



THE CAPITOL CONNECTION

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LEGISLATIVE CALENDAR:

<i>Last day for policy committees to report same house non-fiscal bills to floor</i>	May 10
<i>Governor presents revised budget</i>	May 14

COUNCIL'S POLICY COMMITTEE WEIGHS IN ON PENDING LEGISLATION

As part of its responsibility in the statewide administration of California's court system, the Judicial Council takes positions on pending legislation that affects the courts. The council has delegated this role to its eight-member Policy Coordination and Liaison Committee (PCLC). Informed by various advisory committees and staff reports, the PCLC meets regularly to discuss and adopt the council's position on bills. The committee also recommends legislative proposals for council sponsorship. While *The Capitol Connection* reports regularly on bills on which the council has taken a position, it is now time to introduce the members of the PCLC who collectively direct the Office of Governmental Affairs as it repre-

sents the judicial branch. Five of the members are presented here. The remaining three, Justice Richard Aldrich, Judge Brad Hill, and Judge Donna Hitchens, will be featured in our next issue.

Hon. Marvin R. Baxter, Chair



Justice Baxter has served as an associate justice of the Supreme Court since 1991 and has been chair of the PCLC since 1996. Before being elevated to the Supreme Court, Justice Baxter served for two years as a justice on the 5th District Court of Appeal in his hometown of Fresno. He was appointed to the Court of

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ETHICS STANDARDS FOR PRIVATE ARBITRATORS APPROVED

After much hard work and thoughtful public comment, the Judicial Council has approved the nation's first comprehensive set of mandatory ethics standards for private arbitrators. The standards, required by last year's SB 475 (Escutia), will help ensure fairness in the private arbitration process that comes as part of a contractual agreement made when consumers purchase goods and services or obtain employment.

Among other things, the standards make clear that it is an arbitrator's overarching ethical duty to act in a manner that upholds the integrity and fairness of the arbitration process. The standards expand existing disclosure requirements to require arbitrators to make a reasonable effort to inform themselves about all matters that must be disclosed. Arbitrators will be required to disclose information regarding their prior service as a mediator or other dispute resolution neutral in any previous proceeding in-

volving a party or attorney in the current proceeding, as well as whether they or a member of their family is or has been an employee, expert witness, or consultant for any party or attorney in the current proceeding within the previous two years.

In addition, the standards restrict an arbitrator's acceptance of subsequent employment or professional relationships involving a party or attorney in the current proceedings. Acceptance of gifts from any person or entity whose interests are reasonably likely to come before the arbitrator is also restricted.

While most of the standards will go into effect on July 1, 2002, the standard requiring arbitrators in consumer arbitrations to disclose information about business and financial relationships between the arbitration provider organization administering the proceeding and the parties or

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POLICY COORDINATION & LIASON COMMITTEE

(Continued from page 1)

Appeal by former Governor George Deukmejian, for whom Baxter had served as Appointments Secretary. In that role, Baxter was the Governor's principal advisor on all gubernatorial appointments made to the executive and judicial branches of government; he assisted in the appointment of more than 700 judges. Justice Baxter feels that this experience helped prepare him for the unique challenges he faces as chair of the PCLC: "The Governor's senior staff met daily to discuss critical issues and to arrive at consensus recommendations for their resolution. The PCLC, armed with staff and advisory committee evaluations, performs a similar function." Previously, Justice Baxter worked for 14 years in private practice and served as deputy district attorney in Fresno County. He also served on the Board of Directors of the Fresno County Bar Association from 1977 through 1982, and as its president in 1981.

Hon. Steven Bradbury



Judge Bradbury is finishing his sixth year as Presiding Judge of the Superior Court of Lassen County, and has served on the Lassen County trial courts for almost sixteen years. He came to the bench with substantial business experience, both as an attorney and corporate officer.

After several years as a partner in a small firm practicing transactional and utility property tax law, Judge Bradbury filled his remaining pre-bench years as vice-president and general counsel for Five Dot Land and Cattle Company, parent of the Mapes Corporation. This professional background, together with operating his own family's cattle ranch, brings a business perspective to Judge Bradbury's participation and contributions on the PCLC.

