



The Capitol Connection

ADMINISTRATIVE OFFICE OF THE COURTS • OFFICE OF GOVERNMENTAL AFFAIRS

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Legislative Calendar

March 17
Spring Recess begins

AOC HOLDS ORIENTATION PROGRAM FOR NEW LEGISLATORS

The AOC's Office of Governmental Affairs (OGA) and the Center for Judicial Education and Research (CJER) held the first-of-its-kind orientation program for new members of the Legislature at the State Capitol on February 8, 2005. The New Legislator Orientation Program affords a unique opportunity for the AOC to interact and forge relationships with new members at the beginning of the legislative session. This year, there are 22 first-time legislators elected to the State Assembly.



Program faculty (l-r) Ron Overholt, William C. Vickrey, Judge Donna Hitchens, Judge Brad Hill, Chief Justice Ronald George, Judge Heather Morse, Kathleen Howard, Judge Terry Friedman, Martha Kilbourn and Dia Poole.

"First-term legislators and legislators serving under term limits have little time to learn the myriad issues that confront them, including those most significant to the judicial branch," said OGA Director Kate Howard. "This program gives us an opportunity to spend quality time with the new members in an informal setting, and to share information about the judicial branch that you just can't cover in a fifteen-minute meet-and-greet appointment."

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LEGISLATOR PROFILE: ASSEMBLY MEMBER NOREEN EVANS

Noreen Evans, a Democrat, was elected to the California State Assembly in November of 2004 to represent the 7th Assembly District which includes Napa, Solano, and Sonoma counties.

As chair of the Human Services Committee, Assembly Member Evans is committed to fight for vulnerable children, the disabled, dependant adults, the elderly, and poor working families. She also serves on the Committees on Judiciary, Budget, and Veterans Affairs as well as the Budget Subcommittee on Resources.

"I am eager to get to work," Assembly Member Evans told *The Capitol Connection*. "We have much work to be done to address California's \$9 billion deficit, to reform our state government, to protect our environment, and to honor our veter-

ans who have served our country."

Ms. Evans has lived and worked in Sonoma County since 1982 where her legal career focused on civil litigation and appeals. Prior to her election to the Assembly, she was an attorney with the Santa Rosa law firm Lanahan & Reilley, LLP and was formerly a litigation partner in the Santa Rosa law firm of O'Brien, Watters, & Davis. She is also admitted to practice in various federal district courts, the United States Court of Appeals for the Ninth Circuit, and the United States Supreme Court.

"I look forward to using my advocacy skills as a lawyer to

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UPDATE ON JUDICIAL COUNCIL-SPONSORED LEGISLATION

New Judgeships/SJO Conversions

Securing new judgeships is an immediate objective for the judicial branch. California courts face a critical need for more judges, and fast-growing counties are especially in need. Over the last twenty years, California has experienced a 50 percent increase in population. Yet, since 1988, only 41 judgeships have been added to the trial courts statewide. A detailed analysis of judicial workload identified a need for approximately 355 judges statewide. Considering the state's ongoing fiscal crisis, the Judicial Council is requesting only the most critically needed 150 judgeships over a three-year period.

In addition to the proposed 150 new judgeships, the judgeship bill is anticipated to include provisions that would allow for the conversion of eligible subordinate judicial officer positions to be converted to judgeships. A

2000 study by the National Center for State Courts noted that subordinate judicial officer positions were created and funded at the county level to address courts' need for judicial resources when new judgeships were not created through the legislative process. In the ten-year period from 1989-1999, the total number of judges in California increased by one percent (from 1460 to 1479), while the total number of subordinate judicial officers increased by 60 percent (from 250 to 401). Statewide, subordinate judicial officers make up 22 percent of the Superior Court bench.

SJO positions would be converted to judge positions when (1) a commissioner or referee voluntarily vacates one of the positions on the list, or (2) the Governor appoints as a judge an SJO in a court that has a position eligible for conversion.

