

1997-98 Bill Summaries

ATTORNEYS

Attorneys and Attorney Related Services

AB 1716 (Murray) Financial transactions with clients. This bill prohibits a lawyer from selling long-term care insurance, life insurance, and annuities to a client who is an elder or dependent adult with whom the lawyer has or, within the preceding three years has had, an attorney-client relationship unless the lawyer provides the client with certain written disclosures. The bill additionally creates a new cause of action against an attorney who sells financial products in violation of this measure, and entitles an elder or dependent adult who suffers any damage to recover actual damages, an injunction, restitution and punitive damages. Status: Vetoed.

AB 2239 (Strom-Martin) Unauthorized practice of law: estate planning services. This bill prohibits any person who is not an active member of the State Bar from drafting, executing or providing other services or advice in connection with estate planning documents (e.g., wills and trusts). Status: Dead, AJUD.

AB 2491 (Martinez): Attorney General: redlining practices. This bill requires the Attorney General to submit to the Legislature by March 31, 2000, a report documenting any complaints or formal charges of redlining in the counties of Alameda, Los Angeles, Sacramento, San Diego and San Francisco. The report shall also examine the impact of standardized credit-scoring systems used by financial institutions. Status: Vetoed.

SB 213 (Kopp) Use of legal counsel by state agencies. This bill clarifies that the need for the Department of Insurance to secure written consent of the Attorney General to employ outside counsel applies with regard to all insurance delinquency proceedings, including any judicial proceeding that is ancillary to an insurance delinquency proceeding. The bill also reaffirms that it is in the best interest of the state for the Attorney General and the Insurance Commissioner to consult on the use of agency counsel in delinquency proceedings. Status: Vetoed.

SB 1418 (Rosenthal) Legal document assistants. This bill creates a four-year pilot project, prohibiting a legal document assistant (LDA) from providing self-help service to the public unless the LDA is registered in the county in which services are being provided. LDAs are prohibited from providing any kind of advice, explanation, opinion, or recommendation to a consumer about legal rights, remedies, defenses, options, selection of forms, or strategies. The bill additionally gives any person injured by the

unlawful act of an LDA the right to file a complaint and seek redress in any municipal or superior court for injunctive relief, restitution, and damages. Status: Chapter 1079, 1998.

Attorney's Fees

AB 804 (Baugh) Settlement offers: costs recoverable. This bill adds reasonable attorney's fees, incurred from the time of an offer to the time of trial, to those costs that shall be imposed upon a party who does not accept a formal settlement offer and fails to obtain a more favorable judgment at trial. The bill also requires a party who refuses a formal offer of settlement to post a bond to cover those costs and fees that may be required if the party does not obtain a more favorable judgment at trial. Status: Dead, AJUD.

AB 1462 (Morrow) Governmental liability: attorney's fees. This bill requires the court to award reasonable attorney's fees to the prevailing party in an action against a state or local public agency. Status: Dead, AJUD.

AB 1486 (Floyd) Consumer protection. This bill provides that it is an unfair or deceptive practice for an insurance company to use deceptive representations or fail to disclose material facts about the sale of any insurance policy or product. The bill also provides that, in actions that have resulted in the enforcement of an important right affecting the public where the benefit provided is pecuniary in nature, the attorney's fees awarded should be based on a reasonable percentage of the benefit made available. Status: Dead, AJUD.

AB 1912 (Ashburn) Attorney's fees: prevailing public entities. This bill permits the court to award attorney's fees to a public entity sued as a defendant if the public entity is the prevailing party in a private attorney general action and the court finds that an award is "in the interest of justice." It also prohibits a court from increasing the attorney's fees that may be assessed against a public entity in a private attorney general action by a "multiplier" (which is based on specified circumstances, such as the length and complexity of the trial or the unreasonableness of the opposition). Status: Failed, AJUD.

AB 2046 (Goldsmith) Attorney's fees: false claim actions. This bill authorizes a court in a false claims action to award to a prevailing defendant attorney's fees and expenses if the court finds that the claim brought by the state or local entity was frivolous, clearly vexatious, or brought solely for purposes of harassment. It also provides that attorney's fees and expenses in such actions shall only be awarded against the party that brought the action. Status: Chapter 154, 1998.

AB 2071 (Kaloogian) Attorney's fees: victims of crime. This bill provides that if a convicted felon brings a civil action for damages resulting from an intentional tort proximately caused by his or her felony, or his or her immediate flight therefrom, and he or she does not prevail in the civil action, the defendant shall be entitled to attorney's fees. Status: Failed, AJUD.

AB 2445 (Oller) Works of improvement: mechanic's liens. This bill authorizes the court, in an action to foreclose a mechanic's lien, to award reasonable attorney's fees to the prevailing party. Status: Dead, AJUD.

AB 2691 (Lempert) Coastal access: attorney's fees. This bill prohibits individuals and public agencies from converting coastal access ways to private or non-recreational use and allows property owners or public entities sued by people who seek to block public use of property to present claims to the state for reasonable attorney's fees. Status: Dead, AJUD.

SB 1661 (Haynes) Settlement offers: Riverside and San Bernardino pilot projects. This bill resurrects, until January 1, 2001, a pilot project in Riverside and San Bernardino counties which allows the court to award attorney's fees in specified civil actions (but not including personal injury, eminent domain, class action or injunctive relief actions) against a party who refuses a formal offer to settle and then fails to obtain a more favorable judgment at trial. It also requires the Judicial Council to report on the impact and effectiveness of these provisions on or before March 1, 2000. Status: Chapter 385, 1998.

State Bar

AB 1459 (Papan) State Bar: bar exam. Current law exempts students with at least two years of college prior to entering a law school accredited by the Committee of Bar Examiners (CBE) from having to take the "Baby Bar" exam. This bill requires students who enter California approved law schools with a bachelor's degree to take the "Baby Bar," and would require the CBE to advise the student, based on performance on the "Baby Bar," what his or her chances are of passing the general bar examination, but not require such students to achieve a passing grade. Status: Vetoed.

AB 1669 (Hertzberg) State Bar of California. This bill restores the authority of the State Bar of California to collect dues from its members. The bill also restructures the functions of the State Bar, and creates a bifurcated bar, with some functions paid for from mandatory dues and other functions funded solely by voluntary contributions. The bill permits the Bar to continue administering programs such as the Interest on Lawyers'

Trust Accounts program and the Judicial Nominations Evaluation Commission, but imposes limits on the Bar's lobbying activities. Status: Dead, SEN.

AB 1798 (Morrow) State Bar of California. This bill restores the authority of the State Bar of California to collect substantially reduced dues from its members. The bill also substantially restructures the functions of the State Bar, and creates a bifurcated bar, with some functions paid for from mandatory dues and other functions funded solely by voluntary contributions. The bill also greatly curtails the Bar's lobbying activities. Status: Dead, AJUD.

AB 2557 (Alquist) Unaccredited law schools. This bill requires all degree-granting schools which are subject to regulation by the Bureau of Private Postsecondary and Vocational Education to provide reasonable access, by electronic or other means, to required law books and library resources. Status: Vetoed.

SB 845 (Haynes) Bar admission: out-of-state attorneys. This bill specifies provisions for admission to the California State Bar for certain out-of-state attorneys. The bill provides that an attorney who has practiced law in another jurisdiction for at least four years immediately preceding his or her application to practice law in California may take the briefer attorneys' exam in lieu of the general bar exam, but requires out-of-state attorneys with less than four years experience to take the general bar exam. The bill clarifies that all out-of-state attorneys must pass an examination in professional responsibility or legal ethics. Status: Chapter 29, 1998.

SB 1145 (Burton) Reauthorization of State Bar dues. This bill provides legislative authorization for the State Bar of California to collect annual bar dues from its members for 1998 and 1999, decreasing the 1998 and 1999 Bar dues by \$20 from prior years. The bill also would require the Bar to report to the Assembly and Senate Judiciary Committees by November 1998 regarding how the Bar has implemented the recent audit recommendations of the State Auditor. Status: Vetoed.

SB 1459 (Haynes) Unaccredited law schools. This bill attempts to eliminate theoretical duplication of regulatory oversight of unaccredited law schools by providing the Bureau of Private Postsecondary and Vocational Education (not in conjunction with the Committee of Bar Examiners, as is done currently) with the sole responsibility for overseeing unaccredited law schools. Status: Failed, AJUD.

CIVIL PRACTICE AND PROCEDURE

Administrative Law

SB 68 (Kopp) Administrative hearings. This bill expands administrative hearing procedures under the Administrative Procedures Act (APA) to include hearings and decisions by private, quasi-public agencies if a statute or the federal or state Constitution requires an evidentiary hearing for determination of the issue. The bill also consolidates the administrative hearing procedures of the Department of Health Services by allowing the department to continue to provide their own administrative law judges and to vary certain procedural requirements from the APA. Status: Chapter 220, 1997.

SB 504 (Johnston) Quasi-judicial proceedings: written communications. This bill requires disclosure of the source of written communications in quasi-judicial proceedings conducted by state agencies, and allows the state agency to refuse or ignore a written communication submitted by an attorney or any other authorized representative unless the written communication clearly indicates the client on whose behalf the communication is submitted to the agency. Status: Chapter 192, 1997.

SB 653 (Calderon) Public utilities: judicial review. This bill broadens the law enacted in 1996 to widen judicial review of Public Utilities Commission decisions. Status: Vetoed.

SB 690 (Polanco) Jurisdiction of the New Motor Vehicle Board. This bill clarifies the jurisdiction of the New Motor Vehicle Board. The bill clarifies that the courts, not the Board, have primary jurisdiction over all common law and statutory claims originally cognizable in the courts. There is no requirement that parties first exhaust administrative review and remedy by the Board before invoking the primary jurisdiction of the court. Status: Chapter 356, 1997.

SB 779 (Calderon) PUC reform and judicial review of PUC decisions. This bill originally created the custody and visitation enforcement act with the stated intent that all custody and visitation orders be enforced with the same vigor, commitment, and ease of access as support orders. The bill was subsequently amended to enact various reforms of PUC's procedures to enhance public participation in PUC decisionmaking, and broaden judicial review of PUC decisions. The judicial review provisions are substantially similar to those contained in SB 653 above. The reform provisions require the PUC to make more of its proposed decisions available for public review and comment and to post Commission materials, including its agenda, on the internet. Status: Chapter 886, 1998.

SB 1284 (Hughes) New Motor Vehicle Board: jurisdiction. This bill is identical to SB 690 (Polanco) above. Status: Dead, SEN.

SB 2005 (Kopp) Permit Streamlining Act. This bill invalidates a recent California Supreme Court holding and prohibits an applicant for a development project permit from

waiving the statutory timelines for a public agency to act on the permit application. The bill additionally requires that a mutual agreement between the applicant and the public agency to a one-time 90-day extension of the time periods be in writing. Status: Chapter 283, 1998.

Arbitration and Mediation

AB 939 (Ortiz) Mediation confidentiality. This bill clarifies ambiguities in the existing mediation statute, making clear that a mediator may not be called to testify regarding events that took place during the mediation, and provides additional protections for the confidentiality of mediation proceedings. This bill also revises confidentiality provisions in current law to apply to court ordered mediations and to mediation consultations. Status: Chapter 772, 1997.

AB 1093 (Committee on Judiciary) Arbitration: disclosure. This bill revises and recasts the existing arbitrator disclosure provisions into a single statutory provision. The new provision is made applicable to all persons who serve as neutral arbitrators in any arbitration pursuant to an arbitration agreement. The bill requires the disclosure of the specific names of both parties in prior cases in which the proposed arbitrator has served as a neutral or party arbitrator for one of the parties in the pending arbitration. The bill also provides for vacatur of the arbitration award if the arbitrator was subject to disqualification, as specified, and failed to timely disqualify himself or herself. Status: Chapter 445, 1997.

AB 1374 (Hertzberg) Arbitration of fee disputes. When this bill was heard by the Judiciary Committee, it required the Superior Court of Los Angeles County and allowed the superior courts of other counties to streamline the process of handling civil actions where the amount in controversy exceeds \$50,000. The bill was subsequently amended to clarify the law relative to parties agreeing in writing to be bound by the award of appointed arbitrators in cases involving fee disputes between attorneys and their clients. Status: Chapter 798, 1998

AB 2086 (Keeley) Representation by out-of-state counsel. This bill permits an out-of-state lawyer to represent a party in a California arbitration proceeding in this state, provided that: a) the attorney associates with a California counsel who is the attorney of record; b) the attorney files a specified certificate which, among other provisions, states that the attorney agrees to be subject to disciplinary rules of the state; and 3) the attorney's appearance is approved by the arbitrator or arbitral forum. The bill also permits a party to an arbitration arising under certain collective bargaining agreements to be represented by any person, regardless of whether the person is licensed to practice law in California. Status: Chapter 915, 1998.

SB 19 (Lockyer) Arbitration. This bill repeals the sunset date on the early mediation pilot project in effect in Los Angeles County. Status: Chapter 618, 1998.

SB 1081 (Calderon) Hazardous materials cleanup disputes. This bill establishes the Environmental Responsibility Acceptance Act, which provides a mechanism for resolving disputes between present owners of contaminated properties and previous owners who may be legally responsible for cleaning up contamination. The bill enables a responsible party at his or her option to commit to conduct the cleanup of a property in exchange for a relinquishment by the property owner of certain litigation rights and a limitation on damages. The bill requires the current owner of a site who has actual awareness of a release of hazardous materials on the property that either has triggered the involvement of a regulatory agency or has impeded the ability of the owner to sell or use the site to take "all reasonable steps" to identify the person responsible for the release and to send a "notice of potential liability" to the identified responsible parties. Status: Chapter 873, 1997.

SB 1792 (Mountjoy) Contractors: arbitration of disputes. This bill expands the voluntary arbitration program administered by the Contractors' State License Board (CSLB) by, among other things, increasing the monetary cap on cases that may be referred to a voluntary arbitration program, and requiring CSLB to set minimum qualification standards for arbitrators. Status: Chapter 492, 1998.

Civil Procedure

AB 758 (Morrow) Civil procedure. This bill is an omnibus civil procedure bill which makes changes to various code sections. Among other things, the bill requires all paid process servers to register with their local county clerks; requires fingerprinting of process servers upon registration; and allows deposition officers to receive notice of a motion to quash or modify a subpoena. Status: Chapter 442, 1997.

AB 843 (Goldsmith) Summary judgment. This bill makes it easier to file, and to grant, motions for summary judgment and for summary adjudication by changing the standard for granting such motions from "no *triable* issue as to material fact" to "no *genuine* issue as to any material fact," and by permitting such motions to be filed without supporting affidavits, declarations, and other accompanying documentation. Status: Failed, AJUD.

AB 1028 (Frusetta) Inmate lawsuits. This bill prohibits inmates from filing any civil action without first obtaining the court's permission. Status: Dead, AJUD.

AB 1132 (Alby) Restitution. This bill provides that, where a prison inmate or ward committed to the California Youth Authority (CYA) is awarded any compensatory or punitive damages in a civil action brought against a federal, state or local entity or public official, the award must be applied directly, after payment of reasonable attorney's fees and litigation costs, to satisfy any outstanding restitution order or fine. The bill also provides that the CYA shall deduct up to 50% of the funds in a ward's trust account to satisfy any restitution order or fine. Status: Chapter 266, 1997.

AB 1258 (Ackerman) Pre-judgment attachment of assets. This bill repeals the January 1, 1998 scheduled sunset date on the statute that allows a creditor of a debt secured by personal property to obtain a pre-judgment attachment of other assets of the debtor when the secured interest is insufficient to cover the claim. The bill also expressly provides that a creditor of a debt secured by real property does not violate the "one form of action" rule by seeking a writ of attachment against other assets of the debtor. Status: Chapter 222, 1997.

AB 1274 (Goldsmith) TROs: Prostitution. This bill expands the definition of nuisance to specifically include prostitution activity. The bill defines "prostitution activity" as acts of prostitution, solicitation, and loitering for the purpose of prostitution. Status: Dead, AJUD.

AB 1324 (Escutia) Summary judgment. This bill makes it harder for parties to prevent plaintiffs from "having their day in court" by making it more difficult to file and win motions for summary judgment. The bill provides that a motion for summary judgment or for summary adjudication shall be granted if all the papers submitted show there is "no genuine issue as to any material fact," meaning that no reasonable jury could return a verdict for the nonmoving party, as opposed to "no triable issue as to any material fact," meaning that there is no evidence which shows that a single material factual issue is in dispute. Status: Dead, ASM.

AB 1329 (Papan) Defaults. This bill prohibits a city, county, or state agency from charging for any hearing or appeal relating to the removal, impoundment, storage, or release of a vehicle until that hearing has been requested in writing by the registered owner of the vehicle or an agent of that registered owner. Status: Chapter 169, 1998.

AB 1334 (Knox) Holocaust victims: life insurance policies. This bill permits Holocaust victims and their heirs to file suit in California against an insurer over whom California courts have personal jurisdiction, to recover proceeds due under a life, annuities, dowry, educational or casualty insurance policy which was sold directly by that insurer or through a related company to persons in Europe at any time between 1920 and

1945. The superior court in which the claim is filed shall have jurisdiction over that action until its completion or resolution. Status: Chapter 43, 1998.

AB 1609 (Papan) Silicone breast implants. This bill would revive, for a period of one year, every cause of action for personal injury or death caused by the effects of silicone gel or liquid injections, or implants of silicone gel, silicone elastomer shells or silicone sponge material which currently are barred by applicable statutes of limitation. Status: Vetoed.

AB 2190 (Cardenas) Unclaimed property holders bill of rights. This bill seeks to provide safeguards for holders and alleged holders of unclaimed property in audits of such property by or on behalf of the Controller's office. Status: Dead, AAPPR.

AB 2573 (Machado) Judicial review of State Water Resources Control Board decisions. This bill prohibits a state court from dismissing specified actions involving review of State Water Resources Control Board (SWRCB) decisions when the United States declines to be a party to that action. The election by the United States not to be a party in any court case involving the review of a decision or order by SWRCB relating to a permit or license to appropriate water held by California or the United States shall not, in and of itself, be the basis for dismissal of that case. Status: Chapter 345, 1998.

