

## 2007-08 Bill Summaries

### ATTORNEYS AND RELATED MATTERS

#### Attorneys and Related Services

**AB 403 (Tran) Attorney-client privilege.** This bill requires a court to appoint a personal representative when subsequent administration of an estate is necessary after the personal representative has been discharged because disclosure is sought of a communication, provides that the appointed representative shall be a holder of the lawyer-client privilege in existence, and directs the California Law Revision Commission to study the issue of whether and, if so, under what circumstances, the attorney-client privilege should survive the death of the client, and report its findings to the Legislature on or before July 1, 2009. Status: Chapter 388, 2007.

**AB 692 (Mullin) Attorneys: referral services.** This bill would have specified that a lawyer referral service includes, but is not limited to, a service provided through the Internet that matches potential clients with California Attorneys. Status: Dead, SenJud.

**AB 1723 (Judiciary) Interest on lawyer trust accounts.** This bill substantially increases funding for nonprofit legal services organizations that serve needy Californians by modernizing the statutes related to interest on lawyer trust accounts (IOLTA) so as to expand the types of accounts in which IOLTA funds may be deposited to include certain investment products, and requires that financial institutions holding such funds pay the rate of interest or dividends payable on any IOLTA account shall not be less than the interest rate or dividends generally paid by the eligible institution to non-attorney customers on accounts of the same type meeting the same minimum balance and other eligibility requirements as the IOLTA account. This bill also provides that eligible financial institutions may, if they wish, maintain existing deposit accounts that meet certain eligibility requirements but pay rates on those accounts that would be earned if those funds were instead in investment accounts. Status: Chapter 422, 2007.

**SB 414 (Corbett) Limited liability partnerships: accountancy and law.** This measure provides that the total aggregate limit of liability under the policy or policies of insurance or the amount of security for those partnerships providing accountancy or legal services with 5 or fewer licensees shall be not less than \$1,000,000 and for partnerships with more than 5 licensees, shall be an additional \$100,000 for each additional licensee up to the \$5,000,000 or \$7,500,000 maximum, respectively. Status: Chapter 80, 2007.

#### State Bar

**AB 3049 (Judiciary) State Bar dues.** This bill authorizes the Bar of California to collect annual membership fees for 2009, keeping with the typical approach of an annual dues authorization bill to ensure the Bar is appropriately funded and provides helpful and appropriate legislative oversight of the Bar's many important functions. Status: Chapter 165, 2008.

**SB 686 (Corbett) State Bar dues.** This bill authorizes the State Bar of California to collect active membership dues of \$390 for the year 2008, which is a \$10 decrease from 2007. This decrease would result from repealing the current authorization to collect \$10 annually from each member for the Building Fund. When combined with the proposed \$10 special assessment for information technology upgrades, the total annual membership dues for active members would be \$400. Status: Chapter 474, 2007.

## **CIVIL PRACTICE AND PROCEDURE**

### **Civil Procedure**

**AB 229 (Strickland) Ethics in government: SLAPP actions.** This bill would have provided that a special motion to strike, pursuant to California's anti-SLAPP (Strategic Lawsuits Against Public Participation) law, would not apply to a cause of action brought to enjoin violations of, or to compel compliance with specified provisions of the Political Reform Act of 1974. Status: Dead, SenInactive.

**AB 500 (Lieu) Civil actions: telephonic appearances.** This bill permits a party in a general civil case who has provided notice, to appear by telephone at specified proceedings, and permits a court to require a party to appear in person at these proceedings if the court determines that a personal appearance would materially assist in the determination of the proceedings or in the effective management or resolution of the case. Status: Chapter 268, 2007.

**AB 859 (Plescia) Civil procedure: service of process.** This bill makes various technical changes to the law governing the service of writs of attachment, execution, and possession. Specifically, it (1) specifies that documents relating to writs of attachment and execution must be filed with a levying officer within five court days, as opposed to five days, (2) makes a technical revision that changes the title of the "affidavit" filed with the levying officer that states the manner of levy performed to instead refer to a "proof of service," and (3) clarifies that when a defendant has not appeared in an action for a writ of possession, documents required to be personally served on the defendant may be served in the same manner as a summons. Status: Chapter 15, 2007.

**AB 926 (Evans) Civil discovery.** This bill would have modernized civil discovery law to take into account that increasing numbers of documents are stored electronically. Specifically, this bill establishes procedures in the Civil Discovery Act for a person to obtain discovery of electronically stored information, as defined, in addition to documents, tangible things, and land or other property, in the possession of any other party to the action. Status: Vetoed.

**AB 1126 (Eng) Civil discovery: unlawful detainer: subpoenas.** This bill provides that, in any action for summary proceedings for actions involving the possession of real property, a discovery motion may be made at any time upon giving a five-day notice. The bill requires the Judicial Council to adopt rules prescribing the time for the filing and

service of opposition and reply papers relating to specified motions filed in connection with the above summary proceedings. This bill also makes clarifying and technical changes regarding the special time limit in unlawful detainer actions for service of a response to written discovery, commencement of written discovery by the plaintiff and the time of an inspection. Status: Chapter 113, 2007.

**AB 1211 (Price) Depositions: costs.** This bill provides the obligation to timely pay the deposition officer or entity providing the services of the deposition officer for a deposition transcription, and any other deposition products or services that are requested, either orally or in writing, shall be the responsibility of the requesting attorney or party appearing *in propria persona*, except if responsibility for the payment is otherwise provided by law or unless the deposition officer or entity is notified in writing at the time the services and products are requested that the party or another identified person will be responsible for payment. This provision does not prohibit or supersede an agreement between an attorney and a party allocating responsibility for the payment of deposition costs to the party. Status: Chapter 115, 2007.

**AB 1264 (Eng) Severance of parties.** This bill provides that fictitiously-named (Doe) defendants shall not be severed from a civil action prior to the conclusion of the introduction of evidence at trial, except upon stipulation or motion of the parties. Status: Chapter 146, 2007.

**AB 1505 (Parra) Class actions.** This bill would have: (1) repealed California's class action litigation statute, in effect since 1872, and negated existing case law, replacing both with a substantially different set of rules and procedures; (2) repealed class certification rules and procedures for actions under the Consumer Legal Remedies Act; and (3) provided that a plaintiff or defendant class may be certified only if certain conditions listed in the bill are present. Status: Failed, AsmJud.

**AB 1891 (Niello) Civil procedure: sanctions.** This bill would have significantly revised the standards by which conduct during and outside of civil litigation is subject to penalty, as well as the scope of conduct that is subject to sanction, and the types of penalties to be imposed. Among other things, this bill would have required that every trial court had to order a party, the party's attorney, or both to pay any reasonable expenses, including attorney's fees, incurred by another party as a result of any filing, action, or tactic that was deemed frivolous, clearly unjustified, or otherwise substantially devoid of merit in view of the pertinent facts, the applicable law, and the cause or position asserted. Status: Failed, AsmJud.

**AB 1905 (Adams) Appeals: class action certification.** California law has long provided that a ruling granting class certification is not subject to immediate appeal. This rule reflects that the class certification is a procedural question, and one that is inherently tentative and subject to review, modification and reversal at any point in the life of the case. This bill would have established a new rule allowing a right of immediate appeal from procedural determinations regarding class certification. Status: Failed, AsmJud.

**AB 2193 (Tran) Civil discovery: out-of-state proceedings.** This bill establishes the Interstate and International Depositions and Discovery Act which clarifies and refines the procedure for obtaining discovery from a witness in this state for the purposes of a case pending in an out-of-state jurisdiction. The recommended reforms are based in part on the Uniform Interstate Depositions and Discovery Act of 2007, which was recently approved by the National Conference of Commissioners on Uniform State Laws. Status: Chapter 231, 2008.

**AB 2379 (Evans) Court records: sealing: review.** This bill would have provided an alternative and more expeditious writ review process when a party challenges a court order sealing or unsealing court records. Specifically, this bill would allow a person challenging a court order to either file a writ for extraordinary review or file an appeal. Status: Vetoed.

**AB 2433 (Krekorian) Civil procedure: special motion to strike.** This bill provides that when a subpoena requires the attendance of a witness or the production of books, documents or other things before a court, or at the trial, or at the taking of a deposition, the court, upon motion reasonably made by specified individuals, or upon the court's own motion after giving counsel notice and the opportunity to be heard, may make an order quashing the subpoena entirely, modifying it, or directing compliance with it upon such terms or conditions as the court declares, including protective orders. This bill also authorizes the court to make any other order as may be appropriate to protect the person from unreasonable or oppressive demands, including unreasonable violations of the right of privacy of the person. This bill provides that, if a motion to quash or modify a subpoena from a court of this state for personally identifying information, as defined, is filed for use in an action pending in another state, territory, or district of the United States, or in a foreign nation, and the subpoena has been served on an Internet service provider, or on the provider of any other interactive computer service, as defined, if the moving party prevails and if the underlying action arises from the moving party's exercise of free speech rights on the Internet and the respondent has failed to make a prima facie showing of a cause of action, the court shall award the amount of the reasonable attorney's fees. Status: Chapter 742, 2008.

**AB 2619 (Calderon) Civil discovery: expert witnesses.** This bill makes technical, non-substantive amendments to the Code of Civil Procedure (CCP) in order to correct two erroneous cross references in the CCP with respect to expert witness depositions. Status: Chapter 303, 2008.

**AB 2624 (Strickland) Ethics in government: SLAPP actions.** The Political Reform Act of 1974, including provisions known as the Ethics in Government Act of 1990, imposes ethical standards on elected officials and candidates for elective or judicial office, including provisions governing the acceptance of gifts, honoraria, and campaign contributions. Existing law authorizes a person to sue for injunctive relief to enjoin violations of, or to compel compliance with, these provisions. This bill would have provided that the special motion to strike shall not apply to a cause of action brought pursuant to the provision authorizing a person to sue for injunctive relief to enjoin

violations of, or to compel compliance with, the provisions imposing ethical standards on elected officials and candidates for elective or judicial office. Status: Dead, AsmJud.

**SB 1113 (Migden) Litigation costs.** This bill would have authorized a court, upon motion, to award attorney's fees, including expert witness fees, to a successful party against one or more opposing parties in any action that had resulted in the enforcement of an important right affecting the public interest. Status: Vetoed.

**SB 1630 (Corbett) Civil actions: place of trial.** This bill would have required the Judicial Council, in consultation with specified entities, to establish a process for promptly transferring venue of a civil case for trial when (1) the court in which the case was filed had a significant backlog of civil trials, and (2) the backlog was due to documented need for judicial officers in that court, or to other special circumstances that impacted the ability of the court to conduct trials in civil action. Status: Dead, AsmJud.

### Evidence

**AB 1600 (La Malfa) Taxation: burden of proof.** This bill would have added a requirement in the Evidence Code that, in any proceeding in which the State Board of Equalization (BOE) is a party, the BOE would have the burden of proof by clear and convincing evidence to sustain a penalty proposed for intent to evade or for fraud of a taxpayer, with respect to any factual or legal issues relevant to ascertaining the liability of a taxpayer. Status: Dead, AsmR&T.

**AB 2417 (Runner) Crime.** This bill would have expanded the definition of "unavailable as a witness" for purposes of provisions of law relating to evidence to include a situation in which a declarant was present at a hearing and refused to testify concerning the subject matter of the declarant's statement despite a court order to do so. This bill also would have increased various gang enhancement penalties. Status: Dead, AsmPubS.

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

### Business

**AB 105 (Lieu) Tanning facilities.** This bill prohibits persons less than 14 years of age from using ultraviolet tanning devices and prohibits a person between the ages of 14 and 18 from using an ultraviolet tanning device unless that person's parent or legal guardian provides consent. In addition, this bill amends the written warning statement provided to tanning facility customers, and makes technical clarifications regarding the use of sunless tanning machines. Status: Chapter 590, 2007.

**AB 221 (Anderson) Public retirement systems: Iran.** This bill prohibits the boards of CalPERS and CalSTRS from investing public employee retirement funds in companies with business operations in the defense or nuclear sector of Iran or that are involved in the development of Iranian petroleum or natural gas resources and are subject to federal sanctions, as specified. This bill requires the boards to contract with a research firm to

determine those companies that have business operations in Iran and to report its findings to the board on or before March 30, 2008, and to update those reports as circumstances in Iran change. This bill requires the boards to independently review publicly available information regarding companies with business operations in Iran and to take specific actions based on that review by March 30, 2008. Indemnifies and holds harmless, by the General Fund, present and former board members, state officers and employees, research firms and investment managers from all liability, losses or damages sustained by reason of any decision not to invest in companies with business operations Iran pursuant to the provisions. Status: Chapter 671, 2007.

**AB 604 (Walters) Deceased persons: cancellation of services.** This bill provides that a business that receives an oral or written request from a family member, attorney, or personal representative of a deceased person to cancel that person's services may not require an in-person cancellation. This bill defines "services" for purposes of the bill's provisions. Status: Chapter 14, 2007.

**AB 1006 (Maze) Pawnbrokers and dealers.** Existing law regulates pawnbrokers, secondhand dealers, and coin dealers, and requires a law enforcement agency that has knowledge that property in the possession of a dealer has been reported as lost or stolen to notify the property's claimant that the law does not require or prohibit payment for the return of the item. This bill would have prohibited pawnbrokers and other secondhand dealers from charging the original claimant for returning a stolen item if the original claimant filed a report with law enforcement within a specified time period. The bill would require a law enforcement agency to return property to a dealer if the agency is unable to establish ownership within a certain time after the property is no longer required for a criminal investigation. The bill would require a person prosecuted for pledging stolen property to pay a dealer a specified amount for the property, and would provide that an original claimant who filed a report within the specified time period may file a civil action against a dealer for the return or the value of the property, and would require the original claimant to disclose in court whether he or she filed a claim with or received compensation from an insurance company for the property. The bill would require an original claimant who received insurance compensation for a lost or stolen item to repay the insurance company if the item was returned. Status: Dead, AsmB&P.

**AB 1570 (Mendoza) Retail sales: credit applications.** This bill would have provided that a retailer shall honor the terms of a special promotional price, sales, or financing for an additional business day if the information on the consumer's credit application cannot be verified within the timeframe of the offer, or if the consumer's information and credit worthiness are subsequently verified. Status: Dead, AsmB&F.

**AB 1673 (Feuer) Rebates.** This bill would have provided that a retail seller that sells goods to the public in this state and that advertises a rebate for an item of merchandise by displaying the net price of the item after redemption of the rebate shall, at the time of the sale, discount the sale price of the item by the amount of the rebate. This bill provides that the retail seller itself rather than the consumer shall collect the rebate directly from the offeror of the rebate. This bill also provides that any provision of a contract in which

the consumer agrees to modify or waive any of the rights afforded by this section is void as contrary to public policy. Status: Vetoed.

**AB 1677 (Calderon) Internet transactions: verification.** This bill would have required a business that provides banking or other financial services over the Internet to implement and maintain reasonable policies and procedures for authenticating and verifying the legitimacy of a consumer transaction over the Internet. This bill specifies that, at minimum, policies and procedures must be consistent with best industry practices, including, but not limited to, those recommended by the Federal Financial Institutions Examination Council or the relevant Recommended Practices of the California Office of Privacy Protection. Further provides that a business that fails to conduct an Internet transaction with a consumer in compliance with its required policies and procedures may be subject to a civil penalty in the amount of \$3,000. Further provides that any customer injured by a violation of this bill may institute a civil action to recover damages. Status: Dead, AsmInactive.

**AB 2151 (Jones) Liquor stores.** This bill would have given local governments more control over the issuance and transfer of liquor licenses. Specifically, this bill would (1) permit the state Alcoholic Beverage Control board to deny a license request in a blighted area if to do so would worsen conditions of blight and (2) allow a local governing body to oppose a transfer of a liquor license in a redevelopment project area under specified circumstances. Status: Vetoed.

**AB 2473 (Niello) Accountancy: licensure.** This bill would have repealed on January 1, 2012, the provisions governing education, examination, and experience requirements for licensure as a certified public accountant. This bill also would have deleted the exception from the practice prohibition for practice incidental to lawful practice in another state and for the filing of the tax returns by a licensee of another state, and would have revised the exception from the practice prohibition for practice incidental to lawful practice in a foreign country by imposing additional requirements in order for that exception to apply. Status: Dead, AsmB&P.

**AB 2944 (Leno) Corporations: director's duties.** This bill would have specified that, until January 1, 2015, in considering the best interests of the corporation, the board of directors, committees of the board, and individual directors of a domestic corporation may consider specified factors, including, among others, the effect the corporation's actions will have on the prospects for potential growth and on the economy of the state and nation. This bill also enacts related provisions relative to the consideration of these factors, as specified, and the duties of the board of directors, committees of the board, and individual directors of a domestic corporation. Status: Vetoed.

**SB 376 (Migden) Unfair competition: actions by city attorneys.** This bill revises the statute authorizing the city and county of San Francisco to bring unfair competition actions, and to allow recovery of a civil penalty regardless of the size of its population. Status: Chapter 17, 2007.

**SB 509 (Simitian) Consumer Product Safety.** As heard by this Committee, this bill would have prohibited, subject to certain trade secret exemptions, the manufacture, sale, or distribution of designated consumer products in this state unless the manufacturer discloses each ingredient in a proscribed manner. The bill was subsequently amended to establish a Toxics Information Clearinghouse for the collection, maintenance, and distribution of specific chemical hazard traits and environmental and toxicological end-point data. Status: Chapter 560, 2008.

**SB 691 (Calderon) Junk dealers and recyclers: non-ferrous material.** This bill expands existing record-keeping and reporting requirements for junk dealers, increases fines for violations of those requirements, requires check-only payments under specified circumstances, and creates a new requirement that junk dealers collect thumbprints from sellers. Status: Chapter 730, 2008.

**SB 1007 (Machado) Exchange facilitators.** This bill requires a person engaging in business as an exchange facilitator, as defined, to comply with certain bonding and insurance requirements, as specified, and to notify existing exchange clients whose relinquished or replacement property is located in this state of any change in control, as defined, of the exchange facilitator. This bill also requires a person engaging in business as an exchange facilitator to, among other things, act as a custodian for all exchange funds and to invest those funds in investments that meet a prudent investor standard, as specified. This bill prohibits these persons from performing specified acts, including, but not limited to, making material misrepresentations and engaging in conduct constituting fraudulent or dishonest dealings. Status: Chapter 708, 2008.

