

The Capitol Connection

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COURT RELATED BILLS

By the close of the 1999-2000 legislative session on September 30, Governor Davis signed a total of 1,088 bills into law. Following is a selection of bills enacted in 2000 that are particularly important to the judiciary. Topics include Judicial Council-sponsored legislation, juvenile law, probate and mental health, criminal law, and more. Look for the November *Court News*, a special edition that summarizes approximately 100 new laws of interest to the judiciary and legal community.

JUDICIAL COUNCIL-SPONSORED LEGISLATION

AB 2884 (Kuehl), Stats. 2000, ch. 196 – Increases the salary of Supreme Court, appellate court, superior court, and municipal court judges by 8.5%.

SB 1857 (Burton), Stats. 2000, ch. 998 – Creates 20 new trial court judgeships and 12 new appellate judgeships. One superior court judgeship is created in each of the following counties: Alameda, Butte, Contra Costa, Fresno, Kern, Los Angeles, Orange, Riverside, San Diego, San Francisco, San Joaquin, San Luis Obispo, Sonoma, Ventura, Yolo; two in Sacramento county; and three in San Bernardino county. Creates 12 new appellate court judgeships as follows: one each in the First, Third, Fifth and Sixth District Courts of Appeal; and four in the Second and Fourth Districts

SB 2140 (Burton), Stats. 2000, ch. 1010 – Adopts the unanimous recommendations of the Task Force on Trial Court Employees for establishing a uniform employment status scheme

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LEGISLATURE FOCUSES ON IDENTITY THEFT

Imagine for a moment applying for the job of your dreams. You know deep down that you are the best person for this job. Many years of hard work have prepared you for this opportunity, and you anxiously await that call welcoming you to your new job. Instead, a curt letter arrives coldly informing you that your prior criminal conviction precludes you from employment. Instantly your heart drops. You have never been arrested, let alone committed a crime. What can this mean?

Thrust into a quagmire of confusion, frustration, and fear, you discover that you have become a victim of identity theft – a crime that sells to the world all of your identifying personal information. Your circumstances grow worse as you discover that a person wrongfully obtained your personal information and gave it to law enforcement officers as his own. His conviction has become yours and it may take several years to reclaim your identity. As you apply for loans, jobs, or credit cards, you will have to explain your victimization with court-obtained documentation, not to mention a wealth of discourse and paperwork, explaining your particular circumstances.

Identity theft happens every day, to thousands of people, all over the U.S. In the 1999-2000 Legislative Session, seven bills were introduced addressing a range of identity theft-related issues. Two of those bills passed the Legislature and were signed into law by Governor Gray Davis. AB1862 (Torlakson) and AB1897 (Davis) will make it easier for victims to clear up the confusion that can result from identity theft when it does occur. Identity theft can take several forms. Generally it occurs when someone uses personal

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for court personnel. Addresses a range of issues, including: labor relations; a employment protection system; selection and advancement issues; retirement; and deferred compensation.

AB 2866 (Migden), Stats. 2000, ch. 127 – Among other things, eliminates compensation for jurors for the first day of service, but increases compensation for the second and succeeding days to \$15. Changes the advance jury deposit from an amount equal to the fees and average mileage for 20 jurors in the county, to a flat fee not to exceed \$150. Also establishes an early mediation pilot program in Los Angeles County. Delays until January 1, 2005, the use of the general formula for determining state reimbursement to counties for homicide trials and hearings. Instead, provides for that reimbursement until January 1, 2005, pursuant to several different formulas that apply depending upon the size of the population of a county.

SB 2160 (Schiff), Stats. 2000, ch. 450 – Requires the appointment of counsel for a child in dependency proceedings unless the court finds the child would not benefit from the appointment of counsel. Requires the Judicial Council to adopt rules of court concerning caseload standards for appointed counsel and for appointment of a guardian ad litem for a dependent child.

SB 1533 (Costa), Stats. 2000, ch. 447 – Makes necessary technical changes to bring existing statutes into conformity with Trial Court Funding Act of 1997. Requires the Judicial Council to adopt rules of court requiring the AOC to manage actions, proceedings, and claims involving trial courts judges, subordinate judicial officers, and court executive officers.

AB 2912 (Judiciary Committee), Stats. 2000, ch. 644 – Implements recommendations of the Judicial Council Task Force on the Quality of Judicial Services: Subcommittee on Alternative Dispute Resolution regarding the court appointment of referees. Revises the court's authority to make nonconsensual references. Requires that all nonconsensual appointments of referees be made by a written order that includes specified information, including a finding about the parties' ability to pay the referee's fees, and prohibits a court from making a nonconsensual reference at a cost to the parties if the finding is

not made. Requires the Judicial Council to collect information on the use of referees and information on fees paid by the parties for referees to the extent that information regarding those fees is reported to the court. Requires the Judicial Council to report these findings to the Legislature by January 1, 2003.

