JUDICIAL COUNCIL OF CALIFORNIA

The Capitol Connection

ADMINISTRATIVE OFFICE OF THE COURTS • OFFICE OF GOVERNMENTAL AFFAIRS

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2010 Legislative Summary

During the second year of the 2009–2010 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 88 of the measures of greatest interest follow, arranged according to subject matter.

The effective date of legislation is January 1, 2011, unless otherwise noted. Urgency measures normally take effect upon enactment, and some measures have delayed operative dates. Those dates are included where applicable.

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

Chaptered bills and legislative committee analyses can be accessed on the Internet at *www.leginfo.ca.gov/bilinfo.html*. Individual chapters may be ordered directly from the Legislative Bill Room, State Capitol, Sacramento, California 95814, 916-445-2323.

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BUDGET

JUDICIARY BUDGET TRAILER BILL

SB 857, COMMITTEE ON BUDGET AND FISCAL REVIEW, CH. 720
VARIOUS SECTIONS
URGENCY, EFFECTIVE OCTOBER 19, 2010

Contains a variety of fine, fee, and penalty increases for all case types, improvements in the court-ordered debt collections process, revisions to installment payment requirements, intent language regarding the ability of courts to remain open, and audits of the trial courts and the Administrative Office of the Courts. Fee changes include: (1) first paper filing fee increased by $40, or $20 in limited civil cases where the amount in controversy is less than $10,000; (2) fee for filing a motion for summary judgment increased from $200 to $500, and fee for filing an application to appear pro hac vice increased from $250 to $500 with an annual renewal fee of $500; (3) $20 fee imposed on telephonic appearances; and (4) court security fee imposed on all criminal convictions increased by $10 to $40 until July 1, 2011.

CIVIL LAW AND PROCEDURE

SELF-SERVICE STORAGE FACILITIES: LIENS

AB 655, EMMERSON, CH. 439
B&P 21702.5, 21705–21707, 21709, 21710

Amends the California Self-Service Storage Facility Act to, among other things, expressly provide that an action by the owner of a facility to enforce a lien may be filed in small claims court if the amount of the lien is within that court's jurisdiction.

UNLAWFUL DETAINER: SERVICE OF NOTICE

AB 1263, STRICKLAND, CH. 144
CCP 1162

Revises the process for serving commercial tenants with a notice of unlawful detainer by requiring the notice to be served as follows: (1) by delivering a copy to the tenant personally; (2) if the tenant is absent from the commercial rental property, by leaving a copy with someone of suitable age and discretion at the property and sending a copy through the U.S. mail addressed to the tenant at the address where the property is situated; or (3) if, at the time of attempted service, a person of suitable age or discretion is not found at the rental property through the exercise of reasonable diligence, then by affixing a copy in a conspicuous place on the property and also sending a copy through the U.S. mail addressed to the tenant at the address where the property is situated.

CIVIL PROCEDURE: COMPUTATION OF DEADLINES

AB 2119, TRAN, CH. 41
CCP 12c

Provides that where any law governing civil procedure requires an act to be performed no later than a specified number of days before a hearing date, the last day to perform that act will be determined by counting backward from the hearing date, excluding the date of the hearing.

EXPEDITED JURY TRIALS

AB 2284, EVANS, CH. 674
CCP 630.01 ET SEQ.

Establishes the Expedited Jury Trials Act, operative until January 1, 2016. Among other things, defines expedited jury trial as a binding jury trial before a reduced jury panel and a judge or other judicial officer. Includes provisions for a jury of eight or fewer jurors with no alternates, a limit of three peremptory challenges for each side, and a limit of three hours for each side to present its case. Provides that all parties waive all rights to appeal, to move for directed verdict, or to make any posttrial motions, except as specified. Provides that the verdict in an expedited jury trial is binding, subject to any written high/low agreement, as defined. Requires the Judicial Council to adopt additional rules and uniform procedures by January 1, 2011.

VETERANS AFFAIRS: ADMINISTRATION

AB 2365, LIEU, CH. 385
M&V 401, 402, 404–408, 409.1, 409.3, 409.4, 409.14, 812, 829

Permits a service member to recover actual damages, reasonable attorney fees, and costs from any person who violates specified rights and protections of the Military and Veterans Code. Requires the court to set a hearing date within 25 days after a member of the armed services applies to the court for relief of specified obligations, liabilities, taxes, or assessments, unless good cause is shown to delay the date of the hearing. Waives the filing fee and court costs for a party seeking to enforce various rights provided under the bill.

LEVYING OFFICER ELECTRONIC TRANSACTIONS ACT

AB 2394, BROWNLEY, CH. 680
CCP 262, 262.2, 262.4, 687.010, 699.060, 699.510, 699.520, 699.560, 701.030, 701.660, 706.026, 706.101, 712.020, 1993

Establishes the Levying Officer Electronic Transactions Act, which allows a levying officer to use electronic methods to create, generate, send, receive, store, display, retrieve, or process information, electronic records, and documents, as specified. Among other things, provides that a court or levying officer is not required to comply with any of the act's provisions unless the court and the levying officer have (1) jointly determined that both the court

and the sheriff's department have the resources and the technological capacity to do so, and (2) have mutually agreed to electronically process documents as provided in the act.

ELDER AND DEPENDENT ADULT ABUSE: EARNINGS WITHHOLDING ORDERS

AB 2619, BLOCK, CH. 64
CCP 706.011, 706.023, 706.121, 706.125; W&I 15657.5

Authorizes a court to issue an earnings withholding order against a person found guilty of elder or dependent adult financial abuse. Effective January 1, 2012, prioritizes elder and dependent abuse withholding orders after child support and tax withholding orders. Requires the application for issuance of an earnings withholding order to specify how much of the judgment stems from a financial abuse claim. Instructs employers not to withhold earnings under an elder or dependent abuse order unless child support, tax, and prior elder or dependent abuse orders have expired.

