



The Capitol Connection

ADMINISTRATIVE OFFICE OF THE COURTS • OFFICE OF GOVERNMENTAL AFFAIRS

In this Issue

New Director appointed to AOC Office of Governmental Affairs..... 1

SB 56 judicial appointments continue..... 1

Judicial Council-sponsored Legislation..... 1

Legislative review..... 3

Kate Howard makes career move..... 4

Legislature realigns responsibilities for juvenile offenders..... 6

Governor vetoes funding for Conservatorship and Guardianship Reform Act of 2006..... 6

Popular New Laws Workshops return..... 11

Legislators send over 900 bills to Governor..... 12

Judicial Fellow joins OGA..... 12

Legislative Calendar

January 7, 2008
Legislature reconvenes.

NEW DIRECTOR APPOINTED TO AOC OFFICE OF GOVERNMENTAL AFFAIRS



Photo courtesy of California Secretary of State Website

Administrative Director of the Courts William C. Vickrey recently announced the appointment of Curtis L. Child as the new director of the Administrative Office of the Courts (AOC) Office of Governmental Affairs (OGA). Mr. Child,

who now serves as the principal consultant to the state Assembly Committee on Human Services, will succeed Kathleen Howard in December as top lobbyist for the office charged with representing the judicial branch on legislative, policy, and budget matters.

"I am extremely excited to be joining the AOC and working with the Chief Justice, Judicial Council, and the Administrative

Director of the Courts to improve the administration of justice in California," Mr. Child stated. "The AOC has a strong history of cooperative relationships with the Governor's Office and members of the Legislature and I welcome the opportunity to build upon that success."

As principal consultant to the state Assembly Committee on Human Services, Mr. Child was responsible for analyzing legislation within the committee's purview and taking a lead role on child welfare, foster care, and developmental disabilities. He staffed the foster care legislation of Assembly Member Jim Beall, the committee chair, and coordinated a series of hearings on modernizing the Lanterman Developmental Disabilities Act.

From 2004 to 2007, Mr. Child was a senior attorney for the National Center for Youth Law (NCYL). He established the Sacramento office of NCYL and was
(Continued on page 4)

SB 56 JUDICIAL APPOINTMENTS CONTINUE

Appointments Secretary Addresses Bench and Bar Leaders



Judicial Appointments Secretary Sharon Majors-Lewis addresses the BBC as outgoing cochair Anthony Capozzi looks on.
(Photo courtesy of Howard Watkins)

Governor Arnold Schwarzenegger recently announced another round of judicial appointments that include judgeships created by Senate Bill 56 (Stats. 2006, ch. 390).

The October 3 press release announced the appointment of 13 judges, including eight that filled SB 56 positions. The remaining five appointment filled vacancies due to judicial retirements in the Alameda, Contra Costa, Kern, and Nevada courts. This brings

the total number of appointments filled to 38 of the 50 authorized under the legislation (see accompanying chart on page 5).

The new judicial appointments, the selection process, and SB 56 were all discussed by the governor's Judicial Appointments Secretary during a Bench-Bar Coalition (BBC) meeting, held in concurrence with the 2007 California Bench Bar Biannual Conference in Anaheim.

(Continued on page 5)

JUDICIAL COUNCIL-SPONSORED LEGISLATION

JUDICIAL OFFICERS

Assembly Bill 159

The Judicial Council sponsored legislation to authorize the second set of new superior court judgeships. SB 56 of 2006 secured the first 50 judgeships for Fiscal Year 2006-07 (Stats. 2006, ch. 390). This year's **Assembly Bill 159** (Stats. 2007, ch. 722) by Assembly Member Dave Jones secured 50 superior court judgeships for FY 2007-08, to be allocated pursuant to the methodology and in the manner approved by the Judicial Council in February 2007. For FY 2007-08, AB 159 also authorizes the conversion of 16 subordinate judicial officers to judgeships, upon vacancy, in eligible courts. The conversion of an additional 146 subordinate judicial officer positions to judgeships is authorized for future years, with a maximum of 16 conversions per year, upon subsequent legislative ratification. AB 159 also requires the Governor to report annually data on the gender, race, and ethnicity of judicial applicants, appointments, and nominations.

For more information, contact Donna Hershkowitz at donna.hershkowitz@jud.ca.gov or (916) 323-3121.

COURT FACILITIES

Two bills are currently pending in the Legislature that would extend the statutory deadline for the transfer of court facilities from counties to the state. **AB 1491 (Benoit)** and **SB 145 (Corbett)** would have extended the deadline for court facilities transfers. However, neither bill was ultimately approved by the Legislature. There were differences between the Senate and the Assembly over the details of the deadline extension, specifically when higher CFP calculations would begin. For more information contact

Eraina Ortega at eraina.ortega@jud.ca.gov or (916) 323-3121.