**SB 1225 (Harman) Private cemeteries: limited liability companies.** This bill adds a limited liability company (LLC) to the list of entities permitted to transact the businesses of a cemetery within the state. This bill allows a limited liability company to be designated by the Cemetery and Funeral Bureau as a cemetery authority organized for the purpose of owning and controlling cemetery lands and properties. This bill allows a cemetery authority that is an LLC to employ licensed persons providing services related to cemeteries and funerals, as specified, subject to insurance policies or other security in the amount of \$1,000,000 for an LLC that employs five or fewer licensed individuals, plus an additional \$100,000 per additional licensed person employed, up to a maximum of \$5,000,000, to cover any liability resulting from acts, errors, or omissions of those licensed employees. Status: Chapter 114, 2008.

### **Contracts**

**AB 244 (Nakanishi) Contractors: home improvement and service and repair contracts.** This bill clarifies current law that a contractor who furnishes a specified bond covering full performance and payment with respect to a home improvement or service and repair contract is exempt from providing certain specified information in the contract. This bill also provides that, for purposes of a criminal action against a licensed or unlicensed contractor or his/her agent or salesperson for an unlawful home improvement or service and repair contract, the action must be brought within two or four years,



respectively, from the date of the contract or, if the contract is not reduced to writing, from the date the buyer makes the first payment to the contractor. Status: Chapter 230, 2007.

**AB 249 (Eng) Licensees: healing arts: settlement agreements.** This bill would have prohibited a healing arts professional licensed by the Department of Consumer Affairs (DCA) from including in a civil settlement agreement any gag clause provision that prohibits the other party from contacting or filing a complaint with DCA or the appropriate licensing board. Status: Vetoed.

**AB 305 (Ma) "Cooling off" period for purchase of leased vehicles.** This bill amends the contract cancellation provision of the 2006 Car Buyer's Bill of Rights [AB 68 (Montanez), Chapter 128, Statutes of 2005]. Specifically, this bill provides that when a buyer, who leased the purchased vehicle immediately preceding the dealer's sale of the vehicle to the buyer, exercises the contract cancellation option, the limit on the amount of a restocking fee required to be paid by the buyer shall be increased by the amount the buyer would have been obligated to pay the lessor, at the time of the termination of the lease, for the following charges, as specified in the lease, and as if the buyer had not purchased the contract cancellation option: excess mileage; unrepaired damage; and, excess wear and tear. Status: Chapter 219, 2007.

**AB 611 (Nakanishi) Contractors: arbitration procedures.** This bill would have increased the monetary cap on cases that could be referred to a voluntary arbitration program by the Contractors State License Board, from its current maximum of \$50,000, to a maximum of \$100,000 and excluded attorney's fees from the costs that could be awarded by the arbitrator. Status: Dead, SenInactive.

**AB 983 (Ma) Public contracts: plans and specifications.** This bill would have required, except in design-build projects, a local public entity, before entering into any contract for a project, to provide full, complete, and accurate plans and specifications and estimates of cost, giving such direction as would enable a bidding builder or contractor to carry them out. This bill provides that, for purposes of a breach of warranty action based upon incomplete, inaccurate, or misleading plans and specifications, nothing in its provisions would be construed to require a contractor to prove an affirmative or intentional misrepresentation or active concealment on the part of the local public entity that provides the plans and specifications nor construed to public entity, charter city, or charter county from raising any affirmative defensive available to it under law. Status: Vetoed.

**AB 2002 (de Leon) Public works: payments.** This bill would have increased the penalties and defined the interest accrual rate, as determined by the Labor Commissioner, when a contractor or subcontractor violates the public works and prevailing wage laws. This bill also subjects a contractor to a penalty assessment only when a contractor had knowledge or should have had knowledge of its subcontractor's noncompliance. Status: Vetoed.

**AB 2116 (Portantino) Automobile sales contracts.** This bill would have required that a notice sent to a defaulting vehicle buyer must include specified information relating to reinstatement of a motor vehicle sales contract after the vehicle has been repossessed for nonpayment. Status: Dead, SenJud.

**AB 2142 (Swanson) Vehicle rental agreements.** This bill authorizes the Oakland International Airport to assess and collect a customer facility charge for a period of up to 10 years from the imposition of the charge for the purposes allowed by, and subject to the other conditions of the customer facility charge (CFC) law, if a bond or other form of indebtedness is not used for financing, or the bonds used for financing has been paid. This bill allows the Oakland International Airport to assess and collect a CFC to finance permitted projects on a "pay-as-you-go" basis rather than relying on bond financing. Status: Chapter 228, 2008.

**AB 2336 (Nakanishi) Contractors: arbitration procedures.** This bill would have, raised the threshold (under the Contractors' State License Law) for damages qualifying for a referral to arbitration by the registrar of contractors from \$50,000 to \$100,000. This bill also would have allowed a licensee to have the project that is the subject of an arbitration proceeding inspected by an expert, and required the complainant to allow for that inspection prior to the hearing date. Status: Dead, AsmJud.

**AB 2780 (Lieu) Damages: lost profits.** As heard by this Committee, this bill would have provided that a public entity is not liable for damages for lost profits for breaching a contract, if the breach of contract was due to the enactment of a valid initiative. Specifies that the provisions of this bill are fully retroactive and apply to contracts entered into before, on, or after the effective date of this bill should it be enacted. Status: Dead, AsmFloor.

**AB 2860 (Mendoza) Agricultural lands: cancellation of Williamson Act contracts.** This bill would have provided that a Williamson Act contract could be cancelled if the contracted land was acquired under a federal trust, on behalf of a federally recognized tribe. Status: Dead, AsmAg.

**SB 138 (Calderon) Construction contracts: indemnity.** This bill provides that for all construction contracts, and amendments thereto, entered into after January 1, 2008, for residential construction, that purport to indemnify, an unaffiliated general contractor or contractor, by a subcontractor against liability for claims of construction defects are unenforceable to the extent the claims arise out of, pertain to, or relate to the negligence of the nonaffiliated general contractor or nonaffiliated contractor or their other agents, other servants, or other independent contractors who are directly responsible to the nonaffiliated general contractor or nonaffiliated contractor, or for defects in design furnished by those persons, or to the extent the claims do not arise out of, pertain to, or relate to the scope of work in the written agreement between the parties. Status: Chapter 32, 2007.

**SB 191 (Padilla) Public works: labor compliance.** When heard by this Committee, this bill would have allowed awarding bodies, aggrieved employees or contractors to file a complaint with the Director of the Department of Industrial Relations regarding an approved private entity's performance in enforcing labor compliance programs. This bill was later amended to establish an alternative mechanism to fund enforcement of prevailing wage and apprenticeship requirements on specified public works projects. Status: Vetoed.

**SB 569 (Steinberg) Public works: prevailing wage payments.** This bill would have revised various provisions of law related to enforcement of the payment of prevailing wages on public works projects. Specifically, this bill required a party awarding a public works contract, for which the overall construction cost is over \$100,000, to report to the Contractors' State License Board (CSLB) the name and license number of each contractor and subcontractor performing work, and the name, location, and identification number of the public works project for which the contract was afforded. This bill also specified that a contractor and subcontractor would be jointly and severally liable for all amounts due pursuant to a final order or judgment on that final order in any action to enforce the requirements of existing law, regardless of the party bringing the action. Status: Dead, AsmApprops.

**SB 641 (Corbett) Vehicle rental agreements: San Jose airport.** This measure repeals the existing statute authorizing San Jose International (SJI) Airport to collect fees to pay for rental car facilities and places the SJI Airport under the general fee authorization statute that is applicable to most of the other major airports in the state. Status: Chapter 44, 2007.

**SB 1352 (Wyland) Public works: prevailing wage rates.** This bill allows contractors and/or subcontractors who have received a wage and penalty assessment under public works law, as an alternative to becoming automatically liable for liquidated damages in specified circumstances, to deposit the full amount of the assessment for the Department of Industrial Relations to hold in escrow, pending review and distribution. Status: Chapter 402, 2008.

**SB 1432 (Margett) Contractors.** This bill seeks to better protect consumers injured by contractor acts or omissions by increasing the small claims court jurisdictional limit and amending the limitations period within which an action must be brought against a bond. The bill further clarifies that a home or property owner no longer has to provide that a license law violation by a contractor was willful and deliberate when filing for a claim on their bond. Status: Chapter 157, 2008.

**SB 1443 (Oropeza) Food facilities: donated food.** This bill would have required all contracts entered into between caterers and purchasers to include a provision giving the purchaser the option of authorizing the caterer to donate leftover food to an appropriate organization or provide the leftover food to the purchaser. Status: Dead, AsmInactive.

**SB 1581 (Aanestad) Contractors.** This bill would have exempted a contractor furnishing a performance and payment bond from including, as part of the contract, a notice stating that the owner or tenant has the right to require the contractor to have a performance and payment bond, as well as from minimum typeface point size requirements for specified notices and statements. Status: Failed, AsmJud.

### **Creditor-Debtor Relations**

**AB 1313 (Calderon) Credit card: cancellations.** This bill would have exempted the issuer of a "private label" credit card from the existing requirement that credit card issuers must provide consumers with 30-day prior notice before canceling a credit card, so long as the credit card issuer (a) is canceling all or substantially all of an entire class of "private label" credit card accounts and (b) provides the cardholder with written notice of the termination within 60 days after the termination. Status: Dead, AsmJud.

**AB 1575 (Richardson) Vehicle liens.** This bill increases the amount a lienholder may charge the legal owner or lessor of a vehicle for work or services rendered or performed at the request of any person other than the legal owner or lessor without their written consent to: \$1,500 for any work or services; \$1,025 for any storage or safekeeping of the vehicle, or rental of a parking space, or \$1,250 for that storage or safekeeping if an application for an authorization to conduct a lien sale has been filed. Status: Chapter 121, 2007.

**AB 2152 (Duvall) Taxpayers' rights advocate.** As introduced, this bill would have revised the law regarding the position of the Taxpayers' Rights Advocate, specifically with respect to tolling of the statute of limitations. The measure was subsequently amended to relate to security payments for taxes due to the Board of Equalization, taking the bill out of the Committee's jurisdiction. Status: Dead, AsmApprops.

**AB 2611 (Lieu) Debt management and settlement.** This bill would have provided for the regulation and licensure by the Department of Corporations (DOC) of entities that provide debt settlement or credit counseling services by establishing both the Debt Settlement Services Act and the Debt Management Act. This bill also would have prohibited anyone from providing debt settlement services unless they were licensed in the state and required DOC to maintain a list of registered debt settlement providers on their website. Status: Dead, SenBF&I.

**AB 2876 (Lieber) Student Loan Integrity Act.** This bill would have created the Student Loan Integrity Act that would have established a student notification process and a code of conduct for employees of postsecondary education institutions relating to student loans and allowed students to recover punitive and other damages for violation of these provisions. Status: Dead, AsmHigherEd.

**AB 3004 (Duvall) Vehicle liens.** This bill would have provided that a vehicle lien is extinguished if requested documents are not provided to the legal owner of the vehicle, by the lienholder, as specified. Current law requires every operator of a towing service to

keep a written record of every vehicle of a type subject to registration stored for a period longer than 12 hours. Under current law, this written record must contain the name and address of the person storing the vehicle or requesting the towing, the names of the owner and driver of the vehicle and a brief description of the vehicle including the name or make, the motor or other number of the vehicle, the nature of any damage to the vehicle, and the license number and registration number shown by the license plates or registration card. Status: Dead, SenJud.

**AB 3013 (Levine) Judgment liens.** This bill would have established a process for the continuation of a judgment lien on personal property, so that a creditor would not have to file a new lien at the end of five years. The process was patterned after the process for the continuation of security liens on various types of personal property that are perfected through the filing of a financing statement with the Secretary of State. Status: Vetoed.

**SB 659 (Calderon) Repossessors.** This bill specifies that the legal owner of collateral registered under the Vehicle Code includes the seller or lessee named on a valid conditional sales contract or lease agreement and requires a licensed reposessor who is subject to certain violent acts or threatened acts during a repossession to provide details about the incident to the person who made the assignment. That person will then be required to notify a subsequent reposessor of that information at the time of making another assignment to skip trace, locate, or repossess that vehicle. Status: Chapter 192, 2008.

**SB 1633 (Kuehl) Dental services: credit.** This bill would have prohibited a dentist, or an employee or agent of a dentist, from charging an open-end credit line which is extended by a third party and is arranged for or established in a dental office, for services that the patient has not yet received. This bill also specifies standards for a dentist, or an employee or agent of a dentist, when arranging credit or a loan for one of its patients, clients or customers. Status: Vetoed.

## **COURTS AND RELATED MATTERS**

### **Courts**

**AB 171 (Beall) Estates and trusts: fees.** This bill, responding to a recent appellate court decision, eliminates the graduated uniform civil filing fee for petitions or accounts filed in connection with the administration of an estate or trust. The bill instead establishes a single uniform \$320 filing fee. Status: Chapter 310, 2008.

**AB 367 (de Leon) Court-ordered debt.** This bill enacts the final recommendations of the Collaborative Court Working Group on Enhanced Collections to improve the collection of court-ordered delinquent fees, fines, forfeitures, penalties, and assessments. Status: Chapter 132, 2008.

**AB 467 (Feuer) Courts: indigent fee waivers.** This bill would have revised and recast the procedures for granting a court fee waiver to a litigant who cannot afford to pay the

fee. This bill largely retained the substance of existing law, but provided greater detail on the procedures for making determination on an application and for recovery of fees after a waiver had been provided. Status: Vetoed.

**AB 985 (Saldana) Environment: judicial review.** This bill would have allowed the courts of appeal to have jurisdiction over writ of mandate petitions seeking review of decisions by the Public Utilities Commission relating to the California Environmental Quality Act. This bill would have allowed the courts of appeal to have jurisdiction over writ of mandate petitions seeking review of decisions by the California Energy Commission relating to certification of transmission lines and power plants. Status: Dead, AsmInactive.

**AB 1248 (Evans) Court operations.** This bill, (1) authorizes small claims courts to charge additional fees in cases where a party files an amended claim that raises the amount of the demand to the point that would have raised the initial filing fee, (2) increases the cap on investigative expenses in habeas corpus death sentence cases from \$25,000 to \$50,000, and (3) permits civil courts to collect additional filing fees when amended complaints or pleadings increase the amounts demanded from \$10,000 to \$25,000 and makes other technical changes to numerous statutes impacting court operations. Status: Chapter 738, 2007.

**AB 1491 (Jones) Court facilities transfer.** This bill reauthorizes the transfer of court facilities from counties to the state through December 31, 2009. This bill also increases a county's annual facility payment (CFP) for each facility that has not transferred before October 1, 2008 by one of two factors, depending on the date of transfer. Counties in which certain extraordinary circumstances exist may avoid the additional CFP multiplier upon mutual agreement of the county and the Administrative Office of the Courts, as specified, prior to September 30, 2008. Status: Chapter 9, 2008.

**AB 1557 (Feuer) Jury selection: peremptory challenges.** This bill would have reduced the number of peremptory challenges available to the prosecution and defense in all misdemeanor criminal trials punishable by one year or less in the county jail from ten to six challenges. Status: Dead, AsmInactive.

**AB 1726 (Judiciary) Court interpreters.** This bill would have provided that in civil actions in which a party does not proficiently speak or understand the English language, and that party is present, an interpreter shall be present to interpret the proceedings in a language that the party understands. If sufficient funds or interpreters are not available to meet the need in all civil cases, this bill establishes case priorities. Status: Dead, AsmApprops.

**AB 1828 (Huff) Jury service.** This bill would have provided anyone who worked as a poll worker with a one year exemption from jury service from the date of the last election worked regardless of the time actual served as a poll volunteer and irrespective whether the volunteer activities precluded an ability to serve as a juror when summoned. Status: Failed, AsmJud.

**AB 1876 (de Leon) Court security.** This bill would have required the Judicial Council, after considering the recommendation of the court security working group, to adopt a template and requirements for quarterly reporting of court security services and expenditures, consistent with state accounting standards. This bill provides that the sheriff shall (1) be accountable for the effective and cost-efficient expenditure of court security funds consistent with the memorandum of understanding (MOU) entered into in each county, (2) provide quarterly reports to the court and the Judicial Council using the court security template, and (3) maintain reports and records on court security expenditures and services for seven years after reporting. This bill requires the Judicial Council to conduct periodic audits and reviews of compliance with the MOU and laws regarding court security, and requires the sheriff to cooperate in such audits and reviews. Status: Dead, SenInactive.

**AB 1949 (Evans) Court operations.** This bill updates the law on trial preferences to remove obsolete references and provides additional time for the processing of local court rules. This bill also clarifies the definition of a subordinate judicial officer (SJO) and the law governing SJO relocation costs. Finally, this bill clarifies the law pertaining to the payment of civil jury fees and jury deposits by governmental entities. Status: Chapter 218, 2008.

**AB 2164 (Nakanishi) County law libraries.** This bill would have directed the commission on civil court fees, established by the Judicial Council, to review the level of funding needed to support law libraries and, by March 1, 2010, required the Judicial Council to make recommendations to the Legislature regarding funding needs, potential sources of funding and service mission and delivery models for the law libraries, as well as long-term facility needs in light of the transfer of court facilities from counties to the courts. Status: Dead, AsmApprops.

**AB 2357 (Duvall) Courts: personal information.** This bill would have required the Judicial Council to develop and implement policies and procedures for the protection of personal information, as defined, maintained by a superior court and processed or stored by private service providers, consistent with the best interests of the public. Status: Dead, SenDesk.

**AB 2409 (Nava) Juvenile case files.** This bill would have prohibited the destruction of records of a ward who was 14 years of age or older at the time he or she committed a sexually violent offense, as defined. This bill also would have provided that, in any investigation, action, or proceeding based on the sexually violent predator laws, a court, upon a showing of good cause, would be able to permit the Department of Corrections and Rehabilitation, the State Department of Mental Health, and the attorney petitioning for commitment, or their agents, to obtain and use records relevant to the civil commitment proceeding as determined by the court, in camera, that had been sealed pertaining to sustained petitions for specified sexually violent offenses that were committed when the person had attained 14 years of age or older. Status: Dead, AsmApprops.

**AB 2448 (Feuer) Courts: indigent fee waivers.** This bill revises and recasts procedures for granting a court fee waiver to a litigant who cannot afford to pay the fee. This bill provides greater detail on the procedures for making a determination on an application for and recovery of fees after a wavier has been provided. Status: Chapter 462, 2008.

