



THE CAPITOL CONNECTION

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LEGISLATIVE
CALENDAR:

Summer Recess Begins
July 20

Legislature Reconvenes
August 20

Last Day of Session
September 14

Last Day for Governor to Sign or Veto
October 14

AOC/DOJ PARTNERSHIP ON DISPOSITION REPORTING

Earlier this year the Attorney General proposed legislation to improve the completeness of the arrest and disposition records maintained by the Department of Justice (DOJ). The proposed legislation was set aside while non-statutory alternatives were considered. The proposal would have created a pilot project requiring certain California courts to include the defendant's thumbprint on every disposition report submitted to DOJ. Staff from the DOJ and Administrative Office of the Courts (AOC) have made significant efforts toward this end.

With input from the DOJ, the AOC developed a survey on booking and fingerprinting issues, which was sent to all 58 superior courts. Forty courts responded. The survey results show that (1) the courts do not agree on whether fingerprinting is or should be a court or a law enforcement responsibility, (2) a large percentage of the courts have concerns with placing that responsibility with the courts, and (3) there is no single solution to the problem.

The survey also found that the problem is not exclusively with the courts. Any solution will necessarily include the participation of the district attorneys, the sheriffs, and the police departments. Accordingly, staff of the AOC and the DOJ met with representatives of those three groups. They assured their support, and agreed to develop a plan of action to approach the problem.

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Around the Courts...



The Orange County Superior Court recently celebrated the opening of its Children's Chamber at the Central Justice Center. The facility provides a safe environment for children to wait while their parents are at court hearings. Close to 60 such facilities exist throughout the state.

BUDGET CONFERENCE WRAPS UP

After weeks of intense meeting punctuated by periods of inactivity, a conference committee made up of representatives of both houses of the Legislature has approved a budget and sent it on to each house for final votes. The budget passed the committee on a 4-2 vote, with Democratic Assembly Members Cardenas and Migden and Senators Peace and O'Connell approving the spending plan. Republican Assembly Member Runner and Senator Ackerman voted against it.

The committee was challenged by the need to fund im-

portant programs such as education, while maintaining a prudent General Fund reserve. The \$101 billion budget approved by the committee includes a reserve of \$2.2 billion. Since the judicial branch's budget was largely approved in both the Senate and Assembly versions of the budget, the conference committee's actions had little impact on the judiciary.

The budget now must be passed in each house before going to the Governor's desk, where the Governor can

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AOC/DOJ PARTNERSHIP ON DISPOSITION REPORTING

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Under this action plan, DOJ will perform a county-by-county analysis of the percentage of dispositions that are accompanied by fingerprints. Then, a team of representatives from DOJ, the courts, the sheriffs, the police chiefs, and the district attorneys will visit those counties with the highest compliance rates to study their methods and to develop recommendations. The team will also go into the counties with the lowest compliance rates to assess whether the

From the archives...



One of Southern California's oldest court buildings, the Old Orange County Courthouse is also one of the state's few surviving Romanesque Revival-style buildings.

recommendations will work in low-performing counties.

By late fall, the team should be able to make draft recommendations to the DOJ and AOC. Also by that time, the AOC will have analyzed several statutes to determine whether there is any need for statutory change, and both DOJ and the Judicial Council will review relevant forms to determine whether they can be modified in ways that may improve compliance.

BUDGET CONFERENCE WRAPS UP

(Continued from page 1)

make further cuts but no augmentations. Since a two-thirds majority is required, some Republican support is needed. Republicans currently oppose the budget because it would likely trigger the reinstatement of a quarter-cent sales tax increase. The increase was suspended last year because the General Fund reserve was greater than four percent of projected General Fund revenue.

Democrats have argued that reinstatement of the quarter-cent tax is not a tax increase, since the mechanism that provides for the tax is already established in state law. Democrats also point out that the budget already contains \$4.3 billion in tax relief. They hope to offer Republicans other concessions, but do not appear inclined to address the sales tax issue.

The Constitutional requirements for the Legislature

LEGISLATIVE REVIEW

As the Legislature prepares for its July 20th summer recess, the deadline for bills to be passed out of their house of origin has passed. During the legislative session, The Capitol Connection regularly profiles a selection of bills of interest to the judiciary.

