



The Capitol Connection

ADMINISTRATIVE OFFICE OF THE COURTS • OFFICE OF GOVERNMENTAL AFFAIRS

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Legislative Calendar

September 9, 2005
Last day for any bill to be passed. Interim Recess begins on adjournment

October 9, 2005
Last day for Governor to sign or veto bills passed by the Legislature on or before Sept. 9 and in his possession after Sept. 9

REGIONAL NEW LAW IMPLEMENTATION WORKSHOP

The Administrative Office of the Courts (AOC) and the Coalition of Trial Court Clerk Associations (CTCCA) will jointly host the 2005 Regional New Laws Implementation Workshop in November.

The workshop expands on last year's Regional Legislation Implementation Forum, a pilot workshop held in the Northern Central Regional Office (NCRO), and combines elements of CTCAA's New Laws Workshop. The AOC is coordinating this effort with the leadership of the CTCCA and court leaders.

This year, the 2005 Regional New Laws Workshop will be held as three one-day workshops in each of the regional offices. The Bay Area Northern Coastal Regional Office (BANCRO) will host the first workshop on Tuesday, November 8, 2005.

The NCRO's workshop is scheduled for Thursday, November 10, 2005, and the Southern Regional Office (SRO) will host the event Thursday, November 17, 2005.

The purpose of the workshops is to discuss new laws requiring new or different court administration processes and procedures. In small groups (with AOC and CTCCA facilitators), participants will identify implementation issues and approaches. The workshop planning group will be closely coordinating with AOC Finance staff regarding the plans for training court staff on the Uniform Civil Fee.

If you have any questions, please contact Connie Erlich, who is leading the coordination of this program, by email at connie.erlich-t@jud.ca.gov or by telephone at (916) 323-3121. ■

PROPOSITION 63 CREATES COLLABORATIVE OPPORTUNITIES

Proposition 63 is creating unique opportunities for branches of government to work together, and the Administrative Office of the Courts (AOC) and the Department of Mental Health (DMH) are attempting to make good on that opportunity. The two government agencies recently sent a joint letter to courts and departments of mental health in each county encouraging them to work together to plan and implement Proposition 63. Voters passed Proposition 63 in 2004 to provide additional tax revenue to counties to expand and enhance services to mentally ill children, adults, and seniors. The new law, known as the Mental Health Services Act (MHSA), strongly encourages stakeholders to collaboratively create state-of-the-art mental health systems using strategies that look beyond "business as usual."

Representatives from the Administrative Office of the Courts' Executive Office and the Director of the California Department of Mental Health (DMH) met in June to discuss

state and local implementation of Proposition 63 and review different ways in which the courts could become effectively involved in the process.

The meeting was an opportunity for the AOC to highlight many court services currently in place that ensure proper assessment and adjudication of matters involving the mentally ill, including homeless courts, mental health courts, and specialized mental health assessments and treatment programs involving parents and/or children, and discuss the potential enhancement of these services given a collaborative relationship with DMH.

Director of the Department of Mental Health, Dr. Stephen Mayberg, who is very familiar with the court functions that benefit the mentally ill, expressed strong enthusiasm for working with the AOC to develop a col-

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UPDATE ON JUDICIAL COUNCIL-SPONSORED LEGISLATION

New Judgeships/SJO Conversions

Senate Bill 56 (Dunn) proposes the creation of new judgeships and the conversion of certain eligible subordinate judicial officers, passed the Assembly Judiciary Committee on July 5. Presiding judges and executive officers of trial courts, bar association leadership, and Bench-Bar Coalition member organizations again sent letters of support to legislators as they had done when the bill was in the Senate. The bill has been held in the Assembly Appropriations Committee.

For more information about SB 56, contact Eraina Ortega at eraina.ortega@jud.ca.gov.

Court Facilities Bond

Senate Bill 395 (Escutia), which states the intent of the Legislature to enact the California Court Facilities Bond Act of 2006 to acquire, rehabilitate, construct, and finance court facilities, passed the Assembly on July 5. The bill was amended to omit the amount of the proposed bond. If approved by the Legislature and the Governor, the bond would be placed on the ballot in an upcoming statewide election.