SB 56 was introduced as a "spot bill" by Senator Joseph

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COURTS TESTIFY AT SENATE HEARING ON TRIAL COURT FACILITIES, SECURITY AND ACCESS TO JUSTICE

Court facilities, court security, and access to justice issues were the focus of two informational hearings held in February by Senator Joseph Dunn (D-Santa Ana), chair of the Senate budget subcommittee that has jurisdiction over the judicial branch budget. Court leaders, local law enforcement officials, and legal services organizations were invited to testify at the hearings held in Long Beach and San Jose.

In the spring of 2004, Dunn held five hearings on the impact of the state budget on court operations (*The Capitol Connection, February and April 2004*). This year, Dunn narrowed the scope of the hearings to allow in-depth testimony on the condition of trial court facilities and security at courthouses, as well as access to justice issues across the state. The first hearing was held on February 10 in Long Beach City Council Chambers, and the second was held in Department 19 of the Santa Clara Old County Courthouse. A third hearing has been scheduled in Merced on March 8.

As with previous hearings, the Office of Governmental Affairs (OGA) staff coordinated the testimony of court leaders from Los Angeles and Santa Clara counties, and executive staff from the AOC's San Francisco headquar-

ters and regional offices. William C. Vickrey, Administrative Director of the Courts, provided a statewide overview of trial court funding for FY 2005-06, highlighting judicial branch priorities and council-sponsored legislation. Chief Deputy Director Ron Overholt described the process by which county court facilities are transferred to state ownership and reported on the challenges facing both state and local government as they negotiate over facilities that do not meet the requirements for transfer.



Senator Joe Dunn at San Jose hearing with Senator Christine Kehoe (r) and Alexandra Montgomery, counsel to Senate Judiciary Committee.

Presiding Judge William MacLaughlin and Judge Gary Ferrari, Superior Court of Los Angeles County, and Presiding Judge Alden Danner and Judge Jack Komar, Superior Court of Santa Clara County, described conditions in their facilities and the constant struggle to provide services to the public in buildings that require extensive renovations, or, in some cases, total replacement. Poster-sized photos were displayed depicting potential jurors sitting on the floor in hallways, courthouses without up-to-date fire, safety, or elevator systems, portable trailers used as courtrooms, and boxes of court files crammed into closets and hallways.

Efforts to provide adequate court security are hampered by

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LEGISLATIVE REVIEW

The following is an update of the first year of the 2005-2006 legislative session on selected bills of interest to the courts. This issue includes bills introduced through February 22.

COURT OPERATIONS

AB 176 (Bermudez), as introduced. Trial courts: limited term employees

Existing law prohibits the employment of any temporary employee in the trial court for a period exceeding 180 calendar days, except for court reporters under certain conditions. This bill would prohibit the employment of any limited-term employee in the trial court for a period exceeding 180 calendar days, except for court reporters under certain conditions. The bill would provide that any limited-term employee employed for more than 180 calendar days is a regular employee, except for those court reporters otherwise excluded.

Status: Assembly Public Employees Retirement and Social Security Committee

SB 56 (Dunn), as introduced. New judgeships.

Authorizes an unspecified number of additional judges for assignment to the various counties, as determined by the Judicial Council.

Notes: SB 56 is a "spot bill" for the Judicial Council's proposal to add 150 new judgeships, 50 in each of the next three years and the conversion of subordinate judicial officers.

Status: Awaiting committee assignment

JC Position: Sponsor

SB 57 (Alarcon), as introduced. Fines and forfeitures.

Authorizes a county board of supervisors to levy a new \$2 penalty assessment for every \$10, upon every fine, penalty, or forfeiture imposed and collected by the courts for specified criminal offenses. In addition, a county board can levy another \$2 penalty assessment for every \$10 upon every fine, penalty, or forfeiture imposed and collected by the courts for seat belt, speed limit, DUI and domestic violence violations. Counties have discretion to spend up to 15% of the revenue generated on trauma care facilities that provide pediatric trauma care.

