



# The Capitol Connection

ADMINISTRATIVE OFFICE OF THE COURTS • OFFICE OF GOVERNMENTAL AFFAIRS

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## Legislative Calendar

Legislature Reconvenes  
April 12

## CHIEF JUSTICE CITES NEED FOR STABLE FUNDING



(Photo: Erika Johnson)

In his ninth annual State of the Judiciary address to the Legislature, Chief Justice Ronald M. George reminded lawmakers that the judicial branch is an independent and equal branch of government whose ability to fairly and timely resolve disputes is vital to democracy.

The address, delivered on March 23 to a joint session of the Legislature, painted a picture of a California without a fully functioning court system where precious judicial resources are reserved for criminal matters and private parties seeking resolution of their disputes must go elsewhere. The Chief Justice noted that without sufficient resources, courts will be unable to uphold the rights of citizens through their decisions. As an example, the Chief Justice mentioned the United States Supreme Court's momentous holding in *Brown v. Board of Education*, the fiftieth anniversary of which we celebrate this year.

The Chief Justice applauded the efforts of the courts to maintain services to the public in the face of budget cuts and the increased demands of the public. He noted that an increasing number of self-represented litigants in family, domestic violence and unlawful detainer cases have placed pressure on the courts to resolve these cases in a timely manner while ensuring the parties can navigate court processes that determine them.

Although a number of court programs throughout the state have been successful in ensuring the public's meaningful access to the courts, the Chief Justice noted that past budget cuts have taken and will continue to take their toll on court services. For example, budget reductions have forced the closure of several courts in Riverside and Los Angeles Counties and volunteer employee furlough programs in some courts have also limited the public's access. Public safety is also placed at risk when courts lack resources to process in-

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## WORKING GROUP EVALUATES FEE OPTIONS

In December 2003, the Chief Justice appointed the Court Fees Working Group, which is chaired by Justice Richard Aldrich. Since January, the Working Group has undertaken a comprehensive review of civil fees and is currently discussing possible recommendations that would establish a single statewide filing fee schedule, effective January 1, 2005. The key goals of the Working Group are to meet the revenue targets for civil fees that were established in the 2003-2004

budget, ensure that access and fairness are preserved, and streamline and simplify the overall fee structure.

To assist the Working Group in its deliberations, AOC staff conducted a comprehensive survey of courts to identify all types of civil fees and the amounts being charged for each. Not surprisingly, there is enormous

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## CHIEF JUSTICE

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formation and documentation pertaining to criminal defendants.

The Chief Justice acknowledged that the Legislature has a difficult task ahead. "I know there are many competing demands that you must balance and measure," he said. "But together, the legislative and judicial branches have an exemplary track record of achievements that have made a tremendous and beneficial difference in the welfare of our state, in the stability of our government, and in the lives of California's residents. It would truly be tragic—and far more expensive in every sense—if that record of achievements were to be obliterated."

Following the address, the tenth annual Judicial-Legislative-Executive Forum was held in the Capitol. The forum provided lawmakers, legislative staff, and executive branch representatives an opportunity to meet informally with Chief Justice George and other judicial branch leaders to further discuss issues affecting the judicial branch. ■

## WORKING GROUP

*(Continued from page 1)*

inconsistency in the fees being charged in different courts for the same types of cases. In part, these differences can be explained by statutes that allow the county board of supervisors to set "add on" fees at varying levels. In addition, the filing fee structure is complicated, confusing, and difficult to administer. The result is wide disparity and no consistency in fee amounts.

Members of the Working Group include judges, a court administrator, and civil attorneys from all over the state. The attorneys represent large and medium-sized firms, sole practitioners, plaintiffs and defense, and family and juvenile law experts. The Working Group has reviewed numerous possible new fee structures, and hopes to reach consensus on recommendations in time for the budget negotiations on the judicial branch budget. ■

## TESTIMONY CONTINUES AT SENATE HEARINGS; BUDGET IMPACTS TERMED "STAGGERING"



One by one, presiding judges and court executive officers were among the steady stream of witnesses who described the effects of chronic underfunding of trial court programs and services in testimony before the Senate Select Committee on Citizen Participation, chaired by Senator Joseph Dunn (D-Santa Ana). Since the last issue of *The Capitol Connection* (February 2004), in which we reported on the San Diego hearing, Dunn has convened four additional hearings on the judicial branch budget: in Los Angeles (March 5), Fresno (March 12), Oakland (March 18), and Orange County (April 2).

