



# THE CAPITOL CONNECTION

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## LEGISLATIVE CALENDAR:

*Deadline for Legislature to pass budget*  
June 15

*Last day for policy committees to report other-house bills*  
June 28

## EXCLUSIVE:

# INTERVIEW WITH ELLEN CORBETT



In February, newly elected Assembly Speaker Herb Wesson (D-Culver City) appointed Assembly Member Ellen Corbett (D-San Leandro) as chair of the Assembly Judiciary Committee. Ms. Corbett was first elected to represent the 18th Assembly district in 1998, after serving eight years on the San Leandro City Council, including four years as mayor. She recently spoke with *The Capitol Connection* about her work in the Legislature, and her role as chair in particular.

**CC:** What were the highlights of your work as a legislator in 2001 and what are you hoping to accomplish in 2002?

**Corbett:** I think I had a very successful legislative year in 2001. I sent 15 bills to the governor's desk and all 15 were signed. I'm very proud of my batting average for that year. One bill that I am par-

ticularly proud of addressed the welfare of students. It allowed for a survey of our schools to assess per-student ratios of school counselors, school psychologists, and school social workers to see what is appropriate for our K-12 schools. I worked long and hard on that measure because California is woefully short of counselors for our students. I am very concerned about the issues that our students have to deal with, including school violence. I was speaking to a high school class and one of the students came up to me afterward to tell me about a friend who had committed suicide, and how much better it would have been if a counselor could have been available to her. So I thought: I've got to do something about this. I'm very proud that the governor signed this bill last year.

**CC:** You recently became chair of the

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## MEET MEMBERS OF JUDICIAL COUNCIL'S POLICY COMMITTEE

In the last issue of *The Capitol Connection*, we introduced our readers to the members of the Judicial Council's Policy Liaison and Coordination Committee (PCLC), which meets regularly to discuss and adopt positions on pending legislation on behalf of the council. Five of the committee's eight members were profiled and we now would like our readers to meet the remaining three.

### Hon. Richard D. Aldrich



Justice Richard Aldrich is the current vice-chair of the PCLC. He has served as an associate justice of the Second District Court of Appeal since 1994 and from 1991 to 1994 as a judge of the Ventura County Superior Court. Prior to that, Justice Aldrich practiced in the area of general civil litigation for 28 years. He has

been a member of the Judicial Council since 1998, and has also served on the council's Executive and Planning Committee.

Since 1992, he has chaired numerous Judicial Council task forces and committees including the Civil and Small Claims Advisory Committee, the California Judicial Administration Conference Planning Committee, the Select Committee on Trial Court Coordination Implementation, the Business Court Study Task Force, and the Complex Litigation Task Force. From 1992 to 1998, he was chair of the Case Management and Delay Reduction and the Legislative Issues Subcommittees of the Civil and Small Claims Advisory Committee. His work on these commit-

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## POLICY COMMITTEE

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tees prepared him well for his current position on the PCLC.

“My role on the Judicial Council has given me an appreciation of the importance of the mission of the council to increase access to our courts for all Californians,” says Justice Aldrich. “I only hope my efforts, in some small way, have had a positive effect.”

### Hon. Brad Hill



Judge Brad Hill was appointed to the Fresno County Municipal Court in 1991 and was elevated to the Superior Court in 1998 by Governor Pete Wilson. Currently, Judge Hill is the Assistant Presiding Judge and has served in that capacity since 2000. Hill previously chaired the Court Profiles Advisory Committee and currently serves on the Judicial Council’s

Litigation Committee. He is very pleased and honored to have been asked to be a part of the PCLC. “Every member of the committee brings a unique perspective to the table, which assists us in making important policy decisions impacting all the courts in our state,” he says. “The outstanding staff of the Office of Governmental Affairs does a superb job analyzing and assessing a myriad of legislative initiatives, which enables the members of the committee to examine every viable option before making a final recommendation. I also feel honored to have the opportunity to work with the committee’s chair, Justice Baxter. His vast public policy experience and his steady hand as chair ensures that each and every issue will receive a thorough and thoughtful review.”

Prior to his judicial appointment Judge Hill worked as a

trial attorney at Fresno’s largest law firm, McCormick, Barstow, Sheppard, Wayte & Carruth, specializing in civil litigation. In 1977, Judge Hill graduated magna cum laude from California State University, Fresno, with a bachelor’s degree in business administration. He went on to earn a master’s degree from the same school. Judge Hill graduated from Hastings College of Law, in San Francisco, in 1983.

### Hon. Donna J. Hitchens



Judge Donna Hitchens has served as a judge of the San Francisco Superior Court since 1991, and has sat in civil, criminal, family and juvenile law assignments. During her tenure on the bench she has served as the Supervising Judge of the Juvenile and Family Courts, which she consolidated in 1991 to create a Unified Family Court. In addition to supervising the Unified Family Court, Judge Hitchens is also Assistant Presiding Judge and chairs the court’s Self-Represented Litigant Task Force.

