

## 2003-04 Bill Summaries

### ATTORNEYS AND RELATED MATTERS

#### Attorneys and Related Services

**AB 1101 (Steinberg) Attorneys: disclosure of client confidences.** This bill, among other things, provides an exception to an attorney's duty of confidentiality by providing that an attorney may, but is not required to, reveal confidential information relating to the representation of a client to the extent that the attorney reasonably believes the disclosure is necessary to prevent a criminal act that the attorney reasonably believes is likely to result in the death of, or substantial bodily harm to, an individual. Status: Chapter 765, 2003.

**AB 2189 (Chu) Immigration consultants.** This bill revises the bond requirement for immigration consultants by requiring bond surety companies to notify the city attorney or district attorney of the county in which the immigration consultant maintains his or her principal office within 30 days of the date that the immigration consultant's bond is cancelled or is otherwise no longer in force and effect, or the amount of the bond is reduced below the minimum required by law. Status: Vetoed.

**AB 2336 (Pacheco) Attorneys liens.** This bill would establish a lien on behalf of an attorney, for his or her compensation, upon an action, suit, or proceeding and any judgments, decrees, orders, and awards entered in his or her client's favor and the proceeds thereof and provide for the enforcement of the lien, as specified. Status: Dead, AsmJUD.

**AB 2516 (Vargas) Immigration consultants.** This bill would make it unlawful for an immigration consultant to make a statement that he or she can or will obtain special favors from or has special influence with any governmental agency, employee, or official, that may have a bearing on a client's immigration matter. This bill would also correct various provisions of the law governing immigration consultants to make a correct reference to the United States Citizenship and Immigration Services rather than to the Immigration and Naturalization Service. Status: Dead, SenJUD.

**AB 2689 (Houston) Attorney advertising: residential construction defect claims.** This bill requires an advertisement by an attorney or law firm that urges a person or entity to take an action that may lead to the filing of a claim for residential construction deficiencies to disclose specified information. Status: Dead, AsmJUD.

**AB 2691 (Correa) Immigration consultants.** This bill restricts the use of a bond issued to a person for the purpose of compliance with the bonding requirement for immigration consultants to only that person or his or her employee, requires the Secretary of State to maintain a Web site for the public to access information regarding immigration consultants' bonds, and to update the Web site once every 30 days, and requires the

immigration consultant to provide specified identifying information when a bond is filed with the Secretary of State. This bill also revises existing statutory references to the United States Immigration and Naturalization Service, makes related name changes, and expands the existing prohibition against statements to the effect that the immigration consultant can or will obtain special favors from or has special influence with governmental agencies or officials. Status: Chapter 557, 2004.

**AB 2713 (Pavley) Representation of governmental organizations.** This bill would authorize an attorney who, in the course of representing a governmental organization, learns of improper governmental activity, as defined, to urge reconsideration of the matter and to refer it to a higher authority in the organization. The bill would also authorize the attorney, in specified circumstances, to refer the matter to a law enforcement agency or to another governmental agency and would exempt the attorney from disciplinary action for making a referral of the matter. Status: Vetoed.

**AB 3103 (Judiciary) Attorneys liens.** This bill would establish a lien on behalf of an attorney, for his or her compensation, upon an action, suit, or proceeding and any judgments, decrees, orders, and awards entered in his or her client's favor and the proceeds thereof and provide for the enforcement of the lien, as specified. Status: Dead, AsmJUD.

### Attorney's Fees

**AB 2347 (Maddox) Attorneys' fees: book accounts.** This bill increases the amount of attorneys fees' awardable pursuant to statute to a prevailing party in a collection action on an open book account from a maximum of \$660 to a maximum of \$800 for a consumer debt, and to \$1,000 for a business debt. The bill further provides that these attorneys' fees shall be the lesser of either the maximum amount allowed above, the amount provided by any default attorney's fees schedule adopted by the court applicable to the suit, or an amount as otherwise provided by the court. Status: Chapter 328, 2004.

**AB 2371 (Bates) Attorneys: contingent fee agreements.** This bill places a number of additional restrictions on contingent fee attorneys. Among other things, the bill requires a contingent fee attorney to provide a disclosure statement to a client containing specified information, including any conditions, limitations, restrictions or other qualifications on that fee and a statement as to how disbursements and costs incurred in connection with the prosecution or settlement of the claim will affect the contingency fee and the client's recovery. Status: Dead, AsmJUD.

**AB 2726 (Laird) Attorney's fees: mobilehome parks.** This bill seeks to protect cities and counties with mobilehome rent control ordinances from the costs of defending against baseless litigation challenging the ordinances. The measure provides that when a local governmental entity prevails in such an action, the court must determine whether the mobilehome park owner brought the action with reasonable cause and in the good faith belief that there was a justifiable controversy which warranted the filing of the complaint.

If the court determines that the action was not brought in good faith and without reasonable cause, the court must award the local governmental entity all reasonable and necessary costs, including attorney's fees. Status: Failed, AsmJUD.

### **State Bar**

**AB 193 (Cohn) State Bar of California: audits.** As referred to the Committee, this bill revised existing law's requirement that the Board of Governors contract with the Bureau of State Audits to conduct a performance audit of the State Bar's operations for the respective fiscal year every 2 years to instead require the Board of Governors to contract for the performance audit every 4 years. The bill was subsequently gutted and amended to relate to procurement and contracting practices. Status: Dead, AsmAPPR.

**AB 1708 (Judiciary) State Bar of California: dues authorization.** Authorizes the State Bar to collect up to \$310 as annual State Bar membership dues for the year 2004 (for a total of \$390 which includes additional specified fees). The bill authorizes the State Bar to pursue orders for disciplined attorneys to pay the costs of their discipline as money judgments and permits the State Bar to pursue money judgments against attorneys whose bad conduct has necessitated payments out of the Client Security Fund. Among other things, the bill also revises the "scaling" criteria that allows members to reduce their bar dues by either 50% or 25%, depending on their earned income, as follows: (1) A member who can demonstrate annual individual earned income of less than \$40,000 derived from the provision of arbitration, mediation, referee or other dispute resolution services and, generally, from the practice of law, is presumptively qualified for a 25% waiver of the annual membership fee; and, (2) A member who can demonstrate total annual individual earned income of less than \$30,000 is presumptively qualified for a 50% waiver of the annual membership fee. Status: Chapter 334, 2003.

**AB 3080 (Judiciary) State Bar membership list.** This bill would require the State Bar of California to conspicuously publicize to its members in the annual dues statement the fact that members have a right to limit the sale or disclosure of membership information not reasonably related to regulatory purposes, and also would require the Bar to disclose in its privacy policy the simple procedure by which a member may exercise his or her right to prohibit or restrict the sale or disclosure of membership information not reasonably related to regulatory purposes. Status: Chapter 356, 2004.

**SB 1490 (Judiciary) State Bar annual membership fee.** This bill authorizes the State Bar of California to continue to collect up to \$310 as annual Bar membership dues for the year 2005 (for a total of \$390 which includes additional specified fees). Status: Chapter 384, 2004.

## **CIVIL PRACTICE AND PROCEDURE**

### **Arbitration and Mediation**

**AB 473 (Correa) Contractors.** As heard by the Judiciary Committee, this bill would have modified various provisions of the Contractors' State License Law relating to arbitration proceedings and the timeline for compliance with arbitration awards and orders of civil penalty or correction. The bill was subsequently amended to address the crime of jury tampering. Status: Dead, AsmRULES.

**AB 1231 (Simitian) Arbitrator ethics.** This bill would create an exemption from existing law regarding arbitrator ethics for real estate licensees assisting in a dispute resolution program for real estate licensees administered by a trade association or multiple listing service for disputes between members. Status: Dead, AsmJUD.

**AB 1304 (Agriculture) Alternative dispute resolution: party choice.** This bill amends the conciliation process relating to price disputes between cooperative bargaining associations and specified processors by permitting these parties to freely select the conciliator they feel is best able to assist them in resolving the dispute, rather than being forced to hire the American Arbitration Association. Status: Chapter 145, 2003.

**AB 1448 (Liu) Elder and dependent adult abuse: mandatory arbitration.** This bill seeks to ensure that applicants and residents of long-term care facilities have the full benefit of the rights and procedures contained in the Elder Abuse and Dependent Adult Civil Protection Act (EADACPA) such that they may not be deprived of those rights or procedures by the use of coerced and involuntary waivers, and that any agreement to arbitrate any claim arising under EDACPA is a matter of knowing and voluntary consent and not coercion. Status: Dead, AsmINACTIVE.

**AB 1713 (Judiciary) Private judging companies.** This bill is a technical clean-up measure related to the Committee's legislation last year regarding private consumer arbitration companies. It contains definitions for terms used in last year's private arbitration company bills, including AB 2574 (Harman), AB 2656 (Corbett), and AB 2915 (Wayne) and provides a remedy for violation of those bills. Status: Dead, AsmINACTIVE.

**AB 1714 (Judiciary) Private judging companies.** This bill would correct a misnomer in the California Arbitration Act by substituting the term "revocation" where the word "rescission" is currently used. Status: Dead, SenDESK.

**AB 1715 (Judiciary) Employment discrimination arbitration.** This bill states that it is unlawful for an employer covered by the Fair Employment and Housing Act (FEHA) to require an employee or potential employee to waive rights or procedures provided for in the FEHA as a condition of employment or continued employment, or to retaliate or otherwise discriminate against an employee or potential employee because he or she refuses to waive rights or procedures provided for in the FEHA. Status: Vetoed.

**AB 1968 (Dutra) New Motor Vehicle Board.** This bill would recast the authority of the New Motor Vehicle Board with respect to mediate, arbitrate, or otherwise resolve

disputes between any member of the public and any new motor vehicle dealer, manufacturer, manufacturer branch, distributor branch, or representative board. Status: Dead, AsmJUD.

**AB 2656 (Jackson) Mandatory arbitration of automobile disputes.** This bill would provide car buyers with protection against coercive arbitration clauses similar to that enjoyed by automobile dealers when manufacturers seek to impose arbitration agreements and other waivers of legal rights on them. This bill permits pre-dispute agreements with consumers, but requires that an agreement between a dealer and a consumer by which the consumer waives legal rights must be a matter of voluntary consent, not coercion. Status: Dead, AsmFLOOR.

### **Civil Procedure**

**AB 418 (Pacheco) Civil actions: service of process.** This bill provides that process may be served on a corporation or other type of business by leaving a copy of the summons and complaint at the business's usual mailing address, rather than their office, during usual office hours with the person who is apparently in charge of the mailing address, followed by an additional mailed copy to the person to be served at the same place where the complaint was left. The bill further provides that service of process on a business whose form of organization is not known to the plaintiff may be made personally by delivering a copy of the summons and complaint to the person who is apparently in charge of the office of the business, followed by service by mail. Status: Chapter 128, 2003.

**AB 537 (Correa) Statute of limitations: revival of causes of action.** This bill would allow any resident of California to bring suit in the superior court of the county in which he or she resides to recover on a claim for unpaid wages if the person had the claim for unpaid wages during April, 1975, in the former country of South Vietnam. The bill would allow such an action to be filed on or before December 31, 2009, regardless of whether it was barred based upon the previously applicable statute of limitations. The bill would also state the intent of the Legislature that there is no statute of limitation on actions to recover money deposited with a bank. Status: Dead, SenJUD.

**AB 690 (Pacheco) Garnishment: execution and attachment liens.** This bill permits a writ of attachment of a defendant's deposit accounts to be served once upon a financial institution at a centralized location designated by the institution for all deposits held by the institution, and permits a writ of execution of a judgment debtor's deposit accounts to be served once upon a financial institution at a centralized location designated by the institution for all deposits held by the institution. Status: Chapter 110, 2003.

**AB 840 (Calderon) Public Utilities Commission: evidence: orders or decisions: review.** This bill would require a writ of review to be issued by the court in certain cases where an application is filed for review of a Public Utilities Commission (PUC) decision.

The bill would also require the PUC to adhere to the evidentiary rules of the Administrative Procedure Act in its adjudicatory proceedings. Status: Dead, AsmJUD.

**AB 1143 (Simitian) Civil procedure: internet communications.** This bill seeks to provide specific rules for service of a subpoena issued to compel an Internet Service Provider (ISP) to release identifying information regarding a consumer. The bill adds ISPs to the list of "witnesses" who have and maintain personal records of a consumer that may be subject to a subpoena duces tecum for production of a consumer's personal records in connection with a civil action or proceeding. Status: Dead, SenJUD.

**AB 1188 (Cohn) Park and open-space districts.** Existing law permits a regional park, park and open-space, or open-space district to take and hold, use, enjoy, lease or dispose of real and personal property for district purposes; this bill would make this provision applicable to conveyances in lieu of or under threat of condemnation. The bill further provides that a court of competent jurisdiction must determine whether the presumption that property acquired for public use as a regional park or regional open space has been acquired for the best and most necessary public use has been rebutted. Status: Dead, AsmLGOV.

**AB 1712 (Judiciary) Civil procedure.** AB 1712 is sponsored by Judicial Council to make technical improvements to the judicial arbitration statutes as well as other technical and clarifying changes to various codes dealing with civil practice and procedures. The bill deletes obsolete references to the municipal courts, clarifies when an attorney may be appointed as a guardian ad litem for purposes of appearance in a small claims action, and makes other needed changes. Status: Chapter 449, 2003.

**AB 2057 (Harman) Deposition reporters.** This bill provides that parties may not stipulate to the use of an unlicensed shorthand reporter where a certified shorthand reporter is required in a deposition. Status: Dead, SenJUD.

**AB 2081 (Nakano) Settlement offers.** This bill would revise the law under which a party may serve an offer of judgment to include an offer to enter into a settlement. Status: Dead, AsmJUD.

**AB 2202 (Pacheco) Summary judgement.** This bill would amend the summary judgment statute to allow parties moving for summary judgment additional time in which to file the motion if the court decides there is good cause or the parties so agree. Status: Failed, AsmJUD.

**AB 2211 (Plescia) Summary judgment.** This bill revises the time periods by which papers must be filed in summary judgment motions by shortening the time period by which papers in opposition to summary judgment motions must be filed and extending the time period by which papers in reply to the opposition must be filed. Status: Failed, AsmJUD.

**AB 3078 (Judiciary) Civil actions.** This bill clarifies that an emancipated minor may be a party to a small claims action; ensures that the party or the party's attorney is notified when a check for a filing fee has been returned for nonpayment or is in an amount less than the required fee; and revises deadlines for service of specified moving, supporting, and opposing papers regarding motions and other hearings, the deadline for the completion of discovery proceedings prior to trial, and the deadline for a demand for the exchange of information concerning expert witnesses prior to trial by referring to court days rather than calendar days, and makes other related, clarifying changes. Status: Chapter 171, 2004.

**AB 3081 (Judiciary) Civil discovery.** This bill reorganizes the statutes governing civil discovery into short sections closely tracking the existing language and sequencing. Status: Chapter 182, 2004.

**SB 113 (Ackerman) Mechanics' liens.** This bill implements a recommendation of the California Law Revision Commission to relieve mechanics' lien claimants from the requirement to file an immediate motion to stay the foreclosure action pending arbitration if the claimant makes statements of intent in the complaint to preserve the right of arbitration and intent to file a motion to stay within 30 days after the service of the summons and complaint. Failure of the claimant to file that motion either at the time of making the complaint or 30 days after if intent was stated in the complaint will waive the claimant's right to compel arbitration. Status: Chapter 54, 2003.

**SB 391 (Escutia) False claims.** This bill would clarify that unknown defendants alleged as "Does" in a false claims action may remain unnamed in the complaint for more than three years after the date of discovery of the alleged violation, so long as they are named within 10 years of the date the violation was committed. The bill was subsequently amended to address pesticide exposure. Status: Chapter 913, 2004.

**SB 515 (Kuehl) Civil actions.** This bill revises who may invoke the special anti-Strategic Litigation Against Public Participation (SLAPP) procedure for striking a lawsuit or claim on the ground that the suit or claim is based on the exercise of specified constitutional rights. It prohibits an anti-SLAPP motion from being employed against any action brought solely in the public interest, or on behalf of the general public in specified conditions, and modifies whether an immediate appeal may be taken when a trial court denies a special motion to strike. Status: Chapter 338, 2003.

**SB 780 (Torlakson) Vehicles: violations: automated enforcement systems.** This bill would reconfigure and revise provisions regulating the use of automated traffic enforcement systems by deleting the requirement that the system be designed to photograph the vehicle driver and instead requiring that a clear photograph of the vehicle and license plate be obtained. It would impose a maximum civil penalty of \$200 for such violations and would exempt these violations from the negligent driver point count system for moving violations. The bill further establishes an administrative procedure for adjudicating red light camera violations similar to that for parking tickets. Status: Dead, SenAPPR.

**SB 792 (Sher) Jurisdiction: foreign forums.** As referred to this Committee, this bill required a petitioner to present evidence of the availability and adequacy of the alternative foreign forum when determining the interest of damages for death or personal injury in a foreign country. The bill was subsequently amended to require the State Department of Transportation to sell and transfer certain property under its control in the County of San Mateo as surplus state property to the State Department of Parks and Recreation for state park purposes. Status: Chapter 390, 2004.

**SB 1368 (Ortiz) Substitute service of process: insurers.** This bill authorizes substitute service upon a party's insurer, with the consent of the insured, where the insurer has acknowledged the existence of a claim and has not denied coverage on that claim, and requires that the insurer disclose the insured's last known address, subject to a court limiting the release of the address, if the insured does not consent to the request for substitute service. Status: Dead, AsmFLOOR.

**SB 1465 (Kuehl) Production of employment records.** This bill requires that when a subpoena for documents is sent to a labor union for records related to a current or former member's employment, a notice must be sent to the union member, just as when a subpoena for documents is sent to an employer for records related to a current or former employee's employment, a notice must be sent to the employee. Status: Chapter 101, 2004.

**SB 1678 (Dunn) Statute of limitations: sexual abuse of a minor.** This bill revises, for a one-year period commencing on January 1, 2005, a civil cause of action for child sexual abuse against the perpetrator if a criminal case filed against the perpetrator for that abuse was dismissed or overturned pursuant to the United States Supreme Court's decision in *Stogner v. California* (2003) 539 U.S. 607, which held that the underlying statute was an unconstitutional *ex post facto* law in authorizing a criminal prosecution after the original statute of limitations for the offense had run. Status: Chapter 741, 2004.

### Evidence

**AB 960 (La Suer) Public safety officer-peer supporter privilege.** Establishes an evidentiary privilege for communications between a public safety officer and his or her peer supporter through a pilot program until January 1, 2008. That privilege would apply to participants of the peer support program established by the Los Angeles County Sheriff's Department with respect to information transmitted between a public safety officer, as defined, and his or her peer supporter in the course of that relationship. The bill would also set forth various definitions and exceptions from the privilege. Status: Dead, SenJUD.

**AB 2819 (Nation) Expert witness testimony: medical malpractice.** This bill would allow expert testimony pertaining to the standard of care or practice only from a health

care provider who practices in the specialty of the physician about whom the testimony is given. Status: Failed, AsmJUD.

## **CONTRACTS, BUSINESS AND COMMERCIAL MATTERS**

### **Business**

**AB 534 (Vargas) Immigration consultants.** This bill revises the Immigration Consultant Act to protect clients against fraud and other improper business practices. This bill revises existing obligations on the part of consultants to provide contracts in the client's language, requires that clients be given statements showing charges by the consultant and the client's payments, requires consultants to state the purpose and process for documents prepared for the client, requires consultants to add to their current office disclosures a notice stating the services the consultant provides, and the fees charged for each such service, and requires the consultant to return all original documentation to the client. Status: Chapter 384, 2003.

**SB 283 (Sher) Commercial law: secured transactions.** This bill makes various changes needed to clarify and update the new Article 9 of the Uniform Commercial Code. Among other things, the bill allows financing statements and other forms required to be publicly filed with the Secretary of State to be filed in a form lacking a space for the social security number of an individual. Status: Chapter 235, 2003.

**SB 508 (Escutia) Automobile sales financing.** This bill requires automobile dealers to maintain, for at least seven years, copies of their sales contracts, documents relied upon to determine a buyer's creditworthiness, and the terms of any subsequent sale, assignment, or transfer of a contract. The bill also establishes a civil penalty for non-compliance. Status: Chapter 59, 2003.

**SB 523 (Escutia) False statements.** This bill provides that corporations and limited liability companies are liable for civil penalties up to \$1,000,000 in an action brought by the Attorney General or a district attorney or city attorney if the corporation or limited liability company has knowledge of certain acts and fails to notify the Attorney General or the appropriate government agency and shareholders or investors. Status: Chapter 477, 2003.

**SB 1008 (Machado) Veterans: contracts: disabled veteran business enterprises.** This bill strengthens the sanctions that can be levied against businesses that fraudulently misrepresent their eligibility for disabled veteran business enterprise (DVBE) certification. Status: Chapter 632, 2003.

**SB 1022 (Perata) Debt collectors.** This bill requires third-party debt collectors to provide a written notice to debtors summarizing their rights under state and federal law, which must be translated if the collector and debtor communicate in a language other than English. A violation of this act is in violation of the Rosenthal Fair Debt Collection

Practices Act, which generally allows for a 15-day correction period as well as damages, court costs, and civil penalties up to \$1,000 if litigated. Status: Chapter 259, 2003.

**SB 1262 (Sher) Charitable organizations: fundraising.** This bill, known as the Nonprofit Integrity Act of 2004, revises, recasts and adds to the law regulating charitable organizations, commercial fundraisers and fundraising counsel. In particular, this bill requires every charity that files reports with the Attorney General and that accrues gross revenues of \$2 million or more (excluding specified grants or contracts) in any given fiscal year to prepare and file an independent financial statement. The bill also prohibits certain conduct with respect to any solicitation or charitable promotion and permits charities to cancel contracts with fundraisers under specified circumstances. Commercial fundraisers and fundraising counsel must register with the Attorney General's Registry of Charitable Trusts not less than 10 working days prior to commencement of each solicitation campaign except in disasters or emergency situations. Status: Chapter 919, 2004.

**SB 1406 (Ackerman) Usury exemption.** This bill clarifies that a current exemption from the California Constitution's prohibition against usury exempts only those persons who meet either of the requirements of having \$2 million or more in assets and borrowing \$300,000 or more. Furthermore, the exemption applies only to persons who are not in violation of the California Finance Lenders Law and the Real Estate Law. Status: Vetoed.

### **Contracts**

**AB 88 (Corbett and Steinberg) Contracts: telemarketing.** This bill provides that a contract for a good or service that is made in connection with a telephone solicitation is unlawful if the telemarketer is in violation of a recent Federal Trade Commission (FTC) rule requiring that the seller obtain specified information directly from the consumer, under certain circumstances, and maintain a recording of the call. Specifically, the bill codifies the FTC's regulations requiring that telemarketers obtain express consent and at least the last four digits of a consumer's account number from the consumer before he or she enters into any agreement involving a free trial period that leads to subsequent charges if the agreement is not cancelled. Status: Chapter 77, 2003.

**AB 286 (Dutra) Mechanics' liens: double recovery.** This bill would provide that if a home improvement contract is executed in an amount not exceeding \$15,000 the homeowner may setoff the amount of good-faith payments to the original contractor against the aggregate amount of enforceable mechanics' liens and stop notice claims, up to \$15,000. Status: Dead, SenJUD.

**AB 309 (Chu) Contracts: foreign languages.** This bill extends certain existing protections for Spanish-speaking consumers to consumers whose primary language is Chinese, Tagalog, Vietnamese, or Korean. With regard to certain specified types of consumer contracts, the bill requires a business that primarily negotiates a contract in one

of the languages specified to provide the consumer with a written translation of the contract in that language prior to the execution of the contract. Status: Chapter 330, 2003.

**AB 656 (Corbett) Gift certificates.** As originally introduced, this bill dealt with child support collection. The bill was subsequently amended to revise the exception that otherwise prohibits the sale of any gift certificate containing an expiration date or service fee in order to clarify that a gift certificate may be issued if each contributor is provided with a full refund if certain conditions are met, including a clear disclosure in writing of the time in which the recipient may redeem the certificate. Status: Chapter 319, 2004.