Testimony about the effects of prior years' budget cuts on court operations described a judicial system that is taxed well beyond its current resources. Remarks heard at the Fresno and Oakland hearings from court users and representatives from the justice community reflect serious concerns that California's trial courts are unable to meet their mandates and guarantee access to the justice system:

On the overall impact on the justice system:

*"As the testimony today will reveal, the public consequences of these reductions are staggering." (presiding*

*judge)*

*"If the government does not adequately fund the third branch, it will eliminate the public adjudication of disputes...without adequate funding, that will disappear." (private attorney)*

*"When the courts cannot properly function, laws becomes toothless, and the rights of each of us are eroded and impaired." (private attorney)*

*"To start innovative programs and then cut them [due to lack of funding] is unfortunate." (court commissioner)*

*"If not for the fact that we had access to judges and court resources...I don't think this case would have been heard...timely access to the courts was a critical factor in bringing resolution to this case." (complex class-action case litigant)*

On court case backlogs:

*"We don't know what we don't know – much of the information is in the filing backlog. Basically, we're going to make bad decisions...damage that will last a lifetime." (presiding judge)*

*"The criminal [case] backlog is drawing civil judges*

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## SENATE BUDGET HEARINGS

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away.” (presiding judge)

“And in at least one county, some drivers licenses have been suspended due to cases being erroneously reported as delinquent, with defendants being falsely arrested and their vehicles impounded.” (presiding judge)

On courtroom security:

“We have no security in civil courtrooms...at all.” (presiding judge)

“We have no funding for bailiffs for civil courtrooms.” (county law enforcement official)

On the elimination of programs such as drug court, homeless court, and mediation:

“If the mediation program is eliminated, ‘justice delayed’ will be ‘justice denied.’” (bar association president)

“Drug court saved me. I love life now. All my children are in school and heading down the right path, all thanks to drug court.” (drug court participant)

“My life is back on track...homeless court is a very good program. I’d hate to see it go away.” (homeless court participant)

“The homeless served tell others about homeless court; they become advocates and volunteers. Homeless court is the only venue for access to justice for the least among us.” (Legal services director)

One positive recurring theme in the hearings, according to Senator Dunn, is across-the-board praise for employees in the court system. He commended court managers and staff for their commitment to public service in the face of chronic staff shortages, long hours, and increasing work-

loads. “There are people that are dedicated...court employees are very proud of the system,” Contra Costa County Superior Court Commissioner Robert Broughton told Dunn while speaking on behalf of the California Judges Association at the Oakland hearing. Noting that “burn out” and high levels of stress could lead to the eventual loss of experienced employees, Broughton warned that “the underpinning of our democracy will be jeopardized...we are in jeopardy of eventually driving people away from the justice system.”

Senator Dunn plans to share the testimony from the hearings with his colleagues during upcoming subcommittee hearings, as chair of the Senate budget subcommittee with jurisdiction over the judicial branch budget, and with the full Senate Budget Committee. He hopes that it will help legislators to better understand the unique needs of the judicial branch when establishing state budget priorities for this and future years. “The judicial branch cannot be viewed for funding like other state departments,” Dunn told participants at the Fresno hearing. “It must be viewed as a full, separate, equal branch.” AOC Director Bill Vickrey, also in attendance at the Fresno hearing, echoed Dunn’s remarks. “We need a long-term solution so we’re not riding this roller coaster every year,” Vickrey said.

In closing testimony at the Fresno hearing, Presiding Judge Brad Hill offered a humbling perspective: “Ensuring public access is doing so much more than simply opening the doors of our Court and hoping ... in the blur of cases ... that justice is somehow being done.” The pursuit of justice in the face of perilously reduced program and service levels is a challenge that courts say they will struggle with daily until a stable source of trial court funding is established. ■

## UPDATE: UNFAIR COMPETITION LAW REFORM

As reported in [The Recorder](#), after failing to reach a compromise, parties on both sides of the issue of reforming California’s Unfair Competition Law have ended talks and a November showdown at the ballot box appears likely.

