



# Judicial Council of California

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## M E M O R A N D U M

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**Date**

December 1, 2023

**Action Requested**

For Your Information

**To**

Members of the Administrative Presiding  
Justices Advisory Committee  
Members of the Appellate Advisory  
Committee  
Appellate Court/Clerk Executive Officers

**Deadline**

N/A

**Contact**

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**From**

Cory T. Jasperson, Director  
Governmental Affairs

**Subject**

Final Report of 2023 Legislation of Interest to  
Appellate Courts

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Additional legislative information is available at online <http://leginfo.legislature.ca.gov/>.

CTJ/jh

Attachments

cc:

Millicent Tidwell, Acting Administrative Director, Judicial Council  
Shelley Curran, Chief Policy and Research Officer, Judicial Council

**2023–24 LEGISLATION AFFECTING CALIFORNIA APPELLATE PROCEDURE**

BILL	AUTHOR	SUMMARY	STATUS
<a href="#">AB 784</a>	Cervantes	<p><b>Courts: Supreme Court and courts of appeal</b></p> <p>Makes the following technical change to the Code of Civil Procedure:  <i>Adjournments from day to day, or from time to time, <del>are to</del> shall be construed as recesses in the sessions and shall not prevent the Supreme Court or the courts of appeal from sitting at any time.</i></p>	Print File Two-year bill
<a href="#">SB 71</a>	Umberg	<p><b>Jurisdiction: small claims and limited civil case</b></p> <p>Increases to \$35,000 the amount of bail that must be at issue in a proceeding to review a bail forfeiture, which makes the case eligible to be heard by the court of appeal and provides that reviews of bail forfeiture for amounts less than \$35,000 are reviewable by the appellate division of the superior court.</p>	Signed into law (Stats. 2023, ch. 861)
<a href="#">SB 81</a>	Skinner	<p><b>Parole hearings</b></p> <p>Requires the Board of Parole Hearings to notify a parole candidate who has an indeterminate sentence and has been denied parole of their right to petition the court for habeas relief. Authorizes the court, on request, to appoint counsel to a parole candidate who has reached their minimum eligible parole date and who petitions the court for habeas relief after being denied parole. Establishes that a parole candidate who has reached their minimum eligible parole date has made a case for relief that should be accepted as correct unless proved otherwise and that the reviewing court may not deny a petition based on that fact without a hearing. Requires a court reviewing a petition for habeas relief based on a parole denial to uphold a decision to deny parole only if the court finds, by a preponderance of the evidence, that the person presents a current, unreasonable risk of danger to public safety, as specified.</p>	Vetoed
<a href="#">SB 365</a>	Wiener	<p><b>Civil procedure: arbitration</b></p> <p>Prohibits the automatic staying of civil legal proceedings during the pendency of an appeal of a denial or dismissal of a petition to compel arbitration. Provides the trial court with discretion to determine if a stay should be imposed.</p>	Signed into law (Stats. 2023, ch. 710)

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**2023–24 LEGISLATION AFFECTING CALIFORNIA APPELLATE PROCEDURE**

BILL	AUTHOR	SUMMARY	STATUS
<a href="#">SB 574</a>	<b>Wahab</b>	<p><b>Public agencies: project labor agreements</b></p> <p>Prohibits a state agency from undertaking a major construction project, defined as a project that will exceed \$35 million dollars, unless that project is governed by a project labor agreement (PLA) and if that PLA includes a community benefit goal, as defined. Provides that the projects subject to this requirement include projects undertaken by or for any superior court, court of appeal, or the California Supreme Court.</p>	Senate Governmental Organization Committee Two-year bill
<a href="#">SB 651</a>	<b>Grove</b>	<p><b>California Environmental Quality Act: groundwater recharge projects</b></p> <p>Streamlines judicial review for specified groundwater management projects that are challenged under CEQA. Requires the Judicial Council to adopt a rule of court to streamline judicial review of an action brought against certification of an environmental impact report for, or approval of, a project so that the proceeding is resolved within 270 days, to the extent feasible.</p>	Senate Natural Resources Committee Two-year bill
<a href="#">SB 794</a>	<b>Niello</b>	<p><b>California Environmental Quality Act: judicial challenge: identification of contributors: housing projects</b></p> <p>Requires CEQA actions challenging a commercial, housing, or public works project that has at least \$25 million invested in it to be resolved within 365 days of filing the certified record with the court to the extent feasible. Includes any potential appeals to the court of appeal or the Supreme Court.</p>	Senate Environmental Quality Committee Two-year bill