“My experience with juvenile, family and self-represented litigant issues has been of great assistance in helping me evaluate legislation from a very pragmatic angle in terms of implications for both the public we serve and the utilization of limited resources,” she says. “Serving on the PCLC has been a wonderful experience, and I have learned a tremendous amount from the other members and the great staff with whom we work.” Judge Hitchens has previously served on the Judicial Council’s Access and Fairness Advisory Committee, taught at several Bay Area law schools and published on the topics of civil rights and family law. Prior to becoming a judge, she practiced with public interest law firms and spent six years in private practice.

## LEGISLATIVE REVIEW

May 31 was the last day for bills to be passed out their house of origin. The next major legislative deadline is June 28, which is the last day for policy committees to meet and report bills. Here is an update on bills of interest to the courts that are awaiting action in the second house:

### CIVIL AND SMALL CLAIMS

#### **AB 1861 (Harman) – Vexatious litigants: incarcerated persons**

Prohibits a court clerk from accepting a civil action filed in pro per by a plaintiff, while he or she is incarcerated, against any person who submitted testimony or evidence at the plaintiff’s

parole hearing, without first obtaining permission of the presiding judge where the litigation is proposed to be filed. Specifies that the presiding judge may permit the filing only if it appears that the litigation has merit and has not been filed for purposes of delay or harassment.

**JC Position:** Oppose

**Status:** Senate Public Safety Committee

#### **AB 2961 (Wayne) – Summary adjudication**

Authorizes a motion for summary adjudication of a legal issue or claim of damages other than punitive damages that does not completely dispose of a cause of action, an affirmative defense,

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# LEGISLATIVE REVIEW

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or an issue of duty. Provides that such a motion may only be brought upon stipulation of the parties whose claims or defense are put at issue by the motion, and a prior determination by the court, that the motion will further the interests of judicial economy by reducing the time required for trial or increasing the ability of the parties to settle.

**JC Position:** Neutral

**Status:** Senate Judiciary Committee

## **AB 3027 (Committee on Judiciary) – Civil practice**

Requires a party demanding a jury to deposit jury fees at least 25 days before trial and requires each party demanding a jury trial to pay jury fees and mileage at the beginning of the second and each succeeding day's session; provides that service of opposition and reply papers in a summary judgment motion be served in accordance with Code of Civil Procedure section 1005; provides exemption from liability for private contractors who serve as small claims advisors; extends the time prior to a hearing that a notice of small claims action must be served on the defendant; provides that a request for postponement of a small claims hearing be for good cause.

**JC Position:** Sponsor

**Status:** Senate Judiciary Committee

## **AB 3036 (Corbett) – Guardianship of minors: annual review**

Among other things, requires guardianships of minor children to be reviewed by the court one year after appointment of the guardian. Authorizes the court to order further reviews of guardianships as it deems necessary for the protection of the interests of the minor child, but in no case more frequently than annually.

**JC Position:** Oppose unless amended and funded

**Status:** Senate Judiciary Committee

## **SB 1325 (Kuehl) – Personal jurisdiction: general appearance**

Allows a party to object while moving to quash service without having the objections constitute a general appearance; permits a defendant or cross-defendant to move to quash service of summons and simultaneously answer, demur, or move to strike the complaint of cross-complaint. Specifies the circumstances under which a party is not deemed to have made a general appearance for purposes of a court exercising its jurisdiction.

**JC Position:** Support

**Status:** Assembly Judiciary Committee

## **CRIMINAL LAW**

### **AB 2211 (Horton) – Criminal procedure: sentencing: Community Impact Statement**

Provides that a representative of the community affected by a crime may submit a community impact statement in the same manner that a victim may submit a victim impact statement pursuant to Penal Code Section 1191.1.

**JC Position:** Oppose

**Status:** Senate

### **AB 2899 (Migden) – Homeless courts**

Creates the Homeless Court Pilot Project to operate in no more than four superior courts selected by the Judicial Council from those courts that apply to participate in the project. Requires the Judicial Council to develop and promulgate procedures and guidelines for homeless courts.

**JC Position:** Support

**Status:** Senate

### **SB 1497 (Polanco) – Parole: life prisoners: review by three-judge panel**

Sets up a one-time review of the custody status of life prisoners who have been in prison beyond a date specified in certain regulatory matrices. Requires a three-judge panel from the sentencing jurisdiction to consider various matters as to each prisoner qualifying for the review, and either order the immediate release of the prisoner, set a fixed parole date, or order the inmate to remain in custody, pending the hearing process of the Board of Prison Terms.

**JC Position:** Oppose

**Status:** Assembly

### **SB 1793 (Burton) – Youthful offenders**

Eliminates the Youthful Offender Parole Board and consolidates the duties of the board in local probation departments and the juvenile court. Authorizes the juvenile court to recommend a treatment program for a ward and requires the court to conduct an annual progress review hearing regarding the ward.