The Civil Justice Association of California and the California Chamber of Commerce are sponsoring the initiative, which would change the law in a number of ways, including requiring that consumers be injured by an unfair business practice in order to bring an action under the law.



Proponents, including the California Motor Car Dealers Association, believe such reform is necessary to prevent the abuse of the law.

Proponents of the initiative have reportedly gathered enough signatures to qualify the measure for the November ballot. The last day for initiatives to qualify for the November ballot is April 29. Both proponents and opponents, including the Consumer Attorneys of California, have begun raising money to bring the battle directly to the voters. ■

## LEGISLATIVE REVIEW

The following is an update of the second half of the 2003-2004 legislative session on selected bills of interest to the courts.

### BUDGET

**SB 1801 (Bowen), as amended March 23, 2004. Credit card processing fees**

Prohibits any state or local agency or court that accepts a credit card or debit card from imposing any processing fee or charge that is not also imposed upon persons who pay by cash or check.

**Status:** Senate Judiciary Committee

**Judicial Council position:** Oppose

### COURT OPERATIONS

**AB 3079 (Judiciary Committee), as introduced.**

**Court operations**

Authorizes the compensation of retired subordinate judicial officers sitting on assignment in a manner analogous to retired judges.

**Status:** Assembly Judiciary Committee

**JC Position:** Sponsor

### CRIMINAL

**AB 488 (Parra), as amended January 26, 2004. Megan's Law: Internet Web site**

**Law: Internet Web site**

Requires sex offender information pursuant to "Megan's Law" to be available through an Internet Web site operated by the Department of Justice.

Provides that the Internet Web site shall include the defendant's address unless, upon a motion by the defendant at the time of sentencing, the court finds by clear and convincing evidence that the listing of the address information is not required for public safety. Provides that a defendant may petition the court for removal of the address information from the Web site at any time after sentencing except within five years of the denial of a previous motion.

**Status:** Senate Public Safety Committee

**AB 1806 (Spitzer), as introduced. Criminal procedure: insanity**

Allows the court to summarily deny an application for restoration of mental health if the written recommendation by the hospital or treatment staff is to not permit release.

**Status:** Failed passage in Assembly Public Safety Committee

**AB 1894 (Longville), as introduced. Seizure of business records**

Establishes a procedure for an entity whose business records have been seized by a government agency to demand that the agency provide to it, within a five business-day period, copies of the business records or access to the original records so that the entity can make copies of the records. Establishes a procedure for the agency, if the seized records are too volumi-

nous to be copied in the required time period, to petition the court for additional time.

**Status:** Assembly Appropriations

**AB 1924 (Bogh), as amended March 18, 2004. Fire prevention: penalties**

Requires, rather than authorizes, a court to impose fines not to exceed \$50,000 against a person who is convicted of felony arson. If the arson is found to have been committed for pecuniary gain, the bill requires, rather than authorizes, a court to impose a fine of twice the anticipated or actual gross gain.

**Status:** Assembly Natural Resources Committee

**AB 1941 (Chan), as amended March 18, 2004.**

Includes as a mitigating factor a defendant's custodial responsibilities for minor children. Requires a probation report to include information regarding the defendant's custodial responsibilities as a parent of minor children.

**Status:** Assembly Appropriations Committee

**AB 1946 (Steinberg), as introduced. Sentencing**

Makes prisoners who are diagnosed with a disease that would produce death within 12 months, and whose release is deemed not to threaten public safety, eligible to have their sentences recalled and to be resentenced. Expands the grounds under which the court exercises discretion to find eligibility for resentencing or recall.

**Status:** Assembly Appropriations Committee

**AB 2011 (Firebaugh), as introduced. Criminal procedure: release on bail**

Requires a court to consider the same circumstances that a court must consider after a verdict against a defendant in determining whether to allow a defendant who is not punishable by death and who is not applying for probation or pending appeal to be admitted to or to remain out on bail after a plea of guilty or nolo contendere.

**Status:** Assembly Public Safety Committee

**JC position:** Oppose

**AB 2019 (Steinberg), as introduced. Mentally competent minors**

Establishes procedures for conducting a hearing regarding mental competence of a minor, and temporarily suspends any other proceeding until the competency of the minor is determined. Provides that a minor is presumed competent, unless a preponderance of the evidence proves otherwise.