Assembly Bill 1491

This two-year bill extends the deadline for the transfer of court facilities from counties to the state from June 30, 2007, to December 31, 2008, and requires counties to pay an increased County Facilities Payment for facilities that transfer between July 1, 2008, and December 31, 2008. This is an urgency bill, taking effect upon signature of the Governor.

Senate Bill 145

This two-year bill extends the deadline for the transfer of court facilities from counties to the state from June 30, 2007, to December 31, 2008, and requires counties to pay an increased County Facilities Payment for facilities that transfer between January 1, 2008, and December 31, 2008. This is an urgency bill, taking effect upon signature of the Governor.

COURT FUNDING/OPERATIONS

Assembly Bill 227

Two legislative measures of 2005 resulted in potential fine and forfeiture Maintenance of Effort (MOE) buyouts by the state from individual counties. AB 139 (Stats. 2005, ch. 74) provided, where applicable, for buyouts of certain revenues often referred to as "undesignated fees," while AB 145 (Stats. 2005, ch. 75) provided for buyouts of the county portion of certain fees designated by the Trial Court Funding Act (AB 233, Stats. 1997, ch. 850). The "buyouts" have been effectuated in the 2005-2006 and 2006-2007 fiscal years by notice and agreement between courts and counties.

The Judicial Council and the California State Association of Counties co-sponsored **Assembly Bill 227 (Beall, Stats. 2007, ch. 383)** to add a new section to the Government Code to

codify the adjusted county fine and forfeiture MOE amounts that have been paid as a result of the buyouts agreed to pursuant to previous legislation. This change will prevent any future disagreement or misunderstanding about the amounts owed and is the final step in the disposition of fees and fines that have long been disputed between courts and counties.

Assembly Bill 367

Beginning with legislation to establish the Collaborative Court-County Working Group on Enhanced Collections (SB 940 (Escutia), Stats. 2003, ch. 275), and continuing with legislation to enact recommendations from that working group (SB 246 (Escutia) Stats. 2004, ch. 380), the Judicial Council has been leading an effort to improve the enforcement of court orders to increase respect for the rule of law.

The Judicial Council sponsored **Assembly Bill 367 (De Leon, Stats. 2007, ch. 132)**, enacting the final recommendations of the working group and building on previous efforts by making minor changes to the Franchise Tax Board's collection program. AB 367 also establishes a new task force to review and recommend changes that will improve the assessment and enforcement of criminal fines and penalties. In addition, at the request of Assembly Member Dave Jones, AB 367 also requires the Judicial Council to develop performance measures and benchmarks to review the effectiveness of collection programs. For more information contact Eraina Ortega at eraina.ortega@jud.ca.gov or (916) 323-3121.

Assembly Bill 1248

The Uniform Civil Fees (UCF) and Standard Fee Schedule Act of 2005

(Continued on page 7)

LEGISLATIVE REVIEW

The following is an update on selected bills of interest to the courts through the first year of the 2007-2008 legislative session.

CIVIL & SMALL CLAIMS

AB 1126 (Eng), Stats. 2007, ch. 113. Civil discovery: unlawful detainer; subpoenas.

Provides, among other things, that in unlawful detainer actions and other specified summary proceedings involving the possession of real property, a discovery motion may be made at any time upon giving five days notice. Requires the Judicial Council to adopt rules prescribing the time for the filing and service of opposition and reply papers relating to specified motions filed in connection with the above summary proceedings. Allows a plaintiff in those summary proceedings to propound interrogatories, make a demand for inspection, and make requests for admission without leave of court at any time that is five days after service of the summons on, or appearance by, the relevant party, whichever occurs first. Makes related changes to the procedures governing discovery in those summary proceedings.

Status: Chaptered.

JC position: Support.

AB 1264 (Eng), Stats. 2007, ch. 146. Courts: delay reduction: status conferences.

Prohibits delay reduction rules from requiring the severance of unnamed defendants prior to the conclusion of the introduction of evidence at trial, except upon stipulation or motion of the parties.

Status: Chaptered.

JC position: Neutral.

COURT EMPLOYEES

AB 1340 (Jones), as introduced. Safe and Secure Court Facilities Bond Act of 2008.

Authorizes a ballot measure for the issuance of \$2 billion in bonds for the acquisition, design, construction, or renovation of court facilities.

Status: Two-year bill.

JC position: Support.

AB 276 (Solorio), as amended March 15, 2007. Trial courts: limited-term employees.

Provides that a limited-term employee is a regular trial court employee if the limited-term employee has completed 180 days of service, and if the assignment, position, or project of the limited-term employee is an integral part of the long-term, regular work of the trial court.

Status: Two-year bill.

JC position: No position.

AB 863 (Davis), as introduced. Los Angeles County Superior Court employees.

Requires the Los Angeles Superior Court to pay each employee in specified bargaining units two months "back pay" in the amount the employee would have received if the employee's reclassification raise that occurred on October 1, 2005, had been made retroactive to August 1, 2005.

Status: Two-year bill

JC position: No position.

Note: The provisions of this bill were enacted as part of the budget process.