Notes: There is concern that the second \$2 assessment may present problems for court case management systems since it only applies to four categories of offenses.

Status: Senate Public Safety Committee

JC Position: On the March 17, 2004, PCLC meeting agenda.

SB 395 (Escutia), as introduced. Court facilities bond.

States the intent of the Legislature to enact the California Court Facilities Bond Act of 2006 to acquire, rehabilitate, construct, and finance court facilities.

Notes: SB 395 is a "spot bill" for the Judicial Council's proposal to place a bond initiative on the ballot in 2006. Details of the bond proposal are under development by AOC staff.

Status: Awaiting committee assignment

JC Position: Sponsor

CRIMINAL

AB 106 (Cohn), as introduced. Spousal battery: fines: amnesty.

Requires the courts of each county to establish a one-time amnesty program, based upon Judicial Council guidelines, for fines, bail, and other monetary obligations that are imposed for certain domestic violence offenses that have been delinquent for not less than six months as of January 1, 2006. Provides that the amount scheduled by the court shall be either 70% of the total fine, bail, or monetary obligation, or \$500. The Judicial Council has taken an "oppose" position on this bill because it is inconsistent with the recommendations of the SB 940 Court County Working Group on Enhanced Collections. If you have information on the costs of operating an amnesty program please contact Tracy Kenny at Tracy.Kenny@jud.ca.gov or (916) 323-3121.

Status: Assembly Public Safety Committee

JC Position: Oppose

CIVIL PROCEDURE

AB 496 (Aghazarian), as introduced. Service of process: retention of original summons in court file.

Existing law provides that a plaintiff may have the clerk issue one or more summons for any defendant. Among other things, this bill would require the clerk not to return the original summons, but to maintain it in the file.

Status: Awaiting committee assignment

AB 1459 (Canciamilla), as introduced. Small claims court.

Increases the jurisdictional amount in small claims court actions for the recovery of money from \$5,000 to \$15,000, with specified exceptions, and increases the jurisdictional amount in certain other actions from \$5,000 to \$10,000.

Status: Awaiting committee assignment

SB 312 (Ackerman), as introduced. Summary judgment.

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LEGISLATIVE REVIEW

(Continued from page 3)

Existing law requires that notice of a motion for summary judgment and supporting papers shall be served on all other parties to the action at least 75 days before the time appointed for hearing.

This bill would make an exception to that requirement if the court for good cause orders otherwise or the parties stipulate otherwise. The bill would additionally authorize a party to move for summary adjudication of a legal issue or claim for damages, other than punitive damages, that does not completely dispose of a cause of action, an affirmative defense, or an issue of duty according to specified procedures.

Status: Awaiting committee assignment

SB 422 (Simitian), as introduced. Small claims court.

Increases the jurisdictional amount in small claims court actions from \$5,000 to \$10,000, with specified exceptions.

Status: Awaiting committee assignment

FAMILY

AB 96 (Cohn), as introduced. Terms of probation: domestic violence: child support.

Adds payment of child support as a condition of probation for domestic violence offenses (PC 1203.97).

Status: Assembly Public Safety Committee

AB 102 (Cohn), as introduced. Domestic violence: dual status.

Requires the presiding judges of the family, criminal, and juvenile courts of each county to create a jointly written protocol to allow these courts to jointly assess and produce a recommendation that a defendant or ward who perpetrates a domestic violence offense be designated as dual status, permitting the courts to access all background information on the defendant or ward held by any of these court systems. Requires the Judicial Council to collect and compile data on these protocols, to prepare an evaluation of the implementation of the protocol, and to report its findings and any resulting recommendations to the Legislature. Further requires the Judicial Council to review all proposed protocols to ensure that they provide for the collection of adequate, standardized data to perform these evaluations. Current law requires courts to have protocols in place for coordinating information regarding cases involving domestic violence and related child custody matters. If you have information regarding the benefits of these protocols, and/or any obstacles your

court has faced in implementing them, please contact Tracy Kenny at Tracy.Kenny@jud.ca.gov or (916) 323-3121.