**Status:** Assembly Appropriations

**AB 2288 (Pacheco), Criminal procedure: continuances**

Adds cases alleging the taking of more than \$100,000, and cases alleging a pattern of conduct involving a taking of more than \$100,000 by committing two or more related felonies,

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## LEGISLATIVE REVIEW

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to those cases in which a continuance may be granted in a criminal proceeding under a good cause exception. Authorizes only one continuance in these cases, and require that any continuance granted be for the shortest time possible, not to exceed ten court days.

**Status:** Assembly Public Safety Committee

**JC Position:** Oppose

### **AB 2829 (Bogh), as introduced. Rape: evidence**

Requires that any evidence filed with the court in connection with an offer of proof or the hearing to determine relevance of evidence in a rape case be kept under seal pending a determination by the court as to whether it may be introduced.

Requires any evidence that may be introduced to be unsealed, and any evidence that may not be introduced to remain under seal until the completion of the trial.

**Status:** Assembly Public Safety Committee

### **AB 2986 (Benoit), as introduced. Search warrants: confidentiality**

Requires that documents and records of the court relating to a search warrant remain closed to the public until the earliest of any of several specified events or one year if, at the time of application, the affiant submits a supplemental affidavit stating that opening the documents and records to the public will interfere with or prejudice an ongoing investigation. Permits access to these records to a person from whom property was seized, after a hearing at which a court has balanced competing interests and found in favor of that access, subject to reasonable court conditions that may include a prohibition on further disclosure.

**Status:** Assembly Public Safety Committee

**JC Position:** Neutral if amended

### **SB 1223 (Kuehl), as March 16, 2004. Criminal law: juveniles**

Gives sentencing courts the discretion to review and reduce, suspend, or reduce and suspend the sentence of a minor who was prosecuted as an adult, after the person has served 10 years of his or her sentence or has reached the age of 25.

**Status:** Senate Appropriations Committee

### **SB 1285 (Margett), as introduced. Juvenile court: criminal history reporting**

Requires the Department of Justice to collect data pertaining to the juvenile justice system for criminal history and statistical purposes.

**Status:** Senate Public Safety Committee

### **SB 1287 (Kuehl), as introduced. Prisoners: incarcerated par- ents**

Prior to the acceptance of a plea, requires the court to advise

the defendant that if the defendant is a custodial parent, conviction may have consequences for the defendant's parental rights.

**Status:** Senate Public Safety Committee

### **SB 1385 (Burton), as amended March 22, 2004. Habeas corpus: battering and its effects**

Changes all references in the Evidence Code to "Battered Women's Syndrome" to read "battering and its effects."

Permits denial of a new petition for a writ of habeas corpus only if the court previously found that the omission of expert testimony relating to battered women's syndrome or battering and its effects at trial was not prejudicial and did not entitle the petitioner to the writ of habeas corpus.

**Status:** Senate Public Safety Committee

### **SB 1794 (Perata), as introduced. Criminal procedure: competency**

Requires mental health professionals appointed in felony or misdemeanor cases to report to the court on various issues

relating to the person's competence, and to report specified information regarding the potential for psychotropic medication for the defendant. Requires that, prior to making an order committing the defendant for treatment to recover competence in either a misdemeanor or felony case, a court would have to determine whether psychotropic medication should be administered to the defendant. Specifies procedures to determining appropriateness of admin-

istering psychotropic medications during treatment.

**Status:** Senate Public Safety Committee

## FAMILY

### **AB 129 (Cohn), as amended March 30, 2004. Juvenile court: dual status children**

Authorizes any county to create a protocol which would permit a minor who meets specified criteria to be designated as both a dependent child and a ward of the juvenile court. Requires that only one agency serve the child at any given time during the case. Requires the Judicial Council to evaluate the results of implementing the protocol and to report its findings to the Legislature.

**Status:** Senate Judiciary Committee

**JC Position:** Sponsor

### **AB 252 (Jackson), as amended January 26, 2004.**

#### **Paternity judgments**

Provides that specified judgments or orders establishing paternity may be set aside by the court, upon motion by a party, if genetic testing indicates that the previously established father of a child is not the biological father of the child, and



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## LEGISLATIVE REVIEW

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other specified conditions are met.