CIVIL LAW: OMNIBUS BILL

AB 2767, COMMITTEE ON JUDICIARY, CH. 212
CCP 703.150, 1085, 1103; CORP 9213; FAM 7643; GOV 27473, 53647.5, 53679, 68084.1, 68092, 71601; PEN 13510

Among other things, (1) clarifies the rights of parties (and their attorneys and agents of attorneys) to inspect and copy confidential paternity files; (2) clarifies the disposition of unclaimed victim restitution money held by the superior court for three years or more by directing the court to deposit such funds into either the State Restitution Fund or the county general fund to be used for victim services; and (3) adjusts, from April 1, 2010, to April 1, 2013, the date on which the Judicial Council is required to submit the first report to the Legislature regarding increased dollar amounts for homestead exemptions.

RESIDENTIAL TENANCIES: FORECLOSURE

SB 1149, CORBETT, CH. 641
CCP 1161c, 1161.2, 1166

Prohibits the release of court records in a foreclosure-related eviction unless the plaintiff landlord prevails against all defendants. Requires that a prescribed cover sheet, notifying a tenant of his or her rights and responsibilities, be attached to any eviction notice that is served within one year after a foreclosure. Provides that the statutory basis for an unlawful detainer action based on a foreclosure must be stated in the caption of the complaint.

ELECTRONIC SERVICE OF PROCESS

SB 1274, COMMITTEE ON JUDICIARY, CH. 156
CCP 1010.6, 1013

Authorizes service by electronic notification by defining electronic service to include both electronic transmission and notification. Defines electronic notification as a method in which the recipient is not sent a document but rather is notified electronically that a document is available and is provided a hyperlink to access the document. Authorizes the court, in any action in which a party has agreed to accept electronic service or in which the court has ordered electronic service, as specified, to electronically serve any document issued by the court that is not required to be personally served, in the same manner that parties electronically serve documents. Requires the Judicial Council to adopt rules relating to the integrity of electronic service.

COURT FACILITIES

PROPERTY TAXATION: POSSESSORY INTERESTS: LONG BEACH COURTHOUSE

AB 1341, LOWENTHAL, CH. 442
TAX LEVY, EFFECTIVE SEPTEMBER 29, 2010

Provides that no possessory interest arises for a nongovernmental entity that delivers the new Long Beach Courthouse if certain criteria are satisfied. Makes clear that the courthouse shall be public property and exempt from tax that would attach if a private entity were deemed as having a possessory interest in public property.

COURT RECORDS

ELECTRONIC COURT RECORDS: PRESERVATION GUIDELINES

AB 1926, EVANS, CH. 167
GOV 68150, 68151

Authorizes the Judicial Council to adopt a rule of court identifying appropriate standards or guidelines for the creation, maintenance, reproduction, and preservation of court records in electronic form. Provides that the standards or guidelines must reflect industry standards, ensure accuracy and integrity, and provide the public with access to electronic court records that is at least as convenient as access to paper records currently provides.

DECEASED CHILD VICTIMS' PROTECTION AND PRIVACY ACT

SB 5, HOLLINGSWORTH, CH. 302
CCP 130; PEN 290.05, 290.09, 9003

Requires that autopsy reports and associated evidence in the custody of state and local agencies (which do not include

courts) involving children whose death was the result of a crime be sealed upon a request by the parent, spouse, or legal guardian of the deceased minor, with specified exceptions. Provides that a qualifying family member who has been charged with or convicted of any act in furtherance of the victim's death may not request that the autopsy report and associated evidence be sealed. Provides that the information in the reports may be used in court proceedings. Authorizes a qualified family member to oppose the sealing and request a court hearing on the matter. Specifies what the court will consider when evaluating a request to unseal or not to seal an autopsy report.

COURT REPORTERS

TRANSCRIPT REIMBURSEMENT FUND

SB 1181, CEDILLO, CH. 518
B&P 8030.2, 8030.4–8030.6, 8030.8

Extends the sunset on the Transcript Reimbursement Fund administered by the Court Reporters Board of California from January 1, 2011, to January 1, 2013. Expands the pool of applicants eligible to obtain reimbursement from the fund for the cost of transcripts to now include indigent litigants who currently represent themselves or have represented themselves at any prior stage in the proceedings. To ensure this expansion does not deplete the fund, limits the amount of reimbursement to all pro se applicants to a total of $30,000 annually and sets an individual limit at $1,500 for each case. Provides that litigants shall establish indigence when applying for reimbursement from the fund by presenting a copy of the fee waiver granted by the court in the case at issue.

CRIMINAL LAW AND PROCEDURE

MOTOR CARRIERS: CONSTRUCTION TRUCKING SERVICES

AB 145, DE LEÓN, CH. 429
VEH 34510.5, 34620

Makes it a misdemeanor for a broker of construction trucking services to furnish construction transportation services to any construction project unless the broker has secured a surety bond of at least $15,000 that meets specified requirements. In any civil action brought against a broker of construction trucking services by a motor carrier of property in dump truck equipment with whom the broker contracted during any period of time in which the broker did not have this surety bond, creates a rebuttable presumption that the broker failed to pay the motor carrier the amount due and owing.

TRESPASS

AB 668, LIEU, CH. 531
PEN 602

Expands the scope of the crime of trespass by providing that, during specified time frames, it is unlawful for a person who has been convicted of any felony, any misdemeanor, or a specified infraction committed upon a particular private property to refuse or fail to leave that property when asked or to enter or refuse or fail to leave after being informed by a peace officer that the property is not open to the particular person.

VETERANS: TREATMENT PROGRAMS

AB 674, SALAS, CH. 347
PEN 1170.9

When a defendant alleges that he or she committed an offense as a result of sexual trauma, traumatic brain injury, posttraumatic stress disorder, substance abuse, or mental health problems stemming from service in the United States military, requires the court, prior to sentencing, to make a determination regarding that allegation. Allows the court to request, through existing resources, an assessment to aid in that determination. If the court affirmatively makes that determination, allows the court to order the defendant into a treatment program for a period not to exceed that which the defendant would have served in state prison or jail, as long as the treatment program has agreed to accept responsibility for the treatment of the defendant.