AB 1669 (Judiciary Committee), Stats. 2000, ch. 688 – Civil omnibus bill. Contains technical amendments to various code sections. Includes change in definition of "complex case" to conform rule of court, update to definition of "civil case," clarifies discovery timeframes, modernizes oaths and affirmations, limits fee waivers in CCP injunctions to civil harassment and workplace violence cases.

CRIMINAL LAW

SB 1342 (Burton), Stats. 2000, ch. 821 – Creates a procedure for the post-conviction testing of DNA evidence for a defendant who did not have that technology available at the time of trial and where identity was a significant issue that resulted in his or her conviction.

FAMILY LAW

SB 1716 (Ortiz), Stats. 2000, ch. 926 – Authorizes the court to request the local child protective services agency to conduct an investigation and require child protective services to report back to the court regarding its investigation when allegations of child sexual abuse are made in a contested custody case. Directs the Judicial Council to develop standards for child sexual abuse training for evaluators and mediators. Provides that on or after January 1, 2005, court connected and private custody evaluators shall not engage in evaluating, investigating, or mediating child custody issues unless they have completed child sexual abuse training.

JURIES

AB 2406 (Migden), Stats. 2000, ch. 192 – Provides that after completion of an initial examination by the court of prospective jurors in criminal cases, each party shall have the right to examine any or all prospective jurors. Provides that the court may, in the exercise of its discretion, limit the oral and direct questioning by counsel, and may specify the maximum amount

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of time that each party may question an individual juror, or may specify an aggregate amount of time for each party, which can then be allocated among the prospective jurors by counsel.

AB 2418 (Migden), Stats. 2000, ch. 43 – Adds sexual orientation to the list of bases for which no eligible juror shall be excused from jury service. Prohibits parties from using a peremptory challenge to remove a prospective juror on the basis of an assumption that the juror is biased because he or she is a member of a group distinguished on sexual orientation.

JUVENILE LAW

AB 2464 (Kuehl), Stats. 2000, ch. 921 – Provides that any order made by the juvenile court regarding the custody of, or visitation with a child at the time the juvenile court terminates its jurisdiction shall be a final judgment and shall remain in effect after that jurisdiction is terminated. Prohibits the family court from modifying the juvenile court exit order unless the court finds that there has been a significant change of circumstances since the juvenile court issued the order and modification of the order is in the best interests of the child.

SB 2161 (Schiff), Stats. 2000, ch. 421 – Deletes the sunset date for authorization to use CLETS by county welfare workers to obtain criminal background checks for persons being assessed for the purpose of emergency relative placement. Requires the social worker to ensure that a fingerprint clearance check of the relative is initiated and that the results are reviewed within five judicial days following the criminal records check.

AB 1913 (Cardenas), Stats. 2000, ch. 353 – Allocates 50 percent of Supplemental Law Enforcement Services Fund moneys to counties and cities and counties to implement a comprehensive multi-agency juvenile justice plan with specified components and objectives, and requires that the plan be developed by the local juvenile justice coordinating council in each county and city and county.

PROBATE & MENTAL HEALTH

AB 1950 (Rod Pacheco), Stats. 2000, ch. 565 – Prohibits a guardian or conservator from hiring or referring any business to an entity in which he or she has a financial interest except upon authorization of the court. Requires a guardian or conservator to disclose any familial relationship that exists to an agent, lessee, purchaser, or renter of estate property. Prohibits any court official, employee, or specified relatives of officials or employees who are involved in the appointment of a conservator or guardian, or in the processing of any documents involving the guardianship or conservatorship, from purchasing, leasing, or renting personal or real property from a conservatee or ward except as specified. Requires certain financial institutions to send specified documents relating to accounts opened by guardians or conservators to the court.

SB 1869 (Solis), Stats. 2000, ch. 999 – Revises the warning statements on the printed form of a durable power of attorney that is distributed for use by a person who does not have the advice of legal counsel. Requires the warning statements indicate that the person executing the durable power of attorney must specifically authorize his or her agent to receive a gift. Requires the warning statement provide notice to the person accepting an appointment under a power of attorney that describes his or her fiduciary and other legal responsibilities under the appointment and the limitations thereon. These provisions do not apply to a Uniform Power of Attorney form. Applies to specified forms that are executed after March 2, 2001.

MISCELLANEOUS

AB 1955 (Migden), Stats. 2000, ch. 961 – Implements concepts included in the recommendations of the Task Force on the Quality of Justice, Subcommittee on Quality of Judicial Service (Mallano Report). Creates an Extended Service Incentive Program to encourage judges who have reached the maximum retirement benefit level to remain in public service. Requires the judge to serve at least three years past the time the judge is first eligible to retire. Judges would receive a lump-

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sum payment for their additional years of services, for a maximum of ten additional years.