**AB 3050 (Jones) Court interpreters and legal aid fraud.** This bill would have established a pilot program to provide court interpreters in specified civil proceedings. This bill authorized the Judicial Council to select up to five courts to participate in the pilot program. Participating courts would have provided interpreters to any party proceeding in forma pauperis who was present and who did not speak or understand English proficiently enough for the purpose of understanding court proceedings. This bill also prohibited a person or organization that was not a legal aid organization from using the term "legal aid" or variants in any firm name, trade name, fictitious business name, or other designation, or on any advertisement, letterhead, business card, or sign. Status: Vetoed.

**AB 3052 (Jones) Court facilities: public-private financing.** This bill would have clarified the authority of the Judicial Council to enter into public-private partnerships as an alternative means of delivering new court house facilities. Status: Vetoed.

**SB 145 (Corbett) Court facilities transfer.** This urgency bill would have extended the deadline for transfer of responsibility of court facilities from the counties to the Judicial Council, from June 30, 2007, to December 31, 2008. This bill also revises the county facilities payment that counties must pay to the state for facilities that transfer after December 31, 2007, as specified. Status: Dead, SenInactive.

**SB 396 (Ridley-Thomas) Commission on civil fees.** This bill would have created an advisory commission on civil court fees with a broad-based membership, appointed as specified, to review issues relating to civil court fees and make recommendations to the Legislature as appropriate. Status: Vetoed.

**SB 639 (Harman) Judgments: foreign-country money judgments.** This bill repeals the current Uniform Foreign Money-Judgments Recognition Act of 1967 and enacts the new Uniform Foreign-Country Money Judgments Recognition Act (Act) which: (1) clarifies that the Act is applicable only to money judgments rendered in a foreign country; (2) allocates the burden of proof with regard to establishing whether a foreign-country judgment is within the scope of the Act and whether a ground for non-recognition of the money judgment exists; and, (3) establishes the procedure for recognition of a foreign-country judgment. Status: Chapter 212, 2007.

**SB 1177 (Ridley-Thomas) Dispute resolution.** This bill would have increased civil filing fees to support independent community dispute resolution programs. Specifically, this bill increased civil filing fees for all court parties statewide from \$8 to \$13 and directed those funds to support non-court dispute resolution programs in those counties that had established such a program. Status: Vetoed.



**SB 1296 (Corbett) Public Employee Relations Board.** This bill specifies that superior courts shall have exclusive jurisdiction over actions involving interest arbitration, as specified, where the action involves an employee organization that represents firefighters. Status: Chapter 712, 2008.

**SB 1407 (Perata) Court facilities: financing.** This bill allows the issuance of up to \$5 billion in lease-revenue bonds to finance the construction of critical needs courthouse construction projects, and supports the debt service for the bonds by raising specified criminal and civil fees and fines. Status: Chapter 311, 2008.

### **Court Reporting and Recording**

**AB 582 (Evans) Court transcription fees.** This bill would have revised court reporter transcript compensation by changing the format and rate by which transcript fees are calculated, contingent upon an appropriation, and allow unrepresented parties to draw upon the existing transcript reimbursement fund. Status: Dead, SenJud.

**AB 1569 (Mendoza) Court reporters: rough draft transcripts.** This bill would have provided that a rough draft court transcript shall not be certified and cannot be used, cited, distributed, or transcribed as the official transcript of the proceedings. This bill provides that the instant visual display of the testimony or proceedings shall not be cited or used to rebut or contradict the official certified transcript of proceedings. This bill also provides that a rough draft transcript cannot be distributed as the official certified transcript of the proceedings. Status: Vetoed.

**AB 2884 (Portantino) Certified transcripts.** As heard by this Committee, this bill would have provided that a court reporter's instant visual display of testimony or proceedings could not be certified and could not be used, cited, distributed, or transcribed as the official transcript of the proceedings. This bill was later amended in the Senate to address an unrelated issue. Status: Dead, SenInactive.

### **Judges**

**AB 159 (Jones) Judgeships.** This bill, upon legislative appropriation in the 2007-08 fiscal year, authorizes 50 new superior court judgeships. Allocation of the new positions would be determined pursuant to uniform criteria as updated and approved by the Judicial Council on February 23, 2007, for assessing the need for additional trial court judges. This bill, upon subsequent legislative authorization, permits the conversion of 146 existing subordinate judicial officer (SJO) positions to judgeships in eligible superior courts upon a vacancy of a SJO position, provided that no more than 16 subordinate judicial officer positions may be converted in any fiscal year. Status: Chapter 722, 2007.

**AB 1725 (Lieu and Davis) Evaluation of judicial appointments.** As heard by this Committee, this bill clarified that the Unruh Civil Rights Act does not impose liability for discrimination in the provision of medical services and care to a patient by a medical

professional licensed by the Department of Consumer Affairs based upon or affected by the protected characteristics when a circumstance such as age, sex, or physical or mental disability is medically significant to the provision of appropriate medical services or care to the patient. This bill was subsequently amended to require, rather than permit, the State Bar Board of Governors to make public a trial court appointee's "qualified" or "not qualified" rating by the State Bar's Judicial Nominees Evaluation Commission (JNE), and make other clarifying changes to the JNE process in order to promote public trust and confidence in the judicial branch. Status: Vetoed.

**AB 2095 (Davis) Courts: judicial appointments.** This bill would have required the Governor to collect and release, on a continuous basis by posting on his or her official web site, the names of all persons who have been provided judicial application materials or related documentation on one or more judicial applicants by the Governor or his or her representatives to assist in the decision whether to submit an application to the State Bar for evaluation or whether the applicant should be appointed after he or she has been evaluated by the State Bar, other than employees of the Governor. This bill also requires each member of the designated agency of the State Bar responsible for evaluation of judicial candidates to complete a minimum of 2 hours of training in the areas of fairness and bias in the judicial appointments process on an annual basis. This bill requires, with respect to the collection and release of demographic data, the State Bar and the Administrative Office of the Courts to use the ethnic and racial categories designated and used by the Governor in the March 1, 2008, report. Status: Vetoed.

### **Small Claims Court**

**AB 737 (Keene) Small claims court: jurisdiction.** This bill would have required the Judicial Council to study the impact of the existing small claims jurisdictional limits on litigants' access to justice and the potential impact of increasing those limits for other than individuals. Status: Dead, AsmApprops.

**AB 1873 (Lieu) Courts.** This bill would have provided, that if a party has already had a prior postponement of a small claims hearing before service has been effectuated, a nonrefundable \$10 fee shall be charged for any further postponement of a hearing date before service. This bill also clarifies that the clerk of the court shall charge and collect all small claims fees, as provided. In addition, this bill makes several other clarifying changes to court administration, including clarifying that for purposes of the Judicial Council's court interpreters advisory panel, an interpreter for the deaf or hearing impaired is included within the definition of court interpreter, and clarifying that a person liable for support of a minor shall be liable for the costs to the county or the court, whichever entity incurred the expense, for legal services rendered to the minor by an attorney. Status: Vetoed.

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

**AB 227 (Beall) Trial court funding.** This bill revises the Government Code to accurately specify amounts for payments that counties are presently required to annually

remit to the state for the support of trial court operations, including an equitable adjustment to the amount owed by Santa Clara County to be applied retroactively. Status: Chapter 383, 2007.

**SB 539 (Margett) Trial Court Trust Fund.** This bill provides that specified penalty payments on the delinquent transfer of court fees to the Trial Court Trust Fund would be made by the entity (county, city and county, or court) responsible for the error or other action that caused the failure to pay, as determined by the State Controller in notice given to the responsible entity. This bill provides that the State Controller could permit a county, city and county, or court to pay the penalty amounts according to a payment schedule in the event of a large penalty amount that would cause hardship to the paying entity. Status: Chapter 435, 2007.

**SB 649 (Judiciary) Trial court restructuring: statutes made obsolete.** This bill deletes provisions made obsolete by the trial court reform bills enacted in 1996, 1998, and 2000 and amends various other provisions to conform those changes made by the reform bills to the statutes. Status: Chapter 43, 2007.

**SB 1182 (Ackerman) Trial courts: restructuring.** This bill enacts technical non-controversial provisions recommended by the California Law Revision Commission in the fourth in a series of bills to amend or delete statutes made obsolete by trial court restructuring. Status: Chapter 56, 2008.

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

### **Adoption**

**AB 714 (Maze and Bass) Adoption: release of information to birth relatives.** This bill allows child welfare agencies to contact members of a child's birth family in the limited circumstance where the child was previously adopted but for various reasons, the adoption was disrupted and the child has been returned to the custody of the agency. This bill also defines relative, for the purpose of these provisions, to include a member of the child's birth family and nonrelated family members, regardless of whether parental rights were terminated, provided that (1) no appropriate potential caretaker is known to exist from the child's adoptive family, and (2) the child was not the subject of voluntary relinquishment by the birth parents. Status: Chapter 108, 2007.

**SB 313 (Scott) Adoption.** This bill makes various changes to adoption law, including: (1) automatically joining necessary parties to actions filed for the purpose of determining the existence of a father and child relationship, and requiring a man bringing an action to determine paternity and custody of a child to serve his pleading and give notice to the adoption agency and prospective adoptive parents, (2) clarifying that a court may still make a finding of a parent's abandonment in the event that a guardian has been appointed for the child, (3) defining "interested person" who intends to file a petition within six months to free a child from a parent's custody to include a person who may file an adoption petition and a licensed adoption agency to whom the child has been

relinquished, (4) allowing a court, in determining whether a noncustodial birth parent's consent is necessary for the adoption of a child, to disregard token efforts if that parent has otherwise failed to communicate or support the child for the period of one year, and (5) authorizing a legal guardian who has been the child's legal guardian for more than six months to file a petition for adoption if the child is alleged to be abandoned. Status: Chapter 47, 2007.

**SB 1726 (Scott) Adoption.** This bill makes several changes to adoption requirements, including provides that a birth parent may waive the right to revoke consent to an independent adoption by signing a waiver in the presence of a judicial officer of a court of record, if the birth parent is represented by independent legal counsel, regardless of the availability of DSS or the delegated county adoption agency. The bill also provides that a birth parent may waive the right to revoke consent to an independent adoption by signing a waiver in the presence of an adoption service provider, if the birth parent is represented by independent legal counsel. In this case, the birth parent's independent legal counsel must review the waiver, counsel the birth parent about the nature of his or her intended waiver, and sign and deliver to the birth parent and DSS a certificate of independent review. The waiver signed before an adoption service provider may not be delivered to DSS, the petitioner or the petitioner's counsel before the end of the business day following the signing, allowing the birth parent to withdraw the waiver during that period. Status: Chapter 534, 2008.

## **Children**

**AB 81 (Torrico) Child protection: safe surrender.** This bill would have extended the age at which an infant can be anonymously surrendered by a birth parent without criminal liability for child abandonment under the "safe-surrender" statute from 72 hours or younger to 7 days or younger. The bill would also authorize a local fire agency to be a safe-surrender site, as specified, and require the Department of Social Services to conduct a statewide public awareness campaign for the safe surrender program and establish a toll-free number to provide the public with information about the program. Status: Vetoed.

**AB 298 (Maze) Guardianships: relative caregivers.** This bill (1) revises the existing statutory order of preference governing permanent planning hearings so that adoption by a current caregiver remains first (as in current law), legal guardianship by a relative caregiver is moved to second, and adoption by an as-yet-unidentified family is third; (2) specifies that a relative caregiver's preference for legal guardianship over adoption, so long as it does not indicate an unwillingness to accept full responsibility for the child, may not alone be the sole basis to remove the child from the relative caregiver's home; and (3) requires a court, prior to termination of a legal guardianship, to order the county child welfare agency to evaluate whether the child could safely remain in or be returned to the guardian's home if services were provided to the child or guardian and, if appropriate, to identify recommended family maintenance or reunification services to maintain the legal guardianship. Status: Chapter 565, 2007.

**AB 312 (Dymally) Dependent children: reunification services.** This bill would have extended the maximum time period during which reunification services could be offered to 24 months, for parents generally. This bill would have extended that time period to 36 months for incarcerated parents. Status: Dead, AsmHumServ.

**AB 1299 (Fuller) Child abuse records: confidentiality and access.** This bill would have required that the written reports and discussion writings of a child's multidisciplinary personnel team that is engaged in the prevention, identification, and treatment of child abuse or the abuse of elder or dependent persons be confidential and inadmissible in any criminal, civil, or juvenile court proceeding. Status: Dead, AsmPubS.

**AB 1405 (Maze) Juvenile joint assessment of status: confidential information.** This bill would have provided that no statements, admissions, or confessions made by, or incriminating information obtained from, a minor in the course of any screening or assessment that is conducted as part of the joint assessment of the minor who is both a dependent and a ward of the juvenile court shall be admitted into evidence or used against the minor in any juvenile, criminal, or civil proceeding. Information obtained as part of the joint assessment may be used in a hearing conducted pursuant to this section or in a juvenile dependency proceeding in order to arrange or provide treatment, visitation, or other services for the child. Status: Vetoed.

**AB 1504 (Anderson) Credit reporting: identify theft.** This bill would have provided that a child may come within the jurisdiction of the juvenile court and become a dependent child of the court if the child has been a victim of identity theft perpetrated by the parent or guardian or a member of his or her household. Status: Dead, AsmJud.

**AB 1547 (Beall) Juveniles: services.** This bill would have required that before a juvenile court terminates jurisdiction over a ward who is emancipating out of the juvenile court system, the county probation department must provide the ward with the same information and services provided to emancipating foster children. Status: Dead, AsmApprops.

**AB 2070 (Bass) Foster care: incarcerated parents.** This bill increases the time that reunification services may be available to parents whose children are dependents of the court in consideration of barriers to service faced by parents who are incarcerated, institutionalized, or in residential substance abuse treatment. Status: Chapter 482, 2008.

**AB 2117 (Evans) Dependent children: psychotropic medications.** This bill would have expanded the authority of a juvenile court judicial officer to make orders regarding the administration of psychotropic medications to include a dependent child who has been removed from the physical custody of his or her parent or guardian. This bill also would have required the physician or other health care professional submitting the request for psychotropic medication to have conducted an examination of the child and require the request to also indicate the child's medical history and a description of any clinically indicated therapy recommended for the child prior to the next court review.

Finally, this bill would have required the Department of Mental Health, by July 1, 2009 to make available materials to assist county welfare agencies and mental health care providers in providing age appropriate information to minors concerning psychotropic medications. Status: Dead, SenApprops.

**AB 2125 (Price) Juvenile Justice Crime Prevention Act of 2000.** This bill requires juvenile justice plans to also assess job training services and strategies. This bill also requires juvenile justice plans, under certain conditions, a demonstration of the effectiveness at reducing delinquency through job training and employment to qualify for funding allocation. Status: Chapter 326, 2008.

**AB 2262 (Torrico) Child protection: safe surrender.** This bill would have allowed for the safe surrender of a baby up to 7 days old, rather than 72 hours; permitted a fire agency to designate a safe surrender site, upon approval of the local governing body; and would have immunized a safe surrender site and its personnel from criminal, civil, or administrative liability, as specified. This bill would have directed the Department of Health Care Services, among others, to issue updated instructions on or before July 1, 2009 to clarify what information was being gathered with respect to surrendered babies and their mothers. Status: Vetoed.

**AB 2310 (Maze and Bass) Dependent children: emancipation.** This bill requires the county welfare department to provide specified information and documents to a person in the foster care system who has reached the age of majority before the juvenile court terminates jurisdiction over that individual. Status: Chapter 131, 2008.

**AB 2341 (Maze) Dependent children: reunification services.** This bill specifies time periods during which reunification services are provided to children who are dependents of the juvenile court, and their parents or guardians. Status: Chapter 457, 2008.

**AB 2483 (Bass) Dependent minor children: program of supervision.** This bill provides that, if a parent is a dependent of the juvenile court at the time a social worker seeks to undertake a program of supervision for a child, and if counsel has been appointed for the minor parent, the program of supervision shall not be undertaken until the minor parent has consulted with his or her counsel. Status: Chapter 132, 2008.

**AB 2651 (Aghazarian) Foster care.** This bill conforms state child welfare laws to federal law to ensure the continuation of federal compliance and funding. In particular, this bill, in compliance with the Adam Walsh Child Protection and Safety Act of 2006, prohibits the approval of an adoptive or foster placement of a child when the prospective parent, or an adult living or working in the prospective home, has been convicted of: (1) specified felony crimes; or, (2) felony assault, battery, and drug or alcohol offenses occurring within the last five year. Status: Chapter 701, 2008.

**AB 2736 (Cook and Beall) Indian children: tribal adoption.** This bill would have created an additional exception to the termination of parental rights for parents of Indian children who have been adjudicated as dependent children of the court, whereby children

are adopted through tribal customary adoption procedures and birth parents' rights are not terminated. Status: Dead, SenInactive.

**AB 2888 (La Malfa) Businesses: services for minors.** This bill would have required any person, entity, group, or organization, operating as a nonprofit or for-profit business, to require any person hired as an employee, independent contractor, or have volunteers that work directly and in an unaccompanied setting with minor children to have a criminal background check. Status: Dead, AsmB&P.

**AB 2904 (Hayashi) County child welfare services: mortality review.** This bill (1) allows a county board of supervisors to receive and review certain information relating to the death of a child who had previously come to the attention of, or was under the supervision of, the county child welfare agency, (2) provides that the board may only receive and review the information in closed session, (3) provides that a board or its members may not disclose or release any information obtained pursuant to this bill, unless otherwise permitted by law, and shall be bound by all state and federal confidentiality laws. Status: Chapter 255, 2008.

**AB 3051 (Jones) Dependency hearings: child participation.** This bill (1) requires the court to inquire whether a minor who is the subject of a dependency proceeding was given an opportunity to attend the hearing, (2) if the court finds that the minor was not properly notified, or if he or she wished to be present and was not given an opportunity to attend, requires the court to continue the hearing to allow the minor to be present, (3) requires the court to continue the hearing only for that period of time necessary to provide notice and secure the presence of the child, (4) authorizes the court to issue any and all orders reasonably necessary to ensure that the child has an opportunity to attend, and (5) declares that nothing in these provisions shall prevent or limit any child's right to attend or participate in their dependency hearings. Status: Chapter 166, 2008.

