JUDICIAL COUNCIL OF CALIFORNIA

# *Summary of* Court-Related Legislation

ADMINISTRATIVE OFFICE OF THE COURTS • OFFICE OF GOVERNMENTAL AFFAIRS

**ANNUAL SUPPLEMENT** **JANUARY 2013**

During the second year of the 2012–2013 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 the measures of greatest interest follow, arranged according to subject matter.

New this year is a statement for each new or amended statute that has been determined to impact court operations and procedures. Also new this year is a table summarizing new laws that create or expand crimes.

The effective date of legislation is stated with each measure. Urgency measures normally take effect upon enactment and some measures have delayed operative dates.

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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**ACKNOWLEDGMENTS**

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# BUDGET

### SB 1021 (COMMITTEE ON BUDGET AND FISCAL REVIEW), CH. 41
***EFFECTIVE/OPERATIVE DATE: URGENCY, JUNE 27, 2012***
**PUBLIC SAFETY**

SUMMARY DESCRIPTION OF NEW LAW: Enacts the public safety budget trailer bill, including amendments relating to the judicial branch.

*See full bill description and impact statement in Appendix C.*

# CIVIL

### AB 278 (ENG), CH. 86 / SB 900 (LENO), CH. 87
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**MORTGAGES AND DEEDS OF TRUST: FORECLOSURE**

SUMMARY DESCRIPTION OF NEW LAW: AB 278 and SB 900 are identical companion measures that enact key provisions of the Homeowner Bill of Rights Act. The bills impose various new obligations on mortgage servicers, including prohibiting dual tracking, mandating a single point of contact, and providing specified notices and procedures governing the handling of loan modification applications. The bills also create new civil penalties that may be brought by public prosecutors, as well as authorize borrowers to bring private rights of action to secure injunctive relief and damages, for specified violations of the bills' requirements.

*See full bill description and impact statement in Appendix A.*

### AB 805 (TORRES), CH. 180
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2014***
**COMMON INTEREST DEVELOPMENTS**

SUMMARY DESCRIPTION OF NEW LAW: Revises and recasts provisions of the Davis-Stirling Common Interest Development (CID) Act to make it more organized and user-friendly for CID homeowners. Among other things, specifies that in a case in which a court determines the validity of an election to approve the amendment of a declaration, the court must find that the election complied with the provisions of the act and any other applicable law, in addition to the governing documents. (CIV 4000 et seq.)

### AB 806 (TORRES), CH. 181
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2014***
**COMMON INTEREST DEVELOPMENTS**

SUMMARY DESCRIPTION OF NEW LAW: Makes various technical and conforming changes to AB 805 (Torres), above. (Various Sections)

### AB 890 (OLSEN), CH. 528
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**ENVIRONMENT: CEQA EXEMPTION: ROADWAY IMPROVEMENT**

SUMMARY DESCRIPTION OF NEW LAW: Exempts from the California Environmental Quality Act (CEQA), until January 1, 2016, a project or an activity to repair, maintain, or make minor alterations to an existing roadway, as defined, if the project or activity is carried out by a city or county to improve public safety, meeting specified requirements. Authorizes a local agency, whenever it determines that a project is not subject to CEQA pursuant to designated provisions and it approves or determines to carry out the project, to file a specified notice of that approval or determination with the county clerk of each county in which the project will be located. Requires a local agency that makes such a determination, and approves and determines to carry out that project, to file a specified notice with the Office of Planning and Research, as well as with the county clerk in each county in which the project will be located. (PRC 21080.37)

### AB 929 (WIECKOWSKI), CH. 678
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**DEBTOR EXEMPTIONS: BANKRUPTCY**

SUMMARY DESCRIPTION OF NEW LAW: Increases the amounts of property exemptions, as specified, for motor vehicles, jewelry, and tools of the trade that a bankruptcy debtor may elect to exempt from enforcement of a money judgment. Increases the income eligibility threshold for a judgment debtor or spouse aged 55 years or older to claim the homestead exemption. (CCP 703.140, 703.150, 704.730)

### AB 1354 (HUBER), CH. 232
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**CIVIL PROCEDURE: DISCOVERY: OBJECTIONS**

SUMMARY DESCRIPTION OF NEW LAW: Provides that if a party makes an objection to a discovery demand

based on a claim of privilege or a claim that the information sought is protected work product, the response must include sufficient factual information for other parties to evaluate the merits of that claim and, if necessary, produce a privilege log. States the intent of the Legislature to codify the concept of a privilege log as that term is used in California case law and provides that nothing in the bill shall be construed to constitute a substantive change in case law. (CCP 2031.240)

### AB 1481 (COMMITTEE ON BUDGET), CH. 342
### *EFFECTIVE/OPERATIVE DATE: URGENCY, SEPTEMBER 17, 2012*
### NONREFUNDABLE JURY FEES

SUMMARY DESCRIPTION OF NEW LAW: Clarifies recently enacted advance jury fees legislation by limiting the payment of the $150 fee to one party in each side of a civil case.

#### ONE FEE PER SIDE

Clarifies, effective September 17, 2012, that *at least one party* demanding a jury on each side of a civil case (versus every party) must pay a nonrefundable fee of $150, unless the fee has been paid by another party on the same side of the case. Specifies that if there are multiple plaintiffs and/or defendants in the same case, only one jury fee per side is required to avoid waiver of a jury under Code of Civil Procedure section 631(f). (CCP 631(b))

#### WHEN FEE IS DUE

Provides that the nonrefundable jury fee must be paid on or before the date scheduled for the initial case management conference in the action, except as follows: (1) in unlawful detainer actions the fees shall be due at least five days before the date set for trial; (2) if no case management conference is scheduled in a civil action, or the initial case management conference occurred before June 28, 2012 and the initial complaint was filed after July 1, 2011, the fee shall be due no later than 365 calendar days after the filing of the initial complaint; (3) if the initial case management conference was held before June 28, 2012, and the initial complaint in the case was filed before July 1, 2011, the fee shall be due at least 25 calendar days before the date initially set for trial; (4) if the party requesting a jury has not appeared before the initial case management conference, or first appeared more than 365 calendar days after the filing of the initial complaint, the fee shall be due at least 25 calendar days before the date initially set for trial. Provides further that if a party failed to timely pay a nonrefundable jury fee that was due between June 27, 2012, and November 30, 2012, inclusive, the party will be relieved of a jury waiver on that basis only if the party pays the fee on or before December 31, 2012 or 25 calendar days before the date initially set for trial, whichever is earlier. (CCP 631(c))

IMPACT ON COURT: Courts will need to amend the Notice of Case Assignment and/or other case-initiating notices to provide information that *at least one party* demanding a jury on each side of a civil case must pay a nonrefundable fee of $150 on or before the initial case management conference or as otherwise provided by statute. For example, courts will need to:

- Amend any notice of deposit of jury fees form to provide that it is now a payment of an advance jury fee and not a deposit of jury fees.
- Modify case management systems to only require one party on each side to post the nonrefundable advance jury fee.
- Inform judges of the clarification of the law: that initial advance jury fees paid after June 27, 2012, are nonrefundable; and, if a party failed to timely pay a nonrefundable jury fee that was due between June 27, 2012, and November 30, 2012, inclusive, the party will be relieved of a jury waiver on that basis only if the party pays the fee on or before December 31, 2012, or 25 calendar days before the date initially set for trial, whichever is earlier.

### AB 1529 (DICKINSON), CH. 470
### *EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013*
### TRIAL COURTS RESTRUCTURING: BAIL FORFEITURE APPEALS: SMALL CLAIMS WRIT JURISDICTION

SUMMARY DESCRIPTION OF NEW LAW: Implements various recommendations of the California Law Revision Commission concerning trial court restructuring and state responsibility for the courts. Among other things, clarifies which tribunals have jurisdiction to hear writ petitions in small claims cases and bail forfeiture appeals. Deletes various obsolete references to municipal courts, judicial districts, counties, and county entities. (CCP 116.798; Various Sections)

*See full bill description and impact statement in Appendix B.*

### AB 1775 (WIECKOWSKI), CH. 474
***EFFECTIVE/OPERATIVE DATE: JULY 1, 2013***
### WAGE GARNISHMENT: EXEMPT EARNINGS

SUMMARY DESCRIPTION OF NEW LAW: Raises the minimum floor of a judgment debtor's wages that are exempt from levy under an earnings withholding order from 30 times the federal minimum hourly wage to 40 times the California minimum hourly wage. (CCP 706.011, 706.050)

IMPACT ON COURT: Inform judicial officers to be aware of the change to the amount of debtor's wages that can be exempted.

### AB 1865 (ALEJO), CH. 241
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
### RESIDENTIAL TENANCIES: EVICTION: NOTICES

SUMMARY DESCRIPTION OF NEW LAW: Expands court-provided notice to defendants in eviction cases to provide information about lawyer referral programs operated by nonprofit local bar associations.

Requires the mandatory notice of filing of an unlawful detainer action by the clerk of the court to include the name and telephone number of any entity that requests inclusion on the notice and demonstrates to the satisfaction of the court that it has been certified by the State Bar as a lawyer referral service and maintains a panel of attorneys qualified in the practice of landlord-tenant law (pursuant to the minimum standards for a lawyer referral service established by the State Bar and section 6155 of the Business and Professions Code). Provides that the notice must also include a specified statement about how to locate a lawyer referral service through the State Bar. (CCP 1161.2(c))

IMPACT ON COURT: Requires courts to modify the automatic "you have been sued" notice sent by courts to defendants in unlawful detainer cases to provide the name and telephone number of any entity that requests inclusion on the notice and demonstrates to the satisfaction of the court that it has been certified by the State Bar as a lawyer referral service and maintains a panel of attorneys qualified in the practice of landlord-tenant law.

Requires courts to update the notice, as needed, when a lawyer referral service qualifies to be included on the notice.

Requires courts to amend the notice to also include a specified statement about how to locate a lawyer referral service through the State Bar.

Depending on the number of entities that qualify for inclusion on the notice, this could increase the pages and cost of sending the notice.

### AB 1875 (GATTO), CH. 346
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
### CIVIL PROCEDURE: DEPOSITIONS: TIME LIMITS

SUMMARY DESCRIPTION OF NEW LAW: Limits a deposition in a civil case to seven hours of total testimony, except as specified or otherwise ordered by the court.

#### DEPOSITION TIME LIMITS
Limits a deposition in civil cases to seven hours of total testimony, except as specified or as ordered by the court, including a case management order. Requires the court to allow additional time if needed to fairly examine the deponent or if the deponent, another person, or any other circumstance impedes or delays the examination. (CCP 2025.290(a))

#### EXCEPTIONS
Provides that the seven hour time limit does not apply under any of the following circumstances: (1) if the parties have stipulated that it will not apply to a specific deposition or to the entire proceeding; (2) to any deposition of a witness designated as an expert pursuant to Code of Civil Procedure (CCP) sections 2034.210 to 2034.310, inclusive; (3) to any case designated as complex by the court pursuant to rule 3.400 of the California Rules of Court, unless a licensed physician attests in a declaration served on the parties that the deponent suffers from an illness or condition that raises substantial medical doubt of survival of the deponent beyond six months, in which case the deposition examination of the witness by all counsel, other than the witness' counsel of record, shall be limited to two days of no more than seven hours of total testimony each day, or 14 hours of total testimony; (4) to any case brought by an employee or applicant for employment against an employer for acts or omissions arising out of or relating to the employment relationship; (5) to any deposition of a person who is designated as the most qualified person to be deposed under CCP section 2025.230; (6) to any party who appeared in the action after the deposition has concluded, in which case the new party may notice another deposition subject to the requirements of the bill. (CCP 2025.290(b))

LEGISLATIVE INTENT STATEMENTS

States the intent of the Legislature that any exclusions made by this bill shall not be construed to create any presumption or any substantive change to existing law relating to the appropriate time limit for depositions falling within the exclusion. Provides further that nothing in this bill shall be construed to affect the existing right of any party to move for a protective order or the court's discretion to make any order that justice requires to limit a deposition in order to protect any party, deponent, or other natural person or organization from unwarranted annoyance, embarrassment, oppression, undue burden, or expense. (CCP 2025.290(c))

IMPACT ON COURT: Inform judges and research attorneys.

### AB 1927 (JONES), CH. 244
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
### EASEMENTS: MAINTENANCE: ARBITRATION

SUMMARY DESCRIPTION OF NEW LAW: Authorizes the owner of a right-of-way easement to seek a judgment from a small claims court or a superior court to determine the proportionate liability of each owner for maintenance costs.

Authorizes an owner of an easement to recover that owner's agreed-upon proportionate share of the cost of easement maintenance or the cost for specific performance or contribution in an action before, during, or after performance of the maintenance work, as follows: (1) The action may be brought in the small claims court if the amount claimed to be due as the owner's proportion of the cost does not exceed the jurisdictional limit of the small claims court. A small claims judgment shall not affect apportionment of any future costs that are not requested in the small claims action. (2) Except as provided in (1), the action must be filed in the superior court and shall be subject to judicial arbitration, as specified. A superior court judgment shall not affect apportionment of any future costs that are not requested in the action, unless otherwise provided in the judgment. (3) In the absence of an agreement addressing the maintenance of the easement, any action for specific performance or contribution must be brought in a court in the county in which the easement is located. Provides that nothing in this bill would preclude the use of any available alternative dispute resolution program to resolve actions concerning the maintenance of easements in the small claims court or the superior court. (CIV 845)

IMPACT ON COURT: Inform judicial officers of the change in the law.

### AB 1953 (AMMIANO), CH. 695
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
### RENTAL HOUSING: TENANT NOTICE

SUMMARY DESCRIPTION OF NEW LAW: Prohibits a subsequent owner or manager from seeking to evict a tenant for a nonpayment of rent that accrued during the period in which the owner or manager was out of compliance with the requirement under existing law to provide updated contact information. Provides further that nothing in this bill shall relieve the tenant of any liability for unpaid rent. (CIV 1962)

### AB 2073 (SILVA), CH. 320
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
### COURTS: ELECTRONIC FILING AND SERVICE OF DOCUMENTS

SUMMARY DESCRIPTION OF NEW LAW: Provides that the Superior Court of Orange County may, by local rule and until July 1, 2014, establish a pilot project to require parties to specified civil actions to electronically file and serve documents, subject to specified requirements and conditions. Requires the Judicial Council to conduct an evaluation of the pilot project and report to the Legislature, on or before December 31, 2013, on the results of the evaluation. Requires the Judicial Council, on or before July 1, 2014, to adopt uniform rules to permit the mandatory electronic filing and service of documents for specified civil actions in the trial courts of the state, as specified. (CCP 1010.6)

IMPACT ON COURT: Implementation of mandatory electronic filing has the potential to save courts significant staff time and resources. Courts should be aware of the pilot project and work with the Judicial Council to develop the rules and forms necessary to adopt mandatory electronic filing in civil actions.

### AB 2106 (WAGNER), CH. 83
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**CIVIL PROCEDURE: MOTION TO SET ASIDE AND VACATE A JUDGMENT AND MOTION FOR A NEW TRIAL**

SUMMARY DESCRIPTION OF NEW LAW: Clarifies that a motion for a new trial must be brought after the court's decision is rendered and before entry of judgment. Incorporates the time frame under which a court must rule on a motion for a new trial into the time frame provided for motions to set aside and vacate a judgment. (CCP 659, 663a)

IMPACT ON COURT: Inform judges and courtroom staff. Make any necessary changes to procedural manuals.

### AB 2243 (KNIGHT), CH. 416
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**SPACE FLIGHT: SPACE FLIGHT LIABILITY AND IMMUNITY ACT**

SUMMARY DESCRIPTION OF NEW LAW: Requires a space flight entity, as defined, to collect a signed warning statement, as specified, from each participant in space flight activities, as defined. Requires, in addition to the disclosures required by federal law, the warning statement to, at a minimum, inform the participant that there is limited civil liability for bodily injury sustained as a result of the inherent risks associated with space flight activities. Limits the liability of a space flight entity that complies with these provisions, except as provided. (CIV 2210)

### AB 2272 (WAGNER), CH. 99
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**MOBILE HOMES: INJUNCTIONS**

SUMMARY DESCRIPTION OF NEW LAW: Authorizes, until January 1, 2016, the management of a mobile home park to file a petition for an order to enjoin violations of a reasonable rule or regulation of the park within the limited jurisdiction of the superior court of the county in which the park is located. Adds such actions to the list of injunctive relief actions that may each be brought as a limited civil case. (CIV 798.88; CCP 85)

### AB 2274 (LARA), CH. 417
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**VEXATIOUS LITIGANTS**

SUMMARY DESCRIPTION OF NEW LAW: Extends the vexatious litigant statute to pro per parties who had legal representation at the time of filing.

Provides that a court shall dismiss an action brought by a vexatious litigant when all of the following are true: (1) the court determines, after hearing evidence, that the litigation has no merit and has been filed for the purposes of harassment or delay; (2) the vexatious litigant is subject to a prefiling order; and (3) the vexatious litigant was represented by counsel at the time the litigation was filed and became pro per after his or her attorney withdrew from the case. (CCP 391.1, 391.2, 391.3, 391.6)

IMPACT ON COURT: This bill seeks to close a loophole in the vexatious litigant laws. Judges should be made aware of the changes.

### AB 2364 (WAGNER), CH. 484
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**CIVIL PROCEDURE: ATTACHMENT**

SUMMARY DESCRIPTION OF NEW LAW: Establishes procedures for service of process and execution of levies at a central location designated by a bank and its other branches. Among other things, requires a bank or financial institution that has more than nine branch offices in this state, and authorizes those with less than nine, to designate one or more central locations for service of legal process within the state. Clarifies that when a deposit account or property in a safe deposit box is attached or has been levied upon, if the writ of attachment or levy has been served at the designated central location, the information described in the garnishee's memorandum, which otherwise applies only to property available at the branch where the levy was made, shall instead apply to all offices and branches of the bank, except as provided. Clarifies that if the bank has designated a central location for service, unless the bank elects to treat legal process served at a branch as effective, that legal process so served on the branch will not reach those accounts or property and need not be reported on the garnishee memorandum. Deletes the requirement that a writ of execution received at the designated central location applies to all deposit accounts held by the financial institution regardless of the location of that property. Clarifies that the effects of service of legal process and execution of levies served within California is limited to accounts and safe-deposit boxes

maintained at the bank's branches and offices in this state (and not other states or countries). Increases, from 20 days to 30 days, the time from a judgment creditor's motion of opposition by which a court must hold a hearing to determine a judgment debtor's claim of exemption from levy. (Various Sections)

IMPACT ON COURT: Inform judges and courtroom staff of the new 30-day time frame within which the court must hold a hearing to determine a claim of exemption from levy. Make any necessary changes to procedural manuals.

### AB 2372 (HILL), CH. 125
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
### DEPOSITION TRANSCRIPTS: COSTS

SUMMARY DESCRIPTION OF NEW LAW: Provides that, upon written request of a deposition officer who has obtained a final judgment for payment of deposition services rendered, the attorney or pro per party must provide the deposition officer with an address that can be used to effectuate service for the purpose of collecting a judgment. (CCP 415.10, 708.110)

### AB 2483 (BLUMENFIELD), CH. 102
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
### VICTIMS OF STALKING: ADDRESS CONFIDENTIALITY

SUMMARY DESCRIPTION OF NEW LAW: Makes it permissible rather than mandatory for a victim of stalking to attach specific evidence to an application to participate in the Secretary of State's address confidentiality program. (GOV 6206)

IMPACT ON COURT: By making it easier for victims of stalking to obtain address confidentiality through the Safe at Home program, this bill could increase the number of participants who proceed with confidential name changes, while also reducing the number of requests for court documentation that a person is the victim of stalking. Courts should be aware of the changes and educate staff on the requirements associated with confidential addresses and name changes.

### AB 2492 (BLUMENFIELD), CH. 647
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
### FALSE CLAIMS ACT

SUMMARY DESCRIPTION OF NEW LAW: Amends various provisions of California's False Claim Act to conform to the federal False Claim Act. Among other things, expands the ability of the Attorney General and other government prosecutors to contest dismissal of false claims actions on the basis of public disclosure. Allows current and former government employees to file a false claims action for Medi-Cal fraud without exhausting internal procedures. Authorizes the court to reduce the share of proceeds that a qui tam plaintiff would otherwise receive if the court finds that the action was brought by the person who planned and initiated the underlying violation. Authorizes the court to award attorney's fees to a prevailing defendant in an action brought by a qui tam plaintiff or by the state or political subdivision. Increases anti-retaliation protections for employees, contractors, or agents who pursue false claims actions in a manner consistent with federal law, including reinstatement with the same seniority status, two times the amount of back pay plus interest, and compensation for special damages. Amends the statute of limitations for filing a false claims complaint to conform to the federal statute of limitations and establishes a "relation-back" clause consistent with federal law. (GOV 12650, 12651, 12652, 12653, 12654, 12654.5)

IMPACT ON COURT: Inform judges and research attorneys of procedural and substantive changes applicable to actions under the False Claims Act, new civil penalty amounts for a violation under the act (not less than $5,000 and not more than $10,000), authorized relief for retaliation, and new limitations period and "relation-back" provision.

