.5
URGENCY, EFFECTIVE JULY 27, 2007

Notwithstanding the existing prohibition against capturing or possessing an undomesticated burro, authorizes a local animal control agency to remove an undomesticated burro from private land on request of the landowner or from a public roadway to ensure public safety and to provide medical treatment to an injured burro, if necessary.

RECORDED INSTRUMENTS: CERTIFIED TRANSLATIONS

AB 349, SALAS, CH. 231
GOV 27293

Provides that a translation in English of an instrument executed or certified in whole or in part in any language other than English may be presented to the county clerk for verification that the translation was performed by a certified or registered court interpreter or by an accredited translator registered with the American Translators Association.

COURT-ORDERED DEBTS

AB 367, DE LEÓN, CH. 132
VARIOUS CODES

Establishes a task force on criminal court–ordered fines and penalties that will make recommendations for simplifying California's criminal fine and penalty assessment, collection, and distribution systems. Reduces the minimum fine required for submission to the Franchise Tax Board Court-Ordered Debt Collection Program from $250 to $100 and expands the program to include collections for registration, pedestrian, and bicycle violations. Requires the Judicial Council to develop performance measures and benchmarks to review the effectiveness of collection programs.

COMMERCIAL FISHING: PENALTIES

AB 1187, DESAULNIER, CH. 328
F&G 5521.5, 7370, 8254, 8371, 8436, 12006, 12157

Increases the fine for the illegal sale of sturgeon, lobster, striped bass, salmon, fish of the Centrarchidae family, or parts thereof, to a maximum of $10,000. Specifies that possession of a certain amount of these fish or abalone is prima facie evidence that it is possessed for commercial

purposes. Requires a court to permanently revoke any commercial fishing license or commercial fishing permit and authorizes the court to permanently revoke any sport fishing license issued to a violator by the California Department of Fish and Game.

PROBATE

CONSERVATORS AND GUARDIANS

AB 1727, COMMITTEE ON JUDICIARY, CH. 553
VARIOUS CODES

Prohibits a conservatorship of the person or of the estate from being granted unless the court makes an express finding that the granting of the conservatorship is the least restrictive alternative for the protection of the conservatee. Enhances probate court investigators' access to confidential medical information and requires the Judicial Council to adopt rules for an expedited procedure authorizing court-ordered release of confidential medical information. Establishes specified notice requirements for termination of temporary conservatorships. Requires courts to coordinate investigations with filings of accountings if feasible and requires the Judicial Council to develop guidelines for the courts for reviewing accountings and detecting fraud. Creates new requirements on courts when guardianships and conservatorships are transferred from other jurisdictions. Contains a number of technical and conforming amendments to the Omnibus Conservatorship and Guardianship Reform Act of 2006.

MINORS: LEGAL REPRESENTATION: PROBATE PROCEEDINGS

SB 241, KUEHL, CH. 719
PROB 1470

Requires the court, when appointing counsel for a child in a guardianship, to determine whether the costs of the counsel can be paid by the parents of the child or the estate and, if not, to require the county to pay the costs of the counsel. Requires the Judicial Council to establish standards for ability to pay for counsel.

CRIMINAL HISTORY INFORMATION

SB 340, ACKERMAN, CH. 581
PEN 11105

Expands the list of individuals entitled to receive criminal history reports from the California Department of Justice by adding court investigators in probate guardianship and conservatorship cases, as well as officers performing conservatorship investigations related to proposed conservators under the Lanterman-Petris-Short Act.

STATE BAR AND PRACTICE OF LAW

ATTORNEYS: IOLTA

AB 1723, COMMITTEE ON JUDICIARY, CH. 422
B&P 6091.2, 6211, 6212, 6213

Requires banks that hold interest on lawyer trust accounts (IOLTA) to allow those accounts to participate in higher-paying investment products or receive an interest rate comparable to rates paid by those investment products (referred to as IOLTA comparability).