**AB 832 (Montanez) Consumer loans: discrimination.** This bill would prohibit the denial of a consumer loan application on the basis of the applicant's race, ethnicity, national origin, native language, or residential or business address, and would authorize an applicant to bring a cause of action for a violation. Status: Dead, AsmB&F.

**AB 842 (Vargas) Time shares.** This bill would remove timeshares from the Home Solicitation Act and the Seminar Sales Act and transfer them to the subdivided lands law with modified consumer notice and rescission rights. The bill would also regulate products related to timeshares. Status: Dead, SenJUD.

**AB 903 (Steinberg) Construction defects.** This bill amends the construction defect statute by revising and recasting various provisions governing home construction defect actions that relate to a builder's election to inspect, the applicable statute of limitations, and the exclusivity of these provisions. Status: Chapter 762, 2003.

**AB 964 (Frommer) Vehicle sale and lease contracts: disclosures.** This bill requires vehicle sale and lease contracts to disclose the fees which sellers and lessors charge for optional automated vehicle registration processing. Status: Chapter 37, 2003.

**AB 1096 (Harman) Vehicles: lienholder.** As heard by the Committee, this bill would increase the amount of time a lien holder on a vehicle must wait before assessing a lien preparation fee from three calendar days to three business days. This bill would also require a lien holder to provide supporting documentation for the fee within two business days of a request for such documentation. It was subsequently amended to require that California Transportation Commission allocate funds for specified transportation projects. Status: Dead, SenTRANS.

**AB 1333 (Spitzer) Contracts: design professionals.** This bill would recognize the validity of pay-if-paid clauses for design professionals by permitting a contract between a design professional and a consultant of the design professional to contain an enforceable pay-if-paid provision if mechanics' lien rights are not available, provided that the services were performed prior to the commencement of the site improvement, as defined, and no site improvement has commenced, or the work of improvement is a public project. Status: Dead, AsmJUD.

**AB 1386 (Shirley Horton) Contractors.** This bill revises the conditions under which contractors with a lapsed license may bring an action against an owner to recover compensation due for the performance of work or defend against an action brought by an owner to recover compensation previously paid for the performance of work. Specifically, the bill authorizes the court to determine that there has been substantial compliance with licensure requirements if the person who acted as a contractor was previously licensed and (1) did not know, or reasonably should not have known, that he or she was not duly licensed when performance of the act commenced and, (2) acted promptly and in good faith to reinstate his or her license upon learning it was invalid. The bill also prohibits a person from recovering compensation paid to a contractor if a court determines that the contractor was in substantial compliance with licensure requirements, as specified and expands the definition of activities not deemed as "substantial compliance." Status: Chapter 289, 2003.

**AB 1609 (Spitzer) Public contracts: design-build-operate.** This bill authorizes a public entity to use the alternative design-build-operate delivery system for public works of improvement when the public entity anticipates that use of the design-build-operate delivery system will be beneficial. The bill requires the public entity, among other things, to establish a competitive prequalification procedure for design-build-operate entities, which would include the submission of a questionnaire executed under penalty of perjury. Status: Dead, AsmB&P.

**AB 1818 (Yee) Rental contracts: snowmobiles.** This bill seeks to provide safety measures to renters of snowmobiles by requiring a snowmobile rental company to provide a training course to a renter that familiarizes the renter with the safe operation of the snowmobile and explains the dangers of riding a snowmobile and requires that the renter complete the course before being allowed to operate a rental snowmobile. The bill also requires guides of snowmobile rental tours to have completed a basic CPR course and requires that a rental snowmobile be equipped with a lightweight shovel and flashlight with a flashlight charger. The bill also requires a rental company to provide each renter with a helmet and provides that, if a rental company rents a snowmobile to a person under 16 years of age, the rental company shall allow the person to operate a snowmobile only if he or she is accompanied by a responsible adult. Status: Vetoed.

**AB 1839 (Montanez) Motor vehicle sale contracts.** This bill seeks to enact the Car Buyer's Bill of Rights, seeking to provide important consumer protections to car-buying Californians. Among other things, the bill provides that an automobile dealer may not advertise or sell a used motor vehicle as "certified" or any similar descriptive term unless the vehicle has been inspected by a qualified technician and the vehicle meets specified criteria. The bill also prohibits markup of the finance charge rate as follows: for contracts with a term of 60 monthly payments or less, an annual percentage rate equal to 2.5% and for contracts with a term of more than 60 monthly payments, 2%. Under the bill, if a seller of a vehicle arranges a loan, arranges financing, makes a credit sale, sells or otherwise transfers a conditional sales contract, or makes a similar transaction for the

buyer, the seller must disclose the buyer's credit score, as specified. When this measure was heard by the Committee, it provided used car buyers with a three-day "cooling off" period in which they have the right to cancel a motor vehicle sales contract. The bill was later amended to delete this provision. Status: Vetoed.

**AB 2161 (Reyes) Structured settlements.** This bill revises the structured settlement transfer law by, among other things, expanding existing disclosure obligations to include the total amount the seller would receive under the structured settlement contract if the seller did not transfer the contract; clarifying that the seller must receive required disclosures before the seller executes the transfer agreement, clarifies the effective date of such contracts, and clarifies the statements buyers must make to sellers regarding the effective date of the contract; eliminating the 2005 sunset provision with respect to court approval of transfer agreements; eliminating the requirement of court approval for transfers if the seller resides outside of California; and restricting the Attorney General filing requirement prior to court approval to transactions in which the seller is a California resident. Status: Chapter 582, 2004.

**AB 2221 (Campbell) Contracts: translation.** This bill deletes existing law's requirement that a person in a trade or business who negotiates specified contracts or agreements primarily in the language of Chinese, Tagalog, Vietnamese, or Korean, must deliver to the other party prior to the contract's execution, a translation of every term and condition in the contract or agreement in that foreign language. Status: Dead, AsmJUD.

**AB 2363 (Correa) Automobile contracts: assignments.** This bill amends automobile sales and leasing agreement laws to include a requirement that the face of the contract contain a prescribed notice in at least 10-point boldface type, initialed by the buyer, as applicable, to the effect that the contract was negotiated primarily in the language initialed below by the buyer: Spanish, Chinese, Tagalog, Korean, Vietnamese. Status: Failed, SenJUD.

**AB 2549 (Pacheco) Works of improvement: disputed amounts.** Revises the law with respect to retention proceeds for works of improvement by increasing the amount that may be withheld from progress payments or final payments, depending on the circumstances, to a sum of various amounts and percentages, as specified. Status: Vetoed.

**AB 2761 (Leno) Rental car contracts: business programs.** This bill seeks to provide an exception to existing law's requirements relating to rental rate bundling laws for certain business programs and requires that certain conditions must be met in order for this exception to apply. Specifically, among other things, the bill allows a rental car company to separately quote additional charges for a qualified business rental, if, at the time the quote is provided, the person receiving the quote is also provided a good faith estimate of the total of all the charges for the entire rental. Status: Chapter 536, 2004.

**AB 2806 (Wyland) Public works: notice.** This bill deletes the provision that gives a claimant in connection with a public work 75 days after completion of a work of improvement to give written notice to the surety and bond principal where no notice of completion was recorded. Status: Dead, AsmJUD.

**AB 2840 (Corbett) Rental car companies: electronic surveillance technology.** This bill seeks to restrict the use of electronic surveillance technology (EST) to track and locate rental car customers by prohibiting a rental car company from using, accessing or obtaining information relating to the renter's use of the rental vehicle that was obtained using EST except in specified circumstances, including, among others, when the renter requests navigational or roadside assistance, when the rental vehicle is stolen, or in response to a specific law enforcement request, as specified. The bill also prohibits rental car companies from using EST to track a renter in order to impose fines or surcharges on the renter. Status: Chapter 317, 2004.

**SB 30 (Figueroa) Home improvement contracts.** This bill revises and recasts the provisions for home improvement contracts (HICs) and requires a HIC to contain various information, notices, and disclosures as specified. It defines a service and repair contract (SRC) and requires a SRC to contain various information, notices, and disclosures as specified. This bill specifies the conditions that SRCs must meet. It further increases the HIC exemption limit to \$500 for repair services with a contractor and specifies additional requirements and disclosures for such contracts. Status: Chapter 566, 2004.

**SB 134 (Figueroa) Mechanics' liens.** This bill requires the owner of a private work of improvement to provide a notice to the original contractor, as well as any subcontractors or materials suppliers who have filed a preliminary mechanic's lien notice, within 10 days of recording a notice of completion or cessation. Failure to provide the notice would extend a subcontractor's time to record a mechanic's lien claim. Status: Chapter 22, 2003.

**SB 146 (Escutia) Contracts: Spanish translation.** This bill strengthens existing law to ensure the protection of Spanish-speaking consumers; these protections are further extended to consumers who speak specified other languages under AB 309 (Chu), discussed above. Under existing law, with regard to certain specified types of consumer contracts, a business that primarily negotiates a contract in Spanish is required to provide the consumer with a written translation of the contract in Spanish prior to the execution of the contract. SB 146 would require that the translation include a translation of every term and condition in that contract. Status: Chapter 589, 2003.

**SB 210 (Burton) Contracts: minors artistic employment.** This bill seeks to further strengthen California's Coogan Law to benefit child performers by, among other things, requiring, in cases where evidence of a Coogan trust is not provided to an employer within 180 days of the minor's commencement of employment, an employer of a minor with an artistic employment contract to deposit 15% of the minor's gross earnings as required by law, into a special account held by the Actors Fund of America for the benefit of the minor or minors. Status: Chapter 667, 2003.

**SB 211 (Dunn) Residential care facilities for the elderly: admission agreements.** This bill specifies requirements for the form and content of admission agreements for residential care facilities for the elderly and requires a facility to conspicuously post a copy of its agreement within the facility. The admission agreement is required to include, among other things, a comprehensive fee schedule, an explanation of third-party services, information relating to residents' rights, and information relating to billing and payment, term of contract, refunds, and termination of the agreement. Status: Chapter 409, 2004.

**SB 300 (Torlakson) Rental car contracts: vehicle license transaction fees.** This bill allows rental car companies to recoup new increased Vehicle License Fee (VLF) costs from consumers by statutorily requiring rental car companies to impose a surcharge (a "vehicle license transaction fee" (VLTF)) on rental cars to allow companies to recover 80 percent of the increased VLF from consumers. The measure requires that the new VLTF be separately stated and charged on the rental agreement, and that it must be disclosed separately from the car rental cost in any quote or advertisement to prospective consumers. The provisions of this bill were combined with the provisions of AB 118 (Frommer) and inserted into AB 487 (Frommer) (vetoed). Status: Dead, AsmAPPR.

**SB 584 (Alarcon) Advertising.** This bill requires an insurer or public utility that advertises a service, product, or policy in designated languages to provide specified information to the consumer and to notify consumers of the right to request this information. The bill would specify that the Insurance Commissioner and the Public Utilities Commission are responsible for ensuring that those companies under their regulatory authority comply with these requirements. Status: Failed, AsmB&P.

**SB 1034 (Murray) Recording contracts.** As referred to the Committee, this bill imposed a fiduciary duty on a recording company to accurately account for royalties earned under a recording artist contract. The bill was subsequently amended to establish minimum audit procedures for royalty contracts between a royalty recipient and a royalty reporting party. Status: Chapter 150, 2004.

**SB 1721 (Bowen) Consumer contracts: packing.** This bill seeks to explicitly prohibit the practice of "packing" described by the author as the practice of sneaking insurance, extended warranties, or other "extras" into contracts without the buyer's knowledge or consent, and after the basic loan, lease or purchase terms have been negotiated and agreed to verbally. The bill also contains remedies for violations and related definitions. Status: Dead, AsmB&F.

### **Corporations**

**AB 1776 (Banking and Finance) Foreign corporations: production of records.** This bill, among other things, specifies that a foreign corporation's irrevocable consent to service of process includes service of search warrants in addition to those already specified for information concerning applications or accounts in the name of a victim of identity theft. This bill would also state that the irrevocable consent to service of process

for all these specified means of gathering records extends to records located both inside and outside of the state. Status: Chapter 629, 2004.

**AB 2396 (Wiggins) Securities and commodities law enforcement: attorneys' fees.** As passed by the Committee, this bill entitled the Attorney General and the Commissioner of Corporations to recover attorneys' fees and other specified costs of litigation when they exercise their existing authority to prosecute violations of the securities or commodities laws, as the Attorney General may do when it prevails in other public rights law enforcement actions. The bill was subsequently amended to address waste tire recycling. Status: Dead, AsmNATRES.

**SB 220 (Romero) Business organizations: signatures.** This bill authorizes the Secretary of State to accept for filing documents presented in electronic form, including facsimile. It expands the definition of "signature" to include signature on facsimile documents. Status: Chapter 27, 2003.

**SB 434 (Escutia) Securities and commodities laws: enforcement.** This bill provides the Attorney General with the authority to enforce corporate securities and commodities laws concurrently with the Department of Corporations, makes various clarifications to the laws regarding a department head's ability to share and seek information, and creates a new misdemeanor for knowingly and willfully making false statements in connection with an investigation of corporate misconduct. Status: Chapter 876, 2003.

**SB 1306 (Ackerman) Electronic transmissions.** This bill updates the statutes relating to the conduct of business by corporations, partnerships, and limited liability companies (LLCs), to permit the use of electronic transmissions as a means of communication between the corporation and its directors, officers and shareholders, between limited liability companies and its members, and between partners. Status: Chapter 254, 2004.

**SB 1528 (Alarcon) Corporations: director's duties.** This bill allows directors of a corporation to consider a variety of factors in carrying out their duty to look after the best interests of the corporation. Status: Dead, AsmB&F.

### **Unfair Trade Practices**

**AB 69 (Correa) Unfair competition.** As referred to the Committee, this bill required that a court review any proposed judgment or settlement in a private action brought under California's Unfair Competition Law (UCL) and provided that a court-approved judgment is conclusive and bars any further similar actions against the same defendant. The bill also required the attorney for a private plaintiff to be an adequate legal representative of the interest of the general public and specified that no representative cause of action may be dismissed, settled, or compromised, and no payments or monetary consideration may be collected or received by the plaintiff or counsel without the approval of the court and a determination that the disposition of the representative cause of action satisfies the requirements of the bill. It also required the State Bar to create a notice to defendants

detailing the legal rights and privileges available to the defendant. The bill failed passage in the Committee and was subsequently gutted and amended to delete the provisions of the bill relating to the UCL and instead insert unrelated provisions concerning public works. Status: Dead, SenRULES.

**AB 95 (Corbett) Private actions.** As referred to the Committee, this bill – part of a two-bill Democratic package along with SB 122 (Escutia) – required any private person bringing an action under the UCL on behalf of the general public to provide each defendant at the time of service of a demand letter or a complaint a comprehensive notice in 14-point boldface type which notes consumer protection rights available to all defendants sued under UCL, including a right to court review of settlement agreements in certain private UCL cases. The bill also clarified that defendants cannot be joined in a UCL action just because they are engaged in the same or similar businesses and are alleged to have violated the same or similar laws. The bill was subsequently gutted and amended to deal with an unrelated subject. Status: Vetoed.

**AB 102 (Pacheco) Unfair competition.** This bill requires that a private plaintiff in a UCL action brought on behalf of the general public have suffered a distinct and palpable injury and have served a notice of intent to sue on the defendant 90 days prior to bringing the action. The bill precludes any action by a plaintiff if a public prosecutor or another consumer has brought an action against the same defendant. The bill also provides that in a private UCL action, the court may consider mitigating actions taken by the defendant before the end of the 90-day period that correct the alleged acts of unfair competition, including a certified letter from the defendant documenting, under penalty of perjury, that the act has been corrected. The bill also provides for specified rules governing discovery in such actions. Status: Failed, AsmJUD.

**AB 599 (Dutton) Private enforcement.** This bill requires that a private person acting for the interests of the general public under the UCL must have been harmed by the prohibited acts or practices. The bill also requires that a court issue an order determining that the private action may be maintained, provides that any judgment approved by a court is conclusive, and bars any further actions brought by private persons on behalf of the general public against the same defendant based on substantially similar facts and theories of liability. Status: Failed, AsmJUD.

**AB 754 (Bogh) Unfair Competition.** This bill revises existing law's definition of unfair competition to instead require a practice, rather than an act, of the specified misconduct. The bill also defines the term practice for these purposes. Status: Dead, AsmJUD.

**AB 1711 (Judiciary) Regulation of legal proceedings.** This noncontroversial bill requires each person filing any brief or petition in an unfair competition or unfair advertising claim before an appellate body to serve a copy of that brief or petition, and, upon request, any other document, on the Attorney General and on the district attorney of the county in which the case was first brought, clarifies the statute of limitations

applicable to private party claims challenging advertising displays and deletes obsolete provisions in the State Bar Act. Status: Chapter 529, 2004.

**AB 2369 (Correa) Unfair competition.** This bill imposes requirements on an unfair competition action brought by a private person acting for the interests of the general public, including a requirement that the cause of action be verified and accompanied by a statement under penalty of perjury attesting to specified information. The bill also imposes additional requirements, including notifying specified agencies of the filing of a representative cause of action and of the proposed terms of a judgment or modification in such actions. The bill also requires the Attorney General to make these notifications publicly available via the Internet and prohibits a private person acting for the interests of the general public from soliciting a settlement or resolution of an alleged act of unfair competition without first filing a complaint with the court. Under the bill, a licensing board must indicate whether its action against a licensee is intended as the exclusive and final enforcement remedy for the violation it alleges and subject to specified exceptions, the bill requires a court to strike representative cause of action based on such a designated action. The bill requires a plaintiff who within a 6-month period filed one or more representative cause of actions against more than 20 defendants to notify each defendant and the court in which each action is pending and would require the court to schedule a class certification hearing and refer the matter to the Judicial Council for certification. The bill also authorizes a court to impose sanctions in a representative cause of action against the private plaintiff and the plaintiff's counsel. Status: Dead, AsmJUD.

**AB 2604 (Pacheco) Unfair competition.** As referred to the Committee, this bill provided that unfair competition means acts occurring within the state that are a violation of a state or federal law or regulation. The bill prohibited a court from discriminating against a defendant in an unfair competition action based on its domicile, headquarters, or principal place of business being located in this state and allows a person other than a government entity acting for the interests of itself, its members, or the general public to bring an action for unfair competition, or an injunction in an unfair competition action, only if it, its members, or a member of the general public suffered injury in fact and a loss of money or property as a result of the act of unfair competition. Under the bill, a person other than a government entity bringing an unfair competition action must comply with specified procedural requirements. The bill also required an unfair competition action to be commenced within the time period specified for the violation or 3 years, whichever is shorter. The bill was subsequently gutted and amended to deal with an unrelated subject. Status: Dead, SenL&IR.

**SB 122 (Escutia) Private enforcement actions.** This bill – part of a two-bill Democratic package along with AB 95 (Corbett) – requires a court to review and approve a settlement or compromise, including an agreement to pay attorney's fees, proposed to be paid in connection with a private UCL action brought, or proposed to be brought, on behalf of the general public if a party to the action requests court review and approval of its proposed settlement or attorney's fees except as specified. The bill also provides a special process to be followed when a complaint has not yet been filed. The bill specifies that, when a

party has opted for court review of a settlement or compromise, an agreement to pay any settlement moneys in those cases is void and unenforceable if not approved by the court. This bill also provides that any attorney who enters into a settlement or who receives attorney's fees in such an action without submitting the proposed settlement, including fees, for the required review and approval by the court when a party has requested court review of a settlement or compromise is subject to disciplinary action by the State Bar, including potential disbarment. The bill provides that, in order to prevent double recovery, a court may, in the exercise of its equitable powers, allow any party to present information about a prior action against the same defendant, and allow a set off against claims in a later action against that defendant, if the later action is based on the same facts, occurring at the same time, and raises the same issues as the prior action. Status: Failed, AsmFLOOR.

**SB 185 (Sher) Unfair competition.** This bill places restrictions on actions brought under the UCL by private parties on behalf of the general public. The measure requires a private person filing an unfair competition claim seeking restitution on behalf of the general public to show injury in fact unless the plaintiff is a nonprofit 501(c) corporation. In addition, the bill requires a court to review and approve a settlement for the payment of any money in a private unfair competition action brought on behalf of the general public. The measure also requires private plaintiffs to submit a copy of a UCL complaint to the Attorney General and serve on each defendant a notice advising the defendant of his or her rights. Status: Dead, AsmJUD.

**SB 466 (Escutia) Unfair competition: permissive joinder.** This bill states the Legislature's intent to examine the law allowing permissive joinder of multiple defendants in a single cause of action to determine whether that law has been misused and whether corrective changes are needed. Status: Dead, AsmDESK.

### **Creditor-Debtor Relations**

**AB 3 (Calderon) Consumer credit reporting.** As referred to the Committee, this bill requires a consumer credit reporting agency to remove adverse information from a consumer's credit report no later than 30 days after a tax, judgment, or civil lien has been released, as specified. The bill also requires a lienholder that furnishes specified information to a consumer credit reporting agency to inform the consumer credit reporting agency within 30 days after the lien has been released or an incident resulting in adverse information has been resolved. Status: Dead, AsmB&F.

**AB 2932 (Harman) Commercial law: secured transactions.** This bill would modify certain of the exemptions to the provisions governing the conveyance of personal property without immediate delivery to delete the requirement for a financing statement to be signed by the transferor of the property or the debtor, as the case may be. The bill would also modify existing provisions governing security interests in fixtures. This bill would delete the requirement that a secured party, who holds a security interest in a registered vehicle that constitutes inventory, have possession of the certificate of

ownership for the vehicle in order to be exempt from making an application for the transfer of registration. Status: Dead, AsmJUD.

**SB 804 (Machado) Homesteads: exemptions.** Under existing law, a specified proportion of equity in a homestead is exempt from execution to satisfy a money judgment. SB 804 increases from \$125,000 to \$150,000 the homestead exemption for judgment debtors who are 65 years of age or older, disabled, or 55 years of age or older with a gross annual income that does not exceed a specified amount. Status: Chapter 64, 2003.

**SB 1408 (Poochigian) Fraudulent transfers.** This bill provides courts with factors that judges may consider in determining whether a debtor's transfer of property is made with fraudulent intent to defraud a creditor. Status: Chapter 50, 2004.

**SB 1564 (Escutia) Fraudulent transfers.** As heard by the Committee, this bill added transfers of property by a governmental entity to the list of transfers exempted from a Civil Code provision that allows creditors to reach property that is transferred without a change in possession. The bill was later amended to delete this provision, taking the bill out of the Committee's jurisdiction. The bill was subsequently amended to prohibit insurers from refusing to renew homeowners' insurance policies on the basis of specified types of claim. Status: Dead, AsmINS.

## **COURTS AND RELATED MATTERS**

### **Courts**

**AB 759 (Nakanishi) Judicial Council: trial courts.** This bill requires the Judicial Council to adopt rules providing for the public to attend any meeting of a board, committee, or multimember body of a trial court on matters related to administrative functions of the court. Status: Dead, AsmJUD.

**AB 782 (Kehoe) Family law: court records.** As first heard by this Committee, this bill sought to discard the current unique statutory mechanism for dealing with employment complaints brought by trial court employees and places such disputes under the jurisdiction of the state's Public Employee Relations Board (PERB) commensurate with most other public employees. The bill was subsequently amended to, among other things, establish procedures for keeping the location or identifying information about the assets and liabilities of parties in a dissolution matter sealed. The bill also requires a related Judicial Council form to be revised no later than July 1, 2005, in accordance with those procedures and would make other related changes. Status: Chapter 45, 2004.

**AB 955 (Wiggins) Courts: fines and forfeitures.** As referred to this Committee, the bill required the judge to certify the accuracy of the records of fines and forfeitures collected by the court. The bill was subsequently amended to make minor, clarifying changes to the statutory requirement that a local planning agency refer a proposal to adopt or

substantially amend a general plan to any elementary, high school, or unified school district within the potentially affected area. On the Senate side, the bill was again amended substantially to require that if property under the jurisdiction of the Sonoma Developmental Center is declared surplus, it must be transferred to the Department of Parks and Recreation and added to Jack London State Park. Status: Vetoed.