AB 2753 (Miller) Victim restitution. Under current law, prior to any other distribution of revenues from bail forfeitures, counties are required to pay up to 50 percent of civil judgments or victim restitution resulting from convictions of specified sex offenses and may recover reasonable administrative costs. This bill provides that 100 percent of such civil judgments or restitution shall be paid prior to recovery of administrative costs or any other required distribution, such as that required under trial court funding. Status: Dead, AJUD.

SB 73 (Kopp) Civil procedure. This bill makes changes in the laws concerning cross-examination of expert witnesses, limited liability companies, and extensions of time to complete service of process. Among other things, the bill revises the law awarding costs against a party who rejects a Code of Civil Procedure Section 998 settlement offer by specifying that a plaintiff who rejects a settlement offer and fails to do better at trial must pay the defendant's costs from the time of rejection to the judgment, and providing that an otherwise prevailing plaintiff shall not receive post-offer costs but may still recover pre-offer costs. Status: Chapter 892, 1997.

SB 150 (Kopp) Real estate fraud: victim restitution. This bill includes criminal restitution orders in the "judgments" which persons defrauded by real estate licensees may rely upon in claiming payment from the Department of Real Estate (DRE) Recovery

Account and makes other changes in current law so as to increase the ability of crime victims to receive compensation. The bill, however, requires that claimants pursue other remedies in good faith before relying upon a criminal restitution order in seeking payment from the DRE Recovery Account. Status: Chapter 527, 1997.

SB 449 (Sher) Wrongful death: standing to sue. This urgency bill restores standing to a parent to seek damages for the wrongful death of a child for any cause of action arising on or after January 1, 1993. This bill corrects an unintended consequence of 1992 legislation which denied a parent of a victim killed by another's misfeasance or malfeasance the ability to sue for wrongful death damages. Status: Chapter 13, 1997.

SB 544 (Maddy) Depositions. This bill amends existing procedures relative to the distribution of deposition transcripts. The bill provides, among other things, that unless the court issues an order to the contrary, a copy of the transcript, videotape or other recording of testimony at a deposition occurring after January 1, 1998 shall be made available by the deposition officer to any person requesting a copy thereof upon payment of a reasonable charge set by the deposition officer. Status: Chapter 395, 1997.

SB 999 (Maddy) Escheat of property. This bill accelerates the time when a blood relative of a missing beneficiary of an estate may claim the property bequeathed to the beneficiary. The bill authorizes a blood relative of a missing beneficiary to claim property during the five-year period between judgment and escheat if the named beneficiary is proved to be dead, and after the expiration of that five-year period but before permanent escheat to the state if the death of the beneficiary is not proved. Status: Chapter 671, 1997.

SB 1296 (Lockyer) SLAPP suits. This bill clarifies the intent behind, and the coverage of, California's so-called "anti-SLAPP" statute. The bill provides that the anti-SLAPP statute is intended by the Legislature to be construed broadly, and that it covers conduct in furtherance of the constitutional rights of petition and of free speech in connection with a public issue, or with an issue of public interest. Status: Chapter 271, 1997.

SB 1511 (Haynes) Sanctions for frivolous actions. This bill extends until January 1, 2003, the sunset provision on Code of Civil Procedure section 128.7, which authorizes the court to impose sanctions on attorneys for the filing of frivolous lawsuits and motions. Status: Chapter 121, 1998.

SB 1556 (Kopp) Civil procedure. This bill makes two changes in the civil procedure laws. The bill specifies that a defendant's motion for nonsuit may not be made prior to the completion of plaintiff's opening statement, or prior to the plaintiff's introduction of

evidence in a jury trial. It also expressly applies Code of Civil Procedure provisions relating to applications for reconsideration of court orders to all interim court orders. Status: Chapter 200, 1998.

SB 1608 (Ayala) Judgments: enforceability of restitution orders. This bill provides that victim restitution is enforceable as a civil judgment immediately upon the entry of the order, thereby removing any delay during a period of probation or parole. Status: Chapter 201, 1998.

Discovery

AB 918 (Floyd) Discovery. This bill provides that a pending motion or the failure to file a particular motion or pleading does not itself constitute a basis for a court order restricting the use of a selected discovery method. Status: Dead, AJUD.

AB 919 (Floyd) Discovery sanctions. This bill provides that it is a misuse of the discovery process to fail to produce documents or other information within the party's possession, custody, or control at the time the responses are due or at a later time agreed upon by the parties. Status: Dead, AJUD.

Evidence

AB 1122 (Baugh) Evidence regarding insurance coverage. This bill creates an exception to the collateral source rule and permits defendants in personal injury actions to introduce evidence showing that the plaintiff has, or may have, already collected worker's compensation benefits for medical expenses related to the injury at issue in the case. Status: Failed, AJUD.

SB 177 (Kopp) Best evidence rule. This bill repeals the best evidence rule, which requires the original of a writing to be offered into evidence to prove the content of the writing, and replaces it with the secondary evidence rule which would provide that the content of a writing may be proved by otherwise admissible secondary evidence. Status: Chapter 100, 1998.

SB 941 (Leslie) Hearsay exceptions for gang-related crimes. This bill creates a hearsay exception for evidence of a prior statement if the declarant is deceased and the statement is relevant to a criminal prosecution arising under the gang crimes and enhancements laws and the statement is offered under specified circumstances which lend trustworthiness to the statement. Status: Chapter 499, 1997.

CONTRACTS, BUSINESS AND COMMERCIAL MATTERS

Business

AB 1570 (Bustamante) Employment: application fees. As heard by the Judiciary Committee, this was a bill sponsored by the Assembly Labor and Employment Committee that provided severance pay entitlements to employees in the amount of one week's pay for each 12 months of employment if an employer relocates or terminates an industrial or commercial facility. As sent to the Governor, the bill prohibits an employer from charging an application fee to individuals applying for employment. Status: Chapter 442, 1998.

Contracts

AB 338 (Sweeney) Professional sports franchises. This bill requires professional sports franchises that receive offers to relocate to notify their hometown and provide reasonable time for a counter-offer. The bill applies only to teams actually receiving public funds or other public assets. The bill delays the relocation of a professional sports franchise for one year while the home town attempts to keep the team, and prevents the team from "pulling up stakes" for 180 days after it receives an offer to relocate. The bill also creates a penalty for any individual who interferes with a current team occupancy agreement. Status: Failed, ALG.

AB 615 (Margett) Severe limitation on contract damages. This bill would limit the total amount of recovery available for breach of a non-written agreement to \$5000, the maximum award available in small claims court. The bill denies an individual who proves that a defendant breached a valid contract the opportunity to recover all foreseeable damages caused by the breach. Status: Failed, AJUD.

AB 1517 (Vincent) Contracts: telephone directory advertising. This bill declares that any provision in a telephone directory advertising contract that purports to limit the responsibility of the party offering to provide the product or service is unconscionable and contrary to public policy. Status: Dead, AJUD.

AB 2042 (Goldsmith) Public works: stop notices. This bill clarifies that the monies withheld by a public agency from a prime contractor in response to a stop notice must be in an amount sufficient to answer the claim and to provide for the public agency's reasonable costs of litigation. The public agency may satisfy this withholding duty by refusing to release money held in escrow. Status: Chapter 111, 1998.

AB 2280 (Papan) Contractors: Works of improvement. This bill requires an owner of property, other than a single-family residence, who contracts for any private work of

improvement in an amount exceeding \$1 million dollars to provide security for the project. Status: Vetoed.

AB 2301 (Wright) Home improvement contracts: liens. This bill requires the attachment of a warning notice to any contract for the sale of home improvement goods and services that is secured by a lien on real property and offered by door-to-door sales. The bill additionally provides that no home improvement goods or services contract for \$5,000 or less shall provide for a security interest in real property, except for a mechanic's lien or other interest in property that arises by operation of law. Any lien in violation of this paragraph is void and unenforceable. Status: Chapter 571, 1998.

AB 2314 (Papan) Car rental contracts. This bill repeals the \$9 cap on optional collision damage waivers offered by rental car companies, for all but the lowest priced category of vehicles. The bill also permits a renter, under certain circumstances, to authorize the rental company to submit any claims to the renter's personal insurance carrier or credit card issuer as the renter's agent and would allow the amount of any claim to be resolved between the rental company and the insurance carrier or credit card issuer. Status: Dead, SJUD.

AB 2353 (Olberg) Surety insurers. This bill allows the California Integrated Waste Management Board, the State Water Resources Control Board, and the Department of Toxic Substances Control to require an admitted surety insurer (a person who pays money or performs other acts in the event that the principal fails to do so) to be listed in federal circulars published by the Department of the Treasury, before the insurer is deemed sufficient. Status: Chapter 477, 1998.

AB 2484 (Hertzberg) Damages for nonpayment. This bill would create a three-year pilot project to be tested in the courts of Los Angeles County and any other county electing to participate. Under this project, any business that fails to pay a contract debt to another business, within a specified time after the debt is due, may be held liable for additional damages in an amount equal to 50 percent of that contract debt. These additional damages would only be applicable to claims where the total award is \$25,000 or less, and would not apply if the underlying contract provides for an award of attorney's fees to the prevailing party. Status: Failed, SAPPR.

AB 2534 (Margett) Construction contracts: retention proceeds. This bill limits, for all public and private construction contracts entered into on after January 1, 1999, the percentage of retention proceeds that a contractor may withhold from a subcontractor to the same percentage that may be withheld by the builder from the contractor. No party may require any other party to waive these provisions. Status: Vetoed.

AB 2627 (Brown) Works of improvement. This bill permits an original contractor in a private construction project, when payments under the contract are overdue for 35 days and there is no dispute as to the satisfactory performance of the contractor, to serve a 10-day stop work order that states that the contractor will stop work on the project unless all amounts then due are paid within ten days. It also provides for an expedited proceeding in the superior court of the county in which the project is located regarding liability for the amount not paid for work performed. Status: Chapter 986, 1998.

SB 704 (Polanco) Contracting. This bill makes technical corrections to the prompt pay contractor statutes, requires a public hearing on enhancing consumers' financial protection, and reinstates the three-year statute of limitations for violations of the home improvement contract laws. Status: Dead, SJUD.

SB 1865 (Maddy) Contracts: statute of frauds. This bill allows the enforcement of certain business-to-business financial transaction agreements without the necessity of a written contract, if sufficient evidence of the agreement is produced. The type of contracts intended to be covered by this bill are used by financial institutions, investment banking firms, institutional investors, dealers and other California entities for hedging risks arising in the course of their business which is conducted over the telephone or internet, via facsimile and e-mail. Status: Chapter 78, 1998.

Corporations and Partnerships

AB 1446 (Ackerman) Derivative shareholder actions. This bill would significantly restrict the ability of shareholders to file "derivative" lawsuits on behalf of the corporation against officers or directors alleged to have harmed the corporation. Status: Failed, AJUD.

AB 1703 (Leach) Partnerships and limited liability companies. This bill amends the laws governing partnerships and limited liability companies (LLCs) to conform with new Internal Revenue Service tax classification regulations. It deletes the requirement that an LLC set forth in its articles of organization "the latest date on which the limited liability company is to dissolve" since an LLC can now have a perpetual life. The bill also allows an assignee of a partnership interest to become a limited partner if all of the general partners and a majority of the limited partnership interests consent. Status: Chapter 243, 1998.

AB 1828 (Leach) Partnerships and limited liability companies. This bill is the same as AB 1703 above, but it also permits a limited liability company to have only one member instead of two or more members as now required. Status: Failed, AJUD.

AB 2245 (Baldwin) Limited liability companies. This bill permits limited liability companies to provide certain professional services. A domestic or foreign limited liability company may engage in any lawful activity, even if that activity requires licensing, registration, or certification pursuant to the Business and Professional Code, *except* for the professional services of chiropractors, dentists, medical doctors, research psychoanalysts, speech pathologists, audiologists, dispensing opticians, registered nurses, nurse practitioners, physician assistants, psychologists, optometrists, pharmacists, veterinary doctors, acupuncturists, midwives, architects, landscape architects, tax preparers, certified public accountants, professional engineers, or attorneys. Status: Dead, AJUD.

AB 2292 (Ackerman) Corporations. This bill revises the definition of "listed corporation" for purposes of applying or exempting corporations traded over NASDAQ from California laws, and would enact rules for the phase-out of staggered boards of directors and for restoration of cumulative voting when a listed corporation ceases to meet the requirements to be a listed corporation. The bill also clarifies the timing of applying California's corporate governance laws to foreign corporations when the foreign company meets certain tests bringing it within California's jurisdiction. Status: Chapter 514, 1998.

Creditor – Debtor Relations

AB 451 (Havice) Homestead exemption. This bill increases the statutory homestead exemption from \$100,000 to \$125,000 if, at the time of the attempted sale of the homestead, the judgment debtor or his or her spouse who resides in the homestead is physically or mentally disabled, or is a senior citizen. Status: Chapter 82, 1997.

AB 2724 (Cardenas) Welfare payments: exemption from attachment. This bill clarifies that welfare payments made by direct deposit are included on the list of payments that are exempt from attachment by judgment creditors. For purposes of this bill, welfare payments include general assistance payments and CalWORKs payments, including payments for supportive services (i.e., child care, transportation costs, personal counseling and other ancillary expenses). Status: Chapter 290, 1998.

SB 214 (Hughes) Home improvements contracts. This bill would prohibit home improvement contractors from taking a security interest, other than a mechanic's lien, in an elder person's primary residence to secure payment of the contract. Status: Vetoed.

SB 589 (Hughes) Unruh Act: home improvements. This bill establishes detailed procedures a seller must follow in retail installment contracts involving home

improvements. The bill would require the seller, under such contracts which create a security interest in the real property, to consider the buyer's ability to repay the contract before completing the contract. The seller is also required to have an "at-risk" buyer, as defined, seek and obtain independent advice and counseling from a HUD authorized counseling agency or other listed agency. Status: Vetoed.

SB 930 (Rosenthal) Consumer credit reporting. This bill increases change of address verification requirements on credit card issuers and increases civil penalties for violation of the Consumer Credit Reporting Agencies Act. Status: Failed, ASM.

Unfair Trade Practices

AB 872 (Wright) Restrictions on consumer credit contracts. This bill declares it an unfair or deceptive act to, and prohibits a seller of home improvement goods or services from, entering into or obtaining a consumer credit contract for the sale of home improvement goods or services offered by door-to-door sale which contains or is secured by a lien on real property. The bill provides for recovery of actual damages, restitution, punitive damages, court costs, attorney's fees, and other relief which a court deems proper. Status: Failed, AJUD.

AB 1295 (Caldera) Unfair competition. This bill places a number of restrictions on the ability of private plaintiffs to bring lawsuits alleging unfair competition or false advertising and seeking monetary recovery. Private plaintiffs bringing an unfair competition or false advertising lawsuit seeking restitution or other monetary recovery are required to show that they suffered "actual injury" (defined as monetary loss or personal injury) or threat of injury. If the injury is based on a misrepresentation, plaintiffs must also show that they were actually misled; that they actually and reasonably relied on the representation; and that the persons responsible for the misrepresentation knew or should have known that the misrepresentation was deceptive, untrue or misleading. Status: Failed, AJUD.

AB 1487 (Floyd) Business practices: injunctions. This bill applies the Unfair Practices Act to securities transactions and allows the award of punitive damages. The bill also expands the definition of "senior citizen" under the Consumer Legal Remedies Act to include anyone, regardless of age, who has a retirement savings account or investment and suffered a loss as a result of practices prohibited under the Act. Status: Dead, AJUD.

AB 2511 (Morrow) Unfair trade practices. This bill restricts the ability of private plaintiffs to bring lawsuits alleging unfair competition or false advertising by implementing new "res judicata" finality rules. The bill prohibits a person from bringing

a new representative action on behalf of others similarly situated against the same defendant alleging the same wrongful conduct if the previous representative action is either tried or settled with court approval. Status: Dead, AJUD.

SB 597 (Peace) Unlawful advertising: Internet sales. This bill clarifies that commerce directed at California consumers via the Internet must comply with the provisions of California's false advertising laws. Status: Chapter 599, 1998.

COURTS

Courts

AB 30 (Baca) Court fees: San Bernardino County. This bill authorizes San Bernardino County to impose a court filing fee surcharge of up to \$25 to fund construction of a new, seismically safe county courthouse. The bill also contains a statement describing why this special legislation is necessary. Status: Dead, SEN.

AB 124 (Runner) Courthouse construction. This bill gives the Los Angeles County Board of Supervisors discretion over all courtroom construction in Los Angeles County which is funded by monies from the Robbins Courthouse Construction Fund. Status: Dead, AJUD.

AB 380 (Pacheco) Constitutionality of state laws. This bill requires that the court notify the Attorney General upon entry of judgment in a contested action or special proceeding in which a state statute or regulation has been declared unconstitutional. Status: Chapter 259, 1997.

AB 1088 (Committee on Judiciary) Municipal court staffing omnibus bill. This bill makes various changes relative to staffing, classifications and compensation in the California municipal courts. Specifically, this bill makes a technical, non-substantive change in the Los Angeles county court staffing section. Status: Chapter 571, 1997.

AB 1445 (Shelley) Court interpreters. This bill defines and provides for the regulation of registered interpreters in court proceedings, and allows a court, for good cause, to appoint an interpreter who does not hold a court interpreter certificate. Status: Chapter 376, 1997.

AB 2806 (Papan) Children's waiting rooms. This bill authorizes the board of supervisors of any county to impose a surcharge of up to \$2 on the filing fees for various civil actions to effectuate the stated policy goal of providing a children's waiting room in each courthouse for children whose parents or guardians are attending a hearing as a

litigant or witness. No party shall be required to pay the surcharge more than one time in any action. Status: Dead, SJUD. The provisions of this bill were subsequently amended, verbatim, into AB 2300 (Papan), which was vetoed.

SB 98 (Haynes) Judgments: collections by public agencies. This bill provides that, in cases where the judgment entered in favor of a public agency consists only of the amount of the court filing fee, the public agency shall have sole discretion whether to seek collection. If the agency elects not to collect the filing fee, the bill prohibits any person from bringing an action against the public agency for recovery of the unpaid fees. Status: Chapter 66, 1997.

SB 162 (Haynes) Fines and forfeitures. This urgency bill extends the sunset date on the program that allows counties to deduct the costs of collecting delinquent court-ordered criminal fines and forfeitures from the payment before the money is distributed to the various governmental entities. Status: Chapter 703, 1997.