TRAFFIC

DEPARTMENT OF MOTOR VEHICLES: ABSTRACTS OF CONVICTION

AB 421, BENOIT, CH. 746
VEH 1803

To comply with new regulations under the Federal Commercial Motor Vehicle Safety Act, requires courts to forward abstracts of conviction to the California Department of Motor Vehicles within 5 days rather than the current 10-day reporting period. Delays the operative date of this provision to October 1, 2008.

COURT RECORDS: SPEED CONTESTS AND RECKLESS DRIVING

AB 430, BENOIT, CH. 682
VARIOUS CODES

Adds reckless driving with serious injuries or speed contest with serious injuries to the provisions requiring retention of court records for five years after the final disposition of the case. Conforms various provisions relating to reckless driving and speed contests to include recently enacted provisions with enhanced penalties for injuries.

BICYCLE SAFETY

AB 478, WOLK, CH. 232
VEH 21201

Expands the places where the operator of a bicycle is required to use an illuminated lamp and certain reflective devices to include highways, sidewalks, or bikeways where bicycle operation is not prohibited by the local jurisdiction.

TRAFFIC VIOLATIONS: ADJUDICATION

AB 645, FEUER, CH. 161
PEN 1203.4; VEH 41501, 42005

Prohibits an individual who is convicted of a two-point traffic violation from attending traffic violator school. Authorizes the court to expunge convictions of these violations from an individual's record in the interests of justice.

TRAFFIC VIOLATOR SCHOOLS

AB 758, PLESCIA AND PORTANTINO, CH. 396
VEH 11208, 11219.5

Requires the California Department of Motor Vehicles, on or before July 1, 2008, to submit a report to the Legislature containing a comprehensive plan by which the licensing of all traffic violator instruction programs may be consolidated under the authority of the department.

LICENSE PLATES: NONRECOGNITION DEVICES

AB 801, WALTERS, CH. 273
VEH 5201, 5201.1

Prohibits the use of a device that would obstruct or impair the reading or recognition of a license plate by an electronic device operated by state or local law enforcement or by an electronic device operated in connection with a toll road, high-occupancy toll lane, toll bridge, or other toll facility. Makes it an infraction to sell a product or device that obscures or is intended to obscure the reading or recognition of a license plate.

DRIVING UNDER THE INFLUENCE: REPEAT OFFENSE

AB 1165, MAZE, CH. 749
VEH 13353.1, 13353.2, 13389, 22651, 23154, 42009, 42010

Makes it unlawful for a person who is on probation for specified driving-under-the-influence offenses to operate a motor vehicle with a blood alcohol concentration of 0.01 percent or greater, as measured by a preliminary alcohol screening.

ENFORCEMENT OF UNSIGNED TRAFFIC CITATIONS

AB 1464, BENOIT, CH. 452
VEH 4776, 40002, 40002.1

Allows the court, after proper notice to the owner/violator, to report a failure to appear on an unsigned citation issued for an owner-responsibility offense to the Department of Motor Vehicles for a hold to be placed on the registration of the vehicle involved in the offense. To ensure due process rights are protected, requires notice to the owner/violator and allows 21 days for response if the owner/violator was not present when the citation was issued, rather than the usual 10 days.

VEHICLE DEALERS: CONSUMER PROTECTION

SB 729, PADILLA, CH. 437
VEH 11604, 11703, 11705, 12200 ET SEQ.

Creates the Consumer Motor Vehicle Recovery Corporation and the Consumer Recovery Fund, with a board of directors with certain powers and duties, in order to provide payments to consumers on specified eligible claims when a vehicle dealer fails to remit license or registration fees, fails to pay off a trade-in's sale or lease balance owed, or fails to make payment on a consignment sale agreement.

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Director, Office of Governmental Affairs
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Office of Governmental Affairs Contributing Writers
June Clark
Tracy Kenny
Eraina Ortega
Daniel Pone
Henry Sepulveda

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Donna Hershkowitz
Monica LeBlond
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