AB 1726 (Judiciary Committee), as introduced. Evidence: court interpreters.

Requires that an interpreter be present whenever needed in any civil matter, including family law and probate, or in any court-ordered or court-provided alternative dispute resolution, including mediation and arbitration. Requires that unless a party has notified the court that he or she has made arrangements for a private interpreter, the court shall provide the interpreter. Specifies a priority order for when an interpreter will be provided if there are insufficient interpreters or funding available. Limits funding provided for this purpose to \$10 million.

Status: Two-year bill.

JC position: Support in concept contingent on funding and workability.

SB 431 (Aanestad & Wiggins), Stats. 2007, ch. 256. Public employees' retirement: Butte and Solano counties.

Requires the Board of Administration of the Public Employees' Retirement System for the Counties of Butte and Solano to prepare a separate computation of the assets and liabilities of the trial court and each county. Estab-

(Continued on page 9)

CURT CHILD

(Continued from page 1)

responsible for legislative and administrative advocacy of child welfare, child support, public benefits, and health care issues affecting low-income children and families. He also directed efforts to help low-income children and families achieve financial stability and efforts to reform the state child welfare and foster care system. In 2006, Chief Justice George appointed Mr. Child as a member of the Blue Ribbon Commission on Foster Care.

In 2000, Governor Gray Davis appointed Mr. Child as the first director of the California Department of Child Support Services, the state department responsible for the collection and distribution of child support payments. In that position, Mr. Child established a new department with 229 employees, directed the transition of local services to 58 new stand-alone child support agencies, and administered a \$1 billion budget and annual collections and distributions of more \$2 billion. He served as

director until 2004.

Mr. Child was the principal consultant to the Assembly Committee on Human Services from 1997 to 2000, under the leadership of former Assembly Member Dion Aroner, committee chair.

From 1996 to 1997, he was one of three founding members of the Northern California Lawyers for Civil Justice, a non-profit public interest law firm established to provide civil legal services to low-income persons in areas prohibited by federally funded legal services programs. He worked at Legal Services of Northern California, Inc. from 1986 to 1995.

Mr. Child received his J.D. degree from McGeorge School of Law in Sacramento. He can be reached in the Office of Governmental Affairs at (916) 323-3121 or curtis.child@jud.ca.gov. ■

KATE HOWARD MAKES CAREER MOVE



Kate Howard receives a standing ovation from Chief Justice Ronald M. George and members of the Bench-Bar Coalition Executive Committee. (Photo courtesy of Howard Watkins)

Kathleen “Kate” Howard recently departed her post as director of the Office of Governmental Affairs, effective Friday, October 12, to explore other career opportunities. Howard has served as the Judicial Council’s top lobbyist since October 2004. Assistant Director Donna Hershkowitz served as acting director of the office until the new director was named (see article on page 1).

About her departure, Kate said,

“Coming to Sacramento and working in the Office of Governmental Affairs was the perfect job for me: policy, politics, and an opportunity to pioneer positive change. I learned how to be an effective advocate in Sacramento, and we built a superb team. It is with gratitude, appreciation, excitement, awe, humility, love, sadness, and wonder that I am leaving. It’s all in there. Saying ‘Goodbye’ from this role and leaving my colleagues is huge and quite hard.”

Shortly after Howard broke the news to her staff in early September, Administrative Director of the Courts William C. Vickrey formally announced her departure to the council and to the Administrative Office of the Courts (AOC).

“It is with great regret that I write to inform you that after 17 exciting and fulfilling years with the AOC, Kate Howard has decided to change the

direction of her professional life,” Vickrey said. “Kate shared her plans with the Chief Justice, Ron (Overholt), and me a few months ago, and in spite of our best efforts, consistent with many of her many admirable attributes, she would not be deterred.” Vickrey noted that Kate’s departure would occur after the Governor has taken action on judicial branch legislation.

Howard had been with the Administrative Office of the Courts since 1990, and worked in the legal and finance divisions before joining the staff of the Office of Governmental Affairs in late 1993. For several years, Kate was the council’s advocate on family law, domestic violence, and juvenile dependency issues, in addition to legislation related to the State Bar, judicial education, subordinate judicial officers, and judicial retirement. ■

SB 56 Appointments

(Continued from page 1)

Judicial Appointments Secretary Sharon Majors-Lewis addressed the new judgeships in her keynote address, entitled "New Judgeships: The First Fifty and Beyond," to members of the BBC at their meeting held on Friday, September 28, 2007.

Majors-Lewis told the standing-room-only crowd of bench and bar leaders about the Governor's appointment process.

She informed BBC members that the Governor sends the names of approximately 40 judicial applicants to the State Bar of California's Commission on Judicial Nominees Evaluation every 60 days. In deciding which applicants will be submitted, the needs of the counties are considered, and counties with the greatest needs are of particular focus.