SB 1638 (Kopp) Filing fee reform. This bill reduces various filing fees. It makes the filing fee for the first paper in a civil action in the municipal or superior court the same for both an individual party and parties filing jointly. It also exempts the following documents from the first paper filing fee requirements: (a) an application for an order authorizing compromise of a minor's claim; (b) an answer or other responsive pleading intended solely to notify other parties to the action and the court that the matter has been stayed pending the determination of the filing party's petition in bankruptcy. The bill also provides that an answer and cross-complaint filed as a single document constitutes a single first paper for the filing party. Status: Dead, AAPR.

SB 1813 (Kopp) Trial by declaration. This bill authorizes the Judicial Council to adopt court rules and forms governing trials of traffic offenses by declaration. Any existing local rule governing trials by declaration would be superseded by the Judicial Council rule. Status: Chapter 265, 1998.

SB 1825 (Committee on Judiciary) Omnibus municipal court staffing bill. This bill makes various changes relative to staffing, classification, and compensation for employees of specified municipal and superior courts to implement locally negotiated agreements. The bill also provides that it shall not be construed or interpreted as legislative support or opposition regarding the merits of: a) pending litigation dealing with civil service classifications in the Los Angeles Municipal Court; or b) any current or future legal dispute concerning the salary rate of the Judicial Assistant Trainee classification within the Los Angeles Superior Court. Status: Chapter 973, 1998.

Court Reporting and Recording

AB 398 (Floyd) Court Transcripts. This bill authorizes and specifies the fees for rough draft, uncertified transcripts prepared by stenographic court reporters. Status: Failed, ASM.

AB 1372 (Morrow) Court reporters: transcripts. This bill limits the use of a "rough draft" transcript, providing that it shall not be certified and may not be used as the official certified transcript of the proceedings and may not be cited. Status: Chapter 183, 1997.

AB 2150 (Brewer) Deposition officers. This bill requires a party who intends to stenographically record the testimony at a deposition by means of instant visual display of the testimony to include such intention in the notice of deposition. A deposition notice including such intention shall be given by the noticing party to the deposition officer who will be recording the testimony. Status: Chapter 974, 1998.

AB 2279 (Morrissey) Court reporters. This bill increases sanctions against errant shorthand reporters and clarifies eligibility for free transcription services. It also permits low-income individuals who cannot afford counsel to qualify for free transcription services. Status: Dead, AAPR.

SB 2145 (Maddy) Deposition procedures. This bill clarifies various deposition procedures: a) specifying that testimony during a deposition may not be suspended unless the deposing party and the deponent agree to the suspension; b) expanding the written notice of a deposition to include any intent to record by stenographic method through instant visual display technology and requiring such notice to be submitted to the deposition officer; and c) requiring the deposition officer, at the deposition, to offer to provide the instant visual display of testimony or to provide rough draft transcripts to any party if such an offer was made to, or accepted by, any party prior to the deposition. Status: Chapter 875, 1998.

Judges

AB 1110 (Escutia) Commission on Judicial Performance. This bill seeks to protect fundamental judicial independence and judicial freedom of expression by generally prohibiting the Commission on Judicial Performance from subjecting a judge to discipline for alleged ethical misconduct solely on the basis of a judicial decision or administrative act determined to be incorrect legally. The bill specifically provides that a dissenting opinion in an appellate case which does not adhere to precedent set by a higher court shall not be the sole basis for imposing discipline on a judge. Status: Vetoed.

AB 1199 (Alby) Court proceedings: disqualification of judges. This bill authorizes a party in a civil or criminal matter, who successfully files an appeal, to disqualify the judge assigned to hear the matter on remand if that judge heard the underlying matter. This right to make a peremptory challenge applies regardless of whether that party has previously exercised a peremptory challenge in the proceeding. Status: Chapter 167, 1998.

AB 2164 (Wayne) Ethics standards for administrative law judges. This bill applies the new Code of Judicial Ethics, with some exceptions, and the gift, honoraria and travel restrictions of the Political Reform Act of 1974, to administrative law judges and worker's compensation referees. Status: Chapter 95, 1998.

AB 2750 (Pacheco) Diversity and sexual harassment training. This bill requires the Judicial Council, on or before July 1, 1999, to mandate that all court officers and employees receive racial, ethnic, gender bias, and sexual harassment training by December 31, 1999, and biannually thereafter. Dead, AJUD.

SB 119 (Kopp) Peremptory challenges of judges. This bill would authorize a party in a civil matter, heard in a court having 10 or more judges, to exercise one peremptory challenge to excuse a judge, court commissioner or referee in a civil matter without cause. The bill requires the Judicial Council to develop a procedure for parties to exercise the peremptory challenge without cause. Status: Vetoed.

SB 1529 (Lockyer) Judicial salaries. This bill would declare the intent of the Legislature to appropriate from the General Fund to the Trial Court Improvement Fund an amount equal to any savings from trial court unification, as determined by the Legislative Analyst, for expenditure for judicial branch salaries, technology, and court security. Status: Dead, AJUD.

SB 1623 (Kopp) Commission on Judicial Performance. This bill makes various changes to the process through which the Commission on Judicial Performance (CJP) investigates and disciplines judges and subordinate judicial officers. The bill: a) requires CJP to establish rules to ensure that CJP's examiners who prosecute judges are independent from the investigatory and adjudicatory functions of the CJP; b) authorizes a judge who is the subject of a CJP investigation to appear before the CJP and testify, personally or through an attorney, prior to the issuance of formal charges against the judge; and c) requires the votes of a decision to institute proceedings against, or discipline a judge, to be made public. Status: Vetoed.

Juries

AB 127 (Morrow) Jury selection. This bill requires the Judicial Council to conduct a pilot project to streamline the jury selection process. The bill allows the Judicial Council to adopt a jury questionnaire process for challenging prospective jurors before they are actually called into the courtroom. Status: Chapter 509, 1997.

AB 316 (Morrissey) Jury duty. This bill exempts local agency park rangers and Los Angeles County safety police from civil and criminal jury duty. The bill also exempts state university police and Department of Corrections Law Enforcement Liaison officers from civil jury duty, in addition to their current exemption from criminal jury duty. Status: Failed, SJUD.

AB 829 (Thomson) Grand juries. This bill establishes the Grand Jury Training, Communication, and Efficiency Act of 1997, with the stated legislative intent to encourage civil grand juries to communicate more efficiently and to enhance the likelihood of implementation of their reports. The bill requires courts to ensure that jurors receive some specified minimum training. The bill also requires the grand jury to meet with the subject of the investigation unless the court determines that such a meeting would be detrimental to the investigation. Status: Chapter 443, 1997.

AB 886 (Morrow) Jury service reform. This bill specifies that jury service is mandatory for all qualified California citizens who are summoned or ordered to appear, as a duty of California citizenship. This bill excuses an eligible person from further jury service for a minimum of 12 months after he or she has completed jury service. Status: Dead, AJUD.

AB 1907 (Woods) Grand juries. This bill permits a grand jury to ask legal advice from the Attorney General, county counsel, district attorney, or local judge. Unless such advice is requested, sessions of the grand jury relating to civil matters shall be closed to such individuals. The bill clarifies that a civil grand jury may pass on to the succeeding grand jury any records or evidence or other information acquired during its term, except information which could form the basis of a criminal indictment. Status: Chapter 230, 1998.

AB 2269 (Granlund) Construction defects: jury site visits. This bill requires the court, upon request of either litigant, to order the jury to conduct a site visit in all construction defect cases. Status: Failed, AJUD.

AB 2551 (Migden) Jury fees. This bill increases daily jury service fees and requires up to \$50 per day reimbursement for dependent care expenses incurred as a result of jury service. The bill eliminates jury service fees for the first day of service, but beginning

January 1, 1999, increases juror fees in civil and criminal cases to \$13 for each day's attendance, and to \$16 per day beginning July 1, 2000. Status: Vetoed.

AB 2608 (Wildman) Firefighters: exemption from jury duty. This bill requires the Judicial Council to adopt a rule of court requiring every trial court to adopt a requirement limiting the jury service of firefighters to either one trial, or one day on call, except in those counties which can demonstrate good cause why such a requirement is impractical. The bill sunsets January 1, 2001. Status: Dead, SAPPR.

SB 1520 (Kopp) Jury deposit fees. This bill repeals a provision of California law which makes jury deposits non-refundable if a case is dismissed or the trial by jury waived after the deposit of jury fees. If a case is settled, dismissed, or a continuance granted with insufficient time to notify jurors that the trial will not proceed as scheduled, the jury fees shall be deposited in the Trial Court Trust Fund unless a refund is requested in writing within 20 calendar days of the settlement, dismissal, or continuance. Status: Chapter 1003, 1998.

SB 1947 (Lockyer) Jury service: one trial, one day. This bill implements recommendations of the Judicial Council's Blue Ribbon Commission on Jury System Improvement, requiring the Judicial Council to adopt a Rule of Court requiring every trial court, by January 1, 2000, to limit jury service for all jurors to either one trial, or one day on call. Counties which can demonstrate good cause why such a requirement is impractical may be exempted. Status: Chapter 714, 1998.

SB 2100 (Polanco) Grand juries. This bill allows a grand jury, with the approval of the presiding judge, to make available to the public the evidentiary material, findings, and other information relied upon for its final report in any civil grand jury investigation, provided the material is not subject to privilege. The release of the name of any person or facts that lead to the identity of any person who provided information to the grand jury is prohibited. Status: Chapter 79, 1998.

Small Claims

AB 246 (Lempert) Small claims court. This bill would increase the jurisdictional limit in small claims court from \$5,000 to \$7,500. The bill also increases the monetary jurisdiction from \$2,500 to \$4,000, effective January 1, 1999, for defendant guarantors (sureties for persons required by law to post a bond) who are required to respond to a small claims action based on the default, actions, or omissions of another. Status: Vetoed.

AB 771 (Margett) Small claims court: jurisdiction. This bill increases the jurisdictional limit in small claims court from \$2,500 to \$4,000, effective January 1, 2000, for actions against defendant guarantors who are required to respond to a small claims action based on the default, actions, or omissions of another. The increased monetary jurisdiction is applicable only to actions against defendant guarantors or sureties who charge a fee for their services. Status: Chapter 240, 1998.

AB 2702 (Aroner) Small claims court: civil rights. This bill provides that claims brought under the Unruh Civil Rights Act may be brought in small claims court if the amount of the damages sought in the action does not exceed the current jurisdictional limit of small claims court of \$5,000. The bill further clarifies that nothing in the Unruh Civil Rights Act may be construed to relieve building owners of their obligations under existing law to make their buildings accessible to people with disabilities. Status: Chapter 195, 1998.

SB 1342 (Lockyer) Small claims court: vehicles. This bill authorizes a small claims court to hear automobile accident cases involving an amount in controversy of \$5,001 to \$10,000. The bill allows attorneys to represent clients in these small claims court cases, but would cap any contingency fee at 25% unless the court awards a higher fee. The bill also provides for sanctions for a meritless appeal of an award from these small claims cases. Status: Dead, AJUD.

Trial Court Coordination and Funding

AB 86 (Pringle) Trial court funding. This bill provides for consolidation of trial court funding, to take effect immediately. Status: Dead, AJUD.

AB 233 (Escutia) Trial court funding. This bill transfers principal funding responsibility for trial court operations to the state beginning in the 1997-98 fiscal year (FY) while freezing county contributions at the FY 1994-95 levels. It reduces county contributions for trial courts by \$350 million beginning next fiscal year and continuing every year thereafter. The bill also provides the Judicial Council the authority to require every judicial officer in California to receive comprehensive anti-bias training in sexual harassment prevention and racial and ethnic diversity issues. It also raises certain civil court fees; creates task forces regarding court facilities and the status of court employees; requires the Judicial Council to decentralize trial court management; provides for a civil delay reduction team; and give the Legislature broad new authority to control court spending. Status: Chapter 850, 1997.

AB 1301 (Ortiz) Emergency trial court funding. When this bill was heard by the Assembly Judiciary Committee it addressed a relatively small aspect of the state's child

support guideline pertaining to the treatment of the tax liability of the divorcing parties. The bill was subsequently amended to instead provide for an emergency loan from the General Fund to prevent court closures due to the lateness of the 1998-99 state budget, and to make minor technical changes to the Trial Court Funding Act of 1997. Status: Chapter 146, 1998.

AB 1438 (Escutia) Trial court employee rights. This bill provides key protections for trial court employees, protecting their right to engage in collective bargaining. Status: Chapter 857, 1997.

AB 1935 (Aroner) Trial court funding: technical clean-up. This bill enacts various refinements to the Lockyer-Isenberg Trial Court Funding Act of 1997. The bill, among other things: a) allows a county to loan money to trial courts subject to approval of the Judicial Council; b) prohibits a judge from authorizing any expenditures in excess of the budget authorized by Judicial Council; and c) sets forth legislative intent that fees be remitted by the courts as soon as possible following collection, and requires the Judicial Council to study improved collection and remittance of revenues. Status: Chapter 1004, 1998.

SB 21 (Lockyer) Trial court funding. This urgency bill appropriates \$290.5 million in fine and forfeiture revenues from the General Fund to the Trial Court Trust Fund for support of the trial courts during the 1996-97 fiscal year. Status: Chapter 3, 1997.

SB 69 (Burton) State trial court funding. This urgency bill requires every county to certify to the State Controller what compensation, if any, it is providing to judges and subordinate judicial officers prior to receiving the next scheduled payment of state court funding. A county shall be deemed to have complied with this section if it sends to the Controller a copy of the reports submitted to the Judicial Council pursuant to Section 68113 of the Government Code. Status: Chapter 12, 1997.

SB 430 (Knight) Trial court funding: penalties. This urgency bill reduces the penalty a county must pay for failing to promptly remit the state's trial court funding revenues to the Controller. Under the bill, a county will be charged an annual interest rate of 18 percent, but only for the number of days the remittance is delinquent. Status: Chapter 199, 1997.

SB 2139 (Lockyer) Trial courts: unification. This bill makes various technical statutory changes needed to implement trial court unification in counties which so elect following the recent approval by the voters of SCA 4 (Lockyer), Chapter 36, Statutes of 1996. Status: Chapter 931, 1998.

FAMILY LAW AND CHILDREN

Adoption

AB 53 (Murray) Adoption. This bill provides legislative findings and declarations that a person or persons who otherwise meet the needs of a child should not be prevented from adopting that child based on marital status, and specifically allows an unmarried adult, two adults who are legally married, or two adults who are not legally married to adopt a child. Status: Dead, ASM.

AB 1544 (Committee on Human Services) Dependent children: adoption. This bill makes several changes to foster care and adoption procedures with the goal of expediting the permanent placement of foster children living with relatives. It allows a relative adoptive parent, the child, and the birth parent or other relatives, to enter into a written agreement, known as a kinship adoption agreement, for continuing contact between all parties, if the agreement is found by the court to be in the best interests of the child. The bill also provides procedures for the juvenile court to establish paternity of the child at the time the child becomes a dependent of the court. Status: Chapter 793, 1997.

AB 2196 (Washington) Continued contact with siblings. This bill provides that, when a court orders a dependent child be placed for adoption, the child shall have the right to have the court consider ordering continued contact with the child's natural siblings after the adoption. The court is required to order continued communication or contact with the child's siblings upon a finding, made in writing or on the record, that the continued contact is in the best interest of the child. Status: Chapter 1072, 1998.

AB 2304 (Runner) Ethnic and racial considerations in adoptions. This bill revises provisions relating to interethnic adoptions and foster care placement of minors to conform state law to the Federal Small Business and Job Protection Act of 1996. The bill eliminates consideration of the cultural, ethnic, or racial background of a child and the capacity of foster parents to meet the needs of a child of that background as a factor in determining the best interest of the child. The bill continues to prohibit an agency or entity from delaying or denying any person the opportunity to become a foster or adoptive parent on the basis of race, color, or national origin. Status: Dead, AJUD.

SB 1121 (Craven) Independent adoptions. This bill expands the list of persons who may qualify as adoption service providers to include licensed marriage, family and child counselors with a minimum of five years experience providing professional social work services while employed by a licensed California adoption agency or the Department of Social Services. Status: Chapter 559, 1997.

Children

AB 329 (Caldera) Juveniles: freedom from parental control. This bill provides that an appeal from a judgment of a referee denying the recommendation to free minors from parental custody or control shall have precedence over all other cases in the court hearing the appeal. Existing law provided such precedence only to appeals from judgments freeing minors from parental custody or control. Status: Chapter 510, 1997.

AB 1065 (Goldsmith) Access to child abuse records. This bill requires the Department of Justice to make available to personnel from a child protective agency responsible for placing dependent children, relevant information from the Child Abuse Central Index about a prospective relative caretaker. Status: Chapter 844, 1997.

AB 1091 (Committee on Judiciary) Dependent children. This bill makes various technical changes to the Welfare and Institutions Code relating to children who are adjudged dependents of the court. The bill eliminates the distinction between children who have been adjudged dependents of the court pre- and post-January 1, 1989, removes all references to "probation officers" with relation to dependent children, and instead refers to "social workers", changes the word "minor" to "child" throughout the dependency section, and deletes all sections dealing with demonstration projects which have previously terminated. Status: Chapter 1054, 1998.

AB 1196 (Shelley) Placement of dependent children. This bill establishes a review standard to determine if the home of a relative will provide a safe, stable or permanent home for a child who is placed in foster care with a relative. The bill requires that the social worker and the court consider, among other things, whether any person living in the home of a relative being considered for kinship placement has a history of violent criminal acts or acts of child abuse or neglect, and the level of safety of the relative's home. Status: Chapter 268, 1997.

AB 1361 (Thompson) Dependent children. This bill requires a social worker, before taking a minor into custody based on the likelihood of abuse, neglect, or immediate threat to the child's health or safety, to notify the minor's parent or caretaker that the child may stay in the home only if the alleged perpetrator voluntarily agrees to sign a self-restraining order preventing him or her from any contact with the child unless supervised

by an appropriate child protective agency. Any person who violates a self-restraining order shall be punished by imprisonment in county jail for up to one year. Status: Dead, AJUD.