**Status:** Senate Judiciary Committee

**AB 2089 (Jackson), as introduced. Marriage: fact sheet**

Requires the Judicial Council to develop, distribute, and regularly update a fact sheet on the rights and responsibilities of marriage to county clerks, and the county clerk to provide that sheet with a marriage license.

**Status:** Assembly Appropriations Committee

**AB 2148 (Diaz), as introduced. Family law proceedings**

Establishes new structure for ordering a party to pay the costs of the other party's legal costs in specified family law proceedings. Requires the court to make custody, visitation orders where requested, and child and spousal support orders where none exist, under the Domestic Violence Protection Act.

**Status:** Assembly Judiciary Committee

**JC position:** Oppose

**AB 2228 (Garcia), as introduced. Child custody investigations: release of information**

Requires a state agency, county welfare department, child protective services agency, law enforcement agency, county probation office, or another court, to provide to the family court, juvenile court, or superior court or to a court-connected evaluator or court-appointed investigator, in child custody and guardianship proceedings, upon request, all available information the court deems necessary to make a determination regarding the best interest of a child, as specified.

**Status:** Assembly Judiciary Committee

**JC position:** Support

**SB 1902 (Florez), as introduced. Dependent children**

Prohibits the court from returning a child who has been found to be a dependent and removed from the custody of their parent from returning the child to the parent or guardian until the social worker completes a home visit and determines in a written report that the home is safe, and the parent or guardian completes a parenting class. Removes the court's discretion to order reunification services on a subsequent dependency case where the child has previously been adjudged a dependent and removed from the home.

**Status:** Senate Health and Human Services Committee

**JC position:** Oppose

### JURIES

**AB 1978 (Haynes), as amended March 24, 2004.**

**Jurors: eligibility**

Exempts from jury service mothers with custody of minor children under 6 years of age.

**Status:** Assembly Judiciary Committee

**JC Position:** Oppose

**AB 2253 (Mountjoy), as introduced. Jury duty: exemptions**

Permits the exclusion of a prospective juror who is 75 years of age or older if that person wishes to be excused.

**Status:** Failed passage in Assembly Judiciary Committee

**JC Position:** Oppose

**AB 2271 (Parra), as introduced. Jury selection: peace officers**

Prohibits peace officers such as parole officers of the Department of Corrections or the Department of the Youth Authority, probation officers, deputy probation officers, and others, from being selected for voir dire in civil or criminal matters.

**Status:** Assembly Judiciary Committee

**JC Position:** Oppose

**SB 1673 (Romero), as introduced. Grand juries: selection**

Requires that a list of names of potential grand jurors be drawn at random from the same sources as trial jurors and that potential grand jurors be removed from the list only for reasons of incompetence or other specified legal excuse.

**Status:** Senate Judiciary Committee

### TRAFFIC

**SB 1269 (Morrow), as amended March 22, 2004. Traffic violator school: fees**

Provides that the fee charged to offset the costs incurred by a court assistance program in providing services related to the processing of violators attending traffic violator school be limited to \$6 or the actual cost, whichever is less. Fees in excess of \$6 may be charged upon the approval of the Judicial Council.

**Status:** Senate Judiciary Committee ■

### News From the AOC

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

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

**Court News:** Award-winning bimonthly newsmagazine for court leaders reporting on developments in court administration statewide. Indexed from 2000 at [www.courtinfo.ca.gov/courtnews](http://www.courtinfo.ca.gov/courtnews).

## ADMINISTRATION TAKES ON JUVENILE JUSTICE REFORM

The Honorable J. Richard Couzens has been named, along with Office of Governmental Affairs advocate June Clark, to Governor Arnold Schwarzenegger's Juvenile Justice System Reform Work Group. The Work Group is part of the Governor's recently formed Independent Review Panel (IRP), chaired by former Governor George Deukmejian, which is designed to expedite fundamental reform within California's youth and adult correctional systems. Announcing the creation of the IRP, Governor Schwarzenegger said, "It has been too long since our correctional system has undergone a fundamental review of its operations. The mission of this inquiry team is to chart a course of action to turn around the crisis of confidence in California's correctional system."