Judge Bradbury feels the PCLC plays a vital role on behalf of the judicial branch. "Most individuals within groups or organizations rarely understand the risks from which they have been saved by effective advocacy and action in early stages of the legislative process," he says. "The fine staff of the Office of Governmental Affairs and the members of the Policy Committee perform this function for the Third Branch, and bring an impressive sophistication to analysis and plans of action."

As the current president of the California Judges Association, Judge Bradbury finds substantial similarity between the CJA's committee system review of proposed legislation and the role of the PCLC in the Judicial Council.

"Most often I find our respective committees have reached

the same conclusion on support or oppose on legislation," he says. "When a difference does arise it usually is resolved through joint evaluation, resulting in a consistent position."

Hon. Leonard P. Edwards



Judge Edwards has served Santa Clara County since July of 1980 as both a municipal and superior court judge. The jurist has extensive experience with family and juvenile law, having served as both the supervising judge of the family court division and presiding judge of the juvenile court. He was the presiding judge of the

superior court in 1993. Judge Edwards was involved with a number of judicial policy-making organizations and committees before becoming a member of the PCLC. He feels that these experiences have helped prepare him for his involvement with the PCLC, of which he is very proud to be a member: "I've written widely on issues related to legislation, and served on local, state, and national policy making bodies. I'm especially delighted to work on this committee which, on behalf of the Judicial Council, makes important decisions about policy issues facing California's courts."

Before being appointed to the bench, Judge Edwards worked in private practice for five years, specializing in juvenile and criminal law. Prior to that, he worked for the Santa Clara County Public Defender. Judge Edwards has been an active member of many legal organizations including the California Chapter of the Association of Family and Conciliation Courts, the National Council of Juvenile and Family Court Judges, and the Juvenile Court Judges of California, of which he was the founder and Chairperson from 1988 to 1995. Judge Edwards was named Santa Clara County's first "Champion of Peace" in recognition of his efforts in the battle against domestic violence. In July 2002, Edwards will be sworn in as President of the National Council of Juvenile and Family Court Judges.

Mr. Alan Slater



Alan Slater has been the Executive Officer of the Orange County Superior Court since 1981. Mr. Slater has primary responsibility for all of the administrative and non-judicial functions of the court including serving as Clerk of the Court and Jury Commissioner.

Slater points to his 30 years of experience in court man-

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POLICY COORDINATION & LIASON COMMITTEE

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agement and his previous involvement in judicial branch policy-making when asked what unique qualities he brings to the PCLC: "I have had the good fortune and benefit of working on numerous Judicial Council committees and also the responsibility of representing my court in the legislative and judicial policy making arenas. I have gained a lot of experience in analyzing the impact of legislation and in working on a broad range of strategic and policy development issues affecting the judicial branch." When asked about his appointment to the council, Slater says he is "extremely proud to have been selected by Chief Justice George to be an advisory member of the Judicial Council. It is a great honor and privilege to serve the judicial branch of government in our state in this important capacity."

"Being a member of the PCLC enables one to observe the tremendous job that the Council's Office of Governmental Affairs does in support of the Committee, the Judicial Council and the entire branch. It is an awesome job to keep up with the dynamics of state government, the often chaotic legislative process and the varied government relations needs of its myriad of 'clients'. OGA keeps us well-informed and well-served, and that can only be attributed to the dedication of Ray LeBov and all the staff."

Mr. Thomas Warwick



Mr. Warwick is a private attorney at Grimes and Warwick in San Diego. The defense attorney has served as president of the local Legal Aid Society, the San Diego Trial Lawyers Association, and vice-president of the San Diego County Bar Association.