INTELLECTUAL PROPERTY PIRACY

AB 819, CALDERON, CH. 351
PEN 350, 653h, 653s, 653u, 653w, 653z, 653aa, 1202.4, 13849 ET SEQ.
URGENCY, EFFECTIVE SEPTEMBER 27, 2010

Doubles the fines for violations related to piracy or counterfeiting of specified marks registered with the California Secretary of State or registered with the Principal Register of the United States Patent and Trademark Office. Makes it a misdemeanor for a person located in California who knew that a particular recording or audiovisual work was commercial to knowingly electronically disseminate all or substantially all of that work to more than 10 other people without disclosing his or her e-mail address and the title of the work. Requires a court to order restitution when the person has been convicted of violating certain provisions of law relating to the manufacture or sale of a counterfeit registered mark and the electronic transmission of all or substantially all of a commercial recording or audiovisual work.

CHILD ABUSE SENTENCING

AB 1280, VILLINES, CH. 300
PEN 273ab

Makes it a felony punishable by imprisonment in the state prison for life with the possibility of parole for any person having

the care or custody of a child who is under eight years of age to assault the child by means of force that a reasonable person would consider likely to produce great bodily injury and that results in the child becoming comatose as a consequence of brain injury or suffering paralysis of a permanent nature.

TRESPASS: ANIMAL ENCLOSURES

AB 1675, HAGMAN, CH. 536
PEN 19.8, 602.13

Makes it an alternate misdemeanor or infraction for any person, other than an employee or a public officer, to trespass into an animal enclosure at a zoo, circus, or traveling animal exhibit.

RESTITUTION ORDERS: COLLECTION

AB 1847, FURUTANI, CH. 582
PEN 1202.42

Provides that if there is no agency in the county responsible for the collection of restitution, the county probation office or the prosecuting attorney may perform that function with respect to issuing wage deduction orders. Also provides that if the defendant fails to meet his or her obligations under the restitution order and has not provided good cause for the failure, a court is authorized, upon request of the prosecuting attorney, to give the prosecuting attorney authority to use lien procedures, including, but not limited to, a writ of attachment of property. Provides prosecutorial immunity from liability for these proceedings and does not allow reimbursement for the costs of the prosecuting attorney from the defendant's income or assets.

MOTORCYCLE THEFT

AB 1848, GARRICK, CH. 120
PEN 466.65

Makes it a misdemeanor to possess, give, or lend a device designed to bypass the factory-installed ignition of a motorcycle in order to start the engine of a motorcycle without a manufacturer's key. Also makes it a misdemeanor to possess, give, or lend a motorcycle ignition or ignition part or any item of hardware with the intent to unlawfully take or drive, or to facilitate the unlawful taking or driving of, a motorcycle without the consent of the owner.

ELECTIONS: PROHIBITING PAYMENTS

AB 2101, FONG, CH. 372
ELEC 18112, 18604

Authorizes a court, upon finding a person guilty of engaging in prohibited voter registration activities or activities relating to circulation of an initiative, referendum, or recall petition, to order as a condition of probation that the person be prohibited from receiving money or other consideration for assisting another person in registering to vote or for gathering signatures on an initiative, referendum, or recall petition.

INTERCEPTED COMMUNICATIONS: HOSTAGE TAKING AND BARRICADING

AB 2210, FUENTES, CH. 380
PEN 633.8

Authorizes a designated peace officer to use, or authorizes the warrantless use of, an electronic amplifying or recording device to eavesdrop on and/or record any oral communication within a particular location in response to an emergency situation involving the taking of a hostage or the barricading of a location.

RESTITUTION CENTERS

AB 2218, FUENTES, CH 463
PEN 6221, 6228

Provides that an inmate who commits a crime involving a direct victim will receive priority placement in a restitution center. Expands the eligibility criteria for the placement of an inmate into a restitution center to include a defendant who did not receive a sentence of more than 60 months for the current offense and does not have a criminal history of a conviction for a serious or violent felony, for the sale of drugs within the last five years, or for an offense requiring registration as a sex offender.

SENTENCING

AB 2263, YAMADA, CH. 256
PEN 186.22, 186.33, 1170, 1170.1, 1170.3, 12021.5, 12022.2, 12022.4

Extends to January 1, 2012, provisions of existing sentencing laws enacted in response to *Cunningham v. California* (2007) 549 U.S. 270 that state that the court shall, in its discretion, impose the term or enhancement that best serves the interest of justice.

GRAND THEFT: PROPERTY VALUE THRESHOLD

AB 2372, AMMIANO, CH. 693
PEN 487

Increases the value threshold for the crime of grand theft from $400 to $950.

VEHICLES: IDENTIFICATION CARDS AND DRIVER'S LICENSES

AB 2471, PÉREZ, JOHN A., CH. 684
VEH 13004.1, 14610.1

Clarifies that it is a misdemeanor to manufacture or sell a card that purports to confer the same privileges as a license or card issued by the Department of Motor Vehicles.

WARRANTS: ELECTRONIC TRANSMISSION

AB 2505, STRICKLAND, CH. 98
PEN 1526

Allows an oath by an affiant seeking a search warrant to be made using a telephone and computer server, in addition to fax or e-mail, and allows the affiant's signature to be in the form of an electronic signature. Deletes the requirement that the magistrate print the warrant, supporting affidavit, and attachments if received by electronic mail or computer server, as

well as the requirement in cases of affidavits transmitted by fax, electronic mail, or server that the magistrate return the printed documents to the court. Allows the magistrate to sign the warrant using a digital or electronic signature where electronic mail or computer server transmission is used.

INFRACTIONS: DISMISSAL OF CHARGES

AB 2582, ADAMS, CH. 99
PEN 1203.4a

Permits a defendant convicted of an infraction, other than specified motor vehicle–related infractions, to seek dismissal of charges and release from all penalties and other consequences resulting from the offense. Provides that a petition for dismissal of an infraction shall generally be by written declaration, and that the court shall not grant the dismissal of an infraction unless the prosecuting attorney received prior notice of the petition for dismissal.

