California Courts Review

Annual Supplement

A FORUM FOR THE STATE JUDICIAL BRANCH

DECEMBER 2009

2009 Legislative Summary

During the first year of the 2009–2010 Legislative Session, the Legislature and the Governor enacted numerous bills that affect the courts or are of general interest to the legal community. Brief descriptions of 84 of the measures of greatest interest follow, arranged according to subject matter.

The effective date of legislation is January 1, 2010, unless otherwise noted. Urgency measures 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

COURTS OMNIBUS BILL: PUBLIC SAFETY

SBX4 13, DUCHENY, CH. 22 VARIOUS CODES URGENCY, EFFECTIVE JULY 28, 2009, and SB 75, COMMITTEE ON BUDGET AND FISCAL REVIEW, CH. 342 GOV 20969.1, 68085.3, 68085.4, 69957; PEN 1465.8

Statewide court closure. Authorizes the Judicial Council to close the superior courts, Courts of Appeal, and Supreme Court one day per month. These provisions declare the closure day a holiday for the transaction of judicial business, including extending filing deadlines and time for holding hearings, to the same extent as any Saturday, Sunday, or other holiday.

Court security. Requires court security memoranda of understanding to be renegotiated and the compensation due the sheriff reduced because of the decrease in court security needed as a result of the court closure. Requires that the cost of services negotiated by the courts with the sheriffs be based not on actual costs but on average costs of salary and benefits for equivalent personnel classifications in the county and specifies that benefits shall not include retiree health benefits for sheriff personnel.

Electronic reporting. Revises the statute limiting the expenditure of funds on electronic recording equipment to clarify that judicial note-taking qualifies as an unofficial record for which electronic recording may not be used, but monitoring the performance of subordinate judicial officers, temporary judges, and hearing officers remains an acceptable use of electronic recording equipment. Requires superior courts to obtain approval from the Judicial Council before purchasing or leasing any electronic recording equipment to ensure that the anticipated use is authorized by statute.

Review of information technology projects. Requires the Administrative Office of the Courts and the superior courts to submit information technology projects with costs of more than $5 million to the Office of the Chief Information Officer for administrative review and recommendations.

Public access to records. Requires the Judicial Council to adopt rules of court by January 1, 2010, to provide public access to nondeliberative and nonadjudicative court records and budget and management information. Expands the types of information provided to the public under existing rule 10.802 of the California Rules of Court during the interim while the required rules of court are developed.

Fiscal reporting. Requires the Judicial Council to report to the Legislature all approved allocations and reimbursements to the superior courts on or before September 30 following the close of each fiscal year; requires the superior courts to report to the Judicial Council on or before September 15 all court revenues, expenditures, reserves, and fund balances from the prior fiscal year for all fund sources; and requires the Judicial Council to report this information to the Legislature by court and post it on the council's public Web site by December 31.

Fees. Increases the civil first-paper filing fee by $5, estimated to generate $7 million annually; increases several postjudgment fees until June 30, 2017, by $10 for items such as the issuing of a writ of attachment, mandate, execution, or other writ for the enforcement of any order or judgment, which is estimated to generate $11 million annually; and increases the court security fee on criminal convictions until July 1, 2011, by $10, raising the existing $20 fee to $30, which is estimated to generate $40 million annually. (Note: Beginning July 1, 2011, the revenues from the increased postjudgment fees will be directed to support a civil legal representation pilot project authorized by Assembly Bill 590 (Feuer; Stats. 2009, ch. 457).

CIVIL LAW AND PROCEDURE

CIVIL DISCOVERY: ELECTRONIC DISCOVERY ACT

AB 5, EVANS, CH. 5
CCP 1985.8, 2016.020, 2031.010–320
URGENCY, EFFECTIVE JUNE 29, 2009

Amends the Civil Discovery Act to expressly authorize the discovery of electronically stored information and authorizes the copying, testing, or sampling of such information. Allows a party to specify the form in which electronically stored information is to be produced, and if no form is specified, the responding party must produce the information in the form or forms in which it is ordinarily maintained or in a form that is reasonably usable. Establishes procedures for motions to compel and motions for protective orders relating to the discovery of electronically stored information. Sets forth a procedure for handling disputes over the production of electronically stored information that is subject to claims of privilege or attorney work-product protection.

JUDGMENT LIENS: CONTINUATION

AB 121, HERNANDEZ, CH. 410
CCP 697.510, 697.670

Establishes a process for the continuation of a judgment lien on personal property so that a creditor would not have to file a new lien at the end of five years. Provides that in the event the judgment creditor does not file a statement of release after a demand was made, the person who made the

demand may file a noticed motion seeking an order for release of the judgment lien. Provides further that if the court finds that the period of enforceability of the judgment has terminated, the court shall order the judgment creditor to file a statement of release or shall itself order the release of the judgment lien. Requires the court to award reasonable attorney's fees to the prevailing party in an action brought under the bill's provisions.

UNLAWFUL DETAINER: CONTROLLED SUBSTANCES AND FIREARMS

AB 530, KREKORIAN, CH. 244
CIV 3485–3486; CCP 1161; H&S 11571.1

Extends the sunset date to January 1, 2014, on two pilot programs permitting city attorneys or prosecutors in specified cities to bring an unlawful detainer action in the name of the people against a tenant for unlawful activities regarding firearms, ammunition, and controlled substances. Adds the city of Sacramento to the controlled substances pilot program. Exempts the city of Los Angeles from the sunset date of the controlled substances program, thereby extending the program indefinitely for that city. Makes changes to the notice and reporting requirements of both pilot programs, including requiring the California Research Bureau, instead of the Judicial Council, to provide certain reports to the Legislature regarding the results of the pilot program.