**Status:** Assembly

## **DOMESTIC VIOLENCE**

### **AB 2030 (Goldberg) – Protective orders: service of process**

Provides that there shall be no fee for service of process in proceedings under the Domestic Violence Prevention Act and other specified proceedings. Allows the sheriff to submit billings to the court for reimbursement of the cost of serving process in these proceedings.

**JC Position:** Oppose unless funded

**Status:** Senate Judiciary Committee

### **SB 1627 (Kuehl) – Protective orders**

Revises existing law to require a law enforcement agency to enter proof of service of a protective order served by the agency into the Domestic Violence Restraining Order System. For orders not served by law enforcement, the court would be required to either enter the proof of service in the system or send a copy of the proof to law enforcement for entry.

**JC Position:** Support

**Status:** Assembly Public Safety Committee

## **FAMILY LAW**

### **AB 1832 (Robert Pacheco) – Psychotherapist-client privilege in dependency proceedings**

Provides that invocation of the psychotherapist-patient privilege does not preclude the county social worker or the juvenile

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## LEGISLATIVE REVIEW

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court from obtaining information about the child from the psychotherapist if it is regarding the child's participation and progress in therapy, the psychotherapist's recommendations for services, and a diagnosis if required for placement decisions or other specified reasons. The information shared may not include statements by the child or details of the therapy.

**JC Position:** No position

**Status:** Senate Judiciary Committee

### **SB 1406 (Kuehl) – Mediation proceedings**

Requires that all child custody mediation proceedings be confidential, contingent upon funding in the Budget Act.

**JC Position:** Oppose unless amended

**Status:** Senate (will require rule waiver to move forward)

### **JUDGES**

#### **AB 1698 (Committee on Judiciary) – Conversion of vacant subordinate judicial officer positions**

Provides for the conversion of eligible subordinate judicial officer (SJO) positions into judgeships.

**JC Position:** Sponsor

**Status:** Senate Judiciary Committee

#### **AB 2065 (Nakano) – Judges: confidentiality of home addresses**

Includes retired judges among the classes of government officials whose home addresses on record with the Department of Motor Vehicles are kept confidential.

**JC Position:** Co-sponsor with California Judges Association

**Status:** Senate



*Assembly Member Nakano*

#### **AB 2879 (Strom-Martin) – Judges' retirement and assignment**

Allows a judge to designate a beneficiary other than his or her spouse to receive the non-community property portion of his or her retirement benefit upon the judge's death; provides that in certain situations a judge who dies while in office with 20 years of service is be deemed to have met the requisite age regardless of his or her actual age at the time of death; conforms the compensation of a retired judge assigned to an appellate court with that of a retired judge assigned to a trial court.

**JC Position:** Co-sponsor with the California Judges Association

**Status:** Senate

### **JURIES**

#### **AB 1970 (Matthews) - Juries: peace officer exemptions**

Exempts parole officers, probation officers and correctional peace officers from jury service.

**JC Position:** Oppose

**Status:** Senate Public Safety Committee

#### **AB 2925 (Migden) – Juror mileage reimbursement**

Eliminates the reimbursement of mileage for the first day of jury service and increases the reimbursement rate to 34 cents per mile, one way.

**JC Position:** Support

**Status:** Senate Judiciary Committee

### **TRAFFIC**

#### **SB 1541 (Ackerman) – Traffic stops: evidence of identity: fingerprints**

Among other things, requires an officer to obtain a thumbprint from a person stopped for a traffic infraction who fails to present satisfactory evidence of identity unless the officer is called away on an emergency or otherwise cannot perform the task; provides that when a person contests a charge by claiming not to be the person stopped, and there is no thumbprint, the court may, if it believes there is insufficient evidence of identity, refer the case back to the issuing agency for further investigation. Authorizes the court to dismiss the case if the issuing agency fails to respond within 45 days, or, if after receiving the response, there is still insufficient evidence of identity.

**JC Position:** Support

**Status:** Assembly Public Safety Committee

### **TRIAL COURT FUNDING AND ADMINISTRATION**

#### **AB 1819 (Robert Pacheco) – Delinquent fines: collection**

Current law authorizes any county or court to implement a comprehensive program to identify and collect delinquent fines and forfeitures, with or without a warrant having been issued against the alleged violator, if the base fine, excluding state and county penalties, is at least \$100. Removes the requirement that a delinquent base fine must be at least \$100 before it can be included in a comprehensive program to identify and collect outstanding fines and forfeitures. Provides that any court or county may establish a minimum base fine amount for inclusion in the program.

**JC Position:** Support

**Status:** Senate Public Safety

#### **AB 2690 (Cardoza) - Court financial statements: audits**

Requires the Judicial Council to select 5 courts to participate in a pilot project to prepare and transmit to the Bureau of State Audits an annual financial statement showing the status of the fines, forfeitures, penalty assessments, and civil assessments imposed for failure to appear.

**JC Position:** Oppose

**Status:** Senate Rules Committee

#### **AB 2321 (Hertzberg) – Tort Claims Act**

Clarifies the procedure for presenting claims against the trial courts, Courts of Appeal, the Supreme Court, the Judicial Council, and the Administrative Office of the Courts.

