JUDICIAL COUNCIL OF CALIFORNIA

The Capitol Connection

ADMINISTRATIVE OFFICE OF THE COURTS • OFFICE OF GOVERNMENTAL AFFAIRS

ANNUAL SUPPLEMENT JANUARY 2012

2011 Legislative Summary

During the first year of the 2011–2012 Legislative Session, the Legislature and Governor enacted numerous bills that affect the courts or are of general interest to the legal community. Brief descriptions of 80 of the measures of greatest interest follow, arranged according to subject matter.

The effective date of legislation is January 1, 2012, unless otherwise noted. Urgency measures normally take effect upon enactment and some measures have delayed operative dates. Those dates are included where applicable.

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

Bill texts, 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

LOCAL REVENUE FUND 2011: COURT SECURITY FUNDING REALIGNMENT

AB 118, COMMITTEE ON BUDGET, CH. 40
AB 121, COMMITTEE ON BUDGET, CH. 41
BOTH EFFECTIVE JUNE 30, 2011

Realigns the funding for sheriff-provided court security. Reduces the judicial branch budget by the amount that would otherwise be allocated to the courts for sheriff-provided court security. Retains in the judicial branch budget security funding for court attendants, perimeter security contracted for directly by the courts, marshals, and other court security services paid for by courts to a provider other than the sheriff. (Note: There were a few errors in the amounts transferred to the county and retained by the judicial branch. Efforts are underway to correct these errors for future years.) Creates a formula for funding each local Trial Court Security Account, and directs that all moneys in the Trial Court Security Account be used exclusively for sheriff-provided court security. Expressly prohibits county administrative costs from being charged to this account.

TRIAL COURTS: BUDGET PROCESS: PUBLIC NOTICE

AB 973, CAMPOS, CH. 687
GOV 68106, 68511.7

Requires that, until January 1, 2017, each trial court, prior to adopting a baseline budget plan for the fiscal year, provide the public notice of, and an opportunity for input on, the proposed budget plan. States that the opportunity for input may be provided by requesting submission of written comments or by conducting a public hearing, at the court's discretion. Specifies that any public hearing conducted may be held in any courthouse in the county. Requires that notice of the hearing be posted at least 10 court days prior to the hearing in the manner specified. Requires that, during the current 60-day notice period regarding notice of courtroom closures or of closure or reduction in the hours of clerks' offices, the public be given an opportunity to submit written comments on the court's plan for closures or reduction in hours. Requires the court to review and consider all public comments received and immediately post a revised notice if the court's plan changes as a result of the comments received. Specifies that the 60-day notice period does not restart if the court makes changes to the plan based on comments received. Expressly provides that the court is not required to respond to comments received on either the budget plan or the reduction in hours and services.

ADMINISTRATION OF JUSTICE

SB 78, COMMITTEE ON BUDGET AND FISCAL REVIEW, CH. 10
VARIOUS SECTIONS
EFFECTIVE MARCH 24, 2011

Makes a number of amendments to implement the assumptions in the Budget Act of 2011 as it relates to funding for the judicial branch:

- Continues the court security fee at $40 for each conviction until July 1, 2013. Makes the reduction of the fee to $30 effective July 1, 2013, instead of July 1, 2011, and eliminates the further reduction of the fee to $20 that would have occurred on July 1, 2011. (Note: Assembly Bill 118 (Com. on Budget; Stats. 2011, ch. 40) renames this fee the "court operations assessment.")
- Eliminates the obligation of courts to comply with those mandates of the Omnibus Conservatorship and Guardianship Reform Act of 2006 that required funding until such time as a specific appropriation is made for that purpose. Permits courts that have the resources to meet some or all of these requirements to continue to do so, but does not require it.
- Adopts a new part in the Public Contract Code relating to contracting by judicial branch entities, defined as any superior court, Court of Appeal, the Supreme Court, the Judicial Council, the Administrative Office of the Courts, and the Habeas Corpus Resource Center. Requires all contracts entered into or amended on or after October 1, 2011, to comply with provisions of the Public Contract Code that are applicable to state agencies and departments related to the procurement of goods and services. Provides that the Bureau of State Audits will conduct periodic audits of judicial branch entities' compliance with the Public Contract Code. (The audit provision is refined in Senate Bill 92 (Com. on Budget and Fiscal Review; Stats. 2011, ch. 36).)
- Requires the Administrative Office of the Courts to contract with an independent consultant to conduct an independent analysis of the California Court Case Management System (CCMS) prior to acceptance and deployment to ensure that it will be successful.

BUDGET ACT OF 2011

SB 92, COMMITTEE ON BUDGET AND FISCAL REVIEW, CH. 36
VARIOUS SECTIONS
EFFECTIVE JUNE 30, 2011

Among other things, updates provisions adopted in March 2011 regarding audits of compliance by judicial branch entities with the new Judicial Branch Contracting Law. Specifically provides a parallel audit process for Public Contract Code compliance as is set out in Government Code section 77206 for fiscal compliance, except

that Public Contract Code compliance audits shall be conducted by the Bureau of State Audits. Requires all judicial branch entities that enter into contracts of more than $1 million (except information technology contracts) to notify the California State Auditor within 10 business days of entering into the contract.

CIVIL LAW AND PROCEDURE

MOTOR VEHICLE CONDITIONAL SALE CONTRACTS

AB 238, HUBER, CH. 526
CIV 2983, 2983.1
URGENCY, EFFECTIVE OCTOBER 7, 2011

Requires a responding party, when that party objects to a discovery demand on the basis of privilege or work product, to provide sufficient factual information in its response for the other parties to evaluate the merits of that claim, including, if necessary, a privilege log.

BIRTH CERTIFICATES: ISSUANCE

AB 433, LOWENTHAL, CH. 718
H&S 103425, 103430, 103435

Allows a person who has undergone clinically appropriate treatment for the purpose of gender transition to file a petition in any superior court to recognize the change in gender and, if applicable, a name change and to request a new birth certificate. Makes the physician's affidavit conclusive proof of gender change if it contains specified language. Prohibits objections from being filed and requires the court to grant the petition if the court determines that the affidavit shows that the petitioner has undergone clinically appropriate treatment for the purpose of gender transition. Allows a single petition to be used to change a petitioner's name, recognize his or her change in gender and, if requested, order issuance of a new birth certificate.