On the subject of diversity in judicial appointments, Majors-Lewis made it clear that the Governor's

appointments would be reflective of the most qualified applicants in the pool. "Quality is the first requirement, with diversity being considered when and how we can," Majors-Lewis said. "When we're looking for judges, we look for a wide breadth of experiences and those who bring unique perspectives. If they're not diverse, they are candidates who are tolerant, patient, and can consider cultural differences that may play a role" in their consideration of cases before them, she added.

Secretary Majors-Lewis further stated that all candidates are interviewed and considered based on the same objective criteria, and pointed to recent changes in the judicial appointment application as evidence of the expanded efforts to form a broad-based, diverse applicant pool. She said she will continue to travel around the state encouraging attorneys to apply. ■

Chart of SB 56 Judgeship Appointments

| Court | Judgeships Authorized by SB 56 | Appointments Made 6/22/07 | Appointments Made 8/20/07 | Appointments Made 10/3/07 | Appointments Remaining to be Made |
|----------------|---------------------------------------|----------------------------------|----------------------------------|----------------------------------|--|
| Butte | 1 | | | | 1 |
| Contra Costa | 1 | | | 1 | 0 |
| Fresno | 4 | 3 | | | 1 |
| Kern | 2 | 2 | | | 0 |
| Los Angeles | 2 | | 2 | | 0 |
| Madera | 2 | | | 1 | 1 |
| Merced | 2 | | | 1 | 1 |
| Monterey | 1 | | 1 | | 0 |
| Orange | 1 | | | | 1 |
| Placer | 1 | 1 | | | 0 |
| Riverside | 7 | 3 | 2 | | 2 |
| Sacramento | 5 | 4 | | 1 | 0 |
| San Bernardino | 8 | 5 | | 3 | 0 |
| San Joaquin | 3 | 2 | | 1 | 0 |
| Shasta | 1 | | 1 | | 0 |
| Solano | 1 | 1 | | | 0 |
| Sonoma | 2 | 1 | | | 1 |
| Stanislaus | 3 | | | | 3 |
| Tulare | 2 | 1 | 1 | | 0 |
| Ventura | 1 | | | | 1 |
| TOTAL | 50 | 23 | 7 | 8 | 12 |

LEGISLATURE REALIGNS RESPONSIBILITIES FOR JUVENILE OFFENDERS

In order to provide services and sanctions for more juvenile offenders at the local level, the Legislature passed two pieces of legislation that will exclude certain offenders from eligibility for commitment to the California Department of Corrections and Rehabilitation, Department of Juvenile Facilities (DJF - formerly the California Youth Authority) and create a Youthful Offender Block Grant Fund to support local and regional services for these wards. Senate Bill 81 (Committee on Budget and Fiscal Review) and Assembly Bill 191 (Committee on Budget) are both urgency measures that took effect immediately upon signing. SB 81, effective August 24, 2007, is budget trailer legislation that set forth the parameters of the new provisions, and AB 191, effective September 29, 2007, is subsequent "clean-up" legislation which clarifies the implementation details of these new requirements.

The ultimate objective of the changes is to limit the population of state juvenile facilities to wards whose most recent sustained petition is for a sex offense or a serious or violent offense (those described in Welfare and Institutions Code section 707(b) or a sex offense set forth in Penal Code section 290(d)(3)) and keep other offenders in local facilities of programs. To accelerate the timeframe for achieving this objective, the new law not only limits new commitments to DJF, but also shifts parole responsibilities to the county of commitment for wards whose offenses would make them ineligible for a new commitment. This change will result in additional hearings for courts to establish a reentry disposition plan for such wards who are released from DJF or current parolees who are found to be in violation of their parole conditions. The timeframes for these hearings are set forth in AB 191, but generally courts will need to set a hearing within 15 court days of being notified by the state that a ward has been released, or detained for a parole violation. Juvenile courts will need to

work closely with their probation departments to implement these changes in their counties. In addition, SB 81 and AB 191 allow courts, upon the recommendation of the county chief probation officer, to recall any ward currently housed at DJF if the ward's commitment offense would make him or her ineligible for a new commitment. Exercise of this procedure will also require a new hearing to establish an alternative disposition for the ward.

To ensure that counties are able to serve this population of juvenile offenders, SB 81 and AB 191 also establish a new Youthful Offender Block Grant Fund that will be distributed to counties according to a formula that reflects their felony dispositions and their population aged 10 to 17. Each county is guaranteed a minimum allocation of \$58,500 for the current year, and \$117,000 for each year thereafter. The Governor's Office recently released the allocations for 2007-2008, and the 58 counties will share in \$23 million available for the current year. That amount is expected to grow to \$92 million by fiscal year 2010-2011. Ongoing eligibility for the funds in future years will be contingent on the county submitting a Juvenile Justice Development Plan for the youthful offenders that are to be served with these new funds. That plan is intended to describe a continuum of graduated sanctions and rehabilitative services that will meet the needs of these offenders in close proximity to their families and communities.