Warwick believes the experience gained from his involvement in numerous bar organizations have served him well as a member of the PCLC: "I have a grassroots insight into the problems judges, court administrators, and other court staff face on a daily basis. It is this insight that allows me to effectively analyze and comment on legislation. My involvement with other organizations also affords me the contacts I need when I am unsure of the impact a particular policy decision may have on a court. Being a member of the PCLC is extremely rewarding and I consider it a great honor."

Warwick has also served on the State Bar's Commission on Judicial Nominee Evaluation Committee, and has been a member of the Bar's Conference of Delegates. Warwick received his law degree from the University of San Diego.

LEGISLATIVE REVIEW

The Capitol has been buzzing with activity as the Legislature scrambles to meet a variety of deadlines. A major and fast-approaching deadline is May 31, which is the last day for bills to be passed out of their house of origin. Here is an update on the status of selected bills that impact the courts:

CIVIL AND SMALL CLAIMS

AB 2961 (Wayne) – Summary adjudication

Authorizes a motion for summary adjudication of a legal issue or claim of damages other than punitive damages that does not completely dispose of a cause of action, an affirmative defense, or an issue of duty, under specified circumstances, including prior approval by the court.

JC Position: Neutral

Status: Senate Rules Committee

AB 3027 (Committee on Judiciary) – Civil procedure

Requires a party demanding a jury to deposit jury fees at least 25 days before trial and requires each party demanding a jury trial to pay jury fees and mileage at the beginning of the second and each succeeding day's session; provides that service of opposition and reply papers in a summary judgment motion be

served in accordance with Code of Civil Procedure section 1005; provides exemption from liability for private contractors who serve as small claims advisors; extends the time prior to a hearing that a notice of small claims action must be served on the defendant; provides that a request for postponement of a small claims hearing be for good cause.

JC Position: Sponsor

Status: Senate Rules Committee

SB 1325 (Kuehl) – Personal jurisdiction: general appearance

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

JC Position: Support

Status: Assembly Judiciary Committee

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LEGISLATIVE REVIEW

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CRIMINAL LAW

AB 2171 (Cogdill) – Bail: forfeiture

Prevents an order of forfeiture from being vacated or bail from being exonerated when a defendant has been deported or removed from the United States under federal authority.

JC Position: Support if amended to include an “interest of justice” exception.

Status: Assembly Public Safety Committee

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

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

JC Position: Oppose

Status: Assembly Public Safety

AB 2899 (Migden) – Homeless courts

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

JC Position: Support

Status: Assembly Appropriations Committee

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

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

JC Position: Oppose

Status: Senate Appropriations Committee

DOMESTIC VIOLENCE

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

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

Status: Assembly Appropriations Committee

SB 1627 (Kuehl) – Protective orders

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

JC Position: Support if amended

Status: Senate Public Safety Committee

FAMILY LAW

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

Creates an exception to the existing psychotherapist-client privilege for any communication made during an assessment, evaluation, or treatment in order to provide information to the juvenile court, the county welfare worker, and the child’s attorney to assist the court in determining the child’s case plan and any other orders that are in the best interests of the child.

JC Position: Oppose unless amended

Status: Assembly Floor

SB 1406 (Kuehl) – Mediation proceedings

Requires that all child custody mediation proceedings be confidential.

JC Position: Oppose unless amended

Status: Senate Rules Committee

JUDGES

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

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

JC Position: Sponsor

Status: Senate Judiciary Committee

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

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

JC Position: Co-sponsor with California Judges Association

Status: Assembly Appropriations

AB 2879 (Strom-Martin) – Judges’ retirement and assignment

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

JC Position: Co-sponsor with the California Judges Association

Status: Assembly Appropriations Committee

JURIES

AB 1970 (Matthews) – Juries: peace officer exemptions

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LEGISLATIVE REVIEW

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

Status: Assembly Public Safety Committee

AB 2925 (Migden) – Juror mileage reimbursement

Eliminates the reimbursement of mileage for the first day of jury service and increases the mileage reimbursement rate.