**JC Position:** Sponsor

**Status:** Senate Judiciary Committee

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## LEGISLATIVE REVIEW

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### **AB 3028 (Committee on Judiciary) – Court operations**

Removes the sunset on the registration program for legal document assistants. Eliminates “loss of hearing” as a basis for general disqualification of a prospective juror. Provides the court with needed flexibility and consistency in issuing and re-issuing protective orders, and conforms procedures in the family and juvenile courts. Clarifies the ability of counsel to receive relevant reports and have access to court files. Permits the Chief Justice of California to designate a deputy to represent the Chief on a state board, commission, or committee. Repeals a fee for a cross complaint or amended cross complaint, consistent with changes made in the Trial Court Funding Act of 1997. Permits courts to hold sessions outside of the county, pursuant to rules of court and with the parties’ consent.

**JC Position:** Sponsor

**Status:** Senate Judiciary Committee

### **SB 1732 (Escutia) – Trial court facilities**

Implements the recommendations of the Task Force on Court Facilities regarding the transfer of responsibility for trial court facilities from the counties to the state.

**JC Position:** Co-sponsor with the California State Association of Counties

**Status:** Assembly

### **SB 1936 (Dunn) – Court security**

Clarifies allowable court security costs.

**JC Position:** Co-sponsor with the California State Sheriffs’ Association

**Status:** Assembly

### **SB 2011 (Burton) - Workers compensation**

Allows the trial courts to “self insure” like other state agencies; establishes a Judicial Branch Workers Compensation Fund.

**JC Position:** Sponsor

**Status:** Senate Insurance Committee

## RIPPED FROM THE HEADLINES

“Ripped From the Headlines” highlights news stories of interest including headlines and lead paragraphs, without editorial comment from *The Capitol Connection*.

### **“Budget Woes Undermine Davis’ Plan to Rebuild Infrastructure – Many factors have put an \$80 billion backlog in the state’s needs on hold.” *Contra Costa Times* (May 6, 2002)**

Forty months after Gov. Gray Davis launched his Commission on Building for the 21<sup>st</sup> Century, its expensive recommendations to accommodate a new generation of growth are going largely unheralded and gathering little steam after being unceremoniously released.

As California struggles with budget deficits, many of the commission’s ideas to overcome an estimated \$80 billion backlog of infrastructure needs appear, at least in the short run, sidetracked.

### **“Senate Approves Bill to Eliminate Juvenile Parole Board – Senator Burton’s proposal would streamline youth parole process, but Gov. Davis is unlikely to sign the legislation.” *Daily Journal* (May 8, 2002)**

A bill that would abolish the state’s Youthful Offender Parole Board and hand over its duties to juvenile court judges cleared a Senate panel Tuesday with little opposition.

The measure appears to have momentum in the Legislature, but it is unlikely to be signed by Gov. Gray Davis, who appoints the members of the board.

Burton said Tuesday his proposal would “streamline the (juvenile parole) process by eliminating an unnecessary state agency.”

As he has in the past, the powerful senator complained that the Youthful Offender Parole Board is doing its job poorly. Among other problems, Burton said, the board has frequently assigned wards at the California Youth Authority to programs that are booked solid for months, then held them past their release dates to allow them to complete the programs.

### **“Federal Judge: Election suit has no merit” *State Bar Journal* (May 2002)**

An attempt by an Arizona-based lawyer to win the right to vote in the current board of governor’s election was decisively rejected by a federal judge last month.

U.S. District Judge Sandra Brown Armstrong denied the request and shot down every argument his lawyer, Boalt Hall professor Stephen Barnett, offered. Ruling from the bench, Armstrong said Hoffman “failed to prove a reasonable likelihood of prevailing on the merits.”

### **“More Time to Sue is Backed – A bill helping child-abuse victims seek damages from employers advances.” *Sacramento Bee* (May 8, 2002)**

Victims of child sexual abuse would have more time to sue their molesters’ employers – whether church, school or summer camp – under a bill that sailed through its first hearing in the Legislature on Tuesday.

“This would cover those incidences where we have seen a priest – involved in abusive activity – who is simply sent to another parish where he abuses other children,” the bill’s author, Senator John Burton said before Tuesday’s hearing. “But this isn’t just about the scandal in the church. It’s broader than that.”

### **“Law Libraries Get Reprieve As Lawmaker Changes Bill – Measure to tighten oversight would have put facilities on their own hook for funding”**

*The Daily Journal* (May 9, 2002)

A measure that would have eliminated the century-old responsibility of counties to fund public law library facilities has been scaled back after librarians, judges and lawyers protested it would lead to cutbacks and closures.

“It was horrendous. It would have torpedoed the financial status of most county law libraries,” said Hal Aigner, director of the Marin County Law Library.

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As amended, AB 2468, introduced by Assemblyman Mark Wyland, R-Del Mar, would merely allow counties to review law library expenses to make sure they are “necessary,” something most counties do anyway, Aigner said. It would continue their obligation to financially support the law libraries.