AOC staff will be working with the courts and the Chief Probation Officers of California to develop rules of court and forms to implement the new requirements. Until those are in place, courts will need to develop implementation strategies locally that will meet their obligations under the new legislation. For more information, contact Tracy Kenny at (916) 323-3121 or tracy.kenny@jud.ca.gov. ■

GOVERNOR VETOES FUNDING FOR CONSERVATORSHIP AND GUARDIANSHIP REFORM ACT OF 2006

The Conservatorship and Guardianship Reform Act of 2006 (Act) created new statutory requirements for conservatorship case processing that will increase court workload. Earlier this year, the Governor proposed

funding in the amount of \$17.4 million for Fiscal Year (FY) 2007-2008 and \$15.6 million for FY 2008-2009 to support the workload requirements. The Legislature

(Continued on page 8)

COUNCIL-SPONSORED LEGISLATION

(Continued from page 2)

took effect on January 1, 2006 (Stats. 2005, ch. 75). The new fee structure streamlined and simplified the civil fees collected by the courts by rolling the previously varied surcharges and add-on fees into one filing fee. As the courts have implemented the UCF, several technical issues have been identified as well as other issues that need clarification in the Act. **Assembly Bill 1248 (Evans, Stats. 2007, ch. 738)** makes technical and clarifying amendments to the UCF and clarifies when certain fees that were not part of the UCF should be charged.

In addition, AB 1248 makes a technical change to the court records statute, changes the frequency of a report that the Judicial Council submits to the Legislature, increases the cap on habeas investigation costs paid by the Supreme Court, allows staff of the Administrative Office of the Courts to staff a non-profit organization created by the Judicial Council, allows the courts to charge the current "night court assessment" for court sessions held on weekends, allows the courts to collect bail forfeitures in installment payments without requiring the individual to make an appearance in court, and requires the Judicial Council to establish a travel policy for the judicial branch. For more information contact Eraina Ortega at eraina.ortega@jud.ca.gov or (916) 323-3121.

Senate Bill 425

People v. Chavez (2007), 149 Cal.App.4th 1340, includes four rulings regarding criminal penalty assessments that are contrary to the Uniform Bail and Penalty Schedules (Bail Schedules) adopted by the Judicial Council, statewide court case management system programming, and the common understanding of how the criminal fine and penalty structure operates. With-

out legislation in response to the *Chavez* decision, the fine and penalty structure would be upended, the council would need to adopt new Bail Schedules, and court case management systems would need extensive and costly reprogramming.

The Judicial Council sponsored Sections 2 through 8 of **SB 425 (Margett, Stats. 2007, ch. 302)** to abrogate the holding of *Chavez* and clarify the statutes so that the plain language of the statutes conform to the current understanding and practice of how the fines and penalties are imposed by the courts. For more information contact June Clark at june.clark@jud.ca.gov or (916) 323-3121.

CIVIL & SMALL CLAIMS

Assembly Bill 926

The Judicial Council sponsored legislation to amend three discovery statutes to clarify the time for production of documents. **Assembly Bill 926** by Assembly Member Noreen Evans also provides that parties may agree to extend the time for inspection. AB 926 is pending in the Senate Judiciary Committee, however, amendments to three discovery statutes were incorporated into AB 1248, the Judicial Council-sponsored court operations bill. For more information contact Dan Pone at daniel.pone@jud.ca.gov or (916) 323-3121.

CRIMINAL LAW AND PROCEDURE

Senate Bill 340

The Judicial Council, together with the California Judges Association, cosponsored **SB 340** (Stats. 2007, ch. 581) by Senator Dick Ackerman to expand the list of individuals entitled to receive criminal history reports from the Department of Justice by adding court investigators in probate guardianship and conservatorship cases, as well as

officers performing conservatorship investigations related to proposed conservators under the Lanterman-Petris-Short Act. For more information, contact Dan Pone at daniel.pone@jud.ca.gov or (916) 323-3121.

MISCELLANEOUS

Assembly Bill 467

The Judicial Council sponsored **Assembly Bill 467** by Assembly Member Mike Feuer to revise and redraft the court fee waiver statute and provide indigent litigants with an opportunity to access the courts in a timely and appropriate manner. The bill would clarify required application processing procedures, require recovery of fees in specified cases, and provide procedures for reconsideration of fee waivers during the pendency of the case. In addition, AB 467 would provide separate fee waiver application processing procedures for the appellate courts. AB 467 was vetoed by the Governor. For more information, contact Tracy Kenny at tracy.kenny@jud.ca.gov or (916) 323-3121.

Senate Bill 396

Existing law imposes various fees for filing specified documents in connection with civil litigation. **Senate Bill 396**, by Senate Mark Ridley-Thomas, would require the Judicial Council to establish an advisory commission on civil court fees with a broad-based membership, appointed as specified, to review issues relating to civil court fees and make recommendations to the Legislature as appropriate. The bill would also require the Judicial Council to report to the Legislature on February 1 of each odd-numbered year on issues related to civil court fees, including the effectiveness of the fee structure, the performance of the revenues, and the funding needs of the entities that rely

(Continued on page 8)

COUNCIL-SPONSORED LEGISLATION

(Continued from page 7)

on filing fee revenues. SB 396, co-sponsored with the California Dispute Resolution Council, was vetoed by the Governor.