JC Position: Support

Status: Assembly Appropriations Committee

TRAFFIC

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

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

JC Position: Support

Status: Senate Appropriations Committee

TRIAL COURT FUNDING AND ADMINISTRATION

AB 1819 (Robert Pacheco) – Delinquent fines: collection

Removes the requirement that a delinquent base fine must be at least \$100 before it can be included in a comprehensive program to identify and collect outstanding fines and forfeitures. Provides that any court or county may establish a minimum base fine amount for inclusion in the program.

JC Position: Support

Status: Senate Public Safety

AB 2690 (Cardoza) - Court financial statements: audits

Requires that each superior court prepare and transmit to the Legislative Analyst an annual financial statement showing the fines, forfeitures, penalty assessments, and civil assessments imposed for failure to appear, that are: (1) outstanding at the beginning of that previous calendar year; (2) imposed during that previous calendar year; (3) collected during that previous calendar year; and, (4) outstanding at the end of that previous

calendar year. Requires the Legislative Analyst to audit the annual financial statements and report the results of the audit to the Legislature and Judicial Council.

JC Position: Oppose

Status: Assembly Appropriations Committee

AB 2321 (Hertzberg) – Tort Claims Act

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

JC Position: Sponsor

Status: Assembly Appropriations Committee

AB 3028 (Committee on Judiciary) – Court operations

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

JC Position: Sponsor

Status: Assembly Appropriations Committee

SB 1732 (Escutia) – Trial court facilities

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

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

Status: Senate Appropriations Committee

SB 1396 (Dunn) – Court security

Clarifies allowable court security costs.

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

Status: Senate Judiciary Committee

SB 2011 (Burton) - Workers compensation

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

JC Position: Sponsor

Status: Senate Appropriations 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 a 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 news stories of interest including headlines and lead paragraphs, without editorial comment from *The Capitol Connection*.

“More battered-woman parole cases due” *The Sacramento Bee* (April 12, 2002)

While Gov. Gray Davis on Wednesday disposed of two closely watched parole requests from women convicted of killing their abusive husbands, consenting to one and denying the other, he will soon face similar cases in what has become a sensitive, politically tinged issue.

Advocates of battered women said Thursday that a handful of cases are expected to hit Davis’ desk this summer, all are women who were tried in the 1980s for killing their tormentors before they could legally employ a “battered-woman syndrome” defense.

Those cases could produce the same confluence of pressures: Legislators, lawyers and other proponents of the imprisoned women contend Davis too often discounts the abuse they suffered.

The debate over whether Davis is adequately considering the effect of domestic abuse on women who killed their abusers is likely to continue.

“DNA Shakes Up Child Support Law” *Los Angeles Times* (April 15, 2002)

Advances in DNA testing have liberated convicts from death row and helped clear up scores of unsolved mysteries, but they have been slower to release men from obligations to pay child support in cases where the tests show they are not the biological father.



Instead of resolving some of those cases, DNA has plunged the area of child support and paternal obligation into a complicated new debate over the law and issues as profound as what it means to be a father.

A loose-knit movement of fathers is gradually reshaping child-support laws in state after state so that men who can prove they did not father children can avoid paying for them.

In doing so, they have raised new issues about the legal system’s role in defining the rights and responsibilities of those men who are deemed fathers by the courts, only to have those rulings later challenged by new scientific evidence.

“County Targets, Fines Its Most Stubborn Jury-Service Scofflaws” *Daily Journal* (April 19, 2002)

Los Angeles County residents who think they can avoid jury duty by ignoring the steady stream of summonses that keep showing up in their mailboxes may want to reconsider.

Doing so is now more likely to cost them up to \$1,500 in fines. Plus, after writing the check, they still must report for jury duty. Squeezed by a need for more jurors than ever before, the county is stepping up a program to punish those who decide that service is optional.

Since 1996, the court has hauled county residents into the Cen-

tral Civil Courthouse to explain their failure to serve. The court now is taking its “sanctions program” on the road, giving scofflaws even fewer excuses for avoiding jury service.