While the IRP is targeting the executive branch functions of adult corrections and the juvenile California Youth Authority, the Juvenile Justice System Reform Work Group is looking at the entire juvenile justice system in California, including CYA, county juvenile halls, county probation, and other local issues. Some of the key issues being addressed by the Work Group include defining the type of offender best suited for placement in a CYA facility, defining the role CYA should play in the spectrum of treatment options, identifying gaps in county-level drug and alcohol, mental health, and other rehabilitation options and services, and determining how best to improve a CYA ward's ability to re-enter the community.

Of particular interest to the courts, the Work Group is considering a number of proposals, including one written by Judge Leonard Edwards of the Santa Clara Superior Court, that would give the juvenile courts the authority and resources to "ease" youths back into their communities. Re-entry programs, as they are called, take many forms, but generally permit the juvenile court to implement a re-entry plan for juveniles returning from CYA. The plan would be recommended by CYA and the local probation department.

Creation of the IRP and the Juvenile Justice System Reform Work Group is in part in response to a series of recent negative reports and incidents involving the California Youth Authority. Notable incidents include:

- Complaints have been filed in federal and state

court challenging the "inhumane conditions" in CYA facilities.

- Criticism over steel mesh holding cages for juveniles in CYA facilities has prompted CYA Director Walter Allen III to put a thirty-day timetable on removing most of them. CYA is the only youth prison system in the nation that uses them.
- Two teenagers in custody in CYA facilities committed suicide in mid-January; one of them had Prozac in his system.
- Conditions in CYA facilities have been reported to include an atmosphere of "intense fear and violence"; daily incidents of gang savagery; denial of basic psychiatric, medical and drug treatment; lack of educational programs; and the use of steel mesh holding cages, mace and 23-hour-a-day lockdowns to discipline youth, according to a December 2003 report by Barry Krisberg, Ph.D., completed at the request of the California Attorney General and CYA.
- Two juveniles in custody in a Stockton CYA facility were beaten by staff after an attack by the wards. The incident was captured on videotape.

In the wake of these incidents and reports, state Senators Gloria Romero and Jackie Speier convened hearings during which newly appointed Youth and Correctional Agency

Director Rod Hickman and CYA Director Allen testified about the conditions in CYA facilities, and the actions they plan to take to correct those conditions. Senator Romero and others have suggested CYA facilities should be closed.

The juvenile justice system has reacted to these disclosures in a variety of ways. Several boards of supervisors have called for a moratorium on CYA commitments, while others are exploring forming a regional alternative to sending juveniles to CYA.

In addition to court representatives, the Juvenile Justice System Reform Work Group members include representatives of police, sheriffs, probation departments, prosecutors, defense attorneys, county boards of supervisors, and private youth advocacy groups. The Work Group plans to meet twice more before issuing its recommendations to the IRP.

*The Capitol Connection* will provide updates as this issue continues to unfold. ■

*"It has been too long since our correctional system has undergone a fundamental review of its operations."*

## RIPPED FROM HEADLINES



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

### **"State Law Threatened By Public's Revulsion To Sex Offenders" *San Francisco Chronicle* (March 8, 2004)**

Legal challenge could result if predators are given nowhere to live.

When would-be neighbors ran Cary Verse out of Marin County, it raised issues much more far reaching than where the convicted sex offender would go next.

In fact, some experts say, at stake is the very future of California's controversial 1996 law allowing authorities to commit "sexually violent predators" to mental hospitals after they have served their prison sentences.

The idea is to provide treatment and therapy to the worst offenders until they are judged to be no threat to the public and can be conditionally released. But if no community will accept them, experts say, the validity of the law is open to challenge.

It is a threat that state officials, legislators, police and citizens are confronting as more and more of those put in mental hospitals complete their treatment programs and become eligible for release under certain conditions, such as being fitted with electronic tracking devices.

### **"Democrats Back Away From Seeking New Taxes" *San Francisco Chronicle* (March 13, 2004)**

When the state Assembly's 48 Democrats participated in a post-election retreat this week in San Diego, they broke up into small groups to devise strategies on how to close the state's \$12 billion budget gap.

Options on the lists they confronted included spending cuts, tax credits and tax increases.