For more information on SB 395, contact Eraina Ortega at eraina.ortega@jud.ca.gov.

Uniform Civil Fee

In April 2004, the Court Fees Working Group (CFWG) made unanimous recommendations for a statewide uniform civil fee structure. The Uniform Civil Fee (UCF)

will streamline and vastly simplify the civil fee structure, provide for uniformity across the state, and address the funding shortfall under the current fee structure.

The UCF was approved as part of the judicial branch budget and is included in budget trailer bill AB 145. The UCF will take effect on January 1, 2006 and the enhanced security fee that was set to expire on June 30, 2005 was extended until December 31, 2005.

For more information on the UCF, contact Eraina Ortega at eraina.ortega@jud.ca.gov.

Judges' Retirement

Senate Bill 528 (Ackerman and Dunn), as introduced on February 18, 2005, declares the Legislature's intent to evaluate the impact of trial court unification on the judges' retirement systems and the resulting increase in judges' ages at the start of their judicial service. This bill, co-sponsored with the California Judges Association, is a two-year bill, allowing the council to report to the Legislature on the effectiveness of JRS II based on the ten years of experience under the new system. This assessment of JRS II's effectiveness is required by supplemental reporting language in the budget.

For more information on SB 528, contact June Clark at june.clark@jud.ca.gov ■

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laborative partnership to support and strengthen those services.

So why is the collaboration between these two agencies so important? Over the years, California's court system has been a critical point-of-contact for many mentally ill individuals who desperately need, but often do not seek, mental health services in the voluntary system. The courts frequently experience what is referred to as a "revolving door" effect where clients return again and again without receiving the treatment and services they so desperately need. Some studies indicate that offenders with mental illness have three or more prior probations, incarcerations, or arrests as compared to those without

mental illness. Courts are working hard to develop effective ways to serve the mentally ill, but they often lack the resources they need to solve the problem.

Many counties across California have developed mental health courts to improve service to the mentally ill. These courts use a non-adversarial collaborative approach to provide greater access to treatment, consistent supervision, and support to reconnect individuals with their families. Court systems have also developed specialized programs to address mentally ill clients, which include mental health assessment programs to determine competency in both criminal court, which determines readiness for trial or culpability, and probate court settings, which addresses the need for involuntary

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LEGISLATIVE REVIEW

The following is an update of the first year of the 2005-2006 legislative session on selected bills of interest to the courts.

BUDGET

SB 77 (Committee on Budget and Fiscal Review) as proposed June 13, 2005. Budget Act of 2005

Enacts the state budget of 2005.

Status: Stats. 2005, Ch. 38.

JC Position: None.

SB 78 (Committee on Budget and Fiscal Review) as amended July 7, 2005. Budget Act of 2004: Contingencies and Emergencies

Deficiency bill that includes \$14.6 million for the trial courts to fund security and increased county charges.

Status: Senate unfinished business.

JC Position: None.

SB 80 (Committee on Budget and Fiscal Review) as amended July 7, 2005. State Government

Budget bill that amends the conference committee report and SB 77 to restore \$7.7 million in funding for the Supreme Court, Courts of Appeal, and the Administrative Office of the Courts.

Status: Stats. 2005, Ch. 39.

JC Position: None.

AB 139 (Committee on Budget) as amended July 6, 2005. State Government

Budget trailer bill that includes the undesignated fee agreement reached by the Administrative Office of the Courts (AOC) and the California State Association of Counties (CSAC). Incrementally reduces and eventually eliminates over a 4-year period the counties' obligation to pay a \$31 million annual obligation pursuant to Gov Code 68085.5. Increases the maximum civil assessment from \$250 to \$300. Freezes local civil assessment revenues at the 2003-04 level. Establishes a review process to make necessary adjustments to ensure fairness of payments by agreement between CSAC and the AOC. Requires courts and counties to pro-rate collection costs pursuant to State Controller's Office guidelines

Status: Signed on July 19, 2005, Ch. 74.

JC Position: None.