CIVIL AND SMALL CLAIMS

AB 36 (Steinberg) – Confidentiality of settlement agreements

Provides that, in an action based upon bodily injury or wrongful death allegedly caused by a defective product or environmental hazard, specified information contained in settlement agreements and confidentiality agreements not filed with the court, and specified information acquired through discovery, may not be kept confidential pursuant to an agreement of the parties or by court order, if that information would be beneficial in protecting the public from a defective product or environmental hazard. Permits this information to be kept confidential for a period of time pursuant to a court order based upon specified findings.

Status: Senate Rules Committee

AB 1260 (Wayne) – Discovery: misuses of the process

Adds destruction of relevant evidence to those actions constituting misuses of the discovery process.

Status: Assembly Judiciary Committee

COURTS

SB 1112 (Polanco) – Cesar Chavez holiday

Makes Cesar Chavez Day a court holiday.

JC Position: Sponsor

Status: Assembly Judiciary Committee

CRIMINAL LAW

AB 1304 (Rod Pacheco) – Criminal procedure: motions to suppress: appeal

Specifies that if a defendant in a misdemeanor case appeals denial of his or her suppression motion, the trial court has discretion to grant a stay of the trial pending disposition of the appeal.

Status: Senate Public Safety Committee

SB 83 (Burton) – Forensic testing: post-conviction

Specifies that if a hearing is held on a motion for DNA testing and the person was convicted by entry of a plea of guilty or nolo contendere, then the judge who accepted the plea will

(Continued on page 3)

LEGISLATIVE REVIEW

generally decide the motion. Requires the court to appoint counsel to prepare the person's motion for DNA testing and to represent the person in related proceedings if the person is indigent and requests the assistance of counsel.

Status: Assembly Appropriations Committee

SB 177 (Haynes) – Property seizures

Provides that, for property seizures where there are not specific procedures for having the property returned, the property shall be returned within a maximum of 30 days from the date the case concludes. Provides that the individual or entity from whom the evidence is seized shall be advised of their right to request a hearing to determine whether or not the property is contraband that is subject to forfeiture.

JC Position: Oppose unless amended

Status: Assembly Public Safety Committee

SB 791 (McPherson) – Marijuana: penalties

Reclassifies as an infraction the possession of 28.5 grams or less of marijuana, punishable by a fine not to exceed \$100.

JC Position: Support

Status: Assembly Appropriations Committee

DOMESTIC VIOLENCE

AB 160 (Bates) – Domestic violence: protective orders

Specifies that the criminal restraining order or protective order has precedence over any civil court order.

JC Position: Oppose unless amended; Support if amended.

Status: Senate Judiciary Committee

SB 66 (Kuehl) – Domestic violence: protective orders

Requires the court, when considering issuance of a protective order, to cause a search of specified records and data bases to determine if the proposed subject of the order has any specified prior criminal convictions or outstanding warrants, is on parole or probation, or is or was the subject of other protective or restraining orders.

JC Position: Oppose unless amended and funded.

Status: Assembly Judiciary Committee

SB 1221 (Romero) – Spousal support: domestic violence

Provides that in any proceeding for dissolution of marriage brought within 2 years before or after a criminal conviction for an act of domestic violence perpetrated by one spouse against the other spouse, there shall be a rebuttable presumption affecting the burden of proof that any award of temporary or permanent spousal support to the abusive spouse otherwise awardable pursuant to the standards of the provisions governing the award of spousal support should not be ordered. Authorizes the court to consider a convicted spouse's history as a victim of domestic violence as a condition for rebutting the presumption.

JC Position: Oppose unless amended.

Status: Assembly Judiciary Committee

FAMILY LAW

SB 78 (Kuehl) – Premarital agreements

Sets forth specified findings that the court is required to make in order to find that a premarital agreement was executed voluntarily.

Status: Assembly Judiciary Committee

JUDGES

AB 1099 (Havice) – JRS II prior service credit

Permits a judge to elect to make contributions and receive service credit for the time in which the judge served as a court commissioner.