Wyland said he never intended to harm the libraries, but only to rein in their spending.

**“Limits on Lawsuits Averted – Trial attorneys and consumer groups resisted attempts to tighten rules.”** *The Daily Journal* (May 16, 2002)

Trial lawyers and consumer groups have successfully fought off legislation that would have restricted unfair competition lawsuits and imposed requirements on class actions and contingency fee agreements.

Consumer Attorneys of California, the plaintiffs’ bar group, and Consumers Union and the state Attorney General Bill Lockyer opposed a bill by Robert Pacheco, R-Walnut, which sought to impose restrictions on the state’s Unfair Competition Act, Section 17200 of the Business and Professions Code.

Another defeated bill, by Assemblyman John Campbell, R-Irvine, would have required lawyers wishing to file a class action to first obtain written authorization from a class member stating he or she understood the action meant “waiving their right to counsel.” AB 2291 also would have required any lawyer representing a party in a class action to provide each potential client with an estimate of his or her fee.

Assemblyman Anthony Pescetti, R-Rancho Cordova, unsuccessfully sought reforms to contingency fee agreements through AB 2939.

**“State Budget Plan Hacks \$62 Million From Courts – The governor’s plan lets the judicial branch decide how cuts will be made.”** *Daily Journal* (May 15, 2002)

Gov. Gray Davis, faced with a \$23.6 billion shortfall in revenues, presented a revised state budget Tuesday that calls for \$62 million less in funding for trial courts and the judiciary than was proposed in January.

The one-time reductions in the proposed 2002-03 fiscal year budget mean the state’s judiciary likely will have to delay some pilot programs and upgrades to technology, said William Vickrey, director of the Administrative Office of the Courts.

The budget cuts are so deep, Vickrey said, that the judicial branch will have about 4 percent less in its operating budget in 2002-03 than it did to start the current 2001-02 fiscal year.

**“Court Rejects Death Row Women’s DNA Stance”** *San Francisco Chronicle* (May 17, 2002)

An appellate court ruled Thursday that the state can take DNA samples from female inmates on California’s Death Row, who had argued they should be exempt from testing because they would not be released from prison.

The state’s Third District Court of Appeal in Sacramento, which heard oral arguments in the case last week, rejected that argument and others – including the assertion DNA tests would violate privacy rights – in a unanimous decision upholding the state’s DNA databank law.

## “Eye of the Beholder” Headlines...

**“Analyst Calls Budget Credible”**

*The Los Angeles Times* (May 17, 2002)

Legislative Analyst Elizabeth Hill decried Governor Davis’ revised budget as a credible plan to dig the state out of a \$23.6 billion shortfall.

**“Analyst’s critique: Budget still dicey”**

*The Sacramento Bee* (May 17, 2002)

In a February analysis of Davis’ original budget, the Legislative Analyst’s Office had predicted it would result in a \$7 billion imbalance in future years. Now, it’s likely to be higher.

**“Hundreds of Bills to Die Today”** *Chico Enterprise-Record* (May 22, 2002)

Already wrestling with deep budget cuts, lawmakers on the Assembly Appropriations Committee will mull approximately 300 proposals today, deciding which of the bills may advance to the Assembly floor.

“I can’t tell you exactly what is going to get out, but what I can say is that not many bills will,” said Walnut Assemblyman Bob Pacheco, one of the six Republicans on the ways-and-means panel.

“This is the worst I have ever seen it,” said Pacheco, alluding to the

massive number of bills that will die at the committee’s hand today, including funding for schools, water quality assurance and public safety legislation.

**“Blake Case Revives Issue of Cameras in Court – Despite backlash after the O.J. Simpson case, most judges allow trials to be televised. But some still doubt that it serves the cause of justice.”** *Los Angeles Times* (May 24, 2002)

While the controversy over cameras in courts has largely subsided since the tumult of the Simpson murder trial, the Robert Blake case is rekindling debate over whether televised court proceedings are instructive or merely serve as trivial amusement that can have a negative effect on justice.

More than five years ago, on the heels of O.J. Simpson’s trial, a state Judicial Council task force rewrote the rules on media and the courts to make clear that trial judges have almost complete discretion over whether all, part or none of the trial is televised. “If we can’t trust the discretion of our justices, the whole court system’s in trouble,” said the state Appeals Court Judge Richard Huffman, who headed the task force.

Despite the Simpson trial backlash, which led to some judges and attorneys calling for a complete ban on courtroom cameras, a study in 2000 showed that four out of every five TV requests were approved by judges throughout the state in 1998 and 1999. Rarely were denials appealed.

**“County Agrees to More Foster Care Visits - Department**

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**will comply with court order, making it harder for social workers to obtain waivers on the face-to-face checks.”** *Los Angeles Times* (May 27, 2002)

After resisting for years, Los Angeles County officials are gearing up to ensure that social workers visit children in foster care at least once a month.

County Department of Children and Family Services officials said they will comply with a court order mandating the frequent visits that was recently upheld by the state Supreme Court after two years of legal battles with child-safety advocates.