**SB 39 (Migden) County welfare agencies: public access to juvenile case files.** This bill: (1) provides for the release by a county welfare agency of specified information regarding a deceased child where the death is reasonably suspected to be the result of abuse or neglect, within five days of the child's death; (2) where a child's death is substantiated to be from abuse or neglect, establishes a process for the release of specified documents in a county welfare agency's juvenile case file, without court review and for the release of other documents in the case file after a petition is filed and opportunity is given for interested parties to object to the release of those other documents; and (3) clarifies existing law relating to the release of a juvenile case file when a child has died due to abuse or neglect, including the presumption of disclosure unless statutory grounds for non- or partial-disclosure or redaction of information exist. Status: Chapter 468, 2007.

**SB 703 (Ducheny) Placement of children: adoptions and child welfare.** This bill is sponsored by DSS and is intended to bring state law into compliance with various federal law changes in four areas: inter-country adoptions; home studies; background checks; and Indian Child Welfare Services. Status: Chapter 583, 2007.

## **Child Custody and Visitation**

**AB 612 (Ruskin) Child custody investigations.** This bill would have (1) provided that, in the context of child custody evaluations, nonscientific labels and diagnoses that are not consistent with standards generally accepted by the medical, psychiatric, and psychological communities shall be specifically excluded as allowable diagnoses for court use; and (2) provided that nothing in the section precludes a child custody evaluator from freely interviewing parents and children, observing a parent-child interaction, speaking to collateral sources, consulting over psychological data, or using his/her professional expertise to integrate data, assess and evaluate psychological issues, or communicate the results of those analyses to the court consistent with ethical and professional standards. Status: Dead, SenFloor.

**AB 907 (Strickland) Criminal history records.** This bill would have required, among other things, a welfare agency to submit a parent's finger prints to the Department of Justice for a complete criminal history when determining the parent's suitability for reunification. Status: Dead, AsmJud.

**AB 1007 (Maze) Family law: parent education programs.** This bill would have required all parties in a family law proceeding involving legal separation or marriage dissolution in which minor children are involved to attend a 4-hour parent education program prior to judgment for separation or dissolution, subject to court discretion, and would require program costs to be borne by the participants. The bill would also make specified findings and declarations in that regard. Status: Dead, AsmJud.

**AB 1877 (Adams) Child custody evaluations: confidentiality.** This bill: (1) provides the unwarranted disclosure of a child custody evaluation report may result in the imposition of sanctions by the court; (2) requires that the Judicial Council, by January 1, 2010, adopt a form that informs the report recipient of the confidentiality of the report and the potential consequences for the unwarranted disclosure of the report; (3) requires the Judicial Council to adopt a rule to require that the prescribed form be included with the report when it is served on the parties; and (4) provides that a disclosure is unwarranted if it is done either recklessly or maliciously, and is not in the best interest of the child. Status: Chapter 215, 2008.

**AB 2029 (Tran) Dependent children: visitation.** This bill would have authorized any person, including a child who is a dependent of the court, to petition the court for an order of visitation between the dependent child and a relative if the court determines that it is in the best interest of the child. Status: Dead, SenApprops.

**AB 2587 (Ruskin) Child custody evaluations.** The bill would have provided that a child custody evaluator's written report and testimony are considered admissible evidence only when they are compliant with provisions specifying the admissibility if the opinions of experts, are based upon sufficient facts or data, and are the product of principles and



methods that are consistent with the standards generally accepted by the medical, psychiatric, legal, and psychological communities. Status: Dead, AsmJud.

**AB 2960 (La Malfa) Custody orders: evidence of sexual abuse.** This bill includes sexual abuse of the child, where the court determines that the acts of sexual abuse are of recent origin or are a part of a demonstrated and continuing patters of acts of sexual abuse, within the definition of "immediate harm to the child," a showing of which authorizes a court to make an order granting or modifying a custody order on an ex parte basis. Status: Chapter 54, 2008.

**SB 403 (Harman) Child custody and visitation: drug and alcohol testing.** This bill extends until January 1, 2009 the court's ability to order drug or alcohol testing of a person seeking custody or visitation with a child. Status: Chapter 152, 2007.

**SB 1233 (Harman) Child custody: drug and alcohol testing.** This bill originally extended the sunset in Family Code Section 3041.5 which provides the authority for a court to order any person seeking custody or visitation with a child to undergo testing for alcohol or drugs. This bill was subsequently amended to a bill that would have allowed a county assessor to impose of a one-time processing fee on a property owner who failed to file a certified claim for the parent-child or grandparent-grandchild "change in ownership" exclusion within the time period specified in a written notice of potential eligibility mailed to the owner by the county assessor. Status: Chapter 349, 2008.

**SB 1255 (Harman) Child custody: drug or alcohol testing.** This bill extends, until January 1, 2013, the authority of a court to order any person seeking custody or visitation with a child to undergo testing for alcohol or drug abuse. Status: Chapter 57, 2008.

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

**AB 176 (Jones) Child support.** This bill requires local child support agencies to review at least once every three years and, if appropriate, modify child support orders for families receiving CalWORKs benefits. This bill also requires, effective October 1, 2009, that a family no longer be mandated to assign their rights to past-due child support that accrued before receiving cash assistance when they apply for cash assistance. Status: Chapter 488, 2007.

**AB 1156 (Levine) Child support: gambling winnings.** This bill would have required a satellite wagering facility, if a wagerer's winnings are subject to federal income tax withholding, to determine if the wagerer is listed in the California Child Support Automation System and, if the wagerer is delinquent in his or her child support obligations, to withhold from the wagerer's winnings the amount of any delinquency. Status: Dead, AsmGO.

**AB 1679 (Evans) Paternity actions: records.** This bill adds agents of a party, and of the party's attorney, to the list of persons who are permitted to inspect court files

pertaining to paternity actions if the agents are acting pursuant to written authorization from the party to the action or the party's attorney. Status: Chapter 50, 2008.

**AB 1822 (Beall) Spousal support: sex offenders.** This bill would have prohibited the awarding of temporary or permanent spousal support to any spouse who has been convicted of a sexual offense against a minor. Status: Dead, AsmJud.

**SB 415 (Harman) Spousal support: change of circumstances.** This bill provides that in a proceeding in which a spousal support order exists and a companion child support order is in effect, the termination of child support by operation of law shall constitute a change of circumstances that may be the basis for a request for modification of spousal support. Status: Chapter 247, 2007.

**SB 523 (Yee) Child support: order to seek employment.** This bill establishes a pilot project in San Mateo County to authorize the superior court, when issuing an initial child support order, to also order the child support obligor to seek employment and submit proof, as described, that he or she has done so. The bill prohibits a court from issuing a citation for contempt to the obligor for his or her failure to seek employment as ordered, unless the obligor has become delinquent in his or her child support payments. This bill also requires the San Mateo County child support enforcement agency to report to the Department of Child Support Services and to the Legislature on the performance of the pilot program on or before September 1, 2010. The bill sunsets as of January 1, 2011. Status: Chapter 249, 2007.

**SB 892 (Corbett) Family law: child support.** This bill allows the Department of Child Support Services or the local child support agencies to transmit, file, and record property liens electronically through the use of the California Child Support Automation System. In addition, this bill requires a noncustodial parent to serve custodial parents and any other involved parties with copies of any applications to the court that would reduce or eliminate a child support security deposit. Status: Chapter 441, 2007.

**SB 1333 (Ashburn) Paternity judgment: reconsideration.** This bill, under specified circumstances, authorizes the reconsideration of the denial of a motion to vacate a judgment establishing paternity where genetic testing indicates that the previously established father is not the biological father of the child. This bill only authorizes reconsideration where the following provisions are met: (1) the motion to vacate was filed with the court between September 24, 2006 and December 31, 2006, inclusive; (2) the motion was denied solely on the basis that it was untimely; and (3) the request for reconsideration is filed on or before December 31, 2009. Status: Chapter 58, 2008.

### **Domestic Partnership**

**AB 43 (Leno) Gender neutral marriage.** This bill would have redefined marriage in California as a union between two persons, making it gender-neutral, and thereby permitting same-sex marriages in the state. This bill did not, however, require any clergy or religious official to solemnize any marriage in violation of his/her right to free exercise

of religion as guaranteed by the United States Constitution and the California Constitution. Status: Vetoed.

**AB 102 (Ma) Marriage: licenses: name.** This bill establishes a process for persons getting married or registering as domestic partners to adopt a new name and to have the new name reflected in the marriage license or certificate of domestic partnership registration. This bill allows use of the marriage license or the domestic partnership certificate as proof of identity of the person with the new name and allows the Department of Motor Vehicles to accept such proof for purposes of issuing new or duplicate driver's licenses. This bill provides that a person's election to change his/her name upon marriage or registration of a domestic partnership is lawful and that the marriage license or the certificate of domestic partnership registration indicating a new name serves as an official record of the person's name change. This bill will not affect the ability of individuals to change their names by common usage or through a court-ordered name change. Finally, this bill extends to any person current protections provided a woman from discrimination by a person engaged in a trade or business or the provision of services, who refuses to do business with, refuses to provide services to, or imposes a specified requirement upon the woman's use of a birth name or former name as a condition of doing business or providing services. This bill contains findings and declarations regarding ensuring that men and women are treated equally as to changing names upon marriage or entering a domestic partnership. This bill has a delayed effective date of January 1, 2009. Status: Chapter 567, 2007.

**SB 11 (Migden) Domestic partnerships: opposite-sex couples.** This bill would have deleted the requirement that domestic partners be of the same sex or, if of different sexes, that one of them be age 62 years or over, so that any couple may register as domestic partners if both persons are adults and are otherwise eligible to register a domestic partnership. Status: Dead, AsmApprops.

### **Domestic Violence**

**AB 1125 (Richardson) Protective orders.** This bill would have authorized a law enforcement officer to issue an emergency protective order without contacting the court if certain conditions apply, including that the superior court has issued a standing order authorizing a law enforcement officer to issue an emergency protective order for that court, and the officer believes there is an immediate and present danger to the victim, as well as several other changes to protective orders. Status: Dead, AsmJud.

**AB 1275 (DeSaulnier) Domestic violence funding: marriage certificate, birth certificate and death certificate fees.** This bill would have authorized a county board of supervisors, upon making specified findings and declarations, to increase the fees for certified copies of marriage certificates, birth certificates, fetal death records and death records by up to \$4, with further increases permitted on an annual basis, and directs that these fees are to be used for governmental oversight and coordination of domestic violence and family violence prevention, intervention and prosecution efforts among relevant county and community groups in order to increase the effectiveness of

prevention, early intervention and prosecution of domestic and family violence. Status: Dead, SenLocalGov.

**AB 2068 (Aghazarian) Protective orders: automated electronic victim notification system.** This bill enacts a statute expressly authorizing local law enforcement to notify persons who are protected by certain protective orders by electronic or telephonic means within 24 hours after service of process that the order has been served on the restrained person if the protected person has requested to be notified, as specified. Status: Chapter 153, 2008.

**AB 2231 (Hayashi) Marriage license fees.** This bill would have extended the sunset date for specified counties to authorize an increase in marriage license fees from January 1, 2010 to January 1, 2015 to, among other things, fund governmental oversight and coordination of domestic violence and family violence prevention, intervention and prosecution efforts. This bill also required participating counties to submit a report to the Legislature by July 1, 2014 describing the outcomes of these programs. Status: Vetoes.

**AB 2428 (Strickland) Protective orders: victim notification.** This bill would have required any law enforcement officer who had served an ex parte protective order to submit the proof of service directly into the Domestic Violence Restraining Order System at the time of service, and to transmit the original proof of service form to the issuing court within one business day of service. This bill also would have provided, in a county that had opted to provide the court clerk with access to an automated statewide victim information and notification system, that the court clerk was responsible for providing notification to each person who petitions for an ex parte protective order that the order had been served on the respondent or that the respondent had received a summons in connection with that order if the petitioner had registered a telephone number or e-mail address with an automated statewide victim information and notification system, as specified. Status: Dead, AsmJud.

**AB 2553 (Solorio) Domestic violence: ex parte orders.** This bill (1) requires the court to provide its reason for denying a petition for an ex parte order enjoining harassment, threats, and violence, (2) requires any order denying a jurisdictionally adequate petition for an ex parte order to provide the petitioner the right to a noticed hearing on the earliest date that the business of the court will permit, (3) provides that nothing in these provisions shall preclude a petitioner who waives his or her right to a noticed hearing from refiling a new petition, without prejudice, at a later time, and (4) requires the Judicial Council to develop a form to implement these provisions on or before January 1, 2010. Status: Chapter 263, 2008.

**SB 353 (Kuehl) Domestic violence protective orders: animals.** This bill allows a court, upon a showing of good cause, to include in a protective order a grant to the petitioner the care, possession, or control over an animal in a domestic violence protective order. This bill also allows the court to order the respondent to stay away from the animal, and forbid the respondent from abusing or otherwise disposing of the animal. Status: Chapter 205, 2007.

**SB 407 (Romero) Domestic violence: evidentiary privilege.** This bill clarifies that the domestic violence victim-counselor evidentiary privilege does not extend to an abusive conservator or guardian. This bill also revises the definition of "domestic violence counselor," to exclude government agency employees. Status: Chapter 206, 2007.

### **Family Law**

**AB 189 (Dymally) Collaborative law.** This bill would have established procedures for use of the collaborative law process in dissolution cases, including preventing an attorney hired to represent a party in a collaborative law process from serving as litigation counsel in subsequent proceedings and instead requiring parties in collaborative law process to seek new counsel should the collaborative law process terminate without settlement; requiring that statements, communications and work product made in the course of a collaborative law case be confidential and inadmissible in subsequent proceedings, except as specified; expanding mediation disqualification and confidentiality provisions to include collaborative law; and preventing the court, absent good cause, from requiring court appearances of parties engaged in the collaborative law process. Status: Dead, AsmJud.

**AB 861 (Tran) Dissolution of marriage: estates and trusts.** This bill revises, recasts, and expands the conditions a court may impose when severing the issue of marital status from the property division and other issues in a dissolution proceeding. These conditions, intended to preserve the economic rights and community property interests of the parties, have been affected by recent changes to the Probate Code that void a nonprobate transfer of assets, made by a decedent during marriage to a former spouse, absent clear and convincing evidence that the transferor spouse intended to maintain the designation of the transferee spouse as the beneficiary. This bill updates the Family Code with respect to those changes. In addition, this bill empowers the court to fashion other orders to protect the community property and other interests of the spouses or domestic partners prior to final resolution of property issues. Status: Chapter 141, 2007.

**AB 3053 (Judiciary) Collaborative law.** As heard by the Committee, this bill directed the court to refrain from requiring court appearances inconsistent with the parties' agreements to use a collaborative law process absent good cause. The bill was subsequently amended to require the Department of Consumer Affairs to incorporate the annual inspection of motor vehicles that were models which are 15 years old or greater into the motor vehicle inspection and maintenance (smog check) program by January 1, 2010, and require funds generated through additional inspection fees to be deposited into the High Polluter Repair or Removal Account. Status: Dead, SenApprops.

### **HEALTH CARE**

**AB 910 (Karnette) Health insurance: disabled persons.** This bill makes changes related to parental responsibility for health insurance coverage for disabled and dependent children in the context of court-ordered support and modifies certain

requirements relating to coverage of disabled and dependent children under a parent's health insurance. Status: Chapter 617, 2007.

**AB 949 (Krekorian) Long-term health care facility residents.** This bill establishes procedures and duties for a residential care facility for the elderly prior to transferring a resident to another facility or living arrangement as a result of forfeiture of a license or change of the use of the facility. Status: Chapter 686, 2007.

**AB 2158 (Soto) State employees' health benefits.** This bill provides that if a dependent or former dependent of a correctional officer at a state prison contracts a blood-borne infectious disease from the employee, as specified, he/she may be compensated for health care costs associated with the disease. This bill also specifies that the state shall contribute the cost of providing that benefit coverage from the General Fund, upon appropriation by the Legislature. This bill provides that the dependent's coverage will stop if they are subsequently employed by an agency that provides coverage under the Public Employees' Retirement System. Status: Chapter 668, 2008.

**AB 2398 (Nakanishi) Cosmetic surgery.** This bill would have authorized the revocation of the license of a physician and surgeon who practiced medicine with a business organization that provided outpatient elective cosmetic medical procedures or treatments (cosmetic procedures), as defined, knowing that the practice was owned or operated in violation of the prohibition against the corporate practice of medicine. This bill also would have provided that a business organization that offered to provide cosmetic procedures that could only be provided by the holder of a valid physician's and surgeon's certificate, in violation of the prohibition against the corporate practice of medicine and contracts with a physician and surgeon to facilitate the provision of cosmetic procedures was guilty of a violation of the prohibition against knowingly making or causing to be made any false or fraudulent claims for payment of a health care benefit. Status: Dead, SenInactive.

**AB 2842 (Berg) Solicitation: unfair business practices.** Makes it an unfair business practice for a health care service plan, solicitor, solicitor firm, or representative to sell, solicit, or negotiate the purchase of health care coverage products by means of "cold lead marketing" or use an appointment made to sell on Medicare product to solicit the sale of another product, unless the consumer agrees in advance. Status: Chapter 744, 2008.

**AB 2847 (Krekorian) Health care service plans: liability.** This bill would have provided that in any legal action against a health plan challenging the denial of necessary medical care, the health care plan shall have the burden of proving that a medical treatment or procedure was not necessary, and permits a treating medical provider, with the patient's written consent, to appeal a denial decision directly to the Department of Managed Health Care. Status: Dead, AsmApprops.

**AB 3000 (Wolk) Health care decisions: life sustaining treatment.** This bill seeks to offer and encourage use of the "Physician's Order for Life Sustaining Treatment" (POLST) order, to help direct what resuscitative means, if any, a patient would like used

in an emergency. Specifically, this bill amends the Probate Code to reflect a broader vision of resuscitative or life sustaining requests and to encourage the use of POLST orders to better handle resuscitative or life sustaining treatment consistent with patients' wishes. Status: Chapter 266, 2008.

**SB 164 (Migden) Prenatal Screening.** This bill would have required the Department of Public Health (DPH) to collect fees from research investigators conducting studies using prenatal blood samples, to cover DPH and Program costs associated with data linkage, storage, retrieval, processing, data entry, reinventory, related data management, and shipping of prenatal blood samples, or its components, that are based in part on protocols developed by the California Health and Human Services Committee for the Protection of Human Subjects (Committee) to protect the privacy and confidentiality of mothers and infants who had donated samples, to which DPH, the Program, and researchers would be required to adhere. This bill also would have required that these fees be deposited into a Special Program Fund that would have been created by this bill. This bill would have required researchers wanting to conduct research using prenatal blood samples, to first receive approval from DPH and from the Committee and required an approved for-profit investigator to enter into an agreement to pay specified amounts as a condition of accepting the sample. Status: Dead, SenInactive.