TRAFFIC

Assembly Bill 1464

Assembly Bill 1464 (Stats. 2007, ch. 452) by Assembly Member John Benoit has been signed into law by Governor Schwarzenegger.

Under current law, courts are unable to dispose of a significant portion of traffic cases resulting from a vehicle owner's failure to appear in court in response to an unsigned owner-responsibility Notice to Appear citation. Certain violations of the Vehicle Code are the responsibility of a vehicle owner rather than (or in addition to) the vehicle's driver.

Typical examples occur at truck scales, where citations may be issued because the vehicle is not properly equipped or is out of compliance with size provisions. Courts are currently prohibited from imposing the sanction of either a hold on registration or an arrest warrant against the owner for failing to appear in response to an unsigned Notice to Appear citation until the district attorney has filed a complaint. If the district attorney fails to take action, the court is unable to enforce its orders and dispose of the case.

CONSERVATORSHIP

(Continued from page 6)

approved this funding, which was then included in the budget bill that was sent to the Governor for signature.

After a prolonged budget impasse and a commitment by the Governor to the Legislature to reduce \$700 million from the 2007 budget bill, the funding that had been proposed to support the costs for implementing the Act was unexpectedly vetoed by the Governor. He stated in his veto message: "It is my intention for the Judicial Branch to delay implementation of the Act until the 2008–2009 fiscal year." With that veto, he reduced the entire \$17.4 million funding that would have been allocated to the trial courts this fiscal year.

Funding Situation

The Department of Finance has assured staff of the Administrative Office of the Courts (AOC) that the funding that was intended to be appropriated for these costs in FY 2007–2008 and FY 2008–2009 will instead be included in the Governor's proposed budget for FY 2008–2009.

The Judicial Council sponsored AB 1464 to allow the court, after proper notice to the owner/violator, to report a failure to appear on an unsigned citation issued for an owner-responsibility offense to the Department of Motor Vehicles for a hold to be placed on the registration of the vehicle involved in the offense.

To ensure due process rights are protected, this bill requires notice to the owner/violator, and allows 21 days for response if the owner/violator was not present when the citation is issued, rather than the usual 10 days, to avoid unnecessary default judgments.

The Judicial Council believes that it is inappropriate to allow court orders to remain unenforced, especially when no new information is provided by the district attorney's complaint, which includes the same information that is on the citation.

AB 1464 gives the court an alternative method to attempt to enforce the order to appear and dispose of the case in the absence of a formal complaint, by allowing it to take the narrow action of notifying DMV to place a registration hold on the vehicle involved in the offense.

For more information, contact June Clark at june.clark@jud.ca.gov or (916) 323-3121. ■

AOC staff has advised the Legislature and the Administration about difficulties the courts face in the current year with the elimination of funding and will continue discussions with the other branches about securing current year funding; however, the likelihood of obtaining a current year augmentation is low. This situation leaves courts in a difficult position of facing new statutory requirements, but with no additional funding in the current year. For some courts, this problem may be compounded by the fact that, as a result of a lack of resources in past years, they were unable to meet the statutory requirements related to conservatorships and guardianships that were in place *prior* to the 2006 Act. As a result, many courts will likely be facing the need to prioritize current operations within their existing resources to ensure that all requirements of the law related to conservatorships and guardianships are ultimately met. ■

LEGISLATIVE REVIEW

(Continued from page 3)

lishes January 1, 2001, as the date for which the court is responsible, as an employer, for the assets and liabilities of its employees.

Status: Chaptered.

JC position: Support

COURT REPORTERS

AB 582 (Evans), as amended June 1, 2007. Court transcription fees.

Increases the fee for the original and copies of court reporter transcripts for three consecutive years, and then increases the fee annually by the Consumer Price Index for All Urban Consumers. Expands the 50 percent additional charge for daily copy service to criminal transcripts. Requires the Administrative Office of the Courts to publish an updated transcript fee scheduled based on the increases tied to the CPI. Specifies a uniform format for all court transcripts, and increases access to the Transcript Reimbursement Fund (TRF) for indigent pro per litigants.

Status: Two-year bill.

JC position: Oppose unless funded outside SAL; support uniform format if amended; oppose unless amended to provide sufficient access to TRF to low-income litigants.

CRIMINAL LAW & PROCEDURE

AB 1582 (Calderon, Charles), as introduced. Crimes: marijuana: possession: penalty.

Reclassifies from a misdemeanor to an infraction a first offense for possession of not more than 28.5 grams of marijuana, and makes it an alternate infraction/misdemeanor for a second or subsequent offense.

Status: Two-year bill.

JC position: Support.