**AB 1165 (Dymally) Appellate opinions.** This bill requires all final opinions of the Supreme Court, the courts of appeal, and the appellate divisions of the superior courts to be in writing and made available, in full, for private publication. It specifies that these opinions constitute precedent under the doctrine of stare decisis the same as opinions published in the official reports and may be cited as precedent. It makes related, clarifying changes that all opinions of the Supreme Court, a court of appeal, and an appellate department of a superior court issued on or after the effective date of the bill shall be made available to public and private reporting services, electronically and without cost. All opinions of the Supreme Court, a court of appeal, and an appellate department of a superior court may be cited to or by any court; and that opinions issued on or before the effective date of the bill that have not been designated for publication in the Official Reports shall have no precedential value, but may be cited for any persuasive value they may have, as specified. Status: Failed, AsmJUD.

**AB 1641 (Keene) Court emergencies.** This bill expands existing provisions for the extension of certain time limits in juvenile court cases during natural and human-made disasters to apply to release and detention hearings for minors and hearings to declare a minor a ward or dependent child of the court. The bill also allows courts, with the approval of the Chair of the Judicial Council, to declare specified days in which emergencies have interfered with court proceedings to be "court holidays" for the purposes of extending certain court deadlines. Status: Chapter 293, 2003.

**AB 2038 (La Suer) Civil bench warrants.** This bill specifies that upon a failure of a party, witness, or other person in a noncriminal action to appear in court as ordered, or to comply with a noncriminal court order, the court may issue a civil bench warrant commanding any peace officer to arrest and bring before the court that party, witness, or other person and further provides that the court may enter a civil judgment for sheriff's fees and a civil penalty of not more than \$5,000 in favor of the party requesting service of the warrant issued, with judgment enforced in the same manner as other civil judgments for money. Status: Dead, SenJUD.

**AB 3079 (Judiciary) Court operations.** This bill, among other things: 1) allows a presiding judge to assign a retired subordinate judicial officer to perform subordinate judicial duties and limits compensation at a specified rate; 2) authorizes the Chair of the Judicial Council to extend the duration of a temporary restraining order that would otherwise expire because a specified emergency condition prevented the court from conducting proceedings; 3) eliminates specified appellate filing fees in mental health conservatorship proceedings under the Lanterman-Petris-Short Act in both the Courts of Appeal and in the California Supreme Court; 4) ensures that a Court Appointed Special

Advocate is provided with a complete copy of a social worker's supplemental report to the court in juvenile dependency cases. Status: Chapter 811, 2004.

**SB 144 (Escutia) Judicial Council: trial court meetings.** This bill requires the Judicial Council of California to adopt rules providing for public notice and input into decisions concerning the administrative and financial functions of a trial court. Status: Chapter 367, 2003.

**SB 246 (Escutia) Courts: fines and penalties.** This bill removes the January 1, 2006 sunset of the Franchise Tax Board (FTB)'s Court-Ordered Debt Collection program; requires the FTB, in conjunction with the Judicial Council, to seek additional resources as needed to accept court collection referrals from all 58 counties or superior courts; permits use of debit cards and electronic payments for specified court payments; and adds the superior courts to those entities that may refer uncollected fines of at least \$250 to the FTB for purposes of intercepting state income tax refunds. Status: Chapter 380, 2004.

**SB 749 (Escutia) Court facilities: utilities: Judicial Council.** This bill makes technical corrections to provisions related to the Trial Court Facilities Act of 2002 by amending the process for calculating the County Facilities Payment and authorizing the creation of a Court Facilities Architectural Revolving Fund for court construction projects. In addition, the bill extends the July 1, 2004 deadline for the courts to adopt a rule of law regarding dependent children. Status: Chapter 249, 2004.

**SB 940 (Escutia) Courts: fines and penalties: collection.** This bill requires the Judicial Council to adopt guidelines for a comprehensive program for collection of fines, penalties and assessments imposed by the courts, and requires each superior court to develop a cooperative plan to implement those guidelines and annually to report to the Judicial Council on the effectiveness of the collection program. Status: Chapter 275, 2003.

**SB 1225 (Morrow) Court commissioners.** This bill conforms the language of California Code of Civil Procedure Section (CCP) 259(e) to the standard articulated in the California Constitution regarding appointment of temporary judges. The bill further deletes obsolete provisions of CCP Section 259 relating to court commissioners and their functions. Status: Chapter 49, 2004.

**SB 1305 (Vasconcellos) Elder and dependent adult abuse cases.** This bill requires the Judicial Council, to the extent private funds are available, to establish a unit within the Administrative Office of the Courts (AOC) to assess the handling of elder and dependent adult abuse cases in the courts, and to develop administrative and educational strategies for improving the handling and coordination of these cases in California's civil and criminal courts. It further requires the AOC to seek appropriate available funding to support these activities, and to the extent private funds are available, to incorporate elder and dependent adult abuse issues into its existing educational programs for judicial officers, court staff, and other specified groups involved in these cases. Status: Dead, AsmAPPROPS.

## **Court Reporting and Recording**

**AJR 35 (Leno) Court reporters and realtime writers.** This resolution urges Congress to pass legislation that would provide funding for the training of court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996. Status: Res. Chapter 119, 2003.

## **Judges**

**AB 2729 (Leno) Commission on Judicial Performance.** This bill would authorize the commission to take testimony in the conduct of investigations and formal proceedings involving potential judicial misconduct, and would require an order for the taking of a deposition in a formal proceeding to issue only upon a showing by the party requesting the deposition that the proposed deponent is a material witness and there is good cause for taking the deposition. Status: Dead, SenJUD.

**AJR 22 (Haynes) Judicial nomination of Miguel Estrada.** This measure requests that the United States Senate work to allow a vote on the floor of the United States Senate on the judicial appointment of Miguel Estrada. Status: Dead, AsmJUD.

**SB 1246 (Burton) Former judges: court appearances.** This bill would require the State Bar, by July 1, 2005, in consultation with the Supreme Court, to study, develop and make recommendations on standards and revisions to the rules of professional conduct governing the propriety of an attorney appearing before a court where that individual previously served as a judicial officer. Status: Vetoed.

## **Juries**

**AB 270 (Bates) Jury service: peace officer exemption.** This bill exempts harbor and port police from jury service. Status: Failed, SenPUBSAF.

**AB 513 (Matthews) Juries: peace officer.** This bill requires the Judicial Council to adopt a rule of court, requiring trial courts to establish jury service procedures that provide Penal Code 830.5 peace officers - correctional officers, parole agents and probation officers - scheduling accommodations when necessary. Status: Chapter 353, 2003.

**AB 1180 (Harman) Jury duty: new fines for failure to serve.** This bill permits courts, in lieu of imposing potentially severe penalties for contempt, to impose graduated and uniform monetary penalties upon prospective jurors who fail to show up for jury service. Monetary sanctions are cited at no more than \$250 for the first violation, \$750 for the second violation, and \$1,500 for the third and any subsequent violation in which a prospective juror who has failed to respond and has not been excused, after first providing the juror with a notice and an opportunity to be heard. The bill expresses the intent of the Legislature that funds derived from the sanctions be allocated to the family

and civil courts; requires the Judicial Council to provide a procedure for prospective jurors against whom a sanction has been imposed by default to move to set aside the default; requires the Judicial Council to report to the Legislature regarding the effects of implementing these provisions on or before December 31, 2005; and provides that its provisions shall remain effective until January 1, 2007, unless extended by statute. Status: Chapter 359, 2003.

**AB 1397 (Longville) Trial juries: jurors' rights.** This bill assists employees and employers in accommodating jury service obligations. It requires the Judicial Council to adopt a rule of court establishing special scheduling accommodations for small businesses having five or fewer employees when an employee is summoned for jury service while a co-employee is already on jury service. It also prohibits an employer from requiring an employee summoned for jury service to use vacation, personal leave, or compensatory time off available to that employee for time spent complying with jury service. Status: Dead, SenJUD.

**AB 1978 (Haynes) Jurors: parents with children.** This bill would provide that an eligible person who is a single parent or guardian and has sole custody of a minor child under 6 years of age or is a parent in a 2-parent household who remains at home to care for a minor child under 6 years of age may be excused from jury service. Status: Dead, AsmJUD.

**AB 2253 (Mountjoy) Elder jurors.** This bill would permit the exclusion of a prospective juror who is 75 years of age or older, if that person wishes to be excused. Status: Failed, AsmJUD.

**AB 2271 (Parra) Jurors: peace officers.** This bill would prohibit correctional officers employed by the Department of Corrections from being selected for voir dire in civil or criminal matters. Status: Dead, SenPUBSAF.

### **Trial Court Coordination and Funding**

**AB 688 (Nakanishi) Court facilities: bond funding.** This bill authorizes the Judicial Council to consider the availability of matching funds as one factor in determining the allocation of general obligation bonds for court facilities if a pending bond measure is enacted into law and approved by the voters. The bill expressly states that the Judicial Council is not required to give priority to projects with matching funds. Status: Dead, SenJUD.

**AB 765 (Longville) Trial court funding: San Bernardino county.** This bill validates the distribution of fines, forfeitures and penalties as reported by the County of San Bernardino for the 1996-97 fiscal year with respect to the county's obligations to the state General Fund. Status: Dead, AsmAPPR.

**AB 1709 (Judiciary) Government Code.** Existing law, effective January 1, 2003, deleted the requirement that the Judicial Council provide by rule for the appointment of a standing Trial Court Budget Commission, as specified. This bill would make technical, corresponding changes to the codes. Status: Dead, SenRULES.

**SB 79 (Judiciary) Court administration.** This bill deletes provisions made obsolete by the trial court reform bills enacted in 1996, 1998, and 2000 and amends various others to conform those changes made by the reform bills to the statutes. Status: Chapter 149, 2003.

**SB 129 (Escutia) Trial courts: budget process.** This bill requires the Trial Court Policies and Procedures (TCPP) to specify the process for a court to transfer existing funds between or among the budgeted program components to reflect changes in the court's planned operation or to correct technical errors. When the process requires a trial court to request approval of a specific transfer of existing funds, the request must be answered in writing, within 30 days of receipt of the request, with copies of the response provided to specified entities, including the court's affected labor organizations. It requires Judicial Council (JC) to circulate for comment to all affected entities any amendments proposed to the TCPP as they relate to budget monitoring and reporting, and to adopt any final changes at a meeting of JC. Status: Chapter 336, 2003.

**SB 256 (Escutia) Court facilities.** This bill governs, among other things, procedures for how counties may use their local courthouse construction fund during the process of transferring responsibility for court facilities from the counties to the state. This bill also makes several technical and clarifying changes to the Trial Court Facilities Act of 2002 previously contained in SB 328. Status: Chapter 592, 2003.

**SB 328 (Judiciary) Court facilities: funding.** This bill, as heard by the Committee, was a technical clean-up bill that made corrections and clarifying changes to the Trial Court Facilities Act of 2002. This language was placed into SB 256 and this bill was subsequently amended to establish financial aid application procedures to be used by individuals who do not have the legal immigration status necessary for federal processing of the financial aid application. Status: Vetoed.

## **FAMILY LAW, CHILDREN AND RELATED MATTERS**

### **Adoption**

**AB 370 (La Suer) Adoption: consent revocation waivers.** AB 370 would permit an adoption service provider to serve as the witness to the birth parent's signing of a waiver of the right to revoke consent to an adoption, and to complete the interview with the birth parent that is required before such a waiver may be signed. Status: Dead, AsmJUD.

**AB 416 (La Suer) Adoption: legal guardians.** This bill reduces from one year to six months the required time period before a child's legal guardian can petition for adoption

of the child, in a case where the child has been found by a court to have been legally abandoned. The bill permits the legal guardian of a child to file a petition to declare the child free from parental custody and control on the grounds that the child has been legally abandoned in the same court and concurrently with a petition for adoption, in a case where the child is alleged to have been abandoned. Status: Chapter 81, 2003.

**AB 609 (La Suer) Adoption: final hearings.** AB 609 would permit the judge to waive the requirement that the prospective adoptive parents and child appear before the court at the final hearing at which the court makes and enters the order of adoption. Status: Dead, AsmJUD.

**AB 961 (La Suer) Adoption: nonresident petitioners.** This bill would permit out-of-country residents to petition for adoption in the county in which the placing birth parent or birth parents resided when the adoption placement agreement was signed, or the county in which the placing birth parent or birth parents resided when the petition was filed. Status: Dead, SenJUD.

**AB 2492 (La Suer) Adoption: preplacement evaluations.** Existing law provides that a licensed private adoption agency may certify prospective adoptive parents by a preplacement evaluation that contains findings of suitability. This bill specifies that preplacement evaluations may be made by a licensed private or public adoption agency of the state of the petitioners' residency. Status: Chapter 128, 2004.

**AB 2674 (Leno) Adoption: relinquishment.** This bill requires that a licensed adoption agency send to the Department of Social Services (DSS) a certified copy of the relinquishment of a child for adoption at the end of business following the signing and that the relinquishment be final 10 business days after receipt of the certified copy, unless a longer period is necessary due to pending court action or other cause beyond control of DSS. This bill also states the intent of the Legislature to ensure that the process of relinquishing a child for adoption purposes is done as expeditiously as possible while ensuring the interests of all parties, especially the child, are considered. Status: Chapter 306, 2004.

**SB 169 (Karnette) Intercountry adoptions.** This bill would authorize a child who was adopted as part of a sibling group and who has been separated from his or her sibling or siblings through readoption by a resident of this state to petition the court to enforce any agreement for visitation to which the separate adoptive families subscribed prior to the child's readoption, or to order visitation if no such agreement exists. Status: Chapter 19, 2003.

**SB 182 (Scott) Adoption.** This bill makes both clarifying and substantive changes to the law regarding adoption in order to facilitate and encourage adoptions. It provides that if a birth parent revokes consent to an adoption but does not regain custody or request return of the child, the remainder of the initial 30 day period in which to revoke consent will run after the birth parent reinstates consent. In addition, the bill creates a procedure for a

child to be declared free of parental custody and control and adopted by a guardian, if the child has been in the physical custody of the guardian for at least two years and if the court finds that the adoption would be in the best interest of the child. Status: Chapter 251, 2003.

**SB 947 (Ducheny) Indians: child welfare services: adoptions.** This bill creates a new process for the identification of a child who is or may be an Indian child whose parent is seeking to give the child up for adoption, and for the notification of the child's relatives and tribe. In order to ensure that the notification provisions are honored, the bill creates civil penalties for specified violations of the new provisions. The bill also strengthens existing law regarding the preference that a child placed in foster care be placed with a relative, if possible. Status: Chapter 469, 2003.

**SB 1357 (Scott) Adoption and foster care.** The bill provides that if a presumed father waives the right to notice of adoption in a duly notarized written instrument, no notice, relinquishment for, or consent to adoption of the child shall be required from him for the adoption to proceed. The bill also makes postadoption contract agreements available to be filed in agency adoptions also available to be filed in independent adoptions. This bill requires the foster family agency that placed a child to give notice of all noticed hearings it receives to the foster parent, relative caregiver or certified foster parent of the child. The bill permits a foster parent, relative caregiver or, in the case of an Indian child, the child's tribe, to attend meetings of the multidisciplinary team and to provide information that may be considered by the team, if the team deems it appropriate. Status: Chapter 858, 2004.

### **Children**

**AB 44 (Pacheco) Dependent children: juvenile court hearings.** This is a clean-up bill to SB 1956 (Polanco, Chapter 416, Statutes of 2002), that revised and recast the notice provisions associated with dependency hearings. This bill (1) reenacts a provision that was chaptered out by another bill, thus resolving a technical conflict in current law, (2) restores the Welfare and Institutions Code designations for specific hearings to maintain continuity and to avoid costs of renaming court forms and reorienting users to new code references, (3) inserts references to new renumbered notice provisions where relevant, to avoid confusion, (4) restores the prescribed time for service of notice by publication of a hearing to terminate parental rights from 45 days to 30 days, as it was prior to passage of SB 1956, and (5) clarifies the court's discretion relating to subsequent notices of a hearing to terminate parental rights. Status: Chapter 20, 2004.

**AB 111 (Corbett) Child abuse: mental suffering.** This bill clarifies that the infliction of mental suffering upon a child, as prohibited under existing law, is a violation of the law regardless of whether the act results in physical harm to the child. It clarifies that child abuse, as is required to be considered by the court in custody proceedings, includes the infliction of mental suffering, as defined in existing law. The bill would also

encourage local law enforcement to establish programs to address the needs of families that are exposed to violence. Status: Dead, SenPUBSAF.

**AB 129 (Cohn) Dual status children.** This bill would authorize the probation department and the child welfare services department in any county to create a protocol which would permit a minor who meets specified criteria to be designated as both a dependent child and a ward of the juvenile court. Status: Chapter 468, 2004.

**AB 408 (Steinberg) Dependent children.** This bill makes changes in dependency law to help achieve permanency for older foster youth. It requires the court, if a minor 10 years of age or older who is the subject of a juvenile court hearing is not present at that hearing, to determine whether the minor was properly notified of his or her right to attend the hearing. It requires that any social study or evaluation made by a social worker or child advocate appointed by the court and required to be received in evidence shall include a discussion of whether the child has relationships with individuals other than the child's siblings that are important to the child, and that efforts are made to maintain this relationship so that no child leaves foster care without a lifelong committed adult. It further provides that every child adjudged to be a dependent child of the juvenile court shall be entitled to participate in age appropriate extracurricular, enrichment and social activities, and that no state regulation or policy may prevent or create barriers to participation in those activities. Status: Chapter 813, 2003.

**AB 579 (Chu) Dependent children: notice to siblings.** This bill would require the local child services agency or the clerk of the court to provide notice of court hearings to certain siblings of a child who is the subject of a juvenile court proceeding and to the attorney of the sibling, unless the sibling is already required to be in court on the same day and on the same matter. Only a sibling who is the subject of a dependency proceeding or who has been adjudged a dependent of the court would be entitled to this notice. Status: Chapter 558, 2003.

**AB 1372 (Yee) Dependent children: jurisdictional hearings and hearsay.** Under existing law, hearsay evidence contained in a social study used in a dependency proceeding cannot be sufficient by itself to find that the child comes within the jurisdiction of the court as a dependent child, if that evidence has been timely challenged by any party to the jurisdictional hearing. An exception is made when the hearsay declarant is a child under the age of 12 who is the subject of the jurisdictional hearing. This bill would instead make an exception for the hearsay declaration of a child under 12 who is disqualified as a witness because he or she lacks the capacity to distinguish between truth and falsehood at the time of testifying, if the court finds that the time, content and circumstances of the statement provide sufficient indicia of reliability. Status: Dead, AsmJUD.

**AB 1469 (Negrete McLeod) Dependent children: supplemental reports.** This bill provides that the 10 calendar day requirement to furnish a copy of a supplemental report may be accomplished by mailing a copy of the report at least 15 calendar days prior to a

hearing to a party whose address is within California or 20 calendar days to a party whose address is outside the state. The bill requires the court to grant a continuance not exceeding 10 calendar days on the ground that the report was not provided as required, unless there is an express waiver of the 10 calendar days notice requirement or the court finds that the lack of timely notice does not prejudice the requesting party's ability to proceed at the hearing. In making this determination, the court is required to presume a party is prejudiced by the lack of timely service of the report and may find that the party is not prejudiced only by clear and convincing evidence to the contrary. Status: Chapter 516, 2003.

**AB 1635 (Keene) Emancipated minors.** This bill would revise the definition of an emancipated minor to provide that any minor who has received a high school diploma, or its equivalent, or who has been recognized as an emancipated minor in another state, is an emancipated minor. The bill would also delete the requirement that a petition for emancipation state that the minor lives separate and apart from his or her parents or guardian, instead requiring a statement that the minor is sufficiently responsible to merit the declaration, with specified evidence of such responsibility required. Status: Dead, AsmJUD.

**AB 1817 (Maze) Juvenile records: access.** This bill authorizes current Members of the Legislature to inspect a juvenile case file which pertains to a deceased child who was within the jurisdiction of the juvenile court as a dependent child. Status: Dead, AsmJUD.

**AB 1895 (Nation) Immigrant children.** This bill requires the juvenile court to appoint an immigration attorney to a dependent child who is not a Lawful Permanent Resident (LPR) or United States citizen and is unable to reunify with his or her parents, if the court determines that it is in the child's best interests, unless the county in which the court is located already provides or contracts for those services. This bill also requires the juvenile court to appoint an immigration attorney to a ward of the court who is not a LPR or U.S. citizen and who either is in the foster care system or is unlikely to reunify with his or her parents, if the court determines that it is in the child's best interests, unless the county in which the court is located already provides or contracts for those services. The child's immigration counsel is then permitted to pursue Special Immigrant Juvenile status or pursue any other avenue to obtain LPR status or U.S. citizenship for the child. The Judicial Council is required to establish standards, training requirements, and guidelines for attorneys eligible to be appointed as immigration counsel. Status: Vetoed.

**AB 2228 (Garcia) Minors: release of information.** This bill requires a state agency, county welfare department, child protective services agency, law enforcement agency, county probation office or another court to provide, upon request, a family court, superior court in guardianship proceedings or juvenile court all available information for the court to make a determination regarding the best interest of a child. Any information released that is confidential is required to remain confidential. Confidential family law and

dependency mediation sessions may not be released to the family court. Status: Chapter 574, 2004.

**AB 2380 (Harman) Parent and child relationships.** This bill would enact the Uniform Parentage Act of 2004. Among other things, these provisions would provide for a voluntary acknowledgment or denial of paternity filed with the Department of Child Support Services, establish a registry of paternity in the Department of Child Support Services, and impose related duties upon the department and local child support agencies. The bill would also revise provisions governing the use of genetic testing in the determination of paternity. Status: Dead, AsmJUD.

**AB 2502 (Keene) Dependent children: psychotropic medications.** This bill would require a juvenile court judicial officer to approve or deny, in writing, a request for authorization to administer psychotropic medication for a dependent child who has been removed from the physical custody of his or her parent, or set the matter for hearing, as specified, within 7 court days. Status: Chapter 329, 2004.

**AB 2627 (Steinberg) Dependency proceedings: public access.** On or before July 1, 2005, and until January 1, 2010, this bill would, among other things, require the Judicial Council to establish a pilot project in 3 counties to require that members of the public be admitted to a juvenile court hearing in a dependency proceeding, unless an objection is made, as specified, and the court rules that admitting members of the public would cause harm to the child's best interest and that members of the public may not be admitted. The bill would require the child's attorney to advise the child of the right to request that the hearing be closed, or if there is no attorney present on behalf of the child, the bill would require the court to advise the child of this right. Status: Failed, SenJUD.

**AB 2807 (Steinberg) Dependent children.** This bill makes corrections to inadvertent errors in AB 408 (Steinberg), Chapter 813, Statutes of 2003. Specifically, this bill conforms amendments that were made in some sections but not in other related sections, clarifying that certain requirements of AB 408 apply only to a child who is 10 years of age or older and has been in out-of-home placement in a group home (and not all non-relative care) for six months or longer from the date the child entered foster care. This bill also clarifies that the mandate for a visitation order or finding of detriment applies when the juvenile court establishes a permanent plan of either a guardianship or long-term foster care. Status: Chapter 810, 2004.

**SB 59 (Escutia) Dependent children: placement.** In order to minimize delays in the adoption appeals process when an adoption placement is challenged after parental rights have been terminated, SB 59 would mandate a statutory "substantive writ" process for cases where, after parental rights are terminated, juvenile courts intervene in adoption placement decisions by local child services agencies. The procedure specified in the bill requires a petition for a writ to be filed, substantively addressing the issues to be challenged and supported by an adequate record. Only if the writ is summarily denied or otherwise not heard on the merits could an appeal be filed. Status: Chapter 247, 2003.

**SB 139 (Brulte) Abandoned newborns: safe-surrender.** This bill makes a series of clarifying changes to existing law that grants immunity from prosecution for child abandonment when a parent or lawful custodian voluntarily surrenders physical custody of a child to designated sites and persons. Status: Chapter 150, 2003.