Status: Assembly Judiciary Committee

AB 104 (Cohn), as introduced. Protective orders: dismissal.

Provides that a domestic violence protective order shall be dismissed by the issuing judge, to the extent he or she is available, upon written stipulation filed with the court or on the motion of a party to terminate the order prior to its expiration date.

Status: Assembly Judiciary Committee

JC Position: Oppose

AB 112 (Cohn), as introduced. Protective orders: modification.

Requires the court to confirm the identity of the petitioner when considering a petition to modify or terminate a domestic violence protective order. The intent of this bill is to require the court, considering a motion to modify (typically to terminate) a DVPA order, to verify that if someone is in court purporting to be the protected person, that that person is in fact the protected person and not someone impersonating the protected person.

Status: Assembly Judiciary Committee

AB 118 (Cohn), as introduced. Protective orders: minor children.

Requires ex parte orders under the DVPA to specifically state on the order the type of contact, if any, permitted between the restrained party and any minor child of the protected person. As drafted, this requirement applies only to ex parte orders, but it is OGA's understanding that the intent of the author is for it to apply to orders after hearing as well.

Status: Assembly Judiciary Committee

AB 1102 (Hancock), as introduced. Marriage

Revises provisions concerning marriage licenses. Requires the clerk of the court to collect an \$11 fee for the filing of an adoption petition, and to remit those fees to the State Registrar of Vital Statistics. Requires the court to send notice to the Bureau of Vital Statistics regarding dissolution of marriage. This proposal reorganizes the responsibility for marriage related activities by county and court clerks. If you have information on how this proposal would affect the way your county/court currently manages these responsibilities please contact Tracy.Kenny@jud.ca.gov or (916) 323-3121.

Status: Awaiting committee assignment

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LEGISLATIVE REVIEW

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JUVENILE DEPENDENCY

SB 218 (Scott), as introduced. Termination of parental rights: prospective adoptive parents.

Authorizes the court to designate specified caretakers as prospective adoptive parents in cases where a dependent child's parents have had their rights terminated, and the child has resided with the caretaker for at least six months, and the caretaker has expressed an interest in adopting the child. Where the court makes this designation, a child could not be removed from the home of that caretaker until a noticed hearing had been conducted to determine that such removal was in the child's best interests.

Status: Awaiting committee assignment

PROBATE

SB 390 (Bowen), as introduced. Probate agreements: cash advances: court review

Existing law provides for the regulation of viatical settlements and the transfer of structured settlement payment rights. This bill would similarly regulate probate agreements, which would be defined as an agreement whereby a beneficiary transfers his or her interest, or future interest, in an estate or trust in exchange for compensation. The bill would provide for certain disclosure and notice requirements with regard to the price paid for, and the actual value of, the interest or future interest, and would require court approval of those agreements. The bill would further authorize the Attorney General to review any probate agreement, and would require a buyer thereof to provide certain disclosures to the Attorney General.

Status: Awaiting committee assignment ■

JUDICIAL COUNCIL-SPONSORED LEGISLATION

(Continued from page 2)

Dunn (D-Santa Ana) to address the need for new judgeships and conversion of SJOs. Senator Dunn intends to seek numerous co-authors to reflect the strong bipartisan support for new judgeships.