GANG INJUNCTIONS: CONTEMPT OF COURT

AB 2632, DAVIS, CH. 677
PEN 166

Makes it a misdemeanor constituting contempt of court to disobey the terms of an injunction that restrains the activities of a criminal street gang or any of its members.

INMATES: INCENTIVE CREDITS

SB 76, COMMITTEE ON PUBLIC SAFETY, CH. 426
PEN 2933, 4019
URGENCY, EFFECTIVE SEPTEMBER 28, 2010

Reduces good-time/work-time credits during confinement in a county jail from one-half to one-third for persons convicted of a felony.

RECORDING CRIMES

SB 830, WRIGHT, CH. 480
PEN 653w

Expands the definition of recording, for the purposes of the crime of failure to disclose the origin of a recording used for financial gain, to include memory cards, flash drives, hard drives, and data storage devices.

MINOR VICTIMS: PROHIBITIONS ON COMMUNICATIONS

SB 834, FLOREZ, CH. 627
PEN 1201.3

Authorizes the court, upon the conviction of a defendant for a sexual offense involving a minor victim, or when a juvenile petition involving a sexual offense against a minor victim is admitted or sustained, to issue orders prohibiting the defendant or juvenile, for a period up to 10 years, from harassing, intimidating, or threatening the victim or the victim's family members or spouse.

SNOW SPORT HELMETS

SB 880, YEE, CH. 278
H&S 115810 ET SEQ.

Makes it an infraction for a person under 18 years of age to fail to wear a properly fitted and fastened snow sport helmet while operating snow skis or a snowboard or riding upon a seat or other device that is attached to snow skis or a snowboard when participating in the sport of downhill skiing or snowboarding. Requires the court to dismiss the charge when the person charged alleges in court, under oath, that the charge is the first such charge against that person, unless it is otherwise established in court that it is not the first such charge against the person.

IDENTITY THEFT: RESTITUTION

SB 1087, ALQUIST, CH. 107
PEN 1202.4

Authorizes restitution for expenses to monitor an identity theft victim's credit report and for the costs to repair the victim's credit for a period of time reasonably necessary to make the victim whole.

PROBATION: SEXUAL ABUSE OF CHILD

SB 1253, STRICKLAND, CH. 49
PEN 1203.066

Requires as a condition of probation granted upon conviction of lewd or lascivious acts with a child or continuous sexual abuse of a child that, if the defendant is not a member of the victim's household, the defendant be prohibited from being placed or residing within one-half mile of the child victim's residence for the duration of the probation term, unless the court, on the record, states its reasons for finding that this residency restriction would not serve the victim's best interest.

CRIMINAL INVESTIGATION: INTERCEPTION OF COMMUNICATIONS

SB 1428, PAVLEY, CH. 707
PEN 629.50–629.60, 629.62–629.82

Updates California's wiretapping law to allow interception of electronic communications by e-mail, instant messaging by phone, and other forms of contemporaneous two-way electronic communication. Defines electronic communication as any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature in whole or in part by wire, radio, electromagnetic, photoelectric, or photo-optical system.

MARIJUANA: POSSESSION

SB 1449, LENO, CH. 708
H&S 11357; VEH 23222

Reclassifies from a misdemeanor to an infraction possession of not more than 28.5 grams of marijuana. Retains the maximum punishment of a $100 base fine.

DOMESTIC VIOLENCE

PROTECTIVE ORDERS: ENFORCEMENT

AB 1596, HAYASHI, CH. 572
CCP 527.6, 527.8, 527.9, 527.10, 527.85; FAM 241–246, 6229, 6302, 6304, 6320, 6320.5, 6322.7, 6345, 6380, 6384, 6387, 6389; GOV 6103.2; W&I 213.5, 15657.03, 15657.04

Makes numerous revisions to statutes concerning protective orders issued for civil harassment, domestic violence, elder and dependent adult abuse, workplace violence, and violence affecting a student at a private postsecondary education institution in order to promote procedural consistency between and among the relevant statutes. Changes become effective on January 1, 2012.

DOMESTIC VIOLENCE INCIDENT REPORT

AB 1738, TRAN, CH. 363
FAM 6228

Allows specified representatives of a victim of domestic violence to obtain free copies of a domestic violence incident report from law enforcement when the victim has authorized the representative to obtain the report and the representative presents appropriate identification.

TERMINATION OF RESIDENTIAL TENANCIES

SB 782, YEE, CH. 626
CIV 1941.5, 1941.6; CCP 1161.3

Among other things, prohibits a landlord from terminating a tenancy based on an act or acts of domestic violence, sexual assault, or stalking against the tenant or tenant's household member if the act or acts can be appropriately documented and the perpetrator is not a tenant of the same dwelling unit as the tenant's. Permits a tenant to change locks of the dwelling unit or request the landlord to do so, as specified, if the tenant has a restraining order against another person based on that other person's acts of domestic violence, sexual assault, or stalking against the tenant. Requires the Judicial Council, on or before January 1, 2012, to develop a new form or amend an existing form that may be used by parties to assert the grounds set forth in the eviction provisions of this bill as an affirmative defense to an unlawful detainer.

DOMESTIC VIOLENCE: BAIL

SB 1049, HARMAN, CH. 176
PEN 1269c, 1270.1

Provides that a judge or magistrate may, with respect to a bailable offense or a misdemeanor offense of violating a domestic violence order, increase bail to an amount exceeding that set forth in the bail schedule without a hearing, provided that a sworn peace officer declares under penalty of perjury facts and circumstances to support his or her belief that the scheduled bail is insufficient to ensure the defendant's appearance or the protection of a domestic violence victim. Clarifies that an application may be made to a judge or magistrate for the defendant's release on bail in an amount less than that set forth in the schedule of bail or for release on his or her own recognizance, unless the offense is one of the offenses listed in Penal Code section 1270.1, which require a hearing in open court before bail is reduced or the defendant is released on his or her own recognizance.