### AB 2521 (BLUMENFIELD), CH. 560
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
### LANDLORD AND TENANT: PERSONAL PROPERTY REMAINING ON PREMISES AFTER TERMINATION OF TENANCY

SUMMARY DESCRIPTION OF NEW LAW: Specifies that when a written notice of termination of a residential tenancy is required to be given by the owner, lessor, or landlord, as applicable, the notice contain additional specified information about a former tenant's ability to reclaim personal property left by the tenant vacating the

real property. Requires the notice to provide that if the property is claimed within two days of the date the former tenant vacated the premises, that storage costs may be minimized. Provides that the landlord may retain the property for his or her own use or dispose of it in any manner if the landlord reasonably believes that the total resale value of the property not released is less than $700. Authorizes the landlord to also send the notice by e-mail if the former tenant provided the landlord with tenant's e-mail address. (CIV 1946, 1946.1, 1950.5, 1983, 1984, 1985, 1987, 1988, 1990)

### AB 2610 (SKINNER), CH. 562
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**TENANTS: FORECLOSURE AND UNLAWFUL DETAINER**

SUMMARY DESCRIPTION OF NEW LAW: Among other things, revises the requirement of existing law providing 60 days' notice to instead provide, in the case of a month-to-month lease or periodic tenancy, for 90 days' notice for tenants in a foreclosed property. Provides that a tenant holding possession under a residential lease of a rental housing unit at the time the property is sold in foreclosure shall have the right to possession until the end of the lease term. Specifies that, in an action for unlawful detainer resulting from a foreclosure sale of a rental housing unit, Code of Civil Procedure section 415.46 does not limit the right of a tenant to file a prejudgment claim of right of possession at any time before judgment or to object to enforcement of a judgment for possession whether or not the tenant was served with the claim of right to possession. (CIV 2924.8; CCP 415.46, 1161b)

### AB 2684 (COMMITTEE ON JUDICIARY), CH. 758
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**CIVIL ACTIONS: INTERPRETER COSTS: INDIGENT**

SUMMARY DESCRIPTION OF NEW LAW: Provides that court interpreter fees may be recovered when the court has authorized an interpreter for an indigent person represented by a pro bono attorney, as defined. (B&P 6072; CCP 1033.5)

### AB 2690 (COMMITTEE ON JUDICIARY), CH. 759
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**CIVIL LAW: TORT CLAIMS**

SUMMARY DESCRIPTION OF NEW LAW: Declares that provisions of the Tort Claims Act may be referred to as the Government Claims Act and revises various statutory provisions to refer to that title. Makes technical, nonsubstantive changes to these provisions. (CIV 43.99; CCP 1038; ED 89307, 89750.5; GOV 810, 54954.5, 54956.9; PEN 28245)

### SB 825 (CORBETT), CH. 210
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**RESIDENTIAL TENANCIES: FORECLOSURES**

SUMMARY DESCRIPTION OF NEW LAW: Extends, until December 31, 2019, the operation of the provisions requiring that any notice to quit a housing unit served within one year after a foreclosure sale include a separate cover sheet that contains an additional notice to renters that provides the tenant with specified information regarding tenants' rights. (CCP 1161c)

### SB 1186 (STEINBERG AND DUTTON), CH. 383
***EFFECTIVE/OPERATIVE DATE: URGENCY, SEPTEMBER 19, 2012***
**DISABILITY ACCESS**

SUMMARY DESCRIPTION OF NEW LAW: Seeks to promote compliance with the state's disability access laws and deter unwarranted litigation. Among other things, imposes new pleading requirements, expands the early evaluation conference process, creates a new alternative mandatory evaluation conference option, reduces statutory damages, and provides other protections for specified defendants who timely correct construction-related accessibility violations of the Unruh Civil Rights Act.

*See full bill description and impact statement in Appendix E.*

### SB 1191 (SIMITIAN), CH. 566
*EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013*
**LANDLORD-TENANT RELATIONS: DISCLOSURE OF NOTICE OF DEFAULT**

SUMMARY DESCRIPTION OF NEW LAW: Requires, until January 1, 2018, every landlord who offers for rent a single-family dwelling, or a multifamily dwelling not exceeding four units, and who has received a notice of default that has not been rescinded with respect to a mortgage or deed of trust secured by that property to disclose the notice of default in writing to any prospective tenant prior to executing a lease agreement for the property. Provides that a violation of those provisions would allow the tenant to void the lease and entitle the tenant to recovery of one month's rent or twice the amount of actual damages from the landlord, and all prepaid rent, if the tenant voids the lease and vacates the property in addition to any other remedies that are available. Provides that if the tenant elects not to void the lease and the foreclosure sale has not yet occurred, the tenant may deduct a total amount equal to one month's rent from future rent obligations owed the landlord who received the notice of default. Specifies the content of the written disclosure notice and requires the notice to be provided in English and other languages, as specified. Exempts a property manager from liability for failing to provide the written disclosure notice unless the landlord notified the property manager of the notice of default and directed him or her in writing to deliver the written disclosure. (CIV 2924.85)

### SB 1403 (YEE), CH. 516
*EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013*
**DOMESTIC VIOLENCE: PERMANENT RESTRAINING ORDERS AND ELDER ABUSE ORDERS**

SUMMARY DESCRIPTION OF NEW LAW: Expands an existing law that permits tenants who are victims of domestic violence, sexual assault, or stalking to terminate a tenancy to include victims of elder or dependent adult abuse, and adds a protective order to the list of documents that may be used by the tenant as evidence of the underlying abuse. Requires the Judicial Council, on or before January 1, 2014, to develop a new form or revise an existing form that may be used by a party to assert in the responsive pleading the grounds described above as an affirmative defense to an unlawful detainer action. (CIV 1946.7; CCP 1161.3)

### SB 1574 (COMMITTEE ON JUDICIARY), CH. 72
*EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013*
**DISCOVERY: ELECTRONICALLY STORED INFORMATION**

SUMMARY DESCRIPTION OF NEW LAW: Makes several changes to existing civil subpoena and discovery statutes to provide for the discovery of electronically stored information in order to be consistent with and conform to the Electronic Discovery Act of 2009. (Various Sections)

IMPACT ON COURT: Inform judges and research attorneys that these conforming changes include provisions applicable to discovery generally that prohibit the court, absent exceptional circumstances, from imposing sanctions for failure to provide electronically stored information that has been lost, damaged, altered, or overwritten as the result of routine, good faith operation of an electronic information system.

## COURT REPORTERS

### AB 2657 (CALDERON AND CHARLES), CH. 170
*EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013*
**ELECTRONIC COURT REPORTING**

SUMMARY DESCRIPTION OF NEW LAW: Requires all transcripts created from electronic recordings to include the term "inaudible" or "unintelligible" where the recording contains no audible sound or the words spoken are not able to be understood and transcribed. (GOV 69957)

## CRIMINAL LAW AND PROCEDURE

### AB 1559 (PORTANTINO), CH. 691
*EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013*
**FIREARMS**

SUMMARY DESCRIPTION OF NEW LAW: Includes, as of January 1, 2014, handguns in the list of firearms for which one fee shall be charged for a single transaction on the same date for the sale of any number of firearms, including the taking title or possession thereof. (PEN 28240)

Adds importation to the permissible activities for which the Department of Justice is authorized to issue a permit related to short-barreled rifles and short-barreled shotguns. (PEN 33300)

### AB 1824 (HAGMAN), CH. 812
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**BAIL**

SUMMARY DESCRIPTION OF NEW LAW: Authorizes a court to vacate the forfeiture and exonerate a bail bond for a person appearing in court after the 180-day period during which forfeiture is stayed if that person was arrested on the same case in the same county during the 180-day period and has been in continuous custody since the time of that arrest. Authorizes, on showing of good cause and within 20 days from the mailing of notice of entry of judgment, the filing of a motion to vacate the forfeiture and exonerate the bond if the defendant is secured outside the county where the case is filed. Requires written notice to the prosecuting agency at least 10 court days before a hearing on either of these motions. (PEN 1305.6)

IMPACT ON COURT: Would have a moderate impact on the court by requiring updates to procedures related to motions to vacate forfeitures and exonerate bail. These procedure updates would include any necessary changes to courtroom procedures pertaining to required entries in the minutes.

Would impact judicial officers and legal research staff reviewing the motions to understand the difference between motions filed under Penal Code section 1305.5(c)(3), which allows a motion to vacate and exonerate bail if the defendant was arrested out of the county where the case is located, and Penal Code section 1305.6, which allows a motion to vacate and exonerate bail if the defendant was arrested within the county where the case is located, has been in continuous custody, and is brought into court after the 180-day period has expired.

These changes could increase the number of motions to vacate forfeiture and exonerate bail filed in the court as well as corresponding notices to vacate forfeiture issued by the clerk.

### AB 1835 (FLETCHER), CH. 174
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**SEX OFFENDERS**

SUMMARY DESCRIPTION OF NEW LAW: Authorizes access to relevant records pertaining to a registered sex offender by a sex offender management professional certified by the California Sex Offender Management Board who is authorized to administer the State-Authorized Risk Assessment Tool for Sex Offenders (SARATSO) but who is not currently authorized to access that information based on the statute pursuant to which the professional was trained. (PEN 290.07)

### AB 1907 (LOWENTHAL), CH. 814
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**INMATES: PSYCHIATRIC MEDICATION**

SUMMARY DESCRIPTION OF NEW LAW: Modifies existing provisions related to the involuntary administration of psychiatric medication on a nonemergency basis to inmates in state prison and provides that it is the intent of the Legislature that the updated statutory provision terminate and replace the permanent injunction stemming from *Keyhea v. Rushen* (1986) 178 Cal.App.3d 536. (PEN 2602)

Extends the above-described provisions related to the involuntary administration of psychiatric medication on a nonemergency basis to inmates in county jail. (PEN 2603)

### AB 1971 (BUCHANAN), CH. 82
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**THEFT: JUNK, METALS, AND SECONDHAND MATERIALS**

SUMMARY DESCRIPTION OF NEW LAW: Increases the fine for a junk dealer/recycler who accepts nonferrous materials such as cable, copper, lead, mercury, iron, or brass that was procured illegally. (PEN 496a, 594.05)

### AB 2015 (MITCHELL), CH. 816
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**CRIMINAL PROCEDURE: TELEPHONE CALLS: ARRESTED CUSTODIAL PARENTS**

SUMMARY DESCRIPTION OF NEW LAW: Requires an arresting or booking officer, as soon as practicable but, except where physically impossible, no later than three hours after arrest, to inquire about whether the arrested person is a custodial parent with responsibility for a

minor child. Requires the arresting or booking officer to notify the arrested person who is a custodial parent with responsibility for a minor child that he or she may request to and make two additional telephone calls, as specified, for the purpose of arranging for the care of the minor child. Requires the police facility or other place where an arrestee is detained to conspicuously post a sign that includes information about this right and requires that the notices be published in English and any non-English language spoken by a substantial number of the public, as specified. (PEN 851.5)

### AB 2055 (FUENTES), CH. 818
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
### SEARCH WARRANTS: TRACKING DEVICES

SUMMARY DESCRIPTION OF NEW LAW: Allows the issuance of a search warrant to collect information from the use of a tracking device when the information to be received constitutes evidence that may show that either a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code has or is being committed, that a particular person has or is committing the enumerated crimes, or that will assist in locating such an individual. (PEN 1524)

Requires the issuance of a search warrant for an electronic tracking device to meet the specified requirements, including that the search warrant identify the person or property to be tracked as well as the reasonable length of time, not to exceed 30 days from the date the warrant is issued, that the device may be used; and, that the device be installed during the daytime unless the court expressly authorizes installation at a different time. Allows the court, for good cause, to grant one or more extensions, with no extension exceeding 30 days. Specifies other requirements in order for the information collected with the electronic tracking device to be valid evidence of the enumerated crimes. (PEN 1534)

### AB 2078 (NIELSEN), CH. 123
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
### SEXUAL ACTIVITY WITH DETAINED PERSONS

SUMMARY DESCRIPTION OF NEW LAW: Clarifies that the crime of an employee or law enforcement officer engaging in sexual activity with a consenting adult confined in a detention facility includes the period of confinement while transporting a subject who has been arrested but not yet booked. (PEN 289.6)

### AB 2127 (CARTER), CH. 749
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
### WORK RELEASE

SUMMARY DESCRIPTION OF NEW LAW: Allows a sheriff or other official to permit a participant in a work release program to receive work release credit for documented participation in educational programs, vocational programs, substance abuse programs, life skills programs, or parenting programs, and that this participation shall be considered in lieu of performing labor in a work release program, as specified. (PEN 4024.2)

### AB 2212 (BLOCK), CH. 254
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
### HUMAN TRAFFICKING: CIVIL PENALTIES

SUMMARY DESCRIPTION OF NEW LAW: Classifies a building or a place used for the purpose of, or in or upon which are held or occur acts of, human trafficking as a public nuisance. (PEN 11225)

Provides that civil penalties collected through these nuisance provisions be divided evenly between the state's Victim-Witness Assistance Fund and the city or county that brought the action. (PEN 11230)

Provides that costs, including the costs of investigation and discovery, and reasonable attorney's fees, shall be awarded to the prevailing party in cases in which a governmental agency seeks to enjoin the use of a building or place for, or to enjoin acts of, among other things, human trafficking. (CIV 3496)

### AB 2222 (BLOCK), CH. 84
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
### CRIMINAL HISTORY RECORDS

SUMMARY DESCRIPTION OF NEW LAW: Clarifies that a public prosecutor may access information from the public prosecutor's case management database to respond to a request for publicly disclosable information under the California Public Records Act. (PEN 13302)

### AB 2251 (FEUER), CH. 124
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
### VICTIM RESTITUTION: VICTIM'S CONTACT INFORMATION

SUMMARY DESCRIPTION OF NEW LAW: Authorizes a district attorney in cases where a defendant is ordered to pay restitution, on determining that it is in

the victim's best interest, to provide the victim's contact information and the restitution order to the California Department of Corrections and Rehabilitation. Prohibits the district attorney from providing the information if the victim objects, but does not require the district attorney to inform the victim of the right to object. (PEN 1203c)

### AB 2343 (TORRES), CH. 256
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
### CRIMINAL HISTORY INFORMATION

SUMMARY DESCRIPTION OF NEW LAW: Requires agencies that are authorized to receive state or federal summary criminal history information to expeditiously furnish a copy of the information to the person about whom the information relates if the information is the basis for an adverse employment, licensing, or certification decision. Requires the information to be delivered to the last contact information provided by the applicant if not furnished to the applicant in person. (PEN 11105)

Does not authorize the notification of a subsequent disposition pertaining to a disposition that does not result in a conviction, unless the department has previously received notification of the arrest and has previously lawfully notified a receiving entity of the pending status of that arrest. Requires the authorized entity receiving the subsequent arrest or disposition notification to expeditiously furnish a copy of the information to the person to whom the information is related if the information is the basis for an adverse employment, licensing, or certification decision. Requires the information to be delivered to the last contact information provided by the applicant if not furnished to the applicant in person. (PEN 11105.2)

Specifies that this bill is not intended to overrule decisions in *Central Valley Ch. 7th Step Foundation, Inc. v. Younger* (1989) 214 Cal.App.3d 145 or *Gresher v. Deukmejian* (Alameda Superior Court No. 524298-6), or be construed to amend Labor Code section 432.7(a).

### AB 2371 (BUTLER), CH. 403
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
### VETERANS: CRIMINAL DEFENDANTS: MENTAL HEALTH ISSUES AND RESTORATIVE RELIEF

SUMMARY DESCRIPTION OF NEW LAW: Allows the court, upon proper notice to the prosecution and upon finding all of the specified elements, and in taking into consideration additional facts as relevant, to deem all conditions of probation to be satisfied by a veteran defendant who acquired a criminal record due to a mental health disorder stemming from service in the United States military. Allows the court to reduce an eligible felony to a misdemeanor as specified. Allows the court to grant relief in accordance with section 1203.4 of the Penal Code, as specified. Permits, as a result of the dismissal pursuant to section 1203.4, the defendant to not disclose the arrest, the dismissed action, or the conviction that was set aside under oath, affirmation, or otherwise except in response to any direct questions contained in any questionnaire or application for any law enforcement position. Authorizes the court, in its discretion, to order the sealing of the defendant's records. Allows for the conviction that was set aside in the dismissed action to be pleaded and proved as a prior conviction in any subsequent prosecution for any other offense. Allows for a conviction that was set aside in the dismissed action to be considered a conviction for the purpose of administratively revoking or suspending or otherwise limiting the defendant's driving privilege on the ground of two or more convictions. Specifies that the defendant's DNA sample and profile in the DNA data bank shall not be removed by a dismissal, as specified. Excludes certain convictions from eligibility for this procedure. (PEN 1170.9)

IMPACT ON COURT: Would have a moderate impact on judges hearing post-disposition cases with defendants who meet the criteria listed in Penal Code section 1170.9. Requires the court to state its reasons for taking any restorative action in a written order. Restorative action includes the following:

1. Deeming all conditions of probation satisfied, including fines, fees, assessments, and programs (court-ordered victim restitution is *excluded*);
2. Terminating probation prior to the expiration of the probation term;
3. Reducing an eligible felony to a misdemeanor;
4. Granting relief pursuant to Penal Code section 1203.4.

Would require case management system changes to modify the court's order to a change in any fees, fines, assessments, and programs based on a grant of restorative relief. Would require the transmission of updates to DMV and/or DOJ to report the relief granted.

### AB 2466 (BLUMENFIELD), CH. 512
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
### HUMAN TRAFFICKING: SEIZURE OF ASSETS

SUMMARY DESCRIPTION OF NEW LAW: Authorizes a prosecuting agency, at the same time as the filing of a complaint or indictment charging human trafficking, to file a petition for protective relief necessary to preserve property or assets that could be used to pay for remedies relating to human trafficking, as specified. Specifies both the process by which a preliminary injunction, temporary restraining order, or a sale of property or assets may be ordered, and the process for distribution of the assets if the defendant is convicted. (PEN 236.6)

IMPACT ON COURT: Moderate impact. Courts may see an increase in the number of hearings before the court since this bill would require criminal courts to hear matters related to protective orders (i.e., preliminary injunctions, temporary restraining orders, appointment of receivers, and/or sale of property or assets) in conjunction with the hearings on the criminal matter. These hearings could be heard before a conviction is rendered or a sentence is imposed (i.e., ordering a temporary restraining order before a disposition is reached on the criminal action). Since these hearings are generally civil in nature, this may require moderate procedural training for court staff on the requirements related to these types of relief. This bill would require tandem tracking of the criminal case and the petition for protective relief since temporary orders granted on the petition for relief would need to be lifted in the event of a dismissal or acquittal in favor of the defendant or the granting of a stay pending appeal. Distribution of the proceeds from any sale of assets would be changed per statute.

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**NOTE:** AB 2466 authorizes detailed and extensive procedures for the seizure of assets and methods to protect those assets while the criminal case is pending on human trafficking crimes. SB 1133, below, authorizes forfeiture of assets in human trafficking cases where the victim used in a commercial sex act is a minor and there is no pattern of criminal profiteering alleged. There are no conflicting provisions in either bill or with Proposition 35.

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### AB 2467 (HUESO), CH. 513
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
### PROTECTIVE ORDERS: ELECTRONIC MONITORING

SUMMARY DESCRIPTION OF NEW LAW: Authorizes a court issuing a criminal protective order to also order electronic monitoring of the defendant to prevent harm to, or intimidation or dissuasion of, a victim or witness. Requires a court to order the defendant to pay for electronic monitoring if court determines the defendant can pay. Electronic monitoring is only available if the local government, with concurrence of county sheriff or chief probation officer, adopts a policy for electronic monitoring, which makes the local government responsible for the cost of electronic monitoring if the court determines the defendant cannot pay. Provides that an order for electronic monitoring shall have a duration of one year or less, and shall not be in place if a protective order is not in effect (PEN 136.2)

IMPACT ON COURT: This bill is permissive, meaning it will only be applicable when a county government has adopted a policy for electronic monitoring. AB 2467 amends Penal Code section 136.2 to provide for pre- and post-sentence electronic monitoring under paragraph (a)(7)(D), as well as paragraph (*i*)(2), when a criminal protective order has been issued. If implemented, courts may need to modify forms containing conditions of protective orders and may need to work with agencies providing electronic monitoring, rehabilitative programs, and/or contracted providers of electronic monitoring to create protocols.

### AB 2530 (ATKINS), CH. 726
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
### INMATES IN LABOR

SUMMARY DESCRIPTION OF NEW LAW: Prohibits a pregnant inmate, as defined, in labor, in recovery, or after delivery, from being restrained by the use of leg irons, waist chains, or handcuffs behind the body. Prohibits, in these circumstances, restraint by the wrists, ankles, or both, unless deemed necessary for the safety and security of the inmate, the staff, or the public. Requires that restraints shall be removed when a professional who is currently responsible for the medical care of the pregnant inmate, during a medical emergency, labor, delivery, or recovery after delivery, determines that the removal of restraints is medically necessary. (PEN 3407)

Extends these provisions to pregnant inmates in the custody of a juvenile facility. (W&I 222)

Repeals Penal Code section 5007.7 related to transport and restrictions of a pregnant inmate.

Requires that the pregnant inmate be advised, orally or in writing, of the standards and policies governing pregnant inmates, as specified. (PEN 6030)

### SB 9 (YEE), CH. 828
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**SENTENCING**

SUMMARY DESCRIPTION OF NEW LAW: Authorizes a prisoner who was under 18 years of age at the time of an offense for which he or she was sentenced to life without parole, and who has served 15 years of that sentence, to petition the sentencing court for recall and resentencing, with specified exceptions. Sets forth information that must be alleged in the petition and factors for a court to consider in determining whether to recall and resentence, including type of offense, criminal history, codefendants, potential for rehabilitation, mental illness or developmental disabilities that influenced the defendant's involvement in the offense, and other factors. Authorizes the defendant to submit new petitions after having served at least 20 years and again at 24 years if prior petitions are unsuccessful, and allows for a final petition to be submitted and determined during the defendant's 25th year of incarceration. (PEN 1170)

IMPACT ON COURT: There may be a significant increase in the number of petitions filed under this Penal Code section. The authorization to petition the court has been deemed retroactive, so any prisoner fitting the criteria listed will likely petition the court for early release. The original petition is to be filed with the sentencing court, with a copy served on the prosecuting agency. If the required information is not in the petition, or a proof of service is not attached, the court shall return the petition to the defendant, noting the matter cannot be considered without the missing information. Courts will need to create an internal policy of whether the clerk is to review the petition for completeness or if it will be reviewed elsewhere.