COUNTERFEIT GOODS: ABATEMENT

AB 568, LIEU, CH. 453
B&P 17800–17802; PEN 11226

Provides that every nonresidential building or place used for the purpose of willfully manufacturing, intentionally selling, or knowingly possessing for sale any counterfeit goods is a nuisance that shall be enjoined, abated, and prevented and for which damages may be recovered. Permits a district attorney, city attorney, or any citizen or resident to bring an action to abate and prevent the nuisance and perpetually enjoin the person conducting or maintaining the nuisance. Sunsets on January 1, 2015.

SMALL CLAIMS COURT: EQUITABLE RELIEF

AB 712, EVANS, CH. 468
CCP 116.220

Clarifies that small claims court has jurisdiction over an action for an injunction or other equitable relief only when a statute expressly authorizes a small claims court to award that relief. Specifies that nothing in the bill is intended to expand, or to encourage the expansion of, the jurisdiction of the small claims court.

MEDI-CAL: PROVIDERS: REMEDIES

AB 839, EMMERSON, CH. 255
W&I 14043.28, 14104.5

Requires Medi-Cal service providers with a complaint or grievance concerning the processing or payment of money that the provider alleges is payable under the Medi-Cal program to follow specified Department of Health Care Services complaint procedures. In lieu of allowing providers to appeal the department's decision in court, specifies that the provider who has complied with these procedures may, within the time period prescribed in existing law, file a petition for a writ of mandate under section 1085 of the Code of Civil Procedure in the superior court.

ATTORNEYS: IOLTA ACCOUNTS

AB 940, COMMITTEE ON JUDICIARY, CH. 129
B&P 6212–6213

Specifies that a financial institution other than a bank may hold an Interest on Lawyers' Trust Account (IOLTA) and requires that financial institutions holding IOLTA accounts carry deposit insurance. Requires attorneys to report to the State Bar their compliance with laws regulating IOLTA accounts.

TEMPORARY RESTRAINING ORDERS: PRIVATE POST-SECONDARY INSTITUTIONS

SB 188, RUNNER, CH. 566
CCP 527.85; PEN 273.6

Authorizes the chief administrative officer of a private postsecondary educational institution to seek, with a student's consent, a temporary restraining order on behalf of a student who has suffered a credible threat of violence. Provides that if the defendant is a current student of the private postsecondary institution requesting the injunction, the judge shall receive evidence concerning the decision of the institution to retain, terminate, or otherwise discipline the defendant. Establishes a process for consideration, issuance, and enforcement of a restraining order conforming to the existing statutory process for restraining orders issued under other circumstances.

CIVIL ACTIONS: DISABLED ACCESS

SB 209, CORBETT, CH. 569
CIV 55.54

Requires a Certified Access Specialist inspection report filed with the court to remain confidential and allows disclosure only to the parties to the action, the parties' attorneys, and others necessary to the settlement of the case. Requires the report to remain confidential throughout the stay issued by the court and until the conclusion of the claim, unless there is a showing of good cause by any party. (Note: This bill provides necessary revisions to Senate Bill 1608 [Corbett et al.; Stats. 2008, ch. 549].)

DISABILITY BENEFITS: ATTACHMENT

SB 285, WRIGHT, CH. 162
CCP 483.013

Consistent with federal law, prohibits creditors from attaching federal disability benefits payable to veterans with service-connected disabilities.

JUDGMENTS: FOREIGN-COUNTRY MONEY JUDGMENTS

SB 320, CORBETT, CH. 579
CCP 1716, 1717

Expands the types of foreign-country judgments that a California court is not required to recognize to also include a foreign-country judgment based on a claim of defamation unless the court determines that the defamation law applied by the foreign court provides at least as much protection for freedom of speech and the press as provided by both the U.S. and California; Constitutions. Provides that the court has jurisdiction over actions for declaratory relief regarding liability for recognition of foreign-country defamation judgments, as well as personal jurisdiction over the person or entity who obtained the judgment if both of the following are true: (1) the publication at issue was published in California; and (2) the person or entity against whom the judgment was obtained either has assets in California that might be used to satisfy the judgment or may have to take actions in California to comply with the judgment.

STRUCTURED SETTLEMENTS: PAYMENT TRANSFERS

SB 510, CORBETT, CH. 593
INS 10134 ET SEQ.

Provides that every application for court approval of a transfer of structured settlement payment rights must specify whether the payee (person selling settlement payment rights) completed previous transactions involving the payee's structured settlement payments, the timing and size of the previous transactions, and whether the payee was satisfied with any previous transaction. Requires that the application also include whether the transferee attempted previous transactions involving the payee's structured settlement payments that were denied, dismissed, or withdrawn before a decision on the merits, within the past five years, and whether the payee is currently obligated under any child support or spousal support order. Further specifies the factors and circumstances the court must consider before approving the transfer.

CIVIL PROCEDURE: ATTORNEY'S FEES AND COSTS

SB 786, YEE, CH. 65
CCP 425.16

Prohibits a prevailing defendant in an anti-SLAPP (Strategic Lawsuit Against Public Participation) motion from recovering attorney's fees and costs in the following situations: (1) whenever it is made to appear by verified petition that certain public records are improperly being withheld from a member of the public; (2) specified actions that involve meeting provisions of the legislative body of a local agency or a state body; or (3) an action to obtain a judicial determination that an action taken by a legislative body of a local agency or a state body is null and void.