MECHANICS LIENS

AB 456, WAGNER, CH. 673
CIV 3084, 8416

Clarifies that mechanics lien claimants in construction disputes shall specify in the required affidavit indicating service of the notice of mechanics lien that the notice was served on the owner or reputed owner of the property, consistent with existing obligations for service of these claims.

VEHICLE RENTAL AGREEMENTS

AB 621, CALDERON, CH. 531
CIV 1936

Requires that, until January 1, 2015, a rental car company accept service of process on behalf of a renter who resides outside of the United States for any claim related to harm, loss, or damage related to the use of the rental vehicle if the rental car company provides supplemental liability insurance coverage as part of, or associated with, the rental agreement. Requires the rental car company to mail a copy of the summons and complaint to the renter. Requires that any plaintiff who elects to deliver process to the rental car company in accordance with these provisions agree to limit his or her recovery against the renter or rental car company to the limits of the protection provided by the insurance coverage.

CIVIL GRAND JURIES

AB 622, DICKINSON, CH. 679
PEN 939.22

Authorizes that, until January 1, 2017, any witness who is called to testify under oath before a civil grand jury to have counsel present on his or her behalf while he or she is testifying, subject to specified restrictions. Provides that a violation of the bill's provisions by counsel constitutes a violation of the Rules of Professional Conduct, which may be reported to the State Bar. Provides further that nothing in the bill shall be construed to grant a witness a constitutional right to counsel under the United States or California Constitution nor to grant any right to discovery for the subpoenaed witness.

MILITARY SERVICE: LEGAL BENEFITS

AB 713, BLOCK, CH. 105
M&V 409.3, 409.5

Clarifies that a service member may apply to a court for relief in respect of any obligation or liability incurred by the service member prior to the effective date of the orders for his or her most current period of military service. Further clarifies that the court may grant specified relief, unless in its opinion the ability of the petitioner to comply with the terms of the obligation or liability or to pay the tax or assessment has not been materially affected by reason of his or her most current period of military service.

CIVIL PROCEDURE: ORDERS

AB 1067, HUBER, CH. 78
CCP 1008

Provides that an order denying a motion for reconsideration made under Code of Civil Procedure section 1008(a) is not separately appealable. Provides further, however, that if the order that was the subject of the

motion for reconsideration is appealable, the denial of the motion for reconsideration is reviewable as part of an appeal from that order.

STATE AUDITOR

AB 1102, LARA, CH. 328
GOV 8544.5, 8545, 8545.2, 8546.5, 8547.2, 8547.5, 8547.6, 8547.7, 8548, 8548.2, 8548.9, 10520, 12430

Modifies the California Whistleblower Protection Act (CWPA). Redefines "improper governmental activity" to include violations of an executive order of the Governor, a California rule of court, or any policy or procedure mandated by the State Administrative Manual or the State Contracting Manual. Adds the judicial branch to existing law requiring the posting of a written explanation of the CWPA developed by the State Auditor in any place where information for employees is posted. In addition, requires that any information provided to employees about filing complaints under the CWPA to the employing agency also include information about the opportunity under the CWPA to report a complaint to the State Auditor.

CIVIL ACTIONS

AB 1403, COMMITTEE ON JUDICIARY, CH. 409
CCP 222.5, 662.5, 1033.5

Makes various changes to the law governing voir dire in civil trials: (1) provides that the trial judge should allow a brief opening statement by counsel for each party prior to the commencement of the oral questioning phase of the voir dire process; (2) prohibits a blanket policy of time limits for voir dire; (3) provides that the parties should be given reasonable time to evaluate the responses to any written questionnaires, if used, before oral questioning commences; and (4) provides that the judge in civil trials should provide the parties with both the alphabetical list and the list of prospective jurors in the order in which they will be called.

Amends the statute governing additur and remittitur: (1) provides that if a deadline is not set forth in the conditional order, the deadline for acceptance or rejection of the addition or reduction of damages is 30 days from the date the conditional order granting a new trial is issued; (2) provides that failure to respond to the order shall be deemed a rejection of the addition or reduction of damages, and a new trial limited to the issue of damages shall be granted automatically; (3) requires a party serving an acceptance of a conditionally ordered addition or reduction of damages to prepare an amended judgment reflecting the modified judgment amount as well as any other uncontested judgment awards; and (4) provides that a prevailing party can recover costs for court interpreter fees for a qualified court interpreter authorized by the court for an indigent person, as specified.

SMALL CLAIMS COURT: JURISDICTION

SB 221, SIMITIAN, CH. 64
CCP 116.221, 116.224

Increases small claims court jurisdiction for actions brought by natural persons from $7,500 to $10,000. Delays operation of this increase until January 1, 2015, for bodily injury claims resulting from vehicle accidents in cases where a defendant is covered by an automobile insurance policy that includes an insurer's duty to defend.

CIVIL ACTIONS

SB 384, EVANS, CH. 419
B&P 6106.2; CIV 55.3; CCP 437C; GOV 70616

Clarifies that only a single complex case fee is to be paid on behalf of all plaintiffs, as specified, and provides that these changes are declaratory of existing law. Authorizes, until January 1, 2015, a party to move for summary adjudication of a legal issue or claim for damages other than punitive damages that does not completely dispose of a cause of action, an affirmative defense, or an issue of duty according to specified procedures. Clarifies the law governing a demand for money served by an attorney to a building owner or tenant containing a construction-related accessibility claim, which must include a written advisory of the owner's or tenant's rights and obligations, to make clear that this duty applies whether or not the attorney intends to file a complaint and whether or not the attorney eventually files a complaint in state or federal court. Provides further that a violation of an attorney's obligation to include this written advisory in such cases constitutes cause for the imposition of discipline against the attorney.