However, veering from a path they've advocated in recent months, even the most liberal Democrats found themselves steering away from tax increases.

"After a couple of years of having (tax increases) not be on the table, there is no reason to keep putting it on the table," said Assemblywoman Jackie Goldberg, D-Los Angeles. "It's certainly a priority, but it doesn't do any good if we can't make it happen - and we can't make it happen."

That doesn't mean Democrats are giving up on the idea of taxes. They are simply betting that at the end of the day, Republicans, especially Gov. Arnold Schwarzenegger, will decide that tax increases are a better choice than some of

the spending cuts that have been proposed.

### **"Foster Care Gets Capitol Scrutiny" *Sacramento Bee* (March 17, 2004)**

With California under pressure from the federal government to improve its foster care system, some counties are trying such new approaches to deal with child abuse and neglect.

But at the same time, federal funding rules discourage innovative programs that help keep troubled families together, advocates for children told an Assembly panel Tuesday.

"Counterproductive fiscal policies put us in a straitjacket," Frank Mecca, head of the County Welfare Directors' Association, said during a hearing on child-welfare programs before the Assembly Committee on Human Services.

In a review of California's child-welfare system last year, the federal Department of Health and Human Services flunked the state on several counts and was especially critical of its foster care program. Now the state risks losing federal child-welfare funds if it does not improve. About 91,000 children are in foster care statewide.

The federal government wants the state to move children out of foster care more quickly. But most federal child-welfare money goes for foster care and not for programs designed to keep families together in the first place, Mecca said.

### **"Arbitrator Rules Set For Court" *San Francisco Chronicle* (March 19, 2004)**

With hundreds of cases at stake, the state Supreme Court has agreed to decide whether California's strict new ethics and disclosure rules for private arbitrators can be applied to disputes between investors and national stock exchanges.

The NASD and the New York Stock Exchange, which require investors to arbitrate disputes against broker-dealers rather than taking them to court, stopped appointing arbitrators in California in July 2002 when the state Judicial Council adopted rules to implement a new law on arbitration.

The exchanges' actions require California investors to travel to other states for arbitration unless they agree to waive the protections of the state law. If the state's high court upholds the California rules and the exchanges maintain their stand, California investors would have the right to sue in court.

The national exchanges argue that the state's rules are too demanding and must give way to the exchanges' more lenient conflict-of-interest rules, which were approved by the Securities and Exchange Commission.

The law and Judicial Council regulations were passed in re-

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sponse to complaints that arbitration, increasingly required by businesses in consumer and workplace disputes, was marred by excessive secrecy and cozy relationships between arbitrators and corporations.

Among other things, the regulations require disclosure of personal and financial ties between arbitrators and either side in a case and information on how often an arbitrator has handled a case involving one of the parties. Either side can disqualify an arbitrator who fails to make the required disclosures. The NASD and NYSE rules also require disclosure of personal and financial connections but leave disqualification up to the exchanges.

### **“Open Primary Proposal Headed For State Ballot” *San Francisco Chronicle* (March 27, 2004)**

A political battle that made it all the way to the U.S. Supreme Court is about to be fought again as an initiative to allow California voters to choose any candidate in a primary election is poised to go on the November ballot.

The initiative would transform California primary elections, virtually eliminating political parties from the mix and opening the way for November elections that could feature two Democrats or two Republicans.

"People want real electoral reform," said state Controller Steve Wetly. "I'm proud to be a Democrat, but both parties want to cling to the way things have always been."

If support for the proposed initiative is bipartisan, so is the opposition. State Democratic and Republican party leaders pledged to battle the new attempt to end California's partisan primaries.

Opening the primaries to all voters will result in candidates who better represent the majority of Californians, initiative backers argue. They say the present system favors the conservative and liberal extremes over moderates of any party. The surge in voter turnout for the open primaries in 1998 and 2000 also shows it's what the voters want.

### **“Stalwarts Forced Into Retirement By Term Limits” *San Jose Mercury News* (March 30, 2004)**

When the gavel slams down for the final time this fall in the state Capitol, California will say farewell to nearly 300 years of institutional memory as at least two dozen lawmakers pack up their offices and head home.

Almost one-third of that knowledge is contained in the brains of three grizzled veteran senators: John Burton, John Vasconcellos and Byron Sher ~ the last of the liberal lions.