COURT OPERATIONS

JURY SERVICE: FAILURE TO APPEAR

SB 319, HARMAN, CH. 44
CCP 209

Eliminates the sunset and reporting requirement on provisions allowing courts to impose monetary sanctions for failure to appear in response to a jury summons. Decreases the amount of time that must elapse before a compliance action may be initiated.

COURTS

SB 556, COMMITTEE ON JUDICIARY, CH. 596
CCP 116.820; PROB 3140; R&T 19280

Makes several noncontroversial changes to improve court operations. Clarifies the law governing postjudgment fees in small claims court. Clarifies that a court is authorized to submit unpaid bail amounts to the Franchise Tax Board's Court-Ordered Debt program. Makes a conforming change regarding the ability of courts to recover costs for court-ordered investigations.

COURT REPORTERS

COURT REPORTERS: ROUGH DRAFT TRANSCRIPT

AB 170, MENDOZA, CH. 87
CIV 273

Treats real-time transcripts ("the instant visual display of the testimony or proceedings") in the same manner as rough draft transcripts by providing that real-time transcripts cannot be used, cited, distributed, or transcribed as the official certified transcript and cannot be used or cited to rebut or contradict the official certified transcript. Sunsets January 1, 2017.

CRIMINAL LAW AND PROCEDURE

VEHICLES: NUISANCE ABATEMENT: IMPOUNDMENT

AB 14, FUENTES, CH. 210
VEH 22659.5

Authorizes a local government entity to enact a nuisance abatement ordinance under which a vehicle used in pimping, pandering, or illegal dumping would be subject to seizure and impoundment for up to 30 days upon valid arrest if the operator

of the vehicle has a prior conviction for the same offense within the past three years.

HUMAN TRAFFICKING

AB 17, SWANSON, CH. 211
PEN 186.2, 186.8, 266K, 13837
URGENCY, EFFECTIVE OCTOBER 11, 2009

Adds abduction or procurement for prostitution to the criminal profiteering asset forfeiture law. Provides that the court may impose a fine of up to $20,000, in addition to any other fines and penalties, where the defendant has been convicted of abduction of a minor for purposes of prostitution or procurement of a minor under the age of 16 for lewd conduct. Directs 50 percent of the additional fine to the local Victim-Witness Assistance Fund for grants to community-based organizations that serve minor victims of human trafficking.

AGGRAVATED ARSON: PUNISHMENT

AB 27, JEFFRIES, CH. 71
PEN 451.5

Raises the monetary loss threshold for aggravated arson from $5,650,000 to $6,500,000 and extends the sunset date on the provision until January 1, 2014.

VEHICLES: TELEVISION BROADCAST OR VIDEO SIGNAL DISPLAYS

AB 62, PORTANTINO, CH. 73
VEH 27602

Exempts from existing prohibitions against driving with a video display in the front seat of a car any video equipment that is designed, operated, and configured in a manner that prevents the driver from viewing the broadcast or signal while operating the vehicle in a safe and reasonable manner.

COMMUNICABLE DISEASE: INVOLUNTARY TESTING

AB 169, PORTANTINO, CH. 417
H&S 121060

Adds custodial officers, custody assistants, and nonsworn uniformed employees of a law enforcement agency to the list of persons who may seek to have an arrestee's blood tested, either voluntarily or by court order, for specified communicable diseases when exposed to an arrestee's bodily fluids while acting within the scope of his or her duties.

CRIMINAL PROCEDURE: TRIALS: TIMING

AB 250, MILLER, CH. 424
PEN 1382

Requires a defendant's withdrawal of a waiver of his or her speedy trial time limits to take place in open court. Provides that, in the absence of a general time waiver or on the withdrawal of a general time waiver, the court shall set a trial date and notify the parties.

SEX OFFENDERS: WORKING WITH MINORS

AB 307, COOK, CH. 430
PEN 290.95
URGENCY, EFFECTIVE OCTOBER 11, 2009

Expands the prohibition against a registered sex offender whose victim was a minor under 16 years of age from working in a position where he or she will be working directly and in an unaccompanied setting with minors to include positions involving provision of goods or services to minors.

WRONGFUL CONVICTIONS

AB 316, SOLORIO, CH. 432
PEN 851.86

Requires, rather than authorizes, a judge, upon written or oral motion of any party in the case, to order that records in a case be sealed whenever a person is convicted of a charge and the conviction is set aside because a determination was made that the person was factually innocent. Extends from six months to two years the time for filing a claim with the Victim Compensation and Government Claims Board for compensation for a wrongful conviction and imprisonment in state prison.

HATE CRIMES: NOOSES

AB 412, CARTER, CH. 106
PEN 11411

Makes it a misdemeanor to hang a noose without authorization on the property of another or on the property of a school, park, or place of employment, knowing it to be a symbol representing a threat to life, for the purpose of terrorizing the owner or occupant or in reckless disregard of the risk of terrorizing the owner or occupant.

SEARCH WARRANTS: FIREARMS

AB 532, LIEU, CH. 450
PEN 1524

Authorizes the court to issue a search warrant for a firearm or any other deadly weapon (1) at the scene of a domestic violence incident involving a threat to human life or a physical assault, or (2) in the possession of a person who is detained for reasons relating to his or her mental condition.