### SB 760 (ALQUIST), CH. 790
***EFFECTIVE/OPERATIVE DATE: URGENCY, SEPTEMBER 29, 2012***
**SEXUALLY VIOLENT PREDATORS: EVALUATIONS**

SUMMARY DESCRIPTION OF NEW LAW: Adds to the category of "no longer available to testify for the petitioner in court proceedings" related to the evaluation of a sexually violent predator an independent professional or state employee who has served as the evaluator who subsequently has resigned or retired and has not entered into a new contract to continue as an evaluator in the case unless the evaluation most recently opined that the petitioner does not meet the criteria for commitment. (W&I 6603)

### SB 989 (VARGAS), CH. 129
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**BAIL: EXTRADITION**

SUMMARY DESCRIPTION OF NEW LAW: Authorizes the court, on agreement of the bail agent and prosecuting agency that additional time is needed to return the defendant who is out of state to the jurisdiction of the court, to toll the 180-day period to vacate the forfeiture of a defendant's bond. (PEN 1305)

Requires the moving party to serve written notice on the prosecuting agency 10 days before a hearing to toll the 180-day period. (PEN 1305.4)

IMPACT ON COURT: Inform judges of this additional allowance of time to return the defendant to the court. The total amount of time that could be tolled is not specified. Parties moving to toll the 180-day period under these circumstances must give the prosecuting agency written notice at least 10 court days prior to the hearing.

### SB 1023 (COMMITTEE ON BUDGET AND FISCAL REVIEW), CH. 43
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**PUBLIC SAFETY: REALIGNMENT**

SUMMARY DESCRIPTION OF NEW LAW: SB 1023 makes clarifying and substantive amendments to the Public Safety Realignment Act. Analysis of the bill has been separated into subject areas, with a court impact specified for each.

*See full bill description and impact statement in Appendix D.*

## SB 1091 (PAVLEY), CH. 148
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
### WITNESS TESTIMONY: SUPPORT PERSONS

SUMMARY DESCRIPTION OF NEW LAW: Expands the list of specified crimes for which a prosecuting witness who is an elder or dependent adult may have support persons present to include, among others, human trafficking, prostitution, and child exploitation. (PEN 868.5)

IMPACT ON COURT: Alert judges of the expanded use of "support persons" in cases that involve:

1. Human trafficking.
2. Procuring a person under 18 for the purpose of prostitution.
3. Taking a person against his or her consent or by misrepresentation for the purpose of prostitution.
4. Taking another person against his or her will and compelling him or her to live with another person in an illicit relation against his or her consent.
5. Inducing the commission of a sexual act through false representation creating fear.
6. Pandering.
7. Hiring a panderer.
8. Selling a person for illicit use.
9. Prostituting one's wife.
10. Pimping.
11. The punishment provision of pandering.
12. Providing or transporting a child under the age of 16 for the purpose of a lewd or lascivious act.
13. Abduction of a person under the age of 18 for the purposes of prostitution.
14. Aggravated sexual assault of a child.
15. Bringing child pornography into the state.
16. Bringing obscene matter into or distributing it in the state.
17. Developing, duplicating, printing, or exchanging obscene matter depicting sexual conduct of a person under 18.
18. Using a minor to assist in the distribution of obscene matter.
19. Advertising obscene matter.
20. Engaging in obscene live conduct.
21. Punishment for distributors of obscene matter depicting a person under age 18.
22. Possession or control of matter, representation of information, data, or image depicting sexual conduct of a person under age 18.

## SB 1133 (LENO), CH. 514
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
### HUMAN TRAFFICKING

SUMMARY DESCRIPTION OF NEW LAW: Makes clear that the specified forfeiture proceedings apply to human trafficking involving a commercial sex act where the victim is under the age of 18 at the time of the commission of the crime. (PEN 186.6)

Authorizes, under prescribed circumstances, the forfeiture of vehicles, boats, airplanes, money, negotiable instruments, securities, real property, or other things of value used for the purpose of facilitating human trafficking involving a commercial sex act where the victim is under the age of 18 at the time of the commission of the crime. (PEN 236.7)

Describes specific notice provisions for a forfeiture petition. (PEN 236.8)

Provides a procedure for persons claiming an interest in the property, and excepts certain property from forfeiture if a party who proves a legitimate interest in the property also demonstrates no knowledge of the property's use in furtherance of human trafficking involving a commercial sex act where the victim is under the age of 18 at the time of the commission of the crime. (PEN 236.9)

Provides for *lis pendens* orders to preserve the status quo of the property subject to the forfeiture orders. (PEN 236.10)

Describes the process by which the court may declare property forfeit. (PEN 236.11)

Prescribes the distribution of the assets and the funds received from the sale of the assets. (PEN 236.12)

IMPACT ON COURT: Moderate impact on the courts, especially judges and legal research staff reviewing petitions related to the forfeiture of specified assets, claims against forfeiture of those assets, and any *lis pendens* orders to preserve the status quo of the property, including posting of a surety bond to secure the assets. Courts may see

an increase in the number of hearings related to these matters. Requires the forfeiture hearings to be heard by the same trier of fact as in the criminal trial. Since these petitions may be filed in tandem with the criminal case, courts will have two related cases to keep track of during the adjudication process.

**NOTE:** SB 1133 authorizes forfeiture of assets in human trafficking cases where the victim used in a commercial sex act is a minor and there is no pattern of criminal profiteering being alleged. AB 2466, above, authorizes detailed and extensive procedures for the seizure of assets and methods to protect those assets while the criminal case is pending in human trafficking crimes. There are no conflicting provisions in either bill or with Proposition 35.

### SB 1144 (STRICKLAND), CH. 867
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***

Crimes: public safety omnibus

SUMMARY DESCRIPTION OF NEW LAW: Establishes the fine for the willful failure to pay a final court judgment by an employer who has the ability to pay at $1,000 if the total amount of wages due is $1,000 or less. (LAB 1197.2)

Defines the term "agency" for purposes of determining when a grand juror who is a current employee of, or a former or retired employee last employed within the prior three years by, an agency within the investigative jurisdiction of the civil grand jury must inform the foreperson and court of that fact and recuse him or herself from participating in any grand jury civil investigation of that agency, to mean a department or operational part of a government entity, such as a city of county, as specified. (PEN 916.2)

**NOTE:** This omnibus public safety bill included a variety of non-court-specific public safety measures not detailed here.

### SB 1145 (EMMERSON), CH. 133
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***

**ANIMAL FIGHTING**

SUMMARY DESCRIPTION OF NEW LAW: Increases the fine to $10,000 for causing the exhibition of fighting animals; or for owning, possessing, or training any animal with the intent it be used in fighting; or for possession of a sharp implement designed to be attached in place of the natural spur of a fighting bird. Specifies that a person who is knowingly present at an exhibition of animal fighting is guilty of a misdemeanor punishable by imprisonment in a county jail for up to six months, or by a fine of $5,000, or both. (PEN 597b, 597c, 597i, 597j)

### SB 1177 (LENO), CH. 868
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***

**RESTITUTION FOR CRIME VICTIMS**

SUMMARY DESCRIPTION OF NEW LAW: States that, in cases where an employer is convicted of a crime against an employee, a payment to the employee or the employee's dependent that is made by the employer's workers' compensation insurance carrier shall not be used to offset the amount of the restitution order unless the court finds that the defendant substantially met the obligation to pay premiums for that insurance coverage. (PEN 1202.4, with conforming amendments in LAB 3602 & 3754)

IMPACT ON COURT: By adding paragraph (12) to subdivision (f) of section 1202.4 of the Penal Code, this measure clarifies a situation where a restitution order can be made when an employer has committed a crime against an employee. Judges and judicial officers should be made aware of these changes so that restitution can ordered accurately in accordance with these changes.

This bill is double-jointed to SB 1479 (ch. 873).

### SB 1210 (LIEU), CH. 762
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***

**COLLECTION OF CRIMINAL FINES AND PENALTIES**

SUMMARY DESCRIPTION OF NEW LAW: Allows the court to assess an additional postrelease community supervision revocation restitution fine or mandatory supervision revocation restitution fine in the same amount as that imposed pursuant to subdivision (b) of section 1202.4 of the Penal Code in every case where a person is convicted of a crime and is subject to either

postrelease community supervision under section 3451 of the Penal Code or mandatory supervision under subparagraph (B) of paragraph (5) of subdivision (h) of section 1170 of the Penal Code. (PEN 1202.45)

Extends enforceability by the California Victim Compensation and Government Claims Board of any portion of a restitution fine or restitution fee that remains unsatisfied to a defendant who is no longer on probation, parole, or postrelease community supervision pursuant to section 3451, or mandatory supervision under subparagraph (B) of paragraph (5) of subdivision (h) of section 1170. Allows a local collection program to continue to enforce restitution orders once a defendant is no longer on probation, postrelease community supervision, or mandatory supervision. (PEN 1214)

Authorizes the board of supervisors in the county where a prisoner is punished by imprisonment in a county jail pursuant to subdivision (h) of section 1170, in any case in which that prisoner owes a restitution fine, to deduct a minimum of 20 percent or the balance owing on the fine amount, whichever is less, up to a maximum of 50 percent from the county jail equivalent of wages and transfer that amount to the California Victim Compensation and Government Claims Board for deposit in the Restitution Fund in the State Treasury. Further requires that any amount so deducted shall be credited against the amount owing on the fine. Allows the board of supervisors to designate the county sheriff as the collecting agency. Provides that any victim failing to provide a current address within the period of time specified may provide documentation to the agency designated by the board of supervisors in the county where the prisoner is incarcerated, which in turn may verify that monies were in fact collected on behalf of the victim. (PEN 2085.5)

Adds juvenile restitution fines and orders to those fines and restitutions subject to delinquent enforcement by the Franchise Tax Board. (R&T 19280)

IMPACT ON COURT:

1. Adding postrelease community supervision (PRCS) revocation fines and mandatory supervision revocation fines will require the court to update minute orders and collect/allocate this revenue in the same manner as probation violation revocation fines. None of these fines are subject to penalty assessments. Revenue will continue to be deposited in the restitution fund. Any part of a restitution fine that remains unsatisfied after a defendant is no longer on PRCS or mandatory supervision is enforceable by the California Victim Compensation and Government Claims Board.
2. County officials may now begin collecting victim restitution from persons sentenced under Penal Code section 1170(h) to a term in local jail. Courts may need to coordinate information sharing with the local collector of these orders. The statutes did not specify that the sheriff would be responsible for these collections, so it could be another county agency working in conjunction with the sheriff. Consistent with existing law pertaining to state prison inmates, Penal Code section 2085.5 requires that the sentencing court be provided a record of payments made by the person sentenced to jail under Penal Code section 1170(h) to the crime victim and to the restitution fund.
3. Juvenile Court orders regarding fines, penalties, bail, forfeiture, and victim restitution can now be referred to the Franchise Tax Board for collection. This would require the Juvenile Courts to share certain information with the state Franchise Tax Board.

### SB 1281 (BLAKESLEE), CH. 150
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
### CRIMINAL PROCEDURE: NOT GUILTY BY REASON OF INSANITY

SUMMARY DESCRIPTION OF NEW LAW: Requires the court-appointed psychiatrists' or psychologists' report on the defendant's mental status, when a defendant pleads not guilty by reason of insanity, to include the defendant's substance abuse history, his or her substance use history on the day of the commission of the offense, a review of the police report on the offense, and any other pertinent material to describe facts of the offense. (PEN 1027)

### SB 1371 (ANDERSON), CH. 49
***EFFECTIVE/OPERATIVE DATE: URGENCY, JUNE 28, 2012***
### VICTIM RESTITUTION: FINES: DEFAULT

SUMMARY DESCRIPTION OF NEW LAW: Makes provisions allowing imprisonment until a fine is satisfied inapplicable to restitution fines and restitution orders. (PEN 1205.5)

IMPACT ON COURT: This bill has a moderate impact on courts. The amendments provide that "jail in lieu of fine" provisions do not apply to restitution fines and restitution orders. Inform judges and legal research attorneys of the change. Procedural manuals and sentencing guidelines should be updated accordingly.

In addition, there is a conflicting statute that was not amended by SB 1371. Subdivision (a) of Penal Code 2900.5 provides that time spent in custody may be credited toward any fine, including but not limited to base fines and restitution fines. Courts should proceed cautiously to ensure fairness.

### SB 1462 (LENO), CH. 837
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**COUNTY SHERIFFS: RELEASE OF PRISONERS: MEDICAL RELEASE**

SUMMARY DESCRIPTION OF NEW LAW: Authorizes the sheriff to release a prisoner from a county correctional facility after conferring with a physician who oversees medical care at a county jail if the sheriff determines that the prisoner would not reasonably pose a threat to public safety and the prisoner's prognosis according to the examining physician is a life expectancy of six months or less and the sheriff gives specified notice to the superior court. (GOV 26605.6)

Authorizes the sheriff to request the court to grant medical probation or resentence a prisoner to medical probation in lieu of a county jail sentence if the prisoner is physically incapacitated with a medical condition and unable to perform activities of basic daily living, which has resulted in the prisoner requiring 24-hour care for an incapacitation that did not exist at the time of sentencing or would require acute long-term inpatient rehabilitation services. Authorizes the probation officer or the court to request at any time a medical examination of an offender released on medical parole and to return that person to the sheriff's custody if that person no longer qualifies for release. (GOV 26605.7)

Becomes operative on the county's adoption of a process to fund any nonfederal share of Medi-Cal costs incurred. (GOV 26605.8)

IMPACT ON COURT: Each county must first adopt a process to fund any nonfederal share of Medi-Cal costs that would occur during the time frame the defendant should have been in custody. The court may then see an increase in hearings requesting compassionate release. However, it is not anticipated to have a significant workload impact on the court. In Los Angeles County, it is expected that requests will be made on behalf of 10 individuals.

### SB 1479 (PAVLEY), CH. 873
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**CRIME VICTIMS: RESTITUTION**

SUMMARY DESCRIPTION OF NEW LAW: Specifies that the possession of nonconforming devices or articles involving a recording or audio-visual work intended for sale constitutes actual economic loss to an owner or lawful producer in the form of displaced legitimate wholesale purchases. (PEN 1202.4)

IMPACT ON COURT: Penal Code section 1202.4(r) is amended to specify how restitution should be calculated in cases of stolen or fraudulent recordings. Inform judges of the clarifying changes.

This bill is double-jointed to SB 1177 (Stats. 2012, ch. 868).

### SB 1489 (HARMAN), CH. 283
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**COURTS: MANAGEMENT AND DESTRUCTION OF TRIAL COURT EXHIBITS**

SUMMARY DESCRIPTION OF NEW LAW: Deletes paper exhibits from the definition of "Administrative Record" within the meaning of "Court Records." (GOV 68151)

Permits a court to order the destruction of exhibits in cases where the death penalty was imposed one year after the date of the defendant's death, if by causes other than execution. (PEN 1417.1)

IMPACT ON COURT: Significant impact on courts holding exhibits on cases in which the death penalty was imposed and the defendant is now deceased due to natural causes. Requires an update to procedures related to record retention of these exhibits. Could have a one-time workload increase to review existing cases to determine which cases could have their exhibits destroyed due to the death of the defendant.

### SB 1500 (LIEU), CH. 598
*EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013*
**SEIZED AND ABANDONED ANIMALS: FULL COSTS: FORFEITURES**

SUMMARY DESCRIPTION OF NEW LAW: Requires the owner of an animal that was conveyed to, and is under the care of, a veterinarian by any peace officer, humane society officer, or animal control officer, to pay the full costs of care and treatment, and states that the full cost of such care shall constitute a lien on the animal. States that no animal lawfully seized for abuse or abandonment shall be returned to its owner until the owner can demonstrate to the satisfaction of the seizing agency or hearing officer that the owner can and will provide the necessary care for the animal. Allows, in the case of cats and dogs, the seizing agency or prosecuting attorney to file a petition in a criminal action requesting that, prior to that final disposition, the court issue an order forfeiting the animal to the city, county, or seizing agency, so long as the petitioner meets specified requirements. Allows a person charged, in the event of an acquittal or final discharge without conviction, if the animal is still impounded or has not previously been deemed abandoned, and the court has not ordered that the animal be forfeited, to have the animal released to him or her upon a showing of ownership. Provides parameters by which an animal control officer or humane officer may administer a tranquilizer that contains a controlled substance to protect the health and safety of a wild, stray, or abandoned animal, or the health and safety of others. (PEN 597.1)

Requires that an owner of livestock, who has been enjoined from possession of livestock as a result of a felony conviction, prove by a preponderance of the evidence that the injunction will result in undue economic hardship. Requires that an owner of a domestic animal, who has been enjoined from possession of any domestic animal as a result of a felony conviction, prove by a preponderance of the evidence that he or she does not pose a danger to the domestic animal, has the means to properly care for any domestic animals' well-being, and has completed any court-ordered rehabilitation related to animal care. (PEN 597.9)

IMPACT ON COURT: Courts could see an increase in forfeiture proceedings for cats and dogs before disposition of criminal animal cruelty charges. Advise judges and legal research attorneys hearing forfeiture proceedings of the changes in law related to when animals can be returned to their owners.

# DOMESTIC VIOLENCE

### AB 593 (MA), CH. 803
*EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013*
**DOMESTIC VIOLENCE: BATTERING RECALL AND RESENTENCING**

SUMMARY DESCRIPTION OF NEW LAW: Makes the provisions for a writ of habeas corpus based on intimate partner battering operative indefinitely. Requires a finding that competent and substantial expert testimony relating to intimate partner battering and its effects was not presented to the trier of fact at the trial court proceedings and is of such substance that, had it been presented, there is a reasonable probability, sufficient to undermine confidence in the judgment of conviction or sentence, that the result of the proceedings would have been different. (PEN 1473.5)

### AB 1165 (ACHADJIAN), CH. 628
*EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013*
**DOMESTIC VIOLENCE: PROBATION: TERMS**

SUMMARY DESCRIPTION OF NEW LAW: Makes any act or omission relating to the approval of the batterers' treatment programs a discretionary act. (PEN 1203.097)

### AB 1593 (MA), CH. 809
*EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013*
**PAROLE: INTIMATE PARTNER BATTERING**

SUMMARY DESCRIPTION OF NEW LAW: Requires the Board of Parole Hearings, when reviewing a prisoner's suitability for parole, to give great weight to, rather than simply consider, any information or evidence that at the time of the commission of the crime, the prisoner had experienced intimate partner battering (IPB). Further provides that the board cannot use the prisoner's bringing of such IPB evidence to support a finding that the prisoner lacks insight into his or her role in the crime. (PEN 4801)

### AB 2051 (CAMPOS), CH. 510
*EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013*
**CONTEMPT OF COURT: DOMESTIC VIOLENCE**

SUMMARY DESCRIPTION OF NEW LAW: Authorizes the court to refer a victim of a domestic violence crime to a domestic violence counselor, as defined, before finding the victim in contempt of court for refusing to testify. Provides that any communications between the victim and the counselor remains confidential. (CCP 1219)

Provides that an order terminating an action for sexual assault or domestic violence does not bar further prosecution for that offense if the termination resulted from the complaining witness being found in contempt for refusing to testify within six months of the original dismissal of the action. This provision can be invoked only once in each action. (PEN 1387)

### AB 2094 (BUTLER), CH. 511
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
### DOMESTIC VIOLENCE: PROBATION FEE

SUMMARY DESCRIPTION OF NEW LAW: Increases the minimum payment by a person who is granted probation for a domestic violence crime from $400 to $500. Provides that if the court finds that the defendant lacks the ability to pay, the court must state on the record the reason for reducing or waiving the fee. (PEN 1203.097)

IMPACT ON COURT: Courts should note that: (1) the $400 minimum payment to support domestic violence programs or shelters is going up to $500, and (2) judges and judicial officers will need to state on the record why they are reducing or waiving the fee. Just as important to note is that the distribution of this revenue is NOT changing. Two-thirds of the revenue will be retained by counties to place in a special fund for domestic violence programs; the balance will be transferred to the State Controller once per month for deposit into the Domestic Violence Restraining Order Reimbursement Fund.

Inform court accounting departments, courtroom clerks, and judges of the changes made by the bill. In addition any preprinted forms, minute orders, or other documents should be updated to reflect the new minimum payment. Revenue collection and distribution systems may need to be updated.

### SB 1082 (CORBETT), CH. 270
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
### PROTECTION OF VICTIMS: ADDRESS CONFIDENTIALITY

SUMMARY DESCRIPTION OF NEW LAW: Revises provisions concerning the Secretary of State's (SOS) "Safe at Home" confidential home address program to: (1) require that participants reside in California and authorize the SOS to not renew certification for a participant who no longer resides in California; (2) require applicants for the program to provide information about their minor children and the other parent of the minor children, as well as copies of any court orders pertaining to the minor children, with their application; (3) provide clear authority for a minor to renew his or her certification upon reaching majority; (3) allow (rather than require) the SOS to decline to receive packages on behalf of a participant. (GOV 6205.5, 6206, 6206.5, 6206.7, 6207, 6215.1, 6215.2, 6215.3, 6215.4, 6215.5)

### SB 1248 (ALQUIST), CH. 223
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
### CIVIL PROCEDURE: CONTEMPT

SUMMARY DESCRIPTION OF NEW LAW: Requires the court to refer a victim of a sex crime who is under 16 years of age, who refuses to testify in a court proceeding, and is referred to a probation officer for an assessment of whether imposition of a contempt sanction is appropriate to meet with a victim advocate, unless the court finds that it is not in the best interest of the victim. (CCP 1219.5)

### SB 1433 (ALQUIST), CH. 765
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
### DOMESTIC VIOLENCE: PROTECTIVE ORDERS

SUMMARY DESCRIPTION OF NEW LAW: Modifies existing statutory requirements for firearms relinquishment in cases in which a Domestic Violence Prevention Act (DVPA) protective order has been issued to (1) require courts performing other required criminal history searches on the party to be restrained by the order to also search whether the restrained person has a registered firearm (FAM 6306); (2) require law enforcement officers who serve DVPA orders on a restrained party to request that that person surrender his or her firearm when the order indicates that the party might have a gun; (3) require the restrained party to file a copy of the form filed with the court documenting the surrender of the firearm with the law enforcement agency that served the order (FAM 6389); and (4) require a peace officer serving a DVPA order to take temporary custody of any firearm in plain sight or discovered as a result of a lawful search as necessary to protect the peace officer or other person present (PEN 18250). The requirement to perform the registered firearms check is subject to the same contingency language that applies to the current law requirement to perform criminal history checks on persons to be restrained, and it therefore only applicable if there is funding appropriated in the Budget Act for this task, or in those courts certified by the Judicial Council as having sufficient resources available to perform the searches. (Section 4, ch. 765)

IMPACT ON COURT: If the court is doing CLETS checks, court personnel must also look to see whether the restrained person has a registered firearm.