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BILL	AUTHOR	SUMMARY	STATUS
<a href="#">SB 861</a>	<b>Dahle</b>	<p><b>California Environmental Quality Act: water conveyance or storage projects: judicial review</b></p> <p>Requires the Judicial Council to adopt a rule of court to establish procedures that require actions or proceedings brought to attack, review, set aside, void, or annul the certification of an environmental impact report for a project or the granting of any project approvals that require the actions or proceedings, including any potential appeals to the court of appeal or the Supreme Court, to be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceedings with the court.</p>	Senate Appropriations Suspense File Two-year bill

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**2023–24 LEGISLATION RESPONDING TO CALIFORNIA APPELLATE AND SUPREME COURT DECISIONS**

BILL	AUTHOR	SUMMARY	STATUS
<a href="#">AB 61</a>	Bryan	<p><b>Criminal procedure: arraignment</b></p> <p>Removes the weekends and holidays exemption, thereby requiring a person to be taken before the court within 48 hours of their arrest, or to be released, except that if the 48-hour period expires at a time that the court is in session, the arraignment can occur anytime that day. Includes the following Legislative finding:</p> <p><i>(a) It is the intent of the Legislature to codify the holding in County of Riverside v. McLaughlin (1991) 500 U.S. 44 that every warrantless arrest be reviewed by a judicial officer for probable cause promptly after arrest, that probable cause determinations made after 48 hours requires [sic] the government to demonstrate the existence of a bona fide emergency or other extraordinary circumstance, and that matters such as intervening weekends or the need for consolidating pretrial proceedings are not extraordinary circumstances.</i></p>	Inactive File Two-year bill
<a href="#">AB 270</a>	Lee	<p><b>Political Reform Act of 1974: public campaign financing</b></p> <p>Allows, if approved by the voters, the state and local governments to offer public campaign financing programs. Includes the following Legislative finding:</p> <p><i>(i) In Johnson v. Bradley (1992) 4 Cal.4th 389, the California Supreme Court highlighted the Court of Appeal’s observation that “it seems obvious that public money reduces rather than increases the fund raising pressures on public office seekers and thereby reduces the undue influence of special interest groups.”</i></p>	Senate Elections and Constitutional Amendments Committee Two-year bill
<a href="#">AB 367</a>	Maienschein	<p><b>Controlled substances: enhancements</b></p> <p>Applies the “great bodily injury” enhancement to any person who sells, furnishes, administers, or gives away fentanyl or an analog of fentanyl when the person to whom the fentanyl was sold, furnished, administered, or given suffers a significant or substantial physical injury from using the substance. Seeks to overturn the holding of the California Supreme Court in <i>People v. Ollo</i> (2021) 11 Cal.5th 682 that this enhancement is not appropriate in cases in which the victim voluntarily ingested the substance.</p>	Assembly Public Safety Committee Two-year bill

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**2023–24 LEGISLATION RESPONDING TO CALIFORNIA APPELLATE AND SUPREME COURT DECISIONS**