AB 1651 (Ortiz) Childhood sexual abuse: time of commencing action. This bill permits victims to bring actions for childhood sexual abuse under the extended statute of limitations against not only alleged perpetrators, but also against individuals or entities who allegedly acted intentionally or negligently in permitting the abuse to occur. Status: Chapter 1032, 1998.

AB 1809 (Bowen) Foster care: licensure removal. This bill authorizes a foster child to bring a private attorney general action against a foster care facility for child abuse, and to seek revocation of the facility's license as a part of that action. The bill also directs any civil penalties awarded pursuant to such actions to the Department of Social Services to support general regulatory enforcement activity associated with foster care group homes. Status: Dead, AAPR.

AB 1988 (Kuehl) Foster care. This bill broadens the rights of foster parents to participate in juvenile court proceedings concerning a foster child. The bill authorizes a foster parent to be admitted to any juvenile court hearing concerning his or her foster child and to serve as a witness and present relevant testimony concerning the health, safety, welfare, and social, physical, and emotional condition of any foster child in his or her care. Status: Vetoed.

AB 2229 (Keeley) Birth certificate fees: juvenile court mediation. This bill extends, from December 31, 1998 to June 30, 1999, the sunset date on the authorization for counties to impose an additional \$3 fee for certified copies of birth certificates. This \$3 surcharge is earmarked for mediation services in juvenile dependency cases. Status: Chapter 1062, 1998.

AB 2310 (Wright) Dependent children: adoption. This bill expands the options available to the juvenile court regarding placement of a child who has been adjudged a dependent of the court, and sets an order of preference for placement. The bill authorizes a judge of juvenile court, upon determining that a dependent child is likely to be adopted, to terminate the rights of a parent and order the child be placed for adoption. The court is prohibited from concluding that a child is not likely to be adopted solely on the basis that the child is not yet placed in a pre-adoptive home nor with a relative or foster family who is prepared to adopt the child. Status: Chapter 572, 1998.

AB 2316 (Knox) Child abuse: reports. This bill attempts to increase access to information concerning any abuse or injury inflicted on a child who is in protective custody. All information requested from a child protective agency regarding a child who is in protective custody, or from a child's guardian ad litem, must be provided to the child's counsel within 30 days. Additionally, any employee of a child protective agency who knows or reasonably suspects that a child who is in protective custody has been the victim of child abuse or assault or injury must send a copy of the suspected child abuse report to the attorney within 36 hours. Status: Chapter 900, 1998.

AB 2714 (Ducheny) Indian Child Welfare Act. This bill prohibits the court from using the "existing Indian family doctrine" in determining the best foster care or adoption placement for an Indian child. The bill requires application of the federal Indian Child Welfare Act (ICWA) for all Indian children, thereby precluding the best interest of the individual child as the paramount consideration to be used by California courts. Status: Failed, AJUD.

SB 644 (Polanco) Child abuse central index. This bill creates the Lance's Law Child Safety Reform Act of 1997, providing for greater access to the Child Abuse Central Index (Index) to create a body of information to prevent child deaths. The bill provides access to the Index to child death review teams, child protective agencies, hospital scan teams, out-of-state law enforcement agencies, and others who are involved in the placement of children in foster care and other placements. Status: Chapter 842, 1997.

SB 1254 (Calderon) Child Endangerment Protection Act. This bill imposes, through January 1, 2003, additional reporting requirements on persons who are defined as high-risk sex offenders and who are required to register as sex offenders. In addition to the current reporting requirement, this bill imposes a voice identification and verification requirement, as a condition of release, which would require the offender to call into a computer which will be able to identify the caller by voice and pinpoint the location of the caller. The frequency of calls shall be at the discretion of the court. Status: Vetoed.

SB 1401 (Leslie) Children's Privacy Protection and Parental Empowerment Act. This bill prohibits any person from knowingly permitting an incarcerated person or sex offender to process, input into a computer, assemble, or compile any personal information which identifies a child in a manner which would be sufficient to locate and contact the child. The bill additionally makes it a misdemeanor for list brokers to continue disclosing personal information about a child after receiving a written request from a parent to discontinue the disclosure, and authorizes a child or parent to bring a civil action to enjoin further violation of these provisions and to recover actual damages sustained as a result of the violation. Status: Dead, AAPP.

SB 1482 (Rosenthal) Status review hearings. This bill increases the frequency of status review hearings for children who are dependents of the court due to abuse or neglect and are in a placement other than the home of a legal guardian. The bill also requires the status review of a child for whom the juvenile court has terminated parental rights and ordered placed for adoption to be conducted by the court, and not a local agency. The court, at the status review hearing, is required to make necessary orders to protect the stability of the child and to facilitate and expedite the permanent placement and adoption of the dependent child. Status: Chapter 355, 1998.

SB 1901 (McPherson) Kinship guardianship. This bill creates a new permanency placement option, called "kinship guardianship", for children who are dependents of the court due to abuse or neglect. The bill requires the court, upon appointing a relative as a dependent child's legal guardian at a permanency placement hearing, to terminate dependency jurisdiction and retain jurisdiction over the minor as a ward of the guardianship. This new mandate to terminate dependency jurisdiction applies only if the child has been placed with the relative for at least 12 months, and if the court does not find exceptional circumstances why termination of dependency jurisdiction is not appropriate. If a kinship guardianship is established, the relative shall be eligible for aid under the Kinship Guardianship Assistance Payment Program. Status: Chapter 1055, 1998.

SB 2017 (Schiff) Restraining and protective orders. This bill gives the juvenile court authority to issue custody, visitation, or restraining orders with respect to a child who is the subject of a juvenile delinquency proceeding due to the child's criminal conduct. The delinquency court is authorized to issue ex parte orders enjoining any parent, guardian, or current or former member of the child's household from molesting, attacking, threatening, sexually assaulting, stalking, or battering the child. The delinquency court may also issue ex parte orders prohibiting the child from contacting, threatening, stalking or disturbing the peace of any person the court finds might be at risk from the child. Status: Chapter 390, 1998.

SB 2091 (Watson): Reunification services. This bill authorizes the juvenile court to terminate parental rights and place a child for adoption, without first providing reunification services, if the parent has willfully abducted the child or the child's sibling or half-sibling from his or her placement, and refused to disclose their whereabouts or to return the child to the placement or the child's social worker. The court is prohibited from ordering reunification services in such cases absent a finding by clear and convincing evidence that reunification services would be in the best interest of the child. Status: Chapter 75, 1998.

Custody and Visitation

AB 200 (Kuehl) Child custody. This bill makes legislative findings that it is the public policy of this state to assure that the health, safety, and welfare of children shall be the court's primary concern in determining the best interest of a child for purposes of making custody or visitation orders, and that the perpetration of child abuse or domestic violence in a household where a child resides is detrimental to the child. In furtherance of those findings, this bill requires the court, when granting sole or joint custody to a parent alleged to have a history of abuse or to be a habitual or continual user of controlled substances or alcohol, to state its reasons for making the order, and to ensure that any custody or visitation order is specific to the time, day, place, and manner of transfer of the child. Status: Chapter 849, 1997.

AB 260 (Alby) Custody: parent convicted of unlawful killing. This bill prohibits a parent from being granted custody of a child if the parent is convicted in a court of criminal jurisdiction of the unlawful killing of the other parent or found liable in a civil action for the wrongful death of the other parent. This bill also prohibits a parent from being granted custody of a child if the parent is found liable pursuant to a cause of action surviving the death of the parent for an act committed with malice against that parent, and the parent has been convicted of domestic violence against the other parent. Status: Dead, AJUD.

AB 795 (Honda) Child visitation program. This bill authorizes the family law division of a superior court to establish a program that allows a child to participate in a supervised visitation and exchange program. The bill also authorizes the court to approve and contract with supervised visitation providers to provide such program services. The bill further states the intent of the Legislature to provide funding in order that low-income families may receive supervised visitation services and that families would pay for the services based on their ability to pay. Status: Vetoed.

AB 1222 (Wright) Parental rights: rape. This bill provides the mother of a child conceived as a result of rape, for which a conviction was obtained, with the option of moving to terminate the parental rights of the father, or to seek sole custody of the child with the right to obtain child support. If the mother opts to terminate parental rights, the bill provides a conclusive presumption that the man convicted of rape is unfit to have custody or control of the child. If the mother instead opts for a court order granting her sole custody of the child, the bill prohibits the court from granting the individual convicted of rape custody of, or visitation with, the child. Status: Chapter 594, 1997.

AB 1526 (Escutia) Counsel for minors in custody proceedings. This bill clarifies the role of counsel appointed by the court to represent the best interest of the child. Specifically, it clarifies that counsel appointed to represent a child in a custody or visitation proceeding should gather and present to the court facts that bear on the interests of the child, including the child's wishes. The bill allows appointed counsel to disclose the child's wishes if it is appropriate. Status: Chapter 449, 1997.

AB 1645 (Torlakson) Custody and visitation: findings. This bill requires the court to state its findings in writing or on the record when granting custody of, or unsupervised visitation with, a child to a person who is required to register as a sex offender for an offense against a child, or who has been convicted of one of several enumerated offenses against a child. Status: Chapter 131, 1998.

AB 1837 (Alquist) Children's counseling: domestic violence cases. This bill provides that, for purposes of determining whether it is appropriate to order outpatient counseling for parties involved in a custody or visitation dispute, the court shall consider, among other relevant factors, any history of domestic violence within the past five years between the parents and the child and any other party seeking custody or visitation, or any or all of them. Status: Chapter 229, 1998.

AB 1884 (Cedillo) Court interpreters. This bill creates a pilot project requiring the court, in any child custody proceeding, to appoint an interpreter at court expense if the court believes one or both of the parties is unable to participate fully in the proceeding due to a lack of proficiency in the English language, and the party needing the services of the interpreter qualifies for a waiver of court fees and costs, or the court determines that the parties are otherwise financially unable to pay the cost of an interpreter. The pilot project shall last for one year, beginning July 1, 1999, and shall be established in at least two pilot counties, including Los Angeles County. Status: Chapter 981, 1998.

AB 2209 (Honda) Stepparent visitation. This bill imposes additional restrictions on the court's authority to award visitation to a stepparent. The bill authorizes the award of visitation to a stepparent if there is a preexisting relationship between the stepparent and the child that has engendered such a bond that visitation would be in the best interest of the child. The bill provides a rebuttable presumption that visitation is not in the best interest of the child if the child's parent or parents object to visitation with the stepparent. Status: Dead, AJUD.

AB 2386 (Bordonaro) Custody and visitation: parent convicted of murder. This bill prohibits the court from granting custody or visitation to a parent who has been convicted of first degree murder of the other parent unless the court affirmatively finds that there is

no risk to the child's health, safety, and welfare. The court may consider the wishes of the child in determining the child's best interest if the child is of sufficient age and capacity to form an intelligent preference. In deciding whether custody or visitation would pose a risk to the child, the court may consider any credible evidence that the parent convicted of murder was a victim of domestic abuse committed at the hands of the deceased parent. Status: Chapter 705, 1998.

AB 2745 (Cardoza) Custody and visitation: parent convicted of murder. This bill prohibits the court from granting custody or visitation to a parent who has been convicted of first degree murder of the other parent unless the court affirmatively finds that there is no risk to the child's health, safety, and welfare. The court may consider the wishes of the child in determining the child's best interest if the child is of sufficient age and capacity to form an intelligent preference. In deciding whether custody or visitation would pose a risk to the child, the court may consider any credible evidence that the parent convicted of murder was a victim of domestic abuse committed at the hands of the deceased parent. Status: Chapter 704, 1998.

SB 1037 (Vasconcellos) De facto parents: visitation. This bill allows a de facto parent, as defined, to petition the court for visitation rights if: the de facto parent had a pre-existing parental relationship with the child, formed with the consent and encouragement of the custodial parent; visitation is in the best interest of the child; and no person, other than the custodial parent and the de facto parent, has received the child into his or her home, and has openly held out the child as his or her own, or is exercising custody or visitation rights pursuant to a court order. Status: Dead, ASM.

SB 1717 (Sher) Uniform Child Custody Jurisdiction and Enforcement Act. This bill repeals the Uniform Child Custody Jurisdiction Act (UCCJA) and replaces it with the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA). The new uniform act provides that a child's "home state" shall continue to exercise continuing, exclusive jurisdiction until the child and all parties leave the state, or the state otherwise declines to exercise jurisdiction. The new uniform act also clarifies that orders established pursuant to a court's emergency jurisdiction may only be for a short duration. The Judicial Council is required, by January 1, 2002, to conduct a study of the effects of implementing the UCCJEA. Status: Vetoed.

Child, Family and Spousal Support

AB 239 (Ortiz) Simplified forms and procedures. Existing law required, by January 1, 1997, the use of simplified forms and procedures by the District Attorney when establishing paternity and support orders. This bill enacts urgency legislation that allows

the DA to continue, until September 30, 1997, using the procedures and forms in effect on December 31, 1996. Status: Chapter 14, 1997.

AB 400 (Kuehl) Spousal support. This bill clarifies that, with regard to marriages of long duration, the court has the discretion to determine the appropriate length of a spousal support order. The bill additionally revises the mandatory warning provision of existing law, and instead grants the court discretion to advise a recipient of spousal support that he or she should make reasonable efforts to assist in his or her support needs, taking into account the particular circumstances considered by the court in determining the support order. Status: Vetoed.

AB 573 (Kuehl) Child support. This bill expands use of the Franchise Tax Board (FTB) to collect child support, and implements several provisions to bring the state into compliance with federal welfare reform as it pertains to child support collections. The bill permits district attorneys to refer child support obligations that are not delinquent to the FTB for collection. Status: Chapter 599, 1997.

AB 702 (Villaraigosa) Child support. This bill expands the partnership of agencies involved in collecting child support to include financial institutions. The bill requires financial institutions to match their account holders against a list of past due obligors provided by FTB, and to report to FTB on a quarterly basis the name, address, social security number, and other identifying information for each noncustodial parent who maintains an account at the institution and who owes past due support. Status: Chapter 697, 1997

AB 907 (Ortiz) Child support: administrative adjudication. This bill establishes the Division of Child Support Enforcement in the Administrative Adjudications Division of the State Department of Social Services, and provides for the administrative adjudication of child support obligations. The bill also creates procedures for hearings to establish child support and paternity, the enforcement and modification of support obligations so established, and for judicial review of final orders issued by an administrative law judge. Status: Dead, AJUD.

AB 960 (Wright) Child support: retroactivity; nonpayment by employer. This bill requires the court, absent a finding of good cause to the contrary, to make an order modifying or terminating a child support order, which is based on the unemployment of a party, retroactive to either the date of service of a motion or the date of unemployment, whichever is later. The bill also prohibits a support obligor from being held in contempt or subject to criminal prosecution for nonpayment of support when support has been

withheld from the obligor's earnings pursuant to an earnings assignment order but not received by the obligee. Status: Chapter 854, 1998.

AB 1395 (Escutia) Child support. This bill expands the use of the Franchise Tax Board (FTB) to help collect the approximately \$5 billion of delinquent child support currently owing California's children. The bill requires the District Attorney's child support office to refer delinquent child support cases to the FTB for collection when the payment is 90 days past due and authorizes the DA to refer child support cases to the FTB for collection when the child support payment is 30 or more days delinquent. Status: Chapter 614, 1997.

AB 1630 (Sweeney) Public contracts. This bill requires any state agency that makes a loan or awards a grant to an individual to report the name, address, social security number and employer name of the loan or grant recipient to the Employment Development Department (EDD) for inclusion in the New Employee Registry. The bill also requires every state agency to report to EDD the name and social security number of each contractor who contracts with the state agency, and requires employers who contract with the state to report to EDD the name, business name, and address of independent contractors who will perform work on the state contract. Status: Vetoed.

AB 1666 (Alquist) Child support: state contracts. This bill declares that it is the policy of this state that anyone who benefits financially from or through the state shall be in compliance with his or her court-ordered child support obligations. This bill attempts to accomplish that policy by requiring that every written contract entered into between a contractor and the state contain an acknowledgment that the contractor is fully complying with all earnings assignment orders for support, is reporting all new employees to the state's New Employee Registry, and will make its payroll records available for review for purposes of monitoring and enforcing compliance with support orders. Status: Dead, AJUD. Substantially similar language was amended into AB 1396 (Alquist), Chapter 899, 1998.

AB 1682 (Ortiz) Public contracts. This bill provides greater accountability for payment of child support obligations for certain parties who benefit financially from any county, city, district, or other political subdivision of the state. The bill requires any county, city, district, or other political subdivision of the state that makes a loan or awards a grant to report the name, address, social security number and employer name of the loan or grant recipient to EDD for inclusion in the New Employee Registry. The bill also requires employers who contract with any county, city, district, or political subdivision of the state to report to EDD the name, business name, and address of independent contractors who will perform work on the contract. Status: Vetoed.

AB 1772 (Olberg) License revocation: sporting licenses. This bill extends the State License Match System (SLMS) to apply to any sporting license, including any license issued by the Department of Fish Game (Department) for sportfishing or hunting. The bill requires the Department to determine if an applicant for a license is included on the Department of Social Services (DSS) certified list of delinquent child support obligors before issuing or renewing any recreational license. If the applicant is on the list, the Department shall be prohibited from issuing a licenses to the applicant, except for a 150-day, non-renewable temporary license, until the Department receives a release from the district attorney authorizing the issuance of the license. Status: Failed, SAPPR.

AB 1900 (Cardenas) UIFSA: address confidentiality. This bill sets forth the required procedure for seeking an ex parte order prohibiting the disclosure of the address or other identifying information of a party or child in an interstate action to establish or enforce child support or to establish paternity. The bill also requires the district attorney to inform the petitioner of the requirement that the pleadings contain identifying information about the petitioner and the child unless an order of nondisclosure is granted, and requires the district attorney to seek an order of nondisclosure on behalf of a party who has previously obtained a protective or restraining order or has been granted a good cause exception from child support cooperation requirements. Status: Chapter 511, 1998.

AB 1961 (Aroner) Child support: fair hearings. This bill provides custodial and noncustodial parents with the right to a state fair hearing to address grievances with the district attorney concerning child support collection. The hearing rights created under this bill are the same rights to a fair hearing afforded to an applicant for or recipient of welfare who has grievances about the county's handling of his or her application or payment of welfare. Status: Vetoed.