# FAMILY LAW

### AB 792 ( BONILLA), CH. 851
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**HEALTH-CARE COVERAGE: CALIFORNIA HEALTH BENEFIT EXCHANGE**

SUMMARY DESCRIPTION OF NEW LAW: Requires the court, by January 1, 2014, to provide specified notice to be developed by the California Health Benefit Exchange about the availability of low-cost health insurance via the health-care benefit exchange or no-cost coverage via Medi-Cal to all petitioners and respondents in marital dissolution matters, and to petitioners in adoptions matters. Delayed implementation will allow revision of Judicial Council forms to include required notices by the required date. (FAM 2024.7, 8613.7; H&S 1366.50; INS 10786)

### AB 1217 (FUENTES), CH. 466
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**SURROGACY AGREEMENTS**

SUMMARY DESCRIPTION OF NEW LAW: Sets forth the procedures for executing an assisted reproduction agreement for gestational carriers. Provides that such agreements are presumptively valid. Specifies that parties may file these agreements in court prior to the birth of the child to obtain an order of parentage that becomes effective on the birth of the child. Provides that the surrogacy agreement and related documents be available for inspection only by the parties, their attorneys, and the state Department of Social Services absent an order by the court for good cause allowing third-party access to the records. (FAM 7960, 7962.)

### AB 1337 (ALEJO), CH. 155
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**PARENT AND CHILD RELATIONSHIP**

SUMMARY DESCRIPTION OF NEW LAW: Specifies who shall be served with notice of a parentage proceeding when one parent is deceased and there is no current or pending custody or guardianship matter before the court. Requires notice to the person with custody of the child and relatives within the second degree to the extent they can be located. For parties who cannot be located, authorizes the court to prescribe alternate means of notice, or to dispense with notice in the case of relatives without custody of the child. Requires proof of service prior to the court hearing the parentage action. (FAM 7630)

IMPACT ON COURT: Alert judges to the changes made to Family Code Section 7630.

### AB 1406 (COMMITTEE ON JUDICIARY) CH. 107
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**DISSOLUTION OF MARRIAGE: PROCEEDINGS**

SUMMARY DESCRIPTION OF NEW LAW: Requires that a petitioner or respondent for dissolution, separation, or nullity of marriage serve a copy of the preliminary declaration of disclosure at the time the petition or response is filed, or within 60 days of filing the petition or response unless that time period is extended by written agreement or court order. Also requires that the declarant include the prior two years' tax returns as part of the disclosure. Clarifies recently enacted provisions concerning the role of minors' counsel and the award of attorney fees in family law matters by deleting an obsolete section regarding minors' counsel providing a statement of points and authorities, and modifying the factors a court must consider when determining whether to award attorney's fees in a parentage action to make that statute consistent with the other sections of the Family Code which address the award of attorney's fees. (FAM 2104, 7605, 3151)

IMPACT ON COURT: This bill makes two noncontroversial changes adopted originally in AB 939, Chapter 352 of the Statutes of 2010, which implemented recommendations of the Elkins Family Law Task Force. First, the bill applies the attorney's fees standard to paternity cases. Second, the bill eliminates reference to a minor's counsel statement of issues and contentions, which was inadvertently left unchanged.

### AB 1522 (ATKINS) CH. 718
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**FAMILY LAW: MONETARY AWARDS**

SUMMARY DESCRIPTION OF NEW LAW: Prohibits an order of spousal support to a party who has been convicted of a sexually violent offense (defined to be those offenses found in paragraphs (3), (4), (5), (11), and (18) of subdivision (c) of section 667.5 of the Penal Code) against the other spouse, provided that the petition for dissolution is filed within five years of the conviction and any

time served in prison, on parole, or on probation, and disallows the award of any community property interest in the injured spouse's retirement benefits. Further provides that at the request of the injured spouse, the date of separation for the marriage shall be the date of the incident giving rise to the conviction. Allows for community funds to pay attorney's fees in appropriate cases, but prohibits separate property of the injured spouse from being used to pay the offending spouse's attorney fees. (FAM 4320, 4324.5)

IMPACT ON COURT: With regard to cases involving sexually violent convictions, courts may wish to advise their family law judges and judicial officers of the following requirements contained in newly added Family Code section 4324.5:

1. An award of spousal support to the convicted spouse from the injured spouse is prohibited.
2. Where economic circumstances warrant, the court shall order the attorney's fees and costs incurred by the parties to be paid from the community assets. The injured spouse shall not be required to pay any attorney's fees of the convicted spouse out of the injured spouse's separate property.
3. At the request of the injured spouse, the date of legal separation shall be the date of the incident giving rise to the conviction, or earlier, if the court finds circumstances that justify an earlier date.
4. The injured spouse shall be entitled to 100 percent of the community property interest in the retirement and pension benefits of the injured spouse.

### AB 1674 (MA), CH. 692
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**CHILD CUSTODY: VISITATION**

SUMMARY DESCRIPTION OF NEW LAW: Establishes a statutory framework for the provisions of the Judicial Council's standards for supervised visitation providers. Provides that a court ordering supervised visitation for a case where it has found domestic violence or child abuse or neglect must consider whether to order a professional or nonprofessional provider based on the best interest of the child. Sets some provisions of existing standard 5.20 of the California Standards of Judicial Administration into statute and makes them mandatory but grants the court discretion not to apply those provisions if it so orders or the parties stipulate. Requires professional providers to receive at least 24 hours of training on a wide array of topics and to complete a declaration or Judicial Council form attesting that they meet the requirements for serving as a provider. Will require the Judicial Council to revise the existing standard consistent with the new statutory provisions. (FAM 3200.5)

IMPACT ON COURT: This bill establishes a framework for judges to consider in cases when the court has determined that there is domestic violence, child abuse or neglect, and child visitation is an issue. Courts will maintain the discretion to modify standards if in child's best interest and stipulated by the parties. Additional coordination between judicial officers across subject-matter areas may be required in criminal, juvenile, and family law assignments. Such coordination would require the court to provide enhanced clerical support by making files, documents, reports, and, possibly, multiple case management systems more readily accessible to courtroom staff and court attachés.

Courts that maintain lists of supervision monitors should review the new statute to ensure they are in compliance.

### AB 1727 (SILVA), CH. 77
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**SUPPORT ORDERS: TERMINATION**

SUMMARY DESCRIPTION OF NEW LAW: Sets forth circumstances in which an obligor may seek ex parte relief to terminate the service of an assignment order for support if past due support has been paid in full. These include the death or remarriage of a spouse, the death or emancipation of a child, the absence of a current support order, the improper termination of a stay under specified circumstances, or the inability to deliver payment for six months due to the obligee's failure to notify the Department of Child Support Services a change of address. (FAM 5240)

IMPACT ON COURT: Judges will need to be aware that a support obligor can seek ex parte relief to terminate support if past due support and interest have been paid in full.

### AB 1757 (FLETCHER), CH. 638
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**FAMILY LAW: ADOPTION**

SUMMARY DESCRIPTION OF NEW LAW: Makes several changes to probate guardianship procedures, adoption processes, and adoptive placement considerations. Authorizes the probate court in a guardianship proceeding to

refer any case of possible child abuse or neglect to the child welfare agency for investigation. Allows the court to take any reasonable steps it deems appropriate to protect the child's safety while that investigation is pending, including appointing a temporary guardian or issuing a temporary restraining order. Provides that guardianship proceedings shall be stayed if dependency proceedings are initiated as a result of this investigation. (PROB 1513)

Updates and consolidates adoption venue provisions to make them consistent with current law. (FAM 8609.5) Requires a proceeding to free a child from parental custody and control to be set within 45 days of the filing of the petition and authorizes the court to decide the matter on the pleadings if no objection to the petition is filed. (FAM 7870)

IMPACT ON COURT: Significant impact on adoption proceedings through creation of a 45-day deadline for setting a hearing to emancipate. This could be challenging when the biological parent, from whom petitioner seeks to relinquish parental custody and control, lives out of state, the country, or is otherwise unavailable for service. There is also a significant impact on probate guardianship by authorizing the probate court to refer cases to the child welfare agency and to appoint a temporary guardian or issue a temporary restraining order.

### AB 1807 (COOK), CH. 116
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**FAMILY LAW: CHILD CUSTODY**

SUMMARY DESCRIPTION OF NEW LAW: Current law provides that a modification of a custody order that is required to address the military deployment of a parent is a temporary order, and that there shall be a presumption that custody reverts to the prior order when the deploying parent returns, unless the court finds that reversion is not in the child's best interest. This bill prohibits the court from ordering a child custody evaluation when a deploying party returns from service and seeks a reversion to the prior custody order unless the party opposing reversion to the prior custody order makes a prima facie showing that reversion would not be in the child's best interest. Also provides that the court shall retain jurisdiction over custody even if the child and the non-deploying parent relocate to another state, and provides that the deployment shall not by itself be a basis for terminating its exclusive jurisdiction. States the intent of the Legislature that family courts shall, to the extent feasible within existing resources and court practices, prioritize the calendaring of these cases, avoid unnecessary delay or continuances, and ensure that parties who serve in the military are not penalized for their service by a delay in appropriate access to their children. (FAM 3047)

IMPACT ON COURT: Moderate impact on record retention as the court retains jurisdiction over custody if the child and non-deployed parent relocate to another state. In addition, it requires the family court, where feasible, to prioritize these cases to avoid unnecessary delay or penalty for parties serving in the military.

### AB 2365 (NESTANDE), CH. 258
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**FAMILY LAW: CHILD CUSTODY**

SUMMARY DESCRIPTION OF NEW LAW: Adds either parent's habitual or continual abuse of prescribed controlled substances to the list of factors a court must consider in determining the best interest of a child in a custody proceeding. (FAM 3011) Eliminates the sunset date on the court's authority to order drug or alcohol testing in a child custody matter. (FAM 3041.5)

IMPACT ON COURT: Inform judges that the sunset date allowing them to order drug/alcohol testing in a child custody matter has been eliminated, thereby extending the statute indefinitely. In addition, the court may consider habitual abuse of prescribed medications when determining the best interest of a child.

### AB 2393 (DAVIS), CH. 646
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**FAMILY LAW: CHILD SUPPORT FORMULA**

SUMMARY DESCRIPTION OF NEW LAW: Until January 1, 2018, increases the net disposable income threshold for low-income child support obligors from $1,000 to $1,500 and directs the Judicial Council to calculate an annual adjustment to that amount every March 1 based on change in the California Consumer Price Index. (FAM 4055)

IMPACT ON COURT: Inform judges and family law legal processing staff of the income thresholds and annual adjustment.

### SB 1140 (LENO), CH. 834
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**MARRIAGE**

SUMMARY DESCRIPTION OF NEW LAW: Amends current law specifying who can solemnize a marriage to provide that marriage is a personal relation arising out of a civil and not a religious contract, and that no religious person authorized to solemnize a marriage shall be required to do so in violation of the tenets of his or her faith. (FAM 400)

### SB 1206 (WALTERS), CH. 276
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**CHILD ABDUCTION PREVENTION**

SUMMARY DESCRIPTION OF NEW LAW: Requires that the standard restraining orders in family law matters include a requirement that neither parent apply for a new passport or seek to renew an existing passport for a child without a court order or the written consent of the other parent. (FAM 2040) Authorizes the court, at the time it issues a protective custody warrant for a child who has been abducted by a parent, to also issue an order freezing the California assets of the party alleged to be in possession of the child. Specifies a process to unfreeze assets in appropriate cases. (FAM 3134.5)

IMPACT ON COURT: Inform judges and court staff of the passport and asset freezing provisions. Also, courts should have a procedure in place to secure and maintain confiscated passports (not in the file, in a locked safe, etc).

## FINES, FEES, AND FORFEITURES

### AB 2612 (ACHADJIAN), CH. 377
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**COURTS: WITNESS FEES**

SUMMARY DESCRIPTION OF NEW LAW: Increases the amount that a party must advance to subpoena a public employee, including a trial court employee, to testify in court from $150 to $275 for each day that the employee must be in attendance at the proceeding. (GOV 68097.2(a))

IMPACT ON COURT: Courts will need to increase the amount charged for court employees subpoenaed to testify in court.

## GRAND JURIES

### SB 1357 (CANNELLA), CH. 134
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**REMOVAL FROM OFFICE: GRAND JURY ACCUSATION**

SUMMARY DESCRIPTION OF NEW LAW: Clarifies that the "grand jury" authorized under current law to present an accusation against a public official for willful or corrupt misconduct includes not only the regular civil grand jury, but also a criminal grand jury. Makes a technical change to the law governing the number of jurors who must concur to bring an accusation by specifying that, in a county that requires 23 jurors, an accusation requires the concurrence of 19 jurors. (GOV 3060)

### SB 1474 (HANCOCK), CH. 568
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**GRAND JURY PROCEEDINGS: ATTORNEY GENERAL: POWERS AND DUTIES**

SUMMARY DESCRIPTION OF NEW LAW: Authorizes the Attorney General to impanel a statewide grand jury to hear matters relating to mortgage fraud and abuse across multiple California jurisdictions. Limits the jurisdictions where such grand juries may be impaneled to Fresno, Los Angeles, Sacramento, San Diego, and San Francisco Counties and requires that the Attorney General use an existing regularly impaneled criminal grand jury to serve as the special statewide grand jury so as not to impose additional burdens on the court. Makes clear that the grand jury may indict persons for crimes that occurred in counties other than where the grand jury is impaneled, but charges may only be brought in the appropriate respective county. (PEN 781, 923)

IMPACT ON COURT: Inform *all courts* of the changes made to Penal Code section 923 because the indictments from the "special statewide grand jury" may be filed in any county where the crime(s) occurred. Newly added subdivision (c), paragraphs (1) to (6), outline the initial process of using an existing grand jury in the above named counties, as well as the Attorney General filing indictments within five days of the grand jury's decision in a county where the crime occurred, and the defendant's ability to challenge the use of a special statewide grand jury.

Also, subdivision (d) allows a court to recover costs from the state for impaneling a special statewide grand jury.

# JUVENILE DELINQUENCY

### AB 324 (BUCHANAN), CH. 7
***EFFECTIVE/OPERATIVE DATE: URGENCY, FEBRUARY 29, 2012***
**JUVENILE OFFENDERS: RECALL OF COMMITMENT**

SUMMARY DESCRIPTION OF NEW LAW: Specifies that juvenile offenders who have been adjudicated for an offense requiring registration as a sex offender may be committed to the California Department of Corrections and Rehabilitation's Division of Juvenile Facilities (DJF) even if they have not been adjudicated for an offense listed in Welfare and Institutions Code section 707(b). Addresses *In re C.H.* (2011) 53 Cal.4th 94, wherein the California Supreme Court ruled that current law does not expressly authorize commitment of a juvenile sex offender to the DJF if the offender was not adjudicated for a Welfare and Institutions Code section 707(b) offense. (W&I 731, 733, 1752.16)

### AB 526 (DICKINSON), CH. 850
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**DELINQUENCY AND GANG INTERVENTION AND PREVENTION GRANTS: EVIDENCE-BASED PRINCIPLES AND PRACTICES**

SUMMARY DESCRIPTION OF NEW LAW: Requires the Board of State and Community Corrections to develop funding allocation policies by January 1, 2014, to ensure that gang and youth violence suppression and prevention program funding goes to programs using promising and proven evidence-based principles and practices and promoting regional approaches to maximize the local value of state funds. (PEN 6027)

### AB 2040 (SWANSON), CH. 197
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**PROSTITUTION: HUMAN TRAFFICKING: EXPUNGEMENT**

SUMMARY DESCRIPTION OF NEW LAW: Current law allows a former ward to petition the court to seal his or her delinquency records at or after age 18 if the petitioner has not committed any further misdemeanors or felonies relating to moral turpitude and the court finds that the petitioner has been rehabilitated. This bill allows a petition to seal juvenile records pertaining to prostitution offenses to be granted without showing that the petitioner has had no further convictions or been rehabilitated. The granting of the petition would only result in the sealing of records relating to the prostitution offenses, and this relief would not be available if the offense involved paying or attempting to pay any money to another for the purposes of prostitution. (PEN 1203.47)

IMPACT ON COURT: Courts will need to review/modify current procedure for the sealing of cases to ensure only specific petitions are sealed. District attorneys and probation departments should be made aware of this provision, particularly if they are charged with conducting the investigation and providing a report to the court. There is the potential for an increase in record seal petitions.

### AB 2616 (CARTER), CH. 432
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**SCHOOL DISTRICTS: TRUANCY**

SUMMARY DESCRIPTION OF NEW LAW: Current law authorizes imposition of a fine of $100 on children who are truant four times within one school year; this bill reduces the amount of the fine to $50 and clarifies that the truancy fine on the child is not subject to any penalty assessments. Additionally creates a new option for school districts to work with parents the first time a truancy report is issued, shifts the existing requirement that a written warning be issued for the first truancy to the second truancy, and eliminates the mandate that a pupil found truant for the fourth time in one school year is within the jurisdiction of the juvenile court as a status offender, and instead makes that provision discretionary. (ED 48260, 48264.5)

### SB 1088 (PRICE), CH. 381
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**PUPILS: READMISSION**

SUMMARY DESCRIPTION OF NEW LAW: Prohibits public schools from denying enrollment or readmission to a student solely on the basis that he or she has had contact with the juvenile justice system. (ED 48645.5)

# JUVENILE DEPENDENCY

### AB 1707 (AMMIANO), CH. 848
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**CHILD ABUSE CENTRAL INDEX**

SUMMARY DESCRIPTION OF NEW LAW: Provides that any listing in the Child Abuse Central Index (CACI) as of January 1, 2013, for a person who was a minor at the time of the incident that resulted in the report being entered into the CACI shall be removed from the CACI 10 years after date of that incident if no further listings have been entered for that person. (PEN 11169, 11170)

### AB 1712 (BEALL), CH. 846
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**MINORS AND NONMINOR DEPENDENTS: OUT-OF-HOME PLACEMENT**

SUMMARY DESCRIPTION OF NEW LAW: Contains numerous technical and clarifying amendments to implement the provisions of AB 12 (Beall; Stats. 2010, ch. 559). These include: (1) clarifying that a CASA can serve a nonminor dependent but that a CASA may only access the records of the nonminor with consent (W&I 101, 102, and 107); (2) clarifying that a nonminor delinquent in a foster care placement to accomplish his or her rehabilitative goals cannot be required to complete a mutual agreement to be a nonminor dependent, but remains subject to the jurisdiction and authority of the delinquency court (W&I 303); (3) provides a framework for family reunification services to continue for a nonminor; (4) clarifies that nonminor dependent Indian children may participate in tribal customary adoptions (W&I 366.24); (5) authorizes adult adoption as a permanent plan for nonminor dependents; (8) establishes a framework to transfer the case of a nonminor dependent if he or she has established residency in a new county based upon residency in the county for at least a year (W&I 17.1, 375); (6) expands the definition of relative for purposes of Kin-GAP eligibility; and (7) requires that documents pertaining to a nonminor dependent be kept in a separate file and specifies who may access those documents.

#### REUNIFICATION SERVICES FOR NONMINORS
Allows the court to provide reunification services within existing time limits to the parent of a nonminor dependent if both the nonminor and the parent agree to the services and the court finds that the services are in the nonminor's best interest and there is a substantial probability that the nonminor will be returned home at or before the next review hearing. Provides that a parent of a nonminor dependent who is receiving reunification services remains entitled to counsel until those services end. (W&I 361.6, 727.25)

#### ADULT ADOPTION
Provides the juvenile court with jurisdiction consider a permanent plan of adoption for a nonminor dependent and to enter an adult adoption order for a nonminor dependent otherwise subject to its jurisdiction after it has considered a report filed by the agency supervising the nonminor and has found that the nonminor and the prospective adoptive parent have mutually consented to the adoption and that the adoption is the appropriate permanent plan for the nonminor. If the court enters the adoption order, it shall terminate jurisdiction over the nonminor. Provides that any adoption assistance agreement that the nonminor and the prospective adoptive parent may be eligible for shall be provided to the court at the time it considers this permanent plan. Does not restrict the ability of the nonminor to independently file an adult adoption petition as provided in Family Code section 9300. (W&I 366.31)

#### SEPARATE CASE FILES FOR NONMINORS
Requires the clerk of the court to open a separate case file for a nonminor dependent to which only the following may have access without filing a petition pursuant to Welfare and Institutions Code section 827: court personnel, the nonminor and his or her attorney, the agency supervising the nonminor, the county counsel, the district attorney if the nonminor is a delinquent, and the state Department of Social Services. In addition, allows the parent of the nonminor and the parent's attorney access if he or she is receiving reunification services. (W&I 362.5)

IMPACT ON COURT: Substantial impact, particularly with opening new case files and access to said files. Courts may see a physical increase in volume of case files/case number usage depending on local procedure and whether or not the nonminor dependent is given a completely new case number or a variation of the existing case number. Staff will need to be educated and procedures modified to allow for the limited access given to these new case files since it does not follow Welfare and Institutions Code section 827. Consideration should also be given to case

management systems and possible programming changes as some systems require a petition type and petition filing date to initiate a new case. The same consideration should be given as to the initiating document of the new case file and at what point the new file will be created. Courts can expect an increase in number of nonminor dependent cases transferred to or from their county based on new residency regulations. Adoption procedures may need to be developed or modified to allow for adult adoption at Juvenile Court.