AB 145 (Committee on Budget) as amended July 6, 2005. Uniform Civil Fees

Budget trailer bill that enacts the Uniform Civil Fee proposal. Establishes a statewide, uniform first paper and first response paper fees at three graduated levels: the fil-

ing fee for limited civil cases where the demand is less than or equal to \$10,000 is \$180, the filing fee for limited civil cases where the demand is greater than \$10,000, but less than \$25,000 is \$300 and that the filing fee for unlimited civil cases is \$320. Establishes a moratorium on fee changes through December 31, 2007, except for possible changes by the Legislature to implement recommendations of the Task Force on County Law Libraries or revise the graduated filing fee for probate petitions. Establishes a set-aside for increases in dispute resolution, law library, children's waiting rooms, and judges' retirement fees during the proposed moratorium, ending December 31, 2007. Authorizes the Judicial Council to establish bank accounts for the superior courts and requires the courts to deposit moneys from trial court operations and any other moneys under the control of the courts, into those accounts. Provide that money, excluding restitution to victims, that has been deposited with a superior court, or that a superior court is holding in trust for the lawful owner, in a court bank account or in a court trust account in a county treasury, that remains unclaimed for three years, is the property of the superior court if not claimed after specified notice and if no verified compliant is filed and served.

Status: Stats. 2005, Ch. 75.

JC Position: None.

CIVIL PROCEDURE

AB 496 (Aghazarian), as amended August 29, 2005.

Service of process: retention of original summons in court file.

Existing law provides that a plaintiff may have the clerk issue one or more summons for any defendant. Among other things, this bill would require the clerk to maintain the original summons in the court file.

Status: To enrollment.

JC position: Support

AB 1459 (Canciamilla), as amended August 30, 2005. Small claims court jurisdiction

These identical, companion measures would increase the small claims jurisdiction over actions brought by a natural person from \$5,000 to \$7,500. The bills provide that, effective July 1, 2006, prior to serving as a temporary judge in small claims court (and at least every three years), each temporary judge must take a course of study pursuant to rules adopted by the Judicial Council. In addition, the bills provide that the course include speci-

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fied areas of state and federal law relevant to small claims cases. The bills also provide that the individual personal advisory services provided to small claims litigants must cover specified topics relating to small claims court rules, filings and procedures. Finally, the bills contain legislative findings and declarations addressing: 1) the variation in quality of and access to justice in small claims court across jurisdictions; 2) the need for better and timely training of temporary judges; 3) the need for improvements in the availability, knowledge and experience of advisors; and 4) the need for qualified interpreters. The bills specify the intent of the Legislature that the jurisdictional limits should not be raised again, particularly with respect to individuals as defendants, until certain small claims court services are funded at sufficient levels.

Status: Assembly Floor.

JC position: Support.

SB 422 (Simitian), as amended August 25, 2005. Small claims court jurisdiction

These identical, companion measures would increase the small claims jurisdiction over actions brought by a natural person from \$5,000 to \$7,500. The bills provide that, effective July 1, 2006, prior to serving as a temporary judge in small claims court (and at least every three years), each temporary judge must take a course of study pursuant to rules adopted by the Judicial Council. In addition, the bills provide that the course include specified areas of state and federal law relevant to small claims cases. The bills also provide that the individual personal advisory services provided to small claims litigants must cover specified topics relating to small claims court rules, filings and procedures. Finally, the bills contain legislative findings and declarations addressing: 1) the variation in quality of and access to justice in small claims court across jurisdictions; 2) the need for better and timely training of temporary judges; 3) the need for improvements in the availability, knowledge and experience of advisors; and 4) the need for qualified interpreters. The bills specify the intent of the Legislature that the jurisdictional limits should not be raised again, particularly with respect to individuals as defendants, until certain small claims court services are funded at sufficient levels.

Status: Senate unfinished business.

JC position: Support.

COURT FACILITIES

AB 1435 (Evans), as amended September 2, 2005. Court Facilities

Makes technical changes to the Trial Court Facilities Act. Removes obsolete language regarding court reporters in Mendocino County. Clarifies allowable expenditures from the local courthouse construction fund and expands the reporting requirement of the Judicial Council regarding those expenditures. Provides counties with first right of refusal at fair market value for court facilities that transfer to the state where the state later decides to sell the facility.

Status: In Assembly.

JC position: Support.