**SB 706 (Flores) Foster Family Insurance Fund.** This bill narrows the scope of the Foster Family Home and Small Family Home Insurance Fund (Fund) by (1) limiting liability of the Fund for a single family to \$300,000 for either any claims arising due to one occurrence, irrespective of duration, or any claims arising from multiple instances of a general course of conduct during a calendar year; and (2) clarifying that the Fund is not liable for a loss arising out of an intentional, criminal, dishonest or fraudulent act of a foster parent or person residing in the home, even if there was a related allegation of negligence; a loss arising out of licentious, immoral or sexual behavior of a foster parent or person residing in the home intended to lead to, or culminating in, a sexual act, even if there was a related allegation of negligence; and claims of property loss. Status: Dead, AsmRULES.

**SB 984 (Scott) Dependent children: Welfare Advance Fund payments: adoptions.** SB 984 brings California law regarding foster care and adoptive placements into conformity with the requirements of federal law barring consideration of a foster family's or adoptive family's cultural, ethnic, or racial background, or that of the child, in making a placement of a child. The bill makes further changes bringing California law into conformity with federal law regarding eligibility for the Adoption Assistance Program. Status: Chapter 323, 2003.

**SB 1284 (Morrow) Court files: confidentiality.** This bill would establish procedures for keeping the reports containing psychological evaluations of a child or recommendations regarding custody of, or visitation with, a child, that are submitted to the court in any proceeding involving child custody or visitation, in the confidential portion of court files. The bill would make this information available only to specified persons. Status: Chapter 102, 2004.

### **Child Custody and Visitation**

**AB 524 (Haynes) Dependent children.** This bill requires that, when a child is taken into protective custody due to suspected neglect or abuse by a parent or guardian (as described in Section 300 of the Welfare and Institutions Code), the child shall be released to the parent or guardian immediately after a finding by the juvenile court that the child is not an abused or neglected child, but in any case not more than two working days following the date of that finding. Status: Chapter 306, 2003.

**AB 934 (Reyes) Fresno County: child abduction prevention program.** This bill establishes, in Fresno County until January 1, 2007, upon approval of the board of supervisors, a pilot project requiring each person who files a petition, notice of motion, or

other paper in the superior court to determine custody of or visitation with a child, as specified, to establish a parent and child relationship, to petition for temporary guardianship of a minor, or to object to the report and recommendation of the mediator determining child custody or visitation, to pay a fee of \$25 in addition to other required fees. The bill requires that all moneys collected pursuant to that provision be deposited in the Child Abduction Prevention Fund established in the office of the district attorney in Fresno County and be allocated for the purpose of performing specified duties required of the district attorney in certain cases concerning child custody or visitation. Status: Dead, AsmJUD.

**AB 962 (La Suer) Minors: temporary custody.** This bill requires that, for purposes of a code section barring a peace officer from taking a minor who is in a hospital into temporary custody without a warrant, the minor is the subject of a petition for adoption and a Health Facility Minor Release (HFMR) Report has been completed by the hospital and signed by the placing birth parent or parents and the adoptive parent or parents prior to the discharge of the child. The bill requires that the prospective adoptive parent or parents or their representative provide a copy of the HFMR with the signed notice to the birth parent or parents and a copy of the petition for adoption to the local child protective services agency or the peace officer who is at the hospital to take the minor into temporary custody. The bill further requires that prior to signing the HFMR, the birth parent or parents be given a notice, as specified, stating among other things that the HFMR does not constitute consent to the adoption or a relinquishment of parental rights, and that the birth parent or parents may reclaim the minor from the prospective adoptive parents until an adoption placement agreement or relinquishment is signed by the birth parent or parents. Status: Chapter 568, 2003.

**AB 1108 (Bermudez) Child custody: drug testing.** This bill provides that in any custody or visitation proceeding, the court may order any parent seeking custody or visitation to undergo drug and alcohol testing if there is a preponderance of the evidence that habitual, frequent or continual illegal use of controlled substances or alcohol by the parent or legal custodian exists. This evidence may include, but is not limited to, a conviction regarding the illegal use or possession of illegal drugs or alcohol within the past five years. It also provides that the tests shall be done by the least intrusive method possible, and results of the testing shall be confidential, maintained as a sealed record in the court file and may only be released to specified parties. The results of these tests may only be used to determine the best interest of the child and not be used for criminal, civil, or administrative purposes. Breach of confidentiality is punishable by up to \$2,500 in civil sanctions. Status: Chapter 19, 2004.

**AB 1151 (Dymally) Foster care.** This bill clarifies current law and practice with respect to the health and safety of children in foster care. It states legislative intent that nothing in the decision of the California Court of Appeal in *County of Los Angeles v. Superior Court: Real Part in Interest Terrell R.* (2002) 102 Cal. App. 4<sup>th</sup> 627 shall be held to change the standards of liability and immunity that existed before that decision for injuries to children in protective custody. It reaffirms that both state and federal law

require ensuring the safety of foster children and provides public access to certain records pertaining to the death of a foster child under the California Public Records Act. Status: Chapter 847, 2003.

**AB 1516 (Bates) Child custody: abduction.** This bill makes modifications to the Synclair-Cannon Child Abduction Act, enacted in 2002 to assist courts in determining, in custody proceedings, whether a child is at risk of abduction by a parent. AB 1516 modifies the factors to be considered by the courts in determining the risk of abduction to ensure that actions taken by domestic violence victims to escape abuse are not taken as showing a risk of abduction. Status: Chapter 52, 2003.

**AB 2292 (Wolk) Visitation: former legal guardians.** This bill would, among other things, authorize the court to grant reasonable visitation rights to a person who has previously served as the legal guardian of a child if visitation by the former legal guardian is determined to be in the best interest of the child, and would make other, related changes. The bill would authorize a former legal guardian to maintain an independent action for visitation with his or her former minor ward. Status: Chapter 301, 2004.

**AB 2486 (Mountjoy) Custody and visitation rights: sexual abuse.** This bill would prohibit the court from granting custody of, or unsupervised visitation with, a child to a parent if the child has been authorized to receive benefits from the California Victim Compensation and Government Claims Board for the crime of child sexual abuse, incest, or child molestation, and the child has identified that parent as the perpetrator of the crime. The bill would permit the modification of a custody or visitation order if the child receives specified counseling and that parent completes a sexual offender treatment program. The bill would further make specified findings and declarations in regard to sexual abuse. Status: Dead, AsmJUD.

**AB 2599 (Calderon) Mediation proceedings: videotaping.** Existing law provides for the mediation of contested custody or visitation issues and specifies that those mediation proceedings are private and confidential. This bill would require mediation proceedings to be videotaped for the sole purpose of review by the mediator. Status: Dead, AsmJUD.

**SB 156 (Burton) Custody: residence of the child.** This bill codifies legislative affirmation of the California Supreme Court decision in *In re Marriage of Burgess* (1996) regarding "move-away" custody cases where a custodial parent seeks to relocate with the children. Specifically, this bill declares the Legislatures intent to reaffirm as the states public policy and law this California Supreme Court ruling that a court may not prevent a custodial parent from relocating with the child absent a finding that the relocation would be detrimental to the child. Status: Chapter 674, 2003.

**SB 265 (Kuehl) Child custody: domestic violence.** This bill prohibits a parent from rebutting the statutory presumption against custody for perpetrators of domestic violence by citing the general statutory preference for children of divorce to have frequent and continuing contact with both parents. The bill provides that for purposes of applying the

presumption, a conviction of domestic violence, or findings by a court that domestic violence occurred, are sufficient to satisfy the requirement of a finding by the court. It deletes the provision barring application of the presumption in cases where both parents are perpetrators of domestic violence. The bill also requires that the court inform both parents about the presumption against custody when one of them alleges that the other party has perpetrated domestic violence. Status: Chapter 243, 2003.

**SB 730 (Burton) Child custody: move away.** This bill states the legislative intent to abrogate the California Supreme Court's decision in *In re Marriage of LaMusga* (2004) 32 Cal.4<sup>th</sup> 1072 and to reaffirm the Court's decision in *In re Marriage of Burgess* (1996) 13 Cal.4<sup>th</sup> 25. The bill requires a court to preserve the established mode of custody, whether by temporary, contingent or permanent order, or by de facto arrangement, unless the noncustodial parent makes (1) an initial showing that, as a result of the relocation, the child will suffer "detriment" rendering it "essential or expedient" for the welfare of the child that there be a change of custody, and (2) a substantial showing of "a significant change of circumstances," other than the actual relocation itself, that indicates that a different custodial arrangement would be in the child's best interests. The bill also authorizes a court to order a change in custody only if the presumption in favor of stability and continuity in the child's primary custodial relationship and the detriment to the child of leaving the current custodial household are substantially outweighed by the benefits to the child of not relocating with the custodial parent. Status: Dead, AsmJUD.

**SB 734 (Ortiz) Child custody and visitation.** This bill prohibits a parent's custody or visitation rights from being limited because the parent lawfully reported suspected sexual abuse of the child or acted to determine if the child was the victim of sexual abuse. It requires the court to consider, in making an order granting custody, which parent is more likely to allow the child frequent and continuing contact with a noncustodial parent who has not committed child abuse or neglect. It requires courts to impose supervised visitation upon parents convicted of specified crimes, unless the parent has successfully completed all required rehabilitation programs, and establishes factors for determining whether visitation should be supervised in other cases. This bill also provides that a court may not deny or limit visitation by a parent to whom the child is attached and who plays an important developmental role in the child's life except to protect the child from abuse or abduction. Status: Dead, AsmJUD.

### **Paternity and Child, Family and Spousal Support**

**AB 146 (Kehoe) Child support.** As referred to this Committee, this bill required the court to consider the application of a low-income adjustment if the net monthly disposable income of a parent is less than \$1,500. The bill would further authorize the court in any default proceeding for child support to use specified statements and information in determining income, if a party fails to appear or provide that information. The bill was subsequently amended to deal with petroleum products. Status: Failed, AsmB&P.

**AB 252 (Jackson) Paternity judgments.** This bill creates a procedure to disestablish paternity when a genetic test indicates that a man who previously executed a voluntary declaration of paternity or who was found by a court to be the father of a child is, in fact, not the biological father of the child. This bill establishes a time limitation for seeking to disestablish paternity. This bill also permits the court to exercise its discretion to grant or deny a motion to disestablish paternity consistent with the best interest of the child, based upon consideration of specified factors. This bill does not apply to any child presumed to be the child of a marriage or to any adoption or paternity case relating to a child conceived by artificial insemination or pursuant to a surrogacy agreement. Status: Chapter 849, 2004.

**AB 295 (Steinberg) Child support.** This bill revises the income standards used to calculate child support orders in cases where there is no information about a non-custodial parent's actual income by changing presumed income calculations from the minimum basic standard of care (MBSC) to the state minimum wage scale. It permits courts to set aside child support judgments in cases when the difference between presumed and actual income is five percent or more. This bill also increases the time for an obligor to file a motion for relief from 90 days to one year. Status: Dead, AsmAPPR.

**AB 308 (Montanez) Money judgments: writs of execution.** Existing law provides for the enforcement of child support or spousal support orders by writ of execution, or by other orders as the court in its discretion determines to be necessary. AB 308 requires the court clerk to give priority to the application and issuance of writs of execution for child support and spousal support orders. Status: Chapter 17, 2003.

**AB 738 (Jackson) Child support enforcement: enhanced tracking requirements.** This bill establishes the Quality Assurance and Performance Improvement Program as a means to effectively and continuously monitor, evaluate and improve program performance of the child support program and to maximize access to federal funds. It provides the Legislature's intent for the state to move from a so-called "compliance based" child support enforcement process to a "performance based" process. The bill modifies the annual compliance reviews currently required to include only those local child support agencies that are out of compliance, while those in compliance will be subject to review once every three years and deletes out-dated case management reviews contained in existing law. Status: Chapter 308, 2003.

**AB 739 (Jackson) Child support: state disbursement unit.** This bill establishes the needed funding structure and banking considerations for the collection and distribution of millions of dollars of child support payments that will be handled by California's State Disbursement Unit (SDU). Provides start up funds from the General Fund to the Child Support Payment Trust Fund, and allows the Department of Child Support Services (DCSS) to enter into a trust agreement and allows any trust accounts created by the trust agreement to be held outside the State Treasury. Each county is required to perform close out activities to ensure accountability for all collections, obligations, and payments. The bill provides that the fund is continuously appropriated, and that the state share of interest

and other earnings accruing on the fund are available to offset certain General Fund costs according to a specified priority. Status: Chapter 387, 2003.

**AB 1605 (Bates) Employees and service-providers: reporting requirements.** Existing law requires each employer and service-recipient to file with the Director of Employment Development a report of contributions and report of wages paid to his or her workers, or, for service-providers, to provide specified information regarding payments to the service-providers for purposes of child support collection. This bill provides that a service-provider does not include a person who sells consumer products on a buy-sell or deposit-commission basis, or similar basis, or a person who sells consumer products in the home or a place other than a permanent retail establishment. Status: Dead, AsmJUD.

**AB 1704 (Judiciary) Child support.** This bill cleans-up various child support provisions by clarifying that an acknowledgement of satisfaction of judgement recorded by a local child support agency (LCSA) does not need to be notarized; clarifying that child support case registry information forms do not need to be completed by parents with cases in which the LCSA is providing child support services; requiring the Judicial Council to adopt rules implementing Family Code Section 4930(f) regarding telephonic, audiovisual or other electronic hearings and expanding the cases in which telephonic, audiovisual or other electronic hearings may be utilized to include cases in which both parents reside in California; requiring LCSAs to mail to the parent who has requested or is receiving support services all paternity pleadings that have been served on the LCSA by the other parent; conforming the Government Code to list among the documents that may be recorded without certification by the clerk of the court a notice of support judgment and other documents completed and recorded by LCSAs; and adding LCSAs to the list of persons or entities which may inspect juvenile court case files. Status: Chapter 339, 2004.

**AB 1706 (Judiciary) Support earnings withholdings.** This bill prohibits an employer from denying a promotion or taking any action adversely affecting the terms and conditions of employment of an employee on the basis that the employee is subject to an earnings assignment order for a child, spousal or family support obligation. Status: Chapter 369, 2004.

**AB 2084 (Montanez) Support orders: vocational training.** This bill would permit a court in an action for child support to order a party to submit to an examination by a vocational training counselor to assess his or her ability to obtain certain employment. The bill would also clarify that the examination may be ordered in an action for spousal support. Status: Dead, AsmJUD.

**AB 2174 (Haynes) Spousal support.** This bill would authorize the court to terminate an order for spousal support if the supported party has failed, for at least 3 consecutive months, to pay court-ordered child support for the support of one or more children who are in the physical custody of the party who was ordered to pay spousal support, as specified. Status: Dead, AsmJUD.

**AB 2358 (Steinberg) Child support.** This bill contains provisions to assist with implementation of the California Child Support Automation System (CCSAS), including requiring all employers who must pay state tax and unemployment withholding by electronic fund transfer to make child support payments by electronic fund transfer and allowing other employers to make child support payments by electronic fund transfer if specified conditions are satisfied, and allowing a local child support agency to deposit support payments in an account outside of the country treasury. This bill also transfers the authority and responsibility for the collection of past due child support and the Financial Institution Data Match System from the Franchise Tax Board to the Department of Child Support Services effective July 1, 2005. Status: Chapter 806, 2004.

**AB 2669 (Garcia) Enforcement of support orders.** On and after January 1, 2009, this bill would, among other things, require that the satisfaction of a money judgment for support shall be credited first against the current month's support, the money shall next be credited against the principal amount of the judgment remaining unsatisfied, then against the accrued interest that remains unsatisfied. The bill would make a related change to a provision governing payments made for the support of a child by specified federal agencies. Status: Chapter 305, 2004.

**SB 339 (Alpert) Private child support collectors.** This bill enacts the Private Child Support Collection Act, which regulates private child support collectors, as defined, by limiting their fees, requiring specified disclosures to potential clients, permitting cancellation of contracts under certain circumstances and regulating advertising. As of July 1, 2005, collection fees are limited to 30 percent of each child support payment collected, and new or modified orders issued after that date must require the noncustodial parent to pay the collection fees. The bill prohibits a private collector from collecting fees on support collected after expiration of a contract, support owed to the government due to the obligee's receipt of public assistance or payments attributable to the action of the local child support agency, current support, and proceeds from a withholding order on the obligor's employer that has been in place for six months. Status: Vetoed.

**SB 1030 (Ashburn) Paternity testing.** This bill creates new procedures for establishing paternity and for challenging paternity judgments. It is a competing measure to AB 252 (Jackson), described above. SB 1030 creates a new procedure permitting a judgment of paternity to be set aside or vacated under certain circumstances if genetic testing indicates that the previously established father is not the biological father of the child. The bill would permit a motion to set aside or vacate a paternity judgment to be filed within two years of the first payment of child support made pursuant to a court order for child support based upon the paternity judgment, or, for those men paying support as of the effective date of the bill, within two years of enactment. Status: Failed, AsmJUD.

### **Domestic Partnership**

**AB 17 (Kehoe) State contracts: acquisition of goods or services.** This bill prohibits a state agency from entering into any contract for goods or services in the amount of \$100,000 or more with a contractor that does not provide the same benefits to an employee with a registered domestic partner that it provides to an employee with a spouse, as specified. The bill provides for specified implementation dates and specifies that its requirements apply only to those portions of a contractor's operations that occur under any of the following conditions: (1) Within the state, (2) On real property outside the state if the property is owned by the state or if the state has a right to occupy the property, and if the contractor's presence at that location is connected to a contract with the state, or (3) Elsewhere in the United States where work related to a state contract is being performed. Status: Chapter 752, 2003.

**AB 205 (Goldberg) Domestic partners.** This bill enacts the California Domestic Partner Rights and Responsibilities Act of 2003 extending most of the rights and responsibilities available to spouses solely available under state law to registered domestic partners. Specifically, the bill provides that domestic partners, former domestic partners, and surviving domestic partners shall have the same rights, protections, and benefits, and shall be subject to the same responsibilities, obligations, and duties under state law as are granted to and imposed upon spouses, former spouses and widows or widowers. The bill repeals existing law providing for termination of a domestic partnership under specified circumstances and instead provides that a domestic partnership may be terminated in one of two ways: (1) Filing a Notice of Termination of Domestic Partnership with the Secretary of State provided that certain conditions are met (similar to those required in a summary dissolution under Family Code Section 2400), including, among other things, that there are no children involved and the domestic partnership is not more than five years in duration; or, (2) Commencing proceedings for dissolution, nullity, or legal separation in superior court. The bill also requires the Secretary of State to notify currently registered domestic partners of the bill's changes to law and provides that in filing their state income tax returns, domestic partners shall use the same filing status as is used on their federal income tax returns, or that would have been used had they filed federal income tax returns. Status: Chapter 421, 2003.

**AB 2208 (Kehoe) Domestic partners: health care and insurance benefits.** This bill enacts the California Insurance Equality Act which requires group health plans, health insurance, and all forms of insurance to provide equal coverage to registered domestic partners. Status: Chapter 488, 2004.

**AB 2580 (Goldberg) Domestic partners.** This bill makes technical changes to the California Domestic Partner Rights and Responsibilities Act (AB 205, Chapter 421, 2003) in order to clarify that its provisions apply to domestic partners registered with the state, designates the "date of registration of the domestic partnership" as the equivalent of the "date of marriage," as it relates to rights or duties of the partners and makes enforceable agreements between registered domestic partners entered into prior to January 1, 2005, if those agreements are executed and effective on or before June 30, 2005. The bill also allows, under certain circumstances, a cause of action for wrongful

death to proceed although a Declaration of Domestic Partnership was not filed with the Secretary of State, if other specified requirements are met. Status: Chapter 947, 2004.

### **Domestic Violence**

**AB 29 (Reyes) Protective orders: domestic violence.** This bill would require any person who petitions the court for a domestic violence protective order and who, in the petition, claims abuse against a minor, as specified, to serve a copy of the order and related pleadings to the last known address of the other parent of the minor children, with whom the petitioner shares joint legal or physical custody, unless he or she is the respondent. The bill would also require service on the other parent of any minor children of the respondent. Status: Dead, AsmJUD.

**AB 141 (Cohn) Domestic violence: evidence.** This bill allows propensity evidence of other violence committed by a domestic violence defendant against his or her child or relative, as specified, in a domestic violence case if the court does not exclude the evidence pursuant to a hearing under Evidence Code Section 352, after consideration of any corroboration and remoteness in time, as specified. Status: Chapter 116, 2004.

**AB 2010 (Hancock) Domestic violence: Alameda and Solano counties.** This bill authorizes the Alameda and Solano County Boards of Supervisors, upon making specified findings and declarations, to increase the fees for marriage licenses and confidential marriage licenses and for certified copies of marriage certificates, birth certificates, fetal death records and death records by up to \$2, with further increases permitted on an annual basis, based on the Consumer Price Index (CPI). The bill directs that these fees be deposited into a special fund to be used for governmental oversight and coordination of domestic violence and family violence prevention, intervention and prosecution efforts. The authorization for the fee increases sunsets on January 1, 2010. Status: Chapter 830, 2004.

**AB 2018 (Chu) Community property: civil damages.** This bill would provide, in any proceeding for dissolution of marriage, if there is a judgment for civil damages for an act of domestic violence perpetrated by one spouse against the other spouse, the court may enforce that judgment against the abusive spouse's share of community property, as specified. Status: Chapter 299, 2004.

**SB 399 (Kuehl) Foreign protection orders.** This bill updates the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act by adding anti-stalking orders to the list of foreign protection orders that must be enforced in California. It also removes provisions prohibiting enforcement of a provision of a foreign protection order respecting support, and makes other clarifying changes. Status: Chapter 134, 2003.

### **Family Law**

**AB 1710 (Judiciary) Family and juvenile court law.** This bill makes several corrections and necessary technical changes in provisions of the Family Code and Welfare and Institutions Code. The bill eliminates obsolete references, corrects statutory cross-references and creates consistency in the law. It allows the court, in a restraining order issued ex parte to protect a child subject to a petition to declare that child a ward of the court, to enjoin the subject of the order from harming or threatening other children in the household. AB 1710 eases the service requirements with regard to a temporary restraining order or emergency protective order issued in a dependency or delinquency action. In addition, AB 1710 directs the disposition of royalties received from the publication of uniform jury instructions, and creates authorization for Court Appointed Special Advocate programs to get criminal background information on prospective employees and volunteers from the Department of Justice. Status: Chapter 365, 2003.

**AB 1967 (Leno) Gay marriages.** This bill would enact the "California Marriage License Nondiscrimination Act," which would provide that marriage is a personal relation arising out of a civil contract between 2 persons, rather than between a man and a woman. The bill would make conforming changes with regard to consent, and would make related findings and declarations. Status: Dead, AsmAPPR.

**AB 2089 (Jackson) Marriage fact sheet.** This bill would require the Judicial Council to develop, post on its Web site, distribute, and annually update a fact sheet on marriage rights, as specified, to be distributed by the county clerk to applicants of marriage licenses. Status: Failed, SenAPPR.

**AB 2148 (Diaz) Family law proceedings: attorneys fees.** This bill authorizes the court in specified custody, visitation and support proceedings to order one party (except government entities) to pay the attorney's fees and costs of the other party based on need, and requires the court to order spousal and child support to a petitioner, after notice and hearing, in domestic violence actions. This bill also provides that a party who lacks the financial ability to hire an attorney may request the court to order the other party, if that other party has the financial ability, to pay a reasonable amount to allow the unrepresented party to retain an attorney in a timely manner before the proceedings in the matter go forward. Status: Chapter 472, 2004.

**AJR 60 (Lieber) Immigration: same-sex partners.** This resolution urges the President and the Congress of the United States to adopt the Permanent Partners Immigration Act of 2003, which would add the phrase "or permanent partner" to sections of immigration law that provide immigration rights to legally married couples, and would allow gay and lesbian citizens to sponsor their partners as U.S. residents. Status: Res. Chapter 192, 2004.

**AJR 67 (Mountjoy) Same-sex marriage: constitutional amendment.** This resolution requests that Congress act on President Bush's call for an amendment to the federal Constitution seeking to prevent same-gender couples from having the right to marry. Status: Failed, AsmJUD.

**AJR 85 (Leno) Same-sex marriage.** This resolution would respectfully oppose any federal enactment designed to prohibit or restrict the provision of rights and obligations under the law for same-sex couples and their families. Status: Res. Chapter 172, 2004.