HIGHWAY WORKERS: ASSAULT AND BATTERY

AB 561, CARTER, CH. 116
PEN 241.5, 243.65

Expands the definition of "highway worker" for purposes of defining the offense of assault or battery upon a highway worker to include a contractor or employee of a contractor while under contract with the California Department of Transportation, or an employee of a local government, who performs maintenance, repair, or construction of highways, local streets, or road infrastructure.

VANDALISM: GRAFFITI: RECOVERY OF COSTS

AB 576, TORRES, CH. 454
PEN 1202.4; W&I 730.6

Expands the definition of "victim" for purposes of eligibility for restitution to include any governmental entity that is responsible for repairing, replacing, or restoring public or privately owned property that has been defaced with graffiti and that has sustained an economic loss as the result of specified violations.

MISDEMEANORS

AB 688, ENG, CH. 465
PEN 853.6

Reconciles a conflict in the Penal Code regarding when an individual charged with misdemeanor domestic violence may be released on his or her own recognizance. Conforms Penal Code section 853.6 with section 1270.1 by clarifying that a peace officer may not release a person on his or her own recognizance when arrested for a misdemeanor violation of a domestic violence protective order.

COMPOSITE KNUCKLES

AB 714, FEUER, CH. 121
PEN 12020.1

Recasts the misdemeanor prohibitions relating to "hard knuckles" to replace the term "hard plastic knuckles" with "composite knuckles" and adds possession to the existing prohibitions on commercial manufacture, importation for commercial sale, or commercial sale of hard plastic, hard wooden, or composite knuckles.

DEFERRED ENTRY OF JUDGMENT

AB 750, BASS, CH. 372
PEN 1000.8 ET SEQ.

Authorizes a superior court, with the concurrence of the prosecuting attorney of the county, to create a deferred entry of judgment program aimed at preventing recidivism for first-time nonviolent felony drug offenders.

SEARCH WARRANTS

AB 789, DE LEÓN, CH. 473
PEN 1524

Authorizes the court to issue a search warrant for a firearm that is owned by, in the possession of, or in the custody or control of a person who is subject to the firearm prohibitions contained in a domestic violence protective order.

CRIME: SCHOOL GROUNDS: PROHIBITED WEAPONS

AB 870, HUBER, CH. 258
PEN 626.10

Makes it a misdemeanor to bring to or possess on school grounds a razor blade or box cutter.

AMMUNITION

AB 962, DE LEÓN, CH. 628
PEN 12060 ET SEQ., 12316–12318

Among other things, makes it a misdemeanor, commencing February 1, 2011, for certain ammunition vendors to fail to obtain a thumbprint and other information from ammunition purchasers. Makes it a misdemeanor for a vendor to fail to maintain on the premises records of the sale or transfer of ammunition for five years from the date of the transaction. Makes it a misdemeanor for a person enjoined from engaging in activity associated with a criminal street gang to have under his or her possession, custody, or control any ammunition. Makes it a misdemeanor to supply or deliver handgun ammunition to specified prohibited persons by persons who know, or by using reasonable care should know, that the recipient is a person prohibited from possessing ammunition or is a minor prohibited from possessing ammunition. Makes it a misdemeanor, subject to certain exceptions and commencing February 1, 2011, to deliver or transfer ownership of handgun ammunition other than in a face-to-face transaction and without the seller, deliverer, or transferor being provided bona fide evidence of identity of the purchaser or other transferee.

NITROUS OXIDE: PROHIBIT SALE TO MINORS

AB 1015, TORLAKSON, CH. 266
PEN 381c

Makes it a misdemeanor for a person to sell or furnish to a person under the age of 18 a canister or device containing nitrous oxide or a chemical compound mixed with nitrous oxide. Requires the court to consider ordering a person convicted of this offense to perform community service as a condition of probation. Requires the court, effective July 1, 2010, to order the suspension of the business license, for a period of up to one year, of a person who knowingly violates this provision after having been previously convicted of the same offense, unless the owner of the business license can demonstrate a good faith attempt to prevent illegal sales or deliveries by the owner's employees.

CRIMINAL PROCEDURE: DISCOVERY

AB 1516, LIEU, CH. 297
PEN 1054.3

Allows the court to order a defendant or juvenile respondent, on timely request of the prosecution, to submit to an examination by a prosecution-retained mental health expert whenever the defendant or respondent places his or her mental state at issue in any phase of the criminal action or juvenile proceeding through the proposed testimony of any mental health expert. Requires the court to determine that the proposed tests bear some reasonable relation to the mental state placed at issue by the defendant or minor before ordering him or her to submit to the examination.