AB 2014 (Kuehl) Child support enforcement: independent contractors. This bill requires employers of independent contractors to report specified information to the Employment Development Department (EDD) within 20 days of either the employer's first payment to the independent contractor of more than \$600 or entering into a contract for the payment in excess of \$600, whichever occurs first. This information is to be included in EDD's New Employee Registry or similar registry for purposes of collection and enforcement of child support obligations. Status: Dead, AJUD.

AB 2037 (Kuehl) Child support: health insurance. This bill makes health insurance more readily available to children by re-defining child support and establishing a health insurance plan for children receiving child support enforcement services from the district

attorney. The bill authorizes the Department of Social Services to contract or enter into a memorandum of understanding with one or more private health insurance companies or health maintenance organizations for the purpose of obtaining low-cost private health care coverage for children for whom the district attorney is providing support enforcement services. Status: Dead, AHealth.

AB 2093 (Morrissey) Child support enforcement: administrative process. This bill establishes an administrative process for the adjudication of child support obligations. The bill finds that an administrative process for handling child support cases is less expensive and more efficient than the court process and sets forth procedures for the use of the administrative process to establish paternity and support orders and to enforce or modify support orders. Status: Failed, AJUD.

AB 2094 (Morrissey) Child support enforcement: single statewide system. This bill moves the state's "IV-D Agency" (the agency responsible for the state's child support program) from the Department of Social Services to the Franchise Tax Board (FTB) and places all of the obligations to run the state's child support enforcement program in the hands of the FTB. Status: Failed, AJUD.

AB 2169 (Kuehl) Child support: technical clean-up. This bill makes various technical corrections to statutes relating to the enforcement of child support, as required by federal law. The bill clarifies that in ensuring the confidentiality of support enforcement and abduction files, no case information shall be released about the whereabouts of either a party or child if a protective order has been issued or if the district attorney has reason to believe that the release of the information may result in physical or emotional harm. The bill also makes applicable to labor union hiring halls the requirement that employers report specified information about new employees to the Employment Development Department for inclusion in the New Employee Registry. Status: Chapter 858, 1998.

AB 2343 (Woods) Child support enforcement. This bill makes several changes to the state's child support enforcement program. The bill broadly exempts all counties "that meet or exceed the results of FTB's child support collection program" from the requirement created by AB 1395 (Escutia Chapter 614, 1997), that they refer child support cases to the FTB for collection if the obligor is more than 90 days delinquent. The bill also extends to October 1, 2000, the date upon which the statewide automated child support system must be operational, even though this date is set by federal law. Status: Failed, AJUD.

AB 2498 (Runner) Child support commissioners: evaluation. This bill requires the Judicial Council to evaluate the successes and failures of the child support commissioner system to determine if it is improving the child support enforcement program in California. The Judicial Council is required to submit a report to the Legislature on the results of this evaluation by February 1, 2000. Status: Chapter 249, 1998.

SB 247 (Lockyer) Child support enforcement. This bill is one of a three-bill package expanding the role of the Franchise Tax Board (FTB) in the collection of delinquent child support cases in an attempt to improve child support collections in the state. The bill provides that a District Attorney's child support office that refers child support cases to the FTB for collection shall receive credit for the full amount of the collection and the applicable incentive payment for all collections attributable to the FTB. Status: Chapter 601, 1997.

SB 568 (Sher) Uniform Interstate Family Support Act. This bill repeals the Uniform Reciprocal Enforcement of Support Act (URESAs) and enacts the Uniform Interstate Family Support Act (UIFSA), as required by the federal Personal Responsibility and Work Opportunity Reconciliation Act. Among other things, the bill provides that only one state may have continuing exclusive jurisdiction to make orders concerning child and/or spousal support at any one time, and requires employers to comply with an income withholding order for support which is issued in another state, in the same manner as if it had been issued by a court of this state. Status: Chapter 194, 1997.

SB 936 (Burton) Child support. This bill requires the child support enforcement program operated by the District Attorney in each county to report specific, uniform data which may be used to evaluate the county's performance in establishing and collecting child support, and which will be used to calculate the correct performance incentive to be paid to each county. Status: Chapter 926, 1997.

SB 1410 (Burton) Child support: incentive payments. This bill changes the formula for awarding incentives to county child support enforcement programs to improve the state's child support collection record. The bill implements a performance-based child support incentive system which focuses on a county's cost-effectiveness and administrative effort in the operation of the child support program and requires poorer performing counties to accept technical assistance from the Department of Social Services in order to receive any state child support incentives. Status: Chapter 404, 1998.

SB 1508 (Rainey) Child support collection: claims against public entities. This bill requires every public agency, upon determining that a claim is to be paid to any

individual, to notify the Franchise Tax Board (FTB) of the proposed payment so that FTB may issue an order to withhold payment from the claim if the claimant is delinquent on his or her child support. The bill prohibits FTB from issuing a withholding order to collect delinquent support if the collection would cause undue financial hardship to the obligated parent, would threaten the health or welfare of the obligated parent or his or her family, would cause irreparable loss to the obligated parent, or would be contrary to the best interest of the obligee or the child. Status: Dead, AJUD.

Domestic Partnership

AB 54 (Murray) Marriage: domestic partners. This bill prohibits the state, its courts and agencies from recognizing any government action in another state respecting or recognizing a relationship between persons of the same gender that is treated as a marriage in that other state. The bill also sets forth legislative findings concerning the state's marriage license laws, noting, among other things, "the strong public policy" of this state to recognize and foster the marital union of only one man and one woman. Status: Dead, ASM.

AB 800 (Margett) Same-gender marriages. This bill would prohibit any court or agency in this state from respecting or recognizing a marital relationship between persons of the same gender which is validly contracted in another state and treated as a marriage in that state. Status: Failed, AJUD.

Domestic Violence

AB 340 (Alby) Domestic violence protective orders. This bill provides that a restraining order or protective order issued in a criminal case charging domestic violence against a defendant shall have precedence over any outstanding civil court order against the defendant. Status: Chapter 48, 1997.

AB 493 (Brown) Name change. This bill exempts victims of domestic abuse from having their names published when they request a legal name change if the application for a name change is accompanied by an affidavit stating that the name change is requested for the purpose of avoiding domestic violence. Status: Dead, SJUD.

AB 812 (Scott) Domestic violence centers: appropriation of funds. When this bill was heard by the Judiciary Committee, it increased marriage license fees by \$10 in order to increase funding for domestic violence prevention. The \$10 increase was expected to provide approximately \$2.2 million in additional funds for use in domestic violence programs statewide. The bill was subsequently amended to instead appropriate

\$6,000,000 to be distributed to counties which have established domestic violence centers by January 1, 1998. Status: Dead, SAPP.

AB 1531 (Shelley) Domestic violence: CLETS. This bill is designed to ensure that criminal court domestic violence protective orders are entered into the statewide, as well as federal domestic violence protective order registries. The bill requires the court or its designee, within one business day of the issuance of specified criminal court protective orders, to enter the terms of the order into the California Law Enforcement Telecommunications System (CLETS) or transmit the order to law enforcement personnel authorized to enter the data into CLETS. Status: Chapter 187, 1998.

AB 1952 (Cedillo) Cohabitants. This bill expands the definition of cohabitants, who are entitled to a restraining order under the Domestic Violence Prevention Act (DVPA), to include roommates and other unrelated persons who share a common dwelling unit without having an intimate relationship. Status: Dead, SJUD.

AB 2177 (Kuehl) Violence Against Women Act. This bill enacts provisions relating to domestic violence protective orders which are required to bring California into compliance with the federal Violence Against Women Act. The bill clarifies that a valid domestic violence protective or restraining order issued by a court of another state, tribe or territory does not need to be registered in the Domestic Violence Protective Order Registry before it may be enforced. The bill also expands the information that is required to be included in the Judicial Council's informational packets regarding obtaining domestic violence orders. Status: Chapter 702, 1998.

AB 2700 (Kuehl) Domestic violence courts. This bill requires the Judicial Council to evaluate the merits and effectiveness of the various domestic violence courts in California and in other states. This evaluation shall be submitted to the Legislature by January 1, 2000 and shall identify issues and potential obstacles, if any, to be considered in developing and implementing effective domestic violence courts at the local level. Status: Chapter 703, 1998.

SB 326 (Leslie) Juveniles: restraining and protective orders. This urgency bill clarifies existing law regarding the authority of the court to allow minors to appear to request or oppose a request for restraining and protective orders. The bill requires the court to permit a minor, under 12 years of age, to appear in court with a guardian ad litem, but without counsel, for the limited purpose of requesting or opposing: (a) an injunction or temporary restraining order prohibiting civil harassment; (b) an injunction or temporary restraining order prohibiting workplace violence; (c) a protective order issued under the Domestic Violence Prevention Act; or (d) a protective order in

connection with an action to establish paternity. If the minor is a dependent or ward of the court, the juvenile court shall have jurisdiction to hear such matters, otherwise the matter shall be brought in the appropriate municipal or superior court. Status: Chapter 706, 1998.

SB 489 (Alpert) Domestic violence victims address protection program. This bill creates, until January 1, 2005, an address protection program for specified victims of domestic violence. The bill allows program participants to designate the Secretary of State as agent for service of process, and requires the Secretary of State to forward to the program participant any legal documents received. Program participation does not constitute evidence of domestic violence for purposes of making custody or visitation orders. Status: Chapter 1005, 1998.

SB 564 (Solis) Domestic violence: custody and visitation. This bill authorizes the court, in a Domestic Violence Prevention Act (DVPA) action, to issue a temporary custody or visitation order, on an ex parte basis, to unmarried parents who have legally established a parent-child relationship. If a party has not established a parent-child relationship with the child, the court may award temporary sole legal and physical custody to the party who has established the parent-child relationship, and may make an order of no visitation to the parent who has not established a parent-child relationship. Status: Chapter 396, 1997.

SB 1939 (Alpert) Domestic violence: statute of limitations. This bill extends the statute of limitations for the commencement of an action for recovery of damages suffered as a result of domestic violence. The action must be commenced either within three years from the last act of violence, or within three years after the plaintiff discovers or reasonably should have discovered that the injury or illness resulted from an act of domestic violence by the defendant, whichever is later. Status: Chapter 123, 1998.

Family Law

AB 356 (Figueroa) Enforcement of protective orders. This bill revises the requirements for service of restraining orders and protective orders, and provides immunity from civil liability for peace officers detaining or arresting a person, in good faith, in the enforcement of these orders. The bill also specifies the order of priority for enforcement of multiple protective and restraining orders. Status: Chapter 347, 1997.

AB 435 (Ducheny) Encumbering community property. This bill permits a party to encumber his or her interest in the community real property, after giving notice to the other party, to secure a loan for any purpose after the dissolution proceeding has commenced but prior to the final disposition of the community estate. The party making

the encumbrance shall be solely liable for that debt, regardless of the final disposition of the community estate, except to the extent that the debt is incurred for necessities of life. Status: Dead, ASM.

AB 913 (Runner) Divorce statistics. This bill requires the clerk of the superior court of each county to report to the Judicial Council, on an annual basis, the number of judgments for dissolution of marriage, legal separation and nullity entered in that county. The Judicial Council is required to report these statistics annually as a part of their annual report on court statistics. Status: Chapter 225, 1998.

AB 1098 (Ortiz) Dissolution of marriage: bifurcation of proceedings. Before a court may sever a marital dissolution proceeding and grant an early and separate trial on the status of the marriage, this bill provides that, in addition to existing requirements, the petitioner must serve a preliminary declaration of disclosure and a completed schedule of assets and debts on the respondent, concurrently with any request for an early and separate trial to terminate the status of the marriage, unless the parties defer filing until a later time. The bill also provides that any obligation imposed pursuant to court order shall be enforceable after a party to the dissolution dies. Status: Chapter 56, 1997.

AB 1794 (Runner) Division of community property: domestic violence cases. This bill alters California's no-fault divorce laws by bringing the concept of "fault" back into the community property division and distribution process. The bill authorizes the court, in a proceeding for dissolution of marriage or legal separation, to deviate from the traditional 50-50 scheme for division of community property and award an additional amount of property to compensate a spouse who has been the victim of domestic violence at the hands of the other spouse. Status: Failed, AJUD.

AB 1890 (Kuehl). Children's name change. This bill requires the court, upon request of a party to a marital dissolution or nullity, to hyphenate the child's last name to include the party's name if: 1) there is no court order concerning custody; 2) the requesting party has a court order for sole physical custody of the child; or 3) the requesting party has a court order for joint physical custody and has actual physical custody of the child 50 percent of the time or more. Status: Failed, AJUD.

AB 2207 (Escutia) Family law information centers. This bill creates a pilot project to establish family law information centers (FLICs) in the superior court of three counties to provide needed factual information to family court litigants. The FLICs provide low-income litigants with a "roadmap" to better enable them to maneuver through the increasingly complicated family court system. Status: Chapter 721, 1998.

AB 2801 (Committee on Judiciary) Family law/probate omnibus bill. This bill makes various non-controversial changes to the Family Code, the Code of Civil Procedure, and

the Probate Code relating to family and probate law. The bill, among other things: conforms the service requirements and procedures for civil harassment orders and workplace harassment orders to restraining orders issued under the Domestic Violence Prevention Act; and makes noncontroversial changes to the waivability of declarations of disclosure in dissolution proceedings. Status: Chapter 581, 1998.

FEES, PENALTIES AND TAXES

AB 713 (Caldera) Taxpayers bill of rights. This bill conforms state tax law to the recently amended Federal Taxpayers Bill of Rights II which was enacted on July 30, 1996. These provisions give taxpayers increased protections in their dealings with the Franchise Tax Board. Status: Chapter 600, 1997.

AB 735 (Ortiz) Law libraries. This bill increases the filing fees in small claims court by \$2 to fund county law libraries. The \$2 increase would result in a fee of \$17 for each claim filed, and \$32 for multiple claims. Status: Failed, ASM.

AB 1224 (Thomson) Tax penalties amnesty. This bill creates a series of mechanisms to deal with financially failing Mello-Roos districts, and permits the legislative body of a district to declare a special tax penalties amnesty program and to waive delinquency and redemption penalties under specified conditions. The bill expands the services for which Mello-Roos tax proceeds can be used, and allows the legislative body of a district to accept the tender of district bonds or other debt secured by the property to pay off all or part of the taxes owed to the district. Status: Chapter 946, 1997.

AB 1631 (Sweeney) Taxpayers bill of rights. This bill affirms the Legislature's intent to conform state law to federal law relative to shifting the burden of proof in connection with California income taxes and makes several other changes related to disputes between taxpayers and the Franchise Tax Board, Board of Equalization, and Employment Development Department. Status: Dead, AAPR.

AB 1933 (Machado) Local taxes: special purpose parcel taxes. This bill specifies that the three-year statute of limitations under existing law for filing various types of actions also applies to an action challenging the validity of a parcel-based special tax levied by a local agency. It extends from 30 days to 90 days the period for a parcel owner to notify a local jurisdiction of its identification of a parcel that is inconsistent with the identification of that property by assessor's parcel number. The bill also requires that the initial levy of any parcel-based special tax by a local agency be billed on the annual property tax bill sent by the county tax collector. Status: Chapter 342, 1998.

AB 1964 (Aguiar) Bonds: Validating Proceedings. This bill requires written notice of a validation action when a local agency pledges sales or use tax revenues for the payment of bonds or other security obligations and receives those revenues from another public agency which imposes or administers the taxes. A validation action is when a court is asked to determine and declare that the debt being issued is a valid and binding obligation of the municipal body. Status: Chapter 360, 1998.

AB 2049 (Firestone) Bonds: Validating Proceedings. This bill revises the notice requirement for a validation proceeding in order to provide the public with more information as to the subject of the proceeding and their right to respond without fear of retaliation by the public agency. The notice contained in the summons regarding a validating proceeding shall inform interested persons that they may contest the legality or validity of the matter by appearing and filing a written answer to the complaint. The notice must also state that persons who contest the legality or validity of the matter will not be subject to punitive action, such as wage garnishment or seizure of their real or personal property. Status: Chapter 529, 1998.

Health Care

AB 250 (Kuehl) Health care: MICRA caps. This bill increases the amount of money plaintiffs may recover as noneconomic damages in actions against health care providers for professional negligence. Current law puts a \$250,000 cap on noneconomic damages. This bill increases the cap to \$950,000 and creates five exceptions when the cap may be removed altogether for awards of "pain-and-suffering" damages. Status: Dead, ASM.

AB 274 (Floyd) Medical records: subpoena. This bill provides that the deliberations and records of quality assurance committees and peer review bodies relating to the provision of health care deliberations and records shall not be subject to administrative subpoena. Status: Dead, AJUD.

AB 332 (Figueroa) Health care: medical director liability. When this bill was heard by the Judiciary Committee, it provided protection of life insurance loan values and interest in any accrued dividends by removing the \$8,000 limited exemption from money judgments against a debtor. As subsequently amended, the bill requires a physical exam or review of medical records before a health plan or insurer refuses to authorize services; requires medical necessity decisions that result in denial of care to be made only by licensed practitioners; and requires health plans and insurers to disclose to the public, upon request the criteria used to determine whether to authorize or deny services. Status: Vetoed.

AB 564 (McClintock) Immunity: health care service plans. This bill provides immunity from liability for communications of medical consultants when the communications are intended to assist the Department of Corporations (DOC) in enforcing the provisions of the Knox-Keene Health Care Service Plan Act of 1975 and the medical consultant is under contract with the DOC. Status: Chapter 139, 1997.

AB 1220 (Migden) Medical negligence. This bill removes the \$250,000 limitation on the amount of damages for noneconomic losses recoverable in medical negligence cases when the trier of fact finds that a health care provider took or failed to take certain actions, such as refusing diagnosis, treatment, or referral to another health care provider for the provider's economic benefit. Status: Dead, AJUD.

AB 1644 (Figueroa) Medical information: confidentiality. This bill declares the intent of the Legislature to provide greater protection for the privacy rights of patients and to address the problems concerning, among other things, the limited definition of "medical information" currently subject to confidentiality provisions, and the negligent disposal or release of medical records. Status: Dead, ASM.