Anita Bock, director of the department, said the change will be a "major reform journey." In the past, when social workers felt visits were unnecessary, they could get a waiver from a supervisor. The new rules mean that no waivers can be granted unless social workers submit a detailed report supporting the conclusion that the child is in a stable, safe environment, and a judge agrees.

**“Kink in Law Allows Court Reporter to Get Away with Fraud”** *The Recorder* (May 28, 2002)

Court reporters might not be able to get away with murder, but it sure looks like they can get away with fraud.

Last week, Los Angeles' Second District Court of Appeal told the Court Reporters Board of California that it could not revoke the license of court reporter Michael Hall, even though he had defrauded 24 subcontractors out of nearly \$30,000.

The reason: While the Sacramento-based board can discipline misconduct that occurs "in the practice of shorthand reporting," the appeal court said, it has no authority over a court reporter's business or accounting practices.

**“Bill Would Allow DNA Tests for Paternity - At issue are thousands of cases that could hang in the balance if tests dispute fatherhood, foes say.”** *Daily Journal* (May 29, 2002)

Legislation that would permit courts to set aside paternity judgments based on DNA test results cleared the state Assembly on Tuesday despite strong objections from women's advocates and others.

AB 2240 would allow judgments to be vacated at a judge's discretion in cases in which genetic testing proves conclusively that a man is not the father of a child.

“If it's not yours then you should not be obligated to have your wage garnished,” said Assemblyman Roderick Wright, D-Los Angeles, the bill's author.

But opponents argued Wright's proposal could disrupt families and end child support payments in thousands of cases.

**“Three Strikes' Revision Rejected”** *Sacramento Bee* (May 30, 2002)

A bill that would have prevented nonviolent crimes from triggering the state's "three strikes" punishment failed Wednesday in the state Senate.

Senator Richard Polanco said his proposed change would reduce prison costs and prevent nonviolent criminals from serving life-long sentences unjustifiably.

Only 14 senators supported the bill, leaving it 13 votes short of the two-thirds needed in the 40-member house.

**“ADR Measure Is Stripped of Restriction on Judges”** *The Recorder* (May 31, 2002)

The Judicial Council and the states judges' union (CJA) joined forces this week to weaken a bill that would have prohibited sitting judges from talking to ADR firms.

If passed in its original language, judges who engaged in employment discussions with private judging companies would have been banned from hearing future cases. Another provision, also amended out of the bill, would have required judges to wait a year after retirement before joining an ADR firm.

As AB 2504 reads now, judges will simply be required to disclose contacts with ADR firms when it could pose a conflict. It's then up to the parties to decide whether a judge should be disqualified.

**“Lawmakers are seeking a multibillion-dollar plug for a gaping budget hole.”** *Sacramento Bee* (June 8, 2002)

The Legislature used to conduct a “members day” during its budget deliberations for lawmakers to trot out projects to benefit their districts – a new park, say, or a senior center.

On Friday, it held a ceremony with a much grimmer tone, as legislators and others appeared before a special budget-writing conference committee to suggest cuts and new taxes to cope with a \$23.6 billion budget deficit.

“It's an unusual members day,” said Sen. Richard Polanco, D-Los Angeles, who proposed halting the construction of a new prison to save money.

These are unusual times, with a sudden drop-off in tax receipts from stock options and capital gains blowing a hole in the \$77 billion general fund.

As the six-member committee listened to proposals, one thing became clear: Closing the budget gap is a complicated business. Many proposed cuts would not only reduce services, they would jeopardize federal funds, violate labor contracts or court orders and renege on leases or interstate partnerships.

**“Criminals could walk for budget – Desperate lawmakers looking for ways to cut another \$4.5 billion from the spending proposal”** *Contra Costa Times* (June 8, 2002)

How tough is it to balance a state budget with a shortfall nearly one-third the sized of last years spending?

This is how tough: On Friday, lawmakers began debating what types of convicted criminals to release from prison to save California money.

Three days after beginning their work, legislators attempting to write the final version of next year's budget began exploring a wide range of new cuts.

In order to accommodate Republicans, who oppose more that \$3 billion in tax and fee increases proposed by Gov. Gray Davis, and to make up for nearly \$1 billion in restored funding the Senate and Assembly have backed, the committee is trying to find another \$4.5 billion to slash.

## ELLEN CORBETT

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Assembly Judiciary Committee after having served as a member of that committee. What changes do you envision in the way the committee conducts its business?

**Corbett:** I'm not really planning any major changes. We've had some excellent chairs as you know. Historically, it's been a very challenging, yet exciting, committee, both because of the subject matter and the number of bills that we hear. I think what is most important to me is that everybody has a fair hearing and an opportunity to discuss the issues that are important to them.

**CC:** What do you think will be among the more challenging issues facing the committee this year?

**Corbett:** Privacy is a critical issue with competing support and opposition. We recently heard AB 1775 by Assembly Member Joe Nation (D-San Rafael), a very important bill dealing with consumer privacy. Although we heard the bill in two hearings, we weren't able to work out a measure that could get the necessary support to pass out of committee. This is an enormously complex issue but I am hopeful that we can come up with some sort of measure.