Status: Senate Public Employment and Retirement Committee

JURIES

SB 303 (Torlakson) – Jury service exemption: peace officer

Adds the San Francisco Bay Area Rapid Transit District police to the list of peace officers exempt from both civil and criminal jury duty.

JC Position: Oppose

Status: Enrolled to the Governor

TRAFFIC

AB 546 (Cohn) – Traffic violator school

Among other things requires the Department of Motor Vehicles on or before January 1, 2003, to adopt regulations for the licensing of home study traffic violator schools. Authorizes any home study traffic violator school approved by a court pursuant to specified existing law as of January 1, 2002, to continue to operate for a period of 12 months following the effective date of those regulations.

Status: Senate Committee on Transportation

Courts Today...



In September of 1919 Plumas County citizens gathered to formally dedicate and lay the corner stone of the new courthouse.

SB 255 (Speier) – Vehicles: children unattended: fine

Among other things, it makes it an infraction, punishable by a fine of \$100, for the parent, legal guardian, or other person responsible for a child who is 6 years or younger to leave that child inside a vehicle, without being subject to the supervision of a person who is 12 years or older, and where there are conditions that present a significant risk to the child's health and safety or when the vehicles' engine is running or the vehicle's keys are in the ignition, or both. Specifically authorizes the court to reduce or waive the fine if the defendant is economically disadvantaged.

Status: Assembly Transportation Committee

SB 1157 (Knight) – Traffic violator schools

Among other things, allows a court to order any person convicted of certain traffic violations to complete a course of traffic safety instruction at either a licensed traffic violator school or a home study program.

Status: Senate Appropriations Committee

TRIAL COURT FUNDING

AB 145 (Pacheco) – Credit cards

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LEGISLATIVE REVIEW

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Authorizes credit card payments for the deposit of bail for any offense not declared to be a felony or for any court-ordered fee or fine.

JC Position: Sponsored

Status: Senate Floor

AB 223 (Frommer) – Evidence: discovery

Authorizes the clerk of the court to issue a commission authorizing the deposition in another state or place. The commission would be issued to any party in any action pending in its venue without a noticed motion or court order. Requires the Judicial Council to develop and approve official form interrogatories and requests for admission for use in any other civil action in a state court as the Judicial Council deems appro-

From the archives...



By order of county supervisors, Siskiyou's courthouse was to be "placed in the center of the public square in Yreka City," a foresight that residents say helped save the structure from town fires.

priate. Makes numerous "clean-up" changes to statutes relating to trial court funding.

JC Position: Sponsored

Status: Senate Judiciary Committee

AB 1700 (Assembly Judiciary Committee) – Courts

Judicial Council sponsored bill amends portions of the Civil Code, Code of Civil Procedures, government Code, Penal Code, and Welfare and Institutions Code to make changes to the organizational and financial arrangements between the Judicial Council, trial courts, counties and other state agencies.

JC Position: Sponsored

Status: Senate Judiciary Committee

Status Chart of Pending Legislation

Looking for Judicial Council positions on legislation? The Office of Governmental Affairs prepares a chart after each Policy Coordination and Liaison Committee (PCLC) meeting showing the status of legislation on which the PCLC has adopted a position. The chart provides details such as the source of the bill, and the bill's current status in the Legislature. The bills are listed in numerical order and indexed by subject. To get your own copy of the status chart visit us on the web at <http://www.courtinfo.ca.gov/courtadmin/aoc/oga.htm>.

RIPPED FROM THE HEADLINES...

"Ripped from the Headlines" highlights recent news stories of interest including headlines and lead paragraphs, without Capitol Connection editorial comment.

"State braces for new drug law: A strapped treatment system faces an increased burden as Proposition 36 begins today" *The Sacramento Bee* (July 1, 2001)

Proposition 36, California's sweeping new drug law that takes effect today, will place unprecedented demands on a state agency and treatment system already afflicted with untrained workers, lax regulation and inattention.