READER PRIVACY ACT

SB 602, YEE, CH. 424
CIV 1798.90

Enacts the Reader Privacy Act, which would, among other things, prohibit a commercial provider of a book service from disclosing, or being compelled to disclose, any personal information relating to a user of the book service, subject to certain exceptions. Requires a court, when considering whether to issue an order for civil discovery, to make specified findings, including that the person or entity seeking disclosure of personal information of a user of a book service has a compelling interest in obtaining that information. Imposes civil penalties on a provider of a book service for knowingly disclosing a user's personal information to a government entity in violation of these provisions.

CIVIL LAW: OMNIBUS BILL

SB 647, COMMITTEE ON JUDICIARY, CH. 308
CCP 116.780, 116.820, 700.160, 2029.610, 2029.620; CORP 14502; GOV 915.2; H&S 7100; PROB 259, 2583, 8250; R&T 19280; W&I 903.47

Among other things, amends the law governing the process for obtaining a subpoena in connection with an out-of-state proceeding by requiring the first page of the pleading to state whether or not the person filing the document is a party to the out-of-state case. Clarifies that courts may collect the costs of providing court-appointed counsel in dependency cases from those parents who have the ability to pay. Requires the Judicial Council to adopt policies and procedures allowing a court to recover from the money collected the costs associated with implementing the reimbursements program. Makes technical changes to provisions in the Small Claims Act by deleting erroneous cross-references.

WORKERS' COMPENSATION INSURANCE: DISPUTE RESOLUTION: ARBITRATION CLAUSES

SB 684, CORBETT, CH. 566
INS 11658.5

Among other things, requires that an insurer intending to use a dispute resolution or arbitration agreement to resolve disputes arising in California out of a workers' compensation insurance policy or endorsement issued to a California employer disclose to the employer, contemporaneously with any written quote that offers to provide insurance coverage, that choice of law and choice of venue or forum may be a jurisdiction other than California and that these terms are negotiable between the insurer and the employer. Requires that the employer sign the disclosure, as evidence of receipt, when the employer accepts the offer of coverage. Authorizes the dispute resolution or arbitration agreement to be freely and voluntarily negotiated before any dispute arises. Specifies that these provisions would apply to workers' compensation policies issued or renewed on or after July 1, 2012.

CIVIL ACTIONS

SB 731, COMMITTEE ON JUDICIARY, CH. 49
CCP 391.7, 391.8, 1141.20, 1141.23

Makes various changes to improve the handling of judicial arbitration awards, and streamlines the procedures governing vexatious litigants. Regarding judicial arbitration: (1) provides that a party need not file a request for a trial de novo to stop entry of the arbitrator's award as the judgment in the case, but instead could file a request for dismissal; and (2) gives parties up to 60 days after the filing of the arbitrator's award to file either of the requests. Regarding vexatious litigants: (1) clarifies that the vexatious litigant statute applies to matters in the Courts of Appeal, as well as the trial courts, and that a presiding justice or presiding judge may delegate authority to make the prefiling determination that an individual is a vexatious litigant or is permitted to file an action; (2) authorizes the presiding justice or presiding judge to order that notice be given of a vexatious litigant's status if the clerk mistakenly files litigation without a prefiling order; and (3) provides procedures for an application to vacate a prefiling order and remove a litigant's name from the Judicial Council's list of vexatious litigants, along with guidance for the courts in deciding the application.

CRIMINAL LAW AND PROCEDURE

ABOLITION OF CHILD COMMERCE, EXPLOITATION, AND SEXUAL SLAVERY ACT OF 2011

AB 12, SWANSON, CH. 75
PEN 261.9

Requires the court to order any person convicted of seeking to procure or procuring the sexual services of a prostitute to pay an amount of up to $25,000 in addition to any other penalties if the prostitute is under 18 years of age.

DOCUMENTS: NOTARIES PUBLIC: SOLICITATIONS

AB 75, HILL, CH. 269
B&P 17533.6, 17537.9; CIV 1195; COM 3505; GOV 8205, 8208, 8211, 12181, 27287

Makes it a misdemeanor for a nongovernmental entity to solicit funds or information by mail, electronic message, or Internet website that contains an emblem or content implying a government connection, unless the solicitation contains specified disclosures. Increases the maximum fine to $2,500.

HUMAN TRAFFICKING: MINORS

AB 90, SWANSON, CH. 457
PEN 186.2, 186.8

Expands the definition of criminal profiteering to include any crime in which the perpetrator induces, encourages, or persuades, or causes through force, fear, coercion, deceit, violence, duress, menace, or threat of unlawful injury to the victim or to another person, a person under the age of 18 years to engage in a commercial sex act. Provides that the proceeds from any case falling

within this provision be deposited in the Victim-Witness Assistance Fund to be available to fund child sexual exploitation and child sexual abuse victim counseling centers and prevention programs.

CRIMINAL JUSTICE ALIGNMENT

AB 109, COMMITTEE ON BUDGET, CH. 15
VARIOUS SECTIONS
EFFECTIVE APRIL 4, 2011
AB 117, COMMITTEE ON BUDGET, CH. 39
EFFECTIVE JUNE 30, 2011
ABX1 17, BLUMENFIELD, CH. 12
EFFECTIVE SEPTEMBER 21, 2011

Makes broad changes to California's criminal justice system:

- Eliminates prison as a sentence option for various felonies by authorizing courts to impose terms of over one year in county jail for certain felonies committed by specified defendants. Operative October 1, 2011.
- Authorizes superior courts to appoint hearing officers to carry out the duties of the courts in conducting parole and postrelease community supervision (PRCS) revocation hearings. Allows the superior courts of two or more counties to appoint the same person as a hearing officer.
- Provides that specified persons released from state prison on or after October 1, 2011, will be supervised by a county agency, such as a probation department (to be determined by the board of supervisors). Provides that all other persons released from state prison on or after October 1, 2011, and all persons currently on parole will continue to be supervised by state parole.
- Provides county supervising agencies with authority to dispose of violations of conditions of PRCS using specified intermediate sanctions, up to and including a period of "flash incarceration" in county jail for up to 10 days. Provides that there is no court involvement in cases disposed of in this way.
- Provides that, if a county supervising agency determines, following application of its assessment processes, that authorized intermediate sanctions up to and including flash incarceration are not appropriate, the county supervising agency shall petition the revocation hearing officer to revoke and terminate postrelease supervision.
- Provides that, upon a finding that the person has violated the conditions of PRCS, the revocation hearing officer shall have authority to (1) return the person to PRCS with modifications of conditions, if appropriate, including a period of incarceration in county jail; (2) revoke PRCS and order the person to confinement in the county jail; or (3) refer the person to a reentry court pursuant to Penal Code section 3015 or to another evidence-based program in the hearing officer's discretion. Limits confinement under paragraphs (1) and (2) to a period of 180 days in the county jail.
- Provides that persons released from state prison on or after October 1, 2011, who do not meet the criteria for PRCS will continue to be subject to the jurisdiction of and parole supervision by the California Department of Corrections and Rehabilitation. Provides that until July 1, 2013, the Board of Parole Hearings will continue to conduct all revocation proceedings. Provides that persons whose parole is revoked by the board will be referred to county jail, rather than being returned to state prison and that there is no court involvement in revocation of parole for these individuals until July 1, 2013.
- Provides that, effective July 1, 2013, the supervising parole agency will have authority to dispose of violations of conditions of parole using authorized intermediate sanctions, up to and including a period of "flash incarceration" in county jail for up to 10 days and that there is no court involvement in cases disposed of in this way. Provides that if the supervising parole agency has determined, following application of its assessment processes, that intermediate sanctions up to and including flash incarceration are not appropriate, the supervising agency shall petition the revocation hearing officer to revoke parole.
- Provides that, upon a finding that the person has violated the conditions of parole, the revocation hearing officer shall have authority to (1) return the person to parole supervision with modifications of conditions, if appropriate, including a period of incarceration in county jail; (2) revoke parole and order the person to confinement in the county jail; or (3) refer the person to a reentry court pursuant to section 3015 or to another evidence-based program in the hearing officer's discretion. Limits confinement under paragraphs (1) and (2) to a period of 180 days in the county jail.

For additional information, please visit the Criminal Justice Realignment Resource Center at *www.courts.ca.gov/partners/realignment.htm*.

COURTS

AB 110, BLUMENFIELD, CH. 193
GOV 68526, 68926, 68926.1, 68926.3, 68927, 70602.5; PEN 1203.01
EFFECTIVE AUGUST 30, 2011

Includes four provisions designed to mitigate impacts of the budget reductions on the judicial branch: (1) deletes language that would have triggered reductions in existing civil fees because the Budget Act of 2011 decreased the General Fund transfer to the Trial Court Trust Fund in excess of 10 percent from the amount appropriated in the 2010–2011 fiscal year; (2) establishes a responsive fil-

ing fee of $325 for appeals and appellate writs; (3) narrows the types of cases for which courts must send sentencing transcripts to the California Department of Corrections and Rehabilitation (CDCR) to only those judgments with sentences of life, life without parole, or death, or any other felony matter upon request from CDCR, an inmate, or the inmate's counsel; and (4) delays until September 30, 2013, a statutorily required study on the "default prove-up" process pertaining to collections cases.

SCHOOL SAFETY: DISRUPTION THREATENING PUPIL'S IMMEDIATE PHYSICAL SAFETY

AB 123, MENDOZA, CH. 161
PEN 626.8

Makes it a misdemeanor for any person to come into any school building or upon any school grounds and willingly or knowingly create a disruption with the intent to threaten the physical safety of any pupil in preschool through grade eight.

FIREARMS

AB 144, PORTANTINO, CH. 725
B&P 7574.14, 7582.2; PEN 626.92, 16520, 16750, 16850, 16950, 17040, 17295, 17512, 25590, 25595, 25605

Makes it a misdemeanor to openly carry an unloaded handgun on one's person or in a vehicle; makes it a misdemeanor subject to specified exceptions to openly carry an unlawfully possessed unloaded handgun and ammunition in public in an incorporated city; and makes it a misdemeanor for the driver of a vehicle to knowingly allow a person to bring an openly carried, unloaded handgun into the vehicle.

ELDER ABUSE

AB 332, BUTLER, CH. 366
PEN 368

Increases the fine for conviction of theft, embezzlement, forgery, fraud, identity theft, and identity crimes against an elder or dependent adult when the value of the losses exceeds $950 to up to $2,500 for a misdemeanor conviction and up to $10,000 for a felony conviction.

RESTITUTION: ASSET SEIZURES: FRAUD AND EMBEZZLEMENT

AB 364, BONILLA, CH. 182
PEN 186.11

Authorizes a court to provide for the preservation of assets and property of any person charged with a single act of fraud or embezzlement if that conduct involves the taking or loss of $100,000 or more. Deletes a provision concerning restitution in white collar crime cases that requires proof of admissions of specified facts, while such findings or admissions are not required in other types of cases before the victim is entitled to restitution.

DEFENDANTS: INVOLUNTARY ANTIPSYCHOTIC MEDICATION

AB 366, ALLEN, CH. 654
PEN 1370

Modifies the procedures governing the involuntary administration of antipsychotic medication to state hospital patients, beginning July 1, 2012. Requires that where a court finds a defendant incompetent to stand trial (IST), the court shall determine if the defendant has the capacity to make decisions concerning medication. Provides that where the defendant consents to take medication and later withdraws consent during treatment, the Department of Mental Health (DMH) may administer the medication for up to 21 days. Provides that the patient shall be afforded a medication review hearing with an administrative law judge within 72 hours to determine if there are grounds to involuntarily medicate the defendant. Requires that, if the administrative law judge determines that medication is necessary and should be involuntarily administered, a petition shall be filed with the court for issuance of an order to administer antipsychotic medication beyond the 21-day certification period. Requires the court to notify the prosecution and defense attorneys and hold a hearing no later than 18 days from the date of receiving the petition.