### AB 1751 (PAN), CH. 637
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
### CHILD SUPPORT: ACCESS TO INFORMATION

SUMMARY DESCRIPTION OF NEW LAW: Authorizes county child welfare and probation agencies to access information collected by the California Parent Locator Service in order to identify, locate, and assess noncustodial parents of children who are subject to the jurisdiction of the juvenile court as dependents or delinquents. (FAM 17212, 17505, 17506; W&I 11478.1)

IMPACT ON COURT: The purpose of the changes made to these sections is to allow county child welfare agencies and probation departments to access child support orders. The intent is to expedite juvenile hearings by locating birth parents. On or before July 1, 2013, the state Department of Social Services and the Department of Child Support Services shall issue an all-county letter explaining that county child welfare and probation agencies are entitled to the information described in Family Code sections 17212(c)(9) and 17506(c).

### AB 1856 (AMMIANO), CH. 639
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
### FOSTER CARE SERVICES: CULTURAL COMPETENCY

SUMMARY DESCRIPTION OF NEW LAW: Requires certification training programs for foster care providers to include instruction on cultural competency and sensitivity related to lesbian, gay, bisexual, and transgender youth in out-of-home care. (H&S 1522.41, 1529.2; W&I 16001.9, 16003)

### AB 1909 (AMMIANO), CH. 849
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
### FOSTER CHILDREN: PLACEMENT: SUSPENSION AND EXPULSION: NOTIFICATIONS

SUMMARY DESCRIPTION OF NEW LAW: Requires that counsel for a foster child and a representative of the child welfare agency supervising the child receive notice from the school district of specified disciplinary and special education–related proceedings involving children that they represent or supervise via the means most cost-effective for the local educational agency. (ED 48853.5, 48911, 48915.5, and 48918.1) Requires counsel for dependent children to provide contact information to the foster care educational liaisons for each district serving their clients on an annual basis, provided that a list of the liaisons is available at the California Department of Education website. Allows firms that represent many dependent children to provide one point of contact for educational liaisons. (W&I 317)

### AB 2060 (BONILLA), CH. 176
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
### JUVENILES: EDUCATIONAL DECISIONS

SUMMARY DESCRIPTION OF NEW LAW: Modifies provisions for the appointment of an educational rights holder in dependency and delinquency proceedings when the court has limited the educational decisionmaking rights of a parent or guardian. Provides that if the court limits those rights, it shall first determine whether there is a responsible adult who is a relative, non-relative extended family member, or other adult known to the child and who is willing and able to serve as the child's educational representative before appointing an educational representative or surrogate who is not known to the child. Provides that if an educational rights holder or a surrogate is appointed, that he or she shall meet with the child, investigate the child's educational needs and whether they are being met, and provide feedback to the court at each review hearing by providing information and recommendations to the child's social worker and written recommendations to the court, or by attending the hearing and addressing the court. (W&I 319, 361, 726)

### AB 2209 (HUESO), CH. 144
*EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013*
**JUVENILES: DEPENDENT CHILDREN: PLACEMENT**

SUMMARY DESCRIPTION OF NEW LAW: Provides that a dependent child who is a U.S. citizen shall not be placed with a nonparent in another country without a determination by the court by clear and convincing evidence that such placement is in the child's best interest unless otherwise required by federal treaty or law. Provides that the party seeking such placement carries the burden of proof and lists factors that the court must consider in determining the best interest, including sibling placement; the child's medical, psychological, emotional, social, cultural, and educational needs; and the desires of the child if age 12 or older. (W&I 361.2, 366, 16010.6)

IMPACT ON COURT: There is a possibility that additional findings may need to be made in cases in which a U.S. citizen child is being placed in another country with a nonparent.

### AB 2292 (NIELSEN), CH. 208
*EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013*
**JUVENILES: REUNIFICATION ORDERS**

SUMMARY DESCRIPTION OF NEW LAW: Requires the court, prior to ordering a return of a dependent or delinquent minor to his or her parents' physical custody, to consider the relevant and admissible evidence. (W&I 366.21, 366.22, 366.25, 727.2, 727.3)

### SB 121 (LIU), CH. 571
*EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013*
**PUPILS: FOSTER CHILDREN: SPECIAL EDUCATION**

SUMMARY DESCRIPTION OF NEW LAW: Requires a written statement be provided to a local educational agency (LEA) by a parent, guardian, or educational rights holder if he or she makes a determination that it is in the best interest of a foster pupil to be placed in an educational program other than a program operated by the LEA. Prohibits a licensed children's institution from referring or placing a pupil in a non-public school or requiring a pupil to be identified as having exceptional needs as a condition of admission to the institution. (ED 48853, 56155.7, 56157, 56342.1, 56366.9)

### SB 1048 (LIU), CH. 130
*EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013*
**JUVENILES**

SUMMARY DESCRIPTION OF NEW LAW: Allows the court to exercise its authority to join public agencies or private service providers providing legally mandated services to a child at any time after the filing of a dependency or delinquency petition. Provides explicit authority for the court to exercise its joinder authority for nonminor dependents as well as for delinquent and dependent minors. (W&I 362, 727)

### SB 1064 (DE LEÓN), CH. 845
*EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013*
**CHILD CUSTODY: IMMIGRATION**

SUMMARY DESCRIPTION OF NEW LAW: Provides that immigration status shall not disqualify a relative from receiving custody, being appointed a probate guardian, or having a dependent child placed with him or her. (FAM 3040, PROB 1510 and 1514, and W&I 309, 361.2, 361.3, 366.25) Further provides that immigration status alone shall not constitute unsuitability for custody, guardianship, or placement. Allows an identification card or passport from a foreign country or consulate to be used to perform a criminal background check prior to placing a child with a relative or prospective guardian. (W&I 361.4) Authorizes the dependency court, when determining whether to terminate reunification services, to take into account barriers faced by the parent in accessing court-mandated services, or in maintaining contact with the child where the parents have been detained or deported for immigration violations, and to allow additional time for reunification of the family in the same manner as the court would consider the incarceration or institutionalization of a parent under current law. Authorizes the court to order that the child welfare agency make reasonable efforts to assist parents who have been deported to access services in the country of deportation to comply with their reunification case plan and to accept reports from the child welfare agency in that country as documentation of those services. (W&I 361.5, 366.21, 366.215, 366.22, 388, and 16501.1) Requires the state Department of Social Services to develop guidance and promote best practices for developing relationships with foreign consulates at the outset of a child welfare case involving parents with immigration issues, and for assisting eligible children in applying for special immigrant juvenile status. (W&I 10609.95, 10609.97)

IMPACT ON COURT: This bill has an impact on both family and juvenile case areas. In family cases, the court will need to determine the best approach for performing the check with foreign countries and consulates. In juvenile cases, the court may need to make additional findings and may see an increase in review hearings in cases where parents are on immigration hold.

### SB 1407 (LENO), CH. 657
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**MEDICAL INFORMATION: DISCLOSURE**

SUMMARY DESCRIPTION OF NEW LAW: Prohibits disclosure of mental health records of dependent children who have been removed from their parents custody based upon the parent's authorization for the release of the records unless the court finds that release of the information would not be detrimental to the child and orders that the parent be authorized to sign for their release. States that such court orders do not override the psychotherapist's discretion under current law not to release records to parents when such release would interfere with the treatment relationship with the child or otherwise be detrimental to the child. (CIV 56.106; H&S 123116; W&I 5328.03)

### SB 1425 (NEGRETE MCLEOD), CH. 179
***EFFECTIVE/OPERATIVE DATE: URGENCY, AUGUST 17, 2012***
**JUVENILES: DEPENDENT CHILDREN**

SUMMARY DESCRIPTION OF NEW LAW: Prohibits a court from granting a modification petition under Welfare and Institutions Code section 388 for a parent who was denied reunification services under paragraphs (4), (5), or (6) of Welfare and Institutions Code section 361.5(b) to provide reunification services or alter custody or visitation orders unless the court finds by clear and convincing evidence that such modification is in the best interest of the child. (W&I 388)

IMPACT ON COURT: Minimal impact. Inform judges of the change. Courts should eventually see a decrease in the number of modification petitions filed in which parties seek reunification services under these limited circumstances.

### SB 1521 (LIU), CH. 847
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**CHILD WELFARE SERVICES**

SUMMARY DESCRIPTION OF NEW LAW: Makes changes required for conformity with federal law relating to the provision of services for foster youth to bring state law into compliance with the federal Child Abuse Prevention and Treatment Act of 2010, the Fostering Connections to Success and Increasing Access to Adoptions Act of 2008 and the Child and Family Services Improvement and Innovation Act of 2011. Specifically (1) requires county welfare agencies to request annual consumer credit reports for foster youth 16 and older and to provide these youth with credit counseling; (2) requires the child welfare case plan to take into account the educational stability of the child; (3) provides that reunification services need not be provided to a parent who is a registered sex offender; and (4) allows peer-to-peer mentoring and support groups for parents and caregivers of foster youth. (W&I 361.5, 10618.6, 16206, 16501.1, 16601)

### SB 1568 (DESAULNIER), CH. 578
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**PUPILS: FOSTER CHILDREN: EDUCATIONAL PLACEMENT**

SUMMARY DESCRIPTION OF NEW LAW: Requires a local educational agency to allow a former foster youth to remain enrolled in their school of origin through graduation if the jurisdiction of the court is terminated while the youth is in high school regardless of the residence eligibility of the student. (ED 48853.5)

## LABOR

### AB 2386 (ALLEN). CH. 701
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**EMPLOYMENT AND HOUSING DISCRIMINATION: SEX: BREASTFEEDING**

SUMMARY DESCRIPTION OF NEW LAW: Amends the Fair Employment and Housing Act by expanding the definition of "sex" to include pregnancy, child birth, and breastfeeding, or medical conditions relating to them, among the bases upon which the right to seek, obtain, and hold employment cannot be denied. (GOV 12926)

# PENSION

### AB 197 (BUCHANAN), CH. 297
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**PUBLIC EMPLOYEES' RETIREMENT**

SUMMARY DESCRIPTION OF NEW LAW: Clarifies two provisions in the Public Employees' Pension Reform Act of 2013: (1) to provide that when a local employer is bargaining with employees for the employees to pay more than one-half of the normal cost, that the employer may not impose a contribution rate via impasse that is higher than what is statutorily authorized; and (2) to limit the use of payments for unused vacation and sick time that may be considered part of a current employee's final compensation to that amount that is earned and payable in a 12-month period consistent with the holdings in *Salus v. San Diego County Employees Retirement Association* (2004) 117 Cal.App.4th 734 and *In re Retirement Cases* (2003) 110 Cal.App.4th 426. (GOV 20516, 31461)

IMPACT ON COURT: Inform court staff of the change in calculation of final compensation for retirement purposes for existing personnel. Human Resource departments will need to work with their applicable retirement provider to modify retirement plan provisions to coincide with the changes in the law.

### AB 340 (FURUTANI), CH. 296
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**PUBLIC EMPLOYEES' RETIREMENT**

SUMMARY DESCRIPTION OF NEW LAW: Enacts the Public Employees' Pension Reform Act (PEPRA) of 2013. PEPRA provisions will apply to new employees as defined. (GOV 7522.04) Establishes a new formula for all state and local government employees in plans organized under the County Employees Retirement Law of 1937 or provided by CalPERS. For nonsafety employees, the new plan formula is 2 percent at 62, with a cap on pensionable salary equal to the current social security payroll tax wage base ($110,100 in 2012) for employees participating in social security or 120 percent of that amount for employees who do not participate in social security. (GOV 7522.10 and 7522.20) New employees must also share at least half of the normal cost of the pension plan and will have their final pension calculated based on their highest 36 months of base salary, as defined. (GOV 7522.30) All employees will be subject to pension forfeiture provisions if convicted of a work-related felony. (GOV 7572 and 7522.74) Current employees are required to work toward a goal of equal sharing of the normal costs of their pensions, which can be imposed on local employees beginning in 2018. (GOV 20516, 20516.5, 20683.2, 31631, and 31631.5) The Judges' Retirement Systems (JRS and JRS II) will be exempt from the new formula and the salary cap, but judges who first take office on or after January 1, 2013, will be subject to the requirement of equal sharing of the normal cost of their pensions. (GOV 7522.02) Also imposes a new waiting period of 180 days, with specified exceptions, before retired employees may serve in a position that is part of the system from which they retired. Exceptions include judges taking office or serving in the Assigned Judges Program, as well as a subordinate judicial officer sitting on assignment in a position converted to a judgeship but not yet filled. (GOV 7522.56)

IMPACT ON COURT: Human Resource departments will need to work with their applicable retirement provider to (1) modify retirement plan provisions to coincide with the changes in the law; (2) have in place conforming plans that apply to new employees hired after January 1, 2013; and (3) provide information to employees on the impact, if any, PEPRA will have on them after it goes into effect on January 1, 2013. Personnel policies should be revised to comply with the new restrictions on rehiring retired employees.

# PROBATE

### AB 1569 (ALLEN), CH. 441
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**COMMUNITY MENTAL HEALTH SERVICES: ASSISTED OUTPATIENT TREATMENT**

SUMMARY DESCRIPTION OF NEW LAW: Extends the sunset on Laura's Law, which provides counties with the option to implement court-ordered assisted outpatient treatment programs for certain persons with mental illness, from January 1, 2013, to January 1, 2017. Requires the Department of Health Care Services to conduct an evaluation of all counties implementing any component of Laura's Law and submit a specified report on this evaluation to the Governor and Legislature by July 1, 2015. (W&I 5349.5)

### AB 1624 (GATTO), CH. 235
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**MULTIPLE-PARTY ACCOUNTS**

SUMMARY DESCRIPTION OF NEW LAW: Provides that funds in a multiple-party account belong to each party to the account in proportion to the net contributions of each party, and any right of survivorship to the funds is eliminated with respect to the funds withdrawn to the extent of the withdrawing party's net contribution to the account. Clarifies the ownership interest of parties in withdrawals made in excess of a withdrawing party's net contribution. Provides that, when a withdrawing party uses the funds for the benefit of another party, and that party, or his/her conservator, guardian, or agent, seeks to recover the amount withdrawn in excess of the withdrawing party's contribution, a court can, at its discretion and in the interest of justice, reduce the other party's ownership interest in the amount withdrawn. (PROB 5301, 5303, 5401)

### AB 1670 (LARA), CH. 635
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**ESTATES: ADMINISTRATION**

SUMMARY DESCRIPTION OF NEW LAW: Expands, until January 1, 2016, a court's appointment authority by authorizing the court to appoint an administrator who is nominated by a person who is not a United States resident if the nominator would otherwise be entitled to appointment as an administrator of the decedent's estate. Among other things, requires the court to consider whether the nominee is capable of faithfully executing the duties of the office, taking into account specified factors. Requires the approved nominee to obtain bond, except as specified. Prohibits the appointment of an administrator who is not a California resident. Specifies further that an administrator who ceases to be a California resident would be deemed to have resigned as the administrator. (PROB 8465)

### AB 1683 (HAGMAN), CH. 55
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**REVOCABLE TRUSTS**

SUMMARY DESCRIPTION OF NEW LAW: Among other things, provides that the power of a person other than the settlor (person creating the trust) to revoke a trust applies to all or a portion of the trust contributed by the settlor, regardless of whether the settlor's portion was separate or community property, and regardless of whether the power to revoke is exercisable during the lifetime of the settlor or continues after the settlor's death, or both. Specifies the priority of disposition of trust property when a trust is revoked by either the settlor or the person with power of trust revocation. (PROB 15401, 15410)

IMPACT ON COURT: Inform judges and probate attorneys/examiners of this change in the law.

### AB 1985 (SILVA), CH. 195
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**TRUSTS AND ESTATES: CONSTRUCTION OF INSTRUMENTS**

SUMMARY DESCRIPTION OF NEW LAW: Clarifies further that a beneficiary has the right to a general pecuniary gift equal to the net sale price of the property unreduced by the payoff of any such encumbrance, or the amount of the unpaid encumbrance on the property as well as the property itself. (PROB 21134)

IMPACT ON COURT: Inform judges and probate attorneys/examiners of this change in the law.

### AB 2683 (COMMITTEE ON JUDICIARY), CH. 207
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**PROBATE MATTERS: GUARDIANSHIPS: ESTATES**

SUMMARY DESCRIPTION OF NEW LAW: Conforms creditor notices contained in a notice of hearing on a petition to administer a decedent's estate and the notice of administration of the estate to the statutory estate creditor claim period. Corrects a cross-reference relating to inter-court communications governing guardianship venue. (PROB 2204, 8100, 9052)

## TRAFFIC

### AB 1047 (JEFFRIES), CH. 89
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**VEHICLES: MOTORCYCLE SAFETY**

SUMMARY DESCRIPTION OF NEW LAW: Prohibits state and local law enforcement agencies from setting up motorcycle-only checkpoints. (VEH 2814.1)

### AB 1536 (MILLER), CH. 92
*EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013*
**VEHICLES: ELECTRONIC WIRELESS COMMUNICATIONS: PROHIBITIONS**

SUMMARY DESCRIPTION OF NEW LAW: Amends existing law prohibiting using an electronic wireless communications device to write, send, or read a text-based communication while operating a motor vehicle by allowing such conduct if the electronic wireless communications device is specifically designed to allow voice-operated, hands-free operation to write, send, or read a text-based communication and is used in that manner while driving. (VEH 23123.5)

### AB 1708 (GATTO), CH. 236
*EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013*
**VEHICLES: ELECTRONIC VERIFICATION OF FINANCIAL RESPONSIBILITY AND INSURANCE**

SUMMARY DESCRIPTION OF NEW LAW: Allows a driver to provide proof of car insurance to a peace officer on an electronic mobile device in lieu of a paper copy of the proof of financial responsibility. Prohibits the peace officer from viewing any other content on a mobile electronic device when the device is presented to establish proof of insurance or to provide the vehicle registration. Provides that the owner of the mobile electronic device is liable for any damage to the device when it is presented as proof of insurance. Does not alter the requirement, when providing proof of correction to a court, to provide a written copy of the proof of financial responsibility. (INS 515; VEH 16028)

### AB 1888 (GATTO), CH. 302
*EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013*
**VEHICLES: COMMERCIAL DRIVER'S LICENSES: TRAFFIC VIOLATOR SCHOOL**

SUMMARY DESCRIPTION OF NEW LAW: Allows commercial drivers to attend a course at a licensed traffic violator school for violations that take place when they are exercising Class C or Class M driving privileges and thus avoid having a violation point assessed against their driving record. (VEH 1808.10, 42005)

IMPACT ON COURT: Depending on what information the Department of Motor Vehicles (DMV) needs to implement this bill, it could have a significant impact on courts. Courts will need to change their procedures to separate citations where the defendant has a commercial driver's license but was not operating a commercial vehicle when cited for a moving violation. This may be a difficult process for many courts. The conviction will not be masked from view on the person's driving record; however, no points will be assessed. For courts who report convictions electronically, this may mean reprogramming or adding a notation to denote a commercial driver in a noncommercial vehicle.

Previously, courts have been able to separate citations based on whether the driver held a commercial license or not. Now, courts will need to further separate commercial drivers as to the vehicle being driven at time of citation, and report those violations separately if the driver chooses to attend traffic school.

### AB 2020 (PAN), CH. 196
*EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013*
**VEHICLES: DRIVING UNDER THE INFLUENCE: CHEMICAL TESTS**

SUMMARY DESCRIPTION OF NEW LAW: Removes the option for persons alleged to be driving under the influence of drugs to elect a chemical test of his or her urine for the purpose of determining the level of drug intoxication. Requires blood tests instead, but provides that if a blood test is unavailable, the person is deemed to have given his or her consent to a urine test. Additionally, if the person is lawfully arrested for driving under the influence of a drug or the combined influence of an alcoholic beverage and a drug, limits the person to a choice between a blood or breath test, deleting the option of a urine test, except as required as an additional test. (VEH 23612)

### AB 2188 (LOWENTHAL), CH. 670
*EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013*
**COMMERCIAL MOTOR VEHICLES: COMMERCIAL DRIVER'S LICENSE PROGRAM: FEDERAL COMPLIANCE**

SUMMARY DESCRIPTION OF NEW LAW: Makes various changes to commercial driver's license statutes to bring them into compliance with federal commercial driver's license regulations. Among other things, defines the act of driving a commercial vehicle while using an electronic wireless communication device to write, send, or read a text-based communication as a serious traffic violation, which means it can result in the disqualification of the commercial driving privileges; requires DMV to

impose a suspension, revocation, or disqualification action on any person's commercial driving privilege upon receiving notification of an administrative action or conviction of that person in another U.S. state, Puerto Rico, or Canada for violations; allows DMV to issue a restricted passenger car or motorcycle driver's license to a commercial driver's license (CDL) holder who was not operating a commercial vehicle when arrested for driving under the influence, enabling the CDL holder to drive in limited ways while his CDL is suspended; and exempts from all CDL requirements and sanctions, when operating motor vehicles for military purposes, active duty members of the U.S. armed forces, members of military reserves, National Guard members when on active duty, and active duty personnel of the U.S. Coast Guard. (VEH 2800, 12502, 12517.2, 12804.9, 13353.7, 14606, 15210, 15326, 15250)

### AB 2189 (CEDILLO), CH. 862
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
### VEHICLES: DRIVER'S LICENSES

SUMMARY DESCRIPTION OF NEW LAW: Among other things, specifies that a person whose presence in the United States is authorized by federal law, but who is ineligible for a social security number, is eligible to obtain a driver's license in California if they are otherwise qualified for the license. Specifies that the purpose of the bill is to codify the holding in *Lauderbach v. Zolin* (1995) 35 Cal.App.4th 578. (VEH 12801, 12801.6)

### AB 2552 (TORRES), CH. 753
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2014***
### VEHICLES: DRIVING UNDER THE INFLUENCE: ALCOHOLIC BEVERAGE OR DRUG

SUMMARY DESCRIPTION OF NEW LAW: Recasts statutory provisions relating to driving under the influence of alcohol or drugs or a combination of alcohol and drugs by separating them into three distinct subdivisions: (1) Vehicle Code section 23152(a) makes it unlawful to drive under the influence of alcohol; (2) section 23152(e) makes it unlawful to drive under the influence of drugs; and (3) section 23152(f) makes it unlawful to drive a vehicle under the combined influence of alcohol and drugs. Makes the same changes to Vehicle Code section 23153, relating to driving and concurrently doing any action prohibited by law while under the influence of alcohol, drugs, or a combination of alcohol and drugs. (VEH 23152, 23153)

### SB 1303 (SIMITIAN), CH. 735
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
### VEHICLES: AUTOMATED TRAFFIC ENFORCEMENT SYSTEMS

SUMMARY DESCRIPTION OF NEW LAW: Revises procedures that local jurisdictions must follow when installing and operating automated traffic enforcement systems (red light cameras). Requires signs identifying the presence of an automated traffic enforcement system to be posted within 200 feet of the intersection where the system is operating. Declares the printed representation of computer-generated information, video, or photographic images stored in an automated traffic enforcement system to not be an out-of-court hearsay statement for evidentiary purposes. Requires the government agency operating the system and the manufacturer or supplier of the system to submit annual reports to the Judicial Council of data collected by the system. Sets specific noticing and form requirements for citations issued as a result of an automated traffic enforcement system violation.