**SB 7 (Brulte and Burton) Marriage by proxy: Armed Forces.** This bill authorizes a member of the Armed Forces who is stationed overseas and serving in a conflict or war to enter into a marriage through the appearance of an attorney-in-fact, provided the power of attorney is notarized or witnessed by two officers of the United States Armed Forces, states the true legal names of the parties to be married, states that it is issued solely for the purpose of authorizing the attorney-in-fact to obtain a marriage license and is made a part of the marriage certificate upon registration. The bill further makes conforming changes and requirements with regard to marriage applications and the issuance of marriage licenses. Status: Chapter 476, 2004.

**SB 1407 (Kuehl) Community property: separate property contributions.** This bill allows reimbursement for the separate property contributions of one spouse to the other spouse's separate property estate, unless there is a written waiver of the right to reimbursement. The proposed right to reimbursement is without interest or adjustment for change in monetary values. Status: Chapter 119, 2004.

## **HEALTH CARE**

**AB 621 (Nakanishi) Physicians and surgeons: immunity from liability.** This bill would establish limitations on remedies for injury or damage suffered as a result of any act or omission occurring on or after January 1, 2005, of a health care provider or an employee or agent of the health care provider when the health care is provided pursuant to a contract with a governmental entity. Status: Dead, SenJUD.

**AB 1251 (Bermudez) Los Angeles County Hospital Authority.** This bill would authorize the Board of Supervisors of the County of Los Angeles to establish, by ordinance, a hospital authority to manage, administer and control the medical centers in Los Angeles County. The bill sets forth the rights and duties, powers and requirements of such an authority and creates procedures for its operations. The bill would also require the county to establish various baseline data reporting requirements for the medical centers and each of the medical centers inpatient facilities. Status: Dead, AsmHEALTH.

**AB 1424 (Mountjoy) Minors: psychotropic drugs.** This bill provides that the refusal of a parent or guardian of a child to administer or consent to the administration of any psychotropic drug to the child or to consent to any other psychological or psychiatric evaluations or treatments for the child does not, in and of itself, constitute a basis for finding that the child comes within the definition of a dependent child, for adjudging the child to be a dependent child of the juvenile court, or for removing the child from the physical custody of the parent or guardian, as specified. Status: Failed, AsmHEALTH.

**AB 1686 (Pacheco) Health care: billing.** This bill would, upon the request of a contracting physician group or non-contracting physician or physician group, authorize a local medical society to convene a panel to consider a billing dispute, and would require the panel to issue an advisory letter as to the reasonableness of the fees charged or reimbursed. This bill would further prohibit that when a plan reimburses a non-contracting provider for any amount disputed by the contracting provider, the plan is prohibited from deducting the amount from any payment the plan owes the contracting provider, except as specified. Status: Dead, AsmHEALTH.

**AB 2291 (Haynes) Medi-Cal: abortions.** This bill would prohibit the funding of an abortion under the Medi-Cal program unless the physician performing the abortion has obtained written assurance from the patient that she understands that she may not be coerced into having an abortion, and that the decision to have an abortion must be made voluntarily, without duress or intimidation. The bill would prohibit the reimbursement of a provider for abortion services unless the provider submits a statement signed by the recipient of the Medi-Cal benefits that includes a statement that it is against the law for anyone to force, intimidate, or coerce the recipient into having an abortion. Status: Failed, AsmHEALTH.

**AB 2331 (Mountjoy) Abortion: fetal pain.** This bill would, for an abortion performed in the 3rd trimester of pregnancy, require the physician performing the abortion to offer to the pregnant woman information and counseling on fetal pain and offer to the pregnant woman anesthesia for the fetus. The bill would require the physician to arrange for anesthesia to be administered, if the pregnant woman voluntarily consents to administration of anesthesia for the fetus. The bill would require the pregnant woman to sign a document that information and counseling on fetal pain was provided and that the physician offered anesthesia for the fetus. Status: Dead, AsmHEALTH.

**AB 2510 (Nakanishi) Public health care.** This bill would provide that licensed health care professionals that contract with a governmental contractor to provide free health care services are agents of the contractor while acting within the contract, and would make the exclusive remedy for injury or damage suffered as a result of any act or omission a lawsuit against the governmental contractor. The bill would require a contract to contain certain provisions, and would require the governmental contractor to provide notification of certain information to patients receiving health care services pursuant to these provisions and to establish a quality assurance program to monitor services provided pursuant to these contracts. The bill would require the department to compile and report specified information regarding the program annually to the Legislature and to adopt rules to administer these provisions. The bill would apply only to incidents occurring on and after January 1, 2005. Status: Dead, AsmHEALTH.

**AB 2670 (Benoit) Automatic external defibrillators.** This bill would exempt public safety personnel from certain existing training requirements, and would provide that public safety personnel test, maintain, and check the defibrillators for readiness pursuant to the manufacturer's recommendations. Status: Dead, AsmJUD.

**AB 2703 (Runner) Consent for elective surgery.** This bill would require a physician and surgeon to make certain disclosures to a patient prior to performing elective surgery, as defined. The bill would require a physician and surgeon to obtain verbal and written informed consent from the patient for elective surgery. Status: Dead, AsmHEALTH.

**SB 494 (Escutia) Medi-Cal.** This bill states that a health care provider who has rendered services to a Medi-Cal beneficiary because of an injury caused by a third party is entitled to a lien for its reasonable and necessary charges against the portion of the beneficiary's recovery relating to past medical expenses. It places the burden of proof on the Medi-Cal beneficiary in a third-party action or claim to establish the reasonable value of medical and hospital expenses for the treatment of the beneficiary as the result of a third party's conduct, and establishes new judicial procedures to resolve disputes between a Medi-Cal beneficiary and a health care provider regarding the amount to be reimbursed to the provider out of the beneficiary's recovery against a third party. The bill also extends counties' current lien rights against judgements to also include settlements, compromises, arbitration awards, and mediation settlements, or any other recovery obtained. Status: Vetoed.

**SB 1071 (Vincent) Workers' compensation.** As originally introduced, this bill required that if any corporation provides any medical judgement or independent review and interpretation of diagnostic test results that they meet specified legal requirements regarding the corporate practice of medicine. The bill was later amended to delete this provision, taking the bill out of the Committee's jurisdiction. It was subsequently amended to deal with workers' compensation. Status: Dead, SenINACTIVE.

**SB 1569 (Dunn) Health care provider services.** This bill allows a health care provider, as defined, to bring an action against a health care service plan to recover contract damages and penalties if a health care plan violates any provision of the Knox-Keene Act relating to claims processing or payment. Status: Vetoed.

**SB 1764 (Speier) Immunization information systems.** This bill expands the entities authorized to disclose immunization information to include foster care agencies and government-funded programs that have as their purpose paying the costs of health care. The bill revises the procedures for allowing a patient, or parent or guardian of a patient, to refuse permission to share the information. The bill authorizes any party authorized to make medical decisions for a patient or client to permit record sharing with an immunization information system. This bill requires the department to assist its Immunization Branch with respect to issues relating to publicly funded immunizations. Status: Chapter 259, 2004.

## **LIABILITY AND RELATED MATTERS**

### **Damages Provisions**

**AB 2169 (Liu) Academic degrees: damages.** This bill provides that a person who suffers harm because of a violation of existing law's requirements concerning diplomas has a cause of action for damages or injunctive relief, or both, against the violator who causes the harm. The bill also authorizes any court of competent jurisdiction to award damages, attorney's fees, and court costs to enforce these provisions. Status: Dead, AsmJUD.

### **Immunity, Scope of Liability and Statute of Limitations**

**AB 209 (Leslie) Disabled persons: liability.** This bill establishes a 60-day notice requirement before bringing an action for damages under state law against specified businesses for violation of the federal Americans with Disabilities Act of 1990 (ADA) if the business has made a good faith effort to comply with the ADA or if the business corrects the alleged violation within 60 days, and caps the amount of damages a plaintiff may recover against certain businesses. Status: Failed, AsmJUD.

**AB 1020 (Laird) Public water systems: civil actions: contaminants.** As heard by the Committee, this bill authorized a public water system (PWS), under specified conditions, to bring a civil action against any person responsible for the presence of any recognized contaminant in surface water or groundwater supplies utilized by PWS for drinking water purposes, for the cost to PWS associated with the investigation, remediation, filtration, or treatment of water containing that contaminant if the civil action commences within three years of the date the expense is incurred. The bill was subsequently amended by Assembly Member Steinberg to address state and local cooperation in flood control projects. Status: Chapter 749, 2004.

**AB 1135 (Spitzer) Immunity: intoxicated passengers.** This bill would abolish the doctrine of comparative fault in specified circumstances such that any person or organization that provides vehicular rides to intoxicated persons is not liable for any injury to, or death of, an intoxicated passenger resulting from that ride if that passenger contributed to the cause of his or her injury or death by a percentage of fault of more than 50 percent, so long as the driver of the vehicle in which that passenger was riding is not found to have been driving under the influence. Status: Failed, AsmJUD.

**AB 1176 (Campbell) Proposition 65: enforcement.** This bill, among other things, requires a court to make a finding that a settlement in an action brought under the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) is fair, reasonable, and in the public interest. The bill requires the Attorney General to make the terms of the proposed settlement publicly available and allows any person with an interest in the proposed settlement to intervene in the motion to approve a settlement. The bill also prohibits a person from filing an action in the public interest or bringing an action that alleges a violation of the act if the defendant has previously entered into a settlement or judgment pursuant to the act and the person filing or bringing the action alleges the same violation of the act that was settled or adjudicated. Status: Dead, AsmES&TM.

**AB 1380 (Pacheco) Proposition 65: enforcement.** This bill, among other things, authorizes a person who receives a notice alleging a violation of the warning requirements of the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) to serve a written offer to enter into a resolution of the notice's allegations, before the enforcement action is commenced. The bill prohibits a person who brings an action in the public interest from receiving an award of civil penalties if the written offer includes a specified declaration and the person serving the written offer agrees to provide a clear and reasonable warning or eliminate or reduce the alleged exposure. Status: Dead, AsmES&TM.

**AB 1399 (Longville) Investigative consumer reporting agencies.** This bill deletes the existing provision creating liability of not less than \$25,000 for an investigative consumer reporting agency that fails to maintain reasonable procedures to avoid violations under the Investigative Consumer Reporting Agencies Act, and instead makes such agencies subject to general liability provisions for violations of the Act. The Act creates liability to the consumer for actual damages or \$10,000, whichever is greater, the costs of the action, reasonable attorney's fees and in some cases punitive damages. Status: Chapter 146, 2003.

**AB 1447 (Matthews) Proposition 65: enforcement.** As initially referred to the Committee, this bill, among other things, authorized the Attorney General to extend the time for review of the notice submitted by a plaintiff bringing an action in the public interest for up to 60 additional days. The bill was later amended to authorize a person who receives a notice alleging a violation of Proposition 65's warning requirements to serve a written offer, including a specified declaration under penalty of perjury, to enter into a resolution of the notice's allegations, before the enforcement action is commenced. The bill prohibits a person who brings an action in the public interest from receiving an award of civil penalties if the written offer includes a specified declaration and the person serving the written offer agrees to provide a clear and reasonable warning or eliminate or reduce the alleged exposure, as specified. The bill also prohibits a person bringing an action in the public interest from receiving attorney's fees, as specified, if the person who makes the written offer agrees to reimburse the attorney's fees and other costs and the person who brings the action does not achieve a more favorable result than the terms of the offer. The bill deems as frivolous an unreasonable rejection of a written offer and the continued prosecution of an enforcement action. Status: Dead, AsmJUD.

**AB 1863 (Harman) Corporate liability: statute of limitations.** Extends the time in which a plaintiff may file a civil action under the Corporate Securities Act regarding certain fraudulent practices. Status: Dead, AsmJUD.

**AB 1909 (Dutra) Immunity from liability: obesity related health claims.** This bill provides manufacturers, distributors and sellers of food or nonalcoholic beverages with immunity from liability for obesity-related health claims. Status: Failed, AsmJUD.

**AB 1917 (Maze) Immunity from liability: anhydrous ammonia.** This bill seeks to provide immunity from liability by providing that a person who is injured while stealing or attempting to steal anhydrous ammonia may not recover damages from a person who lawfully owns, applies, sells or manufactures the anhydrous ammonia. Status: Failed, AsmJUD.

**AB 1961 (Harman) Lifesaving standards.** This bill would require any state or local government agency that provides lifeguard or marine safety protection in an open surf area to ensure that its standards meet the standards of the United States Lifesaving Association as of November 2003, and creates a presumption of compliance. Status: Dead, SenAPPROP.

**AB 2167 (Correa) Securities.** This bill authorizes a person who purchases a security from or sells a security to an uncertified broker-dealer, who is required to be licensed, to bring an action for rescission of the sale or purchase, or damages, if any, and specifies the measure of monetary recovery in such cases. It further allows for the trebling of any damages awarded against such unlicensed broker-dealers and extends by one year the periods for filing a civil action against a person who willfully violates provisions of the Corporate Securities Act. Status: Chapter 575, 2004.

**AB 2379 (Campbell) Proposition 65: enforcement.** This bill prohibits a person from bringing an action in the public interest under Proposition 65 if the defendant has previously been a party to a final judgment in another action brought pursuant to Proposition 65 and the person bringing the action alleges the same violation that was adjudicated. Status: Dead, AsmES&TM.

**AB 2489 (Maddox) Animal shelter immunity.** This bill provides an exemption from liability to any public or private animal shelter that provides an animal for adoption or sale that subsequently attacks another animal or person, if the shelter has procedures in place for the temperament testing of animals; the procedures for temperament testing were followed with respect to the animal; and the animal satisfactorily passed the temperament testing prior to adoption or sale. Status: Dead, AsmJUD.

**AB 2607 (Jackson) Recall elections.** This bill authorizes an aggrieved individual to bring a civil action to enjoin an elections official from including signatures gathered on a recall petition by a circulator who is not a registered voter in the electoral jurisdiction of the official sought to be recalled. Status: Dead, AsmER&CA.

**AB 2737 (Dutra) Immunity: government tort liability.** This bill seeks to overturn the recent California Supreme Court decision in *Bonanno v. Central Contra Costa Transit Authority* by immunizing any public entity or public employee for injuries caused by the location of, the condition of, existing upon, or that occurs on, a street, highway, road, sidewalk, or other access adjacent to, or leading to or from, public property not owned or controlled by that public entity. Status: Failed, AsmJUD.

**AB 2884 (Calderon) California Regional Water Quality Control Boards (RWQCB): liability.** When this bill was referred to the Committee, it provided that a RWQCB is not liable for the abatement of a condition of pollution or nuisance that has resulted from a non-operating industrial or business location within its region if the board is unable to abate the condition for any reason. In response to concerns that immunity from liability is not appropriate in these cases, the bill was amended in the Committee to instead require a RWQCB, when a city, county or other public agency has not completed an abatement within a reasonable time, to abate the polluting or nuisance condition consistent with available funds. Status: Vetoed.

**SB 219 (Romero) Public agency immunity.** This bill narrows the current immunity for public agencies when a suspect fleeing a police vehicle causes injury to a third party by requiring the public agency not only to adopt, but to also implement and comply with a policy on vehicle pursuits. This bill would not affect governmental immunity against lawsuits for injuries incurred by fleeing suspects themselves or their accomplices. Status: Dead, AsmINACTIVE.

**SB 331 (Romero) Toxic injuries: limitation of actions.** This bill codifies the doctrine of delayed discovery as it applies to the statute of limitations for filing a lawsuit for injury, illness or death caused by exposure to a hazardous material or toxic substance. Specifically, the bill provides that in a civil action for injury or illness based upon exposure to a hazardous material or toxic substance, a plaintiff must bring an action no later than either: a) two years from the date of injury; or, b) two years after the plaintiff became aware of or reasonably should have become aware of: i) an injury; ii) the physical cause of the injury; and, iii) sufficient facts to put a reasonable person on inquiry notice that the injury was caused or contributed to by the wrongful act of another, whichever occurs later. The bill provides a similar timeframe for wrongful death actions. The bill also provides that media reports regarding the hazardous material or toxic substance contamination do not, in and of themselves, constitute sufficient facts to put a reasonable person on inquiry notice that the injury or death was caused or contributed to by the wrongful act of another. Status: Chapter 873, 2003.

**SB 333 (Romero) Statute of limitations: uninsured motorist claims.** This bill increases from one year to two years the time in which a plaintiff must bring an action against an uninsured motorist or commence arbitration proceedings under his or her uninsured motorist policy. Status: Chapter 56, 2003.

**SB 1376 (Perata) Voting systems.** This bill enacts the Voting System Security Act of 2004 which, among other things, authorizes the Secretary of State (SOS), Attorney General, and any local elections official in the county in which a specified act occurs, to bring a civil action against an individual, business, or other legal entity that commits one of the specified acts of tampering before, during, or after an election. The bill also allows the SOS to seek injunctive, administrative, and certain other relief, including monetary damages for an unauthorized change in hardware, software, or firmware to a voting

system. The bill further authorizes the Secretary of State to also investigate any alleged violation of the Elections Code. Status: Chapter 813, 2004.

**SB 1413 (Brulte) Abandoned newborns: safe surrender: liability.** This bill immunizes from civil damages a person who assists another person to voluntarily surrender physical custody of a newborn under the Safe Surrender law, provided that person is not compensated, renders the assistance in good faith, and believes in good faith that the person being assisted is a parent or otherwise a person having lawful custody of the newborn. "Assistance" would be defined to include providing transportation or accompanying the parent or other individual to the safe surrender site. The bill further specifies that this immunity would not extend to acts or omissions constituting gross negligence. Status: Chapter 103, 2004.

**SB 1457 (Murray) E-mail advertisements.** This bill, among other things, creates a "stand-alone" code section for falsified e-mails, including penalties, to avoid confusion as to what parts of existing state law are preempted by federal law and what parts remain viable. The penalties, which mirror those previously enacted in a related code section, allow the e-mail service provider, the Attorney General, or the recipient of an unsolicited commercial email advertisement to bring an action to recover damages of \$1,000 for each unsolicited e-mail (up to \$1 million per incident). The court is also authorized to award reasonable attorney's fees and costs to a prevailing plaintiff in violation of this section. Status: Chapter 571, 2004.

**SB 1707 (Aanestad) Emergency response costs.** This bill allows for the recovery of emergency costs from a person who must be rescued because they intentionally, knowingly or willfully enter any area that is closed to the public or any street that is closed because of flooding. Status: Chapter 51, 2004.

**SB 1722 (Ducheny) Proposition 65: res judicata.** As heard by the Committee, this bill seeks to specifically provide by statute that the doctrine of res judicata – an affirmative defense that bars the same parties or parties in privity from litigating a second lawsuit on the same claim(s) – applies to private actions brought to enforce the requirements of Proposition 65. Specifically, the bill provides that a court judgment in an action filed by a person in the public interest bars another action, or part of an action, brought by any person in the public interest where the court finds that the doctrine of res judicata bars relitigation of an issue or cause of action. The bill also requires a court, when approving a settlement of an action brought by a person in the public interest, to make a finding that the settlement is fair, reasonable and in the public interest in addition to other specified findings currently required by existing law. Status: Failed, AsmJUD.

**SB 1746 (Ackerman) Unincorporated associations.** This bill repeals current provisions relating to unincorporated associations, including nonprofit associations, and enacts a new, more organized, statutory scheme for regulating these entities, including provisions relative to the liability of association members. Status: Chapter 178, 2004.

**SB 1912 (Ashburn) Self-administration of auto-injectable epinephrine medication.**

This bill would authorize a pupil to carry and self-administer auto-injectable epinephrine medication if the school district. The bill would require written statements to be provided to the school district at least annually and more frequently if the medication, dosage, frequency of administration, or reason for administration changes. The bill would subject a pupil to specified disciplinary actions if that pupil uses the auto-injectable epinephrine medication in a manner other than as prescribed. Status: Chapter 846, 2004.

**CIVIL, CONSTITUTIONAL, AND PERSONAL RIGHTS**

**Civil Rights**

**AB 18 (Leno) Sexual orientation and gender discrimination.** This bill would add sexual orientation and gender to the forms of discrimination prohibited in state employment. Status: Dead, AsmJUD.

**AB 76 (Corbett) Sexual harassment.** This bill clarifies language in the Fair Employment and Housing Act (FEHA) to ensure that employers may potentially be liable for sexual harassment committed against their workers by clients, customers and other third parties if they knew or should have known of the harassment, and failed to take immediate and appropriate corrective action to stop the harassment. This bill effectively invalidates the 2002 court of appeal decision of *Salazar v. Diversified Paratransit, Inc.*, 126 Cal.Rptr.2d 475 (2002), which held that employers in California are not liable for harassment perpetrated against their workers by customers, vendors, and other third parties. Status: Chapter 671, 2003.

**AB 159 (Jerome Horton) State employees: discrimination.** As heard by the Committee, this bill provided that a discrimination action filed under the California Fair Employment and Housing Act may not be barred on grounds that the aggrieved person failed to exhaust his or her internal or state civil service administrative remedies, abrogating the holding of *Schifando v. City of Los Angeles* (2002) 97 Cal.App, 4<sup>th</sup> 312. The bill was subsequently amended to address workers' compensation issues. Status: Dead, SenINACTIVE.

**AB 703 (Dymally) Racial discrimination: definition.** This bill provides a statutory definition of "racial discrimination" that is based on the language used in the International Convention on the Elimination of All Forms of Racial Discrimination for the purpose of the California Constitution, and interprets that provision of the Constitution with respect to private causes of action. Status: Chapter 211, 2003.

**AB 1229 (Simitian) Sexual harassment.** This bill would make an employer liable for unlawful sexual discrimination against individuals who are qualified for but are denied an employment opportunity or benefit, where the individual who is granted the opportunity or benefit received it because that person submitted to sexual advances or requests for sexual favors. Status: Dead, SenAPPR.

**AB 1617 (Montanez) Sexual harassment.** This bill would specify the reasonable steps an employer should take to investigate allegations of harassment and to prevent harassment. Status: Dead, AsmJUD.

**AB 1707 (Judiciary) Disability Discrimination.** This bill harmonizes the damages provisions of the Unruh Civil Rights Act and the Disabled Persons Act (DPA) so that the DPA provides the same minimum penalty for disability discrimination as the Unruh act. Status: Vetoed.

**AB 1825 (Reyes) Sexual Harassment.** This bill requires employers with 50 or more employees to provide two hours of training and education on sexual harassment, as specified, to all supervisory employees by January 1, 2006, and every two years thereafter. Status: Chapter 933, 2004.

**AB 2404 (Steinberg) Sex discrimination: local community athletics programs.** This bill prohibits community youth athletic programs from discriminating against any person on the basis of sex or gender in the operation, conduct, or administration of the programs or in the allocation of facilities and resources that are used for these activities. Status: Chapter 852, 2004.

**AB 2536 (Lieber) Building accessibility: hotels and motels.** This bill requires the State Department of Housing and Community Development to propose building standards for grab bars in hotel bathrooms and requires hotels to use nonskid flooring or mats within bath and shower areas. Status: Vetoed.

**AB 2594 (Leslie) Disability discrimination: access to public accommodations.** This bill imposes additional procedural requirements and limitations on persons with disabilities who seek to redress violations of state law regarding disability discrimination by businesses, housing accommodations and public facilities by authorizing certain persons to certify that a place of business or housing accommodation complies with the federal Americans with Disabilities Act, subject to specified limitations; requiring persons with disabilities to provide 65 days advance notice in writing and by certified mail to the owner of premises covered by an ADA compliance certificate regarding all specific violations of disability access laws, and to provide the owner an opportunity to respond to the notice and address the allegations in the notice prior to suit; and providing immunity from disability discrimination laws for persons who obtain such certificates for violations that occur prior to the 65-day notice period if the owner addresses the allegations in the notice. Status: Dead, AsmJUD.

**AB 2662 (Jackson) Gender discrimination.** This bill requires the state to implement the principles underlying the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) by addressing discrimination against women and girls, as specified. Similar language was placed into AB 358 (Jackson) which provides that, beginning January 1, 2006, the California Department of Corrections, the

State Department of Education, and the state Department of Health Services shall, in consultation with the State Commission on the Status of Women, conduct an evaluation of their own departments to ensure that the state does not discriminate against women through the implementation of state policies and programs, including the allocation of funding and the delivery of services. These departments shall report their findings to the Legislature no later than January 1, 2007, with recommendations of changes to practices and policies, if any, in order to implement the principles of CEDAW. AB 358 was passed by the Legislature but vetoed by the Governor. Status: Dead, AsmAPPR.