CORRECTIONS

SBX3 18, DUCHENY, CH. 28
PEN 1228 ET SEQ., 3015
EFFECTIVE JANUARY 25, 2010

Requires the Judicial Council, subject to resources made available for this purpose, and in collaboration with the California Department of Corrections and Rehabilita-

tion (CDCR), to establish a parolee reentry court program to direct the treatment and supervision of eligible parolees who would benefit from community drug treatment or mental health treatment. Identifies the purpose of the program: to promote public safety, hold parolees accountable, and reduce recidivism. Requires the Judicial Council, in collaboration with CDCR, to design and perform an evaluation of the program to assess its effectiveness in reducing recidivism among parolees and reducing parole revocations and to report those results no later than three years after establishment of a reentry court under this program. Also, duplicating the provisions of Senate Bill 678 (Leno), creates the California Community Corrections Performance Incentives Act to provide sustainable funding for improved, evidence-based, probation supervision practices and capacities to improve public safety outcomes among adult felons who are on probation. Provides a formula-based system for sharing state savings with probation for the purposes of improved supervision of felony probationers when those savings are achieved as a result of reduced prison admissions attributable to improved felony probation outcomes. Commencing no later than 18 months following receipt of funding under these provisions, requires the Administrative Office of the Courts, in consultation with the California Department of Corrections and Rehabilitation, the Department of Finance, and the Chief Probation Officers of California, to submit to the Governor and the Legislature a comprehensive report on the implementation of this act.

GRAND THEFT: CARGO

SB 24, OROPEZA, CH. 607
PEN 487h

Eliminates the sunset clause on the law that defines cargo theft as a separate and separately monitored form of grand theft. Clarifies that the elements of cargo theft are the same as the elements of grand theft.

ANIMAL ABUSE: CATTLE: TAIL DOCKING

SB 135, FLOREZ, CH. 344
PEN 597n

Makes it a misdemeanor for any person to cut the solid part of the tail of any animal of the bovine species.

SENTENCING

SB 150, WRIGHT, CH. 171
PEN 186.22, 186.33, 1170.1, 12021.5, 12022.2, 12022.4

Provides that where a court imposes a sentence enhancement with a lower, middle, or upper term, the choice of term will be within the court's discretion. Requires the court to state the reasons for its sentencing choice on the record.

PUBLIC SAFETY AND WELFARE

SB 174, STRICKLAND, CH. 35
PEN 290.011, 484b, 12650; VEH 40519

Makes a series of technical corrective changes to various code sections. Among other things, clarifies that a deposit of bail with the clerk does not constitute an entry of a plea or a court appearance in an infraction case for purposes of starting the clock on the 45-day speedy trial timelines; a plea of not guilty in these cases must be made in court at the arraignment. Clarifies that every person who is required to register as a sex offender and is living as a transient in California but was convicted in another jurisdiction shall register with the city police chief or county sheriff within five working days of coming into California. Clarifies that it is a misdemeanor, not an alternate misdemeanor/felony, to divert from its intended purpose $1,000 or less in funds received for obtaining or paying for services, labor, materials, or equipment for construction. Updates the definition of "stun gun" to provide that it is any item, except a less lethal weapon, used or intended to be used as either an offensive or defensive weapon that is capable of temporarily immobilizing a person by the infliction of an electrical charge.

IDENTITY THEFT: JURISDICTION

SB 226, ALQUIST, CH. 40
PEN 786

Expands the criminal jurisdiction for multiple offenses of identity theft to any county where one of the identity theft crimes occurred when the offenses involve the same defendant or defendants and the same scheme or substantially similar activity. Requires the court to consider whether the identity theft offenses involved substantially similar activity or the same scheme when deciding whether a matter should proceed in the county of filing or whether one or more counts should be severed.

DOGFIGHTING FORFEITURES

SB 318, CALDERON, CH. 302
PEN 598.1

Subjects to forfeiture any tangible or intangible property interest acquired through the commission of any dogfighting crime. Authorizes a prosecuting agency in a criminal dogfighting proceeding to, in conjunction with the criminal proceeding, file a petition for forfeiture of any eligible property.

COUNTERFEIT MARKS

SB 324, CEDILLO, CH. 581
PEN 350

Authorizes the court, upon law enforcement request and consent from the specific registrants, to consider a motion to have forfeited counterfeit goods, excluding recordings or audiovisual works, donated to a nonprofit organization for the purpose of distributing the goods to persons living in poverty at no charge to the persons served by the organization.

PROBATION: TRANSFERS

SB 431, BENOIT, CH. 588
PEN 1203.9

Requires a court, when granting probation to an individual who is found to permanently reside in a county other than the county of conviction, to transfer legal jurisdiction of the case to the county in which that person permanently resides, unless the court determines on the record that the transfer would be inappropriate. Requires the court in the county of the probationer's residence to accept legal jurisdiction over the case. Eliminates the concept of courtesy supervision. Requires the Judicial Council to adopt rules of court providing factors for the court's consideration when determining the appropriateness of a transfer and establishing procedures for the transfers.

CRIME VICTIMS: RESTITUTION

SB 432, RUNNER, CH. 49
PEN 1203c

Requires the probation officer of the county from which a person is committed to state prison to send to the California Department of Corrections and Rehabilitation a victim's contact information, if the victim consents, when the court has ordered the defendant to pay restitution to the victim. States that the victim's contact information would remain confidential.

SEXUALLY VIOLENT PREDATORS

SB 669, HOLLINGSWORTH, CH. 61
W&I 6605

Requires the court, in a hearing to determine whether a person committed to the custody of the California Department of Mental Health as a sexually violent predator is still a sexually violent predator, to instruct the jury that failure to participate in or complete the prescribed sex offender treatment may, if proved, be considered evidence that a person's condition has not changed.

CRIMINAL RECIDIVISM

SB 678, LENO, CH. 608
PEN 1228 ET SEQ.