BILL	AUTHOR	SUMMARY	STATUS
<a href="#">AB 600</a>	<b>Ting</b>	<p><b>Criminal procedure: resentencing</b></p> <p>Allows a court to recall a sentence at any time if applicable sentencing laws are subsequently changed because of new statutes or case law and makes changes to the procedural requirements to be followed when requests for a recall are made. States that the intent of the Legislature is for courts to have full discretion in resentencing proceedings to reconsider past decision using additional factors than those considered in <i>People v. Superior Court (Romero)</i> (1996) 13 Cal.4th 497.</p>	Signed into law (Stats. 2023, ch. 446)
<a href="#">AB 731</a>	<b>Pacheco</b>	<p><b>Pupil literacy: home book delivery: grant program</b></p> <p>Establishes the Home Book Delivery and School Connection Grant Program to increase access to diverse and culturally relevant books and support pupils in achieving grade-level reading by 3rd grade. Requires the State Department of Education to award formula grants to local educational agencies governing the state’s 75 lowest performing elementary schools, as identified in <i>Ella T. v. State of California</i>.</p>	Assembly Education Committee Two-year bill
<a href="#">AB 843</a>	<b>Carillo, Juan</b>	<p><b>Electronic benefits transfer system</b></p> <p>Codifies the decision in <i>Ortega v. Johnson</i> (2020) 57 Cal.App.5th 552 to clarify the reporting and replacement protocol responsibilities when benefits issued via an electronic benefits transfer (EBT) system are lost or stolen from a recipient and requires a prompt replacement.</p>	Vetoed

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BILL	AUTHOR	SUMMARY	STATUS
<a href="#">AB 896</a>	<b>Aguiar-Curry</b>	<p><b>Flood control: City of Woodland: Lower Cache Creek</b></p> <p>Adopts and approves the Lower Cache Creek Flood Risk Management Project and authorizes the state to fund up to 99 percent of the nonfederal costs of the project. Explicitly states:  <i>This act does not affect, and shall not be construed to affect, the validity of City of Woodland Measure S (2004), its applicability to any flood control project, including the subject of this act, or the outcome of litigation in Yolo County Farm Bureau v. City of Woodland (Yolo County Superior Court Case No. CV 2021-0564; 3rd District Court of Appeal Case No. C09702).</i></p>	Assembly Appropriations Suspense File Two-year bill
<a href="#">AB 958</a>	<b>Santiago</b>	<p><b>Prisons: visitation</b></p> <p>Establishes a civil right to personal visits for each person serving a sentence in state prison or county jail for a realigned felony, except as specified, and limit the reasons for which the California Department of Corrections and Rehabilitation (CDCR) can deny an in-person contact visit.            Contains other related provisions and other existing laws, and explicitly states that it does not overturn the decision in <i>Thor v. Superior Court</i> (1993) 5.Cal.4th 725.</p>	Assembly Appropriations Suspense File Two-year bill
<a href="#">AB 1076</a>	<b>Bauer-Kahan</b>	<p><b>Contracts in restraint of trade: noncompete agreements</b></p> <p>Codifies the holding in <i>Edwards v. Arthur Andersen LLP</i> (2008) 44 Cal.4th 937 by specifying that the prohibition on noncompete agreements is to be broadly construed to void noncompete agreements or clauses in the employment context that do not satisfy specified exceptions. Additionally provides that a violation of the prohibition on noncompete agreements in employment constitutes unfair competition.</p>	Signed into law (Stats. 2023, ch. 828)