“We’re letting the public know the need is great and no longer will they be able to say, ‘Oh, here’s a jury summons. Where is the trash basket?’” said Judge Paul Gutman, the supervising judge of the Van Nuys courthouse. “Sadly, we have to take this coercive action, which we don’t relish doing.”

“State budget deficit grows – The shortfall is now \$20 billion as tax receipts trail estimates.”

The Sacramento Bee (April 23, 2002)

Anemic income tax receipts reflected in this month’s returns will push the state an additional \$4.5 billion into the budget hole, officials say, leaving the Legislature and Gov. Gray Davis with a shortfall of \$20 billion or more.

Lawmakers say they have been informed by Legislative Analyst Elizabeth Hill that the tax receipts are worse than she predicted last winter, a trend likely to continue into the new fiscal year starting July 1.

“The news just keeps getting worse,” said Assemblyman John Campbell of Irvine, the ranking Republican on the Assembly Budget Committee. “At some point, the governor is going to have to make some sort of definitive move. We’re starting to get to some historically large numbers here.”

Administration officials declined to comment, saying the Democratic governor would unveil his solution in the revised budget proposal he will present in mid-May.

If the numbers hold, Davis would have to come up with \$10 billion more in cuts, new revenue or other measures such as borrowing than he proposed in January. That’s in a general fund of about \$79 billion.

“Bill Aims to Revive Spirit of ‘Son of Sam’ Law” *The Recorder* (April 24, 2002)

Trying to side-step constitutional issues that led the California Supreme Court to strike down the state’s “Son of Sam” law three months ago, a bill was introduced in the Senate Tuesday to keep convicted felons from profiting from their crimes.

Called “Son of Sam II” by author Sen. Bruce McPherson, R-Santa Cruz, the bill aims to get around First Amendment issues by removing the one-year statute of limitations governing civil tort suits by victims’ families.



Senator McPherson

“Compromise Ensures Bill on DNA Testing Will Be Passed – Burton and Vasconcellos give their blessing to a bill to force inmates to add their DNA to a state database.” *Daily Journal* (April 24, 2002)

A measure that would permit prison officials to use force to obtain DNA samples from inmates cleared its biggest hurdle Tuesday and appears on track to become law.

SB 1242, introduced by Sen. James Brulte passed the Senate

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RIPPED FROM THE HEADLINES...

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Public Safety Committee by a 4-0 vote after negotiations produced compromises that satisfied the committee's Democratic members.

"I'm fine with the bill now," said Sen. John Vasconcellos, D-Santa Clara, a veteran liberal who voted for the measure Tuesday.

Senate President Pro Tem John Burton, D-San Francisco, the Legislature's most powerful member, also voted for the bill, although he previously said it troubled him.

To address the concerns of Burton, Vasconcellos and other committee members, Brulte made a several important changes to his bill. They included requiring the Department of Corrections and the California Youth Authority to adopt clear guidelines regarding the "use of reasonable force" needed to take samples of inmates' blood and saliva.

"Master Rebuffs Ethics Complaint by Lawyer" *Daily Journal* (April 24, 2002)

A discipline complaint against State Bar Executive Director Judy Johnson has been rejected.

The complaint, filed at the end of last year by Stephen R. Barnett, a professor at Boalt Hall, claimed that Johnson had failed to change the bar's procedures for Board of Governors elections. That failure was unethical, Barnett charged in his complaint, because Johnson and the bar had promised to make changes as part of settling a lawsuit that Barnett had prepared to challenge those procedures.

"There is not a scintilla of evidence that Ms. Johnson committed an act involving moral turpitude, dishonesty or corruption. Neither is there a colorable argument that she violated the provisions of Business & Professions Code [S]ection 6103," outside special master Don Mike Anthony wrote.

"Convictions of Child Workers to be Revealed"- Safety: Law is intended to inform parents, but providers fear that it will unfairly damage employees' reputations." *Los Angeles Times* (April 27, 2002)

Thousands of parents in California will receive some disturbing news in the next several weeks: Someone with a criminal record is working at their child's day-care center.

The information is part of a controversial new state requirement that orders all facilities to inform parents if an employee at their center or home was guilty of a crime.