COURT OPERATIONS

AB 176 (Bermúdez), as amended April 21, 2005. Trial courts: limited-term employees.

Existing law prohibits the employment of any temporary employee in the trial court for a period exceeding 180 calendar days, except for court reporters under certain conditions. This bill would prohibit the employment of any limited-term law clerk employed in the Los Angeles trial court for a period exceeding 180 calendar days. The bill would further provide that any limited-term law clerk employed by Los Angeles court for more than 180 calendar days is a regular employee.

Sponsor: Association of Federal, State, County, and Municipal Employees

Status: Vetoed.

JC Position: Oppose.

AB 759 (Lieber), as amended April 4, 2005. Misdemeanors: penalty assessments.

Authorizes a county board of supervisors in a county that has established a local Crime Stoppers Program to levy a new penalty assessment of up to \$2, upon every fine, penalty, or forfeiture imposed and collected by the courts for misdemeanor criminal offenses.

Notes: The penalty assessment authorized by the bill presents problems for court case management systems since it only applies to misdemeanor offenses.

Status: Assembly Public Safety Committee. 2-year bill.

JC Position: Oppose unless amended or funded.

AB 1742 (Assembly Judiciary Committee), as amended September 2, 2005. Civil Omnibus and Court Operations

The bill proposes a variety of non-controversial changes to civil law and procedure, as well as several technical statutory changes that will improve court operations. Among other things, the bill would remove the sunset of Code of Civil Procedure (CCP) section 128.7, the sole

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remaining statute authorizing sanctions for the filing of frivolous lawsuits, which is due to expire on January 1, 2006. The removal of the sunset provision of section 128.7 will help deter the filing of frivolous lawsuits by continuing the courts' sanctioning authority in this area.

Status: Senate Floor.

JC Position: Sponsor.

SB 56 (Dunn), as amended July 13, 2005. New judge-ships.

Authorizes an undetermined number of additional judges for appointment to the various counties, as determined by the Judicial Council. Additionally, authorizes conversion of an undetermined number of subordinate judicial officers.

Status: Assembly Appropriations Committee.

JC position: Sponsor.

SB 57 (Alarcón), as amended August 25, 2005. Fines and forfeitures.

Authorizes, until January 1, 2005, a county board of supervisors to levy a new \$2 penalty assessment for every \$10, upon every fine, penalty, or forfeiture imposed and collected by the courts for specified criminal offenses. Revenue generated would be deposited into the county's Maddy Emergency Medical Fund.

Notes: The bill was amended to remove authorization for a second \$2 assessment that would have applied to specific categories of offenses.

Status: Senate unfinished business.

JC position: Oppose.

SB 395 (Escutia), as amended May 26, 2005. Court facilities bond.

Enacts the California Court Facilities Bond Act of 2006 to acquire, rehabilitate, construct, and finance court facilities.

Status: Assembly Appropriations Committee.

JC position: Sponsor.

CRIMINAL

AB 106 (Cohn), as amended March 8, 2005. Spousal battery: fines: amnesty.

Requires the courts of each county to establish a one-time amnesty program, based upon Judicial Council guidelines, for fines, bail, and other monetary obligations that are imposed for certain domestic violence offenses that have been delinquent for not less than six months as of January 1, 2006. Provides that the amount scheduled by the court shall be 70 percent of the total fines, fees, penalties, or assessments imposed.

Notes: The Judicial Council is opposed to this bill because

it is inconsistent with the recommendations of the SB 940 Court County Working Group on Enhanced Collections.

Status: Assembly Appropriations; held in committee. 2-year bill.

JC position: Oppose.

AB 1542 (Parra), as amended May 4, 2005. Crimes by veterans: sentencing.

Expands existing law governing the court's sentencing authority applicable to combat veterans of Vietnam who have substance abuse or psychological problems related to that service and are convicted of a felony to apply to a combat veteran of any war who has been convicted of a felony or misdemeanor, and suffers from post traumatic stress disorder, substance abuse, or psychological or emotional problems as a result of that service.

Status: Senate Appropriations Committee; set for hearing August 15, 2005.

JC position: No position.

AB 1551 (Runner), as amended May 18, 2005. Sexual predators.