CONFIDENTIAL ADDRESS PROGRAMS

SB 1233, OROPEZA, CH. 326
ELEC 2166.5; GOV 6206.5, 6211, 6217

Eliminates the sunset date on the California Secretary of State's Safe at Home confidential address and voter registration programs, and requires the Secretary of State to maintain records permanently for those participants who seek a confidential name change under the authority of the Safe at Home program.

EMPLOYEE/ EMPLOYER ISSUES

CALIFORNIA WHISTLEBLOWER PROTECTION ACT

AB 1749, LOWENTHAL, CH. 160
GOV 8547.2, 8547.13

Expands the California Whistleblower Protection Act to include employees of the trial courts, Courts of Appeal, Supreme Court, and Administrative Office of the Courts. Provides that the State Personnel Board (SPB) may investigate claims of employer retaliation against an employee making a protected disclosure, which shall result in the SPB's issuance of recommendations to the judicial branch employer regarding any findings that retaliation has taken place and any remedial actions that should be taken.

FAMILY LAW

FAMILY LAW PROCEEDINGS

AB 939, COMMITTEE ON JUDICIARY, CH. 352
FAM 215, 217, 2030, 2032, 2034, 2330.3, 2400, 2403, 2450, 2451, 3027, 3121, 3150, 3151, 3183, 3557, 6323, 6340; W&I 328, 827.10

Authorizes service of postjudgment modifications of support or custody to be served by mail. Requires that the court accept live testimony in family law proceedings unless it finds good cause not to and states its reasons on the record. Requires the court to rule on a request for attorney fees early in the proceeding and requires that fees be awarded if the court finds that there is a disparity in income and that one party has the ability to pay the other party's fees. Allows the court to order case management without stipulation but eliminates the court's authority to order telephone hearings in contested matters. Eliminates authority for minor's counsel to prepare a

statement of issues and instead authorizes counsel to present only admissible evidence. Requires minor's counsel to present the wishes of the child to the court if the child so desires. Requires that any recommendation by a mediator in a child custody matter be provided in writing to the parties in advance of the hearing. Allows the court to accept a paternity stipulation in a Domestic Violence Prevention Act (DVPA) matter, and provides that custody, visitation, and support orders issued in a DVPA matter survive the termination of the order. Requires child welfare agencies to investigate referrals from the family court the same way they investigate other allegations of abuse. Authorizes family court personnel to examine child welfare case files. Revises the summary dissolution statute to allow use of this procedure for an eligible marriage that is not more than five years in duration at the time the parties are legally separated, and allows the court to issue the judgment after six months without requiring any other action by the parties.

CHILD CUSTODY: PREFERENCES OF CHILD

AB 1050, MA, CH. 187
FAM 3042

Creates a presumption that a child is of sufficient maturity at age 14 to express a preference or provide input on a child custody or visitation issue, unless the court finds that such testimony is not in the child's best interest and states its reasons on the record. Requires the court to find alternate means of obtaining information about the child's preferences. Requires the Judicial Council to promulgate a rule of court on or before January 1, 2012, regarding the examination of a child witness, including guidelines for obtaining information in ways other than direct testimony. Delays the operative date of the bill until January 1, 2012, when the new rules of court are required to be in place.

FAMILY LAW: PATERNITY, RELATIVE PLACEMENT

AB 2020, FLETCHER, CH. 588
FAM 7630, 7631, 7662, 7667, 8620, 8710, 8814.5, 9001; PROB 1516.5

Allows the court to dispense with a hearing and issue an ex parte order terminating the parental rights of an alleged father in an adoption case if the identity or whereabouts of the alleged father are unknown, he has been served with a written notice of his alleged paternity and the potential adoption and has failed to respond, or he has signed a waiver of his right to notice or a denial of paternity. In private agency adoption matters, provides that a parent's refusal to place the child with relatives or siblings is a sufficient basis for the department or licensed adoption agency to determine that placement with relatives is not in the child's best interest.

CHILD CUSTODY: PARENT ON ACTIVE MILITARY DUTY

AB 2416, COOK, CH. 466
FAM 3047

Provides that when a party with sole or joint physical custody or visitation receives temporary duty, deployment, or mobilization orders from the military that require the party to move a substantial distance from his or her residence or that otherwise have a material effect on the ability of the party to exercise custody or visitation rights and, as a result, the court modifies the custody or visitation order, the modification shall be temporary and subject to review upon return of the party. Creates a presumption that at that review the order return to the prior custody or visitation order unless the court determines that doing so is not in the child's best interest. Requires the court to consider any appropriate orders to allow for continuing contact while the party is deployed, and allows the court, upon request by the relocating party, to order visitation for a stepparent, grandparent, or other close relative with a preexisting relationship with the child if the visitation is in the child's best interest and will facilitate contact with the absent parent. However, provides that these parties do not have increased authority to seek such orders and that the court must balance the right of the child to visitation with the relative and the right of the parent to exercise parental authority. Requires the court, when a party's military duty will materially affect his or her ability to appear in court, to expedite proceedings or allow for telephonic appearance if available and consistent with due process.

FAMILY LAW: EXEMPLARY DAMAGES

AB 2674, BLOCK, CH. 65
FAM 782.5, 4324

Expands Family Code sections 782.5 and 4324 to provide that an injured spouse is entitled to all of the community property and shall not be required to provide any spousal support when the other spouse is convicted of soliciting the murder of the injured spouse.

DOMESTIC PARTNER REGISTRATION: TERMINATION

AB 2700, MA, CH. 397
FAM 299, 2010

Permits couples that are both married and registered domestic partners to dissolve both unions in a single court proceeding. Requires the Judicial Council to develop a form for this purpose. Further clarifies that in a dissolution proceeding, courts may dissolve out-of-state, same-sex marriages recognized in California.