**AB 2889 (Laird) Harassment.** This bill would make employers responsible for the acts of nonemployees with respect to all forms of harassment in the workplace where the employer or its agents or supervisors knew or should have known of the conduct and failed to take immediate and appropriate corrective action. Status: Dead, SenAPPR.

**SB 262 (Kuehl) Disability discrimination: buildings access.** This bill seeks to promote compliance with disability access laws in places of public accommodation by authorizing the State Architect to establish a program for voluntary certification of persons desiring to be designated as building access specialists, to publicize a list of certified access specialists and to monitor the performance of such persons. This bill further adds civil penalties to the remedies public prosecutors may seek in enforcing building access laws for physically handicapped people, and adds county counsels to the public attorneys authorized to enforce these laws. Status: Chapter 872, 2003.

**SB 302 (Kuehl) Discrimination: California State University.** This bill clarifies state non-discrimination obligations by expressly including the California State University in the non-discrimination and accessibility requirements of Government Code section 11135. Status: Chapter 784, 2003.

**SB 577 (Kuehl) Protection and advocacy agencies.** This bill clarifies and consolidates state laws related to California's protection and advocacy agency, Protection and Advocacy, Inc. (PAI), to conform to federal law. Specifically, this bill (1) clarifies that broader populations than just the developmentally disabled or mentally ill are eligible for PAI services, (2) redefines "abuse," "neglect," and "complaint" to conform with federal law, and (3) clarifies the type of facilities that may be accessed by PAI in the course of an investigation. Status: Chapter 878, 2003.

**SB 796 (Dunn) Penalty of violation of Labor Code.** This bill enacts the Labor Code Private Attorneys General Act of 2004, establishing an alternative "private attorney general" system for labor law enforcement that allows employees to pursue civil penalties for Labor Code violations. It establishes a specified civil penalty where one is not specifically provided under the Labor Code and provides for the distribution of recovered civil penalties as well as reasonable attorney's fees and costs to aggrieved employees. Status: Chapter 906, 2003.

**SB 1025 (Escutia) Disability discrimination: multilevel townhouses.** This bill amends the Fair Employment and Housing Act to require that new multilevel townhouses include construction of 10 percent of the units with an accessible bathroom on the primary entry level floor, and that these units also meet existing accessibility requirements for mobility impaired persons. Status: Chapter 642, 2003.

### **Constitutional Rights**

**AB 470 (Bermudez) Government regulation: religious exercise.** This bill would, among other things, prohibit a government, as defined, from imposing or implementing a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, as specified, unless the government demonstrates that the imposition of the burden on that person is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest. Status: Dead, AsmLGOV.

**AB 600 (Maddox) Government regulation: religious exercise.** This bill would, among other things, prohibit any local, state, or other public agency from imposing or implementing a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, as specified, unless the agency demonstrates that the imposition of the burden on that person is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest. Status: Dead, AsmLGOV.

**AB 666 (Haynes) School children: patriotic exercises.** This bill encourages each preschool and Head Start program that receives state funds or uses public school facilities to conduct age-appropriate patriotic exercises, and provides that this objective is satisfied by recitation of the Pledge of Allegiance to the United States flag. The bill also requires that parents and guardians be notified of their rights to: 1) refuse that their child participate in the recitation of the Pledge; 2) receive immediate assistance in the event of apparent harassment, discipline retaliation or ostracism against the child as the result of their non-participation in this exercise. Status: Failed, SenED.

**AB 1109 (Maddox) Justifiable homicide: defense of a fetus.** AB 1109 would add to the Penal Code section defining the circumstances under which a homicide is considered justifiable a homicide committed in defense of a fetus. Status: Dead, AsmPUBSAF.

**AB 1525 (Longville) Common interest development: signs.** This bill provides that the governing documents of a common interest development may not prohibit the posting or displaying of noncommercial signs, posters, banners or flags on or in an owner's separate interest unless necessary to protect public health or safety or if the posting or display would violate a local, state, or federal law. This bill specifies the materials and locations that noncommercial signs, posters, banners or flags may and may not be displayed. The bill also allows associations to impose reasonable size restrictions. Status: Chapter 774, 2003.

**AB 1903 (Maddox) Discrimination: land use: religion.** This bill requires local government actions relative to land use affecting religious institutions and assemblies, or religious uses of private residences, to use no less favorable standards than those used for actions affecting similarly situated nonreligious institutions and assemblies and nonreligious uses of private residences. Status: Dead, SenJUD.

**AB 2220 (La Suer) Tolerance in public schools.** This bill would declare the intent of the Legislature regarding the importance of the respect for the right of a pupil to hold or exercise different beliefs or practices without harassment. The bill would also declare the intent of the Legislature relating to the importance of impressing upon a pupil the meaning of tolerance. The bill would define tolerance and intolerance for these purposes. In addition, the bill would require the department to prepare guidelines for the design and implementation of local programs and curricula that promote tolerance, as defined. Status: Dead, AsmED.

**ACR 43 (Montanez) Girl Scouts.** Commends the Girl Scouts of the United States of America for 91 years of service. This resolution sets forth facts relating to the founding of the Girl Scouts and their continuing service in promoting ideals of tolerance as well as in developing each girl's potential. It further resolves that the Legislature commends the Girl Scouts of the United States of America for 91 years of service and for inspiring millions of girls with the highest ideals of character, conduct and patriotism. Status: Res. Chapter 28, 2003.

**ACR 59 (Pacheco) Eagle Scouts.** This resolution recognizes the outstanding efforts of the Boy Scouts who, through persistence and hard work, earn the rank of Eagle Scout, promote the brotherhood of scouting across international boundaries as a model of leadership, character, and honor, and provide a solid foundation and common thread to unite all persons around the world. Status: Failed, AsmJUD.

**ACR 89 (Goldberg) Boy Scouts of America.** This resolution recognizes the outstanding efforts of the Boy Scouts who earn the rank of Eagle Scout and encourages the Boy Scouts of America to accept for membership and leadership positions, including the rank of Eagle Scout, all qualified boys and men, without discriminating on the basis of sexual orientation or religious belief. Status: Res. Chapter 118, 2003.

**ACR 170 (Pacheco) Youth organizations.** This bill recognizes various youth organizations including the Boy Scouts of America. Status: Dead, AsmJUD.

**AJR 2 (Jackson) Relative to the 30<sup>th</sup> anniversary of *Roe v. Wade*.** This resolution makes various statements related to *Roe v. Wade* and its significant effect on the reproductive rights of women. This resolution states that the U.S. Supreme Court's decision in *Roe v. Wade*, guaranteeing women reproductive rights, is an occasion deserving of celebration and special public commendation. Status: Res. Chapter 63, 2003.

**AJR 4 (Mountjoy) The National Slave Memorial Act.** This resolution urges the Congress of the United States to pass H.R. 196, the National Slave Memorial Act, which authorizes the Secretary of the Interior to establish a memorial to slavery in the District of Columbia. Status: Failed, AsmJUD.

**AJR 57 (Jackson) Reproductive rights.** This bill memorializes the President and the Congress to protect and uphold the intent and substance of the United States Supreme Court decision in *Roe v. Wade* (1973) 410 U.S. 113 relating to reproductive rights and to encourage all Americans to participate in the celebration of its 31st anniversary. Status: Res. Chapter 50, 2004.

**SB 116 (Dunn) Mobilehome parks: signs.** This bill allows both resident and non-resident owned mobilehome parks to display campaign signs during a time period from 90 days before an election to 15 days following the election in a mobilehome park. The bill provides that the size of the face of a political sign may not exceed six square feet. In the event of a conflict between the provisions of this bill and those in Title 6 relating to the size and display of political campaign signs, the above provision contained in this bill shall prevail. Status: Chapter 249, 2003.

**SB 1760 (Perata) Sovereign immunity: Americans with Disabilities Act.** This bill expressly states that the State of California consents to be sued in state or federal court by any person seeking to enforce rights under the federal Americans with Disabilities Act of 1990 (ADA). The bill also expressly prohibits the state from asserting immunity under the Eleventh Amendment of the United States Constitution, and would expressly waive the state's right to immunity under that amendment for lawsuits under the ADA. The bill applies to all public agencies of the state, as defined. Status: Vetoed.

**SCR 47 (Alpert) Eugenics.** This measure expresses the profound regret of the Legislature over the state's past role in the eugenics movement, and would urge every citizen of the state to become familiar with the history of eugenics, in the hope that a more educated and tolerant populace will reject any similar abhorrent pseudoscientific movement should one arise in the future. Status: Res. Chapter 130, 2003.

### **Privacy Rights**

**AB 7 (Corbett) Privacy.** This bill contains intent language providing that it is the intent of the Legislature to ensure that state law adequately and fully protects the California Constitution's guarantee of an inalienable right to privacy. Status: Dead, AsmRULES.

**AB 68 (Simitian) Online Privacy Protection Act of 2003.** This bill enacts the Online Privacy Protection Act of 2003, requiring disclosure of online privacy policies. The bill requires an operator of a commercial Web site or online service that collects personally identifiable information about individual consumers residing in California who use or visit its commercial Web site or online service to conspicuously post its privacy policy on

its Web site or in the case of an online service, make that policy available. Under the bill, an operator violates this requirement only if the operator fails to post the policy within 30 days after being notified of noncompliance. The bill also requires that the privacy policy contain specified information. Status: Chapter 829, 2003.

**AB 224 (Kehoe) Privacy: electronic reading and use of identification cards.** As heard by the Committee, this bill prohibited businesses from electronically reading an identity card, including a driver's license or state identity card, except under specified circumstances, and then only as necessary for a particular transaction or purpose. It also prohibited a retailer from storing, selling, or sharing personal information collected by electronic reading of an identification card. The bill was subsequently amended to address fire retardant roofs in common interest developments. Status: Chapter 318, 2004.

**AB 258 (Calderon) Retail sales: personal information.** This bill prohibits any retail seller from requesting personal identifying information, as defined, from any person making a return or exchange of merchandise, if paid for by cash. Status: Dead, AsmJUD.

**AB 262 (Chan) Personal information.** As referred to the Committee, this bill extends the prohibition in existing law for any health care provider, health care service plan, contractor, or corporation to intentionally share, sell, or otherwise use any medical information for any purpose not necessary to provide health care services to a patient, except as authorized by the patient, to also apply to marketing medical information. Several of these provisions were added to AB 715 (Chan) (Chapter 562, 2003). The bill was subsequently amended to prohibit pharmacists and other entities which have access to physician prescribing data from selling such data except to a data vendor. As amended the bill also requires the Medical Board of California to create and administer a "Do Not Use" list for physicians, who do not wish their prescribing data to be shared with data vendors, and prohibits data vendors or their sources of information from releasing or selling any prescribing data for physicians included on the list. Status: Dead, AsmFLOOR.

**AB 746 (Matthews) Medical information.** This bill creates two exceptions to existing law's prohibition on the use of patient medical information for marketing purposes: 1) until September 1, 2005, for written communications provided to a pharmacy patient during a face-to-face interaction where the majority of the communication describes health information related to the dispensed drug; and 2) for communications designed to maintain an individual's adherence to a prescribed course of treatment for a chronic and seriously debilitating or life-threatening condition. Status: Dead, SenB&P.

**AB 763 (Liu) Privacy: social security numbers.** This bill provides that a social security number that is allowed to be mailed to an individual under existing law, may not be printed, in whole or in part, on a postcard or other mailer not requiring an envelope, or visible on the envelope or without the envelope having been opened. Status: Chapter 532, 2003.

**AB 1136 (Maddox) Unemployment: wage information.** This bill would authorize the disclosure of wage information to consumer reporting agencies for the purpose of verifying information provided by an individual in connection with a specific credit or employment transaction if certain conditions are met. It would provide for civil penalties and civil actions for violations. Status: Dead, AsmINS.

**AB 1376 (Benoit) Access to vital records: private licensed investigators.** This bill expands the category of persons who are authorized to receive non-comprehensive birth or death indices for purposes of law enforcement or preventing fraud to include a private licensed investigator. Status: Dead, AsmHEALTH.

**AB 1387 (Yee) Legislature.** This bill requires the Legislature to take actions to protect the privacy of its employees including, among other things, using an identifying number other than an employee's social security number, informing employees of the official responsible for system of records, and notifying personnel, by specified means, of any security breach to computers housing personal information. Status: Dead, AsmAPPR.

**AB 1811 (Bogh) Public posting of social security numbers.** This bill prohibits a person or entity from publicly posting or displaying any portion of an individual's social security number with the knowledge that it is a portion, thus statutorily authorizing a practice troubling to privacy advocates known as "truncation". Status: Dead, AsmJUD.

**AB 1950 (Wiggins) Personal information.** This bill, among other things, requires a business, except as specified, that owns or licenses personal information about a California resident to implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the personal information from unauthorized access, destruction, use, modification or disclosure. Status: Chapter 877, 2004.

**AB 2521 (Nation) Public Records Act: exemption for autopsy reports.** When this measure was heard by the Committee, it restricted the release of autopsy reports under the Public Records Act (PRA) by defining "medical files" under the PRA to include autopsy reports. This change therefore restricted release of autopsy reports if their disclosure constitutes an unwarranted invasion of personal privacy except in certain cases. The bill was later amended to instead require a coroner to notify a decedent's next of kin when a PRA request has been made for the coroner's report on the decedent. Status: Dead, SenAPPR.

**AB 2537 (Mountjoy) Privacy: opt-out standard for personal information relating to children.** This bill subjects the sale or purchase of personal information concerning a child to an opt-out. Specifically, the bill prohibits the sale or purchase of personal information concerning a child without parental consent except that the consent of the parent (or legal guardian) is presumed, unless the parent or legal guardian withdraws his or her consent pursuant to the bill. Status: Dead, AsmJUD.

**AB 2578 (La Suer) Privacy: autopsy reports.** This bill makes it unlawful for a coroner or medical examiner to publicly release the autopsy or medical examiner report, when he or she performs an autopsy on the body of a deceased law enforcement officer or firefighter, without first notifying and providing a copy of the autopsy or medical examiner report to the decedent's surviving spouse, a surviving child or parent, a surviving brother or sister, or any other kin. Status: Dead, AsmJUD.

**AB 2588 (Reyes) Confidentiality of medical information.** This bill prohibits a provider of health care or a health care service plan from disclosing medical information to any third party for the purpose of medical data processing or medical record transcription. Status: Dead, AsmHEALTH.

**AB 2715 (Reyes) Telemarketing: outsourcing.** This bill seeks to protect consumers' privacy by notifying them when a customer service call center is located outside of the United States. The bill requires a business in California that has a contract with a customer sales call center or customer service telephone bank to include a provision in the contract that requires customer service employees to disclose the location of their telephone call upon the request of a California resident and creates related definitions. Status: Vetoed.

**AB 2787 (Leslie) Privacy: computer adware and spyware regulation.** When this bill was heard by the Committee, it sought to address several deceptive practices relating to computer technologies by prohibiting a person or entity from "hijacking" a user's computer, "inhibiting the termination" of a program from a user's computer and engaging in "surreptitious surveillance" of a user's computer. Status: Dead, SenJUD.

**AB 3016 (Pavley) Privacy: social security numbers.** This bill deletes existing law's exception allowing a person or business to use a consumer's social security number in specified ways if the social security number has been in continuous use. The bill becomes effective July 1, 2006. Status: Chapter 282, 2004.

**SB 1 (Speier) Financial institutions: nonpublic personal information.** This bill creates the California Financial Information Privacy Act limiting a financial institution's ability to share consumers' nonpublic personal information. The bill requires a financial institution to obtain the consumer's written or electronic consent ("opt-in") before the financial institution may disclose or share the consumer's nonpublic personal information with any nonaffiliated, non-financial third party. The bill also requires a financial institution to give consumers annual written notice and the opportunity to "opt-out" before the institution discloses nonpublic personal information to affiliates or to third party financial institutions that do not meet specified criteria. The measure allows the sharing of nonpublic personal information with no restrictions (no-opt) when all of the following requirements are met: (1) The sharing is between financial institutions that are wholly owned by the same entity; (2) The same functional regulator (as defined) regulates the financial institution disclosing the information and the financial institution receiving it; (3) The financial institution disclosing the information and the financial institution

receiving are both engaged in the same line of business, defined as insurance, banking or securities; and (4) The financial institution disclosing the information and the financial institution receiving it share a common brand within their trademark, service mark, or trade name. The bill also permits the unrestricted sharing of nonpublic personal information in specified circumstances and provides various civil penalties for negligent, or knowing and willful violations. Status: Chapter 241, 2003.

**SB 25 (Bowen) Personal information: identity theft.** This bill requires any person who uses a credit report to extend credit to take reasonable steps to verify the consumer's identity if the credit report contains a security alert. The bill also prohibits entities from making public an individual's social security number or using social security numbers as passwords or on an identification card as specified. Status: Chapter 907, 2003.

**SB 27 (Figueroa) Personal information: disclosure to direct marketers.** This bill requires businesses to either: (1) disclose to customers, upon request, what categories of personal information the business shares with third parties for marketing purposes, or (2) provide customers with the ability to opt-out of having their information shared for marketing purposes. Status: Chapter 505, 2003.

**SB 186 (Murray) Privacy: unsolicited commercial e-mail advertisements.** This bill prohibits a person or entity located in California from initiating or advertising in unsolicited commercial e-mail advertisements. It prohibits a person or entity not located in California from initiating or advertising in unsolicited e-mail advertisements sent to a California e-mail address, as defined. The bill also prohibits a person or entity from collecting e-mail addresses or registering multiple e-mail addresses for the purpose of initiating or advertising in an unsolicited e-mail advertisement from California or to a California e-mail address. The bill authorizes a recipient of a commercial e-mail advertisement sent in violation of these prohibitions, the electronic mail service provider or the Attorney General to bring an action to recover actual damages or liquidated damages of \$1000 per transmitted message up to \$1,000,000 per incident, as defined. Status: Chapter 487, 2003.

**SB 199 (Murray) Privacy: disclosure of wireless telephone numbers.** As referred to the Committee, this bill related to the privacy of genetic information. As heard by the Committee, the bill required a wireless telephone service provider to first obtain a subscriber's express consent before disclosing the subscriber's wireless telephone number. The bill was subsequently amended to relate to solar energy systems. Status: Dead, AsmU&C.

**SB 590 (Speier) Personal information: consumers.** This bill prohibits businesses from requesting, or requiring as a condition of a transaction, personal information from a customer during a transaction, other than that which is necessary to effect, administer, or enforce that transaction. The bill also prohibits businesses from sharing personal information about a customer with a third party except as necessary to effect, administer,

or enforce a transaction, or if the customer is given the opportunity to opt out of sharing. The bill does not apply to financial institutions, as defined. Status: Vetoed.

**SB 598 (Machado) Confidentiality of medical information: psychotherapy.** This bill exempts disclosures made for purposes of diagnosis or treatment from procedures established in current law that specify how a health care provider may disclose information relating to a patient's participation in outpatient treatment with a psychotherapist. Status: Chapter 463, 2004.

**SB 602 (Figueroa) Personal information.** This bill establishes the Identity Theft Prevention and Assistance Act which provides various protections and support for victims of identity theft. This bill requires consumer credit reporting agencies to notify each consumer who has requested that a security alert be placed on his/her consumer credit report of the expiration date of the alert. It establishes a penalty of up to \$2,500 for a credit reporting agency that recklessly, willfully, or intentionally fails to place a security alert when properly requested to do so. It establishes a \$10 limit that a credit reporting agency may charge each time a consumer places, removes, or temporarily lifts a freeze on their credit report. It prohibits a business that uses the electronic information encoded on a driver's license for purposes of verification of age or authentication of the license from retaining the information or using it for any further purpose. Status: Chapter 533, 2003.

**SB 660 (Speier) Court files: confidentiality.** This bill requires that an individual's social security number that is part of a court file in a dissolution matter be placed in the confidential portion of the court file, but the remainder of that file shall be open to public inspection. Status: Chapter 154, 2003.

**SB 666 (Bowen) Privacy: wireless services.** As originally introduced, this bill required the Office of Privacy Protection to convene a working group of providers and users of wireless telecommunications services, and privacy experts in order to make recommendations to the Legislature, no later than July 1, 2004, for a state privacy policy related to customer location information of users of wireless telecommunications services. The bill was later amended to delete this provision, taking the bill out of the Committee's jurisdiction. It was subsequently amended again to provide statutory authority to transfer 62 acres for wetland preservation in the Ballona Wetlands fronting on Santa Monica Bay, north of the Los Angeles International Airport, as specified. Status: Chapter 739, 2003.

**SB 1279 (Bowen) Privacy: personal information.** This bill extends existing law's requirements relating to notice of a breach of the security of the system to also include non-computerized data (currently, the law requires notice only when computerized data is breached). The bill seeks to address the imbalance that a theft or other type of disclosure of computerized data containing personal information triggers a notice, while theft of physical records does not. Status: Dead, AsmB&P.

**SB 1330 (Murray) Privacy: OnStar and related services: private information.** This bill relates to the privacy of personal information obtained by OnStar and other similar telematic services which combine GPS in the vehicle with cell phone technology to deliver services such as roadside, navigational or emergency assistance. The bill seeks to prohibit a provider of such services from selling or disclosing a consumer or subscriber's private information without his or her consent, unless the collection or disclosure is "necessary to effect, administer, or enforce" an agreement with the consumer or subscriber. Status: Dead, AsmJUD.

**SB 1451 (Figueroa) Privacy.** This bill requires a person who has access to information protected under specified privacy laws and who is not subject to any of those laws to treat the information with the same care that would be required of a person who is subject to any of those provisions. The bill also provides that the person would be civilly liable, as specified. Status: Vetoed.

**SB 1492 (Dunn) Privacy: outsourcing of medical information.** This bill seeks to provide patients with the right to control whether or not their confidential medical information is transmitted outside of the United States by prohibiting a health care business, or person or entity that has contracted or subcontracted with a health care business, from transmitting individually identifiable health information to a site outside the U.S. unless specified requirements are met, including that the health care business obtains a consent acknowledgement from the individual permitting his or her information to be transmitted outside the U.S. The bill also requires any person or entity that has contracted or subcontracted with a health care business, physician and surgeon or other specified entity to receive individually identifiable health information to disclose to those entities whether any of that information will be transferred to a site outside of the U.S. Status: Vetoed.

**SB 1590 (Dunn) Privacy: Public Records Act: exemption for personal information.** This bill seeks to reduce the potential for harm or harassment of individuals associated with reproductive health facilities by providing specified government agencies with the discretion to refuse public records requests for personal information relating to these individuals. The bill exempts from disclosure under the Public Records Act (PRA) personal information received, collected or compiled by a public agency regarding the employees, volunteers, board members, owners, partners, officers, or contractors of a reproductive health facility if the personal information is contained in a document that relates to the facility. Status: Chapter 922, 2004.

**SB 1633 (Figueroa) Privacy: medical information.** This bill seeks to provide consumers with adequate notice prior to the sharing of their medical information so that they may exercise informed consent. The bill provides that a business may not request, either in writing or orally, medical information directly from an individual regardless of whether the information pertains to the individual or not and use, share or otherwise disclose that information for direct marketing purposes without first doing both of the following prior to obtaining the information: (1) disclosing to the individual that it is

obtaining the information in order to market or advertise products, goods or services to the individual; and (2) obtaining the consent of either the individual to whom the information pertains or a person legally authorized to consent for the individual to permit his or her medical information to be used or shared to market or advertise products, goods or services to the individual. Status: Chapter 861, 2004.

**SB 1819 (Ashburn) Mental health and developmental services: confidential information.** This bill authorizes the disclosure of certain client records to employees of mental health and developmental services facilities against whom an adverse employment action has been taken. Such information is to be used in administrative hearings. Status: Chapter 406, 2004.

**SB 1822 (Figueroa) Privacy: electronic mail.** This bill permits a provider of electronic mail or instant messaging service to review, examine, or otherwise evaluate the content of a customer's incoming, outgoing, or stored e-mail or instant messages only if the review is for the automated and contemporaneous display of an advertisement to the user while the user is viewing the e-mail or instant message. The bill requires that specified conditions must be satisfied, including that the provider does not retain for any purpose personally identifiable information or user characteristics obtained from the review of e-mail or instant messages. Status: Dead, AsmJUD.