The regulation is intended to keep parents informed, but child-care providers and several advocacy groups say it will unfairly sully the reputations of valued employees and unnecessarily cause panic for parents. They call the regulation a well-intentioned but misguided way of fixing a flawed background-checking system. Officials at the Department of Social Services, which oversees licensed childcare, say they are doing their best to balance the interests of parents and the concerns of providers.

Editorial: arbitration reform. *San Francisco Chronicle* (April

29, 2002)

The first significant steps have been taken in California toward reforming a system of mandatory arbitration that currently is skewed against employees and consumers.

The big breakthrough came when the state Judicial Council recently announced the nation's most sweeping ethics standards for arbitrators and arbitration firms. The rules will by no means remove the concerns that are raised when people are forced to agree to take any disputes they might have to arbitration—instead of the courts—as a condition of getting a job, health care, housing or various goods and services. But they are at least a modest start toward peeling back what has become a corporate-driven undermining of individual rights.

The Judicial Council will begin to address some of the system's inequities by requiring arbitrators to disclose any financial connections between their firms and parties to a consumer arbitration. That rule, the most contentious of the council's proposals, would take effect in 2003.

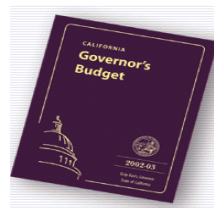
The fact that such seemingly obvious ethical principles would be regarded as milestones shows the extent to which California's system of mandatory arbitration has evaded any pretense of fairness. It is a system not bound by laws, juries or even basic constitutional rights.

New ethics standards, while welcome, are no substitute for action in Sacramento. Fortunately, some legislators appears willing to confront the business lobby's traditionally rigid opposition to arbitration to reform.

"May is the month of reckoning for budget" *Orange County Register* (April 28, 2002)

May is a merry month, maybe, but not in the Capitol.

Each May, the executive branch crunches its latest budget numbers, figuring in the taxes paid by the April 15 deadlines, and overhauls its plan for the coming fiscal year, which begins July 1. This is the real state budget blueprint—not the one the governor offers in January—and rarely is the news good. This year, the news is dreadful. On May 14, we'll find out just how dreadful.



The new estimate of a \$20 billion shortage—that amounts to a fourth of California's \$78 billion General Fund—stems from these April numbers. The shortage is approaching the level of 1991-93, when a mix of taxes and cuts was approved to fill the hole. A similar answer is expected this year, although "taxes" is not a popular word in an election year.

"The Triumph of Extremes - Legislature could be a nightmare for new governor." *Los Angeles Times* (April 28, 2002)

Last month's primaries eroded California's legislative center, but the governor we elect in November will likely pay the price.

Should GOP challenger Bill Simon pull another stunning upset

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RIPPED FROM THE HEADLINES...

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and defeat Gov. Gray Davis, he will face a conservative Republican governor's worst nightmare: a Legislature in which Democrats hold lop-sided majorities in both houses and in which those majorities are weighted heavily toward liberals. If Davis wins reelection, he will face a centrist governor's worst nightmare: a Legislature in which Democrats hold lop-sided majorities in both houses and in which those majorities are weighted heavily toward liberals.

There are still six months of campaigning before the general election ratifies the Legislature's make-up, but we already know the Republican legislative caucus will be more conservative and the Democratic caucus more liberal. Sacramento's moderate middle has taken it on the chin. The polarization of the Legislature began with the reapportionment deal that Republican lawmakers cut with the Democrats, who control the political map-making. It preserved the "status quo" and ensured mostly "safe" seats for both parties. In exchange for their support, GOP legislators stanching further attrition of their already anemic numbers.

Then the ideological dogfight in the party's gubernatorial primary and March's historically low voter turnout boosted die-hard conservatives over more moderate candidates running in Republican primaries for the newly carved seats.

In the low-turnout Democratic primary, liberals dominated the electorate, and moderates got their clocks cleaned.