CHILD SUPPORT: HEALTH INSURANCE

SB 580, WRIGHT, CH. 103
FAM 3751, 4061, 4063, 17422

Modifies the definition of reasonable cost for medical support orders consistent with federal law. Creates a rebuttable presumption that the cost of maintaining a supported child in private health insurance is reasonable if the cost does not exceed 5

percent of the parent's gross income. Provides that if an obligor is entitled to a low-income adjustment, medical support shall be deemed to be not reasonable unless the court determines that not ordering medical support would be unjust and inappropriate in the particular case.

CHILD CUSTODY: DISABLED PARENT

SB 1188, WRIGHT, CH. 179
FAM 3049

States the intent of the Legislature to codify the decision of the California Supreme Court in *In re Marriage of Carney* (1979) 24 Cal.3d 725, which held that a court, in making custody and visitation determinations involving a disabled parent, must inquire regarding the parent's actual limitations and adjustments when determining how the disability may affect the best interest of the child.

CHILD SUPPORT: SUSPENSION OF SUPPORT ORDER

SB 1355, WRIGHT, CH 495
FAM 4007.5

Provides that from July 1, 2011, to July 1, 2015, the obligation of a person to pay child support under an order being enforced by a local child support agency is suspended for the period of time in which the obligor is incarcerated or involuntarily institutionalized if the period of incarceration is more than 90 days. Creates exceptions to this suspension if the incarceration is for domestic violence, an offense against the obligee or supported child, or a result of failure to pay support. Requires the court to notify the parties of this suspension at the time the order is issued. Requires the Judicial Council to adopt the forms necessary to implement these provisions by July 1, 2011. Also provides that, upon the release of the obligor, the obligation to pay child support immediately resumes in the amount specified in the child support order prior to the suspension of that obligation.

SPOUSAL SUPPORT: CHANGE OF CIRCUMSTANCES

SB 1482, WRIGHT, CH. 297
FAM 4326

Extends until January 1, 2014, the provision in existing law requiring that the termination of a child support order be considered a change of circumstances allowing the court to consider a request to modify a spousal support order. Requires that the motion to modify spousal support be filed within six months of the termination of the child support order. Authorizes either party to request the appointment of a vocational training counselor if such a modification motion is filed. Limits the applicability of this provision to exclude cases that resolve with a marital settlement agreement.

JUDGES/JUDICIAL OFFICERS

JUDGES: DISQUALIFICATION

AB 1894, MONNING, CH. 131
CCP 170.6; GOV 68616

Extends, for civil cases only, the time period for moving to disqualify a judge under Code of Civil Procedure section 170.6 from 10 to 15 days, and requires the moving party to notify all other parties within 5 days after making the motion.

SUBORDINATE JUDICIAL OFFICERS: GIFTS AND HONORARIA

AB 2116, EVANS, CH. 206
CCP 170.9

Includes subordinate judicial officers in the existing provisions regulating gifts and honoraria for judges and justices.

SUBORDINATE JUDICIAL OFFICER CONVERSION

AB 2763, COMMITTEE ON JUDICIARY, CH. 690
GOV 69614, 69615

Requires the Judicial Council, by November 30, 2011, to prepare and submit to the Legislature a special assessment of the family and juvenile law judgeship needs of each superior court. Authorizes the Judicial Council to convert up to an additional 10 subordinate judicial officer positions to judgeships each year (upon annual legislative ratification by statutory enactment other than through the annual Budget Act), with each such conversion to result in a judge's placement in a family or juvenile law assignment previously presided over by a subordinate judicial officer.

JUVENILE DELINQUENCY

CORRECTIONS

AB 1628, COMMITTEE ON BUDGET, CH. 729
GOV 15820.906, 15820.916; PEN 2064, 5023.2, 5024.2, 5068.5, 5072, 7050; W&I 607, 607.1, 731.1, 1719, 1719.5, 1766, 1766.01, 1767.35, 1767.36, 1973, 1975, 1980 ET SEQ., 14053.7
URGENCY, EFFECTIVE OCTOBER 19, 2010

Provides that the committing juvenile court will have jurisdiction over all wards newly discharged by the California Department of Corrections and Rehabilitation, Division of Juvenile Facilities, beginning 90 days after the enactment of the statute (January 17, 2011). Provides that all wards, after July 1, 2014, shall have their reentry supervised by the committing juvenile court. Requires that wards be transported to the custody of the probation department of the committing county no more than four days, and no less than one day, before the discharged ward's reentry disposition hearing before

the committing court. Requires the court to hold a reentry disposition hearing for the purpose of identifying conditions for the supervision of the ward. Authorizes the probation department to detain wards who are alleged to have violated those conditions, and specifies the sanctions that the court may impose.

MINORS: MENTAL COMPETENCY

AB 2212, FUENTES, CH. 671
W&I 709

Authorizes minor's counsel or the court during the pendency of any juvenile matter to express a doubt regarding the competency of the minor who is the subject of the action, and requires the court to suspend proceedings if it finds that substantial evidence raises a doubt regarding the minor's competency. Requires the court, upon suspension of proceedings, to order a hearing into the question of the minor's competence and to appoint an expert to examine the minor and evaluate the extent to which any finding of mental dysfunction might impair competency. Requires that, if the minor is found to be incompetent by a preponderance of the evidence, all proceedings remain suspended to determine whether there is a substantial probability that the minor will attain competency in the foreseeable future or until the court no longer retains jurisdiction. Allows the court during the period of suspension to make any order for services that may assist the minor in attaining competency and to rule on any motion whose preparation does not require the participation of the minor. Requires the Judicial Council to develop and adopt rules to implement these requirements.

INTERSTATE COMPACT FOR JUVENILES

AB 2350, HILL, CH. 96
W&I 207

Provides that status offenders, except for out-of-state runaways who are subject to the Interstate Compact for Juveniles, may not be detained for more than 24 hours.

TRUANCY

SB 1317, LENO, CH. 647
ED 48263.6; PEN 270.1

Expands the definition of chronic truant to include a child who is absent for 10 percent or more of the school days in a school year without valid excuse, and makes a parent whose child is a chronic truant subject to a misdemeanor penalty. Authorizes courts to establish a deferred entry of judgment program to adjudicate the parents' cases.