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BILL	AUTHOR	SUMMARY	STATUS
<a href="#">AB 1104</a>	<b>Bonta</b>	<p><b>Corrections and rehabilitation: sentencing</b></p> <p>States that the deprivation of liberty due to incarceration satisfies the punishment aspect of sentencing and that the purpose of incarceration is to rehabilitate a person so they can be successfully reintegrated into their community. Abrogates the holding in <i>People v. Vega</i> (2014) 222 Cal.App.4th 1374 that if an enhancement specifies service of sentence in a state prison, the entire sentence is served in state prison, even if the underlying offense is punishable by imprisonment in county jail. States that enhancements would instead be punishable in the facility required by the underlying offense.</p>	Signed into law (Stats. 2023, ch. 560)
<a href="#">AB 1168</a>	<b>Bennett</b>	<p><b>Emergency medical services (EMS): prehospital EMS</b></p> <p>Requires the City of Oxnard to be treated as if it had retained the right to administer or contract for prehospital ambulance EMS notwithstanding <i>City of Oxnard v. County of Ventura</i> (2021) 71 Cal.App.5th 1010, which found that the City of Oxnard did not have the right to administer ambulance services.</p>	Inactive File Two-year bill
<a href="#">AB 1253</a>	<b>Maienschein</b>	<p><b>Hearsay: exceptions</b></p> <p>Allows hearsay statements from a victim, eyewitness, or medical examiner in a sexually violent predator (SVP) probable cause hearing. The need to address this issue was raised in the recent Supreme Court case of <i>Walker v. Superior Court</i> (2021) 12 Cal. 5th 177. Concurring in that opinion, former California Supreme Court Chief Justice Tani Cantil-Sakauye urged the Legislature to consider addressing this problem with a hearsay exception.</p>	Signed into law (Stats. 2023, ch. 363)
<a href="#">AB 1306</a>	<b>Carillo, Wendy</b>	<p><b>State government: immigration enforcement</b></p> <p>Prohibits CDCR from cooperating with the federal Department of Homeland Security in enforcing immigration law subjecting inmates to deportation proceedings, and abrogates related case law, including <i>People v. Sanchez</i> (1987) 190 Cal.App.3d 224; <i>People v. Cisneros</i> (2000) 84 Cal.App.4th 352; <i>People v. Espinoza</i> (2003) 107 Cal.App.4th 1069; <i>People v. Arce</i> (2017) 11 Cal.App.5th 613.</p>	Vetoed

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<a href="#">AB 1307</a>	Wicks	<p><b>California Environmental Quality Act: noise impact: residential projects</b></p> <p>Provides that, for purposes of the California Environmental Quality Act (CEQA), the effects of noise generated by project occupants and their guests on human beings is not a significant effect on the environment. Provides that any institution of higher education shall not be required, in an environmental impact report (EIR) for a residential or mixed-use housing project, to consider alternatives to the location of the housing project if the project is located on a site that is no more than five acres, is substantially surrounded by qualified infill uses, and has already been evaluated in the EIR for the most recent long-range development plan for the applicable campus. [In response to <i>Make a UC a Good Neighbor v. Regents of UC</i>]</p>	Signed into law (Stats. 2023, ch. 160)
<a href="#">AB 1584</a>	Weber	<p><b>Criminal procedure: competence to stand trial</b></p> <p>Prohibits any statements made by the defendant during an examination to determine mental competency <i>from</i> being admitted in any other proceeding. This provision is intended to codify the holding of the United States Supreme Court in <i>Estelle v. Smith</i> (451 U.S. 454).</p>	Assembly Appropriations Suspense File Two-year bill
<a href="#">SB 69</a>	Cortese	<p><b>California Environmental Quality Act: local agencies: filing of notices of determination or exemption</b></p> <p>Requires all local agencies in charge of CEQA projects to provide additional public notices about the project on specified timelines. These requirements are in response to the holding in <i>Organizacion Comunidad de Alviso v. City of San Jose</i> (2021) 60 Cal.App.5th 783 that a failure by a local agency to send a notice to the plaintiff did not toll the statutory timeline because the plaintiff had constructive notice.</p>	Signed into law (Stats. 2023, ch. 860)
<a href="#">SB 99</a>	Umberg	<p><b>Courts: remote proceedings for criminal cases</b></p> <p>Extends the sunset on provisions relating to remote proceedings in criminal cases, allowing witnesses to testify using remote technology as provided by the holdings in <i>Maryland v. Craig</i> (1990) 497 U.S. 836 and <i>People v. Powell</i> (2011) 194 Cal.App.4th 1268.</p>	Senate Public Safety Committee Two-year bill