### **Personal Rights**

**AB 274 (Koretz) Employment.** This bill would create a rebuttable presumption that an adverse employment action is retaliatory when taken within 90 days after an employee exercises his or her employment rights unless there is clear and convincing evidence that the employee fabricated the claim in order to prevent the employer from taking that adverse action. Status: Vetoed.

**AB 1582 (Koretz) Abusive work environments.** This bill would make it an unlawful employment practice to subject an employee to an abusive work environment, as defined, and would specify that an employer is vicariously liable for a violation committed by its employees, subject to certain affirmative defenses. Status: Dead, AsmL&E.

**AB 1912 (Richman) Defamation.** This bill would add a statement to the existing defamation privilege statute providing that, consistently with existing law, it is the policy of the State of California to encourage all employers to provide accurate, truthful, substantive information based upon credible evidence concerning the performance and qualifications of current and former employees to prospective employers when requested to do so. Status: Failed, SenJUD.

**AB 2181 (Campbell) Labor code violations.** This bill repeals the "Labor Code Private Attorneys General Act of 2004" by which aggrieved employees may redress violations of wage and hour and other labor standards if the state fails to act. Status: Failed, AsmL&E.

**AB 2362 (Daucher) Special education: due process.** Existing law provides procedural safeguards, including due process hearings, for the resolution of complaints regarding alleged violations of the law relative to special education, enumerates the requirements for a state hearing, and sets forth the authority of the hearing officer. This bill would provide that the hearing officer may not base a decision solely on nonsubstantive procedural errors, unless the hearing officer makes certain findings. Status: Chapter 81, 2004.

**AB 2472 (Wolk) California Tax Court.** This bill would create the California Tax Court that would replace the State Board of Equalization as the forum that would hear and determine appeals from taxpayers with respect to sales and use tax determinations, specified insurance tax determinations, personal income tax deficiency assessments, and corporation tax deficiency assessments. This bill would prescribe the qualifications for, the term of office of, and the manner in which a judge is appointed to the California Tax Court. This bill would prescribe the procedures to be followed by the California Tax Court with respect to these appeals and would provide that a taxpayer's option to file an appeal with the California Tax Court would be in lieu of filing an appeal in the California Superior Court. This bill would further provide that, within 90 days of the date a determination by the California Tax Court becomes final, a taxpayer or the applicable state agency may file a petition for a writ of extraordinary relief with the Court of Appeal for a review of the determination of the California Tax Court. Status: Dead, AsmAPPR.

**AB 2650 (Bates) Labor code violations.** This bill limits application of the "Labor Code Private Attorneys General Act of 2004" by exempting employers with fewer than 100 employees within a 75-mile radius and by providing that only the Labor and Workforce Development Agency may investigate, cite, or prosecute a violation of the Labor Code. Status: Failed, AsmL&E.

**AB 2708 (Reyes) Whistleblower notices.** This bill revises the law requiring employers to prominently display a list of employees' rights and responsibilities under the whistleblower laws by clarifying that an employer must prominently display in lettering larger than size 14 point type a list of employees' rights and responsibilities under the whistleblower laws. The bill was subsequently amended to deal with pocket bikes. Status: Dead, SenRULES.

**SB 12 (Bowen) Electronic mail advertising.** This bill deletes current law that provides the recipients of unsolicited electronic mail (e-mail) advertisements (ads) with the ability to contact the sender in order to remove the recipient's address from the sender's mailing list and, instead, prohibits the sending of unsolicited e-mail ads from California or to a California e-mail address, as defined. It authorizes recipients of unsolicited commercial e-mails, or electronic mail service providers, to bring an action to recover either actual damages or \$500 for each individual violation, whichever is greater, up to a maximum of \$50,000 per day, and allows the recovery of reasonable costs and attorney's fees. The court may, in its discretion, increase the amount of the award to an amount equal to not more than three times the amount otherwise allowed, if the violation was knowing or

willful. SB 12 would make it unlawful for any person to sell or otherwise provide a list of e-mail addresses to be used by a sender who intends to do either of the following: (a) initiate the transmission of unsolicited commercial e-mail ads from California; or, (b) initiate the transmission of unsolicited e-mail ads to a California e-mail address. Many of the provisions of SB 12 were amended into SB 186 (Murray), described above, and adopted into law. Status: Failed, AsmB&P.

**SB 37 (Dunn) Victims of wrongful or coerced reparation.** This bill would enact a specific limitation period for legal claims arising out of the forced deportation and emigration of persons of Mexican descent by specifying that claims against governmental authorities by U.S. citizens and legal residents of Mexican descent who were the victims of forced or coerced repatriation and/or falsely induced to emigrate from California during the period from 1929 to 1944 could be brought on or before December 31, 2006. Status: Vetoed.

**SB 211 (Dunn) Residential care facilities for the elderly: admission agreements.** This bill specifies requirements for the form and content of admission agreements for residential care facilities for the elderly and requires a facility to conspicuously post a copy of its agreement within the facility. The admission agreement is required to include, among other things, a comprehensive fee schedule, an explanation of third-party services, information relating to residents' rights, and information relating to billing and payment, term of contract, refunds, and termination of the agreement. Status: Chapter 409, 2003.

**SB 777 (Escutia) Whistleblowers.** This bill provides additional protections for employees who refuse to perform unlawful conduct and for an employee's acts in a previous job. It also requires the Attorney General to maintain a whistleblower hotline for business crimes and regulatory misconduct and to refer calls to the appropriate investigative or regulatory agency. Status: Chapter 484, 2003.

**SB 933 (Dunn) Limitations period: deportation and forced emigration.** This bill provides a specific limitation period for legal claims arising out of the forced deportation and emigration of persons of Mexican descent during the period from 1929 to 1944. Status: Vetoed.

**SB 1499 (Murray) Whistleblower notices.** This bill requires that a specified list of employees' rights and responsibilities under whistleblower laws be in lettering no smaller than 14-point font size, instead of size 14 pica type, and requires employers that cash employee paychecks to do so without discount. Status: Vetoed.

**SB 1809 (Dunn) Labor code violations.** This bill significantly amends "The Labor Code Private Attorneys General Act of 2004" by enacting specified procedural and administrative requirements that must be met prior to bringing a private action to recover civil penalties for Labor Code violations. Status: Chapter 221, 2004.

## **PROBATE AND RELATED MATTERS**

### **Civil Commitment, Conservatorship and Guardianship**

**AB 1155 (Liu) Conservators and guardians: educational requirements.** This bill requires the Judicial Council, by January 1, 2006, to adopt a rule of court that specifies qualifications for private professional conservators and private professional guardians; specifies the number of hours of education that a private professional conservator and private professional guardian must complete each year; specifies the particular subject matter that must be included in the required educational hours; requires private professional conservators and private professional guardians to certify that they have completed their annual educational requirement; may allow courts to waive educational requirements in individual cases where compliance would constitute an undue hardship; and may exclude from the qualifications or educational requirements an individual appointed as a guardian of the person only pursuant to Probate Code Section 1514. Status: Chapter 625, 2004.

### **Elder Abuse**

**AB 634 (Steinberg) Elder abuse actions: confidentiality.** This bill creates a statewide policy disfavoring confidential settlement agreements in any civil action the factual foundation for which establishes a cause of action for a violation of the Elder Abuse and Dependent Adult Civil Protection Act (EADACPA) such as financial abuse, neglect, or physical abuse, and would require a showing, as specified, before a confidentiality agreement in an EADACPA proceeding may be recognized or enforced by the court. The bill would also provide any information acquired through discovery that is protected from disclosure by a stipulated protective order shall remain subject to the protective order, except for information that is evidence of abuse of an elder or dependent adult. For that information, the bill would establish a process for submitting that information to the court for the court's review and determination as to whether it should remain confidential or be subject to disclosure, as specified. Status: Chapter 242, 2003.

### **Probate**

**AB 167 (Harman) Probate code.** This bill would make technical corrections to various provisions of the Probate Code, and clarify that the proportion of each beneficiary's share that may be taken to satisfy the share of an omitted spouse or omitted child shall be determined based on the value, as of the date of decedent's death, of decedent's property received by the beneficiary. Also, in a probate proceeding involving a community property transaction where a spouse also has a separate property interest, the petition must include an allegation of good cause to include that separate property in the transaction, and, in order to authorize the transaction, the probate court must find good cause to include the separate property interest in that transaction. The bill also would amend the statutory will form to clarify that a testator may appoint a "custodian" for the assets distributed to a person or child who is age 25 or less. Status: Chapter 32, 2003.

**AB 695 (Harman) Decedent's estates: posthumously conceived children.** This bill would provide that for purposes of determining rights to property to be distributed upon the death of a decedent, a child of the decedent conceived after the death of the decedent shall be deemed to have been born in the lifetime of the decedent if the child or his or her representatives prove by clear and convincing evidence that the decedent intended that his or her genetic material be used for posthumous conception of a person to be treated as a child of the decedent; that the genetic material was used in the manner intended by the decedent and according to law; that written notice of the availability of the decedent's genetic material for the purpose of posthumous conception was given to a person with the power to control the distribution of the decedent's property, as specified, within six months of the decedent's death; and that the child was conceived using the decedent's genetic material and was born within two years of the decedent's death. The bill would also provide that a natural parent and child relationship may be established for purposes of intestate succession. The bill would make related changes to provisions governing the payment of insurance policy proceeds. Status: Dead, AsmJUD.

**AB 1349 (Canciamilla) Wills and trusts: prohibited transferees.** This bill adds to the list of those prohibited to receive a donative transfer under an instrument such as a will or trust a domestic partner of the person who drafted the instrument or of a person who has a fiduciary relationship with the transferor, or any person who is related by blood or marriage to, is a domestic partner of, is a cohabitant with or an employee of a care custodian of a dependent adult who is the transferor. Status: Chapter 444, 2003.

**AB 1910 (Harman) Decedents' estates: posthumously conceived children.** This bill, among other things, provides that, for purposes of determining rights to property to be distributed upon the death of a decedent, a child of the decedent conceived after the death of the decedent, other than a child conceived as a result of human cloning, shall be deemed to have been born in the lifetime of the decedent if the child or his or her representative proves by clear and convincing evidence that specified conditions are satisfied. Status: Chapter 775, 2004.

**AB 2687 (Canciamilla) Public administrators.** This bill expands the authority of the public administrator to take control of a decedent's property that is subject to loss, waste, injury or misappropriation; authorizes the public administrator to conduct a summary administration, as specified and without court order, of a decedent's estate that does not exceed \$30,000 in value, and summary administration, with court order, of a decedent's estate that does not exceed \$100,000; and increases the public administrator's minimum fee for the performance of his or her duties from \$750 to \$1,000. Status: Chapter 888, 2004.

## **Trusts**

**AB 1705 (Judiciary) Trustees: distributions: liability.** This bill prohibits a trustee from requiring a beneficiary to relieve the trustee of liability as a condition of making a

distribution to the beneficiary that is required by the trust instrument. The bill provides that this prohibition shall not be construed to affect the trustee's rights under current law to undertake specific actions. Status: Chapter 585, 2003.

**AB 1851 (Harman) Incapacity: special needs trusts.** This bill revises existing law regarding the probate court's disposition of funds, known as special needs trusts, held for a minor or incompetent person. The bill replaces the term "incompetent person" in connection with statutory special needs trusts with the better-suited term "person with a disability," and provides a process for establishment of special needs trusts in probate court. Status: Chapter 67, 2004.

**AB 1883 (Harman) Trustees: bond requirements.** This bill permits a court to require a trustee to post bond to protect the interests of any person having an interest in the trust estate, but allows a court in "compelling circumstances" to excuse the bond requirement, to change its amount, to release it or to permit the substitution of another bond when the trustee is court-appointed. Status: Chapter 75, 2004.

**AB 1990 (Campbell) Trusts: trustee liability.** This bill provides relief from trustee liability for adequately disclosed claims, if certain conditions are met. Among other things, the bill provides that a provision in a trust instrument that releases the trustee from liability if a beneficiary fails to object to an item in an account or report within a specified time period is effective only if the following conditions are met: a) the account or report sets forth the item; b) the trust instrument specifies that the beneficiary has at least 180 days to object or the trustee elects to follow another procedure, as specified; and, c) written notice is provided to the beneficiary as specified. Status: Chapter 538, 2004.

**AB 2872 (Maddox) Trusts: notices.** This bill amends the probate code to allow any interested party to request notice of court proceedings regarding a trust, in order to allow non-beneficiary parties with legal interests at stake in a trust proceeding to better protect their interests. Status: Chapter 334, 2004.

**SB 294 (Soto) Statewide registry: conservators, guardians and trustees.** Under existing law, conservators and guardians are required to register with a Statewide Registry maintained by the Department of Justice; this bill extends the registration requirement to trustees. Status: Chapter 629, 2003.

**SB 1021 (Poochigian) Trusts.** This bill, among other things, would revise existing provisions by which a trustee may give a notice of proposed action under the Uniform Principal and Income Act and expands the permissive use of such notice by the trustee; specifies the contents of the notice of proposed action and requires that notice to a minor or incompetent be given to a guardian or conservator instead; and relieves the trustee of any liability if the beneficiary failed to object to the notice of proposed action within 45 days of mailing the notice. Status: Chapter 54, 2004.

**SB 1248 (Bowen) Statewide Registry: trustees.** This bill requires the Department of Justice to make specified information it keeps in the Statewide Registry available to any member of the public upon request; deletes the registration exemption given trustees who administer less than six trusts at the same time, thus making the Statewide Registry law applicable to all trustees; and, creates a new exemption for a trustee who is serving for the benefit of not more than three people or not more than three families, or a combination thereof. Status: Chapter 548, 2004.

## **PROPERTY AND RELATED MATTERS**

### **Intellectual Property**

**AB 1616 (Montanez) Intellectual property rights.** This bill sets forth the state's policies with respect to state-owned intellectual property. The bill provides that, except as specified, state-owned copyrights are dedicated to the public domain and authorizes state agencies to adopt, register, and protect trademarks, service marks, collective marks, and certification marks. The bill also provides, with exceptions, that state agencies may not protect or assert trade secrets or patentable or patented inventions. Status: Dead, SenJUD.

**AB 2319 (Mullin) Intellectual property: state contracts.** This bill requests the California Council on Science and Technology (CCST) to create a special study group to develop recommendations to the Governor and the State Legislature on how the state should treat intellectual property made under state contracts, grants and agreements, including, but not limited to, promoting the utilization of intellectual property arising from state supported contracts, grants and agreements and encouraging maximum participation of small business firms in those state supported awards. The bill was subsequently amended to delete these provisions and instead insert language relating to juvenile court records. Status: Dead, SenJUD.

**ACR 252 (Mullin) Intellectual property: state contracts.** This resolution requests the California Council on Science and Technology (CCST) to create a special study group to develop recommendations on how the state should treat intellectual property created under state contracts, grants and agreements. Among other things, the resolution asks CCST to consider promoting the utilization of intellectual property arising from state supported contracts, grants and agreements and requests CCST to work with specified entities in completing the study. Status: Res. Chapter 190, 2004.

**SB 1150 (Burton) Lender names and trademarks.** This bill would provide that no person shall include the name, trade name, logo or tagline of a lender in a written solicitation for financial services to a consumer who has obtained a loan from the lender without either the consent of the lender, or a clear and conspicuous disclosure that the person is not sponsored by or affiliated with the lender, and that the solicitation is not authorized by the lender. This bill would provide that it is not a violation for any person to use a lender's name, trade name, logo or tagline without the required disclaimer in a

comparison of like services or products where the solicitor clearly and conspicuously identifies itself or that otherwise constitutes nominative fair use. The bill specifies that nothing in this bill shall be deemed or interpreted to alter or modify the trade name and trademark laws of this state. This bill would provide that no person shall use or reference a consumer's loan number or loan amount, whether or not publicly available, in a solicitation without the consent of the consumer or lender, unless the solicitation clearly and conspicuously states that the person is not sponsored by or affiliated with the lender. This bill would prohibit the use of a lender's name in an advertisement to a consumer where the use would cause a reasonable person to be confused, mistaken, or deceived as to the lender's affiliation with the person using the name or the lender's approval or endorsement of the person using the name. Status: Chapter 197, 2004.

### **Personal Property**

**AB 182 (Harman) Exempt property: evaluation.** Under existing California law, the amounts of personal property that are exempt from enforcement in bankruptcy proceedings or proceedings to enforce a money judgment are subject to review by the California Law Revision Commission every ten years, at which time the statutorily set amounts may be adjusted for inflation. This bill would mirror federal bankruptcy law and create a mechanism whereby the exempt amounts would be automatically adjusted for inflation every three years. It would increase the personal property exemption amounts by approximately 20%, to reflect changes in the cost of living since the amounts were last adjusted in 1994. Status: Chapter 379, 2003.

**AB 378 (Steinberg) Unclaimed property: insurance proceeds.** This bill incorporates unclaimed demutualization insurance proceeds into the Unclaimed Property Law by providing that unclaimed property payable or distributable in the course of the demutualization of an insurance corporation is presumed abandoned up to three years after specified events in the course of the demutualization, and that the proceeds of all insurance corporation demutualization are reported to the State Controller each year. Status: Chapter 304, 2003.

**AB 1964 (Leslie) Evictions: special occupancy parks.** This bill allows park management of a special occupancy park to evict a guest, take possession of the guest's property and have his or her recreational vehicle or motor vehicle towed from the park if the guest refuses or otherwise fails to fully depart the site at the posted checkout time provided that specified conditions are met. Status: Chapter 530, 2004.

**SB 237 (Flores) Vehicles: transfer of legal ownership.** This bill provides a 15-business-day deadline for transmittal of the certificate of ownership of a vehicle from the current legal owner to the new owner after satisfaction of a lien. Under existing law, there is no deadline for the transfer of the ownership certificate to the new legal owner. This bill applies the same deadline for transmittal of the certificate of ownership when a lessor exercises a purchase option on a vehicle lease. The bill imposes statutory damages of \$25 per day for each day that the deadline is not met, not to exceed \$2,500, and if this

amount is not paid by the lienholder or lessor within 60 days of written request, the limit would be tripled and the recipient of payment would be entitled to attorney's fees incurred to collect the payment. Status: Chapter 151, 2003.

### **Real Property**

**AB 447 (Vargas) Mechanics' liens: attorneys fees.** This bill raises the amount of attorney's fees that may be collected in a petition to remove an expired mechanic's lien from a property. The maximum amount a prevailing party may collect increases from \$1000 to \$2000. This bill also specifies that a removal petition may be filed if no foreclosure action is pending. Status: Chapter 279, 2003.

**AB 512 (Bates) Common interest developments.** This bill sets forth a process by which common interest development associations may adopt and change their operating rules, while giving notice and an opportunity to comment to association members. For example, the bill requires that notice of a proposed rule change, or notice of adoption of an emergency rule, include the text of the change and a description of the rule's purpose and effect. And, the bill specifies that association members shall have access to association records, "including accounting books and records and membership lists," and that members shall have the same access to operating rules as they do to accounting books and records. Status: Chapter 557, 2003.

**AB 624 (Lieber) Mobilehome parks.** This bill prohibits a park owner from requiring that prospective homeowners have a monthly gross income greater than three times the sum of specified monthly housing costs. Status: Failed, AsmFLOOR.

**AB 972 (Correa) Mechanics' liens.** This bill would revise the contents of the "Preliminary 20-day Notice" to be prescribed by the Contractors' State License Law for persons who furnish labor, service, equipment, or material for which a mechanic's lien may be claimed against the property improved by the person. Status: Dead, AsmJUD.

**AB 1607 (Keene) Hazardous substances: illegal methamphetamine laboratories.** This bill requires law enforcement, when it finds a property where methamphetamine has been illegally manufactured, to contact the appropriate county health department and if the department inspects the property and makes a specified determination, the department is required to identify the property owner and send a certificate of nuisance to the owner. Status: Dead, AsmES&TM.

**AB 1639 (Firebaugh) Appeals: nuisance abatement actions.** This bill provides that the filing of an appeal does not stay proceedings when a judgment or order grants relief in an action brought by a governmental entity under the Red Light Abatement Law or the Narcotics Abatement Law, unless the trial court orders otherwise. Status: Chapter 31, 2003.

**AB 1836 (Harman) Common interest developments: dispute resolution.** This bill implements recommendations of the California Law Revision Commission to improve and expand the statutory requirement for alternative dispute resolution prior to litigation between homeowner associations and members of common interest developments. The bill also requires that associations adopt internal dispute resolution procedures in an effort to resolve the dispute as informally and quickly as possible so that more formal dispute resolution mechanisms are not required. Status: Chapter 754, 2004.

**AB 1848 (Harman) Recordation of certification of trust and change of trustee.** This bill allows the recordation of a certification of trust that relates to an interest in real property and permits a successor trustee to execute and record an affidavit of change of trustee if title to an interest in property is affected by the change of trustee. This bill also requires the county recorder to index this document and to charge a fee as prescribed by law for the recordation, as specified. Status: Chapter 136, 2004.

**AB 2071 (Houston) Construction defects.** This bill would bar an action to recover damages for or arising from a latent deficiency if that action is brought more than 6 years after the substantial completion of the development or improvement. Status: Dead, AsmJUD.

**AB 2333 (Dutra) Construction defect actions.** This bill would declare the intent of the Legislature to protect the interests of builders, contractors, subcontractors, laborers, and building purchasers, and to facilitate the expeditious and equitable resolution of construction defect claims and litigation. Status: Dead, SenRULES.

**AB 2376 (Bates) Common interest developments: physical alteration.** This bill requires a homeowners association to provide a fair and reasonable process for reviewing a request by a homeowner for a physical alteration to their unit or common area, and specifies certain minimum standards. Status: Chapter 346, 2004.

**AB 2533 (Salinas) Seismic safety: unreinforced masonry buildings.** This bill authorizes civil penalties and a right of private action against owners of certain unreinforced masonry (URM) buildings that have not been retrofitted and fail to comply with existing seismic safety warning notice requirements. Status: Chapter 659, 2004.

**AB 2598 (Steinberg) Common interest developments.** This bill seeks to give homeowners more reasonable protections in their dealings with their homeowners' associations regarding alleged overdue assessments. Specifically, among other things, the bill provides that an association may not use judicial or nonjudicial foreclosure if the amount of the delinquent assessments or dues, exclusive of any late charges, fees, interest, and costs of collection, is less than \$2,500. For delinquent assessments or dues in excess of \$2,500, an association may use nonjudicial or judicial foreclosure subject to specified conditions. However, the owner in those cases will be allowed to pursue alternative dispute resolution prior to the recording of the lien. Status: Vetoes.

**AB 2610 (Strickland) Associations.** This bill, among other things, would eliminate the prohibition against a court order declaring a owners association, managing a common interest development, duly wound up and dissolved under specified circumstances, and instead provide that in the event a community association is dissolved in bankruptcy, as specified, a new and separate association shall be deemed to exist from and after the date of dissolution, which new association may be incorporated or unincorporated, but may not be treated as the alter ego of the dissolved association for purposes of preexisting financial liability. Status: Dead, AsmJUD.

**AB 2718 (Laird) Common interest developments.** This bill changes the financial information homeowner associations in common interest developments are required to provide members to include an Assessment and Reserve Funding Disclosure Summary statement of current and future assessments. Status: Chapter 766, 2004.

**AB 2804 (Calderon) Construction defect actions.** This bill would declare the intent of the Legislature to protect the interests of builders, contractors, subcontractors, laborers, and building purchasers, and to facilitate the expeditious and equitable resolution of construction defect claims and litigation. Status: Dead, SenRULES.

**AB 2812 (Dutra) Construction defect actions.** This bill states the Legislature's intent to address residential construction defect litigation. Status: Dead, SenRULES.

**SB 113 (Ackerman) Mechanics' liens.** This bill would provide an additional process to enable a mechanics' lien claimant to protect his or her arbitration rights when filing a lien foreclosure action by allowing a claimant to preserve arbitration rights if the claimant includes an allegation of intent to preserve arbitration rights and of intent to file a motion to stay pending arbitration within 30 days after service of the summons and complaint. A claimant who fails to make a motion under either of these provisions constitutes a waiver of the claimant's right to compel arbitration. Status: Chapter 22, 2003.