AB 2436 (Figueroa) Health care service plans: liability. This bill provides that a health care service plan ("health plan") shall be directly accountable to patients to ensure that health care providers, rather than the health plans, are in charge of patient care. The bill would also impose on health plans the duty to exercise ordinary care when making health care treatment decisions, and would make the health plan liable for damages for harm to an enrollee proximately caused by its failure to exercise ordinary care. Status: Failed, SAPP.

AB 2527 (Cardenas) Sale of health care facilities. This bill expands existing laws governing the sale or lease of a non-profit health facility by requiring the Attorney General (AG) to consent to a transfer to another public benefit corporation. The bill requires the AG to make a public benefit corporation's notice of intent to sell or lease, and related documents, available to the public in written form, and to also make the notice available in electronic form on the Internet. Status: Vetoed.

AB 2553 (Thomson) MICRA: payment of noneconomic damages. This bill provides that, in an action for injury against a health care provider based on medical malpractice, damage awards for pain and suffering losses shall be paid in one lump sum, and not by periodic payments. Status: Dead, AJUD.

SB 814 (Leslie) HMOs: unfair payment practices. This bill establishes specific requirements pertaining to claims submitted to health care service plans by emergency

physicians. If a health plan fails to comply with existing claims payment practices regarding a claim by an emergency physician, the physician will be entitled to a penalty of 30% of the total dollar amount of the claim paid, in lieu of 10% interest as provided by current law. If a physician receives no response from the plan regarding a claim, resubmits the claim, and the plan does not deny, contest or pay the claim, the penalty is twice the total dollar amount of the claim plus the amount of the claim, in lieu of 10% interest as provided by current law. Status: Vetoed.

SB 955 (Rosenthal) Health care coverage: enforcement authority. This bill enhances Department of Corporations (DOC) enforcement authority over health care service plans (health plans) under the Knox-Keene Health Care Service Plan Act (Act). The bill allows DOC to issue a cease and desist order against any person violating the Act, clarifies DOC's authority to seek ancillary or equitable relief in superior court, and confirms the court's jurisdiction to award such relief. Status: Chapter 836, 1998.

SB 1382 (Leslie) Medical information: confidentiality. This bill states the Legislature's intent that additional protections be provided regarding the disclosure of a patient's confidential medical information. Status: Dead, SEN.

SB 1504 (Rosenthal) Independent medical review. This bill requires, on and after January 1, 2000, that every health care service plan provide an enrollee with the opportunity to seek an independent medical review with regard to disputed health care services which have been denied, significantly delayed, terminated, or otherwise limited by the plan or one of its contracting providers. The bill additionally permits enrollees to seek Department of Corporations (DOC) review of unresolved grievances after 30 days (instead of the current 60 days). DOC is required to establish an independent medical review system to assign requests for review involving disputed health care services to an independent medical review organization. Status: Dead, AHealth.

SB 1653 (Johnston) Independent medical review. This bill requires, on and after January 1, 2000, that every health care service plan provide an enrollee with the opportunity to seek an independent medical review with regard to disputed health care services which have been denied, significantly delayed, terminated, or otherwise limited by the plan or one of its contracting providers. The bill additionally permits enrollees to seek Department of Corporations (DOC) review of unresolved grievances after 30 days (instead of the current 60 days). DOC is required to establish an independent medical review system to assign requests for review involving disputed health care services to an independent medical review organization. Status: Dead, AHealth.

SB 1702 (Rosenthal) HMO arbitrations. This bill requires that, if a health care service plan uses arbitration to settle disputes with enrollees or subscribers, it shall require that an arbitration award be accompanied by a written decision to the parties that contains specified information. Copies of modified written decisions shall be provided to the Department of Corporations. The bill provides that it shall not be construed to preclude the department, or any plan or person, from disclosing information contained in an arbitration decision if the disclosure is otherwise permitted by law. Status: Chapter 838, 1998.

SB 2222 (Watson) Childhood immunization: disclosure of records. This bill increases access to childhood immunization records to specified organizations in order to raise immunization rates and prevent unnecessary or ill-advised immunizations. Status: Chapter 566, 1998.

LIABILITY

Crimes and Misdemeanors

AB 1390 (House) County recorders. This bill makes it a misdemeanor or infraction for a person to attempt to record an unrecordable document without a court order after the county recorder has provided a specified notice that the document is unrecordable. Status: Chapter 448, 1997.

SB 238 (Haynes) Juveniles: costs of support. This bill provides that parents and other persons otherwise liable for the support of a child shall not be liable for the reasonable costs of supporting a child placed in a juvenile facility, if the placement is based upon a finding by a court of law that the minor committed a crime against that parent or other person. Status: Chapter 478, 1997.

SB 2068 (Kaloogian) Civil perjury prosecution: San Diego pilot. This bill authorizes the San Diego County Board of Supervisors to institute a three-year pilot project requiring the district attorney to establish a special unit to investigate and prosecute acts of perjury committed during civil litigation. Status: Dead, AJUD.

Damages Provisions

AB 591 (Aguiar) Mobilehomes. This bill increases the penalty for each willful violation of the Mobilehome Residency Law (MRL). In addition to damages afforded by existing law, a court in its discretion may award up to \$2,000 in damages for each willful violation. The bill also specifies that an action to enforce the MRL may be brought in small claims court. Status: Chapter 141, 1997.

AB 657 (Baugh) Limitation of remedies for wrongful termination. This bill limits the amount of damages for loss of future earnings to the amount of wages and benefits the employee could reasonably have been expected to earn during the five-year period following termination. Currently there is no such arbitrary block on the remedies available to employees for such wrongful termination. Status: Failed, AJUD.

AB 1371 (Morrow) Restriction on punitive damages. This bill makes a number of significant changes to the law governing punitive damages awards, including: (1) requiring that the amount of punitive damages be decided by judges rather than juries; (2) prohibiting the defendant's financial condition from being considered in determining the amount of the damages award; and (3) requiring that the amount of damages be reduced by the extent to which it would unfairly duplicate other punitive damages awards paid for the same conduct. Status: Failed, AJUD.

AB 1629 (Miller) Advertising: electronic mail. This bill prohibits the unauthorized use of electronic mail networks to send unsolicited e-mail advertisements (spam) and exempts specified non-profit organizations from the state's telemarketing regulatory scheme. Status: Chapter 863, 1998.

AB 1958 (Wildman) Peace officers. This bill authorizes a court to impose damages or a civil penalty, or both, upon a person who, in a disciplinary proceeding against a public safety officer, knowingly altered, tampered with, concealed, or destroyed relevant evidence for the purpose of harming the officer. Status: Failed, SPubS.

AB 2148 (Pacheco) Wrongful termination: duty to mitigate. This bill reduces the damages a wrongfully terminated employee is entitled to receive if the employee does not diligently seek an "appropriate" new job, even if it is one for substantially less money which may require relocating to another state. The bill replaces the broad common law requirement that a wrongfully terminated employee make reasonable efforts to mitigate damages by seeking a "substantially similar" replacement job with a narrower statutory rule requiring a wrongfully terminated employee to diligently seek an "appropriate" new job. The bill defines appropriate new job as "a position for which the employee is qualified by reason of experience or training, and which offers compensation in an amount not less than 70 percent of the compensation paid to the employee in the position from which he or she was terminated." Status: Failed, AJUD.

AB 2640 (Bowen) Advertising: electronic mail. This bill creates civil remedies available to internet service providers for the unauthorized use of their electronic mail networks to send unsolicited e-mail advertisements (spam). The remedy for these unauthorized acts is either the actual commercial value of the loss, or if the loss is

difficult to calculate, statutory damages as specified. It also provides a specific additional remedy where the names or e-mail accounts of an internet service provider are seized and used without authorization. Status: Dead, AJUD.

SB 262 (Burton) Invasion of privacy. This bill seeks to discourage invasive paparazzi-like conduct by expanding on the common law tort of intrusion and creating a statutory cause of action for invasion of privacy and constructive invasion of privacy. The bill provides that available damages for such invasions include three times the amount of any general and special damages proximately caused by the invasion or constructive invasion of privacy, punitive damages, and disgorgement of any proceeds or other consideration received if the invasion was committed for a commercial purpose. Status: Chapter 1000, 1998.

SB 2098 (Wright) Confidentiality: mental health records. This bill permits the Department of Mental Health (DMH) to use a mental health client's name and other personal identifiers in its client database. It also increases penalties from \$500 to \$10,000 for willful confidentiality violations, and provides for \$1,000 in damages for confidentiality violations due to negligence. Status: Chapter 738, 1998.

Immunity and Scope of Liability

AB 594 (Torlakson) Construction defect pre-litigation process. This bill revises the procedures and timeline for the pre-litigation process in construction defect suits ("SB 1029 process") designed to encourage settlement of such suits between a builder of a common interest development and a homeowners' association. The bill expands the process to a maximum of 180 days, but prohibits any extension beyond that, even upon stipulation of all parties. The bill additionally requires the builder to notice any subcontractor, material supplier, design professional or other party who may be responsible for the design, construction, or supply of the building components which are the subject of defects in question. Status: Vetoed.

AB 612 (Margett) Immunity for injuries caused by public entities. This bill provides immunity from liability to the Los Angeles County Department of Public Works and its employees for injuries caused by the condition of several types of water resources and facilities, including canals, conduits, streambeds or adjacent groundwater recharge spreading grounds. Status: Dead, AJUD.

AB 746 (Miller) Liability for construction defects. This bill provides that a builder, developer, contractor, subcontractor, seller of residential improvements, or supplier shall only be liable for losses or damages occasioned by a construction defect, as defined. The bill creates a rebuttable presumption that construction was done in accordance with

accepted trade and professional standards of care for good and workmanlike construction if there was compliance with the applicable codes at the time of the construction. The bill also bars an action to recover damages arising from a latent deficiency, as defined, if the action is brought more than six years after the substantial completion of the development or improvement. Status: Dead, AJUD.

AB 831 (Poochigian) Public works: liability of contractors. This bill limits the liability of a general contractor on a public works project for a subcontractor's failure to pay mandatory payroll taxes when the subcontractor does not certify that it paid, or will pay, such taxes on a certified payroll form issued by the state. Status: Failed, SIR.

AB 865 (Pringle) School facilities. This bill permits school districts to lease commercial buildings that do not meet school earthquake construction standards for use as school facilities if the buildings meet certain building and structural standards. The bill also immunizes school board members and district employees, but not school districts, from being held personally liable for property damage or personal injury resulting from their decision to use such buildings. Status: Chapter 629, 1997.

AB 912 (House) Attack on employment discrimination remedies. This bill exempts the Workers Compensation Act from the protections of the Fair Employment and Housing Act, denying workers who are disabled on the job the same discrimination remedies provided to workers whose disabilities are not work-related. Status: Dead, AJUD.

AB 915 (Baugh) Roller-blading. This bill would add "roller-blading or in-line skating" to the list of "hazardous recreational activities" for which public entities and their employees enjoy a qualified immunity from liability. Status: Chapter 805, 1997.

AB 988 (Perata) Product liability: firearms. This bill authorizes shooting victims or their survivors to bring product liability suits based on a defective design against the manufacturer of the firearm or ammunition used in the shooting. Status: Dead, AJUD.

AB 1070 (Campbell) Liability: design professionals. This bill prohibits a public entity from using contractual indemnity provisions in a public works contract to require the contracting design professional to hold the public entity harmless from any liability, damages, or litigation costs, except for damages and liabilities caused by the negligence, recklessness, or willful misconduct of the design professional. Status: Vetoed.

AB 1109 (Escutia) Insurance: third party bad-faith. This bill requires insurers to act in good faith towards policyholders and others, and allows policyholders and third party

claimants to bring a private action for bad faith violations. A bad faith action may be brought against an insurer when the insurer unreasonably denies or delays a claim under certain circumstances, and insurers are prohibited from passing on to policyholders any punitive damages awarded for such actions. Status: Dead, ASM.

AB 1113 (House) Parental rights. This bill establishes that a parent shall retain the fundamental right to exercise primary control over the education of any child "in his or her charge." The bill permits a parent to sue a school district and its personnel if there is a claim arising under the provisions of this legislation. The bill also authorizes the award of attorney's fees to the prevailing party in such actions. Status: Failed, AJUD.

AB 1147 (Shelley) Elder abuse. This bill clarifies the intent of existing law to provide specific civil remedies for elderly and dependent adults where there is clear and convincing evidence of elder abuse by long-term health care facilities and other health care providers. Status: Dead, SEN.

AB 1171 (Kaloogian) Damper on wrongful termination suits. This bill significantly restricts the ability of employees who allege that they were wrongfully terminated to file suit and recover damages. The bill also prohibits the bringing of any action for wrongful termination if the terms of the employment were "at will." Status: Failed, AJUD.

AB 1176 (Pringle) Liability in auto accidents. This bill prohibits a person from bringing an action seeking general damages for accidental injury resulting from the use, operation, or maintenance of a motor vehicle until the court determines that the plaintiff has suffered a "serious injury." The bill defines "serious injury" as death, serious impairment of bodily functions, or permanent serious disfigurement. Status: Dead, AJUD.

AB 1296 (Morrow) Skateboarding. This bill adds "skateboarding" to the list of "hazardous recreational activities", extending a public entity's immunity from liability to cover injuries from skateboarding occurring on public property. The immunity shall only apply if, among other stated criteria, the skateboarding occurs at any facility or park owned or operated by a public entity as a public skateboard park, and the person skateboarding is 14 years of age or older. Status: Chapter 573, 1997.

AB 1323 (Martinez) Publication of crime victims' images: civil liability. This bill would subject a person to civil liability for publishing, disseminating, or otherwise publicizing an image of a victim of crime without consent. Status: Dead, AJUD.

AB 1394 (Escutia) Slack-fill packaging. This bill reforms California’s so-called “slack fill” deceptive packaging law to protect companies from frivolous lawsuits. Slack fill is unnecessary packaging that could potentially mislead consumers. This bill provides several reasonable defenses to unfair claims about packaging, protecting businesses against the numerous nuisance lawsuits that are brought claiming ordinary consumer products have excessive slack fill, while continuing to protect consumers from deceptive packaging. Status: Chapter 711, 1997

AB 1409 (Baugh) Governmental tort liability. This bill changes the definition of “dangerous condition” for the purposes of governmental tort liability. The bill expands this definition with the purpose of shifting the burden to the plaintiff to show that, in each incident alleged to demonstrate the existence of a “dangerous condition,” the persons injured were exercising due care when the injury occurred. Status: Dead, AJUD.

AB 1467 (Alby) Foster family home and small family home insurance fund. This bill clarifies the scope of liability coverage by the Foster Family Home and Small Family Home Insurance Fund, by providing that coverage under the fund applies to licensed small family homes. The bill also specifies that the fund is not liable for damages over \$300,000 for individual claims or total claims during a twelve-month period. The bill further requires foster parents to disclose all information requested by fund administrators to facilitate investigation and defense of claims against the fund. Status: Dead, SINS.

AB 1500 (Thomson) Publication of victims’ images. This bill subjects a person to both compensatory and punitive damages for disseminating a photo, video or film image of an actual crime or its immediate aftermath, which causes actual damage to a victim of the crime. The bill also provides affirmative defenses to the imposition of liability if specified conditions are met. Status: Dead, AJUD.

AB 1540 (Morrow) Equine activities: limitation of liability. This bill provides that an equine activity sponsor, professional, or any other person shall not be liable for an injury to, or the death of a participant or equine resulting from the inherent risks of equine activities. Status: Failed, AJUD.

AB 1603 (Bustamante) Product liability: tobacco. This urgency bill removes any real or claimed legal barrier to the Attorney General filing suit against tobacco companies to recover state-paid medical costs of treating smokers. This bill underscores the past and present viability of suits by public entities, and the Attorney General, against tobacco companies. Status: Chapter 25, 1997.

AB 1688 (Torlakson) Immunity: community warning programs. This bill provides that a nonprofit donor organization is immune from liability for any injury from activities relating to the operation and use of a community warning program or system by a county of the ninth class (i.e., Contra Costa County). Status: Chapter 444, 1998.

AB 1710 (Firestone) Liability: year 2000 (Y2K) computer failures. This bill would limit the available remedies in a Y2K action to damages based solely on contract, provided the plaintiff has not suffered any personal injury (excluding emotional harm). The bill also would exempt software firms and related computer companies from lawsuits claiming fraud, negligence or unfair competition or business practices if the defendant gave notice that the software may experience date failure, and explained how the buyer could repair or replace the software. Status: Failed, AJUD.

AB 1865 (Wildman) Peace officers. This bill provides that if a peace officer is slain while in the line of duty, neither the widow or widower, nor the heirs of the peace officer shall be liable for any injury or death that may result from an act or omission of a peace officer that occurs in his or her line of duty. This immunity applies whether or not the act or omission is related to the officer's death. Status: Chapter 559, 1998.

AB 1934 (Honda) Limited liability: Y2K computer failures. This bill limits recoverable, noneconomic damages to \$250,000 in all actions for damages resulting directly or indirectly from a computer date failure, as defined. The bill specifically provides, however, that this provision shall not be construed to limit the ability of contracting parties to enter into agreements they deem appropriate on the issues of liability and damages. Status: Dead, AJUD.

AB 1950 (Torlakson) Construction defect litigation. This bill authorizes the court, in a construction defect action where a party's contribution is paid pursuant to an insurance policy, to enter judgment pursuant to a settlement agreement entered into by the attorneys for the parties to the litigation. The bill also provides that the prohibition on acting on behalf of a suspended corporation does not apply to an insurer who provides a defense for a suspended corporation in a civil action based upon a claim for personal injury, property damage, or economic losses against the suspended corporation, and in conjunction with this defense, prosecutes subrogation, contribution, or indemnity rights against persons or entities in the name of the suspended corporation. Status: Chapter 856, 1998.

AB 1982 (Campbell) Immunity from liability: welfare payments. This bill gives counties immunity from liability for injuries or damages arising from a welfare applicant's use of a vehicle, including the applicant's failure to comply with vehicle

insurance, registration or licensure requirements, when the applicant uses lump-sum welfare payments to pay for vehicle related expenses. Status: Dead, AJUD.

AB 2023 (Gallegos) Immunity from liability: flood control and water conservation.

This bill, which is similar to AB 612 above, expands the limited liability protection for the Los Angeles County Department of Public Works to cover irrigation district activities relative to water flows through unlined flood control channels when they are used to provide water to spreading grounds for water basin recharge. Status: Chapter 659, 1998.