AB 1660 (La Malfa), as amended June 6, 2007. Victims' rights: presence during criminal proceedings.

Provides that after a victim has testified in a criminal proceeding, the victim or his or her designee has a right to be present at any subsequent proceedings, except as specified.

Status: Two-year bill.

JC position: Oppose.

SB 851 (Steinberg), as enrolled September 17, 2007. Mental health courts.

Allows a parolee who is under the dual jurisdiction of the

court and the Board of Parole Hearings to participate in a mental health court.

Status: Vetoed by Governor.

JC position: Neutral as amended September 6, 2007.

FEES, FINES, AND PENALTIES

SB 539 (Margett), Stats. 2007, ch. 435. Trial Court Trust Fund.

This bill (1) establishes a tiered interest and penalty structure that reduces the retroactive penalty to the amount that the revenue would have earned had it been receiving the Local Agency Investment Fund rate (an amount closer to four to six percent) so long as the court or county remits the revenue within 30 to 45 days, as specified, from the time the error is discovered; (2) establishes that the higher penalty rate apply only from the date 30 days after the date of the issuance by the Controller of the final audit report concerning the failure to pay; and (3) requires the entity found in error to make the payment directly to the state (currently the county is required to pay the state and seek reimbursement from the court, if the court is at fault).

Status: Chaptered.

JC position: Support.

JURIES

AB 1557 (Feuer), as introduced. Jury selection: peremptory challenges.

Reduces peremptory challenges to 6 per side in all misdemeanor cases, rather than only those misdemeanors resulting in imprisonment for 90 days or less.

Status: Two-year bill.

JC position: Support.

JUVENILE DEPENDENCY

AB 369 (Solorio), Stats. 2007, ch. 160. Child abuse reporting.

Allows Court Appointed Special Advocate (CASA) programs to obtain background information on potential volunteers and employees from the Child Abuse Central Index maintained by the Department of Justice.

Status: Chaptered.

JC position: Support.

(Continued on page 10)

LEGISLATIVE REVIEW

(Continued from page 9)

PROBATE

AB 1727 (Committee on Judiciary), Stats. 2007, ch. 553. Conservators and Guardians.

Contains a number of technical and conforming amendments to the Omnibus Conservatorship and Guardianship Reform Act of 2006. Among other things, revises provisions permitting release of confidential medical information to a probate court investigator. Requires the Judicial Council to adopt rules necessary for an expedited procedure that would authorize by court order a release of confidential medical information. Prohibits a conservatorship of the person or of the estate from being granted unless the court makes an express finding that the granting of the conservatorship is the least restrictive alternative needed for the protection of the conservatee. Creates new requirements on courts when guardianships and conservatorships are transferred from other jurisdictions. Deletes donative transfer provisions. Clarifies court investigators' interview duties. Deletes provision that allows petition for appointment of a conservator and the petition for appointment of a temporary conservator to be filed as one petition or separate petitions.

Status: Chaptered.

JC position: Support.

SB 800 (Corbett), as amended March 29, 2007. Conservators and guardians: care plans.

Requires a conservator or guardian to submit to the court within 90 days of appointment a plan for the care, custody, control, and, if applicable, the education of the ward or conservatee. As part of this plan, the bill would require an assessment of the strengths of the conservatee's or ward's family, an assessment of appropriate residential placement, and a schedule of visits between the ward or conservatee and the conservator or guardian, as well as visits between the ward or conservatee and his or her family. Requires the Judicial Council to develop an implementing form.

Status: Two-year bill.

JC position: Support in concept.

TRAFFIC

AB 112 (Wolk), Stats. 2007, ch. 258. Highways: Safety Enhancement Double Fine Zones.

Designates a segment of State Highway Route 12 in Solano and San Joaquin Counties as a Safety Enhancement-Double Fine Zone upon approval of specified county resolutions and until January 1, 2012. Contains an urgency clause and would take effect immediately upon enactment.

Status: Chaptered.

JC position: Oppose.

AB 117 (Beall), as amended March 22, 2007. Traffic offenses: additional assessment: traffic safety.

Provides that, until January 1, 2010, Santa Clara County may choose to levy an additional assessment for a highway traffic violation in the amount of \$2 for every \$10 or fraction thereof, upon each base fine, excluding other penalty assessments, fees, or additions. Requires that the collected assessment be deposited in a Traffic Safety Committee Network fund, and that the monies be allocated so that, after deducting administrative costs, 85 percent shall be used in traffic safety programs approved by the county board of supervisors, and 15 percent shall be deposited in the county's courthouse construction fund.

Status: Two-year bill.

JC position: Oppose.

AB 758 (Plescia), Stats. 2007, ch. 396. Vehicles: traffic violator schools: regulation.

Requires the Department of Motor Vehicles, on or before July 1, 2008, to submit a report to the Legislature containing a comprehensive plan with specified components by which the licensing of all traffic violator instruction programs may be consolidated under the authority of the department.