Creates the California Community Corrections Performance Incentives Act to provide sustainable funding for improved, evidence-based, probation supervision practices and capacities to improve public safety outcomes among adult felons who are on probation. Provides a formula-based system for sharing state savings with probation for the purposes of improved supervision of felony probationers when those savings are achieved as a result of reduced prison admissions attributable to improved felony probation outcomes. Commencing no later than 18 months following receipt of funding under these provisions, requires the Administrative Office of the Courts, in consultation with the California Department of Corrections and Rehabilitation, the Department of Finance, and the Chief Probation Officers of California, to submit to the Governor and the Legislature a comprehensive report on the implementation of this act.

WITNESS RELOCATION AND ASSISTANCE PROGRAM: ADDRESS RECORDS

SB 748, LENO, CH. 613
PEN 14029.5

Makes it a misdemeanor to post the home address, telephone number, or personal identifying information that discloses the location of any witness or witness's family member participating in the Witness Relocation and Assistance Program with the intent that another person imminently use that information to commit a crime involving violence or a threat of violence against that witness or witness's family member.Authorizes an action for civil damages for a violation of these provisions.

DOMESTIC VIOLENCE

RESTRAINING OR PROTECTIVE ORDER: AGGRESSOR

AB 258, MA, CH. 92
PEN 836

Replaces the term "primary aggressor" with "dominant aggressor" in provisions establishing liability for arrest of parties in violation of mutual domestic violence protective orders.

FAMILY LAW

DISSOLUTION: DISCLOSURE

AB 459, LOWENTHAL, CH. 110
FAM 2104, 2106, 2107

Allows a party to a dissolution of marriage who has complied with financial disclosure requirements to waive the other party's financial disclosure requirements on a showing of good cause. Provides that a judgment entered subject to that waiver can be set aside only by the compliant party unless the noncompliant party shows actual fraud that kept the party from participating in the proceedings or perjury in the financial disclosures or income and expense declarations of the compliant party.

ADOPTION

AB 941, COMMITTEE ON JUDICIARY, CH. 492
FAM 7620, 7845, 8616.5, 8814.5, 9007, 9211

Expands postadoption contact provisions to allow contact with a nonparent birth relative, with the consent of all parties, if the child has a preexisting relationship with the birth relative. Expands venue provisions for various adoption-related petitions and actions when the child is the subject of a proposed or pending adoption.

PERSONAL INFORMATION: SOCIAL SECURITY NUMBERS

SB 40, CORREA, CH. 552
CIV 1798.89; FAM 4506

Modifies the requirements for abstracts of judgment in support cases to provide that only the last four digits of a social security number may be required on the abstract of judgment. Provides that county recorders cannot accept for recording a document that includes more than the last four digits of a social security number but allows recording if the social security number is truncated by redacting the first five digits.

OUT-OF-STATE SAME-SEX MARRIAGES

SB 54, LENO, CH. 625
FAM 308

Provides that marriages established outside California between same-sex people are valid in California if entered into before November 5, 2008, and marriages contracted in other jurisdictions after that date shall carry all the rights, protections, and benefits of marriage except for the designation of marriage.

JUDICIAL OFFICERS

PUBLIC OFFICIALS: PERSONAL INFORMATION

AB 32, LIEU, CH. 403
GOV 6254.21

Requires a person, business, or association, on receiving a written demand of an elected or appointed official, including a judicial officer, to immediately remove the official's home address or telephone number from public display on the Internet and to continue to ensure that the information is not reposted on the same Internet Web site or any other Web site. Allows an elected or appointed official to designate the official's employer or any voluntary professional association of similar officials to act as that official's agent with regard to making a written demand or seeking enforcement of these posting requirements.

OFFICE HOLDING: FORFEITURE

AB 265, COOK, CH. 93
GOV 3003

Requires an elected state official to forfeit his or her office upon the conviction of a crime that involves falsely claiming having received any military decoration or medal under the federal Stolen Valor Act of 2005.

JUDGES: EMPLOYMENT BENEFITS

SBX2 11, STEINBERG, CH. 9
GOV 68220–68222
EFFECTIVE MAY 21, 2009

Authorizes counties and courts that have been providing local judicial benefits to continue to provide those benefits on the same terms and conditions as provided on July 1, 2008. Authorizes a county to terminate its obligation to provide benefits upon providing 180 days' written notice to the Administrative Director of the Courts and the impacted judges—but that termination would not be effective for any judge during his or her current term while that judge continues to serve as a judge in that court or, at the election of the county—when that judge leaves office. Authorizes the county to elect to provide benefits for all judges in that county. Requires the Judicial Council to provide to the Legislature on or before December 31, 2009, a report analyzing statewide benefits inconsistencies.

JUVENILE DELINQUENCY

JUVENILES

AB 1053, SOLORIO, CH. 268
W&I 1400 ET SEQ.

Repeals the current Interstate Compact for Juveniles and replaces it with the new compact until January 1, 2012. Requires that wards confined to the California Department of Juvenile Facilities be paroled at least 90 days before termination of jurisdiction over the ward.

SEX OFFENDERS: ASSESSMENTS

SB 325, ALQUIST, CH. 582
PEN 290.04–290.07, 1203; W&I 706

Requires the juvenile court to accept into evidence a particular assessment of sex offender risk when the probation department has recommended that a juvenile sex offender who has been adjudicated to be a ward of the court be committed to the California Department of Corrections and Rehabilitation, Juvenile Division.

JUVENILE OFFENDERS: HEALTH FACILITIES

SB 352, DUTTON, CH. 46
H&S 1536.1, 1538.5, 1567.3; W&I 740

Clarifies notification requirements that apply when a county probation department places a juvenile in a facility located in another county.