AB 2157 (Ortiz) Liability of insurance carriers in pollution cases. This bill allows insurance carriers to participate in "good faith settlement" procedures in pollution cases. Where a successive or concurrent insurer, with the insured's consent, settles with its insured as a partial settlement of claims made against the insured in a pollution case, the insurer or its insured may petition the court for a determination that its partial settlement is a good faith and reasonable approximation of that insurer's probable ultimate liability in that claim. Status: Vetoed.

AB 2248 (Poochigian) Immunity: hazardous contamination. This bill provides a local agency with immunity from liability for contaminated properties that it acquired involuntarily through bankruptcy, tax delinquency, abandonment, or other circumstances. The bill also would permit the local agency to convey the contaminated property back to the person or entity from whom the property was acquired without incurring liability under state law for any pre-existing contamination. The immunity from liability does not attach if the local agency, by an act or failure to act, caused or contributed to the release or threatened release of the hazardous material. Status: Failed, AJUD.

AB 2371 (Leonard) Emergency medical services: defibrillators. This bill provides immunity from civil liability for those who use, distribute, or train others with regard to automatic external defibrillators (AEDs). AEDs are designed to save the lives of people who are experiencing sudden cardiac arrest. The bill encourages people who have access to or use an AED to obtain appropriate training in the use of such devices, but does not require training in order to qualify for immunity. Status: Failed, AJUD.

AB 2446 (Morrow) Liability: equine activities. This bill proposes to limit the liability of persons who let other people use their horses, for profit or otherwise, for injuries caused by those horses. The bill specifically provides that an equine activity sponsor or equine professional cannot be held liable for injuries to a participant engaged in an equine activity resulting from the inherent risks of equine activities. This immunity does not apply if the sponsor or professional knowingly provided defective equipment or tack which caused the injury, or knowingly provided a horse that was unsound, unhealthy or

had previously displayed an uncontrollable nature when in the act of being ridden or driven in a harness, or committed acts or omissions that constitute willful or wanton disregard for the safety of the participant. Status: Failed, AJUD.

AB 2596 (Thomson) Telecommunications: commercial mobile radio service. This bill provides broad immunity from liability in connection with the provision of "911" emergency cellular phone services. It also establishes a selective routing system for "911" cellular calls so that the CHP will receive emergency calls that are within their jurisdiction and local emergency services agencies will receive their calls directly. Status: Dead, AJUD.

AB 2631 (Baugh) Immunity from liability for local governments. This bill extends liability protection to cities and counties against claims of property damage arising out of latent defects by bringing municipalities and public agencies within the 10-year limitation period. Status: Failed, AJUD.

SB 67 (Kopp) Tobacco immunity. This bill seeks to clarify that the immunity provided under Section 1714.45 of the Civil Code was not intended to apply to product liability actions by parties, such as alleged victims of second-hand smoke, claiming they did not voluntarily assume the risk of consuming tobacco products, and by parties suing tobacco companies and tobacco research organizations for damages caused by tobacco products. This bill, along with AB 1603, constitutes historic new protections for the health of all Californians, and also will bring fair reimbursement to the state for the monumental health care costs California's taxpayers have incurred due to tobacco-related illnesses. Status: Chapter 570, 1997.

SB 340 (Sher) Tobacco immunity. This bill, similar to SB 67 by Senator Kopp, clarifies that the immunity provided under Section 1714.45 of the Civil Code was not intended to apply to product liability actions by parties, such as alleged victims of second-hand smoke, claiming they did not voluntarily assume the risk of consuming tobacco products, and by parties suing tobacco companies and tobacco research organizations for damages caused by tobacco products. Status: Vetoed.

SB 1080 (Calderon) Limited liability partnerships. This bill clarifies the type of insurance policy a limited liability partnership must maintain in order to retain its limited liability status. The bill, among other things, revises the insurance provisions to allow that the insurance policy may provide for conditions, endorsements and exclusions that are typically contained in such policies, and that the policy may be issued on a "claims made" or "occurrences" basis. Status: Chapter 387, 1997.

SB 1159 (Schiff) Tort liability: governmental immunity. This bill extends governmental immunity to members of locally elected town councils. The bill specifically provides that members of locally elected town councils, established by members of boards of supervisors to advise the board concerning services which may be provided in that area by the county or other local governmental entities, are not vicariously liable for injuries caused by the acts or omissions of these public entities. Status: Chapter 132, 1997.

SB 1173 (Vasconcellos) Millennium bug. This bill provides limited immunity from liability for solutions to year 2000 computer date failures (Y2K) disseminated in good faith. The bill prohibits any person who discloses information regarding the Y2K problem or any potential solutions to the problem from being held liable in any tort action brought for any injury caused by, arising out of, or relating to, the use of information disclosed. This immunity does not attach if any person discloses false, inaccurate, or misleading information about the Y2K problem that is "material," and either: (a) made with the knowledge that it was false, inaccurate, or misleading; or (b) made with gross negligence as to the truth or accuracy or misleading nature of the disclosure. Status: Chapter 860, 1998.

SB 1521 (Alpert) Hazardous materials liability: lenders and fiduciaries. This bill makes two noncontroversial clarifications to the existing lender and fiduciary exemption from statutory liability for the release or threatened release of hazardous materials. The bill expands the definition of "person," for the purposes of the immunity provisions governing lenders, to also include the federal government, or any department, subdivision, or agency thereof. It also provides examples of the type of person who "acts as, or on behalf of, a lender" to include "a surety, escrow, or title company." Status: Chapter 382, 1998.

SB 1536 (Brulte) Reform of joint and several liability for service providers. This bill carves out a new liability exception for service providers by eliminating their joint liability for economic damages. The bill provides that service providers have only several liability, and not joint and several liability, for economic losses based on negligent acts or omissions in "rendering services." The term "rendering services" is not defined. A service provider's several liability is calculated based on the percentage of their fault. The bill would not apply to economic losses and damages arising from personal injury, property damage, wrongful death, or contract. Status: Failed, AJUD.

SB 1644 (Thompson) Oil spills: nontank vessels. This bill requires nontank marine vessels entering California marine waters to have approved oil spill contingency plans and certification of financial responsibility. It also provides nonprofit maritime

associations with limited immunity, as specified, upon approval of its statewide contingency plan by the state Oil Spill Prevention and Response administrator. Status: Chapter 964, 1998.

SB 1841 (Burton) Liability: breach of trust or duty. This bill extends the time a joint debtor may seek contribution or repayment to within 30 days after a judgment is satisfied in full. It also provides that if a joint bond is furnished when two or more persons are appointed as a personal representative, the liability on the bond is joint and several. It further authorizes the court to excuse personal representatives, trustees, guardians or conservators from liability for the interest from a breach of a fiduciary duty where those persons acted reasonably and in good faith under the circumstances known to them at the time. Status: Chapter 77, 1998.

SB 1876 (Kopp) Public defender immunity. This bill provides public defenders with the same immunity from malpractice suits provided public prosecutors under Government Code section 820.2. Status: Vetoed.

SB 1917 (Sher) Tobacco-related illness: evidence. This bill permits the use of statistical evidence to show the correlation between tobacco use and resulting illness in any class action brought by a public entity or other plaintiff to recover damages for individuals injured by a tobacco-related illness. The statistical evidence could be used to show both proof of causation and damages. Status: Dead, AJUD.

PERSONAL, CIVIL AND CONSTITUTIONAL RIGHTS

Civil Rights

AB 499 (Kuehl) Discrimination in educational institutions. This bill consolidates and standardizes the non-discrimination language in the Education Code into two chapters, one for K-12 and another chapter for higher education. It also requires a 90-135 day cooling off period prior to the pursuit of civil litigation, other than injunctive relief, to enforce provisions of the Equity in Education Act. Status: Chapter 914, 1998.

AB 1700 (Richter) Proposition 209 implementation. This bill allegedly enacts the requirements of Proposition 209 which prohibit preferential treatment to any individual or group on the basis of race, sex, color, ethnicity, or national origin in public employment, public education, or public contracting. The bill eliminates or curtails approximately 30 programs that fall into the categories of outreach or recruitment, or are attempts to provide opportunities for historically disadvantaged or excluded minority groups, but in no way impose quotas or exclude anyone on the basis of race, ethnicity, color, national origin or gender. Status: Failed, AJUD.

ACA 3 (Murray) Civil Rights Initiative of 1998. This measure repeals the constitutional provision added by Proposition 209. The bill also specifically authorizes the state to take all actions, including the creation and implementation of any programs it deems necessary, to promote and enhance equal access and opportunities for public education, public employment and public contracting, commensurate with the state's diverse population and consistent with the United States Constitution. Status: Dead, AJUD.

SB 1735 (Polanco) Proposition 209: governmental outreach. This bill clarifies that Proposition 209's prohibition on engaging in discrimination or granting preferential treatment does not prevent governmental agencies from continuing to engage in outreach programs, including focused outreach and recruitment efforts toward underrepresented groups. Status: Vetoed.

SB 2176 (Lockyer) Civil Rights Enforcement Unit. This bill strengthens the ability of the Attorney General's (AG's) office to enforce the state's anti-discrimination laws. The bill requires the Civil Rights Enforcement Unit to investigate and prosecute complaints of discrimination in violation of any statute, regulation, or constitutional provision with regard to employment, education, or business practices, and authorizes the AG to bring a civil action for enforcement of such discriminatory practices. Status: Vetoed.

Constitutional Rights

AB 1617 (Baca) Free exercise of religion. This bill prohibits the state or its political subdivisions from substantially burdening a person's exercise of religion, even if the burden results from a "rule of general applicability," except if the governmental entity demonstrates that application of the burden to the person is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. This bill also permits a person whose religious exercise has been burdened in violation of its provisions to assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief against a state or local governmental entity. This bill, which is a companion measure to Assemblyman Baca's ACA 24, is patterned after the federal Religious Freedom Restoration Act of 1993, recently found unconstitutional, and is intended to strengthen the free exercise of religion. Status: Vetoed.

AB 1643 (Escutia) Age discrimination. This bill affirms California's strong public policy against age discrimination in employment by clarifying that the Legislature never intended to afford less protection to victims of age discrimination than to victims of race, sex and other discrimination, and invalidates a recent controversial appellate court case

which eliminated one of the two proof theories (“disparate impact”) available to age discrimination victims in a court of law. Status: Vetoed.

ACA 24 (Baca) Free exercise of religion. This bill proposes to amend the California Constitution to prohibit the state or its political subdivisions from substantially burdening a person's exercise of religion, even if the burden results from a "rule of general applicability." This bill is patterned after the federal Religious Freedom Restoration Act of 1993, recently found unconstitutional, and is intended to strengthen the free exercise of religion. Status: Dead, AJUD.

AJR 26 (Battin) State ballot initiatives: court review. This measure would memorialize Congress and the President to pass and enact a provision of the federal Judicial Reform Act of 1998 which would require that an application filed in federal court to enjoin the enforcement of a state law enacted by referendum be heard and determined by a 3-judge panel, with any appeal therefrom to be made directly to the United States Supreme Court. Status: Failed, AJUD.

SB 1098 (Kopp) Age discrimination. This bill amends the state's age discrimination statute to expressly provide that it is an unlawful employment practice to discriminate against an employee over the age of 40 in compensation or other "terms, conditions or privileges" of employment, absent a "business necessity," and invalidates a recent controversial appellate case. The bill also clarifies that it is unlawful to engage in the same discriminatory employment practices on the basis of age that are unlawful on the basis of race and sex. Status: Vetoed.

SB 2192 (Vasconcellos) Age discrimination. This bill reconfirms California's strong public policy against age discrimination in employment by invalidating a recent controversial appellate case which eliminated one of the two central theories available to age discrimination victims and declaring that this opinion did not in any way affect existing discrimination law. The bill also expresses the Legislature's support of California case law which underscores that age discrimination deserves similar protections as sex and race discrimination. Status: Dead, ASM.

Personal Rights

AB 129 (Morrow) Abortion: informed consent. This bill enacts the Woman's Right to Know Act, instituting a 24-hour waiting period for an abortion. The bill requires that, 24 hours prior to getting an abortion, a woman must be provided information to ensure that her consent to the abortion is informed and voluntary. The information provided must include, among other things, information about medical risks; the probable gestational age of the unborn child; and the availability of medical assistance for prenatal

care, childbirth and neonatal care. The bill also makes it a misdemeanor to perform or attempt to perform an abortion in violation of the requirements of this bill. Status: Failed, AJUD.

AB 157 (Villaraigosa) Breastfeeding. This bill allows a mother to breast-feed her infant in any public or private location where she and the child are authorized to be present. The bill also sets forth legislative findings and declarations regarding the benefits of breast-feeding, the fact few women continue to breast-feed beyond eight weeks despite these benefits, and the need to encourage public acceptance of breast-feeding. Status: Chapter 59, 1997.

AB 350 (Firestone) Stalking: emergency protective orders. This bill establishes an emergency protective order (EPO) procedure for victims of stalking modeled after the EPO procedure already available to victims of domestic violence. The bill allows a peace officer to request an EPO for a stalking victim whom the officer believes is in immediate and present danger. The victim must allege that he or she has been stalked by the assailant and that the assailant has made a credible threat against the victim or the victim's immediate family. Status: Chapter 169, 1997.

AB 1675 (Margett) Public records: address confidentiality. This bill makes confidential, upon request, the home address and telephone number of a peace officer, district attorney, county public defender or judicial officer, shown on any document filed with the county recorder. The bill requires county recorders to remove or obliterate the person's home address and phone number from documents that are made available for public inspection or copying. Status: Dead, SJUD.

AB 2134 (Escutia) Telephone consumer privacy rights. This bill requires phone companies to notify their customers about the privacy rights of telephone consumers under state and federal law. The bill also clarifies that consumers defrauded by out-of-county telemarketers can bring suit against the fraudulent telemarketer in the consumer's home county. Status: Chapter 473, 1998.

SB 121 (Alpert) Privacy. When this bill was heard by the Judiciary Committee it authorized a minor age 14 or older, who is the alleged victim of domestic abuse, to consent to residential shelter services on a temporary or emergency basis. The bill required residential shelter providers to make efforts to notify the parent or guardian of the provision of services to the minor if such notification is in the best interest of the child. The bill was subsequently amended to delete these provisions and instead makes it a misdemeanor for any person to use a telescope, periscope, binoculars, camcorder or camera with the intention of violating another person's privacy. Status: Dead, APubS.

SB 143 (Kopp) Public Records Act. This bill makes various changes to the California Public Records Act. Among other things, the bill creates a statutory index of existing laws which currently provide exemptions from disclosure under the Public Records Act. The bill also clarifies that public officials are entitled to access public records on the same basis as any other person and clarifies that the right to bring an action to enforce a person's right to inspect or receive a copy of a public record is available only to a person who has submitted a written request for a public record which has been denied, or which the public agency has failed to respond to in a timely manner. Status: Chapter 620, 1998.

SB 1271 (Kopp) Confidentiality of voter registration information. This bill would provide access to otherwise confidential voter information, other than driver's license and identification card numbers, to an attorney, or registered process server on behalf of an attorney, upon application that the information is necessary to represent a client in a pending civil or criminal action. Status: Vetoed.

SB 1622 (Peace) Biometric identifiers. This bill prohibits any bank, credit union, check casher or savings association from requiring a customer to provide a biometric identifier (defined as a fingerprint, voice print, retinal scan or other biologically based characteristic that may be used to identify an individual) when cashing a check or opening a new account. The bill creates a civil penalty of \$1,000 - \$10,000 per violation. Status: Failed, AB&F.

SB 1759 (Ayala) Public officials: paper terrorism. This bill prohibits a person from filing or recording a lawsuit, lien, or other encumbrance against a public officer or employee, knowing it is false, with the intent to harass the officer or employee or influence or hinder the public officer or employee in discharging his or her official duties. The bill also establishes new and expedited remedies for removing an unlawful lien or encumbrance, allows the assessment of a civil penalty of up to \$5000 and the award of costs and reasonable attorney's fees to the prevailing party. Status: Chapter 779, 1998.

SB 1796 (Leslie) Cyberstalking. This bill addresses the crime of "cyberstalking" by updating stalking and harassment laws to include stalking via electronic technologies. Status: Chapter 825, 1998.

SB 2154 (Schiff) Public officials: unlawful lawsuits, liens and encumbrances. This bill makes it unlawful to file or record a lawsuit, lien, or other encumbrance against a public officer or employee knowing it is false, with the intent to harass the officer or employee or to influence or hinder the public officer or employee in discharging his or

her official duties. A civil penalty of up to \$5,000 may be assessed against any person who knowingly violates this provision. Status: Chapter 211, 1998.

PROBATE

Conservatorship and Guardianship

SB 628 (Kopp) Elder abuse: conservatorships. This bill prohibits establishment of a conservatorship for a nonresident if a conservatorship has been established, or if a protective order has been issued or is pending, in another state, unless specified criteria are met. The bill also specifically includes within the court's jurisdiction civil actions and proceedings involving a claim for relief arising out of an abduction of an elderly or dependent adult and imposes liability, including liability for emotional distress, attorney's fees and certain other costs, arising out of the abduction of an elder or dependent adult. Status: Chapter 663, 1997.

SB 696 (Rainey) Estates and trusts: public guardians and administrators. This bill amends specified fiduciary standards, compensation and administrative requirements for public guardians and administrators. The bill, among other things, allows a public administrator to summarily dispose of the estate, without a court order, if the total value of the estate does not exceed \$20,000, and provides that a public guardian will be deemed to have met the standard of care of a trustee upon depositing or investing the trust funds in an insured account in a financial institution or with the county treasurer. Status: Chapter 93, 1997.

SB 1487 (Rainey) Public guardians and conservators: compensation. This bill makes minor changes to the California Probate Code to increase certain limits on the just compensation and accounting obligations of public guardians, conservators, and administrators. The bill authorizes the court to waive the accounting obligations of guardians and conservators if the value of the estate property is less than \$7,500 and the estate's monthly income is less than \$1,000, and sets the minimum compensation for a public administrator at \$750. Status: Chapter 103, 1998.