Private arbitration practices are another big issue for the committee this year. Several members of the committee, including myself, have introduced bills that seek to ensure that there is as much fairness as possible in the private arbitration process. I'm happy to say that we have support from members on both sides of the aisle. In fact, Tom Harman (R-Huntington Beach), the Republican vice-chair of the committee, has authored one of the arbitration bills.

*"I'm as interested in the little guys as the big guys."*

I am the author of two bills on arbitration: One would prevent arbitration providers from claiming civil immunity and the other would require providers to report basic data regarding the outcome of consumer arbitration proceedings.

**CC:** How has your experience as an attorney and as an elected city official affected your approach to legislative issues in general and issues before the Judiciary Committee in particular?

**Corbett:** I'm very community oriented. I'm used to and welcome diverse opinions on issues. I come from a family of lawyers that has always been community oriented as well. Small firms such as my dad's serve an important community function. I remember as a child my dad coming home with a

striped bass from the bay or a flat of eggs that somebody had given him in payment for his services. He saw the law as a very honest profession and taught me that the client is really the most important person in the process. This has affected my view as the chair of the Judiciary Committee. I'm as interested in the little guys as the big guys.

**CC:** The chairs of the Legislature's judiciary committees traditionally serve as members of the Judicial Council. What do you hope to accomplish as a council member?

**Corbett:** What I hope to do is really encourage the council's continued participation in the legislative committee process with all the wonderful assets you have available to us with the research and expertise. I want to make sure that the Judicial Council continues to be appropriately involved in the legislative process.

## GOVERNOR RELEASES REVISED BUDGET

Faced with a budget shortfall of \$23.6 billion, \$11.1 billion more than when his initial budget was released in January, Governor Davis released his revised budget on May 14. The revised spending plan calls for new borrowing, new expenditure reductions, and tax increases. These include:

- About \$2.4 billion in additional budget reductions including significant reductions in Medi-Cal, social services, payments to local governments, and juvenile justice grant programs.
- About \$3.7 billion in new tax increases and accelerations, including a one-year increase in the vehicle license fee, a two-year suspension of net operating loss deductions for businesses, and an increase in cigarette taxes.
- An additional \$2.1 billion from the securitization of future tobacco settlement receipts (from \$2.4 billion in the January proposal to \$4.5 billion in the May Revision).
- About \$2.9 billion from a variety of other actions, including increases in loans from transportation funds and other funding redirections.

(Continued on page 10)

## ATTORNEY GENERAL-SPONSORED LEGISLATION

As the state's chief law enforcement officer, the Attorney General typically sponsors a number of bills each year that seek to ensure the delivery of justice in both criminal and civil matters. These bills often directly impact the judicial branch. The following are some of the bills sponsored by the Attorney General's Office this year. (Previous issues of *The Capitol Connection* have highlighted the legislative programs of the California District Attorneys Association, the California Judges Association, the California Public Defenders Association, the California State Association of Counties, the Civil Justice Association of California, the California Defense Counsel, and California Attorneys for Criminal Justice.)

Bill	Author	Summary
AB 1764	Wayne	Makes it a crime to to falsely personate someone by sending an electronic communication to another person using the actual electronic mail address belonging to someone else or the actual name of that person with the intent to make the recipient of the electronic communication believe that it is from the person falsely personated and to injure or defraud.
AB 1773	Wayne	Provides that the jurisdiction of a criminal action for unauthorized use of the personal identifying information of another is the county where theft occurred, or where the information was illegally used, or any one of those jurisdictions if multiple offenses of unauthorized use of personal identifying information occur in multiple jurisdictions.
AB 1999	Correa	Authorizes the Attorney General, district attorney, or city attorney to seek civil penalties against immigration consultants, and expands the types of civil remedies available to include restitution and other equitable relief. (As amended April 22, 2002)
AB 2229	Nation	Requires the Director of Mental Health to provide a committed person with notice of his or her right to petition the court for unconditional release. Requires the court to set a show cause hearing if the person does not affirmatively waive his or her right to petition the court for unconditional release. (As amended May 1, 2002)
AB 2524	Goldberg	Requires any party who has filed an appeal involving specified civil rights actions to serve a copy of the party's brief or petition on the State Solicitor General at the Office of the Attorney General. Provides that no brief in these matters may be accepted for filing unless the proof of service shows service on the State Solicitor General. Specifies that any party failing to comply with the above requirement must be given a reasonable opportunity to cure the failure before the court imposes any sanction, and in that instance, the court must allow the Attorney General reasonable time to file a brief in the matter. (As amended April 29, 2002)
SB 900	Ortiz	States the Legislature's findings and declarations with respect to the complexity of the provisions regarding dissemination of state summary criminal history information and resulting problems, and consolidates much of the law regarding disclosures of criminal history for employment, licensing, or certification purposes. States a general rule that limits the release to convictions and arrests for which the applicant is pending trial to apply to people whose criminal history information is authorized to be released for employment, licensing, or certification purposes. States special rules detailing what information should be disseminated for applicants for positions, licenses, or certification in law enforcement, in-home care, residential care, child day care, foster care, community care, banking, and others. (As amended January 22, 2002)
SB 1627	Kuehl	Requires a law enforcement officer who serves a protective order to submit the proof of service directly into the Domestic Violence Restraining Order System within one business day. If the person who served the protective order is not a law enforcement officer, and the court is unable to submit the proof of service directly into the Domestic Violence Restraining Order System, the bill would further require the court to transmit a copy of the proof of service to a local law enforcement agency within one business day of receipt and require the local law enforcement agency to submit the proof of service directly into the Domestic Violence Restraining Order System. (As introduced)
SB 1887	McPherson	Provides that an action for damages against a defendant based upon the defendant's commission of a felony offense for which the defendant has been convicted may be commenced at any time after judgment is entered if the conviction was for any of certain serious felonies or any other serious felony, if during the commission of the offense, the defendant personally inflicted great bodily injury upon the plaintiff. Provides that any claim for damages that is barred as of January 1, 2003, solely because the statute of limitation specified above has or had expired, is revived, and a cause of action may be commenced within one year of January 1, 2003, except as specified. (As amended June 3, 2002)