JUVENILE DEPENDENCY

CALIFORNIA FOSTERING CONNECTIONS TO SUCCESS ACT

AB 12, BEALL, CH. 559
FAM 17552; H&S 1501.2, 1502.7, 1505; W&I VARIOUS SECTIONS

Implements federal foster care reform legislation to provide for federally subsidized relative guardianships and extend foster care jurisdiction to age 21. Reenacts the existing state-funded Kinship Guardianship Assistance Payment (Kin-GAP) Program to conform to federal requirements and allow for federal financial participation in the program. Creates a process for converting eligible existing state-funded Kin-GAP cases to the newly established federally funded Kin-GAP, with the goals of minimal disruption to the guardian and child and no interruption in assistance payments. Provides that a child in foster care on his or her 18th birthday may remain in care as a nonminor dependent up to age 21. Phases in this expansion beginning January 1, 2012, for eligible youth up to age 19; January 1, 2013, for eligible youth up to age 20; and (contingent upon an appropriation by the Legislature) January 1, 2014, for eligible youth up to age 21. To be eligible, youth must meet one or more of the following criteria: he or she is (1) completing secondary education or an equivalent credential; (2) enrolled in a postsecondary or vocational education institution; (3) participating in a program designed to promote or remove barriers to employment; (4) employed for at least 80 hours per month; or (5) deemed incapable of doing any of the above because of a medical condition, with that incapability supported by case plan information that is updated regularly. Requires the court, when terminating jurisdiction over a delinquent ward who is in a foster care placement or who was a dependent child removed from his or her parents at the time he or she was adjudicated a delinquent ward, to set a hearing under Welfare and Institutions Code section 241.1 if the court finds that the child appears to come within the description of Welfare and Institutions Code section 300 because of abuse or neglect and cannot be returned home safely.

FOSTER CARE: SIBLING PLACEMENT

AB 743, PORTANTINO, CH. 560
W&I 362.1, 16002, 16010.6

Requires siblings to be placed together unless there is a clear finding that doing so would be contrary to the safety and welfare of any of the siblings. Requires the social worker, with specified exceptions, to notify the child's attorney and the sibling's attorney at least 10 days in advance of any proposed change in placement that may result in a sibling separation.

CHILD PROTECTION: SAFE SURRENDER

AB 1048, TORRICO, CH. 567
H&S 1255.7

Permits fire agencies to designate safe surrender sites with the approval of their local governing bodies. Immunizes safe surrender sites and their personnel from liability for a child prior to their taking custody of the child or knowing that the child has been surrendered.

COURT-APPOINTED COUNSEL: FEE REIMBURSEMENT

AB 1229, EVANS, CH. 569
W&I 903.47

Clarifies that when courts are establishing programs to collect reimbursement from parents for the costs of court-appointed counsel in dependency matters the courts can designate their own financial evaluation officers without the agreement of the county.

COUNTY WRAPAROUND SERVICES PROGRAM

AB 1758, AMMIANO, CH. 561
W&I 18250, 18251, 18253–18256.5, 18258

Deletes the pilot program designation for county wraparound services programs designed to keep children in their homes with family-based support services as an alternative to group home placement.

FOSTER CHILDREN: EDUCATION

AB 1933, BROWNLEY, CH. 563
ED 48853.5

Requires a local educational agency to allow a foster child to remain in his or her school of origin as long as the child is within the jurisdiction of the juvenile court, and if the jurisdiction of the court terminates before the end of an academic year, until the end of that academic year. Additionally provides that foster children be able to proceed along the school districts' established feeder patterns from one school level to the next, even if doing so results in a transfer to another district.

INDIAN CHILDREN

AB 2418, COOK, CH. 468
W&I 224.1

Provides, for purposes of an Indian child custody proceeding, that the definition of Indian child includes an unmarried person age 18 or over, but under 21 years of age, who is either a member of an Indian tribe or eligible for membership in an Indian tribe and the biological child of a member of an Indian tribe, who is under the jurisdiction of the dependency court, unless that person or his or her attorney elects that he or she is not to be considered an Indian child. Requires that all Indian child custody proceedings involving persons 18 and over be conducted in a manner that respects the Indian child's status as a legal adult.

JUVENILE LAW: TERMINATION OF PARENTAL RIGHTS

SB 179, RUNNER, CH. 66
W&I 248

Provides that a party who is present at the termination of parental rights hearing before a subordinate judicial officer may be served at that time with the findings, the order, and an explanation of the right to appeal the termination order.

INDEPENDENT LIVING PROGRAM

SB 654, LENO, CH. 555
W&I 10609.45

Makes Independent Living Program services available to former dependent children placed with nonrelated legal guardians after the children have attained eight years of age.

FORMER WARDS: SERVICES AND BENEFITS

SB 945, LIU, CH. 631
W&I 607.5, 16501.1

Requires probation and parole officers to provide wards of the court formerly in foster care with notification regarding their eligibility for services and benefits available for former foster youth when the court terminates jurisdiction or when a ward is released from a non–foster care facility.

PRISONERS: ADJUDICATION OF PARENTAL RIGHTS

SB 962, LIU, CH. 482
PEN 2625, 2626

At the court's discretion, allows an incarcerated parent to participate via videoconferencing or teleconferencing technology (if available) in proceedings to terminate parental rights or adjudicate the child a dependent of the court, where the court has not ordered the parent to be physically present or where the inmate has waived the right to be present. States the intent of the Legislature that inmates not lose job placement or earned privileges as a result of participation in child dependency proceedings.

EDUCATION: FOSTER YOUTH

SB 1353, WRIGHT, CH. 557
ED 16001.9, 16010, 16501.1, 48850

Provides that, in determining the best interests of a child with regard to educational and school placement decisions, best interests include educational stability and the opportunity to be educated in the least restrictive educational setting necessary to achieve academic progress. Adds to the Foster Care Bill of Rights the right to minimal disruption in school attendance.