**SB 275 (Cedillo) Health facilities.** This bill would have prohibited a general acute care hospital, acute psychiatric hospital, or special hospital from causing a patient to be transported to a location other than the patient's residence or another health facility without the patient's written consent, as specified. This bill also would have established penalties for violation of the prohibition. This bill authorized the Attorney General, a district attorney, or a city attorney, as specified, to bring a civil action against the health facility. Status: Vetoed.

**SB 350 (Runner) Hospitals: discount payment and charity care policies.** This bill makes technical and clarifying changes to existing law dealing with hospital charity care and discount payment policies, establishes time limits for patients to apply for hospital charity care or discounted payments and for hospitals to make determinations of their eligibility, and provides that a hospital or its assignee may report adverse information to a consumer credit reporting agency or commence civil action against a patient who has received an extended payment plan under a hospital's charity care and discount payment policy, or other hospital policy, and who defaults on their payment obligations. Status: Chapter 347, 2007.

**SB 761 (Ridley-Thomas) Health arts: diversion program.** This bill would have extended the sunset date for the Medical Board of California (MBC) diversion program and the corresponding vertical prosecution pilot project from July 1, 2008, to July 1, 2010 and correspondingly extended the repeal date from January 1, 2009, to January 1, 2011; required the MBC to create and appoint a Diversion Advisory Council; and required the Advisory Council to make recommendations and provide clinical quality improvement advice on specified matters. Status: Dead, AsmApprops.

**SB 894 (Ducheny) Nonprofit public benefit corporations.** This bill would have allowed the Attorney General (AG) to withhold consent from a nonprofit health facility agreement of transaction when the nonprofit seller had failed or refused to market the transaction aggressively in an attempt to generate multiple bidders and maximum value, or had failed to consider all competing offers to the sale, including, but not limited to, offers from other nonprofit corporations. This bill also would have allowed the AG to withhold consent to a nonprofit health facility agreement of transaction when the seller failed to set aside a portion of the net proceeds of the agreement for the benefit of the affected community. Status: Dead, AsmInactive.

**SB 962 (Migden) Umbilical cord blood biomedical resources program.** This bill requires the Department of Public Health (DPH), as part of the Hereditary Disorders Act, to provide umbilical cord blood samples to the Birth Defect Monitoring Program (BDMP), for storage and research. This bill requires DPH to establish fees to cover administrative costs to BDMP, to be collected from researchers and health care providers approved by DPH who seek to use umbilical cord blood samples for research. This bill requires fees collected be deposited in the BDMP Fund, which is also created by this bill. This bill requires that moneys in this special program fund be used for costs related to this bill, including data management, linkage and entry, and umbilical cord blood storage, retrieval, processing, inventory, and shipping. Status: Chapter 517, 2007.

**SB 1394 (Lowenthal) Lapses of consciousness: reports to DMV.** This bill would modify existing traffic safety law regarding a physician's duty report to the DMV a person who suffers from lapses of consciousness. Specifically, this bill would create a two-tiered system comprised of a combination of discretionary and mandatory physician reporting and provides that a doctor's decision to report pursuant to the bill shall be immune from civil and criminal liability. The bill streamlines the reporting process by having the physician report directly to the DMV instead of the local health officer. Status: Vetoed.

**SB 1606 (Yee) Assisted outpatient treatment services.** This bill would have required the Department of Mental Health to conduct a study of individuals whose mental health needs were not currently being met, because they did not meet eligibility criteria for involuntary treatment, but had mental health needs that might not have been met through access to voluntary services. The study was contingent upon available private funding. Status: Dead, AsmApprops.

## **IMMIGRATION ISSUES**

**AB 107 (Smyth) Public contracts: prospective bidders: citizenship status.** This bill would have required a prospective bidder for a state contract for public works, goods, or services to certify, under penalty of perjury, that it does not employ "unauthorized aliens," as defined under federal law (i.e., an individual who is neither a citizen nor national of the United States and who is not lawfully admitted for permanent residence or does not possess work authorization from the U. S. Attorney General). Status: Dead, AsmB&P.



**AB 976 (Calderon) Residential housing: collecting and reporting information about tenants.** This bill provides that no city, county, or city and county shall compel a landlord or any agent of the landlord to make any inquiry, compile, disclose, report, or provide any information, prohibit offering or continuing to offer, accommodations in the property for rent or lease, or otherwise take any action regarding or based on the immigration or citizenship status of a tenant, prospective tenant, occupant, or prospective occupant of residential rental property. The bill further provides that no landlord or any agent of the landlord shall make any inquiry regarding or based on the immigration or citizenship status of a tenant, prospective tenant, occupant, or prospective occupant of residential rental property or require that any tenant, prospective tenant, occupant, or prospective occupant of the rental property make any statement, representation, or certification concerning his/her immigration or citizenship status. Status: Chapter 403, 2007.

**AB 1468 (Garrick) Hospitals: patient data.** This bill would have revised the Office of Statewide Health Planning and Development (OSHPD) data reporting requirements for hospitals by adding the data field "citizenship status" to the Hospital Discharge Abstract Data Record. Status: Dead, AsmHealth.

**AB 1615 (Runner) State contracts: unauthorized aliens.** This bill would have prohibited a state agency from awarding a state contract for the construction of a public works project, the acquisition of goods and services, or the acquisition of information technology goods and services, to a contractor that knowingly hires, for employment in the United States, an "unauthorized alien," and require a state agency to verify the employment records of a contractor subject to the provisions of this bill to ensure that none of the contractor's employees are "unauthorized aliens" and that the contractor's employees have been subject to the federal Basic Pilot Program Extension and Expansion Act of 2003. Status: Failed, AsmB&P.

**AB 2199 (Plescia) Attorney General MOU: undocumented immigrants.** This bill would have required the Attorney General to negotiate the terms of a Memorandum of Understanding between the state and the United States Department of Justice or the United States Department of Homeland Security, concerning the investigation, apprehension, or detention of undocumented immigrants in the state by state or local officers or employees, pursuant to specified federal law. This bill also required the Attorney General and the Governor to sign the Memorandum of Understanding on behalf of the state. Status: Failed, AsmJud.

**AB 2421 (Huff) Employment of undocumented immigrants.** This bill would have required the state Attorney General, county counsel, or district attorney to investigate a complaint alleging that an employer had intentionally employed an unauthorized alien. If the complaint was determined to not be false, then the state Attorney General or the county counsel or district attorney of a county, as applicable, would have been required to notify specified local and federal entities of the unauthorized alien. Status: Dead, AsmL&E.

**AB 2826 (Mendoza) Immigration: advisory election.** This bill would have called an election for the purpose of placing before the voters of the state an advisory question asking whether the President and the Congress of the United States should create a pathway to citizenship for undocumented immigrants who have worked in this country for at least 5 years, have no felony convictions, have learned to speak English, and have paid all taxes for which they are responsible. This bill also would have required the Secretary of State to communicate the results of this election to the President and consolidate this election with the statewide general election of November 4, 2008. Status: Dead, AsmJud.

**ACA 14 (Strickland) State-funded benefits.** This constitutional amendment would have provided that to the extent not prohibited by federal law, an individual 18 years of age or older must, as a condition of eligibility, provide evidence of his or her United States citizenship or right to lawfully reside in the United States when applying to a government entity for a public benefit funded, in whole or part, by state moneys. Status: Failed, AsmJud.

**AJR 16 (Levine) Immigration.** This resolution memorializes local, state and federal government officials, when crafting immigration policy that affects the United States-Mexico border, to take steps related to recognizing and protecting the human rights of immigrants and publicly denouncing xenophobia and anti-immigrant bias as having no place in immigration policy. Status: Resolution Chapter 118, 2007.

**AJR 18 (Solorio) Citizenship fees.** This resolution expresses the Legislature's opposition to a significant fee increase for lawful permanent residents wishing to become citizens. Status: Resolution Chapter 143, 2007.

## **LIABILITY AND RELATED MATTERS**

### **Damages Provisions**

**AB 698 (Strickland) Perishable agricultural product defamation.** This bill would have allowed a civil action for disparagement of agricultural products. Status: Failed, AsmJud.

**AB 1076 (Houston) Public works: liquidated damages.** This bill would have revised the administrative procedure concerning the assessment of liquidated damages in cases arising from wage claims on public works projects. Status: Dead, AsmApprops.

**AB 1583 (Maze) Corporations: securities.** This bill would have provided for liability of a person in the business of advising others regarding investments, under certain circumstances, for attorney's fees and costs, in addition to damages. The bill would also provide that if the individual who relies upon the representation is a senior, as defined, or a member of the military, the measure of damages would be treble the actual loss. This bill would further expand the definition of a security to include a fractional or

proportional interest in a life insurance policy benefit, including a viatical settlement contract and a life settlement contract and would delete the exemption for the offer and sale of these contracts, subjecting the transaction to the requirement that the sale be qualified. Status: Dead, AsmB&F.

**SB 525 (Lowenthal) Administrative hearings: restitution orders.** This measure provides that the DMV may, when making a decision revoking or suspending the license of a motor vehicle dealer, manufacturer, distributor, or transporter, order the licensee to pay restitution for any financial loss or damage to any person injured by the act which led to the revocation or suspension. This measure will also allow DMV to refuse to issue a license to a motor vehicle dealer, manufacturer, distributor, or transporter if the department determines that the former licensee failed to pay a restitution order. Nothing in measure is intended to limit or restrict actions, remedies, or procedures otherwise available to an aggrieved party pursuant to any other provision of law. Status: Chapter 93, 2007.

**SB 640 (Simitian) Government tort claims: childhood sexual abuse.** This bill exempts from the Government Tort Claims Act claims for childhood sexual abuse against a local public entity, arising out of conduct occurring on or after January 1, 2009. Status: Chapter 383, 2008.

**SB 1762 (Perata) Greenhouse gas reductions: advertising.** As passed by this Committee, this bill made it unlawful for any person to advertise a greenhouse gas credit or emission reduction, unless it meets specified conditions. Additionally, the bill provided that any person who so advertised must maintain and make available to the public the basis for the representation, and information on any significant adverse environmental or public health impacts associated with the creation and manufacture of the credit or emission reduction. Finally, this bill provided that a violation of its provisions was punishable by civil penalties and created a civil cause of action that may be brought by an individual or district attorney. This bill was subsequently amended to create the California Climate Change Research and Workforce Development Institute at the University of California funded by a redirection of existing funding from the Public Interest Energy Research Program and an additional fee on electric service provided by investor-owned utilities and publicly owned utilities. Status: Vetoed.

### **Immunity and Scope of Liability**

**AB 70 (Jones) Flood liability.** This bill establishes that a city or county may be required to contribute its fair and reasonable share for the property damage caused by a flood, to the extent that the city or county increases the state's exposure to liability for property damage by unreasonably approving new development in a previously undeveloped area that is protected by a state flood control project, and if it is determined that the city or county failed to comply with other applicable provisions of existing law. Status: Chapter 367, 2007.

**AB 164 (Smyth) Immunity: evaluations of medical students.** As originally heard by this Committee, this bill clarified a non-custodial parent's access to school and medical records. The bill was subsequently amended to become a bill that extends the qualified immunity granted under current law to persons who provide information that is provided to medical, dental, podiatric, veterinary, and psychology schools for the purpose of aiding in student evaluation to schools of marriage and family therapy. Specifically, this bill provides that there shall be no monetary liability on the part of any person on account of the communication of information to any marriage and family therapy school when the communication is intended to aid in the evaluation of the qualifications, fitness, character, or insurability of a practitioner of the healing or veterinary arts. Status: Chapter 23, 2008.

**AB 541 (Huffman) Liability: genetically engineered plants.** This bill provides that the release of genetically modified plant material by a manufacturer, either directly or through licensees or agents, within property owned or operated by a person for whom the plant presence was not intended, shall constitute a private nuisance for which the prevailing plaintiff may recover compensatory damages. Status: Chapter 424, 2008.

**AB 766 (Walters) Charter schools.** This bill provides that persons participating in a school field trip or excursion are deemed to have waived claims of liability against a charter school in the same manner that school districts and the State of California are currently exempt from such claims. Status: Chapter 23, 2007.

**AB 841 (Portantino) Internet use: sex offenders.** This bill would have provided new identifying information about registered sex offenders to certain types of Internet businesses, authorizes these businesses to exclude all such persons from any use of their web sites, and immunizes such businesses from all legal responsibility for any act related to the use of this authority. Status: Dead, SenRules.

**AB 880 (Nava) State of emergency: immunity from liability.** This bill would have exempted any private business entity or nonprofit organization that is duly enrolled or registered with the Office of Emergency Services or a responsible county or city emergency management entity that voluntarily and without the expectation or receipt of compensation provides services or other specified resources in preparation for, in anticipation of, or during any state of emergency or formal exercise or training at the express or implied request of any responsible state or local official or agency the Office of Emergency Services or that responsible county or city emergency management entity from liability for any injury sustained by any person by reason of those services or resources, except in the event of a willful act or omission for damage or injury proximately caused by a grossly negligent act or omission or willful or wanton misconduct. Status: Dead, AsmJud.

**AB 1198 (Benoit) Law enforcement costs: driving under the influence.** This bill would have provided that any person who is under the influence of an alcoholic beverage or any drug, or the combined influence of an alcoholic beverage and any drug, is liable for the reasonable costs incurred by a public agency responding to that person's operation

of a vehicle while intoxicated, including the costs of providing police services, and the costs of activities related to enforcing driving under the influence provisions of law. Monies collected by an entity shall be expended exclusively to provide for enforcement and education efforts by the policing agency, and shall supplement, not supplant, existing funding and services provided by that entity. Status: Dead, AsmPubSaf.

**AB 1355 (Houston) State hospitals: liability.** This bill would have repealed provisions in existing law that set forth a relative's liability for cost of a patient in a state mental hospital and would, instead, enact state hospital cost of care liability provisions that are similar to statutory provisions establishing a relative's liability for the costs of services for beneficiaries under the Medi-Cal program. Status: Dead, AsmRules.

**AB 1371 (Ruskin) Hazardous waste civil penalty.** This bill authorizes the Department of Toxic Substances Control (DTSC) to impose civil and civil administrative penalties on a person who stores or treats hazardous waste at an unauthorized facility that is not owned or operated by that person. Specifically, this bill creates a civil penalty of up to \$25,000 per violation, or per day for continuing violations, for a person who intentionally or negligently treats or stores, or causes the treatment or storage of, hazardous waste at an unauthorized facility that is not owned or operated by that person. Also this bill creates a civil penalty that may be imposed in a civil action or administrative action of up to \$25,000 per violation, or per day for continuing violations, for a person who treats or stores, or causes the treatment or storage of, hazardous waste at an unauthorized facility that is not owned or operated by that person. Status: Chapter 705, 2007.

**AB 1549 (Aghazarian) Civil actions: product liability.** This bill would have provided that an action for death or injury caused by a defective product, as specified, must be brought within 10 years from the date of first sale, lease, or delivery for use or consumption to the initial consumer. The bill would provide that it shall not apply to actions based upon fraudulent representation or concealment or where the defendant has expressly warranted the product for a longer period and the action is brought within that period. The bill would provide that it shall apply to any cause of action accruing on or after January 1, 2008, involving any product in the stream of commerce prior to or after that date. Status: Dead, AsmJud.

**AB 1824 (Beall) Regional centers for the developmentally disabled.** This bill makes permanent the existing qualified civil liability immunity of regional center employees responsible for providing services to the developmentally disabled where the employee exercised, in good faith, their discretion to carry out the intent of the Lanterman Developmental Disabilities Services Act. This bill also makes permanent the existing presumption affecting the burden of producing evidence that a regional center employee is presumed to be acting in good faith when participating in filing a complaint or providing information as required by law regarding a consumer's health, safety or well-being, or participating in a resulting judicial proceeding. Status: Chapter 51, 2008.

**AB 1868 (Walters) Charter schools.** This bill would have required the California Law Revision Commission to submit a report to the Legislature, on or before March 1, 2009,

that would have included a description of the policy purposes of existing statute concerning government tort liability and the possible consequences of adding charter schools to the list of public agencies covered by those statutes. The Commission would have been prohibited from making any recommendation on whether charter schools should be treated as a public entity for the purposes of tort liability. Status: Dead, SenApprops.

**AB 1903 (Hernandez) Liability: Flood Control and Water Conservation Facilities.**

This bill re-enacts and extends a sunset date to January 1, 2013, for recently expired immunity provisions related to certain flood control and water conservation activities conducted by public entities. This immunity generally provides, subject to certain exceptions, that a public entity is not liable for injuries caused by the condition of flood channels and groundwater recharge spreading grounds. Status: Chapter 633, 2008.

**AB 1914 (Torrico) Initiatives, referendum and recall petitions.** This bill would have made a proponent of an initiative, referendum, or recall petition civilly liable for unlawful conduct by circulators of that initiative or petition, unless the proponent had notified the Secretary of State or county elections official within one day after obtaining knowledge of the potential violation. Status: Dead, SenApprops.

**AB 1946 (Nava) Hazardous materials: water quality.** This bill would have extended the statute of limitations from one-year to five-years for specified violations of hazardous material release response plans. This bill also allowed district attorneys, upon request of the State Water Resources Control Board or a regional water quality control board, to petition the superior court to recover civil penalties for violations of the Porter-Cologne Water Quality Control Act. Status: Vetoed.

**AB 1985 (Strickland) Sidewalks: repairs.** This bill would have repealed current law regarding who is responsible for sidewalk repairs. This bill also would have defined "owner of any sidewalk" or "sidewalk owner" as the owner of the property on which the sidewalk was located, which might have included a city, county, or city and county. This bill required that every owner of a sidewalk maintain that sidewalk in a condition that would not endanger persons or property and would not interfere with the public convenience in the use of the sidewalk. Status: Dead, AsmLocalGov.

**AB 2071 (Karnette) Plastic bags: enforcement.** This bill authorizes a city, a county, or the state to impose civil liability, in specified amounts, for failure to comply with labeling requirements for compostable and biodegradable plastic bags and plastic food and beverage containers, and requires any civil penalties collected to be paid to the office of the city attorney, city prosecutor, district attorney, or Attorney General, whichever office brought the action. This bill authorizes any penalties collected by the Attorney General to be expended by the Attorney General, upon appropriation by the Legislature, to enforce these provisions. Status: Chapter 570, 2008.