Judicial Council of California  
Administrative Office of the Courts  
Office of Governmental Affairs

770 "L" Street, Suite 700  
Sacramento, CA 95814  
Telephone 916-323-3121  
Fax 916-323-4347  
TDD 800-735-2929

Editorial Board

June Clark  
Kate Howard  
Kourtney Krieger  
Ray Le Bov  
Martin Riley

Contributors

Luz Bobino  
Michelle Mendoza  
Yvette Trevino  
Alla Vorobets

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People interested in subscribing can contact Yvette Trevino, 916-323-3121, e-mail: [yvette.trevino@jud.ca.gov](mailto:yvette.trevino@jud.ca.gov).

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# ARBITRATION BILLS MOVE FORWARD

**B**ills introduced by various members of the Assembly Judiciary Committee that seek to ensure fairness in mandatory consumer arbitration practices have advanced to the Senate. Among these is AB 2504, by Assembly Member Hannah-Beth Jackson, which directly impacts sitting judges who may be considering work as private dispute resolution neutrals after leaving the bench.

AB 2504 addresses the author's concerns about the appearance of impropriety when judges contemplating work as private dispute resolution neutrals upon retirement are involved in cases where the issues in controversy involve private dispute resolution services or where private dispute resolution providers are parties. According to the author, this concern is heightened by the possibility that the decisions of such judges could be influenced by their desire to secure lucrative private dispute resolution assignments.

As passed by the Assembly Judiciary Committee, AB 2504 sought to address these concerns by requiring the disqualification from any case of any judge who has engaged in discussions or entered into any agreement regarding potential employment as a private arbitrator. In addition, judges would have been barred from accepting such employment for one year after leaving the bench.

Concerned that the bill was overly broad and not specifically focused on the problem

identified by the author, the Judicial Council's Office of Governmental Affairs and the California Judges Association successfully sought amendments that instead require disqualification only in cases that involve issues relating to private dispute resolution services or where the person or entity with whom the judge has had discussions regarding potential employment is a party to the case. Also, the one-year hiatus provision has been removed from the bill.

According to council staff, the amendments essentially treat potential conflicts of interest involving a judge's prospective employment as a private arbitrator like any other conflicts and represent a narrower and more effective approach to the perceived problem.

Other bills in the arbitration reform package include AB 3029 (Steinberg) and AB 2574 (Harman), which address concerns relating to business and financial relationships between arbitration providers and the parties whose cases they administer. Also, AB 2656 by Assembly Member and Judiciary Committee chair Ellen Corbett (D-San Leandro) would require arbitration providers to collect and make available basic data regarding the outcomes of mandatory consumer arbitrations. AB 3030, also by Assembly Member Corbett, would preclude inappropriate extensions of the civil immunity that applies to arbitrators to arbitration providers.

## MAY REVISE

*(Continued from page 8)*

The judicial branch did not escape the Governor's ax in the revised budget and now faces another \$62 million in one-time reductions in the 2002-03 year. This brings the total reductions to \$35 million in 2001-02 and \$132 million in 2002-03. The May Revision did include \$9.6 million in additional funding for court security.

As expected, the Senate and Assembly each passed their own versions of the budget and a conference committee is now meeting to resolve differences. The conference committee has acted on the judicial branch's

budget by adopting a five year sunset on the Governor's proposed increase in criminal fines and surcharge on filing fees and compromise language on the prioritization of the distribution of fines.

On June 10, the conference committee further adopted an additional \$23.5 million in reductions including \$497,000 for attorney and human resources positions at the AOC, \$15 million from the Trial Court Improvement Fund, and \$8 million from the Judicial Administration Efficiency and Modernization Fund.