Elder Abuse

SB 1715 (Calderon) Elder and dependent adult abuse. This bill increases the penalty for false imprisonment of an elder or dependent adult from 16 months, two, or three years in state prison, to two, three, or four years in state prison. It also prevents any person who is a named beneficiary of a decedent's estate – and who is found liable for abuse against the elder or dependent adult when the decedent is the victim – from receiving any

portion of any award, such as civil damages or restitution, paid by him or her to the decedent's estate. Status: Chapter 935, 1998.

SB 1868 (Hughes) Elder abuse pilot project. This bill creates a pilot program in the County of Los Angeles to reduce the incidence of financial abuse perpetrated against mentally impaired elders. The pilot project utilizes peace officers and authorizes the public guardian, in specified cases, to issue a written certification placing a five-day hold on the property of the elder subject to loss, injury, waste, or misappropriation. The counties of Riverside, San Francisco and Ventura are eligible to participate in the program upon request if monies are appropriated by the Legislature for this purpose. Status: Vetoed.

Probate

AB 1165 (Richter) Probate: summary disposition. This bill provides that the same information that is required in a petition to probate a will must be included when a public administrator files a petition for summary disposition of an estate. Status: Chapter 63, 1997.

AB 1172 (Kaloogian) Omnibus probate bill. This bill is the annual probate law omnibus bill sponsored by the Estate Planning, Trust & Probate Law Section of the State Bar of California. The bill makes numerous, technical changes to the Probate Code to clarify aspects of trust law and provide consistency between trust, family, and probate law. Status: Chapter 724, 1997.

AB 1813 (Ackerman) Trustees and other fiduciaries. This bill limits the statutory specificity relating to trusts and decreases responsibilities of trustees. Status: Dead, AJUD.

AB 2069 (Kaloogian) Omnibus probate bill. This is the annual omnibus bill by the Estate Planning, Trust & Probate Law Section of the State Bar of California. It contains numerous substantive provisions which would: (1) allow practice administrators to take control of a deceased or disabled attorney's practice; (2) permit parties to agree to a non-pro rata division of community property; (3) modify trustee notification provisions; and (4) provide certain protections from creditors for trust property. Status: Chapter 682, 1998.

SB 792 (Burton) Probate: notice to surety. This bill requires persons who file a petition to surcharge, an objection to an accounting, a petition to suspend or remove a guardian, conservator, or personal representative, and others, to provide notice to a surety who has filed a court bond in the proceeding. Status: Chapter 198, 1997.

PROPERTY

Nuisance

SB 517 (Haynes) Actions against shooting ranges for noise level. This bill exempts a person who operates or uses a sport shooting range from civil liability, criminal prosecution, or a nuisance action with respect to noise or noise pollution if the person complies with the laws in operation at the time the sport shooting range was approved for use. The bill also allows local public entities to regulate sport shooting ranges at nighttime in certain circumstances. Status: Chapter 880, 1997.

SB 1620 (Haynes) Shooting ranges. This bill makes technical clean-up changes necessitated by the chaptering of SB 517, summarized above. The bill clarifies the authority of local public entities to restrict nighttime shooting to specified noise levels and to enforce any existing local standards for nighttime shooting. Status: Chapter 141, 1998.

SB 2034 (Lockyer) Criminal street gangs: damages for nuisances. This bill authorizes the Attorney General, whenever an injunction is issued to abate gang activity constituting a nuisance, to bring an action for money damages on behalf of the community or neighborhood injured by the nuisance. The bill requires the damages paid to be used solely for the benefit of the community injured by the nuisance. Status: Chapter 631, 1998.

Personal Property

SB 1707 (Rainey) Safekeeping of property. This bill prescribes standards for the receipt and disposition of personal property being temporarily held by a public agency for safekeeping. It requires the public agency to hold the property for a minimum of 60 days, and provides that within this time period a person may retrieve the property or authorize another person to retrieve it, or notify the public agency of their inability to retrieve the property due to incarceration. If incarcerated, the person's property will be held no longer than 10 additional months. The bill also provides immunity to the public agency for damages caused by any official action performed with due care regarding the disposition of personal property. Status: Chapter 540, 1998.

SB 1862 (Dills) Keeper fees. This bill increases the maximum rate of compensation allowable for keepers (private contractors who take custody of property pursuant to a court order) from \$75 to up to \$100 for every eight hours worked. The maximum compensation rate keepers receive for 24 hours of work is increased from \$150 to \$175,

and for preparing a not-found return, the rate is increased from \$21 to \$25. Status: Chapter 160, 1998.

SB 2115 (O'Connell) Escheat. This bill revises the law governing the "escheat" (reversion of property to the state) of bank accounts. The bill lengthens the escheat period for bank accounts and other specified accounts from three years to five years. It also provides that when a customer owns another deposit or account within the same banking organization that is active and not subject to escheat, other accounts with that same institution will not escheat. Status: Dead, AAPR.

Real Property

AB 76 (Miller) Common interest developments: construction defects. This bill clarifies the responsibilities of sellers and homeowners associations to disclose information concerning pending and settled litigation against common interest developments. Status: Chapter 632, 1997.

AB 669 (Wright) Foreclosure: home equity sales contracts. This bill allows an indefinite "cooling off" period in home equity sales and foreclosure consulting services, requires the court to award three times the homeowner's actual damages for the violation of specified provisions by a foreclosure consultant, and clarifies that a transfer of property during the cooling off period is prohibited in home equity sales contracts with an option to repurchase. Status: Chapter 50, 1997.

AB 707 (Ackerman) Title restrictions. This bill amends sections of the Civil Code relating to property law to reflect modern practice, and sets time limits on the validity and enforcement of land use restrictions imposed on privately owned land. Status: Chapter 14, 1998.

SB 665 (Johnson) Trustees and non-judicial foreclosure. This bill makes various changes to the laws relating to trustees and foreclosure proceedings, including: (a) providing that a notice of rescission may only be filed by the trustee, a beneficiary who caused the trustee's deed to be recorded, or a successor in interest; (b) requiring that a demand for the trustee to participate in a foreclosure proceeding set forth the factual basis for the demand; and (c) providing that a trustee is not liable for statutory damages for failing to reconvey a trust deed in a timely manner when the trustee acts pursuant to specified provisions of law directing the non-reconveyance. Status: Chapter 74, 1997.

SB 948 (Hayden) Power of termination. This bill provides, as declaratory of existing law, that expiration of a power of termination pursuant to the Marketable Record Title Act does not prohibit the enforcement of a restriction that is also a "covenant running

with the land." The restriction is enforceable by injunction and by any other available remedies, with the exception of a power of termination. Status: Vetoed.

SB 1989 (Polanco) Real property disclosures: sex offenders. This bill imposes an obligation on sellers, lessors, and brokers to provide a standardized notice in every written lease, rental agreement, or contract for sale of residential real property entered into on or after July 1, 1999, about the availability of the Department of Justice data base to access information about registered sex offenders who may live in the neighborhood. The disclosures contained in the standard notice shall not give rise to a cause of action by a registered sex offender against the party providing the notice. Status: Chapter 645, 1998.

SB 2095 (Polanco) Mobilehome parks. This bill requires that the resident of a mobilehome who remains in the mobilehome park after being served a notice of termination of tenancy be subject to the provisions of the Mobilehome Residency Law (MRL) and the rules and regulations of the park. No lawful act by the mobilehome park management to enforce the MRL or park rules and regulations may be deemed or construed to waive or otherwise affect the notice of termination of tenancy. Status: Chapter 542, 1998.

Rental Property

AB 474 (Murray) Landlord-tenant: eviction. This bill provides for an expedited eviction process in cases alleging that a tenant, subtenant, or occupant has committed a nuisance involving the unlawful sale or use of a controlled substance on the premises. The court may issue a partial eviction order for the removal of any person other than a tenant who is found to have committed such a nuisance, and the remaining tenants are required to acknowledge a court order which prohibits them from giving permission or inviting back to the property any person who has been evicted from the unit. Status: Dead, AJUD.

AB 481 (Kuehl) Housing: lead poisoning. This bill establishes comprehensive statewide standards for lead hazard prevention, identification and control in pre-1978 rental housing. Status: Dead, SJUD.

AB 630 (Richter) Tenancies: unclaimed personal property. This bill authorizes a landlord to retain a tenant's personal property which is left after the tenant has vacated the premises and which the landlord believes to be worth less than \$400. The bill also authorizes the landlord to sell at a public auction property that remains unclaimed for a specified period of time. Status: Failed, SJUD.

AB 846 (Knox) Eviction: residential care facilities. This bill amends the California Residential Care Facilities for the Elderly Act to prohibit evictions unless certain conditions are met, adopt the due process provisions of unlawful detainer actions, and allow a 3-day notice to quit where good cause exists for the eviction. The provisions of this bill do not apply to continuing care retirement communities. Status: Vetoed.

AB 1384 (Havice) Controlled substances: unlawful detainer. This bill creates a three-year pilot project authorizing a district attorney or city attorney in five Los Angeles County court districts to bring a new type of unlawful detainer action against a person who engages in drug-related activity on rental premises. The pilot court is authorized to issue a partial or total eviction order to remove any individual who engages in the drug-related activity. The court may include in this order a condition that the remaining tenants not give permission or invite any tenant barred from the premises to re-enter or return to the premises. Status: Chapter 613, 1998.

AB 1888 (Honda) Mobilehome parks: termination of tenancy. This bill allows a mobilehome owner to prevent the resident of the mobilehome from being evicted by paying the overdue park rent upon receipt of the notice of termination by the mobilehome park. The bill specifically provides that a park resident's fourth default within a 12-month period may be cured by the mobilehome owner if he or she did not receive a copy of any earlier default notice within that 12-month period. Status: Chapter 427, 1998.

AB 2499 (Ackerman) Controlled substances: abatement. This bill provides that, in the event that a city or county enacts a local law which orders a property owner to abate a drug nuisance, the owner shall not be subject to civil liability for obeying the order or commencing an action for unlawful detainer. Status: Dead, AJUD.

SB 23 (Johnson) Assignment of rents. This urgency bill clarifies that the pre-1997 assignment of rents law, which was repealed on January 1, 1997, continues to apply to contracts entered into prior to January 1, 1997, and shall govern actions and proceedings initiated on the basis of those contracts. The bill also cures an erroneous date contained in legislation enacted in the 1996 legislative session. Status: Chapter 8, 1997.

SB 548 (Solis) Landlord-tenant: duty to provide door and window locks. This bill requires a landlord of a dwelling unit to install and maintain operable deadbolt locks on exterior doors of the unit and to install and maintain operable window locks for windows and sliding glass doors. A violation of these duties does not broaden or affect the duty of care owed by a landlord pursuant to existing law, and these provisions do not prevent a public entity from imposing additional requirements upon a landlord. Status: Chapter 537, 1997.

SB 682 (Sher) Landlord-tenant: rent increases. This bill makes changes to landlord-tenant law by extending from 30 to 60 days the time for providing notice of a change in the terms of, or termination of, a month-to-month tenancy so that a tenant may have sufficient time to relocate upon notification of a rent increase. If the tenancy is terminated, the tenant's rent would remain the same until the unit is vacated, regardless of the general rent increase. Status: Vetoed.

SB 1730 (Burton) Landlord-tenant: rental applications and vacancies. This bill enacts various changes to landlord-tenant law regarding rental applications, amends state rent control law concerning vacancies created by a landlord's refusal to accept Section 8 housing payments, and protects tenant advisors. Status: Dead, AJUD.

SB 1944 (Sher) Landlord-tenant: notification of rent increases. This bill allows local governments, in jurisdictions with a rental vacancy rate of less than five percent, to enact local ordinances requiring landlords to provide tenants 60 days notice of rent increases. If a tenant receives less than 60 days notice, the tenant may elect to terminate the tenancy prior to the effective date of the proposed rate increase. In that event, the termination would be effective on the 30th date after the date of the proposed rent increase and the rent would be unchanged for that 30-day period. If the tenant holds over and does not vacate by the termination date, the rent increase would be effective retroactively to the date set forth in the rent increase notice. Status: Dead, ASM.

SB 2166 (Costa) Landlord-tenant: public utilities services to tenants. This bill clarifies permissible public utility billing practices relating to tenants. Municipally owned utilities and municipal utility districts are prohibited from requiring that service to subsequent tenants be furnished on the account of the landlord or the property owner unless the property owner voluntarily agrees to that requirement, and are prohibited from refusing to furnish services to a tenant in the tenant's name based upon the nonpayment of charges by a previous tenant. Status: Chapter 739, 1998.

MISCELLANEOUS

AB 309 (Floyd) Equine: protective headgear. This bill requires that all protective headgear for horseback riding meet specified safety standards and be conspicuously labeled as meeting those standards. The sale of headgear that does not meet specified safety requirements is expressly prohibited. Status: Failed, ASM.

AB 468 (Wayne) Beverage container recycling and litter reduction act. When heard by the Judiciary Committee, this bill allowed a real estate broker to record a lien upon

commercial real property to secure payment of an unpaid commission earned for placing a tenant in that commercial property. The bill was subsequently amended to increase the payments made to, and decrease the payments required of, various participants in California's beverage container recycling program. The bill reduces the "processing fees" paid by producers of beverages sold in glass containers and plastic containers and increases the subsidy paid to operators of curbside recycling programs. Status: Vetoed.

AB 519 (Richter) Costs of wage garnishments. This bill authorizes an employer to deduct \$1 from an employee's wages for each payment made in accordance with an earnings withholding order for the employee. Status: Chapter 137, 1997.

AB 1094 (Committee on Judiciary) Civil Law. This omnibus civil practice and procedure bill makes several non-controversial changes to various codes affecting civil practice and procedure. Status: Chapter 932, 1998.

AB 2418 (Olberg) Senior volunteers. This bill requires any state or local agency that chooses to use volunteers to implement a policy prohibiting the exclusion of any person aged 60 years or older from volunteer service if the person is physically, mentally, and professionally capable of performing the services involved. Status: Chapter 188, 1998.

AB 2803 (Committee on Judiciary) Maintenance of codes. This bill makes several technical changes to various codes as proposed by the Legislative Counsel's Office for maintenance of the codes. The bill makes no substantive change in the law. Status: Chapter 485, 1998.

SB 95 (Ayala) Open Meetings Act. This bill conforms the Bagley-Keene Open Meeting Act (Bagley-Keene Act), which governs meetings of state agencies, with the Ralph M. Brown Act (Brown Act), which governs meetings of legislative bodies of local agencies. Among other things, this bill: (a) requires notices of a public meeting to include a description of items to be discussed, including those in closed session; (b) revises provisions specifying when documents distributed to members of a state agency should be made available for public inspection; (c) narrows the definition of "emergency situation" for which a state agency may hold an emergency meeting without complying with normal notice requirements; and (d) allows any member of the public to record an open meeting with an audio or video tape recorder or a still or motion picture camera unless it is determined that this activity would create a persistent disruption of the meeting. Status: Chapter 949, 1997.

SB 605 (Maddy) Bernard E. Witkin Law Library. This bill renames the California State Law Library as the "Bernard E. Witkin State Law Library of California." Status: Chapter 411, 1997.

SB 618 (Watson) Notaries public. This bill declares that the notary journal and seal are the exclusive property of the notary public and may not be surrendered to any person at any time, including the notary's employer upon termination of employment. The bill also restricts a notary public's duties and strengthens the commissioning authority's recourse for failure to comply with notarial duties. Status: Chapter 319, 1997.

SB 661 (O'Connell) Pesticides. When this bill was heard by the Judiciary Committee, it established a set of conditions and requirements that must be incorporated by the State Water Resources Control Board into any state policy it adopts that allows the operation of "containment zones" and restated the strict liability rule for unauthorized discharge of pollutants. The bill was subsequently amended to appropriate \$145,000 from the General Fund to the Department of Pesticide Regulation to implement an air monitoring plan in the City of Lompoc to determine the presence of pesticides in the air. Status: Chapter 274, 1998.

SB 947 (Committee on Judiciary) Maintenance of codes. This bill makes several technical changes to various codes as proposed by the Legislative Counsel's Office for maintenance of the codes. The bill makes no substantive change in the law. Status: Chapter 17, 1997.

SB 977 (Sher) Renewable energy purchases: customer credits. When this bill was heard by the Judiciary Committee, it provided that health care service plans have a duty to exercise ordinary care when making treatment decisions and will be liable for damages for harm to an enrollee caused by the health plan's failure to exercise ordinary care. The bill was subsequently amended to require customer credits for purchases of in-state renewable energy generation under specified circumstances. Status: Chapter 1042, 1998.

SB 1251 (Calderon) Montebello Unified School District. When this bill was heard by the Judiciary Committee, it removed the cap on damage awards for violations of the employment discrimination provisions of the Fair Employment and Housing Act (FEHA) in order to protect workers from serious discrimination. The bill also allowed prevailing parties in FEHA actions to collect expert witness fees to aid individuals in their efforts to receive fair compensation for the damages they incur due to employment discrimination. The bill was subsequently amended to instead appropriate funds for the Montebello Unified School District. Status: Chapter 400, 1998.

SB 1785 (Hayden) Stray animals: duties of pounds and shelters. This bill provides that public and private animal shelters are subject to the same anti-cruelty statutes as private citizens who take possession of a stray dog or cat. Animal shelters are required to: (1) keep animals for a minimum of three business days before they are put up for adoption and a minimum of six business days before they are euthanized, with specified exceptions; (2) make animals available to non-profit rescue societies or adoption organizations free of charge, with the exception of reasonable spay or neuter costs; (3) maintain accurate records of all animals turned over to the shelter; (4) keep and provide for any legally ownable pet; and (5) make reasonable efforts to contact the owner of an animal in its possession and to inform him or her of recovery procedures. In addition, this bill provides that it is the policy of the state that no adoptable animal should be euthanized. Status: Chapter 752, 1998.

SCR 3 (Kopp) California Law Revision Commission study topics. This resolution authorizes the California Law Revision Commission to continue its study of selected topics, deleting three topics from the list approved during the 1996 legislative session for Commission study. The three topics deleted – prejudgment interest in civil cases, liability of public entities for inverse condemnation, and injunctions and related matters – were deleted at the request of the Commission. Status: Resolution Chapter 102, 1997.

SCR 65 (Kopp) California Law Revision Commission study topics. This resolution authorizes the California Law Revision Commission to continue its study of selected topics. Status: Resolution Chapter 91, 1998.