Strengthens the sentencing scheme for sexual assault on children.

Notes: The Judicial Council opposed AB 1551 unless amended to strike the provision eliminating the court's authority under Penal Code section 1385 to dismiss an action in the furtherance of justice. The council has long advocated that, while the discretion is not absolute, dismissal of an action in the furtherance of justice is within the court's "exclusive discretion." The May 18 version of the bill deleted this provision, and the council has withdrawn its opposition and is now neutral on the bill.

Sponsor: California District Attorneys Association

Status: Senate Public Safety Committee; hearing cancelled at the request of author.

JC position: Neutral.

SB 330 (Cedillo), as amended March 29, 2005. Criminal proceedings: mental competency.

Requires a criminal action to be dismissed if a defendant in a misdemeanor or infraction case is not brought to trial within 30 days after the date of the reinstatement of criminal proceedings pursuant to the provisions of law governing the mental competency of defendants.

Sponsor: Los Angeles City Attorney

Status: Stats. 2005, ch. 36.

JC position: Support.

SB 797 (Romero), as amended June 30, 2005. Crimes:

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marijuana: possession: penalty

Changes the offense for the first offense of possession of not more than 28.5 grams of marijuana from an infraction to an alternate misdemeanor/infraction, and increases the punishment from a fine not to exceed \$100 to a fine not to exceed \$250. Provides that the second offense is a misdemeanor punishable by a fine not to exceed \$250.

Status: Assembly inactive file.

JC position: No position.

SB 864 (Poochigian), as amended May 25, 2005. Sexually violent predators: term of commitment

Authorizes commitment as a sexually violent predator to the state Department of Mental Health for a four-year term rather than for a two-year term for treatment of the person's diagnosed mental disorder if the person is adjudicated to be likely to engage in sexually violent criminal behavior if discharged. Requires that courts give a preference in scheduling commitment trials over all other civil matters.

Sponsor: California District Attorneys Association.

Notes: To comment, contact June Clark at june.clark@ca.gov or (916) 323-3121

Status: Assembly Public Safety Committee; hearing postponed by committee.

JC position: No position.

DOMESTIC VIOLENCE

SB 720 (Kuehl) Protective orders

Requires the court to transmit data filed on the required Judicial Council forms related to any domestic violence protective order issued, modified, extended, or terminated pursuant to the Domestic Violence Prevention Act into CLETS, or to submit it to the agency that performs CLETS entry within one business day. Authorizes a city attorney or district attorney to prosecute someone who violates a DVPA order for contempt of court.

Sponsor: Attorney General.

Status: Senate unfinished business.

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hospitalization or conservatorship. Innovative court strategies like these can play a productive role in a comprehensive strategy to stop the revolving door effect and improve access to treatment statewide. Representatives from the Administrative Office of the Courts and the Department of Mental Health will continue to explore opportunities to work together to establish a mutually beneficial partnership

FAMILY

AB 118 (Cohn), as amended May 25, 2005. Protective orders: minor children.

Requires that child custody orders must reference and acknowledge the precedence of enforcement of a criminal protective order issued in cases where a criminal protective order protects the custodial parent and provides that contact between a restrained parent and a protected parent shall be for safe exchange only.

Status: Senate floor.

JUDICIAL OFFICERS

AB 1595 (Evans), as amended May 16, 2005. Public safety officials: confidentiality

Prohibits a person, business, or association from selling or trading for value on the Internet the home address or telephone number of any elected or appointed official if that official has made a written demand of that person, business, or association to not disclose his or her home address or telephone number. Provides for exceptions for health care providers and financial institutions covered under existing privacy laws.

Notes: Product of 2004 Final Report of the Public Safety Officials' Home Protection Act Advisory Task Force. Council to seek amendment allowing public safety official to submit opt-out request to Secretary of State for inclusion in "opt-out registry."

Sponsor: Author.

Status: To enrollment.

JC position: Support.

SB 506 (Poochigian), as amended May 31, 2005. Voter records: confidentiality

Allows a county elections official to, upon application of a public safety officer, make confidential the residence information of the officer contained in the affidavit of registration, subject to certain requirements. Provides that public safety officer includes judges and court commissioners for the purposes of the bill.