**SB 134 (Figuroa) Mechanics' liens.** This bill would require the owner of a private work of improvement to provide a notice to the original contractor, as well as any subcontractors or materials suppliers who have filed a preliminary mechanic's lien notice, within 10 days of recording a notice of completion or cessation. Failure to provide the notice would extend a subcontractor's time to record a mechanic's lien claim. Status: Chapter 54, 2004.

**SB 455 (Torlakson) Home equity sales contracts.** Existing law imposes certain requirements regarding contracts for the sale of a home under foreclosure. SB 455 increases the penalties for violation of those requirements, authorizing a civil penalty of up to \$2500 for specified violations, and increasing the misdemeanor fine for specified criminal violations from \$10,000 to \$25,000. Status: Chapter 74, 2003.

**SB 458 (Burton) Construction defects: affirmative defenses.** As heard by the Committee, this bill clarified the law related to affirmative defenses in construction defect

litigation by specifying that effected parties other than builders have the same affirmative defenses specified in the construction defect statute. It was subsequently amended by Senator Escutia to address consumer gift certificates. Status: Dead, AsmINACTIVE.

**SB 619 (Ducheny) Housing.** This bill makes several changes to laws related to the development of affordable housing by seeking to streamline the housing approval process and to authorize awards of attorney's fees and costs to prevailing parties in actions against local governments for alleged failure to comply with affordable housing requirements. This bill prohibits discrimination against multifamily housing in zones designated for multifamily housing. It specifies required procedures by the Department of Housing and Community Development; requires multifamily residential housing to be permitted on any parcel zoned for multifamily housing if specifications are met; clarifies the term and requirements of "mixed use" land; and clarifies the criteria for awarding and administering CalHome funds. Status: Chapter 793, 2003.

**SB 1090 (Dunn) Mobile home sales.** This bill makes a number of changes to the laws governing the sale of mobilehomes by dealers, including among other things, prohibiting management of a mobilehome park from requiring a homeowner, or an heir, joint tenant or personal representative of a mobilehome to use a specified agent of the management in the sale of the home as a condition of resale, requiring dealers to disclose to a mobilehome or manufactured home seller the terms of a net listing agreement at the time of commitment, and requiring at the time a buyer's offer for a mobilehome is accepted that a dealer provide a disclosure statement to the seller with the exact amount of the buyer's offer and the specific amounts of any commission. Status: Chapter 567, 2004.

**SB 1146 (Dunn) Construction defects: cooperative defense agreements.** This bill would require a builder against whom a construction defect claim has been received to offer all other potentially responsible parties a cooperative defense agreement. The bill would specify the required contents and effect of that agreement and establish the procedures for potentially responsible parties to enter into the agreement, reject the agreement, or demand binding arbitration. Under specified circumstances, the agreement would supersede prior agreements for the payment of defense costs or liability in the action, and prior agreements would be declared void as against public policy and unenforceable. The bill would further require a builder to propose a reallocation of defense costs among the participants to the agreement, which would be subject to objection and a demand for binding arbitration. Status: Dead, AsmJUD.

**SB 1277 (Ackerman) Mortgages: foreclosure.** This bill seeks to address a reported practice where companies induce consumers who have lost their homes to foreclosure to assign the companies a share of the surplus funds resulting from the foreclosure sale in exchange for "assisting" the consumer in recovering the funds from the trustee, despite the fact that the homeowner has a right to receive any surplus funds directly from the trustee conducting the sale. The bill expands the definition of foreclosure consultant to include a person contracting to assist a homeowner in recovering surplus funds from the foreclosure sale of the homeowner's residence. The bill also requires specified

disclosures by the consultant to the homeowner and requires a delay of 65 days after the foreclosure sale before execution of a service contract between the consultant and the homeowner. Status: Chapter 177, 2004.

**SB 1508 (Ducheny) Real property loans: restrictions: code violations.** This bill would prohibit a person or entity, other than a federally or state chartered financial institution, from making a loan secured by a deed of trust or mortgage on non-owner-occupied residential real property if the person or entity has actual or constructive notice that a notice of pendency of action relative to a code violation has been recorded against the property by the local code enforcement agency, unless the loan does not exceed certain amounts, or unless a portion of the loan is withheld pending compliance with the code enforcement notice or disbursed to pay for construction work. The bill would provide that a loan made in violation of these provisions is not void or voidable. Status: Vetoed.

**SB 1568 (Sher) San Francisco Bay Conservation and Development Commission.** This bill seeks to strengthen BCDC's enforcement abilities by requiring disclosure of BCDC's jurisdiction upon transfer of specified property interest, requiring that a copy of cease and desist orders be sent to the owner of the property as well as the violator, permitting the Attorney General to petition for injunctive relief in response to a violation of the McAteer-Petris Act, permit, cease and desist order issued by BCDC's executive director as well as a cease and desist order issued by BCDC itself, increasing minimum and maximum amounts of civil penalties, permitting the imposition of lesser daily penalties for negligent activity, and authorizing funds to be passed through to the State Coastal Conservancy to administer mitigation accounts. Status: Chapter 618, 2004.

**SB 1581 (Battin) Common interest developments: elections.** This bill would require that elections within a common interest development for specified matters be held by secret ballot, as specified. The bill would prohibit a person from counting votes in an election in which he or she is a candidate. The bill would establish additional procedures for notification of elections and storage and review of election results, and would require that elections held by mailed, written ballot be conducted according to specified provisions. The bill would permit a member of an association to bring a civil action, as specified, for violations of these provisions by his or her association. Status: Dead, AsmJUD.

**SB 1682 (Ducheny) Common interest developments.** This bill seeks to give homeowners more reasonable protections in their dealings with their homeowners' associations regarding alleged overdue assessments. Specifically, among other things, the bill provides that an association may not use judicial or nonjudicial foreclosure if the amount of the delinquent assessments or dues, exclusive of any late charges, fees, interest, and costs of collection, is less than \$2,500. For delinquent assessments or dues in excess of \$2,500, an association may use nonjudicial or judicial foreclosure subject to specified conditions. However, the owner in those cases will be allowed to pursue

alternative dispute resolution prior to the recording of the lien. Status: Dead, AsmFLOOR.

**SB 1915 (Figueroa) Construction contracts: indemnification.** This bill would revise and recast construction contract indemnification provisions to, among other things, apply to provide that if a trier of fact determines that the damages are attributable to the indemnitee's sole negligence or willful misconduct, the indemnitor is entitled to full reimbursement of actual costs and attorney's fees in the course of providing a defense to the indemnitee. The bill would require an indemnitee who has been afforded a defense by an indemnitor to reimburse the indemnitor a percentage of costs and fees actually incurred by the indemnitor in that defense, equal to the indemnitee's percentage of negligence or willful misconduct. Status: Dead, AsmJUD.

### **Rental Property**

**AB 647 (Nunez) Landlord-tenant: code violations.** This bill seeks to provide tenants additional recourse when an unscrupulous landlord does not abate a nuisance or repair a substandard condition after being notified of the need to do so by a housing code enforcement officer. The bill provides that a landlord may not demand rent, collect rent, issue a notice of a rent increase or issue a three-day notice to pay or quit if specified conditions exist as provided under existing law prior to the landlord's demand or notice. The bill also amends one of these specified conditions to decrease the time in which a landlord must comply with a notice issued by a public housing enforcement agency to abate a nuisance or repair substandard conditions from 60 to 35 days from the date of service. Finally, the measure increases the amount of special damages that may be awarded to a tenant for a landlord's violation from \$1,000 to \$5,000 and specifies that a tenant may be awarded reasonable attorney's fees and costs if a landlord institutes an unlawful detainer proceeding or other action to collect rent and the landlord has violated the above provisions. Status: Chapter 109, 2003.

**AB 693 (Corbett) Mobilehome parks: actions.** This bill provides that a mobilehome park owner who willfully violates the Mobilehome Residency Law may be liable for either a statutory penalty of up to \$2,000 or punitive damages, if the conduct is malicious, fraudulent, or oppressive. Status: Chapter 98, 2003.

**AB 831 (Goldberg) Landlord-tenant: unlawful detainer.** This bill increases the time in which a tenant has to file a written response to an unlawful detainer lawsuit after being served with a copy of the landlord's complaint from five days to 10 days except when the landlord's unlawful detainer action is based on an allegation that the tenant has used the premises for an unlawful purpose that poses an imminent threat and danger to the health and safety of others and the complaint states facts supporting that assertion. The bill also specifies that the five-day period in which a tenant must either vacate a rental unit voluntarily after a writ of possession of real property has been issued or oppose the writ of possession does not include weekends and judicial holidays. Finally, the bill provides that a court may restore to possession a tenant who has been evicted in violation of a

court order and provides that a court may restore the tenant to possession if he or she has been displaced pursuant to a writ of possession that was issued or executed as a result of, among other things, fraud or mistake, or in violation of a court order provided that the tenant applies to the court for an order restoring him or her to possession within 10 days of being displaced. Status: Failed, AsmFLOOR.

**AB 1059 (Lieber) Landlord-tenant: harassment.** This bill provides additional protections to tenants against conduct by a landlord who retaliates against a tenant for the tenant's exercise of his or her rights or that is intended to influence a tenant into vacating the rental premises. Specifically, the measure provides that a landlord may not do any of the following for the purpose of influencing a tenant to vacate a rental unit: 1) Engage in theft or extortion as defined in the Penal Code; 2) Use or threaten to use force, threats, or menacing conduct constituting a course of conduct that interferes with the tenant's right to quiet enjoyment of the premises in violation of existing law that would create an apprehension of harm in a reasonable person; and 3) Commit a significant and intentional violation of existing law governing a landlord's right to enter and inspect or make repairs to the rental dwelling upon notice and during normal business hours. The bill provides that a tenant is entitled to a civil penalty of up to \$2,000 for a violation of these provisions. And, the measure specifies that an oral or written warning notice, given in good faith, regarding conduct by a tenant, occupant or guest that violates, may violate, or violated the law or applicable rental agreement is not a violation of the bill's provisions and an oral or written explanation of the rental agreement, rules, or laws given in the normal course of business does not violate the bill. The measure also seeks to assist tenants who have been the subject of a retaliatory eviction by increasing the limit on punitive damages for such egregious misconduct from \$1,000 to \$2,000. Status: Chapter 542, 2003.

**AB 1202 (Montanez) Landlord-tenant: security deposits.** This bill permits a bond or commercial insurance policy purchased by a tenant to secure the performance of the terms and conditions of a rental agreement to be characterized as nonrefundable. Status: Dead, AsmJUD.

**AB 1361 (McCarthy) Commercial landlord-tenant: return of security deposit.** This bill provides that a landlord may retain a security deposit equal to one month's rent for 30 days after the landlord recovers possession of the property, in order to remedy any tenant defaults in rent, including the collection of common maintenance area charges. Any security deposit in excess of one month's rent that is held for the non-payment of rent must, as in existing law, be returned to the tenant within two weeks of the landlord recovering possession. Status: Chapter 89, 2003.

**AB 1384 (Maddox) Tenancy inspections.** This bill clarifies existing law which requires a landlord to notify a tenant of his or her right to request an initial inspection of the rental unit prior to terminating a tenancy by providing that a landlord is not required to give such a notice or perform the inspection when the tenancy is terminated pursuant to the

landlord's service of specified three-day notices, which are not cured by the tenant or which cannot be cured. Status: Chapter 576, 2003.

**AB 2088 (Dutra) Costa Hawkins Rental Housing Act.** This bill amends the Costa-Hawkins Rental Housing Act to allow a rent increase for new occupants of a rent-controlled unit, as specified. The bill will not apply to specified jurisdictions that already have in place procedures for increasing the rent to new occupants. Status: Dead, SenFLOOR.

**AB 2523 (Frommer) Evictions.** This bill extends the sunset date on a pilot program that allows a city prosecutor or city attorney in specified locations to file an action for unlawful detainer against any tenant who engages in certain controlled substance offenses to January 1, 2010. The bill also expands the program to include the Cities of San Diego and Oakland and revises reporting requirements relative to the program. Status: Chapter 304, 2004.

**AB 2582 (Lieber) Landlord-tenant: disclosure of hazardous substances.** This bill requires a landlord who has actual knowledge of potentially hazardous substances, materials, or products present in, on, under, or above, the rental property to give written notice to the prospective tenant of these potential hazards prior to the execution of a rental agreement. The bill provides that a landlord is not obligated to give any notice to a tenant, if the potentially hazardous substance, material or product has been remediated through complete removal. Under the bill, a landlord must also provide, upon the tenant's request, copies of any records or reports the landlord has pertaining to the hazards. The bill permits a tenant who enters into a rental agreement without receiving the required written notices to void the agreement at his or her option by providing written notice of termination of tenancy to the landlord at least three days prior to the termination date. The bill also provides that a landlord who fails to provide the required written notice to a tenant who has entered into a rental agreement is liable for actual damages and, if the landlord knowingly and willfully fails to provide the required written notice to a tenant who has entered into a rental agreement, the landlord is liable for a civil penalty not to exceed \$5,000 for each separate violation. Status: Dead, AsmFLOOR.

**AB 2583 (Lieber) Landlord-tenant: privacy.** This bill seeks to protect tenants from harassing and abusive practices by providing that, except in certain instances, a tenant's refusal to provide personal, private, or financial information to a landlord does not constitute a breach of a lease or rental agreement, whether written or oral. Status: Dead, AsmFLOOR.

**AB 2867 (Nunez) Tenancy: residential hotels.** This bill seeks to provide clarity to existing law relating to residential hotels by providing that no person may require an occupant of a residential hotel to move, or to check out and reregister, before 30 days has expired if a purpose is to have that occupant maintain transient occupancy status. The bill also provides that evidence that an occupant was required to check out and reregister

creates a rebuttable presumption, which affects only the burden of production, of this purpose. Status: Chapter 950, 2004.

**SB 90 (Torlakson) Tenancy: security deposits.** This bill seeks to provide tenants with accounting of their security deposits and deter unscrupulous landlords from making fraudulent deductions. Except in specified conditions, the bill requires a landlord, at the same time he or she provides a tenant an itemized statement showing deductions from the security deposit, to also include copies of documents showing charges incurred and deducted by the landlord to repair or clean the premises. The bill permits the landlord, in certain circumstances, to deduct the amount of a good faith estimate of the charges that will be incurred and provide that estimate with the statement. The measure also provides that, except as specified, a landlord does not have to comply with the bill's requirements concerning receipts if either of the following apply: 1) The deductions for repairs and cleaning are less than \$125 or 2) The tenant waived his or her rights to receive receipts provided that specified requirements are met. Status: Chapter 335, 2003.

**SB 115 (Torlakson) Landlord-tenant: payment of rent or security deposit.** This bill seeks to address a reported practice where some landlords demand cash from tenants as the exclusive form of paying rent by providing that a landlord may not demand or require cash as the exclusive form of payment of rent or deposit of security, except in certain instances. Exceptions include, among others, if the tenant has previously attempted to pay the landlord or his or her agent with a check drawn on insufficient funds or the tenant has instructed the drawee to stop payment on a check, draft or order for the payment of money. Status: Chapter 76, 2004.

**SB 345 (Kuehl) Tenancy.** This bill contains a number of reforms relating to landlord-tenant law. Among other things, the measure provides that, if a tenant prevails in an unlawful detainer action within 60 days after the complaint is filed, the court clerk may not allow access at any time to the court file, index, register of actions, or other court records. The bill also requires that a residential landlord attach specified documents to an unlawful detainer complaint. The measure clarifies that notice of the landlord's entry into the unit is not required in specified instances and requires a public housing authority to submit specified information in its annual report to the Department of Housing and Community Development, including, among other things, data on terminations of tenancies of domestic violence victims in public housing authority units and other related information. Status: Chapter 787, 2003.

**SB 1145 (Burton) Landlord-tenant: repeal of specified sunsets: corrections.** This bill repeals the sunset dates of various landlord-tenant provisions scheduled to sunset and makes other needed corrections to landlord-tenant law. Specifically, the bill deletes the sunset dates on existing law's requirement that a landlord give a tenant additional notice when increasing the rent more than 10% and existing law's prohibition on a landlord making a decision to rent to a tenant based upon the prospective tenant's source of income. Status: Chapter 568, 2004.

## MISCELLANEOUS

**AB 277 (Dutra) Commercial and political cyberfraud.** This bill allows a court to consider an individual's intent to mislead, deceive, or defraud voters in determining whether the individual engaged in the bad faith registration of a domain name on the Internet. The bill also provides that in addition to any other remedies available under law, a court may order the transfer of a domain name as part of the relief awarded for a violation. And, the measure re-enacts state law, which expired on January 1, 2003, which had previously provided that it is unlawful to a person, with intent to mislead, deceive, or defraud, to commit an act of political cyberfraud, as defined. The bill expands this definition of "political cyberfraud" to include state and local ballot measures as well. Status: Chapter 277, 2003.

**AB 394 (Montanez) Law enforcement fees.** This bill adjusts the fees charged for certain civil process functions provided by sheriffs, and designates the purposes for which money collected for certain fees may be used. It increases from \$8 to \$10 the sheriff or marshal processing fee for each disbursement of money collected under a writ of attachment, possession, or sale. It increases from \$28 to \$30 the sheriff or marshal fee for making a "not found" return on a summons, affidavit and order, order for appearance, subpoena, writ of attachment or execution or order for delivery of personal property. AB 394 also creates a new fee of \$125 for levying on a safe deposit box pursuant to a writ of attachment or a writ of execution. It specifies that the processing fee for disbursement of money collected under specified writs shall be deposited in a special fund to be used to supplement the county's cost for vehicle fleet replacement and equipment, maintenance, and civil process operations. Status: Chapter 888, 2003.

**AB 588 (Koretz) Animals: sale of live or dead animals: research.** This bill would bar any animal shelter from selling, giving or furnishing any live or dead animal to an animal research facility or biological supply facility for the purposes of education, testing, research or biological supply. A violation would be an infraction punishable by a fine of up to \$500 per animal. Status: Dead, AsmJUD.

**AB 1095 (Corbett) County law libraries.** This bill creates a task force on county law libraries, consisting of three representatives from the judicial branch, three representatives of counties, and three law library administrators. The task force will identify the needs related to county law library operations and develop recommendations for funding sources and financing mechanisms. The bill requires the Administrative Office of the Courts to provide staff support and procedural guidelines for the task force. The task force is required to present its findings to the Judicial Council and the Legislature by January 1, 2005. Status: Chapter 394, 2003.

**AB 1793 (Yee) Violent video games.** This bill requires video game retailers to post signs regarding the availability of a video game ratings system and make brochures available that explain the system. Status: Chapter 630, 2004.

**AB 2137 (Steinberg) Law enforcement fees.** This bill increases fees for keeping and caring for property under a writ of attachment, execution, possession, or sale, as specified; increases the fee used exclusively by the Sheriff's Civil Division collected pursuant to specified Government Code sections from \$5 to \$10 which is deposited in a special fund in the county treasury; and adds an additional \$50 fee to the existing \$75 fee (for serving a writ of possession of real property) for removal of an occupant from the premises and putting a person in possession of the premises. Status: Chapter 327, 2004.

**AB 2193 (Nation) Tanning facilities: use by minors.** This bill prohibits persons under 14 years of age from using a tanning device and provides that a tanning facility that has violated the Filante Tanning Facility Act is liable for a civil penalty not to exceed \$2,500 per day in addition to any other penalty established by law. Status: Chapter 758, 2004.

**AB 2419 (Campbell) Public utilities: judicial review.** This bill would authorize any aggrieved party to petition the court of appeal or the Supreme Court, within the specified time limits, for a review of the lawfulness of the order or decision on rehearing of the Public Utilities Commission. Status: Dead, AsmJUD.

**AB 2530 (Levine) Controller's duties.** This bill seeks to enact more efficient and cost effective provisions for the State Controller. Specifically, the bill: 1) permits the holder of an interest, in situations in which specified security interests escheat to the state, to register the securities in uncertificated form in the name of the Controller; 2) permits the Controller's annual report and summary report to be published in an electronic format or printed; 3) provides that any costs incurred by the Controller to obtain required information (contained in local government reports of financial transactions submitted to the Controller believed to be false, incomplete, or incorrect) shall be borne by the county, city, or redevelopment agency; 4) allows employers (including the Controller) to deduct \$1.50 for each payment made pursuant to an earnings withholding order; and 5) authorizes the Controller, within the uniform state payroll system, to disregard net errors of \$25 or less in individual accounts receivable, if he or she has determined that time and expense will be saved in doing so. Status: Chapter 520, 2004.

**AB 2755 (Strickland) Ventura County Watershed: nuisance abatement.** This bill grants the Ventura County Watershed Protection District the ability to establish procedures for nuisance abatement identical to those granted to other counties. Status: Chapter 269, 2004.

**AB 3082 (Judiciary) Maintenance of the codes.** This bill makes technical changes and restates existing provisions of law to effectuate the recommendations made by the Legislative Counsel to the Legislature for consideration during 2004. Specifically, this bill corrects grammatical and other errors without substantive change to the law. Status: Chapter 183, 2004.

**AJR 6 (Diaz) Korean immigrants.** This resolution urges the U.S. Attorney General to suspend deportation proceedings for the South Korean immigrants who were given

fraudulent green cards over a period of 12 years by a corrupt INS official in conjunction with rogue immigration consultants. It urges a fair process of review in each case to avoid deporting innocent immigrants unaware of the green card scam. Status: Res. Chapter 71, 2003.

**AJR 49 (Dymally) Immigration: Hermenegildo Ortega.** This resolution respectfully requests United States Attorney General, John Ashcroft, to permit Hermenegildo Ortega to be readmitted to the United States in order to care for certain children, including his HIV-infected ward. Status: Res. Chapter 159, 2003.

**SB 298 (Dunn) Vehicles: New Motor Vehicle Board: powers and duties.** As heard by the Committee, this bill recast provisions relating to the jurisdiction of the New Motor Vehicle Board (NMVB). The bill permitted a franchisee to file a protest with the NMVB protesting an act or omission on the part of its franchisor that alleges a violation of specified sections of law relating to specified unlawful acts. The bill was subsequently amended to delete those provisions and instead authorize the Superintendent of Public Instruction to appoint a trustee to assume the duties of a governing board of a school district if the Superintendent of Public Instruction finds that the governing board has committed an act or omission that places the school district out of compliance with any provision of law and thereby places the school district in jeopardy of losing state or federal funding. Status: Dead, AsmED.

**SB 600 (Judiciary) Maintenance of the codes.** This bill makes technical changes and restates existing provisions of law to effectuate the recommendations made by the Legislative Counsel to the Legislature for consideration during 2003. Specifically, this bill corrects grammatical and other errors without substantive change to the law. Status: Chapter 62, 2003.

**SB 902 (Chesbro) Acquired state property: covenants or restrictions.** This bill, as heard by the Committee, allowed for agreements between state agencies and nonprofit public benefit corporations to provide that newly acquired public lands will be used for a public purpose. The bill was subsequently amended to provide a different method for calculating the disability retirement allowance of specified local safety members. On the Assembly side, the bill was again amended substantially to deal with firefighting equipment. Status: Vetoed.

**SB 1269 (Morrow) Traffic violators: Judicial Council report.** This bill requires the Judicial Council, by June 1, 2005, to collect and compile specified data and information in a report that provides a clear understanding of the current system involving the collection and expenditures of fees paid by traffic violator school attendees and to recommend one or more approaches to setting a fiscal policy for the fees charged to those traffic violators. Status: Chapter 665, 2004.

**SCR 4 (Morrow) California Law Revision Commission: studies.** This resolution authorizes the California Law Revision Commission to continue to study 20 previously

authorized topics and two additional topics for its report and recommendations to the Legislature. Status: Res. Chapter 92, 2003.

**SCR 77 (Vasconcellos) State Advisory Committee on Institutional Religion.** This measure commends the 56 years of work by the State Advisory Committee on Institutional Religion in assisting the implementation of chaplaincy programs within various state institutions and urges the committee to assist state agencies that employ institutional chaplains to make the most effective possible use of staff, volunteers, and other resources. Status: Res. Chapter 164, 2004.