After dedicating their lives to public service, the trio of wrinkle-

sued Bay Area lawmakers ~ responsible for some of California's most innovative and esoteric laws ~ will be forced into retirement by term limits.

The political cap will not only drain the Capitol of its final cadre of veteran leaders, it also ensures that those who follow will never rack up as many decades of experience and knowledge.

Since California voters imposed limits in 1990, the Capitol has been slowly drained of its veterans. Unable to serve more than six years in the Assembly and eight in the Senate, the final crop of lawmakers elected in 1990 will exit this December.

Along with the Bay Area trio, the Senate will lose six other members.

The remaining lawmakers will have an average five years' experience in Sacramento, a dearth of knowledge highlighted by the election this year of lawmakers who have been on the job fewer than 18 months as Assembly speaker and Republican leader.

In their early years, Senate Republican leader Jim Brulte said, Burton and Vasconcellos were "the foul poles in left field of the state Legislature." But, over time, the lawmakers came to realize that compromise was the key to success ~ especially since Republicans held the governor's office for most of their careers.

"At the end of the day, they understand that we have to govern," said Brulte. "These are three men who, while philosophically not in agreement with Gov. Wilson on many issues, were able to work with him to reach bipartisan agreements."

### **“Advisers Polling Voters On Hikes” *Oakland Tribune* (March 31, 2004)**

State's budget shortfall may force Schwarzenegger to look at increases.

Gov. Arnold Schwarzenegger indicated in an interview Tuesday that his political advisers are polling voters on tax hikes and said he'd at least consider a budget from lawmakers containing taxes and fee increases as the state wrestles with a multibillion-dollar deficit.

Though Schwarzenegger made it clear he won't propose tax hikes, the comments were the strongest indication to date that California's new governor is beginning to soften his anti-tax stance in the face of the state's staggering budget shortfall. ■

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## ELECTION RESULTS

Below are recent election results for current legislators running for a new office. ■

Legislator	Current Assembly or Senate District	Term limited in 2004?	New Office Legislator is Running For (Primary Results)	Incumbent (Reason Incumbent is Leaving)
Dave Cox (R-Fair Oaks)	AD 5	YES	SD 1 (WON)	Rico Oller (Running for Congressional District 3)
Manny Diaz (D-San Jose)	AD 23	NO	SD 13 (LOST)	John Vasconcellos (termed out in 2004)
Christine Kehoe (D-San Diego)	AD 76	NO	SD 39 (WON)	Dede Alpert (termed out in 2004)
Alan Lowenthal (D-Long Beach)	AD 54	YES	SD 27 (WON)	Betty Karnette (termed out in 2004)
Ken Maddox (R-Garden Grove)	AD 68	YES	SD 35 (LOST)	Ross Johnson (termed out in 2004)
Abel Maldonado (R-Santa Maria)	AD 33	YES	SD 15 (WON)	Bruce McPherson (termed out in 2004)
Joseph Simitian (D-Palo Alto)	AD 21	NO	SD 11 (WON)	Byron Sher (termed out in 2004)
Betty Karnette (D-Long Beach)	SD 27	YES	AD 54 (WON)	Alan Lowenthal (termed out in 2004)

## SPEAKER ANNOUNCES COMMITTEE CHANGES

On March 19, Assembly Speaker Fabian Nuñez announced changes in the membership and size of Assembly standing and subcommittees for the remainder of the 2003-2004 Regular Session. Among the changes were the following:

### **Budget Subcommittee No. 4 on State Administration:**

Assemblymembers Rudy Bermudez, John Benoit and George Plescia have been appointed and Assemblymembers Dave Cogdill and Rick Keene have been removed. Appointed Assemblymember Darrell Steinberg will serve as the Democratic alternate and Assemblymember Rick Keene will serve as the Republican alternate.

### **Assembly Judiciary:**

Assemblymembers Loni Hancock, Robert Pacheco and one Democratic vacancy from the committee were removed, reducing the committee size from 14 to 11 members.

### **Assembly Public Safety:**

Assemblymembers Rudy Bermudez and Paul Koretz were removed from the committee and a Democratic vacancy was created, reducing the size of the committee from 7 to 6 members. ■