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BILL	AUTHOR	SUMMARY	STATUS
<a href="#">SB 320</a>	<b>Skinner</b>	<p><b>Property taxation: possessory interests: independent: publicly owned housing project</b></p> <p>Clarifies that under existing law, there is no independent possession in a residential unit of a publicly owned housing project, and tenancies in publicly owned affordable housing and other publicly owned housing are not subject to possessory interest taxation. The legislative findings expressly cite the holdings in <i>Housing Authority of Los Angeles County v. Dockweiler</i> (1939) 14 Cal.2d 437; <i>English v. County of Alameda</i> (1977) 70 Cal.App.3d 226; and <i>Connolly v. County of Orange</i> (1992) 1 Cal.4th 1105, 1118.</p>	Senate Governance and Finance Committee Two-year bill
<a href="#">SB 349</a>	<b>Roth</b>	<p><b>Criminal procedure: competence to stand trial</b></p> <p>Provides that a doubt as to a person’s competency in one case shall be presumed to exist in all felony cases pending against the defendant within that county and that a certificate of restoration for a defendant who was found incompetent to stand trial shall be presumed to apply to all felony cases pending against the defendant at the time of restoration. Seeks to codify the holding in <i>People v. Avila</i> (2011) 191 Cal.App.4th 717.</p>	Senate Public Safety Committee Two-year bill
<a href="#">SB 383</a>	<b>Portantino</b>	<p><b>Claims against the state: appropriation</b></p> <p>Appropriates \$6.77 million from the General Fund to the Attorney General for payment of claims, settlements, or judgements against the state arising from two superior court cases, <i>Wetlands Preservation Foundation v. Department of Water Resources, et. al</i> and <i>California DUI Lawyers Association, et. al v. Department of Motor Vehicles, et. al</i>.</p>	Signed into law (Stats. 2023, ch. 10)

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<a href="#"><u>SB 519</u></a>	<b>Atkins</b>	<p><b>Corrections</b></p> <p>Makes records relating to an investigation conducted by a local detention facility into a death incident available to the public, as specified, and creates the position of Director of In-Custody Death Review within the Board of State and Community Corrections to review investigations of any death incident, as defined, occurring within a local detention facility. Does not supersede existing law codifying <i>Pitchess v. Superior Court</i> (1974) 11 Cal.3d 531 related to the criminal discovery process and the admissibility of personnel records or limit the public’s right of access provided for in <i>Long Beach Police Officers Association v. City of Long Beach</i> (2014) 59 Cal.4th 59.</p>	Signed into law (Stats. 2023, ch. 306)
<a href="#"><u>SB 652</u></a>	<b>Umberg</b>	<p><b>Evidence: expert testimony</b></p> <p>Creates an additional requirement that, in a civil case, for an expert to testify in the form of an opinion, that opinion must also be based on a standard of a reasonable degree of probability in the expert witness’s field of expertise. Also allows an expert to testify that a matter cannot reach a reasonable degree of probability in the field and to provide the basis for that opinion. Limits the holding in <i>Kline v. Zimmer, Inc.</i> (2022) 79 Cal. App. 5th 123.</p>	Signed into law (Stats. 2023, ch.75)
<a href="#"><u>SB 733</u></a>	<b>Glazer</b>	<p><b>Solitary confinement</b></p> <p>Requires the California Department of Corrections and Rehabilitation (CDCR) to develop standards for placement and conditions in solitary confinement consistent with the settlement in <i>Ashker v. Governor of the State of California</i> (N.D.Cal., No. 4:09-CV-05796), to collect data on progress toward improving standards of solitary confinement, and to report data annually to the Legislature.</p>	Senate Public Safety Committee Two-year bill
<a href="#"><u>SB 799</u></a>	<b>Portantino</b>	<p><b>Unemployment insurance: trade disputes: eligibility for benefits</b></p> <p>Authorizes striking workers to collect unemployment insurance benefits after a two-week wait period, not affecting the eligibility of individuals deprived of work as a result of an employer lockout or similar action detailed in <i>Coast Packing Co. v. California Unemployment Ins. Appeals Bd.</i> (1966) 64 Cal.2d 76.</p>	Vetoed

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