CLEMENCY

AB 648, BLOCK, CH. 437
PEN 4801–4803, 4805–4807, 4810–4813

Requires that, except when there is imminent danger of the death of a person convicted or imprisoned, or when the term of imprisonment of the applicant is within 10 days of its expiration, at least 10 days before the Governor acts upon any application for a commutation, the application signed by the person applying be served upon the district attorney of the county where the conviction occurred. Authorizes the district attorney to submit a written recommendation to the Governor for or against commutation of sentence. Requires the district attorney to make reasonable efforts to notify the victim or victims of the crime or crimes related to the application for commutation of sentence and those persons' family members, and to allow those persons to submit a recommendation to the Governor for or against commutation of sentence.

DISORDERLY CONDUCT

AB 665, TORRES, CH. 658
PEN 647

Increases the punishment for a misdemeanor conviction of invasion of privacy where the victim was a minor, or for a second or subsequent conviction of invasion of privacy regardless of the age of the victim, to up to one year in county jail or a fine up to $2,000, or both.

CRIMES INVOLVING HIDDEN RECORDINGS: STATUTE OF LIMITATIONS

AB 708, KNIGHT, CH. 211
PEN 803

Provides that where existing provisions prohibit the use of concealed camcorders, motion picture cameras, or photographic cameras of any type, to secretly videotape another, a criminal complaint may be filed within one year of the date on which a hidden recording is discovered.

VICTIMS' RIGHTS: VICTIM IMPACT STATEMENT

AB 886, COOK, CH. 77
PEN 679.02

Prohibits the court from releasing a victim impact statement to the public prior to the statement being heard in court.

CRIME VICTIMS: RESTITUTION: FINE

AB 898, ALEJO, CH. 358
PEN 1202.4

Increases the minimum restitution fine required to be imposed upon conviction of a felony to not less than $240 starting on January 1, 2012; $280 starting on January 1, 2013; and $300 starting on January 1, 2014. Increases the minimum restitution fine required to be imposed upon a conviction of a misdemeanor to not less than $120 starting on January 1, 2012; $140 starting on January 1, 2013; and $150 starting on January 1, 2014.

LAW ENFORCEMENT: COMMUNICATIONS

AB 1010, FURUTANI, CH. 659
PEN 633.05

Exempts a city attorney acting under proper authority granted prior to January 1, 2012, from certain prohibitions including eavesdropping on or recording confidential communications.

ANIMAL ABUSE: PENALTIES

AB 1117, SMYTH, CH. 553
PEN 597.1, 597.9

Makes it an infraction for any person who has been convicted of a misdemeanor violation of various animal abuse offenses to, within five years after the conviction, own, possess, maintain, have custody of, reside with, or care for any animal. Provides that a defendant may petition the court to reduce the duration of the pet ownership prohibition.

ELDER ABUSE: THEFT OR EMBEZZLEMENT: RESTITUTION

AB 1293, BLUMENFIELD, CH. 371
PEN 186.12

Allows a prosecutor to file a petition to preserve assets when a single felony is charged if the victim is an elder or dependent adult.

EXPUNGEMENT STANDARDS

AB 1384, BRADFORD, CH. 284
PEN 1203.4a

Allows a court, in its discretion and in the interest of justice, to determine that a defendant who has been convicted of a misdemeanor and not granted probation, or a person convicted of an infraction, and who has fully complied with the sentence but does not satisfy all the requirements of Penal Code section 1203.4a(a), to grant expungement relief after the lapse of one year from the date of pronouncement of the judgment.

Clarifies that expungement is not available to a person who is convicted of a misdemeanor falling within the provisions of Vehicle Code section 42002.1 or any infraction falling within the provisions of section 42001, or a misdemeanor lewd and lascivious act on a child 14 or 15 years old when the perpetrator was 10 or more years older than the victim under Penal Code section 288(c).

PRISONS: WIRELESS COMMUNICATION DEVICES

SB 26, PADILLA, CH. 500
PEN 4576
URGENCY, EFFECTIVE OCTOBER 6, 2011

Makes it a misdemeanor for any person, employee, or nonemployee in a prison or other California Department of Corrections and Rehabilitation facility, except when authorized, to possess a cell phone with the intent to deliver, or to deliver a cell phone to an inmate. Provides that inmates found in possession of cell phones lose custody credits of up to 90 days.

RESTITUTION: CRIMES: IDENTITY THEFT

SB 208, ALQUIST, CH. 45
PEN 1202.4
URGENCY, EFFECTIVE JULY 1, 2011

Provides that a victim of identity theft may recover the expenses for "a period of time reasonably necessary to make the victim whole," for credit report monitoring, and for the costs to repair one's credit.

ATHLETE AGENTS

SB 238, DE LEÓN, CH. 146
B&P 18897.93; PEN 802.5

Requires the court to suspend or revoke the privilege of a person to conduct business as an athlete agent for a minimum of one year upon conviction of a violation of the Miller-Ayala Athlete Agents Act. Requires the court to order an athlete agent to disgorge all consideration received in connection with a violation of the

act and specifies the distribution of disgorged monies surrendered as a result of a violation of the act.

BAIL

SB 291, VARGAS, CH. 67
PEN 1554.3

Mandates that persons who are returned to the state by extradition shall be committed to the county jail with a bail set at the amount of the warrant plus $100,000. Provides that, in order to deviate from this amount, a 48-hour noticed bail hearing shall be required. Clarifies that nothing in this provision is intended to preclude the application of subdivision (e) of section 1270.1 of the Penal Code to enhance the bail amount for the felony charge appearing on the warrant.

BATTERY: SECURITY OFFICERS AND CUSTODIAL OFFICERS

SB 406, LIU, CH. 250
PEN 243

Expands the list of persons against whom the commission of a battery that does not result in an injury is subject to higher penalties to include security officers and custody assistants.

SYNTHETIC CANNABINOID COMPOUNDS

SB 420, HERNANDEZ, CH. 420
H&S 11357.5

Makes it a misdemeanor to sell, dispense, distribute, furnish, administer, or give, or offer to sell, dispense, or possess for sale any synthetic cannabinoid compound, or any synthetic cannabinoid derivative, to any person.