The initiative requires treatment instead of prison for non-violent drug offenders to rehabilitate rather than punish them. But a *Bee* investigation found a system with problems and, some experts say, in need of rehabilitation itself. It found drug counselors and administrators who used illegal drugs themselves, supplied illicit substances to the people they were supposed to help and had sex with their clients.

The *Bee* also found the state agency overseeing these programs has such lax regulations that operators can violate state rules for years without losing their licenses and there's little measurement of a program's quality or effectiveness. In fact, outpatient treatment can consist of just two counseling sessions a month.
www.capitolalert.com

Cash woes dash plans to reform foster care. \$300 million infusion slashed to \$18 million San Diego Union Tribune (July 2, 2001)

Instead of building a grand new addition to the state's troubled foster care system, lawmakers now realize they can barely afford to patch a few holes in the system's leaky roof.

Earlier this year, Assembly Democrats, with great fanfare, announced a \$300 million plan to overhaul a system that nearly everyone agreed needed vast improvements. But like many state programs, those increases were scaled back to meet the new realities of California's budget. As a result of the slowing economy, what looked in January like a bulging surplus turned into a potential deficit by June.

Now, instead of an extra \$300 million to education, clothe and care for foster children, lawmakers say they are lucky the budget conference committee approved the addition of \$18 million to provide housing and services for foster children.

"Bill seeks to expand criminal DNA pool" *Contra Costa Times* (July 2, 2001)

Burglars, arsonists and carjackers soon may join murderers and rapists in California's genetic database under legislation that would add thousands of criminals' DNA each year.

The measure, designed to capture convicts' DNA before they graduate to more serious crimes, has raised the hackles of civil libertarians, who say the database expansion violates inmates' rights.

"We want to ID criminals after their first offense, not their

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RIPPED FROM THE HEADLINES...

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third, fourth, fifth or sixth," said Nathan Barankin, spokesman for Attorney General Bill Lockyer, who is sponsoring the bill. www.contracostatimes.com

"L.A. Area Expected to Keep Its Hold on Assembly Speaker-ship" *Los Angeles Times* (July 3, 2001)

Leading state officials said Monday that Herb Wesson is poised to become the next speaker of the California Assembly—the third Los Angeles-area Democrat in a row to lead the state's lower house.

An ambitious Los Angeles political operative who served for years as top lieutenant to Los Angeles County Supervisor Yvonne Bra-thwaite Burke and Los Angeles City Councilman Nate Holden.

Wesson has worked skillfully behind the scenes to outflank his rivals, according to lawmakers who have watched the assemblyman's moves.

"A few months ago I saw the pieces break in our direction," Wesson said in an interview Monday, acknowledging that he appears to have the votes needed from most of the Assembly's 80 members. "Nothing is definitive. But as time has gone on, I've been humbled that those who have the qualifications for this job themselves have come to me and said they backed me."

"Stiffer bribery fines urged for public ser-vants" *The Sacramento Bee* (July 5, 2001)

When Gregory Pentoney was convicted last year for accepting a bribe while working as a Los Angeles Superior Court auditor, prosecutors were frustrated by what they considered a glitch in state law.

Pentoney was accused of receiving \$463,000 to provide inside information used to bilk the county out of more than \$1 million, but prosecutors discovered he could not be fined more than \$10,000.

The case illustrates that government employees can profit by taking bribes, even if they're caught and convicted, according to Sen.

Bruce McPherson, R-Santa Cruz, who has proposed legislation designed to stiffen the penalties.

www.capitolalert.com

"GOP stands against sales tax bump. Democrats try to sweeten pot on state budget" *San Francisco Chronicle* (July 6, 2001)

Dangling the promise of tax cuts on everything from tractors to thoroughbreds, Democratic lawmakers are stepping up their efforts to persuade at least five of their GOP colleagues to vote for the week-late state budget. So far, it's not working. The Senate and Assembly adjourned yesterday for the weekend without taking any budget ac-tion.

"What we've found ourselves in is a philosophical schism," said Assemblyman George Runner of Lancaster, the GOP's point man on the budget. "We're talking past each other. "Anything the Democrats come in with to try to sweeten the pot doesn't answer the primary issue, which is that the budget raises taxes," Runner said.