JUVENILE DEPENDENCY

INTERSCHOLASTIC ATHLETICS: PUPILS IN FOSTER CARE

AB 81, STRICKLAND, CH. 76
ED 48850

Provides that a foster child who relocates pursuant to a court order or decision of a social worker shall be deemed to have met all residency requirements for participation in interscholastic sports or other extracurricular activities.

JUVENILE PROCEEDINGS: COSTS

AB 131, EVANS, CH. 413
W&I 903.1, 903.45, 903.47

Authorizes the Judicial Council to implement a cost recovery program to seek

reimbursement from parents for the cost of dependency counsel and directs that the recovered funds be used to reduce caseloads for dependency attorneys.

ADOPTION ASSISTANCE: FEDERAL LAW

AB 154, EVANS, CH. 222
W&I 16118, 16119, 16132

Conforms California law to recent federal law changes by requiring the California Department of Social Services (DSS) to reinvest any savings realized from expansion of adoption assistance payments on services for foster and adopted youth, including postadoption assistance, and requiring DSS or a licensed adoption agency to inform prospective adoptive families about their potential eligibility for state and federal adoption tax credits.

HIGH SCHOOL GRADUATION: LOCAL REQUIREMENTS: FOSTER CHILDREN

AB 167, ADAMS, CH. 224
ED 51225.3

Requires school districts to exempt a pupil in foster care who transfers to the district in grade 11 or 12 and who otherwise would not be able to graduate from high school by his or her 19th birthday from any additional coursework requirements beyond state graduation requirements.

CHILDREN: ADOPTION SERVICES

AB 295, AMMIANO, CH. 427
W&I 16124

Removes the pilot project designation for wraparound services in dependency cases and extends the adoption services pilot program until June 30, 2010.

DEPENDENT CHILDREN

AB 706, COMMITTEE ON HUMAN SERVICES, CH. 120
W&I 361.49, 361.5, 366.21, 388
URGENCY, EFFECTIVE AUGUST 5, 2009

Creates one standard definition for entry into foster care that applies throughout the Welfare and Institutions Code. Clarifies the time frame for reunification services by requiring that a child over age three receive reunification services for at least 12 months after the date the child entered foster care, and that a child under three receive at least 6 months of services from the date of disposition but not longer than 12 months after the date the child entered foster care. Clarifies review hearing timelines by requiring that a review hearing be held 6 months after the dispositional hearing but not longer than 12 months after the date the child entered foster care and that a permanency hearing be held no later than 12 months after the date the child entered foster care. Sets forth circumstances under which a formal motion to terminate reunification services is not required.

INDIAN TRIBES: FOSTER CARE AND ADOPTION PROGRAMS

AB 770, TORRES, CH. 124
W&I 16000.5, 16000.6

Directs the California Department of Social Services to negotiate in good faith with an Indian tribe, organization, or consortium in the state that requests development of an agreement with the state to administer all or part of the federal foster care programs under Title IV-E of the Social Security Act on behalf of Indian children who are under their authority.

RELATIVE CAREGIVERS AND FOSTER PARENTS

AB 938, COMMITTEE ON JUDICIARY, CH. 261
W&I 309, 628

Requires social workers and probation officers to immediately investigate the identity and location of all adult grandparents and other relatives of a child after the child is detained, notify the relatives that the child has been removed from his or her parents, and explain to the relatives how they might participate in the care of the child.

TRIBAL CUSTOMARY ADOPTION

AB 1325, COOK, CH. 287
FAM 8600.5; W&I 366.24

Establishes tribal customary adoption as a permanency option for Indian children. Defines tribal customary adoption to be adoption without the termination of parental rights. Requires the Judicial Council, by July 1, 2010, to adopt rules of court and necessary forms to implement tribal customary adoption. Requires the Judicial Council to study implementation of tribal customary adoption and report to the Legislature by January 1, 2013.

FOSTER YOUTH

AB 1393, SKINNER, CH. 391
ED 76010, 90001.5, 92660

Requires California State University to give priority for campus housing that is available most of the calendar year to current and former foster youth and requests that California Community Colleges and the University of California do the same.

CHILD WELFARE SERVICES: INCARCERATED PARENTS

SB 118, LIU, CH. 338
W&I 16501.1, 16501.8

Requires that social workers record information in the case plan regarding the incarceration status of the parent under specified circumstances.

CHILD WELFARE SERVICES, FOSTER CARE SERVICES, AND ADOPTION ASSISTANCE

SB 597, LIU, CH. 339
VARIOUS CODES

Conforms California law to recent federal law changes by including the requirement that the definition of care and supervision for foster care purposes include transportation to and from the school of origin of a child.

PROBATE AND MENTAL HEALTH

ATTORNEY-CLIENT PRIVILEGE: DECEDENT'S ESTATES

AB 1163, TRAN, CH. 8
EVID 953, 957; PROB 12252

Clarifies that the attorney-client privilege is held by a deceased client's personal representative appointed for subsequent estate administration after the original personal representative has been discharged. Provides that no attorney-client privilege exists for communications relevant to issues between parties who all claim through a deceased client in a nonprobate transfer.

CIVIL LAW: OMNIBUS BILL

SB 544, COMMITTEE ON JUDICIARY, CH. 54
VARIOUS CODES

Among other things, clarifies which financial institution account statements need be filed with the court in conservatorship and guardianship accountings.