MISCELLANEOUS

EVIDENCE: ADMISSIBILITY OF STATEMENTS

AB 1723, LIEU, CH. 537
EVID 240, 1390

Expands the statutory definition of "unavailable as a witness" to include a declarant who, when called upon as a witness, persistently refuses to testify on the subject matter of his or her out-of-court statement despite having been found in contempt of court for refusal to testify. Provides that evidence of a statement is not made inadmissible by the hearsay rule if the statement is offered against a party that has engaged or aided and abetted in wrongdoing that was intended to, and did, procure the unavailability of the declarant as a witness.

PUBLIC OFFICIALS: PERSONAL INFORMATION

AB 1813, LIEU, CH. 194
GOV 6254.21, 6254.24

Includes the information provided in cellular phone applications in the information that a public safety official, including a judicial officer, may ask to have removed from the Internet.

CORPORATIONS FOR PREVENTION OF CRUELTY TO ANIMALS

SB 1417, COX, CH. 652
CORP 10400, 10401, 10402, 10404–10406, 14500–14502, 14504, 14505; PEN 11105, 13300

Among other things, modifies the process for the formation of societies for the prevention of cruelty to animals and for the appointment of a humane officer. Provides processes and criteria for court determination of need for the society and humane officer.

PROBATE

PROBATE: APPEALS

AB 2271, SILVA, CH. 94
PROB 1310

Allows a court to appoint a temporary trustee when an appeal is pending in order to prevent injury or loss to a person or property.

CONSERVATORS: PHOTOGRAPH OF CONSERVATEE

AB 2493, FULLER, CH. 97
PROB 2360

Requires, upon the establishment of a conservatorship by the court and annually thereafter, that a conservator of a person ensure that a clear photograph of the conservatee is taken and preserved for the purpose of identifying the conservatee if he or she becomes missing.

DONATIVE TRANSFERS: RESTRICTIONS

SB 105, HARMAN, CH. 620
B&P 6103.6; PROB 2583, 15642, 16062, 21310, 21355, 21360

Revises and recasts provisions related to restrictions on donative transfers to specified persons to establish an express presumption of fraud or undue influence when a donative instrument makes a gift to the person who drafted or transcribed the instrument or to certain other disqualified persons. Defines relevant terms for purposes of these provisions and makes other technical and conforming changes.

TRUSTEES: DUTIES

SB 202, HARMAN, CH. 621
PROB 15408, 16060.7–16061.8, 16064–16069, 16336.4, 17200

Among other things, allows a trustee to terminate a trust, without court approval, if the value of the trust does not exceed $40,000. Requires a trustee, on request, to provide a beneficiary with the terms of the trust, unless the trustee is specifically not required to do so. Clarifies that a trustee, upon reasonable request by a beneficiary, must provide the beneficiary with specific information relating to the administration of the trust relevant to the beneficiary's interest. Clarifies that any waiver by a settlor of the trustee's obligation to provide the terms of the trust or specified information to a beneficiary is void as it is against public policy.

STATE BAR AND PRACTICE OF LAW

ARBITRATION: OUT-OF-STATE REPRESENTATION

SB 877, HARMAN, CH. 277
CCP 1282.4

Extends, until January 1, 2013, the sunset on the out-of-state attorney arbitration counsel program.

TRAFFIC

COMMERCIAL MOTOR VEHICLES: DRIVER COMPLIANCE

AB 2144, GILMORE, CH. 216
VEH 1803.5, 1808.7, 15200, 15300, 15302, 15306, 15308, 15311–15312, 22526, 41501

Requires courts to transmit to the Department of Motor Vehicles abstracts of judgment for convictions of traffic violations along with orders to keep such convictions confidential, rather than dismissing the cases upon the offenders' completion of the traffic violator school program.

TRAFFIC VIOLATOR SCHOOL PROGRAM

AB 2499, PORTANTINO, CH. 599
VEH 1803.5, 1808.7, 11200– 11202.5, 11205–11205.4, 11208, 11208.5, 40512.6, 41501, 42005– 42005.2, 42005.5, 42007– 42007.4

Consolidates the regulation of all traffic violator schools, including Internet-based and other home-study programs, under the licensing authority of the Department of Motor Vehicles (DMV). Requires courts to transmit to DMV abstracts of judgment for convictions of traffic violations along with orders to keep such convictions confidential, rather than dismissing the cases upon the offenders' completion of the traffic violator school program.

CHARTER-PARTY CARRIERS: BUS DRIVERS

AB 2768, COMMITTEE ON UTILITIES AND COMMERCE, CH. 213
VEH 1803; PRC 530, 534, 667, 669, 738, 4186, 5073.5, 5080.20, 5096.208, 5096.262, 6308, 6462, 7054, 7555, 9106, 13115, 22024, 25212, 25217.5, 31102, 32050, 32054; PUC 389

Among other things, requires courts to report to the Department of Motor Vehicles convictions involving offenses commit-

ted while driving a bus for a charter-party carrier in violation of Public Utilities Code section 5387.

DRIVER'S LICENSE: SUSPENSION

SB 895, HUFF, CH. 30
VEH 13352.5, 13353.3, 23247
URGENCY, EFFECTIVE JUNE 22, 2010

Corrects a drafting error in existing law by clarifying that the Department of Motor Vehicles' administrative license suspension resulting from an offense of driving under the influence shall terminate if the person has been convicted of the violation and is eligible for a restricted license upon the installation of an ignition interlock device and meets all other applicable conditions of a suspended license.

LOCAL AUTHORITY: TRAFFIC ENFORCEMENT

SB 949, OROPEZA, CH. 616
VEH 21, 21100

Prohibits local authorities from enacting or enforcing ordinances or resolutions that either establish a violation for traffic conduct already deemed a violation of the California Vehicle Code or assess a fine, penalty, or fee for violation of any matters covered by the Vehicle Code, unless such ordinances are authorized by the Vehicle Code or other state code.

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