**AB 2130 (Hayashi) Automatic defibrillators: health studios.** This bill would have exempted health studios that do not maintain personnel on the premises from the

personnel requirements of existing law relating to automatic defibrillators (AED) in health studios. This bill also would have required health studios that do not maintain one or more personnel on the premises during all hours of operation to have a telephone on the premises, as well as signs warning of the potential health and safety risks of exercising alone, providing instruction in cardiopulmonary resuscitation and AED use, and indicating the location of all AEDs, for the hours during which there are no personnel on the premises. Status: Dead, SenJud.

**AB 2349 (Fuller) Diseased animals and poultry.** This bill allows the Department of Food and Agriculture (CDFA), in addition to the Attorney General, to enforce animal quarantine laws. This bill makes a violation of animal quarantine laws subject to an administrative penalty between \$100 to \$1,000 per violation, credited to the Food and Agriculture Fund. This bill also requires the CDFA to notify the violator and requires the violator be given an opportunity to be heard in an administrative adjudication hearing provided by CDFA. Status: Chapter 147, 2008.

**AB 2690 (Krekorian) Product liability: prescription drugs.** This bill would have declared that a manufacturer of a prescription pharmaceutical product that advertises directly to consumers shall not be relieved of a duty to warn customers of risks and side effects of the product solely because the product was prescribed to a patient by a physician. This bill would have effectively eliminated the "learned intermediary doctrine," which provides that the drug company is not liable to the final consumer where the drug was prescribed by a physician. Status: Dead, AsmInactive.

**AB 2793 (Blakeslee) Professional engineers.** This bill would have authorized an engineer to disclose to any governmental official information regarding a building or structure that the engineer believes in good faith may pose a danger to the public health or safety, notwithstanding any other provision of law. Status: Dead, AsmJud.

**AB 2796 (Nava) Obligations.** This bill adds two new sections to the California Emergency Services Act to authorize the Office of Emergency Services to establish a statewide registry of private businesses and nonprofit organizations that are interested in making donations, at no cost to the state, to prepare the state for emergencies and disasters, and imposes certain duties on these entities in this regard. This bill relieves a private business or nonprofit organization included on the statewide registry from criminal or civil liability for a death, injury, illness, or other damage to a person or property caused by its donation, except for liability caused by its grossly negligent act or omission, or willful or wanton misconduct. Status: Chapter 363, 2008.

**AB 2801 (Carter) Conflict of interest: settlement.** Expands the existing "remote interest" exemption to the general rule that public officers shall not have a financial interest in any contract that they make in their official capacity, so as to allow a public body to enter into a settlement agreement in which a member has an interest, so long as the following conditions are met: (1) The agreement is entered into as part of a settlement of litigation in which the public body is represented by legal counsel; (2) After review of the merits and other relevant facts and circumstances, that the agreement serves the

public interest; and (3) The interested member has recused himself or herself from all participation, direct or indirect, in the making of the agreement on behalf of the public body. Status: Chapter 163, 2008.

**AB 2819 (DeSaulnier) First responder liability.** This bill would have prohibited a firefighter, EMT-I, or EMT-II, or EMT-P employed by the state or a local agency, from being subject to criminal prosecution for any legal act performed in the course and scope of employment to carry out his or her professional responsibilities. This bill would have excluded from this prohibition an act or omission performed outside the employee's professional capacity or with demonstrable general criminal intent. This bill would have created a presumption that an act to which the bill would have applied was performed in good faith and without gross negligence. Status: Dead, AsmJud.

**AB 2824 (Berryhill) Exposed non-reacting animals: indemnity.** As heard by this Committee, this bill removed the existing limits on the amount of indemnity owed to the owner of an animal that is required to be slaughtered to combat brucellosis; instead, the bill would have established an indemnity amount as determined by related existing federal and state statutes. The bill was subsequently amended in the Senate to address an unrelated subject. Status: Chapter 695, 2008.

**AB 2900 (La Malfa) Water quality: civil penalties.** This bill would have required the State Water Resources Control Board or a regional water quality control board to expeditiously take appropriate action to assess any mandatory minimum penalty for each serious waste discharge violation of the federal Clean Water Act and the Porter-Cologne Water Quality Control Act. Status: Dead, AsmES&TM.

**AB 2912 (Wolk) Oil spill prevention and response.** This bill would have expanded the authority of the Office of Spill Prevention and Response to respond to oil spills in non-marine waters. This bill also would have applied the same penalties that apply to spills in marine waters to spills that occur in non-marine waters. This bill would have directed all penalties derived from spills or discharges into marine and non-marine waters to the Fish and Wildlife Pollution Account to fund clean-up. Status: Dead, AsmApprops.

**SB 300 (Corbett) San Francisco Bay Conservation and Development Commission.** This bill originally would have increased from \$30,000 to \$100,000 the maximum civil penalty for a violation of a cease and desist order issued by the San Francisco Bay Conservation and Development Commission. This bill was subsequently amended to address an unrelated issue. Status: Dead, AsmNR.

**SB 582 (Corbett) Charitable solicitations: public safety employees.** This bill allows law enforcement, firefighters, and other public safety employees of a local agency to solicit contributions for charitable purposes on public roadways from passing motorists, and requires the organization seeking to engage in the solicitation applies to the city or county in whose jurisdiction the activity will occur to apply for a permit, detailing where, what time and date, and the manner in which the activity or activities are to occur. The bill further requires the city or county to approve the application, within five calendar



days of the filing date of the application, subject to reasonable conditions in writing that are consistent with the intent of the application and that are based on articulated public safety concerns, and provides that by approving a permit for the solicitation activity the city or county does not waive or limit its immunity from liability for acting under the provisions of this bill in addition to any other provision of law. Status: Chapter 446, 2007.

**SB 767 (Ridley-Thomas) Drug overdose treatment: liability.** This bill provides that a licensed health care provider in specified counties who is permitted by law to prescribe an opioid antagonist may, if acting with reasonable care, prescribe and subsequently dispense or distribute an opioid antagonist in conjunction with an opioid overdose prevention and treatment training program, without being subject to civil liability or criminal prosecution. This immunity shall apply to the licensed health care provider even when the opioid antagonist is administered by and to someone other than the person to whom it is prescribed. The bill further provides that each local health jurisdiction that operates or registers an opioid overdose prevention and treatment training program shall, by September 1, 2010, collect and report to the Legislature specified information regarding training programs, prescriptions, and administration, and provides that the Act is to sunset on January 1, 2011. Status: Chapter 477, 2007.

**SB 822 (Aanestad) Immunity: evaluation of practitioner of healing arts.** This bill extends the qualified immunity granted under current law to persons who provide information that is provided to medical, dental, podiatric, and veterinary schools for the purpose of aiding in student evaluation, so that this qualified immunity will also apply to such evaluations in schools of psychology. Status: Chapter 36, 2007.

**SB 916 (Yee) Acute psychiatric hospitals: patient detention and release.** This bill extends to acute psychiatric hospitals civil and criminal immunity related to the detention and release of individuals that are a harm to themselves or others or gravely disabled, and extends from eight to 24 hours the period of time that individuals can be detained in such hospitals, providing the hospital has not been designated by a county to conduct psychiatric evaluations pursuant to Section 5150 of the Lanterman-Petris Short Act (5150-designated hospitals), and specifies the conditions that must be met for the immunity to be granted. Status: Chapter 308, 2007.

**SB 1583 (Corbett) Employment: independent contractors.** This bill would have provided that a person who, for money or other valuable consideration, knowingly advised an employer to treat an individual as an independent contractor to avoid employee status for the worker would be jointly and severally liable with the employer, as specified, if the worker was not found to be an independent contractor. Status: Vetoed.

**SB 1700 (Steinberg) Gas corporations: underground natural gas storage facilities.** This bill would have provided that a gas corporation that commenced operation of an underground natural gas storage facility after January 1, 2009 that was located in an urban area under residential properties, was strictly liable for any damages to persons or

property resulting from the operation of the facility. This bill also required such a gas corporation to have liability insurance, surety bonds, and performance bonds sufficient to reflect its liability. This bill provided that its provisions would not apply if residential dwellings were constructed on property located over a natural gas facility after the facility had commenced operation. Status: Vetoed.

## **CIVIL, CONSTITUTIONAL, AND PERSONAL RIGHTS**

### **Civil Rights**

**AB 14 (Laird) Discrimination: Civil Rights Act of 2007.** This bill enacts the Civil Rights Act of 2007, cross-referencing protected classes in 51 anti-discrimination provisions located in 12 state codes to the Unruh Civil Rights Act or to Section 11135 of the Government Code, which prohibits discrimination in state-funded programs and activities, whichever is appropriate. This bill makes consistent these anti-discrimination statutes spread across various state codes. In doing so, this bill expands the specifically enumerated protected classes in some statutes to encompass those recently added to the Unruh Civil Rights Act or to Section 11135 of the Government Code. Status: Chapter 568, 2007.

**AB 174 (Price) State employees: remedies for discrimination.** This bill would have granted the State Personnel Board (SPB) the authority to award attorney's fees and costs in discrimination cases and would have established rules governing the award of attorney's fees and costs. Status: Vetoed.

**AB 435 (Brownley) Gender discrimination.** This bill would have required that all employers maintain their records of wages, wage rates, job classifications, and other terms and conditions of employment for five years, and extended the statute of limitations for a civil action for gender-based wage discrimination to four years, or, in the case of willful misconduct, to five years. Status: Vetoed.

**AB 437 (Jones) Employment discrimination.** This measure grew out of a controversial 2007 U.S. Supreme Court decision in *Ledbetter v. Goodyear Tire & Rubber Co.* in which a one-vote majority of the court held that an administrative complaint must be filed within 180 days after the discrimination began years earlier. The remainder of the court condemned the decision and called for a change in the law. This bill would have provided that the Legislature, in order to construe and clarify the meaning and effect of existing state law regarding statutes of limitation, rejects the interpretation given to federal law by the United States Supreme Court in *Ledbetter v. Goodyear Tire & Rubber Co.* Status: Vetoed.

**AB 1278 (Lieber) Human trafficking.** This bill provides that any provision of a contract that purports to allow a deduction from a person's wages for the cost of emigrating and transporting that person to the United States would be void as against public policy. This bill also requires a local prosecutor to present evidence to the court, and requires the court to hold a hearing to consider, whether a matter involving human

trafficking in multiple jurisdictions should proceed in the county of filing, or whether one or more counts should be severed, as specified. Status: Chapter 258, 2008.

**AB 1346 (Silva) Nondiscrimination: religion.** This bill would have: (1) added "religion" to the policy of the State of California that all students enrolled in the state's public elementary and secondary schools, regardless of race, creed, color, national origin, gender, physical disability, geographic location, or socioeconomic background, shall have equitable access to educational programs designed to strengthen technological skills, including, but not limited to, computer education programs; (2) added "religion" to the section of law prohibiting teachers from giving instruction that adversely reflects upon persons, as specified; (3) added "religion" to the section of law prohibiting textbooks or instructional materials adopted by the State Board of Education from containing any matter reflecting adversely on certain groups, as specified; and (4) specified that no instructional materials will be adopted that would reflect adversely on religion. Status: Dead, AsmEd.

**AB 1725 (Judiciary) Discrimination: medical service.** As heard by this Committee, this bill clarified that the Unruh Civil Rights Act does not impose liability for discrimination in the provision of medical services and care to a patient by a medical professional licensed by the Department of Consumer Affairs based upon or affected by the protected characteristics when a circumstance such as age, sex, or physical or mental disability is medically significant to the provision of appropriate medical services or care to the patient. This bill was subsequently amended to require, rather than permit, the State Bar Board of Governors to make public a trial court appointee's "qualified" or "not qualified" rating by the State Bar's Judicial Nominees Evaluation Commission (JNE), and make other clarifying changes to the JNE process in order to promote public trust and confidence in the judicial branch. Status: Vetoed.

**AB 2085 (Huff) Schools: discrimination.** Existing law prohibits a teacher from giving instruction and a school district from sponsoring an activity that reflects adversely upon persons because of their race, gender, color, creed, disability, national origin, sexual orientation, religion or ancestry. This bill would have deleted sexual orientation from this list of protected classes. Status: Dead, AsmEd.

**AB 2086 (Huff) Schools: parental notification: sexual orientation.** This bill would have required notice to be sent to the parent or guardian of a pupil regarding the proposed discussion of gender identity or sexual orientation in a class attended by the pupil other than a class on comprehensive sexual health education and HIV/AIDS prevention education. The notice would have been required to outline the matters to be discussed and the manner in which a parent or guardian could have requested that the pupil not be present during the discussion. Status: Dead, AsmEd.

**AB 2449 (Davis) Military service: job protection.** This bill allows any city prosecutor to act as the attorney on behalf of a California National Guard member whose civilian employers have violated the law. Status: Chapter 243, 2008.

**AB 2529 (Wolk) Buildings: access.** The federal Americans with Disabilities Act of 1990 and the California Building Standards Code require that specified buildings, structures, and facilities be accessible to, and usable by, persons with disabilities. This bill would have required the State Architect, within the Department of General Services, to publish a fee schedule on its web site for individuals seeking certification as a certified disability access specialist. Status: Vetoed.

**AB 2533 (Keene) Disability access: remedies.** This bill would have required that, before filing a complaint for a violation of existing disability discrimination laws, a person deliver a notice to the person, firm, or corporation who is alleged to have denied or interfered with a right of access guaranteed under the above provisions. This bill also required that the notice specify the physical conditions that are alleged to deny or interfere with such a right of access. This bill would have required the person, firm, or corporation receiving the notice to make a good faith effort to remedy any condition reasonably cited in the notice, and would have prohibited an action for damages or any other remedy unless the person, firm, or corporation failed to take specified actions to remedy the condition. Status: Failed, AsmJud.

**AB 2654 (Laird) Discrimination.** This bill updates various provisions in different codes dealing with discrimination in contracting, insurance, workers compensation, court-appointed child advocacy, and prepaid health plans to ensure that proper reference is made to the classes protected under the Unruh Civil Rights Act (Section 51 of the Civil Code), or to Section 11135 of the Government Code, which prohibits discrimination in state-funded programs and activities based on race, color, religion, ancestry, national origin, disability, medical condition, sex (including gender identity), marital status, and sexual orientation), or to the Fair Employment and Housing Act (Section 12926.1 of the Government Code). This bill expands the protected classes in some statutes to encompass those recently added to the Unruh Civil Rights Act or to Sections 11135 and 12926.1 of the Government Code. Status: Chapter 682, 2008.

**AB 2874 (Lieber) Employment: damages for discrimination.** This bill would have deleted the existing \$150,000 limitation on actual damages that may be assessed by the California Fair Employment and Housing Commission against a respondent who violates the "hate crime" provision of the Ralph Civil Rights Act of 1976. Status: Vetoed.

**AJR 29 (Eng) Hate crimes.** This resolution memorializes the Legislature's support for the Local Law Enforcement Hate Crimes Prevention Act, also known as the Matthew Shepard Act, and urges the United States Congress, including all members of the California delegation, to vote in favor of passage of, and the President of the United States to sign into law, legislation that strengthens the ability of federal, state, and local governments to investigate and prosecute hate crimes based on race, ethnicity, religion, gender, gender identity, sexual orientation, and disability. Status: Resolution Chapter 109, 2008.

**SB 747 (Corbett) Persons with disabilities.** This bill would have expressed the intent of the Legislature to enact legislation that would have promoted increased compliance by

businesses with the Americans with Disabilities Act of 1990, state laws that govern access to public facilities, and federal and state regulations adopted pursuant to those laws, through education and certification programs, with the complementary goal of reducing litigation that seeks attorney's fees and damages without facilitating compliance with those laws. Status: Dead, AsmRules.

**SB 777 (Kuehl) Discrimination: student civil rights act.** This bill revises the list of prohibited bases of discrimination and the kinds of prohibited instruction, activities, and instructional materials in the Education Code so as to make the types of prohibited discrimination explicitly consistent with the protected characteristics contained in the definition of hate crimes in the Penal Code. This bill defines disability, gender, nationality, race or ethnicity, religion, and sexual orientation for this purpose, consistently with the hate crimes statute, replaces current uses of the term "handicapped" (and variations on that term) in the Education Code with the preferred term "disabled" and its variants and restates the existing obligation regarding non-discrimination in teacher instruction and district-sponsored activities by deleting the prohibition against "reflecting adversely upon" a specified characteristic. Status: Chapter 477, 2007.

**SB 836 (Kuehl) Fair employment: familial status.** This bill would have added "familial status" to the list of characteristics on which basis a person may not be discriminated against in employment, defined as being an individual who is or who will be caring for or supporting a family member. Status: Vetoed.

**SB 1608 (Corbett) Disabled persons: equal access.** This bill enacts several reforms intended to increase voluntary compliance with longstanding state and federal laws requiring access to the disabled in any place of public accommodation. Specifically this bill requires, as a condition of license renewal, that an architect must complete coursework regarding disability access requirements, as specified, and certify to the California Architects Board, as part of the license renewal process, completion of the coursework prior to renewing their license. This bill also creates the Construction-Related Accessibility Standards Compliance Act, which relates to construction-related accessibility claims and standards, and creates a California Commission on Disability Access. Status: Chapter 549, 2008.

**SB 1649 (Steinberg) Human trafficking.** This bill would have required, beginning January 1, 2010, retail sellers and manufacturers doing business in the state, with annual sales exceeding \$2 million, to develop, maintain, and implement policies related to their compliance with federal and state law regarding the eradication of slavery and human trafficking from its supply chain. This bill also would have established a nine-member Commission to Combat Slavery and Human Trafficking as a nonprofit public benefit corporation, and required the commission to be funded privately, to accept grants, donations, and funding from any source, and to charge fees to companies using its services. Status: Dead, AsmApprops.

**SJR 6 (Kehoe) Military: "Don't Ask, Don't Tell" policy.** This resolution urges the Congress and the President of the United States to enact H.R. 1246, the Military

Readiness Enhancement Act of 2007, that institutes a policy of nondiscrimination based on sexual orientation, and to repeal the current "Don't Ask, Don't Tell" policy. Status: Resolution Chapter 63, 2007.

### **Constitutional Rights**

**AB 137 (DeVore) Terrorist organizations.** This bill sought to address terrorism concerns by tasking public officials with the duty to question and fire any state or local government employee who is a financial supporter or member of an "extremist terrorist group," and by amending the state's Civic Center Act to require any group seeking to use public property as a meeting place to swear, under penalty of perjury, that the group does not advocate the overthrow of the Government of the United States of America. Status: Failed, AsmJud.