Status: Chaptered.

JC position: Support.

AB 1258 (Caballero), as introduced. Highways: Safety Enhancement Double Fine Zones.

Designates a segment of State Highway Route 101 and a segment of County Road 16 in Monterey County as Safety Enhancement-Double Fine Zones.

Status: Two-year bill.

JC position: Oppose. ■

POPULAR NEW LAWS WORKSHOPS RETURNS

The 2007 version of the New Laws Workshops, co-sponsored by the Coalition of Trial Court Clerks' Association (CTCCA) and the Administrative Office of the Courts (AOC), convened in Sacramento on November 6, in Burbank on November 8, and in San Francisco on November 14. These increasingly popular workshops drew a new-record attendance of nearly 400 court staff from across the State, representing 54 of the State's 58 courts.

The workshops, offered as one-day sessions at each site, focus on newly-enacted legislation that will impact court operations and practices in 2008. The three breakout sessions of 2007 covered new laws in three discrete areas:

- Family, Juvenile and Probate law
- Civil law and Small Claims Courts
- Criminal and Traffic law

The workshops featured information about changes in uniform court fees as well as the 50 new judgeships approved for 2008-2009.

Participants at the workshops were presented comprehensive summaries and analyses of the new laws prepared

jointly by AOC staff of the Office of Governmental Affairs and the CTCCA Legislative Committee. As in 2006, the binders containing the summaries continue to be a particularly sought-after and coveted authoritative resource for court staff. AOC staff announced plans to make the information in the binders available online on Serranus in early December.

The 2007 Workshops also included a special noon-time presentation on the "Safe at Home" Program, a confidential mail-forwarding service designed to aid victims of domestic violence, stalking, or sexual assault. Representatives of the program, administered by the Secretary of State's Office, offered specific detailed direction to workshop participants on how court staff may assist members of the public with accessing and benefiting from the unique service

Questions about the New Laws Workshops may be directed to Mr. Henry Sepulveda by e-mail at henry.sepulveda@jud.ca.gov or by telephone at (916) 323-3121. ■

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ABOVE: BBC Southern Region Cochair Joel Miliband accepts a Judicial Council resolution from Chief Justice Ronald George and Ronald Overholt on behalf of BBC member W. Patrick O'Keefe, Jr. of Orange County in recognition of his distinguished legal career and dedicated service to the Bench Bar Coalition.

LEFT TOP: An enthusiastic crowd of BBC members applauds opening remarks by Chief Justice Ronald M. George.

LEFT BOTTOM: Ruthe Ashley was installed as the BBC's Northern/Central Region Cochair.

(Photos courtesy of the Howard Watkins Photographic Archive Project)

Coalition Recognizes Member Contributions



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Find it online at

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LEGISLATORS SEND OVER 900 BILLS TO GOVERNOR



Photo courtesy of William Foster, Office of Governor Schwarzenegger

The Legislature adjourned the first year of the 2007-2008 Session on September 12 after sending 964 bills to Governor Arnold

Schwarzenegger. At this point in the 2005-2006 session, the Governor was considering a nearly identical number of bills – 961 – passed by the Senate and Assembly. Overall, the number of bills introduced in the Assembly in the first year of the current session is down from 2,018 in 2005, and down in the

Senate from 1,115 in 2005.

October 14 was the final day for the Governor to sign or veto bills. A summary chart of the bill disposition follows. For information on the Governor's actions on Judicial Council-sponsored legislation, see "[Judicial Council-Sponsored Legislation](#)" in this issue. ■

| 2007 LEGISLATIVE HISTORY As of: October 24, 2007 | ASSEMBLY BILLS | SENATE BILLS |
|---|-------------------|-----------------|
| Introduced | 1,751 | 1,052 |
| Passed by Assembly | 918 | 584 |
| Refused Passage | 2 | 2 |
| Enrolled and Presented to Governor | 584 | 380 |
| Signed by Governor and Chaptered | 451 | 299 |
| Vetoed by Governor | 133 | 81 |

OGA WELCOMES 2007-2008 JUDICIAL FELLOW: FRANZ BRAUN



Franz Braun has joined the AOC Office of Governmental Affairs (OGA) as the 2007-2008 Judicial Administration Fellow. Franz is a

and bachelor's degree in Spanish.

During his 10-month assignment, Franz will work with OGA leadership and staff to monitor and review legislation affecting the administration of the California Courts and to experience firsthand the office's advocacy functions on behalf of the judicial branch.

Chino, California, native and graduate of Cal Poly Pomona with a master's degree in English

Franz can be reached in Sacramento at (916) 323-3121 or Franz.Braun-t@jud.ca.gov. ■

News from the AOC

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

In an ongoing effort to provide information to the juvenile and family court community, The Center for Families, Children & the Courts publishes an annual academic journal that covers contemporary and important issues regarding children, families, and the interplay between these parties and the courts. See www.courtinfo.ca.gov/programs/cfcc/resources/publications/