CRUELTY TO ANIMALS: FIGHTING

SB 425, CALDERON, CH. 562
PEN 310, 597h, 598

Increases the fine for a misdemeanor conviction of a minor under 16 years of age attending a cockfight from a maximum fine of $100 to a maximum fine of $500.

Provides that the fine for a misdemeanor conviction of securing live animals to machinery for dog racing shall be $2,500. Adds cockfighting to provisions allowing forfeiture of property and allows the court to take certain measures to protect persons with a property interest who are not involved in the criminal activities.

STRANGULATION

SB 430, KEHOE, CH. 129
PEN 273.5

Enacts the Diana Gonzalez Strangulation Prevention Act of 2011 to clarify that a corporal injury resulting in a "traumatic condition" can include injury as a result of strangulation or suffocation.

SENTENCING

SB 576, CALDERON, CH. 361
PEN 186.22, 186.33, 667.61, 1170, 1170.1, 1170.3, 12021.5, 12022.2, 12022.4
EFFECTIVE SEPTEMBER 29, 2011

Addresses the constitutional infirmity of the state's three-tier determinate sentencing law pursuant to Cunningham v. California (2007), 549 U.S. 270, by extending the sunset date from January 1, 2012, to January 1, 2014, on provisions of law that require the court to use its discretion to impose the term or enhancement that best serves the interest of justice.

SEX OFFENDERS: REGISTRATION

SB 622, CORBETT, CH. 362
PEN 290.005

Requires registration for any person who has been convicted in any other court, including any state, federal, or military court, of any offense that, based on the elements of the convicted offense or facts admitted by the person or found true by the trier of fact, or stipulated facts in the record of military proceedings would have been punishable as one or more specified sex crimes in California.

DOMESTIC VIOLENCE

PROTECTIVE ORDERS: EARLY TERMINATION

AB 454, SILVA, CH. 101
CCP 527.6, 527.8, 527.85; FAM 6345; W&I 213.5, 15657.03

Provides that any proceeding to terminate or modify a protective order prior to its expiration requires notice to the protected person by personal service or by other means as authorized by the court, and requires the court to continue the proceeding if notice has not been accomplished prior to the hearing. Authorizes the protected person to waive such service if she or he is present in court and does not challenge the sufficiency of the notice.

FAMILY JUSTICE CENTERS

SB 557, KEHOE, CH. 262
PEN 13750–13752

Authorizes, until January 1, 2014, the City of San Diego, the City of Anaheim, the County of Alameda, and the County of Sonoma to create a two-year pilot project for the establishment of a family justice center (FJC) and allows for the FJCs to be staffed by, among others, law enforcement, medical, social service, and child welfare personnel. Defines a "family justice center" as a multi-agency, multi-disciplinary service center where public and private agencies assign staff members to provide services to victims of crime from one location in order to reduce the number of times victims must tell their story, reduce the num-

ber of places victims must go to for help, and increase access to services and support for victims and their children.

EMPLOYEE/ EMPLOYER ISSUES

EMPLOYMENT: CREDIT REPORTS

AB 22, MENDOZA, CH. 724
CIV 1785.20.5; LAB 1024.5

Prohibits an employer or prospective employer from using a consumer credit report for employment purposes (e.g., hiring or firing decisions) except for the following: (1) managerial positions; (2) state Department of Justice positions; (3) law enforcement positions; (4) positions that involve regular access to bank or credit card information, social security number, or date of birth; (5) positions for which the person is authorized to enter into financial contracts on behalf of the employer; (6) positions that involve access to confidential or proprietary information; and (7) positions that involve regular access to cash totaling $10,000 or more.

EMPLOYMENT: LEAVE: INTERFERENCE, RESTRAINT, AND DENIAL

AB 592, LARA, CH. 678
GOV 12945, 12945.2

Declares it an unlawful employment practice for an employer to interfere with, restrain, or deny an employee's exercise or attempted exercise of any right provided under state's medical leave law. States that this bill does not create a new law, but rather is declaratory of existing law.

FAMILY LAW

ADOPTION

AB 687, FLETCHER, CH. 462
FAM 7663, 7664, 7666, 7667, 7913, 8601.5, 8704.5, 9003, 9102, 9213

Makes several changes to adoption statutes, including (1) provides that when an inquiry is being made to determine the natural father of a child who is proposed for adoption that it include the names and whereabouts of every man presumed to be the father and the efforts made to give notice of the proposed adoption; (2) provides that notice of the adoption to the natural father is not required when the father's relationship to the child has been previously terminated or when he has executed a written form waiver notice, denied paternity, relinquished the child for adoption, or consented to the adoption and requires the court to issue an order dispensing with notice in these cases; (3) provides that a licensed private adoption agency is authorized to process nondependent children adoptions through the Interstate Compact on the Placement of Children (ICPC), in specified circumstances; (4) provides that the court may issue an adoption order nunc pro tunc to a date when the adoptee was a minor if the adoptee is 18 years of age if it is in the best interests of the adoptee and will serve public policy; (5) provides that a petition challenging an adoption on the basis of fraud must be commenced within three years of the order, or 90 days of discovering the fraud; (6) provides that venue for an adult adoption can be in the county of residence of the proposed adoptive parent or adoptee, the county in which the adoptee was born, or the county in which the agency that placed the adoptee for foster care or adoption is located; and (7) authorizes nonresident petitioners for adult adoptions to utilize any of the allowable venue options.

PATERNITY: CONFLICTING PRESUMPTIONS

AB 1349, HILL, CH. 185
FAM 7573, 7576, 7612, 7613

Authorizes a person who is rebuttably presumed to be a parent of a child to bring a motion to set aside a voluntary declaration of paternity within two years of the execution of that declaration. Provides that the court, in determining the motion, shall take into account the validity of the declaration and the best interest of the child as well as the nature and duration of the petitioner's relationship with the child and the benefit or detriment of continuing that relationship. Further provides that a voluntary declaration of paternity is invalid if any of the following conditions were present at the time the declaration was executed: (1) the child had a presumed parent because he or she was the child of a marriage under Family Code section 7540; (2) the child already had a presumed parent under subdivisions (a), (b), or (c) of Family Code section 7611; or (3) the man signing the declaration was a sperm donor who had not executed an agreement in writing with the woman to be the child's natural father prior to the woman's conception.