STATE BAR AND PRACTICE OF LAW

LEGAL AID

AB 590, FEUER, CH. 457
GOV 68650 ET SEQ., 70626

Establishes from July 1, 2011, to June 30, 2017, a pilot program to provide legal representation to indigent litigants in specified civil case types. Pilot funds would be awarded by the Judicial Council. Provides that courts and legal services agencies would partner to apply for the funds, with legal services taking the lead role in providing representation and courts making improvements in the handling of the case types to be served by the project (such as improved self-help, training, or calendaring). Provides that the pilot program will be funded by recently increased miscellaneous court fees. Makes the Judicial Council responsible for administering the funds and submitting a report evaluating the pilot program to the Governor and the Legislature by January 31, 2016.

TRAFFIC

DRIVING UNDER THE INFLUENCE: IGNITION INTERLOCK DEVICE

AB 91, FEUER, CH. 217
VEH 23700

Requires the Department of Motor Vehicles to establish a five-year pilot program in Alameda, Los Angeles, Sacramento and Tulare Counties that would require installation of an ignition interlock device on all vehicles owned or operated by a person convicted of driving under the influence as a condition of being issued a restricted driver's license, being reissued a driver's license, or having the privilege to operate a motor vehicle reinstated subsequent to that conviction. (Note: Because of a technical drafting error, Assembly Bill 91 was rendered inoperative. Assembly Bill 1358 (Stats. 2009, ch. 651) was introduced as an urgency bill in October and signed into law to correct the error. The act becomes operative July 1, 2010.)

OFF-HIGHWAY MOTOR VEHICLES

AB 134, BLAKESLEE, CH. 414
VEH 1803, 12810, 38304.1

Prohibits a parent, guardian, or other authorized adult from granting permission to or knowingly allowing a child who is under 14 years of age to operate an off-highway motor vehicle on which the child cannot reach the controls necessary to safely operate the vehicle. Expands the Vehicle Code violations that the clerk of a court is required to report to the Department of Motor Vehicles to include violations of special regulations with respect to operating a vehicle on public lands, local ordinances prohibiting entry into mountain fire districts, and proper supervision requirements for a child under 14 years of age operating an off-highway vehicle or an all-terrain vehicle. Provides that an off-highway vehicle violation will not result in a point count on a driver's record.

COMMERCIAL VEHICLE BAN: STATE ROUTE 2

AB 1361, PORTANTINO, CH. 147
VEH 35655.6
URGENCY, EFFECTIVE AUGUST 6, 2009

Makes it an infraction to operate a commercial vehicle with a gross vehicle weight exceeding 9,000 pounds on State Route 2, between Interstate Route 210 in the City of La Cañada Flintridge and County Route N4 in Los Angeles County.

DEPARTMENT OF TRANSPORTATION VEHICLES

SB 240, WRIGHT, CH. 175
VEH 21809

Eliminates the sunset on and makes permanent the requirement that a driver approaching an emergency vehicle or tow truck with its lights flashing move to a lane that is not adjacent to the stationary vehicle or, if changing lanes would be unsafe, slow to a reasonable and prudent speed. Expands this requirement to include certain Department of Transportation vehicles.

DRIVING UNDER THE INFLUENCE (DUI)

SB 598, HUFF, CH. 193
VEH 13352, 13352.5, 23109, 23550, 23550.5, 23552, 23566, 23568

Requires the Department of Motor Vehicles (DMV) to advise a person convicted of a second or third DUI offense that he or she may receive a restricted license if he or she shows verification of installation of a certified ignition interlock device and pays a fee sufficient to include the costs

of administration. Requires DMV to suspend for two years the license of a person convicted of a second DUI within 10 years of the first conviction if the person was found to be under the influence of any drug. Directs the DMV to advise the person that after 12 months of the license suspension, the person may apply for a restricted license if he or she shows verification of installation of a certified ignition interlock device and pays a fee sufficient to include the costs of administration. Requires DMV to suspend for three years the license of a person convicted of a third DUI within 10 years of the first two convictions if the person was found to be under the influence of any drug. Directs the DMV to advise the person that after 12 months of the license suspension, the person may apply for a restricted license if he or she shows verification of installation of a certified ignition interlock device and pays a fee sufficient to include the costs of administration. Allows the person convicted of a third DUI to petition the court at any time after sentencing for referral to a licensed 18-month driving-under-the-influence program or, if available in the county of the person's residence or employment, a licensed, 30-month driving-under-the-influence program under section 11836 of the Health and Safety Code. Unless good cause is shown, the court shall order the referral. Becomes operative July 1, 2010.

TRIAL COURT FACILITIES

COURT FACILITIES FINANCING

SBX2 12, STEINBERG, CH. 10
GOV 68085.45, 70371.5, 70371.7, 70371.8, 70372
EFFECTIVE MAY 21, 2009

Provides for the continuous appropriation of fine and fee revenue created by Senate Bill 1407 (Perata; Stats. 2008, ch. 311) to support the cost of site acquisition and preliminary plans for new courthouse construction projects. Also creates an expedited process for authorizing trial court capital-outlay projects.

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California Courts Review

DECEMBER 2009

California Courts Review
Legislative Summary
is published annually
by the Judicial Council of California,
Administrative Office of the Courts,
Office of Governmental Affairs.

770 L Street, Suite 700
Sacramento, CA 95814-3393
916-323-3121

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