*See full bill description and impact statement in Appendix F.*

# APPENDIX A

## AB 278 (ENG), CH. 86/ SB 900 (LENO), CH. 87
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
## MORTGAGES AND DEEDS OF TRUST: FORECLOSURE

SUMMARY DESCRIPTION OF NEW LAW: AB 278 and SB 900 are identical companion measures that enact key provisions of the Homeowner Bill of Rights Act. The bills impose various new obligations on mortgage servicers, including prohibiting dual tracking, mandating a single point of contact, and providing specified notices and procedures governing the handling of loan modification applications. The bills also create new civil penalties that may be brought by public prosecutors, as well as authorize borrowers to bring private rights of action to secure injunctive relief and damages, for specified violations of the bills' requirements.

### PURPOSE
Declares that the purpose of the legislation is to ensure that, as part of the nonjudicial foreclosure process, borrowers are considered for, and have a meaningful opportunity to obtain, available loss mitigation options, such as loan modifications or other alternatives to foreclosure, if any are offered by or through the borrower's mortgage servicer. Provides that nothing in the legislation shall be interpreted to require a particular result of that process.

### SCOPE
Limits the scope of the legislation to only mortgages or deeds of trust that are secured by owner-occupied residential real property containing no more than four dwelling units. Defines "owner-occupied" to mean that the subject property is the principal residence of the borrower and is security for a loan made for personal, family, or household purposes. Also limits the scope of the loss mitigation requirements and other specified activities in the legislation to first lien mortgages.

### NEW OBLIGATIONS ON SERVICERS
Among other things, restricts the practice known as dual tracking by prohibiting the foreclosure process from going forward while a modification application is pending. Mandates a single point of contact responsible for providing accurate account and other information related to available alternatives to foreclosure. Requires mortgage loan servicers to provide notice to borrowers of their right to request copies of specified documents substantiating the right of the loan's owner to foreclose.

### REMEDIES AND ENFORCEMENT
Establishes the following new remedies and enforcement mechanisms:

**Civil penalties:** Authorizes public prosecutors and state licensing bodies to enforce the legislation by seeking civil penalties of up to $7,500 per loan for multiple and repeated recordings of foreclosure documents that have not been reviewed by the signer to substantiate the factual assertions contained in the document.

**Private right of action:** Authorizes a borrower to bring an action for injunctive relief for a material violation if the trustee's deed has not been recorded. Provides that the injunction would remain in place, and any trustee's sale be enjoined, until a court determines that the violation has been corrected and remedied. Specifies that an enjoined entity may move to dissolve an injunction based on a showing that the material violation has been corrected and remedied.

Provides that, after a trustee's deed has been recorded, the mortgage servicer or mortgagee, trustee, beneficiary, or authorized agent shall be liable for actual economic damages resulting from a material violation that is not corrected and remedied prior to the recordation of the trustee's deed. Specifies that if the violation was intentional or reckless, or resulted from willful misconduct by a mortgage servicer, or mortagee, trustee, beneficiary, or authorized agent (MTBA), the court may award the borrower the greater of treble damages or statutory damages of $50,000.

Authorizes the court, in its discretion, to award attorney's fees and costs to a prevailing plaintiff in such actions.

Specifies further that a mortgage servicer or MTBA shall not be liable for a violation that has been corrected and remedied prior to recordation of the trustee's deed.

Provides that a violation by a person licensed by the Department of Corporations (DOC), Department of Financial Institutions (DFI), or Department of Real Estate (DRE) shall be deemed to be a violation of that person's licensing law. Specifies that no violation shall affect the validity of a sale in favor of a bona fide purchaser.

IMPACT ON COURT: Minor operational impact. Inform judges and staff attorneys. The new law could result in additional cases being filed seeking expedited equitable relief, civil penalties, and attorney fees for enforcement as provided for by the legislation.

# APPENDIX B

## AB 1529 (DICKINSON), CH. 470
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
## TRIAL COURTS RESTRUCTURING: BAIL FORFEITURE APPEALS: SMALL CLAIMS WRIT JURISDICTION

SUMMARY DESCRIPTION OF NEW LAW: Implements various recommendations of the California Law Revision Commission concerning trial court restructuring and state responsibility for the courts. Among other things, clarifies which tribunals have jurisdiction to hear writ petitions in small claims cases and bail forfeiture appeals. Deletes various obsolete references to municipal courts, judicial districts, counties, and county entities. (CCP 116.798; Various Sections)

IMPACT ON COURT: Courts should review the following sections to determine the impact on their policies, procedures and processes.

### COURT OFFICERS, RESIGNATION
Government Code section 1750 is amended to provide that officers of the superior court shall properly provide resignations to the presiding judge of the superior court when resigning.

### CRIMINAL, BAIL BONDS
Penal Code section 1305.5 is intended to provide rules to an appeal from an order of the superior court on a motion to vacate a bail forfeiture declared under Penal Code section 1305:

(a) If the amount in controversy exceeds twenty-five thousand dollars ($25,000), the appeal is to the Court of Appeal and shall be treated as an unlimited civil case.

(b) Except as provided in subdivision (c), if the amount in controversy does not exceed twenty-five thousand dollars ($25,000), the appeal is to the appellate division of the superior court and shall be treated as a limited civil case.

(c) If the bail forfeiture was in a felony case, or in a case in which both a felony and a misdemeanor were charged, and the forfeiture occurred at or after the sentencing hearing or after the indictment or the legal commitment by a magistrate, the appeal is to the Court of Appeal and shall be treated as an unlimited civil case.

### FEE COLLECTION, GENERALLY
Government Code sections 68083 and 68083.5 are intended to provide how officers of the superior court shall charge, collect, and deposit fees.

### FINE COLLECTION, CRIMINAL
Business and Professions Code section 762 is amended to eliminate references to municipal courts and instead provides for the distribution of revenues based upon the conviction of either a misdemeanor or felony.

### GENERAL CLEANUP
Numerous Family Code and Government Code sections are modified to reflect trial court unification and trial court funding. These include: FAM 1814, 1820, 1834, 1838, 1850, 3025.5, 3170, 3173, 3188, 6303, 7553, 7556; and GOV 23249, 23332, 23535, 24350, 24351, 24353, 25252.6, 27080.1, 29320, 29370, 29370.1, 29371, 29372, 29373, 29374, 29375, 29376, 29377, 29379, 29603, 31116.

### JURY FEES, CIVIL
Code of Civil Procedure section 631.1 is repealed and section 631.2 is amended to clarify how a county may pay jury fees in civil matters and be reimbursed by a party to the litigation.

### SMALL CLAIMS ADVISORY
Code of Civil Procedure section 116.940 is amended to clarify small claims advisory services in a county.

### SMALL CLAIMS APPEAL JURISDICTION AND FEES
Code of Civil Procedure section 116.798 is added to provide that a petition seeking a writ of review, a writ of mandate, or a writ of prohibition relating to an act of the small claims division, other than a postjudgment enforcement order, may be heard by a judge who is assigned to the appellate division of the superior court. Further, the fee for filing a writ petition in the superior court under these circumstances is the same as the fee for filing a notice of appeal under Code of Civil Procedure section 116.760.

### WITNESS FEES
Evidence Code sections 731, 752, and 754 are amended to clarify when compensation for an expert witness and/or an interpreter shall be charged and whether this charge is a cost to the county, court, or litigants. Family Code section 7553 and 7556 are also amended to clarify payment of fees in family cases. Government Code section 68098 is amended to conform expert witness fees in criminal cases.

### WITNESS FEES, CRIMINAL
Government Code section 68098 is amended to provide that witness fees in criminal cases, other than fees for expert witnesses provided pursuant to Evidence Code section 730, are charges against the same funds as jurors' fees in criminal cases.

# APPENDIX C

## SB 1021 (COMMITTEE ON BUDGET AND FISCAL REVIEW), CH. 41
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
**PUBLIC SAFETY**

SUMMARY DESCRIPTION OF NEW LAW: Enacts the public safety budget trailer bill, including amendments relating to the judicial branch.

### JURY FEE DEPOSITS
Clarifies that each party demanding a jury trial shall deposit $150 in advance jury fees with the clerk or judge. Establishes that these advance jury fees are nonrefundable. (CCP 631, 631.3) (See discussion of AB 1481 in CIVIL, above.)

IMPACT ON COURT: Jury fee deposit language was also addressed in AB 1481 (Stats. 2012, ch. 342).

### TELEPHONIC APPEARANCES
Eliminates the sunset date on the $20 fee related to telephonic appearances that is deposited in the Trial Court Trust Fund. (CCP 376.6; GOV 72011)

IMPACT ON COURT: Simply eliminates sunset. Update any forms that may have included the sunset and code reference for these appearances.

### APPELLATE FILING FEES
In order to offset cuts to the Supreme Court and Courts of Appeal, increases the following filing fees:

- For filing a notice of appeal in a civil case appealed to a Court of appeal from $485 to $605. (GOV 68926(a)(1))
- For filing a petition for a writ within the original civil jurisdiction of the Supreme Court from $420 to $540. (GOV 68926(a)(2))
- For filing a petition for writ within the original civil jurisdiction of a court of appeal from $485 to $605. (GOV 68926(a)(3))
- For a party other than appellant filing its first document in a writ proceeding within the original jurisdiction of the Supreme Court from $325 to $390. (GOV 68926(b)(1))
- For a party other than petitioner filing its first document in a writ proceeding within the original jurisdiction of the Supreme Court from $325 to $390. (GOV 68926(b)(2))
- For a party other than petitioner filing its first document in a writ proceeding within the original jurisdiction of a Court of Appeal from $325 to $390. (GOV 68926(b)(3))
- For filing a petition for review in a civil case in the Supreme Court after a decision in a Court of Appeal from $420 to $540. (GOV 68927(a))
- For a party other than petitioner filing its first document in a civil case in the Supreme Court after a decision in a Court of Appeal from $325 to $390. (GOV 68927(b))

IMPACT ON COURT: Fee increases will need to be programmed into any automated fiscal/revenue systems and added to publicly provided fee schedules.

### COURT FEES IN UNLIMITED CIVIL CASES
Adds a supplemental fee, in addition to any other supplemental fees, of $40 for any first paper in an unlimited civil action, with a July 1, 2015 sunset date. If after the 2013–2014 fiscal year, the amount of the General Fund transfer to the Trial Court Trust Fund is decreased by more than 10 percent from the 2013–2014 fiscal year amount and is not offset by another source, the $40 fee will be decreased proportionately. (GOV 70602.6)

IMPACT ON COURT: Supplemental fee will need to be programmed into any automated fiscal/revenue systems and added to publicly provided fee schedules.

### COMPLEX CASE FEES
Until July 1, 2015, increases the complex case fee from $550 to $1,000, and also increases the cap on complex fees that may be collected from all the defendants, intervenors, respondents, or other adverse parties from $10,000 to $18,000 until July 1, 2015. (GOV 70616.)

IMPACT ON COURT: Fee increase will need to be programmed into any automated fiscal/revenue systems and added to publicly provided fee schedules.

### UNIFORM FEE FOR FILING A MOTION

Increases the uniform fee for filing a motion, application, or any other paper requiring a hearing subsequent to the first paper from $40 to $60 until July 1, 2015 (GOV 70617), including filings under the Probate Code (GOV 70657), and other filings, including, but not limited to, an order to show cause. (GOV 70677)

IMPACT ON COURT: Fee increase will need to be programmed into any automated fiscal/revenue systems and added to publicly provided fee schedules.

### FEE FOR DELIVERY OF A WILL

Establishes a fee of $50 for delivering a will to the clerk of the superior court in which the estate of a decedent may be administered, as required by section 8200 of the Probate Code. (GOV 70626(d); PROB 8200(d))

IMPACT ON COURT: New fee will need to be programmed into automated fiscal/revenue systems and added to publicly provided fee schedules.

### ELIMINATES SUNSETTING FEES

Eliminates the sunset date on supplemental civil first paper filing fees imposed in 2010. (GOV 70602.5)

Eliminates the sunset date on fee increases for summary judgment filings and applications to appear as counsel *pro hac vice*, as well as the renewal fee for appearing *pro hac vice*. (GOV 70617(g))

Eliminates the sunset date on the additional $3 penalty for each parking offense where a penalty, fine, or forfeiture is imposed. (GOV 76000.3)

Eliminates the sunset date for the latest $10 increase to the court operations assessment (formerly referred to as the court security fee) imposed on criminal convictions. (GOV 1465.8)

IMPACT ON COURT: Courts will need to continue collecting and allocating these fees.

### COURT REPORTERS AND TRANSCRIPTIONS

Adds a $30 fee for the reasonable costs of the service of an official court reporter in civil proceedings lasting less than one hour. (Gov. Code, § 68086(a)(1)(A))

Provides that, if a trial court had established transcription fees that were in effect on January 1, 2012, based on an estimate or assumption as to the number of words or folios on a typical transcript page, those transcription fees and the policy or practice for determining them cannot be changed unilaterally. (GOV 69950)

IMPACT ON COURT: Court will need to implement this section, provide for fee collection either in court or in the business office, and allocate funds to the appropriate account.

### STATE TRIAL COURT IMPROVEMENT AND MODERNIZATION FUND

Consolidates the Trial Court Improvement Fund and the Judicial Administration Efficiency and Modernization Fund into a single statewide fund known as the State Trial Court Improvement and Modernization Fund to support statewide trial court projects and initiatives. (GOV 77209(a))

### BUDGET AND THE TRIAL COURTS

Sets forth the Legislature's intent that courts give the highest priority to keeping courtrooms open for civil and criminal proceedings and specifically states the Legislature's intent that, in the allocation of resources by and for trial courts, budget cuts not fall disproportionately on civil cases and that the right to trial by jury be preserved. (GOV 68196(a)(1))

Requires the Judicial Council, when making the preliminary allocation to trial courts, to set aside in the Trial Court Trust Fund 2 percent of the total funds appropriated from the annual Budget Act to be allocated to trial courts by the Judicial Council for unforeseen emergencies, unanticipated expenses for existing programs, or unavoidable shortfalls. Requires unavoidable funding shortfall requests for up to 1.5 percent of these funds to be submitted by the trial courts to the Judicial Council no later than October 1 of each year. By October 31, the Judicial Council shall review and evaluate requests and make funding determinations. By March 15 of each year, the Judicial Council shall distribute any remaining funds to any unavoidable funding shortfall requests that have already been reviewed, evaluated, and approved at a prorated basis. No later than April 15 of each year, the Judicial Council shall report to the Legislature and the Department of Finance all requests and allocations made under this section. (GOV 68502.5(c)(2)(B)–(C))

Adds trial court operations, as defined in section 77003 of the Government Code, to the permissible uses for funds in the Immediate and Critical Needs Account of the State Court Facilities Construction Fund. (GOV 70371.5(a)(4))

Starting June 30, 2014, limits the amounts courts may carry forward from year to year as a fund balance to an amount not to exceed 1 percent of the court's operating budget from the prior fiscal year. (GOV 77203)

### COURT SECURITY

Amends the Superior Court Security Act to reflect obligations and responsibilities of courts, counties, and sheriffs in light of the 2011 realignment of trial court security funding. (GOV 69920–69927.) Among other things, states that a superior court shall not pay for court security except as provided in the act, but a court may, subject to the memorandum of understanding with the sheriff, on behalf of the county (see GOV 69926(b)), pay for court security service delivery or other significant programmatic changes that would not otherwise have been required absent the realignment of superior court security finding enacted in AB 118 (Stats. 2011, ch. 40). (GOV 69923)

IMPACT ON COURT: Court administration may be impacted by GOV 69923. New processes are put into place for negotiations as well as impasse procedures for instances where the parties cannot agree to a level of service.

### CRIMINAL JUSTICE REALIGNMENT DATA

Requires the Administrative Office of the Courts (AOC), beginning January 1, 2013, to collect from trial courts information about the implementation of the 2011 criminal justice realignment legislation. Specifies that this information shall include statistics for each county on the dispositions of felonies at sentencing and petitions to revoke probation, postrelease community supervision, mandatory supervision, and, commencing July 1, 2013, parole. The trial courts must provide this information not less frequently than twice a year. Trial courts may use funds provided to them for the implementation of criminal justice realignment for the purpose of collecting the information and providing it to the AOC. The AOC shall make this data available to the Department of Finance, the Board of State and Community Corrections, and the Joint Legislative Budget Committee on or before September 1, 2013, and annually thereafter. (PEN 13155)

IMPACT ON COURT: Courts will need to ensure they are collecting, or can collect, the information required by the section.

### CDCR CIVIL ADDICT PROGRAM

Welfare and Institutions Code sections 3050, 3051, 3100, and 3100.6 have been amended to provide that after July 1, 2012, no new commitments may be received.

IMPACT ON COURT: Courts may need to update minute orders for felony sentencing documents to eliminate this option when sending a person to the custody of California Department of Corrections and Rehabilitation (CDCR).

Additional information can be found at **www.courts.ca.gov** or **https://serranus.courtinfo.ca.gov**.

# APPENDIX D

## SB 1023 (COMMITTEE ON BUDGET AND FISCAL REVIEW), CH. 43

***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***

**PUBLIC SAFETY: REALIGNMENT**

SUMMARY DESCRIPTION OF NEW LAW: SB 1023 makes clarifying and substantive amendments to the Public Safety Realignment Act. Analysis of the bill has been separated into subject areas with a court impact specified for each.

### REVOCATION PROCEDURES

Applies probation revocation procedures under Penal Code section 1203.2 to the three new categories of supervision for which courts are required to conduct revocation proceedings: (1) mandatory supervision under section 1170(h)(5)(B); (2) postrelease community supervision under section 3455; and (3) beginning July 1, 2013, parole. (PEN 1170, 1203.2, 3455, 3000)

IMPACT ON COURT: Streamlines all revocations of supervision under one code section. However, there will most likely be complicated interpretations of case law and conforming decisions between revocation of probation, mandatory supervision, and postrelease community supervision.

### PAROLE REVOCATION AND TERMINATION

Clarifies that courts are not authorized to terminate parole. Prohibits persons supervised on parole and postrelease community supervision (PRCS) from petitioning courts for early discharge from supervision. Prohibits the filing of petitions under section 1203.2 solely for the purpose of modifying parole, although authorizes courts to modify parole once a petition has been filed. Clarifies that the word "court" as used in section 1203.2 includes revocation hearing officers under Government Code section 71622.5. Preserves the authority of a supervising agency to impose intermediate sanctions, including flash incarceration, on persons supervised on parole and PRCS. (PEN 1203.2)

IMPACT ON COURT: Courts should begin working with their regional parole administrators or supervisors to prepare for the July 1, 2013, hearings that could or will begin to be filed or heard in superior courts.

### MANDATORY SUPERVISION

- Authorizes courts to revoke, modify, or change the conditions of mandatory supervision. (PEN 1203.3)
- Defines "mandatory supervision" as "the portion of a defendant's sentenced term during which he or she is supervised by the county probation officer pursuant to subparagraph (B) of subdivision (h) of section 1170." (PEN 19.9)
- Applies intercounty probation transfer procedures to mandatory supervision. (PEN 1203.9)

IMPACT ON COURT: Clarifying changes; no implementation necessary.

### POSTRELEASE COMMUNITY SUPERVISION (PRCS)

- Authorizes the court to terminate PRCS upon a filing of a petition to revoke. (PEN 3455(a)(2))
- Limits supervising agencies' authority to determine a supervised person's custody status until the first court appearance on the petition. (PEN 3455(c))
- Authorizes the court to impose confinement not to exceed a period of 180 days in the county jail for each custodial sanction. (PEN 3455(d))
- Eliminates the requirement that persons supervised on PRCS be required to enter into a supervision agreement. Requires supervising agencies only to provide supervised persons with notice of supervision and consequences of a violation. (PEN 3452)

IMPACT ON COURT: Changes to these sections primarily reference the Penal Code section 1203.2 revocation process.

### PAROLE

- Vests in the court, on or after July 1, 2013, sole authority to issue warrants for parolees, except that California Department of Corrections and Rehabilitation (CDCR) still will be authorized to issue warrants for certain escapees. (PEN 3000(b)(9)(A))
- Provides that warrants issued by CDCR's Board of Parole Hearings (board) before July 1, 2013, shall remain in full force and effect until the warrant is served or recalled by the board. Provides that all parolees

arrested on a warrant issued by the board shall be subject to a review by the board prior to the department filing a petition with the court to revoke the parole of the petitioner. (PEN 3000(b)(9)(B))

➢ Provides that for certain high-risk parolees found to have committed a parole violation, those parolees must be remanded to the custody of CDCR and the board for future parole consideration. (PEN 3000.08(h)

➢ Assigns parolees subject to a parole violation who have a pending adjudication for a prior violation on July 1, 2013, to the jurisdiction of the board, and any revocation proceedings conducted by the board before July 1, 2013, if reopened on or after July 1, 2013, shall be subject to the jurisdiction of the board. (PEN 3000.08(j))

➢ Authorizes courts to impose electronic monitoring as a condition of parole. (PEN 3004)

IMPACT ON COURT: Changes to these sections primarily reference Penal Code section 1203.2 revocation process.