For more information about SB 56, contact Eraina Ortega at eraina.ortega@jud.ca.gov

Uniform Civil Fee Proposal

Courts and court users faced confusion and difficulty after the implementation of numerous new and increased fees passed with the 2003-04 Budget Act. These issues led the Chief Justice to appoint the Court Fees Working Group (CFWG). In April 2004, the CFWG made unanimous recommendations on a statewide uniform civil fee structure. In the ensuing months, extensive negotiations have gone on with interested and affected groups, including counties, law libraries, civil attorneys, local dispute resolution programs, and others. The Uniform Civil Fee (UCF) proposal will streamline and vastly simplify the civil fee structure, provide for uniformity across the state, and address the funding shortfall under the current fee structure

The UCF proposal will be submitted as a budget trailer bill so that the new fee structure will be approved upon passage of the state budget, but will likely take effect at a later date specified in the bill. The delayed effective date will give courts sufficient time to implement the new structure.

For more information about the UCF, contact Kate Howard at kathleen.howard@jud.ca.gov

Court Facilities Bond

The Task Force on Court Facilities identified 90 percent of existing buildings in need of significant maintenance, repair, or renovation. Of the 451 facilities catalogued by the task force, 23 facilities were in trailers, over 80 percent were constructed prior to the 1988 seismic codes, 30 percent are 40 years or older, and 25 percent do not provide a space for assembled jurors. If funded over twelve years, the average annual need in 2005 dollars is \$313 million.

The Trial Court Facilities Act of 2002 established new filing fees and penalty assessments for deposit in the State Court-house Construction Fund. The annual revenue to the Fund is estimated to be \$82 million in 2005 and while this revenue will address some of the need for capital investment in court facilities, a substantial commitment of funds is necessary to fully address the needs identified by the task force. The use of bond financing allows the judicial branch to secure the necessary funds to construct and renovate court facilities and is consistent with the recommendations of the Task Force on Court Facilities and will further the goals of the Trial Court Facilities Act of 2002.

Senator Martha Escutia (D-Whittier) has introduced SB 395 as a "spot bill" to address the need for bond financing.

For more information about AB 395, contact Eraina Ortega at eraina.ortega@jud.ca.gov

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ORIENTATION PROGRAM

(Continued from page 1)

The program was designed to inform newly elected legislators about the Judicial Council, the structure of the judicial branch, the Office of Governmental Affairs, and services the council can provide to legislators. Also covered were court-related issues of interest to legislators.



Chief Justice George (second from right) with Bill Vickrey, Assembly Member Dave Jones, Assembly Member Lori Saldaña, and Senator Carole Migden.

Chief Justice Ronald M. George welcomed the members at both the morning and afternoon sessions. Administrative Director of the Courts William C. Vickrey outlined the course objectives before turning the program over to the Hon. Terry Friedman, Judge of the Superior Court, County of Los Angeles. Judge

Friedman, who was a member of the State Assembly from 1984-1994, engaged the legislators in a discussion that compared the role of the ideal judge with that of the ideal legislator in order to accentuate the similarities and differences of their respective roles.

Judge Heather Morse and Judge Brad Hill, of the Superior Courts of Santa Cruz and Fresno, respectively, joined Kate Howard for a presentation that outlined the organization and struc-



Judge Heather Morse records the discussion comparing the ideal judge and ideal legislator.

ture of the judicial branch and its interrelationship with the Legislature. Judge Donna Hitchens of the Superior Court of San Francisco County showed a video of testimony from citizens who have had positive experiences with courts, demonstrating that the judicial and legislative branches are partners in efforts to improve access to justice for Californians.



Judge Donna Hitchens emphasized the importance of the relationship between the judicial and legislative branches.

The AOC plans to conduct similar orientation programs at the beginning of each two-year legislative session or on a selective, as-needed basis. “We also need to connect with members who have previously served in the Legislature and are returning, as well as members who may not have previously served on committees that hear judicial branch issues,” Howard said, noting that some returning members were also invited and attended the sessions. “The orientation is an excellent way to ‘brush up’ and engage both new and established members in meaningful discussions about the judicial branch.”

For more information on the program, contact Dia Poole in the Office of Governmental Affairs at (916) 323-3121 or via email at dia.poole@jud.ca.gov. ■

ASSEMBLY MEMBER NOREEN EVANS

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continue protecting consumers and working families as a member of the Judiciary Committee,” Evans said.