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that embodies the spirit of Proposition 63 and looks beyond "business as usual" practices to those that promote recovery and wellness for mentally ill individuals who use the courts.

For more information on this subject, please visit the Judicial Council's Web site at <http://www.courtinfo.ca.gov/programs/collab/mental.htm>, or contact Tim Newman at 415-865-7614 or by e-mail at tim.newman@jud.ca.gov ■

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Notes: Product of 2004 Final Report of the Public Safety Officials' Home Protection Act Advisory Task Force.

Sponsor: Author

Status: Re-referred to Assembly Rules Committee.

JC position: Support

SCA 16 (Runner), as introduced July 14, 2005. Judicial districts: superior court judges

Provides that the superior court of any county with a population of more than 5,000,000 shall be divided into judicial districts established by three special masters appointed by the Supreme Court.

Sponsor: Author.

Status: Senate Judiciary Committee.

JC position: Oppose.

JURY ISSUES

SB 874 (Romero), as amended June 28, 2005

Prohibits a state agency from entering into a contract for the acquisition of goods or services with a contractor who employs more than 100 full time employees who does not have and adhere to a written policy providing his or her employees with not less than five days of regular pay for actual jury service.

JC position: Support.

Status: To enrollment.

JUVENILE DEPENDENCY

SB 218 (Scott), as amended April 21, 2005. Termination of parental rights: prospective adoptive parents.

Authorizes the court to designate specified caretakers as

prospective adoptive parents in cases where a dependent child's parents have had their rights terminated, and the child has resided with the caretaker for at least six months, and the caretaker has expressed an interest in adopting the child. Where the court makes this designation, a child could not be removed from the home of that caretaker until a noticed hearing had been conducted to determine that such removal was in the child's best interests.

Status: To enrollment.

PROBATE

SB 390 (Bowen), as amended August 31, 2005. Probate assignments: cash advances.

Existing law provides for the regulation of the distribution of an estate. This bill would regulate the assignment of a beneficiary's entire or partial interest in an estate in consideration for a cash advance or any other consideration, as specified. Among other things, the bill would require the agreement to be filed with the court, would require specified disclosures with regard to costs and fees, and would prohibit an assignment agreement form containing certain provisions, including, but not limited to, a binding arbitration clause. The bill would further authorize the court to modify or refuse to order that assignment under specified circumstances, and would allow for specified damages upon a willful violation of the above-described provisions.

Sponsor: Author.

Status: To enrollment.

JC position: No position. ■

All Bench-Bar Coalition Members:

Register now for the next BBC meeting to be held during the Statewide Judicial Branch Conference and the Annual Meetings of the State Bar of California and California Judges Association with opening remarks by

Hon. Ronald M. George, Chief Justice of California

Date: Friday, September 9, 2005

Time: 8:00 – 10:30 a.m.

Place: San Diego Marriott Hotel, Manchester Room
330 West Harbor Drive, San Diego, California

For an event flyer and registration form, please contact Christina Fonseca in the Office of Governmental Affairs at: christina.fonseca@jud.ca.gov or call (916) 323-3121



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Archives

Looking for a past issue of *The Capitol Connection*? Find it online at www.courtinfo.ca.gov/courtadmin/aoc/capconn.htm.

OGA BIDS FAIRWELL TO TWO STAFF MEMBERS

The Office of Governmental Affairs (OGA) said farewell to two staff members during the month of August.

Michele Williamson, Secretary, returned to her hometown of Los Angeles to pursue her education and other professional interests. Michele joined OGA in January of 2005 after serving five years in the Air Force and working as a private contractor. At OGA, Michele greeted callers and visitors and performed administrative duties in support of our advocacy and outreach functions.



Having come to the end of his year as OGA's Judicial Administration Fellow, Shaun Young has departed for the New York City area to pursue a professional career. A native Californian, Shaun began his fellowship in November of 2004 and worked with each OGA advocate and analyst over the course of the program on major projects such as the Law Library Task Force report.

We wish Michele and Shaun all the best in their endeavors. They will be missed. ■

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. To subscribe to these newsletters, contact 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.