"Bills Create Tort Law for Sexual Attacks" *Daily Journal* (April 29, 2002)

The State Assembly approved two bills last week that combat gender-motivated violence, including one that would create new tort law to attack the wallets of violent offenders.

Passing on a 42-6 vote Thursday, AB 1928 by Assemblywoman Hannah Beth Jackson, D-Santa Barbara, would create a new cause of action for violent acts committed because of the victim's sex, gender or sexual orientation.

The measure would extend the statute of limitations to 10 years from the one year provided for in assault and battery actions, and allow a plaintiff to recover attorney fees.

A similar measure, AB 1933 by Assemblywoman Sarah Reyes, D-Fresno, passed the Assembly last Monday on a 65-4 vote. It would create a new tort of domestic violence with a three-year statute of limitations and allow plaintiffs to recover attorney fees. Both bills would make it easier for victims to sue their assailants, whether or not they are convicted of the crimes related to the violence.

The bills now head to the Senate Rules Committee for assignment to policy committees.

"High Court Turns Down Quake Insurance Case" *Los Angeles Times* (April 30, 2002)

The U.S. Supreme Court on Monday turned away the insurance industry's challenge of a California law that gave thousands of property owners a second chance to claim damages from the 1994 Northridge earthquake.

Under most homeowners' insurance policies, policyholders had just one year to file quake-related claims. But years after the deadline, some homeowners discovered serious structural cracks or other damage that might have been caused by the



magnitude 6.7 temblor. Insurance companies told policyholders it was too late to file claims, even if an adjuster had examined their homes in 1994 and assured them that no quake damage had occurred. In response, the Legislature passed a measure that gave those policyholders one more year to file claims after finding damage. This second-chance option expired at the end of 2001.

More than 1,000 lawsuits were filed in Los Angeles Superior Court that contained new claims of quake damage. It could not be determined Monday how many claims remain unresolved. The lawsuits were brought against numerous insurance companies.

"Seized medicinal pot isn't easy to get back: confusion over federal, state laws" *San Francisco Chronicle* (May 3, 2002)
Got pot? Maybe not: Medicinal marijuana users who had drug charges dropped against them might not get their plants back without a fight.

Two separate cases in San Francisco and Yuba counties this week have highlighted the issue of whether seized marijuana plants used for medical purposes should be returned to onetime criminal defendants.

In San Francisco, a judge reversed himself Wednesday, ruling that police do not have to return marijuana seized from someone who keeps it for legitimate medicinal use.

In Yuba County, the sheriff has refused to comply with a court order that she return plants that had been seized from a couple who were arrested and later not charged.

The cases are the latest examples of the conflict between state and federal law over medicinal marijuana.

In 1996, California voters approved Proposition 215, which allows the use of marijuana for medical purposes, but federal law – which supersedes state law – says marijuana used for any purpose is illegal.

"State income tax receipts fall \$5 billion from April 2001" *San Diego Union-Tribune* (May 3, 2002)

Personal income tax receipts in California during April plunged \$5 billion – or 45 percent – below the same month last year, snuffing out any last hope the government's fiscal health would soon perk up.

April is when California collects the largest share of its revenues, and budget writers consider it a crucial barometer in shaping the state budget.

OTHER GROUPS SEEK CHANGES TO JUSTICE SYSTEM

In the last issue of *The Capitol Connection*, we provided information on the bills sponsored by other justice-related organizations, including the California District Attorneys Association, the California Public Defenders Association, the California Judges Association, and California Attorneys for Criminal Justice. In this issue, we present three additional organizations that sponsor legislation affecting the administration of justice in California. Our next issue will feature the legislative programs of the Attorney General's Office and the Consumer Attorneys of California.

California Defense Counsel

Bill	Author	Summary
AB 2961	Wayne	Authorizes a motion for summary adjudication of a legal issue or claim of damages other than punitive damages that does not completely dispose of a cause of action, an affirmative defense, or an issue of duty, under specified circumstances, including prior approval by the court.