Assembly Member Evans also served in local government for 11 years. As a planning commissioner and a two-term city council member in Santa Rosa, she was a leader on budget issues, waterways policy, campaign finance reform, and child care. She serves on the board of directors of the Leadership Institute for Ecology and the Economy, a leadership training program for sustainable development, and is a founding member of Coalition for a Better Sonoma County, a coalition of labor, environmental and social jus-

tice activists.

Evans received her bachelor’s degree in government from California State University, Sacramento, in 1978. After receiving her juris doctorate from the University of Pacific, McGeorge School of Law in 1981, she studied international business law at the University of Salzburg and worked in Ireland at a Dublin firm of solicitors. Assembly Member Evans lives in Santa Rosa with her husband, the Honorable Mark Fudem, a workers compensation administrative law judge, and their three children. ■

JUDICIAL COUNCIL-SPONSORED LEGISLATION

(Continued from page 5)

Judges' Retirement

SB 528 (Ackerman and Dunn), as introduced on February 18, 2005, declares the Legislature's intent to evaluate the impact of trial court unification on the judges' retirement systems and the resulting increase in the judges' age at the start of their judicial service. This bill will serve as the vehicle for proposed changes to the judges' retirement systems during the 2005-2006 Legislative Session. The Judicial Council and the California Judges

Association are co-sponsors of this proposal to modify the defined benefit structure of JRS II as follows:

- Decrease the minimum retirement age from 65 to 63.
- Allow judges to receive a defined benefit retirement at age 63 and older, calculated based on a formula of 3.75 percent of salary for each year of service, subject to a minimum of 10 years of service.

For more information about SB 528, contact June Clark at june.clark@jud.ca.gov. ■

COURTS TESTIFY AT SENATE HEARING

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deficiencies in facilities not designed to handle the state's rapid population growth and court workload, according to witnesses in the second part of the hearings. AOC Regional Administrative Director Mike Roddy reported findings of an AOC working group on court security, noting problems in securing the courts' perimeter, segregating victims from defendants, and transporting and holding in-custody defendants. More than 40 percent of California courts require law enforcement officers to use public hallways to move prisoners into courtrooms, putting victims, witnesses, the public, and court staff at significant risk. "In some facilities," Roddy said, "we've had to seat in-custody defendants in the public seating areas or the jury box. In one small court, defendants are brought up a back stairwell and through the judge's chambers to get into the courtroom."



Santa Clara County Superior Court directors listen to testimony from Presiding Judge Alden Danner.

Executive Officer of Superior Court of Santa Clara County, were joined by Chief Richard Martinez and Sheriff Laurie Smith of their respective counties to recount joint efforts between law enforcement and the courts to maximize available resources and control costs while protecting court staff and users.

Retired judge Cecil Mills, director of Court Security at the Superior Court of Los Angeles County, and Kiri Torre,



Sheriff Laurie Smith



Frank and Janet Deering share their court experience with state senators.

Witnesses in the final panel at the two-hour hearings addressed access to justice issues. Presiding Judge Sharon Waters, Superior Court of Riverside County, and Judge Delores Carr of Santa Clara explained how the public is impacted by the need for judgeships in counties facing significant population growth and increasing court workloads. Legal services witnesses included Bruce Iwasaki, Executive Director, Legal Aid Foundation of Los Angeles, Amelia Nieto, founder and director of Centro Shalom, and Hope Nakamura, Directing Attorney, Legal Aid of San Mateo, told how their organizations are impacted by inadequate facilities, lack of security, and long waits for court dates and services caused by budget reductions and lack of judges to hear their cases. "Equal access to justice?" Nieto asked. "My clients would appreciate just *some* access to justice."