But that hasn't stopped Democrats from trying.

"Budget forces Davis to make tough calls. Trip programs for now or cut deeply next year" *San Francisco Chronicle* (July 8, 2001)

As if the energy mess weren't enough for him to worry about, Gov. Gray Davis faces his first real fiscal test this year. Can he slice some of the meat from the state budget instead of just skimming the gravy?

With the state facing the prospect of taking in billions less in tax revenue next year because of the economic slowdown, the governor is likely to have to choose between cutting into popular programs this year or leaving himself the task of even deeper cuts in 2002, when he faces re-election.

"Everything depends on what cuts he makes to the budget," said Sen. Steve Peace, D-El Cajon (San Diego County), chair-man of the upper house's budget committee. "If he goes after programs, we whittle the budget hole to \$1 billion. If he cuts out of one-time projects, that really doesn't do much."

"To solve the problem, Democrats have to make some hard decisions with regard to programs that are very dear to them, particularly the health and welfare programs," said Assemblyman George Runner, R-Lancaster (Los Angeles County), Republicans' point man on the budget.

"Term limits sway state redistricting" *Contra Costa Times* (July 9, 2001)

Welcome to redistricting in the era of term limits.

Redrawing legislative and congressional districts after the census usually pits Democrats against Republicans in partisan brawls that can determine if one party dominates the Legisla-ture and the state's congressional delegation for the next decade.

This year, legislative term limits may make redistricting more like a political free-for-all as many of the legislators who will vote on the new districts look for ways to extend their political careers.

Congressmen could end up fighting state legislators and state senators could find themselves in battles with Assemblymem-bers, regardless of party.

"In the old days, the Senate drew the Senate lines, the Assem-bly drew the Assembly lines and each house rubber-stamped the other," said Senate Minority Leader Jim Brulte, R-Rancho Cucamonga.

"With term limits you have a lot of Assembly members with a lot of interest in the Senate map." www.contracostatimes.com

Courts today...



Siskiyou County is centrally located in inland northern California, adjacent to the Oregon border. Yreka is the Siskiyou County seat which was created March 22, 1852, and named after the mountain range.



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Welcome New Staff

The Judicial Council's Office of Governmental Affairs has recently welcomed three new members of the staff:

Eraina Ortega is a Senior Governmental Affairs Analyst. Prior to joining the AOC, she worked as fiscal and policy analyst at the Legislative Analyst's Office. Ms. Ortega has a bachelor's degree in political science from the University of California, at Irvine and a master's degree in public policy from Harvard University. Her OGA duties include legislative and budget advocacy, trial court funding, and court facilities issues.

Daniel Pone joined the staff as a Senior Attorney and will be responsible for legislative advocacy in the areas of civil, small claims, probate and mental health law. Prior to joining the AOC, he worked for four years as a Principal Consultant for the Assembly Judiciary Committee. Prior to that Mr. Pone worked over eleven years as a Senior Attorney for Protection & Advocacy, Inc, specializing in mental health law. Mr. Pone has a

Bachelor's degree in Psychology from the University of Oklahoma and a Juris Doctorate from University of California, Davis School of Law.

Courts Today...



The Santa Cruz Superior Court handles civil, juvenile, family, criminal, traffic and small claims cases for Santa Cruz County.

Martin Riley has come on board as a Governmental Affairs Analyst whose responsibilities include developing fiscal analyses of legislation and oversight of the Judicial Council's implementation of enacted legislation. Mr. Riley

previously worked in the legislative and public affairs offices of the State Board of Control. He has a Bachelor's degree in Anthropology from University of California, Berkeley.

All three of these staff bring a wealth of experience to their new jobs and look forward to serving the Judicial Council and the Administrative Office of the Courts.

The Capitol Connection is on the Web!

Looking for a past issue of the Capitol Connection? Find it online! The Capitol Connection is available on the Internet at www.courtinfo.ca.gov/courtadmin/aoc/capconn.htm.

In the next issue of The Capitol Connection...

- Drug Court Highlight
- Briefing on the Department of Corrections Report
- News from the Capitol
- Legislative Review