**AB 279 (Huff) Unlawful demonstrations: military funerals.** This bill would have made it an infraction, punishable by a fine not exceeding \$250, for a person to engage in disruptive activity at a funeral of a member or former member of the Armed Forces, as defined, during the time period beginning one hour prior to the funeral and ending one hour after the conclusion of the funeral. Status: Dead, AsmJud.

**AB 1009 (Benoit) Fetal pain prevention.** This bill would have enacted the Unborn Child Pain Awareness Act of 2008, to require, with an exemption for medical emergency, the physician performing the abortion to offer to the pregnant woman information and counseling on fetal pain. Status: Dead, AsmHealth.

**AB 1319 (Houston) Student athletes: steroids.** This bill would have required the California Interscholastic Federation (CIF) to amend its constitution and bylaws to require, as a condition of participation in interscholastic sports, school districts to prohibit a pupil from participating in high school athletics involving a CIF-sanctioned or sponsored athletic competition unless that pupil has (1) consented, in writing, to random urinalysis testing for anabolic steroids and (2) acknowledged, in writing, the description of laws regarding anabolic steroids. Status: Failed, AsmEd.

**AB 2296 (Mullin) Academic research.** This bill makes a person who enters the residential real property of an academic researcher, as defined, for the purpose of chilling, preventing the exercise of, or interfering with the researcher's academic freedom guilty of the crime of trespass, a misdemeanor. In addition, the bill creates a misdemeanor penalty for any person who publishes information describing or depicting an academic researcher or his/her immediate family member, or location where an academic researcher or his/her immediate family member may be found, with the intent that another person imminently use the information to commit a crime involving violence or threat of violence against an academic researcher or his/her immediate family member. Status: Chapter 492, 2008.

**AB 2616 (DeVore) Retail establishments: free speech.** This bill would have provided that any person shall be entitled to gather signatures for any state or local initiative, referendum, or recall petition consistent with the provisions of California law in the apron

and perimeter areas of a retail establishment that is open to the public, as long as the use of those areas does not unduly compromise public safety or unreasonably impede free access to the retail establishment, any public sidewalk, any entrance to the retail establishment, or a privately owned parking area of the retail establishment. Status: Dead, AsmJud.

**AJR 24 (Evans) Journalists: shield law.** This resolution urges Congress to enact a shield law for America's journalists in order to preserve the valuable free flow of information to the public arising from a journalists' reliance on confidential sources. Status: Resoultion Chapter 119, 2007.

**AJR 46 (Benoit) Right to Keep and Bear Arms.** This joint resolution would declare that the California State Legislature supports the Second Amendment to the United States Constitution and the Fifth District Court of Appeal's decision finding that the amendment protects an individual (as opposed to a collective) right to keep and bear arms. Status: Dead, AsmJud.

**AJR 60 (Evans) Journalists: shield law.** This resolution describes the pending Free Flow of Information Act that would establish a federal shield law for America's journalists and urge the United States Congress to enact this law. Status: Chapter 102, 2008.

**SB 552 (Cedillo) Reparation fund: 1930's unconstitutional deportation of Americans.** This bill would have established the 1930s Reparations Fund, for the unconstitutional deportation of Americans during the 1930s, in the State Treasury, and provided for a nine member board of directors appointed by the Governor with the consent of the Legislature to administer the fund and make payments, upon appropriation by the Legislature, to eligible individuals, as specified and provided. This bill also specified the duties and responsibilities of the board, and required the board to make a report on its activities to the Governor and the Legislature, as specified. Status: Dead, AsmApprops.

**SB 1370 (Yee) Education: Journalism Teacher Protection Act.** This bill prohibits a school employee from being dismissed, suspended, disciplined, reassigned, transferred, or otherwise retaliated against for acting to protect a pupil or student engaged in conduct authorized by state law or refusing to infringe upon conduct that is protected pursuant to the United States Constitution and the California Constitution. Status: Chapter 525, 2008.

### **Personal Rights**

**AB 18 (Blakeslee) Disabled persons: signature stamps.** This bill enacts the Warren Mattingly Signature Stamp Act which permits a disabled person who is unable to provide a handwritten signature to use a signature stamp for situations when the Elections Code requires a signature. The user must be an "authorized person," as defined, and provide valid identification. The use of a signature stamp, under this bill, is in addition to

existing law allowing use of a mark instead of a handwritten signature. Status: Chapter 485, 2007.

**AB 374 (Berg) California Compassionate Choices Act.** This bill would have enacted the California Compassionate Choices Act, which would have authorized competent adults who have been determined by two physicians to be suffering from a terminal disease to make a request for medication to hasten the end of their lives in a humane manner. Status: Dead, AsmInactive.

**AB 1043 (Swanson) Employment laws: waiver, foreign states and forums.** This bill would have prohibited any choice-of-law, venue-selection, or forum-selection clause in binding employment materials that are imposed on an employee as a condition of employment. Status: Vetoed.

**AB 1278 (Lieber) Human trafficking.** This bill provides that any provision of a contract that purports to allow a deduction from a person's wages for the cost of transporting that person to the United States is void as against public policy; expanded the scope of the offense of human trafficking to include causing, inducing, or persuading, or attempting to cause, induce, or persuade, a minor under 18 years of age to engage in specified felonies or obtaining forced labor or services from the minor; increased the penalty for human trafficking to imprisonment in the state prison for 3, 4, or 6 years; and, provided jurisdiction over human trafficking offenses in multiple jurisdictional territories if it was shown the offenses were part of a single scheme. Status: Chapter 258, 2008.

**AB 1514 (Maze) Juveniles: psychotropic medication.** Current law establishes legal, medical, and procedural protections that apply when a dependent of the juvenile court or a child in foster care is prescribed a psychoactive medication. This bill establishes these same protections for administration of prescribed psychotropic medications to wards of the juvenile court, thereby creating uniformity in the procedural protections that are provided to all children in foster care, whether they are wards or dependents of the juvenile court. Status: Chapter 120, 2007.

**AB 1640 (La Malfa) Mental incapacity: deletion of demeaning terminology.** This bill deletes various offensive terms concerning mental illness found within various California code sections and replaces them with the term "mentally incapacitated." Status: Chapter 31, 2007.

**AB 1943 (Leno) Commercial airlines: passenger rights.** This bill would have established rights for airline passengers detained in an airplane for over three hours, either before takeoff or after landing. In those instances, this bill would have required airlines to provide for its passengers, on an as-needed basis: electrical service for sufficient fresh air and light; waste removal service for sanitation facilities; and adequate food, drinking water, and other refreshments. This bill also would have required airlines to post the rights of airline passengers and to provide notice regarding passenger or consumer complaint information including the airline's consumer contact information and



the contact information for the office of Aviation Enforcement and Proceedings of the US Department of Transportation. Status: Dead, SenInactive.

**AB 2279 (Leno) Medical marijuana.** The bill would have prohibited employment discrimination on the basis of a person's status as a qualified patient (medical marijuana user), or on the basis of the person's positive drug test for marijuana, provided the person is a qualified patient and the medical use of marijuana does not occur at the place of employment or during hours of employment. This bill also provides an exception to the prohibition when an employer hires a person in a safety-sensitive position, as specified. This bill also creates, for a person who had suffered discrimination, a civil action for damages, injunctive relief, and any other appropriate equitable relief to protect the peaceable exercise of the right or rights secured. Status: Vetoed.

**AB 2716 (Ma) Employment: paid sick leave.** This bill would have provided that an employee was entitled to paid sick days which would have been accrued at a rate of no less than one hour for every 30 hours worked. Employers also would have been required to provide paid sick days, upon request, for diagnosis, care, or treatment of health conditions of the employee or an employee's family member, or for leave related to domestic violence or sexual abuse. The bill would have required employers to satisfy specific posting and notice and recordkeeping requirements. Status: Dead, SenApprops.

**AB 2747 (Berg) End-of-life care.** This bill seeks to facilitate meaningful end-of-life care communication between doctors and their patients by enacting the California Right to Know End-of-Life Act of 2008 to ensure that health care providers provide critically-needed information in carefully-circumscribed instances. Among the requirements are that a health care provider provide a patient diagnosed with a terminal illness with the opportunity to receive comprehensive information and counseling regarding all legal end-of-life care options. This bill also requires that if a patient expresses interest in obtaining information or counseling regarding their end-of-life options, the following non-exhaustive list is discussed: hospice care at home or in a health care setting; the patient's right of refusal or withdrawal from life-sustaining treatment; the patient's right to pursue curative treatment while receiving palliative care; and, the patient's right to comprehensive pain and symptom management by various means. Status: Chapter 683, 2008.

**SB 26 (Simitian) State agencies: collection of data.** This bill would have enacted the "Ethnic Heritage Respect and Recognition Act" which required state agencies, boards and commissions that collect demographic data to allow respondents the option of selecting more than one ethnic/racial designation. This bill also would have provided that any state agency, board or commission that collects demographic data from a "local" agency could continue to collect and report that data to any other state entity in the form that the local agency submits it. Status: Dead, AsmApprops.

**SB 622 (Padilla) Employment: willful misclassification of employees as independent contractors.** This bill would have provided that it is unlawful for an employer to engage in any of the following activities: (a) willfully misclassifying an employee as an

independent contractor; (b) willfully paying a nonexempt employee at a fixed salary when the employer knew or should have known that payment at that rate would result in the employee receiving less wages than he or she would have received had they been paid based on a regular hourly rate of pay plus overtime; and (c) charging an employee who has been willfully misclassified as an independent contractor a fee, or making any deductions from compensation, for any purpose where the employer would have been in violation of the law if the employee had not been misclassified. This bill further provides that if the Labor and Workforce Development Agency (LWDA) finds that any person has engaged in the aforementioned violations, that person shall be assessed a civil penalty of not less than \$5,000 and not more than \$15,000 per violation, and provides that if the LWDA determines that there is evidence of a pattern or practice of this behavior, that person shall be assessed a civil penalty of not less than \$10,000 and not more than \$25,000 per violation. Status: Vetoed.

**SB 771 (Kuehl) Post-mortem publicity rights: deceased celebrities.** The bill clarifies that existing law protecting a deceased personality's publicity rights applies to all those whose date of death was within 70 years preceding January 1, 1985, the effective date of the law that created post-mortem publicity rights for deceased personalities. The bill further clarifies that in the absence of an express provision in a will or other testamentary instrument that effectively transfers the publicity rights of a deceased personality, disposition of the publicity rights is in accordance with the disposition of the residue of the deceased personality's assets. Finally, the bill clarifies that the publicity rights transferred according to this statute are freely transferable or descendible by contract, trust, or any other testamentary instrument by any subsequent owner of the deceased personality's publicity rights. Status: Chapter 439, 2007.

**SB 1136 (Alquist) Public social services: unreasonable fees.** This bill creates a private right of action for an individual who has been charged unreasonable fees for assistance in procuring public social services. This bill also defines "unreasonable fee" as a fee that is exorbitant and disproportionate to the services performed. Status: Chapter 479, 2008.

**SB 1505 (Yee) Whistleblower protection.** Current law provides, under the California Whistleblower Protection Act (Act), a process by which a state employee may file a written complaint alleging adverse employment actions such as retaliation, reprisal threats, or coercion, with a supervisor or manager and with the State Personnel Board (Board). The Act requires the Board to initiate an investigation or a proceeding within 10 working days of submission of a written complaint, and to complete findings of the investigation or hearing within 60 working days thereafter. This bill would have extended the protections of the Act to former state employees, and added reasonable attorney's fees to the relief one could have recovered under the Act. Status: Vetoed.

### **Privacy Rights**

**AB 326 (Benoit) Identity theft.** As heard by this Committee, this bill expanded conduct punishable under the definition of the crime of false personation and specified a new

criminal penalty for the practice of unlawful phishing. This bill was subsequently amended to address an unrelated topic. Status: Dead, SenBF&I.

**AB 372 (Salas) Personal information: civil penalties.** This bill amends the Consumer Credit Reporting Agencies Act to provide that a consumer credit reporting agency may not charge a fee of more than five dollars to a consumer 65 years of age or older and no more than \$10 to other consumers for each security freeze request, removal of the freeze, or temporary lift of the freeze. The bill also reduces the timeframe in which the agency must place the freeze from five days to three days and allows a consumer to place a security freeze by regular (versus certified) mail. Status: Chapter 151, 2008.

**AB 429 (Evans) Lodging: privacy.** This bill would have provided that an innkeeper shall not be required to produce information from a guest registry, except upon the request of a peace officer investigating a criminal offense who has a reasonable suspicion that the registry contains the identity of a person relevant to the investigation. This bill also permits a peace officer to seize a guest registry only if there is probable cause for the peace officer to believe that the registry contains the identity of a person relevant to the investigation. Status: Dead, SenPubS.

**AB 436 (Salas) HIPAA implementation: disclosure.** This bill would have eliminated the sunset date of the Health Insurance Portability and Accountability Act Implementation Act of 2001, which requires the state Office of HIPAA Implementation to ensure compliance with federal act. This bill would further provide that covered health care providers shall make specified notifications to a patient if the provider plans to cease operations or store a patient's records offsite. Status: Dead, AsmHealth.

**AB 703 (Ruskin) Social security numbers.** This bill would have prohibited a person or entity from using a social security number as an identifier, except as required by federal or state law. The bill would also require that records containing social security numbers be discarded or destroyed in a specified manner, and would require the encryption or locked storage of records containing social security numbers. Status: Dead, AsmJud.

**AB 779 (Jones) Personal information: computerized data.** This bill, on and after July 1, 2008, would have made certain changes to California's breach notification law, including prohibiting a person, business, or agency, that sells goods or services and accepts credit or debit card payments from storing, retaining, sending, or failing to limit access to payment-related data, as specified; and requiring that any required data breach notification that is sent to the owner or licensee of the information to include specified information. Status: Vetoed.

**AB 825 (Silva) Persons with developmental disabilities: disclosure of information.** This bill would have required a regional center or state developmental center to disclose specified information and records to certain employees of a school district or county office of education, as provided, when disclosure is necessary for a regional center or state developmental center to perform its official duties under existing law, as specified. Status: Dead, AsmHumServ.

**AB 1057 (Beall) Electronic Personal Records Strategic Plan.** As heard by this Committee, this bill required the California Health and Human Services Agency (CHHSA) to establish an advisory committee on electronic personal health records to assist the agency in providing a report to the Legislature by January 1, 2009. The bill was subsequently amended to address an unrelated issue. Status: Vetoed.

**AB 1168 (Jones) Social security numbers.** This bill (1) requires specified public entities to truncate social security numbers (SSNs) when the numbers are displayed in public records; (2) requires the county recorder of each county to establish a SSN program in order to convert existing "official records" into an electronic "public records" with truncated SSN; and (3) requires the Office of Privacy Protection in the Department of Consumer Affairs to establish a task force to conduct a review of the use, storage, and retention of SSNs by all public and private colleges and universities in this state and to submit a report of its finding to the Office of Privacy Protection, the Assembly Judiciary Committee, and the Senate Judiciary Committee by July 1, 2010. Status: Chapter 627, 2007.

**AB 1178 (Hernandez) Medical information: disclosures.** This bill permits disclosure of medical information, consistent with applicable law and standards of ethical conduct, by a psychotherapist, as defined, if the psychotherapist, in good faith, believes the disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a reasonably foreseeable victim or victims, and the disclosure is made to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat. Status: Chapter 506, 2007.

**AB 1296 (Torrico) Public employee health benefits: confidentiality.** This bill requires a health benefit plan or contractor, or an entity offering services relating to the administration of health benefit plans to members and annuitants, to disclose to the Board of Administration of the Public Employees' Retirement System, staff, and any contractor or consultant of the system, the cost, utilization, actual claim payments, and contract allowance amounts for health care services rendered by participating hospitals, with specified restrictions and disclosure limitations imposed upon the board, staff, and any contractor or consultant of the system to whom the information is disclosed. The bill would deem this information confidential, subject to evidentiary trade secret protections, and exempt from the California Public Records Act, as specified. Status: Chapter 698, 2007.

**AB 1298 (Jones) Personal information: disclosure.** This bill (1) applies the prohibitions of the Confidentiality of Medical Information Act to any business organized for the purpose of maintaining medical information to allow an individual to manage his or her information, or for the treatment or diagnosis of the individual; (2) permits, regardless of the existence of a security freeze, a consumer reporting agency to disclose public record information lawfully obtained from an open public record to the extent otherwise permitted by law; and (3) adds medical information and health insurance information, as defined, to the data elements that, when combined with the individual's

name, would constitute personal information that would require disclosure in the event of a security breach. Status: Chapter 699, 2007.

**AB 1504 (Anderson) Identity theft: children.** This bill would have provided that a child may come within the jurisdiction of the juvenile court and become a dependent child of the court if the child has been a victim of identity theft, as defined, perpetrated by the parent or guardian or a member of his or her household. Status: Dead, AsmJud.

**AB 1656 (Jones) Personal information: security breaches.** This bill would have prohibited businesses that accept credit and debit cards as forms of payment from storing, or failing to limit access to, a customer's payment-related information that is not needed for business, legal, or regulatory purposes. This bill would also require encryption or other security protocols when payment-related data is sent over open, public networks. In addition, this bill also seeks to strengthen the existing breach notification laws by requiring that notices contain specified information and that notice also be provided to the Office of Information Security and Privacy Protection under certain circumstances. Status: Vetoed.

**AB 1684 (Emmerson) Vital records.** This bill deletes the requirement that informational certified copies of birth and death records contain a statement in perforated type that the document is informational and not valid to establish identity. Status: Chapter 433, 2008.

**AB 1687 (Brownley) Confidential information.** This bill permits health care providers to disclose medical information, including mental health information, to a county social worker, a probation officer, or any other legal custodian or caregiver of a minor, as defined, to coordinate health care services and medical treatment for the minor. The bill specifies, however, that such disclosures must only be made if necessary for purposes of coordinating health care services and medical treatment for a minor, and where such disclosure is authorized by law. Status: Chapter 552, 2007.

**AB 1724 (Jones) Vehicle seizure: illegal dumping.** As heard by the Committee, this bill provided that after review of a certificate of merit in a childhood sexual abuse case the court shall keep the certificate of merit under seal and confidential from the public and all parties to the litigation, other than the plaintiff. The bill was later amended to authorize local governments to enact local ordinances providing for the 30-day impoundment of vehicles engaged in illegal dumping, if the owner or operator of the vehicle had a prior conviction for illegal dumping. The bill would have required any such ordinance to include certain procedural safeguards, including a prompt post-seizure hearing and protections for innocent owners. Status: Vetoed.