AB 2459 (Wiggins), Stats. 2000, ch. 969 – Requires the Judicial Council to adopt rules to provide for reasonable public access to budget allocation and expenditure information at the state and local levels.

JUDICIAL ADMINISTRATION FELLOWSHIP PROGRAM GROWS

The Judicial Administration Fellowship Program was established in response to the need to educate and train professionals and leaders in the growing complexities of the court system. Developed by the Center for California Studies at California State University, Sacramento, the fellowship program builds on the success of its longtime legislative and executive government fellowships programs. This unique program combines a full-time professional field assignment in an office of the courts with a graduate seminar designed to provide a comprehensive orientation to the judicial branch of government. This year's program has been expanded from five to ten fellowship positions.

This year's Judicial Administration Fellows will work from October 2000 through August 2001 as professionals providing support to the Supreme Court, trial and appellate courts, and the Judicial Council. The newly selected 2000-2001 Judicial Administration fellows come from all over the United States, bringing with them a wide range of talent and experience.

The 2000-2001 Judicial Administration Fellows:

- ★ **Melvin Ashmon** is a recent graduate of Cumberland School of Law of Samford University in Alabama. Placement: Court of Appeal, Second Appellate District, Office of the Clerk/Administrator.
- ★ **Eric Broxmeyer** graduated from Northwestern University with majors in Political Science and History. Placement: California Supreme Court.
- ★ **Chris Lustig** graduated with dual degrees in Political Science and Philosophy from the University of California, Santa Barbara. Placement: Alameda County Superior Court, Planning and Research Bureau.
- ★ **Maureen O'Neil** is a recent graduate of the University of California, Berkeley, with a degree in Political Science and an emphasis on Public Policy. Placement: Administrative Office of the Courts, Information System Bureau, Technology Policy and Planning Unit.
- ★ **Erin Emi Oshiro** graduated with a degree in English Literature at University of California at Los Angeles. Placement: Los Angeles County Superior Court, Planning and Research Unit.
- ★ **Guido Persicone** recently graduated from the University of California at Riverside with a degree in Political Science. Placement: Santa Clara County Superior Court.
- ★ **Alex Ponce De Leon** graduated from Brown University. Placement: Judicial Council, Office of Governmental Affairs.
- ★ **Eve Sandler** is a recent graduate of Skidmore College with a degree in English Literature. Placement: Administrative Office of the Courts, Trial Court Services Division.
- ★ **Shana Wallace** graduated from Amherst College, where she majored in Law, Jurisprudence, and Social Thought. Placement: Los Angeles Superior Court, Organizational Development and Education Department.
- ★ **Pamela Woods** is a recent graduate of the Howard University College of Law. Placement: Yolo County Superior Court.

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A Recent Fellow's Perspective

Sanna Singer, the Office of Governmental Affairs' outgoing Fellow, states that her year was a "truly remarkable and educational experience."

"At the Office of Governmental Affairs, I was able to get a bird's eye view of how the judiciary interacts with other branches of government. Working with the advocates in my office, I had the opportunity to observe and be involved with the legislative process from the inception of a bill to its enactment. I learned how legislative proposals are developed, how bill text is drafted, and how amendments are negotiated. Also this year, I had the opportunity to participate in the judicial branch budget process. My exposure to the intricacies of the legislative and budget processes broadened my understanding and appreciation for how the judicial branch functions as an integral part of our state government. I truly believe that the skills I have gained throughout the course of the fellowship will enhance my future professional endeavors."

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The Capitol Connection is a publication of the Judicial Council's Office of Governmental Affairs and is designed to inform judges and court personnel of current events in and around the California Legislature.

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information of another to make unauthorized purchases, or uses someone else's personal information when arrested. The personal information used could be a Social Security number, a driver's license, credit card, passports, or any type of identifying material.

Identity Theft Related Bills

The following identity theft-related bills passed the Legislature this year.

AB 1862 (Torlakson), Stats. 2000, ch. 631 – This bill creates a Department of Justice (DOJ) database on identity theft victims in an effort to help prove their victimization. The database would be accessible to criminal justice agencies, the victim, and any other agencies authorized by the victim. The bill also requires that DOJ provide and maintain a toll-free number to provide access to the information in the database. In order for a person to be included in the database, they must provide a court order certifying victimization, fingerprints, and other personal identifying information. This bill makes proving victimization easier for the victim and the agencies that may have an interest in clearing the victim's name.

AB 1897 (Davis), Stats. 2000, ch. 956 – Allows a person who reasonably believes that his or her personal information has been used by another to commit a crime, to initiate a law enforcement investigation. AB 1897 also allows a person who reasonably believes that he or she is the victim of identity theft to petition a court for an expedited judicial determination of his or her factual innocence.