Some of the most compelling testimony of the hearings came from witnesses who Senator Dunn calls "real people." Frank and Janet Deering, a San Bruno couple who sought guardianship of their 11-year-old grandson, attended the San Jose hearing to publicly share how important access to the courts had been for their family.

Senator Dunn committed to share additional written testimony received from courts in surrounding counties with his colleagues in the Legislature. He encouraged court leaders to continue advocacy efforts to secure stable funding and improvements in court facilities and security. "We've done some nice first steps, but we have a long way to go," Dunn said. "We all have to raise our voices - it's incumbent on us all."

For more information on the hearings, contact the OGA at 916-323-3121 or dia.poole@jud.ca.gov. ■



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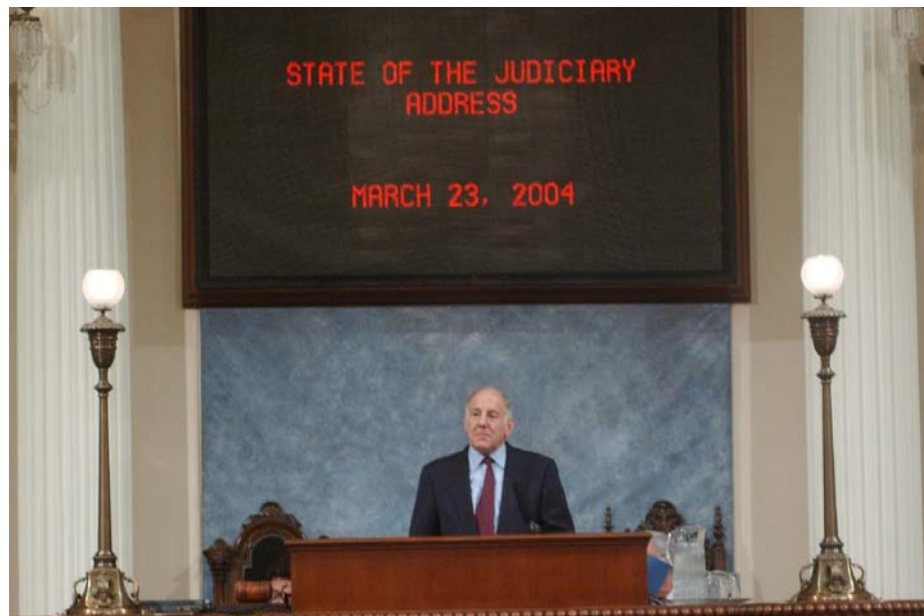
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CHIEF JUSTICE TO DELIVER STATE OF JUDICIARY ADDRESS AT STATE CAPITOL



On March 15, 2005, Chief Justice Ronald George will deliver his annual State of the Judiciary address to a joint session of the Legislature. The Chief Justice will speak on significant issues and challenges facing the judiciary in the upcoming year. This year, topics will include key legislative priorities for the judicial branch, including new judgeships, a court facilities bond, and a uniform civil fee proposal.

Following Chief Justice George's address, the 11th annual Judicial-Legislative-Executive Forum will commence. The forum is an opportunity for members of the Legislature, the Executive Branch, and the Bench-Bar Coalition to discuss issues and meet informally with Chief Justice George and other judicial branch leaders.

Transcripts of the State of the Judiciary Addresses for the last several years can be found at the following weblink: http://www.courtinfo.ca.gov/reference/soj_archive.htm. ■

News From the AOC

In addition to *The Capitol Connection*, the Administrative Office of the Courts publishes several newsletters reporting on various aspects of court business. Visit these online on the California Courts Web site at www.courtinfo.ca.gov. To subscribe to these newsletters, contact pubinfo@jud.ca.gov.

CFCC Update: Reports on developments in juvenile and family law, including innovative programs, case law summaries from the AOC's Center for Families, Children and the Courts; grants and resources, and updates on legislation and rules and forms. Published three times a year. See www.courtinfo.ca.gov/programs/cfcc/resources/publications/newsletter.htm.