DOMESTIC PARTNERSHIPS

SB 651, LENO, CH. 721
FAM 297, 297.1, 298.7, 2320

Eliminates a number of differences between domestic partnerships and marriage to: (1) remove the requirement that domestic partners have a common residence; (2) allow minors to enter into domestic partnerships using the same court approval procedures that apply to minors seeking to marry; and (3) establish a confidential domestic partnership process akin to confidential marriage licenses. Provides jurisdiction to file a dissolution case in California, even when neither of the parties resides in California, if the same-sex marriage was entered

into in California and neither party resides in a state that will dissolve a same-sex marriage.

FINES, FEES, AND FORFEITURES

VEHICLES: MISDEMEANOR VIOLATIONS: AMNESTY

AB 1358, FUENTES, CH. 662
VEH 42008.7

Extends the amnesty program under current law that applies to delinquent court-ordered debt for infractions to also apply to specified misdemeanors. Makes the misdemeanor amnesty program, which will run concurrently with the infraction amnesty program, optional, upon agreement by the court and county. Applies the same eligibility criteria (e.g., the debt must be more than three years past due, the defendant must have no outstanding warrants nor owe victim restitution) as the infraction amnesty program.

JUDGES/JUDICIAL OFFICERS

COURTS: JUDICIAL APPOINTMENTS

AB 126, DAVIS, CH. 667
GOV 12011.5

Requires all members of the Commission on Judicial Nominees Evaluation to receive one hour of training on fairness and bias in the judicial appointments process at an initial orientation and an additional hour if serving more than one term. Specifies the categories to be used by the State Bar of California and the Administrative Office of the Courts when reporting the race or ethnicity of judicial applicants, nominees, or judges and justices.

JUDICIARY: DEMOGRAPHIC DATA

SB 182, CORBETT, CH. 720
GOV 12011.5

Requires the State Bar of California, the Governor's Office, and the Administrative Office of the Courts to request demographic data on gender identity and sexual orientation in addition to the information currently collected on gender, race, and ethnicity for judicial nominees, applicants, appointees, judges, and justices.

JUDGESHIPS

SB 405, CORBETT, CH. 705
GOV 69616

Ratifies the authority of the Judicial Council to convert 10 additional subordinate judicial officer positions to judgeships in the 2011–2012 fiscal year, where the conversion will result in a judge being assigned to a family law or juvenile law assignment previously presided over by a subordinate judicial officer.

JUVENILE DELINQUENCY

JUVENILES: PARENTING CLASSES

AB 177, MENDOZA, CH. 258
W&I 727.7

Expands the authority of the court to order parents to participate in anti–gang involvement parenting classes to allow the court to order any custodial parent or guardian of a minor with specified non-gang-related offenses if the court finds that there are significant risk factors for gang involvement for the minor.

INTERSTATE COMPACT FOR JUVENILES

AB 220, SOLORIO, CH. 356
W&I 1403

Extends the sunset date on the Interstate Compact for Juveniles until January 1, 2014, so that California may continue to be a member of the compact.

LOCAL GOVERNMENT: PENALTIES AND FEES

AB 1053, GORDON, CH. 402
H&S 100425, 100430, 103625;
W&I 903.15

Allows counties who choose to implement a registration fee for parents of delinquent wards represented by court-appointed counsel to charge up to $50 for that fee.

JUVENILE OFFENDERS: MEDICAL CARE

SB 913, PAVLEY, CH. 256
W&I 739

Clarifies the authority of a probation officer to seek medical and dental evaluations and care for a minor in the custody of the probation officer. Specifically provides that the probation officer may obtain a medical and dental examination of the child consistent with the requirements for detention facilities promulgated by the Corrections Standards Authority. Further provides that the probation officer may arrange for medical or dental treatment deemed by the physician or dentist to be necessary for the health of the minor, but only after making an effort to notify the parent or guardian and obtain his or her consent. Provides that if the parent or guardian objects, the treatment may only be provided under court order. Clarifies the definition of an emergency situation for the purposes of providing medical examination or treatment.

JUVENILE DEPENDENCY

PUPIL RECORDS: PRIVACY RIGHTS

AB 143, FUENTES, CH. 434
EDU 49061, 49076

Adds minor's counsel of record to the list of persons who can access pupil records without a court order when the inquiry is for the purposes of conducting a criminal investigation or an investigation into an issue of whether the minor should be declared a ward or has violated a probation condition.

CALIFORNIA FOSTERING CONNECTIONS TO SUCCESS ACT

AB 212, BEALL, CH. 459
VARIOUS CODES

Clarifies the provisions of the California Fostering Connections to Success Act (Assem. Bill 12 [Beall and Bass]; Stats. 2010, ch. 559). Specifically the bill (1) clarifies the requirements for a youth to be eligible for extended care consistent with federal requirements; (2) clarifies the process by which a nonminor can re-enter foster care and petition the court for reinstatement of jurisdiction; (3) clarifies the process for providing extended care to eligible delinquent youth in foster care and establishes a new jurisdictional status for youth exiting delinquency into extended care; (4) conforms provisions relating to Kin-GAP guardianships in the delinquency statutes to reflect federal requirements; and (5) restores a provision erroneously deleted from law that allows youth in Kin-GAP guardianships to receive support up to age 19 if they are in the process of completing high school or an equivalency certificate.

FOSTER CHILDREN: SCHOOL PLACEMENT: IMMUNIZATION RECORDS

AB 709, BROWNLEY, CH. 463
EDU 48853.5; H&S 120341

Allows the immediate enrollment of foster children in new schools even if they are unable to document immunization history.