Civil Justice Association of California

Bill	Author	Summary
AB 1884	Robert Pacheco	Imposes new restrictions on ability of individuals to bring actions under California's Unfair Practices Act, and establishes new court procedures for the handling of such actions.

California State Association of Counties

Bill	Author	Summary
SB 1732	Escutia	Implements the recommendations of the Task Force on Court Facilities regarding the transfer of responsibility for trial court facilities from the counties to the state. <i>(Co-sponsored with the Judicial Council)</i>

For information on the council's position, if any, on these bills, access the Office of Governmental Affairs status chart on pending legislation at <http://www.courtinfo.ca.gov/courtadmin/aoc/oga.htm>.

MORE ADR REFORMS PENDING

(Continued from page 1)

attorneys in the arbitration will go into effect on January 1, 2003.

The issue of the potentially conflicting business relationships of an arbitration provider organization is also the subject of two bills currently pending in the Legislature. AB 3029 is authored by Assembly Member Darrell Steinberg (D-Sacramento), one of the Legislature's leading proponents for arbitration reform. This bill would give consumers the right to choose a provider other than one specified in a contract after a dispute arises. AB 3029 also prohibits providers from engaging in consulting or other business relationships with clients who are parties to consumer arbitrations. Assembly Member Tom Harman (R-Huntington Beach) has introduced AB 2574, which would prohibit providers from maintaining significant financial relationships with the parties whose consumer arbitration cases they administer.

These two bills are part of a package of arbitration reform bills that includes AB 2504 by Assembly Member Hannah-Beth Jackson (D-Santa Barbara), which would prohibit arbitration providers from recruiting sitting judges and would impose a one-year hiatus between a judge's leaving the bench and accepting a position as a private arbitrator. Also pending is AB 3030 by Assembly Member Ellen Corbett (D-San Leandro), which would preclude inappropriate extensions of the civil immunity that applies to arbitrators to arbitration provider organizations. Assembly Member Corbett has also introduced AB 2656, which would require arbitration providers to collect and make available to the public basic data regarding their involvement in, and the outcome of, mandatory consumer arbitrations.

All five of these bills have passed the Assembly Judiciary Committee.



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TAX LAW CONFORMITY AT HAND

California taxpayers may finally be able to fully enjoy the federal tax relief package passed last year as the state's lawmakers have passed two bills that conform the state's tax laws with the new federal law. The two bills, SB 657 by Senator Jack Scott (D-Altadena) and AB 1122 by Assembly Member Ellen Corbett (D-San Leandro), now await the governor's signature.

The federal Economic Growth and Tax Relief Reconciliation Act became effective on January 1, 2002, and made a number of changes regarding the amounts that can be contributed towards IRAs, 401(k) retirement plans, and 457 deferred compensation programs. For the 2002 tax year the maximum amount that can be contributed to 401(k) and 457 plans is \$11,000 per year. The maximum increases every year up to an annual limit of \$15,000 for the 2006 tax year. In addition, certain 457 plan participants within three years of retirement may contribute even more than \$11,000 as a catch-up provision.

For Californians, however, the ability to take advantage of the benefits of the federal tax relief act was dependent on appropriate changes being made to California tax law.

While some increased their retirement plan contributions in anticipation of conforming legislation, others, especially those close to retirement, have been waiting to see what happens in Sacramento.

The idea of conforming the state's tax laws to the federal relief act enjoyed widespread support among legislators. However, with a looming budget deficit projected to be as much as \$20 billion, passage of the bills was not without controversy. Concerned that legislation that only conforms to the federal law would result in lost revenue for the state, lawmakers tried to create revenue neutral bills. By eliminating various deductions, the bills are designed to bring in as many tax dollars to the state's coffers as will be lost.

Republicans charged that, since the bills increased taxes, the state Constitution requires a two-thirds vote for passage. According to Assembly Republican Caucus Chair Tony Strickland (R-Thousand Oaks), claims of revenue-neutrality are insufficient to waive the two-thirds vote requirement and he vowed to take the issue to the courts.

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