### PRISON PRIORS AND MULTIPLE SENTENCES

Clarifies that a county jail term under Penal Code section 1170(h) that includes a period of mandatory supervision "shall qualify as a prior county jail term" for the purposes of the one-year enhancement. Clarifies that periods of mandatory supervision, PRCS, and parole are considered "custody" periods for purposes of prison prior enhancements. (PEN 667.5)

Clarifies that all concurrent prison sentences must be served in state prison. (PEN 669)

IMPACT ON COURT: Inform judges of the changes in PEN 667.5.

### NEIGHBORING COUNTY JAILS

Authorizes a board of supervisors to enter into an agreement with another county's board of supervisors to house jail inmates in that neighboring county jail. Eliminates eligibility restrictions limiting neighboring commitment to probationers and misdemeanants until July 1, 2015. (PEN 4115.5)

IMPACT ON COURT: No direct impact on the court. However, if implemented, this could delay production of an in-custody defendant.

### DNA SAMPLES

Expands the category of persons who are required to submit DNA samples to include persons supervised on PRCS and mandatory supervision under Penal Code section 1170(h)(5)(B). (PEN 296.1)

IMPACT ON COURT: This is a conforming change to standardize all types of supervision.

### EARLY RELEASE

Authorizes a county sheriff, with prior authorization from the presiding judge, to accelerate the release of inmates up to 30 days whenever the actual inmate count exceeds bed capacity. (PEN 4024.1)

IMPACT ON COURT: Alert judges to these changes if they become operative in their county.

### CRIMINAL HISTORY INFORMATION

Clarifies that public defenders and defense attorneys of record are entitled to the criminal history information of clients facing parole, mandatory supervision, or PRCS revocation proceedings as otherwise authorized by law. (PEN 11105)

IMPACT ON COURT: This is a conforming change to standardize all types of supervision.

### JUVENILE DELINQUENCY

➢ Ends juvenile parole as of January 1, 2013, instead of July 1, 2014. (PEN 1766)

➢ Lowers the age of jurisdiction for CDCR Division of Juvenile Facilities from age 25 to age 23. (PEN 1771)

Additional information can be found at **www.courts.ca.gov** or **https://serranus.courtinfo.ca.gov**.

# APPENDIX E

## SB 1186 (STEINBERG AND DUTTON), CH. 383
***EFFECTIVE/OPERATIVE DATE: URGENCY, SEPTEMBER 19, 2012***
## DISABILITY ACCESS

SUMMARY DESCRIPTION OF NEW LAW: Seeks to promote compliance with the state's disability access laws and deter unwarranted litigation. Among other things, imposes new pleading requirements, expands the early evaluation conference process, creates a new alternative mandatory evaluation conference option, reduces statutory damages, and provides other protections for specified defendants who timely correct construction-related accessibility violations of the Unruh Civil Rights Act.

### NEW VERIFICATION AND PLEADING REQUIREMENTS

Requires a complaint containing an allegation of a construction-related accessibility claim to be verified and to state facts sufficient to allow a reasonable person to identify the basis of the violation or violations supporting the claim, including all of the following:

- A plain-language explanation of the specific access barrier or barriers the individual encountered, or by which the individual alleges he or she was deterred, with sufficient information about the location of the alleged barrier to enable a reasonable person to identify the access barrier.
- The way in which the barrier denied the individual full and equal use or access, or in which it deterred the individual, on each particular occasion.
- The date or dates of each particular occasion on which the claimant encountered the specific access barrier, or on which he or she was deterred. (CCP 425.50(a))

Specifies that a complaint filed without verification shall be subject to a motion to strike. (CCP 425.50(b)) Makes these new verification and pleading requirements operative on January 1, 2013. (CCP 425.50(d))

### EXPANSION OF EARLY EVALUATION CONFERENCES

Expands the categories of defendants who are eligible to file a request for a court stay and early evaluation conference (EEC) pursuant to SB 1608 (Stats. 2008, ch. 549), as set out below. These new categories are in addition to "qualified defendants" (defined in CIV 55.52(8)) who are currently eligible to make such requests.

**Eligible defendants:** The new groups of defendants who are eligible for the mandatory stay and EEC process include:

(1) Until January 1, 2018, a defendant whose site's new construction or improvement on or after January 1, 2008, and before January 1, 2016, was approved pursuant to the local building permit and inspection process, and the defendant declares with the application that, to the best of the defendant's knowledge, there have been no modifications or alterations completed or commenced since that approval that impacted compliance with construction-related accessibility standards with respect to the plaintiff's claim, and that all violations have been corrected, or will be corrected within 60 days of being served with the complaint. (CIV 55.54(b)(2)(A))

(2) A defendant whose site's new construction or improvement was approved by a local public building department inspector who is a certified access specialist, and the defendant declares with the application that, to the best of the defendant's knowledge, there have been no modifications or alterations completed or commenced since that approval that impacted compliance with construction-related accessibility standards with respect to the plaintiff's claim, and that all violations have been corrected, or will be corrected within 60 days of being served with the complaint. (CIV 55.54(b)(2)(B))

(3) A defendant who is a small business (defined as having 25 or fewer employees and no more than $3.5 million in gross receipts; see section 55.56(f)), and the defendant declares with the application that all violations have been corrected, or will be corrected within 30 days of being served with the complaint. (CIV55.54(b)(2)(C))

**Application requirements:** Provides that an application for an early evaluation conference and stay by a defendant described in (1), above, which may be filed until January 1, 2018, shall include a signed declaration that states all of the following:

- The site's new construction or improvement was approved pursuant to the local building permit and inspection process on or after January 1, 2008, and before January 1, 2016.
- To the best of the defendant's knowledge, there have been no modifications or alterations completed or commenced since that approval that impacted compliance with construction-related accessibility standards with respect to the plaintiff's claim.
- All construction-related violations giving rise to the claim have been corrected, or will be corrected within 60 days of the complaint being served upon the defendant.

Provides that an application for an early evaluation conference and stay by a defendant described in (2), above, shall include a signed declaration that states all of the following:

- The site's new construction or improvement was approved by a local building department inspector who is a certified access specialist.
- To the best of the defendant's knowledge, there have been no modifications or alterations completed or commenced since that approval that impacted compliance with construction-related accessibility standards with respect to the plaintiff's claim.
- All construction-related violations giving rise to the claim have been corrected, or will be corrected within 60 days of the complaint being served upon the defendant.

Provides that an application for an early evaluation conference and stay by a small business defendant, as described in (3), above, shall include:

- A signed declaration that states both of the following:
  - The defendant is a small business that employs 25 or fewer employees and meets the gross receipts eligibility criteria provided in paragraph (2) of subdivision (f) of section 55.56.
  - All construction-related violations giving rise to the claim have been corrected, or will be corrected within 30 days of the complaint being served upon the defendant.
- Both of the following, *which shall be confidential documents filed only with the court and not served upon or available to the plaintiff:*
  - Proof of the defendant's number of employees, as shown by wage report forms filed with the Employment Development Department.
  - Proof of the defendant's average gross receipts for the previous three years, or for the existence of the business if less than three years, as shown by a federal or state tax document.
- Evidence showing correction of all violations within 30 days of the service of the complaint, which evidence was also served upon the plaintiff with the reply, unless the application is filed prior to completion of the corrections. In that event, the evidence shall be provided to the court and served upon the plaintiff within 10 days of the court order setting the EEC. (CIV 55.54(d)(4)) Provides that this provision shall not be construed to extend the 30-day timeline to make the corrections. (CIV 55.54(c)(4)–(6))

**Form of application:** Requires the Judicial Council to prepare and post application forms and instructions that include the new categories of defendants eligible to request early evaluation; conferences (EECs). Until then, provides that such defendants may use the current application forms, modified to include the information described above. (CIV 55.54*(l)*)

**Scheduling of EECs:** Extends the timeline for the court to schedule EECs for all eligible defendants to no later than *70 days* (versus 50 days under current law) from the date of the request. (CIV 55.54(d)(2)) Provides specifically that the court must schedule the EEC "for a date as soon as possible from the date of the order, but in no event later than 70 days after issuance of the order, and in no event earlier than 50 days after the filing of the request." *(Id.)*

**Operative date:** Specifies that the new provisions governing EECs outlined above shall only apply to claims filed on or after the operative date of this act (i.e., September 19, 2012). (CIV 55.54(o))

## NEW MANDATORY EVALUATION CONFERENCES

Authorizes a defendant in a construction-related disability access case who does not qualify for an early evaluation conference pursuant to the above provisions, or who forgoes those provisions, to request a mandatory evaluation conference (MEC), and allows a plaintiff to make that request if the defendant does not do so. (CIV 55.545(a))

**Timing of requests:** Provides that a defendant who has been served with a summons and complaint asserting a construction-related accessibility claim may file an application for an MEC simultaneous with its responsive pleading or other initial appearance in the action. (CIV 55.545(b)) Specifies that a plaintiff may, if the defendant does not make the request with the filing of the responsive pleadings, request an MEC by filing an application within 15 days of the defendant's filing of responsive pleadings. (CIV 55.545(a))

**Form of requests:** Specifies that until the application form for the MEC is developed by the Judicial Council and posted on its website, the defendant may request the calendaring of the MEC in an individually crafted application filed with the defendant's responsive pleadings. (CIV 55.545(b))

**Scheduling of MECs:** Requires the court to issue an order scheduling an MEC "for a date as soon as possible from the date of the request of application, but *in no event later than 180 days after the date of the request or application*, or earlier than 120 days after the filing of the request or application." (CIV 55.545(c); italics added) Provides further that, upon mutual stipulation for an extension of the conference date, the MEC may be extended for up to 30 days. *(Id.)* Allows the court, in its discretion, to schedule or combine the MEC with the case management conference within the time period specified above. (CIV 55.545(k))

**Initiation of MEC process:** Requires the court's notice (scheduling order) of the MEC pursuant to the above provisions to do all of the following:

- Direct the parties, and any other person whose authority is required to negotiate and enter into settlement, to appear in person at the MEC. Appearance by counsel shall not satisfy this requirement. However, the court may allow a party who is unable to attend in person due to his or her disability to participate in the MEC by telephone or other alternative means, or through a representative authorized to settle the case.
- Direct the plaintiff to file with the court and serve on the defendant, at least 30 days before the MEC, a statement that includes the following:
  - An itemized list of specific conditions on the site that are the basis of the claimed violations of construction-related accessibility standards in the plaintiff's complaint.
  - The amount of damages claimed.
  - The amount of attorney's fees and costs incurred to date, if any, that are being claimed.
  - Any demand for settlement of the case in its entirety.
- Direct the defendant to file with the court and serve on the plaintiff, at least 30 days before the date of the mandatory evaluation conference, a statement of the defendant detailing any remedial action or remedial correction plan undertaken, or to be undertaken, by the defendant to correct the alleged violations. (CIV 55.545(c)(1)–(3))

**Purpose of MEC:** States the intent of the Legislature that the purpose of the mandatory evaluation conference shall include, but not be limited to, evaluation of all of the following:

- The current condition of the site and the status of any plan of correction, including whether the defendant has corrected, or is willing to correct, the alleged violations, and the timeline for doing so.
- Whether the case, including any claim for damages or injunctive relief, can be settled in whole or in part.
- Whether the parties should share other information that may facilitate evaluation and resolution of the dispute. (CIV 55.545(e)(1)–(3))

**Individual to conduct MECs:** Follows the EEC model under current law by providing that mandatory evaluation conferences shall be conducted by either a superior court judge or commissioner, or by a court early evaluation conference officer that meets specified training requirements (as provided in subdivision (i) of section 55.54). (CIV 55.545(h)) Provides further that a court may schedule additional conferences. (CIV 55.545(f))

**Confidentiality of MECs:** Provides that all discussions at the MEC are subject to section 1152 of the Evidence Code. (CIV 55.545(e))

**Sanctions:** Provides that a party failing to comply with any court order is subject to court sanction at the court's discretion. (CIV 55.545(d))

**Public prosecutors exemption:** Provides that the provisions governing MECs shall not apply to any action brought by the Attorney General, or any district attorney, city attorney, or county counsel. (CIV 55.545*(l)*)

**Operative date:** Specifies that the provisions governing MECs shall apply only to claims filed on or after January 1, 2013, and shall not affect any complaints filed before that date. (CIV 55.545(m))

## REDUCTION OF STATUTORY DAMAGES

Reduces a defendant's minimum liability for statutory damages in a construction-related accessibility claim against a place of public accommodation from $4,000 to $1,000 for each unintentional offense if the defendant has corrected all construction-related violations that are the basis of the claim within 60 days of being served with the complaint and other specified conditions concerning inspections of the property apply. (CIV 55.56(f)(1))

Reduces a small business defendant's minimum liability from $4,000 to $2,000 for each unintentional offense if the defendant has corrected all construction-related violations that are the basis of the claim within 30 days of being served with the complaint and the defendant meets the specified provisions defining a small business. (CIV 55.56(f)(2))

## DETERMINATION OF LIABILITY FOR MULTIPLE CLAIMS

Requires the court, in assessing liability in any action alleging multiple claims for the same construction-related accessibility violation on different particular occasions, to consider the reasonableness of the plaintiff's conduct in making multiple visits to the site in light of the plaintiff's obligation, if any, to mitigate damages. (CIV 55.56(h); see also uncodified language in section 25(a) of SB 1186).

## JUDICIAL COUNCIL REQUIREMENTS

Requires the Judicial Council to:

- On or before July 1, 2013, update the form that may be used by attorneys to comply with the requirements for the written advisory notice that must accompany any demand letter or complaint sent to or served upon a defendant or potential defendant. (CIV 55.3(c))

- By January 1, 2013, prepare and post on its Internet website instructions and a form for use by specified defendants to file an application for a stay and early evaluation conference, a form for the court's notice of stay and early evaluation conference, and any other forms appropriate to implement the provisions relating to EECs. (CIV 55.54(l)(1)) (Current forms and instructions exist, but they do not provide for the new categories of eligible defendants.)

- Prepare and post on its Internet website instructions and a form for a party to use to file an application for a mandatory evaluation conference and a form for the court's notice of the mandatory evaluation conference. (CIV 55.545(j)(1)) [NOTE: Until the MEC forms are adopted by the Judicial Council, a party and the court may use individually crafted applications and orders that comply with the requirements of that section. *(Id.)*]

IMPACT ON COURT: Advise judges, research attorneys and court staff of the new pleading and verification requirements and the provisions qualifying additional defendants to apply for an EEC, specifying a new time frame for scheduling an EEC, providing for reduced statutory damages, and addressing multiple claim abuse. Also advise of the new MEC process, including time frames and required contents of the court's notice. Note that MECs may be conducted by a commissioner or court evaluation conference officer, or by a judge.

# APPENDIX F

**SB 1303 (SIMITIAN), CH. 735**
***EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2013***
## VEHICLES: AUTOMATED TRAFFIC ENFORCEMENT SYSTEMS

SUMMARY DESCRIPTION OF NEW LAW: Revises procedures that local jurisdictions must follow when installing and operating automated traffic enforcement systems (red light cameras). Requires signs identifying the presence of an automated traffic enforcement system to be posted within 200 feet of the intersection where the system is operating. Declares the printed representation of computer-generated information, video, or photographic images stored in an automated traffic enforcement system to not be an out-of-court hearsay statement for evidentiary purposes. Requires the government agency operating the system and the manufacturer or supplier of the system to submit annual reports to the Judicial Council of data collected by the system. Sets specific noticing and form requirements for citations issued as a result of an automated traffic enforcement system violation.

### AUTOMATED TRAFFIC ENFORCEMENT SYSTEMS—SIGNAGE

Requires local jurisdictions to post signs within 200 feet of intersections equipped with an automated traffic enforcement system. Signs must clearly indicate the system's presence and be visible to traffic approaching from all directions. For systems in place prior to January 1, 2013, requires such signs to be posted no later than January 1, 2014. (VEH 21455.5(a)(1))

### OPERATION OF AUTOMATED TRAFFIC ENFORCEMENT SYSTEMS

Requires the governmental agency operating a red light camera, among other things, (1) to develop uniform guidelines for screening and issuing violations and for processing storage of confidential information, and to ensure compliance with the guidelines no later than January 1, 2014, for systems installed as of January 1, 2013; and (2) prior to installing an automated traffic enforcement system after January 1, 2013, to make and adopt a finding of fact establishing that the system is needed at a specific location for reasons related to safety. (VEH 21455.5(c))

Requires a manufacturer or supplier that operates an automated traffic enforcement system, in cooperation with the governmental agency, to submit an annual report to the Judicial Council that includes, but is not limited to, the following: (1) the number of alleged violations captured by the systems they operate; (2) the number of citations issued by a law enforcement agency based on information collected from the automated traffic enforcement system; (3) the number of violations that involved traveling straight through the intersection, turning right, and turning left; (4) the number and percentage of citations that are dismissed by the court; and (5) the number of traffic collisions at each intersection that occurred prior to and after the installation of the automated traffic enforcement system. (VEH 21455.5(i))

### NOTICING VIOLATIONS

Allows the citing peace officer or qualified employee of a law enforcement agency, in the interest of justice, to recommend to the magistrate or judge that the citation or notice be dismissed. If the magistrate or judge makes a finding that there are grounds for dismissal, the finding shall be entered on the record and the infraction dismissed. (VEH 40518 (b)(1))

Requires a notice to appear to also contain the methods by which the registered owner of the vehicle or the alleged violator may view and discuss with the issuing agency the evidence used to substantiate the violation and the contact information of the issuing agency. Prohibits a manufacturer or supplier of an automated traffic enforcement system or the governmental agency operating the system from altering the notice to appear or any other form approved by the Judicial Council. Provides that if a form is found to be materially altered, the citation may be dismissed. (VEH 40518(b)(2), 40518(d))

### PRINTED REPRESENTATION OF AN AUTOMATED TRAFFIC ENFORCEMENT SYSTEM

Clarifies that the printed representation of computer-generated information, video, or photographic images stored by an automated traffic enforcement system is presumed to be an accurate representation and does not constitute an out-of-court hearsay statement by a declarant under the Evidence Code. (VEH 21455.5(e); EVID 1552(b), 1553(b))

IMPACT ON COURT: No significant impact on the court directly. Allows law enforcement to recommend that a citation be dismissed and the court to dismiss the case based on the recommendation. Provides clarification that the video and pictures are not hearsay statements. This will provide the judges and court staff with specific information to provide to a defendant who disagrees with the photo–red light process.

# APPENDIX G

# NEW AND EXPANDED CRIMES

| BILL NUMBER, EFFECTIVE DATE, AND TITLE | CODE SECTION(S) | SUMMARY DESCRIPTION OF NEW LAW |
|---|---|---|
| **AB 40 (Yamada), CH. 659**<br>***Effective/Operative Date:***<br>January 1, 2013<br>**Elder and dependent adult abuse: reporting** | W&I 15610.67, 15630, 15631 | Expands the requirements for mandated reporters to report physical or financial abuse of an elder or dependent adult in a long-term care facility to require oral and written reporting within 2 to 24 hours of the suspected abuse, depending on whether the suspected abuse results in bodily injury. (W&I 15630(b)) |
| **AB 45 (Hill), CH. 461**<br>***Effective/Operative Date:***<br>January 1, 2013<br>**Charter-party carriers of passengers: alcoholic beverages: open containers** | PUC 5384.1; VEH 40000.20 | Known as the "Passenger Charter-party Carriers' Act," this bill creates new crimes as follows:<br>DRIVER INFORMED OF ALCOHOLIC BEVERAGES—PERSONS UNDER 21<br>If the driver is informed or learns that alcoholic beverages will be served or transported in the passenger compartment and a member of the party is under 21 years of age, the failure by the driver to do any of the following is a misdemeanor:<br>➢ To commence or continue transport without a designee who is 25 years of age or older present, unless the person who is under 21 years of age is accompanied by a parent or guardian.<br>➢ To commence transport without obtaining the designee's signature or initials on a specified form. (PUC 5384.1(b)(4))<br>➢ To commence transport without the designee verifying to the driver that the designee has checked the identifications of all passengers to determine who is under 21 years of age and read the specified statement to each member of the party who is under 21 years of age. (PUC 5384.1(b)(7))<br>➢ To not terminate the trip and return the chartering party to the place of origin if informed by the designee or, if present, a parent or guardian, that a person under 21 years of age is consuming or has consumed alcoholic beverages or if otherwise learning that a person under 21 years of age is consuming or has consumed alcoholic beverages. (PUC 5384.1(e)(1)) |

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| BILL NUMBER, EFFECTIVE DATE, AND TITLE | CODE SECTION(S) | SUMMARY DESCRIPTION OF NEW LAW |
|---|---|---|
| **AB 45 (Hill), CH. 461** *(cont'd)* | | DRIVER INFORMED OF ALCOHOLIC BEVERAGES—NO PERSONS UNDER 21<br>If the driver is informed or learns that alcoholic beverages will be served or transported in the passenger compartment and is informed that no member of the party is under 21 years of age, the failure to do any of the following is a misdemeanor:<br>➢ To take reasonable steps to verify the age of any passenger reasonably believed to be under 21 years of age.<br>➢ To commence transport if a party member is under 21 years of age, unless all alcoholic beverages are removed and locked in the vehicle trunk or other locked compartment.<br>➢ To not terminate the trip and return the chartering party to the place of origin if the driver learns that a person under 21 years of age is consuming or has consumed alcoholic beverages. (PUC 5384.1(e)(2))<br>DRIVER NOT INFORMED OF ALCOHOLIC BEVERAGES<br>If the driver is informed or learns that one or more members of the party are under 21 years of age and is informed that no alcoholic beverages will be served or transported in the passenger compartment, the failure to do any of the following is a misdemeanor:<br>➢ To take reasonable steps to verify that no alcoholic beverages were brought into the vehicle if the driver reasonably believes that alcoholic beverages were brought into the vehicle.<br>➢ To commence or continue transport if the driver learns that alcoholic beverages were brought into the vehicle, unless all alcoholic beverages are removed and locked in the vehicle trunk or other locked compartment. (PUC 5384.1(e)(3))<br>FAILURE BY THE DESIGNEE<br>A failure by the designee to do any of the following is a misdemeanor:<br>➢ To check the identifications of all passengers to determine who is under 21 years of age. |