CHILD ABUSE CENTRAL INDEX

AB 717, AMMIANO, CH. 468
PEN 11165.12, 11169, 11170

Revises provisions regarding the Child Abuse Central Index (CACI) to provide that only substantiated reports are to be included in CACI, and to provide a mechanism for a due process hearing by the agency for persons in CACI who assert that the reports concerning them are unfounded. Specifically provides that such a hearing will not be held when a court has determined that the abuse occurred, or the allegations are currently pending before the court.

INTERNS AND STUDENT ASSISTANTS: HIRING PREFERENCE

AB 735, MITCHELL, CH. 464
GOV 18220; W&I 391

Creates a hiring preference for foster youth and former foster youth up to age 26 for student assistant or internship positions with state agencies. Requires that dependent youth be provided with written information about this preference at the time the court terminates dependency jurisdiction if the dependent is 18 years of age or older.

DEPENDENT CHILDREN: BIRTH CERTIFICATES

AB 791, AMMIANO, CH. 59
W&I 361.5, 366.21

Requires the court, at the time that reunification services to parents are denied or terminated, to order that the child's caregiver be provided with the child's birth certificate, and if appropriate, that the birth certificate also be provided to the child if the child is 16 years of age or older.

MENTAL HEALTH: CHILDREN'S SERVICES

AB 989, MITCHELL, CH. 640
W&I 5847

Requires programs included in county Mental Health Services Act plans, which are required to include services to address the needs of transition-age youth, to specifically consider the needs of transition-age foster youth.

DEVELOPMENTAL SERVICES: DECISIONMAKING

SB 368, LIU, CH. 471
W&I 319, 361, 706.5, 709, 726, 4512, 4514, 4646, 4646.5, 4648, 4701.6, 4726, 5328

Allows the court to limit the developmental decisionmaking rights of a dependent child's parent or guardian and appoint an authorized representative to serve as the child's developmental services decisionmaker. Gives that person the right to represent the child in seeking services from the regional centers under the Lanterman Developmental Disabilities Services Act. Additionally, clarifies recently enacted legislation on the procedure to follow when there is a doubt about the competency of a child alleged to be a delinquent child to provide that: (1) if an expert believes that a child is developmentally disabled, the court shall appoint the director of the regional center to evaluate the child and report back to the court on

the child's eligibility for services from the regional center; and (2) to clarify that eligibility determinations for regional or developmental center services must be established pursuant to the Lanterman Act and that a finding by a juvenile competency expert that a child is developmentally disabled does not supersede a determination by the regional center.

DEPENDENT CHILDREN: RELATIVE PLACEMENTS: DISCLOSURE

SB 926, RUNNER, CH. 132
W&I 317

Authorizes an attorney for a child in a dependency proceeding to disclose to the relatives of a child when assessing them for relative placement the fact that the child is in custody, the alleged reasons for the custody, and the projected likely date for the child's return home or placement for adoption or legal guardianship. States that this provision is declaratory of existing law.

PROBATE

ESTATES AND TRUSTS: PROPERTY: WRONGFUL TAKING

AB 354, SILVA, CH. 55
PROB 859

Provides that if a person takes, conceals, or disposes of property by the use of undue influence committed in bad faith or through the commission of financial abuse under the Elder Abuse and Dependent Adult Protection Act, that person will be liable for the twice the value of the property taken.

GUARDIANSHIP

AB 458, ATKINS, CH. 102
PROB 1514, 2204, 2205

Prohibits a court from appointing a minor's parent as a guardian of the person of the minor, except as specified. Establishes requirements for transferring a proceeding to another court in circumstances in which a proceeding that concerns custody or visitation of a minor child is pending in one or more counties at the time the petition for guardianship is filed, and specifies circumstances under which the court in a guardianship proceeding would maintain exclusive jurisdiction to determine issues of custody or visitation. Requires the court in which a guardianship proceeding is filed to communicate with each court where a custody or visitation proceeding is pending prior to making a determination on maintaining or transferring the guardianship proceeding. Requires the Judicial Council, on or before January 1, 2013, to adopt rules of court to implement the bill's intercourt communication provisions.

PROFESSIONAL FIDUCIARIES

AB 997, WAGNER, CH. 323
B&P 6501

Exempts from state regulation under the Professional Fiduciaries Act a 501(c)(3) nonprofit corporation or charitable trust meeting several specified requirements, including being in existence for at least five years and having total institutional funds of at least $2 million.

POWERS OF ATTORNEY: STATUTORY FORM POWER OF ATTORNEY

AB 1082, GATTO, CH. 113
PROB 4260, 4264, 4401, 4407, 4457, 4458, 4460, 4461, 4462, 4465

Provides the same protections that are granted to non–statutory form powers of attorney to powers of attorney created using the statutory form provided in the Probate Code. Clarifies and removes inconsistencies between the non–statutory form and statutory form powers of attorney.

DECEDENTS' ESTATES: SMALLER ESTATES

AB 1305, HUBER, CH. 117
PROB 7620, 7660, 13050, 13100, 13101, 13151, 13152, 13154, 13200, 13600, 13601, 13602

Makes various increases in the size of estates that may be administered outside of the formal probate process. Increases, from $100,000 to $200,000, the maximum value of a decedent's estate for which (1) an affidavit or declaration to collect decedent's personal property and (2) a simplified petition to collect an interest in real property may be used outside the formal probate process. Increases, from $20,000 to $100,000, the maximum value of all real property in a decedent's estate for which an affidavit to transfer decedent's interest in real property may be used outside the formal probate process. Increases, from $5,000 to $15,000, the amount of salary or other compensation owed to the deceased spouse by an employer that a surviving spouse can collect outside of the formal probate process.

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Chief Justice
Tani Cantil-Sakauye

Interim Administrative Director
of the Courts
Ronald G. Overholt

Interim Chief Deputy Director
Christine Patton

OFFICE OF GOVERNMENTAL AFFAIRS

Director
Curtis L. Child

OGA Contributing Writers
June Clark
Donna Hershkowitz
Tracy Kenny
Daniel Pone

OGA Contributing Editors
Katie Asher
Monica LeBlond
Dia Poole

COURT PROGRAMS AND
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EDITING AND GRAPHICS GROUP

Senior Copy Editor
Christine L. Miklas

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