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| BILL NUMBER, EFFECTIVE DATE, AND TITLE | CODE SECTION(S) | SUMMARY DESCRIPTION OF NEW LAW |
|---|---|---|
| **AB 45 (Hill), CH. 461** *(cont'd)* | | ➢ To read the statement specified in paragraph (7) of subdivision (b) of section 5384.1 of the Public Utilities Code to each passenger in the party who is under 21 years of age.<br><br>➢ To notify the driver of the vehicle if, at any time during the trip, a passenger in the designee's party who is under 21 years of age is consuming or has consumed alcoholic beverages.<br><br>➢ Upon termination of a trip because of the consumption of alcoholic beverages by a person under 21 years of age, to safely return any person under 21 years of age who is a member of the designee's party to his or her home, to take him or her to a location reasonably believed to be safer than his or her home, or to entrust him or her into the care of his or her parent or legal guardian. (PUC 5384.1(f))<br><br>FAILURE OF PARENT OR GUARDIAN TO NOTIFY DRIVER<br>When present, the failure of a parent or guardian to notify the driver when a member of the party who is under 21 years of age and for whom the parent or guardian is responsible is consuming or has consumed alcoholic beverages during the provision of transportation services is guilty of a misdemeanor. (PUC 5384.1(g))<br><br>MULTIPLE VIOLATIONS<br>Provides that a third or subsequent violation of VEH 23225 or VEH 23223 by a driver of any vehicle used to provide transportation services, operating under a valid certificate or permit pursuant to the Passenger Charter-party Carriers' Act (chapter 8 (commencing with § 5351) of division 2 of the Public Utilities Code), is a misdemeanor. (VEH 40000.20) |
| **AB 137 (Portantino), CH. 436**<br><br>***Effective/Operative Date: January 1, 2013***<br><br>**Health-care coverage: mammographies** | INS 10123.81 | Requires individual or group policies of disability insurance or self-insured employee welfare benefit plans to provide coverage for mammographies for screening or diagnostic purposes upon appropriate referrals, including from nurse-midwife practitioners and participating physician assistants, for mammography screening or related diagnostic services. Makes the willful violation of these terms a misdemeanor. |

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| BILL NUMBER, EFFECTIVE DATE, AND TITLE | CODE SECTION(S) | SUMMARY DESCRIPTION OF NEW LAW |
|---|---|---|
| **AB 861 (Hill), CH. 464**<br>***Effective/Operative Date: January 1, 2013***<br>**Public Utilities Act: remedies for violation: gas and electrical corporation executive officer compensation incentives** | PUC 746, 2110, 2111 | In a case in which a penalty has not otherwise been provided, increases the maximum penalty for employees of public utilities who violate any provision of the California Constitution or any ruling of the Public Utilities Commission to $5,000, or imprisonment in a county jail not exceeding one year, or both fine and imprisonment. Increases the maximum penalty for any person or corporation not associated with a public utility found guilty of the aforementioned offenses to a penalty of not less than $500, nor more than $50,000 for each offense. |
| **AB 1162 (Chesbro), CH. 590**<br>***Effective/Operative Date: January 1, 2013***<br>**Wildlife: poaching** | F&G 2016, 12013.3, 12013.5, 12154 | Specifies the punishment for any person who is convicted of any of the following violations involving a trophy deer, elk, antelope, or bighorn sheep shall be a fine of not less than $5,000, nor more than $40,000, and where the violation involved a wild turkey, a fine of not less than $2,000, nor more than $5,000, or imprisonment in the county jail for not more than one year, or both that fine and imprisonment:<br>➢ Section 2001, if the person took an animal outside the established season.<br>➢ Section 2005.<br>➢ Section 257.5 of Title 14 of the California Code of Regulations.<br>➢ Section 4304.<br>➢ Section 4330.<br>➢ Section 1054.2, if the person failed to procure the required license or tag prior to taking a deer, elk, antelope, or bighorn sheep.<br>All revenue from fines imposed pursuant to F&G 12013.3 for deer, elk, antelope, and bighorn sheep violations shall be deposited in the Big Game Management Account established in F&G 3953.<br>Provides that any person convicted of violating the Fish and Game Code while using a signal-emitting device in conjunction with the taking of bear for the purpose of selling or trafficking in bear parts shall be subject to a fine of $10,000 per bear part. All revenue from fines imposed pursuant to this section shall be deposited in the Big Game Management Account. |

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| BILL NUMBER, EFFECTIVE DATE, AND TITLE | CODE SECTION(S) | SUMMARY DESCRIPTION OF NEW LAW |
|---|---|---|
| **AB 1181 (Butler), CH. 662**<br>***Effective/Operative Date: January 1, 2013***<br>**Weights and measures** | B&P 12512 | Makes it a misdemeanor to compute the price per commodity according to a price per unit of measure that is less than the highest applicable price per unit of measure that is represented by the purchaser to the seller, or, where applicable, less than the price per unit that is established by law, in statute, or by regulation. |
| **AB 1225 (Committee on Veterans Affairs), CH. 774**<br>***Effective/Operative Date: January 1, 2013***<br>**Cemeteries: veteran's commemorative property** | H&S 8122 et seq. | Makes the sale of veterans' commemorative property in cemeteries, except in cases where the superior court grants permission, a misdemeanor punishable by a fine not less than $100 or more than $1,000, or by imprisonment in a county jail for not less than 10 days and 6 months, or by both that fine and imprisonment. |
| **AB 1432 (Mitchell), CH. 805**<br>***Effective/Operative Date: January 1, 2013***<br>**Children: notification of death, disappearance** | PEN 273j | Makes the failure by a parent or guardian to notify a public safety agency within 24 hours that a child under age 14 is dead or missing a misdemeanor, punishable by imprisonment in a county jail for not more than one year, or by a fine not exceeding $100, or by both that fine and imprisonment. |
| **AB 1434 (Feuer), CH. 519**<br>***Effective/Operative Date: January 1, 2013***<br>**Child abuse reporting: mandated reporters** | PEN 11165.7 | Adds to the list of mandated reporters under the Child Abuse and Neglect Reporting Act employees and administrators of a public or private postsecondary institution, whose duties bring the administrator or employee into contact with children on a regular basis or who supervise those whose duties bring them into contact with children on a regular basis, as to child abuse or neglect occurring on that institution's premises or at an official activity of, or program conducted by, the institution. |
| **AB 1435 (Dickinson), CH. 520**<br>***Effective/Operative Date: January 1, 2013***<br>**Child abuse reporting: athletic personnel** | PEN 11165.7 | Adds athletic coaches, athletic administrators, and athletic directors employed by any public or private school that maintains any combination of instruction from kindergarten to grade 12 to the list of mandated reporters under the Child Abuse and Neglect Reporting Act. |
| **AB 1436 (Feuer), CH. 497**<br>***Effective/Operative Date: January 1, 2013***<br>**Voter registration** | ELEC 2107, 2170 et seq., 14310, 18001 | Provides that any fraud committed within the newly created conditional voter registration process under Elections Code article 4.5 is a crime punishable by imprisonment in the county jail for up to one year, or a fine up to $25,000, or by both fine and imprisonment. (ELEC 2173(a))<br>In addition to the criminal penalties, a person who commits fraud in the execution of a conditional voter registration shall be subject to a civil fine of an amount up to $25,000. (ELEC 2173(b)) |

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| BILL NUMBER, EFFECTIVE DATE, AND TITLE | CODE SECTION(S) | SUMMARY DESCRIPTION OF NEW LAW |
|---|---|---|
| **AB 1447 (Feuer), CH. 740**<br>***Effective/Operative Date: January 1, 2013***<br>**Automobile sales finance: sellers** | CIV 1795.51, 2983.37; VEH 241, 241.1 | Creates the legal framework for buy-here-pay-here auto dealers, as defined. Prohibits the use of electronic tracking technology to obtain or record the location of the vehicle unless the buyer is expressly made aware of the existence and use of the technology and the buyer's consent is obtained in addition to other limitations. The buy-here-pay-here dealer shall not require the buyer to make payments to the seller in person, exclusive of the down payment. If the buyer tenders timely payment of a deferred down payment, the dealer shall not repossess the vehicle or impose any other charges or penalties on the grounds that the payment was not made in person. A violation of this section is a misdemeanor punishable by a fine not exceeding $1,000. |
| **AB 1527 (Portantino), CH. 700**<br>***Effective/Operative Date: January 1, 2013***<br>**Firearms** | B&P 7574.14, 7582.2; PEN 626.92, 16505, 16520, 16750, 16850, 17295, 26322.5, 26390, 26391, 26400 et seq. | Creates new exemptions and offenses for existing handgun restrictions, including:<br>➢ Exempts authorized security guards from the crime of possessing a firearm in a school zone. (PEN 626.92(c))<br>➢ Exempts authorized honorably retired peace officers from the crime of possessing a firearm in a school zone. (PEN 626.92(d))<br>➢ Authorizes licensed hunters to openly carry an unloaded handgun while training a dog for legally sanctioned hunting. (PEN 26366.5(a))<br>➢ Authorizes persons in compliance with specified provisions to openly carry an unloaded handgun in an airport. (PEN 26390)<br>➢ Makes it a misdemeanor, subject to exemptions, to carry an unloaded firearm in a vehicle in an unincorporated city, punishable by imprisonment in a county jail not exceeding one year, or by a fine not to exceed $1,000, or by both that fine and imprisonment. (PEN 26400(b)) |

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| BILL NUMBER, EFFECTIVE DATE, AND TITLE | CODE SECTION(S) | SUMMARY DESCRIPTION OF NEW LAW |
|---|---|---|
| **AB 1581 (Wieckowski), CH. 633**<br>***Effective/Operative Date: January 1, 2013***<br>**Advertising: business location representations: floral businesses** | B&P 17537.15 | Creates an infraction punishable, exclusively, by a fine not to exceed $250 for a provider or vendor of floral or ornamental products or services to misrepresent the geographic location of its business by listing a local telephone number in any advertisement or listing, unless the advertisement or listing identifies the true physical address, including the city, of the provider's or vendor's business, or by listing a fictitious business name or an assumed business name in any advertisement or listing if both of the following criteria are met:<br>➢ The name of the business misrepresents the provider's or vendor's geographic location; and<br>➢ The advertisement or listing does not identify the true physical address, including the city and state, of the provider's or vendor's business. |
| **AB 1595 (Cook), CH. 165**<br>***Effective/Operative Date: January 1, 2013***<br>**Vehicles: recreational off-highway vehicles** | VEH 500, 38012, 38600–38604 | Defines "recreational off-highway vehicle" (VEH 500) and makes a violation of any of the following an infraction:<br>➢ Includes "recreational off-highway vehicle" among the class of vehicles for which identification is required. (VEH 38012)<br>➢ Requires the operator of a recreational off-highway vehicle to be at least 16 years old or directly supervised by a parent, guardian, or authorized adult. (VEH 38600)<br>➢ Requires the operator and any passenger of a recreational off-highway vehicle to wear a helmet meeting specified requirements. (VEH 38601)<br>➢ Requires the operator and any passenger of a recreational off-highway vehicle to wear a seatbelt and a shoulder belt, or a safety harness when the vehicle is in motion. (VEH 38602)<br>➢ Requires that passengers of any recreational off-highway vehicle utilize a seat designed and provided by the manufacturer for a passenger. (VEH 38603)<br>➢ Makes it a violation to operate a recreational off-highway vehicle with a passenger unless the passenger conforms to proper seating and other safety requirements, as defined. (VEH 38604) |

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| BILL NUMBER, EFFECTIVE DATE, AND TITLE | CODE SECTION(S) | SUMMARY DESCRIPTION OF NEW LAW |
|---|---|---|
| **AB 1713 (Campos), CH. 517**<br>***Effective/Operative Date: January 1, 2013***<br>**Child abuse reporting** | PEN 11165.7, 11166 | For purposes of the Child Abuse and Neglect Reporting Act, this bill expands the definition of a "mandated reporter" to include commercial film, and photographic print and image processors. (PEN 11165.7(a)(43) & 11166(e)) |
| **AB 1817 (Atkins), CH. 521**<br>***Effective/Operative Date: January 1, 2013***<br>**Child abuse reporting** | PEN 11165.7, 11166, 11172 | This bill adds commercial computer technicians as mandated child abuse and neglect reporters in Penal Code section 11165.7(a)(43). This would include an "image" processor, and expressly include any person "who prepares, publishes, produces, develops, duplicates, or prints any representation of information, data, or an image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disk, computer hardware, computer software, computer floppy disk, data storage medium, CD-ROM, computer-generated equipment, or computer-generated image..." |
| **AB 1854 (Brownley), CH. 97**<br>***Effective/Operative Date: January 1, 2013***<br>**Vehicles: inflatable restraint systems** | VEH 27317 | Redefines the misdemeanor of tampering with a vehicle's computer system or supplemental inflatable restraint system (airbag) for compensation, punishable by a fine of up to $5,000 or by imprisonment in a county jail for up to one year, or both the fine and imprisonment. |
| **AB 1950 (Davis), CH. 569**<br>***Effective/Operative Date: January 1, 2013***<br>**Prohibited business practices: enforcement** | B&P 10085.6, 10130; CIV 2944.7; PEN 802 | ➢ Extends indefinitely criminal penalties for a licensee who is a natural person or corporation to require advance payment, collateral, or power of attorney from a borrower until after the licensee has fully performed on the borrower's loan modification contract. (B&P 10085.6)<br>➢ Makes it unlawful for a person to engage in the act of mortgage brokerage within the state without having obtained a real estate license endorsement. (B&P 10130)<br>➢ Makes conforming changes in the Civil Code. (CIV 2944.7)<br>➢ Establishes the tolling date for violations as within three years after discovery of the commission of the offense, or within three years after the completion of the offense, whichever is later. (PEN 802) |

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| BILL NUMBER, EFFECTIVE DATE, AND TITLE | CODE SECTION(S) | SUMMARY DESCRIPTION OF NEW LAW |
|---|---|---|
| **AB 2029 (Ammiano), CH. 747**<br>***Effective/Operative Date: January 1, 2013***<br>**Bail Fugitive Recovery Persons Act** | PEN 1299 et seq. | Provides that failure to comply with the regulations for bail fugitive recovery persons is a misdemeanor punishable by a fine of $5,000 or by imprisonment in a county jail not to exceed one year, or by both that imprisonment and fine. (PEN 1299.11) |
| **AB 2247 (Lowenthal), CH. 750**<br>***Effective/Operative Date: January 1, 2013***<br>**Public transportation: offenses** | PEN 640; PUC 99580 | ➢ Adds peddling of any goods, merchandise, property or services" to the list of prohibited activities in list of offenses punishable as an infraction. (PEN 640)<br>➢ Makes conforming changes to Public Utilities Code. (PUC 99580) |
| **AB 2378 (Huber), CH. 303**<br>***Effective/Operative Date: January 1, 2013***<br>**Rendering: enforcement** | F&A 19306, 19440, 19447; VEH 2462, 2468, 2478 | ➢ Expands the time period for which written records must be maintained from one to two years, a violation of which is a misdemeanor. (F&A 19306)<br>➢ Increases the fine for a violation of this section, from not more than $1,000, to not more than $5,000, unless the violation is committed with the intent to defraud, in which case the fine shall not exceed $15,000. (F&A 19440)<br>➢ Increases the ceiling for a possible civil penalty from $1,000 to $5,000, and directs the procedure for entering judgment in favor of the department. (F&A 19447)<br>➢ Expands the time period for which written records related to the transporter of inedible kitchen grease must be maintained from one to two years. (VEH 2462)<br>➢ Makes violation of the above provision a misdemeanor. (VEH 2468)<br>➢ Increases the fine for a violation of this section, from not more than $1,000, to not more than $5,000, unless the violation is committed with the intent to defraud, in which case the fine shall not exceed $15,000. (VEH 2478) |
| **AB 2489 (Hall), CH. 702**<br>***Effective/Operative Date: January 1, 2013***<br>**Vehicles: license plates: obstruction or alteration** | PEN 19.8; VEH 4464, 5201, 5201.1 | Expands current law by making it illegal operate a vehicle with a license place obscured by visual means or by an electronic device. (VEH 5201(b)) Clarifies that a person shall not erase the reflective coating of, paint over the reflective coating of, or alter a license plate to avoid visual or electronic capture of the license plate or its characters by state or local law enforcement. (VEH 5201.1(c)) |

The summaries provided in this report should not be used to circumvent reading the actual statue added or amended by the California Legislature and approved by the Governor.

| BILL NUMBER, EFFECTIVE DATE, AND TITLE | CODE SECTION(S) | SUMMARY DESCRIPTION OF NEW LAW |
|---|---|---|
| **AB 2660 (Solorio), CH. 171**<br>***Effective/Operative Date: January 1, 2013***<br>**Vehicles: peace officer vehicles: window tinting or glazing** | VEH 26708.7 | Exempts law enforcement vehicles from laws prohibiting window tinting on the side or rear windows. |
| **SB 661 (Lieu), CH. 354**<br>***Effective/Operative Date: January 1, 2013***<br>**Crime: picketing** | PEN 594.37 | Provides that picketing targeted at a funeral from one hour prior to the funeral to one hour after the conclusion of the funeral, except on private property, is punishable by a fine not exceeding $1,000, imprisonment in a county jail not exceeding six months, or both that fine and imprisonment. |
| **SB 1006 (Committee on Budget and Fiscal Review), CH. 32**<br>***Effective/Operative Date: January 1, 2013***<br>**Fees and penalty assessments** | GOV 76104.7 | Increases the DNA penalty from $3 for every $10 of base fine to $4 for every $10 of base fine. These funds shall be deposited into the county treasury DNA Identification Fund, but 100% of these funds shall be transferred to the State Controller at the same time that moneys are transferred pursuant to section 76104.6(b)(2), for deposit into the state's DNA Identification Fund. These funds shall be used to fund the operations of the Department of Justice's forensic laboratories, including the operation of the DNA Fingerprint, Unsolved Crime and Innocence Protection Act, and to facilitate compliance with the requirements of Penal Code section 299.5(e). |
| **SB 1221 (Lieu), CH. 595**<br>***Effective/Operative Date: January 1, 2013***<br>**Mammals: use of dogs to pursue bears and bobcats** | F&G 3032, 3960, 3960.2, 3960.4, 3960.6, 4756 | Violations of any of the following new provisions of the Fish and Game Code is a misdemeanor. This bill:<br>➢ Establishes "hound tag program" requirements for the use of dogs to pursue mammals. (F&G 3032)<br>➢ Makes it unlawful to use dogs to pursue any bear or bobcat at any time. (F&G 3960)<br>➢ Establishes specified exceptions for the use of dogs to pursue bears or bobcats on private land. (F&G 3960.2)<br>➢ Allows for the permitting of qualified individuals, educational institutions, governmental agencies, or non-governmental organizations to use dogs to pursue bears or bobcats for the purpose of scientific research, as specified. (F&G 3960.4)<br>➢ Dogs that are guarding or protecting livestock or crops may pursue bears or bobcats limited by the requirement that they remain in reasonable proximity to the livestock or crops being guarded or protected. (F&G 3960.6) |

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| BILL NUMBER, EFFECTIVE DATE, AND TITLE | CODE SECTION(S) | SUMMARY DESCRIPTION OF NEW LAW |
|---|---|---|
| **SB 1249 (Wolk), CH. 597**<br>***Effective/Operative Date: January 1, 2013***<br>**Department of Fish and Game: lands: expenditures** | F&G 1745 | Makes failure to obtain a permit as required by this section an infraction. |
| **SB 1264 (Vargas), CH. 518**<br>***Effective/Operative Date: January 1, 2013***<br>**Child abuse reporting: mandated reporters** | PEN 11165.7, 11166.5; W&I 355 | Adds any athletic coach, including but not limited to an assistant coach or graduate assistant involved in coaching, at any public or private postsecondary institution to the list of mandated reporters under the Child Abuse and Neglect Reporting Act. |
| **SB 1387 (Emmerson), CH. 656**<br>***Effective/Operative Date: January 1, 2013***<br>**Metal theft** | B&P 21604, 21609; PEN 496e | Provides that anyone engaged in the salvage, purchase, or sale of scrap metal cannot take possession of any of the following without written certification from the agency owning or previously owning the material:<br>➢ A fire hydrant or any reasonably recognizable part of that hydrant.<br>➢ Any fire department connection, including, but not limited to, reasonably recognizable bronze or brass fittings and parts.<br>➢ Manhole covers or lids, or any reasonably recognizable part of those manhole covers and lids.<br>➢ Backflow devices and connections to that device, or any part of that device.<br>A violation of this section is a crime, punishable by a fine of not more than $3,000. (PEN 496e(b)) |
| **SB 1394 (Lowenthal), CH. 420**<br>***Effective/Operative Date: January 1, 2013***<br>**Dwelling safety: carbon monoxide and smoke detectors** | H&S 13113.7, 13113.8, 13114, 17926 | ➢ Makes it an infraction to fail to install carbon monoxide and smoke detectors, as defined, in dwelling units intended for human occupancy, as defined. (H&S 13113.7)<br>➢ Defines liability with respect to operable smoke alarms in transfers of single family residences. (H&S 13113.8)<br>➢ Lists requirements for authorized smoke detectors to be approved and listed by the State Fire Marshall commencing January 1, 2014. (H&S 13114)<br>➢ Makes it an infraction to fail to have installed in all existing hotel and motel dwelling units intended for human occupancy a carbon monoxide device as defined. (H&S 17926) |

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# *Summary of* Court-Related Legislation

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***Administrative Director***
***of the Courts***
Steven Jahr

**OFFICE OF GOVERNMENTAL AFFAIRS**

***Director***
Cory T. Jasperson

***OGA Contributing Writers***
Tracy Kenny
Andi Liebenbaum
Kate Nitta, Judicial Administration Fellow
Daniel Pone

***OGA Contributing Editors***
Katie Asher
Monica LeBlond
Dia S. Poole

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Christine L. Miklas

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