**AB 1779 (Jones) Personal information: security breaches.** This bill would have prohibited businesses that accept credit and debit cards as forms of payment from storing, or failing to limit access to, a customer's payment related information that is not needed for business, legal, or regulatory purposes. The bill died in the Senate and the contents of the bill were placed into AB 1656 (see above). Status: Dead, SenJud.

**AB 1977 (Benoit) Public safety: law enforcement communications.** This bill would have provided that if specific information was provided by an authorized law enforcement agency to a telecommunications service provider under an exigent or emergency circumstances or in response to telephone call utilizing the 911 emergency telephone system, the telecommunications service provider would be required to provide requested information concerning a specified customer. Status: Dead, AsmJud.

**AB 2021 (Fuentes) Credit cards: personal information.** This bill would have created an exemption to an existing law that prohibits a person who accepts a credit card for payment from requesting or requiring personal information from the cardholder as a condition of the transaction. This bill would permit a person or entity that accepts credit cards to request or require personal information if two conditions are met: (1) the cardholder is not physically present and (2) the personal identification information is required for, and is used only for, purposes of fraud detection or prevention. Status: Dead, SenJud.

**AB 2304 (Plescia) Name changes.** This bill requires courts to keep confidential the current legal name of the petitioner and prohibits the court from publishing that name by any means or in any public forum when the petition for name change is by a participant in the address confidentiality program. The bill also authorizes a petitioner to request that the records be sealed and requires the Judicial Council to develop, on or before January 1, 2010, rules of court and forms for that purpose. Status: Chapter 586, 2008.

**AB 2352 (Fuentes) Mental health services: confidential information.** This bill, under certain circumstances, gives social workers and probation officers who have custody of a minor, limited access to information and records about the minor that were obtained in the course of providing mental health or developmental disability services to the minor. Status: Chapter 700, 2008.

**AB 2362 (Keene) State records: personal information.** This bill would have required a state agency, when collecting personal information from a California resident, to provide notice to the resident that his or her personal information is being handled in a secure manner that guards against unauthorized disclosure and that in the event of a security breach the resident will be notified in a timely and appropriate manner. Status: Dead, SenJud.

**AB 2383 (Ruskin) Social security numbers.** This bill would have prohibited a retail business from soliciting, requiring, or using an individual's social security number (SSN) for any purpose unless that number is necessary for that business's normal course of business and specified security requirements are met. Status: Dead, AsmJud.

**AB 2410 (Nava) Sexually violent predators.** This bill prohibits disclosure in a sexually violent predator case of information about the victim of a prior qualifying sex crime, except as is necessary to litigate the matter, or pursuant to court order and provides that willful violation of the prohibition is a misdemeanor. This bill also authorizes the court

to describe the victim in court documents and proceedings as Jane Doe or John Doe, unless that prejudices either party, and provides that the court shall instruct the jury that the use of a Doe name is done to protect the victim's privacy. Status: Chapter 155, 2008.

**AB 2595 (Laird) Public records: unlawful possession.** The bill would have established a process by which the Secretary of State may seek the return of public records belonging to the state or a local agency from a person, organization, or institution not authorized by law to possess those records, or require that person to respond in writing and declare why the records do not belong to the state or local agency, with specified exemptions. The process authorizes the Secretary of State, if the public records were not returned or the person or entity with possession did not timely respond or demonstrate why the records do not belong to the local agency or the state, to ask the Attorney General to petition the superior court for an order requiring the return of the records. Status: Vetoed.

**AB 2630 (Salas) Pupil records: privacy rights.** This bill would have amended the California Education Code to conform with the federal Family Education Rights and Privacy Act requirements relating to the confidentiality of pupil records. Among the changes were restricting the authority of a school district to release pupil record information to a county elections official for the purpose of identifying eligible voters to only those pupils who have not opted out (or been opted out by a parent) of this activity. Status: Vetoed.

**AB 2950 (Huffman) False and deceptive commercial e-mails.** This bill would have amended the existing statute that makes it unlawful for a person or entity to advertise in a commercial e-mail that is sent from California or sent to a California e-mail address, if the e-mail contains or is accompanied by a 3rd party's e-mail address without the permission of the 3rd party. The bill would clarify the definition of "header information," authorize a district attorney or a city attorney to bring an action for violation of the statute, and provide that venue in such cases is appropriate in any county in which the recipient of the commercial e-mail message resides. Status: Vetoed.

**SB 28 (Simitian) DMV: personal information.** As heard by the Committee, this bill prohibited the Department of Motor Vehicles from issuing drivers licenses or identification cards that contained personal information readable by RFID technology. The bill was subsequently amended to address an unrelated issue. Status: Chapter 270, 2008.

**SB 29 (Simitian) Pupil attendance: electronic monitoring.** This bill would have prohibited, until January 1, 2011, a public school, school district, and county office of education from issuing any device that uses radio waves to transmit personal information, as defined, or to enable personal information to be viewed remotely for the purposes of recording the attendance of a pupil at school, establishing or tracking the location of a pupil on school grounds, or both. Status: Vetoed.

**SB 30 (Simitian) Identity Protection Act.** This bill would have required, until December 31, 2012, a government entity that issues identification documents (IDs) that

use RFID technology to implement certain security measures, with the level of security dependent on the nature of information that is stored on the ID. The bill would have required all such IDs, at a minimum, to incorporate tamper-resistant features and implement an authentication process. Status: Dead, AsmInactive.

**SB 328 (Corbett) Personal information: prohibited practices.** This bill would have included a telephone calling pattern record or list, as defined, in the definition of “personal information” for purposes of existing state laws that protect the privacy of personal information. The bill would also prohibit any person from, among other things, obtaining or attempting to obtain, or causing or attempting to cause the disclosure of, personal information about a customer or employee contained in the records of a business through specified methods, such as by making false, fictitious, or fraudulent statements or representations, with specified exceptions. This bill would provide civil remedies for the violation thereof, and would make related and conforming changes in that regard. Status: Dead, AsmB&F.

**SB 362 (Simitian) Identification devices: subcutaneous implanting.** This measure prohibits a person from requiring, coercing, or compelling any other individual to undergo the subcutaneous implanting of an identification device, as defined. It also provides for the assessment of civil penalties for a violation thereof, as specified, and would allow an aggrieved party to bring an action against a violator for damages and injunctive relief, subject to a 3-year statute of limitation, or as otherwise provided. Status: Chapter 538, 2007.

**SB 364 (Simitian) Personal information: privacy.** This bill would have provided that when an agency, person, or business is required by existing law to issue a data security breach notification, that the notification must be written in plain language and shall include specified information relating to the breach and steps that the affected person may take to protect themselves or limit damage. Status: Vetoed.

**SB 388 (Corbett) Privacy: RFID tags.** This bill would have required a private entity that issues an RFID card or device to make certain disclosures to the recipients of those cards or devices. Specifically, this bill would require three separate, but related, disclosures for devices containing RFID technology: the information transmitted to the RFID scanner upon scanning; a general statement of the security features of the card or item; and steps that may be taken to prevent unauthorized access or "skimming" of the information on the card. Status: Dead, AsmInactive.

**SB 524 (Corbett) Safe at Home.** This bill originally extended from January 1, 2008, to January 1, 2013, the law allowing a participant in the "Safe at Home" program. However, it was subsequently amended to address an unrelated issue. Status: Dead, AsmE&R.

**SB 644 (Correa) Courts records: social security numbers.** This measure removes existing statutory requirements that abstracts of money judgments and tax lien filings



contain a full social security number (SSN) and instead requires that only the last four digits of the SSN be included in these documents. Status: Chapter 189, 2007.

**SB 741 (Ackerman) Pupils: identifying information.** This bill would have encouraged school districts to omit the social security number and birth date of a pupil from materials mailed to the pupil's residence or to any authorized individuals, commencing January 1, 2008 and to June 30, 2008. This bill also would have required school districts to omit this information from such materials, commencing July 1, 2008. Status: Dead, AsmEd.

**SB 768 (Corbett) Misuse of voter registration information.** This bill prohibits an individual or organization that distributes voter registration cards, or any person entrusted with a completed affidavit of registration from an elector, from disclosing the driver's license number, identification card number, or social security number contained on an affidavit of registration or voter registration card. This bill provides that a person who knowingly violates this prohibition is guilty of an infraction, punishable by a fine of up to \$500. Status: Chapter 305, 2007.

**SB 904 (Battin) Public records: veterans personal information.** This bill would have required the county recorder, when furnishing an informational copy of a military service record, to alter that record by masking the service member's personal information, as specified, without incurring any liability. This bill also made conforming changes to other provisions of law relating to public records. Status: Vetoed.

**SB 1282 (Margett) Private investigators: continuing education.** This bill, beginning January 1, 2012, would have required licensed private investigators as a condition of license renewal to complete 12 hours of continuing education in privacy rights, professional ethics, recent legal developments relating to private investigators, and other subjects related to private investigators. This bill also required any individual licensed private investigator whose license was subject to renewal between January 1, 2011, and January 1, 2012, to complete six hours of continuing education, as specified. Status: Vetoed.

**SB 1400 (Simitian) Sweepstakes.** This bill adds solicitation materials selling information regarding sweepstakes to the provisions of law concerning solicitation materials containing sweepstakes entry materials. This bill also prohibits solicitation materials containing sweepstakes entry materials or solicitation materials selling information regarding sweepstakes from representing certain listed statements. This bill requires the official rules to disclose the date or dates the final winner or winners will be determined. Status: Chapter 749, 2008.

**SB 1415 (Kuehl) Patient records: maintenance and storage.** This bill would have required physicians, podiatrists, dentists, optometrists, and chiropractors to notify patients starting January 1, 2009, prior to destroying records and specified the modes, timing, and content of the notification. This bill also required these health care providers to present to the patient, at the time a medical record is created, a written notice addressing how to inspect and obtain medical records the intended record retention periods. This bill

established administrative penalties for violations of these notification requirements.  
Status: Vetoed.

## **PROBATE AND RELATED MATTERS**

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

**AB 316 (Spitzer) Guardianships and conservatorships: investments.** This bill would have revised and expanded the list of specified obligations and securities in which a guardian or conservator may invest funds of the estate without court authorization, including authorizing the use of covered call options and put options on long positions for securities held in the guardianship or conservatorship estate, as specified. Status: Dead, AsmJud.

**AB 1340 (Jones) Conservators and guardians.** This bill implements recommendations of the Court Probate Task Force. This bill also makes technical and clarifying amendments to the Omnibus Conservatorship and Guardianship Reform Act of 2006 to ensure proper implementation of the Act. (As introduced, this bill related to the issuance of court facility bonds.) Status: Chapter 293, 2008.

**AB 1727 (Judiciary) Conservators and guardians.** This bill (1) prohibits the court from granting a conservatorship unless the court makes an express finding that a conservatorship is the least restrictive alternative needed for the protection of the conservatee; (2) creates new requirements on courts when guardianships and conservatorships are transferred from other jurisdictions; (3) authorizes a county's public guardian or adult protective services to petition the court for orders in connection with an investigation of whether appointment of the public guardian would be appropriate, including orders for release of confidential medical and financial information about the proposed conservatee; and (4) makes other technical and clarifying amendments to the Omnibus Conservatorship and Guardianship Reform Act of 2006 to ensure the proper implementation of the Act. Status: Chapter 553, 2007.

**AB 1880 (Tran) Conservators and guardians: bonds.** This bill would have required a guardian or conservator to post a separate recovery bond for the benefit of the ward or conservatee and any person interested in the guardianship or conservatorship estate who may bring a surcharge action against the guardian or conservator for breach of his or her duty. The bill requires the recovery bond to be given by an admitted insurer for the recovery of reasonable attorney's fees and costs as approved by a court in a successful surcharge action. The bill expressly provides that these fees and costs shall be recovered against the surety on the recovery bond only and not against the guardian's or conservator's bond. The bill requires that the amount of the bond be calculated in reference to a specific court rule. Status: Dead, AsmJud.

**AB 2014 (Tran) Conservators and guardians: out-of-state property.** This bill defines the estate of a conservatee or ward to include all personal property, wherever situated, and all real property located in this state owned by the conservatee or ward. This bill

requires the guardian or conservator, using ordinary care and diligence, to determine whether the ward or conservatee owns real property in a foreign jurisdiction and to preserve and protect that property. This bill also requires, in preparing an accounting of the estate, the guardian or conservator who has knowledge of any real property of the ward or conservatee that is located in a foreign jurisdiction, to include a schedule that identifies the property, provides a good faith estimate of the fair market value of the property, and states what action, if any, will be or has been taken to preserve and protect the real property, including whether an ancillary proceeding is necessary. Status: Chapter 52, 2008.

**AB 2247 (Spitzer) Conservators and guardians: investments.** This bill would have provided greater flexibility for investments made by a guardian or conservator on behalf of their wards or conservatees. Specifically, this bill allows a conservator, if authorized by prior court order, to consider the interest of other persons, pursuant to the wishes of the conservatee, if all foreseeable needs of the conservatee will not exceed the estate. The bill also requires the conservator to manage the estate by preserving the estate or, if authorized by prior court order, by applying relevant principles of the Uniform Prudent Investor Act under which the conservator may seek greater investment return generally consistent with moderate risk of loss to the estate. The bill allows a guardian or conservator to invest in specified investments without court authorization. Finally, the bill requires a noticed hearing to expand a guardian's or conservator's investment authority, including the authority to manage the estate using relevant principles of the Uniform Prudent Investor Act and using a prudent strategy of covered call options and put options to manage risk. Status: Dead, AsmJud.

**AB 2343 (Caballero) Public administrators and public conservators.** This bill requires public administrators and public conservators to complete, by July 1, 2010, the same continuing education requirements required of public guardians under the Omnibus Conservatorship and Guardianship Reform Act. The bill establishes rules for the appointment of Public Administrators as successor trustees. The bill specifies the expenses and compensation that a public guardian or administrator or his or her attorney may receive for acting as trustee under specified circumstances. The bill requires that a public administrator receive a bond fee to be deposited in the county treasury. This bill also allows Ventura County to separate the current merged office of the public administrator and office of the treasurer into two offices so that the public administrator would be consolidated with the public guardian and the treasurer would become a separate independent office. Status: Chapter 237, 2008.

**SB 241 (Kuehl) Minors: appointed counsel in guardianship cases.** This bill requires the court, in a guardianship proceeding where the court has appointed counsel for the minor, to determine whether the parent or parents of the minor are financially unable to pay all or a portion of the cost of appointed counsel, and to order the county to pay that portion of the cost of appointed counsel that the parent or parents are unable to pay. The bill requires the Judicial Council to adopt financial eligibility guidelines for county payment of the court-appointed counsel for the minor. Status: Chapter 719, 2007.

**SB 340 (Ackerman) Criminal history information.** This bill authorizes the Attorney General to furnish summary criminal history information to investigators conducting guardianship and specified conservatorship investigations at the request of a court. Status: Chapter 581, 2007.

**SB 800 (Corbett) Conservators: care plans.** This bill would have added new procedural requirements intended to further protect the interests of conservatees. In particular, this bill requires a conservator to submit, within 90 days of appointment, a care plan for the care, maintenance and control of the conservatee, including a plan for meeting the conservatee's financial needs. This bill requires the Judicial Council to develop a form containing detailed information about the conservatee's health, activities, and finances, among others, for use by conservators in preparing a care plan. Status: Dead, AsmApprops.

**SB 1215 (Harman) Professional fiduciaries.** This bill would have redefined a professional fiduciary by clarifying that a conservator or guardian who may qualify as a professional fiduciary includes a conservator of the person or estate, a conservator of the person and estate, and a guardian of the estate of two or more persons at the same time who are not related by blood, adoption, marriage, or registered domestic partnership, as specified. This bill clarifies that in determining whether a trustee is a professional fiduciary, trustors related to one another shall be counted as one family, and neither beneficiaries nor trusts shall be counted. This bill also clarifies that a fiduciary who is exempt from the PFA because he or she is or is employed by a trust company or a banking institution or affiliate, would be a professional fiduciary subject to the PFA when acting outside the scope of his or her employment, if he or she meets the other requirements for a conservator, guardian, or trustee to qualify as a professional fiduciary. Status: Dead, AsmJud.

**SB 1612 (Kuehl) Guardian ad litem: minor parents.** This bill permits a minor who is the parent of a child who is the subject of certain proceedings, including those involving child dependency, parentage, and guardianship to appear in court without a guardian ad litem. This bill requires a court to appoint a guardian ad litem in these circumstances if the court finds that the minor parent is unable to understand the nature of the proceedings or to assist counsel in preparing the case. Status: Chapter 181, 2008.

### **Elder Abuse**

**AB 225 (Beall) Elder abuse: protective orders.** This bill provides that an elder or dependent adult who petitions for a protective order under the Elder Abuse and Dependent Adult Civil Protection Act is not required to pay a fee for law enforcement to serve an order issued by the court. This bill also, effective January 1, 2010, provides that (1) a court will be authorized, upon a showing of good cause, to issue protective orders, including residence-exclusion orders as specified, to protect other named family or household members, or the conservator, of the elder or dependent adult, and (2) no additional proof of service on a respondent will be required for enforcement of a protective order where the respondent personally appeared in court to hear the existence

and substance of the order but was not served personally with the order subsequent to the hearing. Status: Chapter 480, 2008.

**AB 1900 (Nava) Senior services: fees and penalties.** As heard by this Committee, this bill established the Healthy Seniors Act of 2008 which creates a ten percent penalty assessment for specified convictions of abuse upon an elder or dependent adult and authorizes local officials to increase fees for certified copies of death records to support senior services and public guardians who provide services to seniors. The bill was subsequently amended to extend the sunset date until January 1, 2011, on provisions of law that provides funds through criminal penalty assessments for emergency medical services in Santa Barbara County. Status: Chapter 323, 2008.

**AB 2947 (Eng) Elder and dependent adult abuse.** This bill would have prohibited a residential care facility for the elderly from requiring, as a condition of admission, that prospective residents waive various legal rights and agree to binding arbitration, including arbitration of violations of the Elder Abuse and Dependent Adult Civil Protection Act. Status: Vetoed.

**SB 189 (Cornett) Elder and dependent adults abuse: civil actions.** This bill establishes the right to commence or maintain a civil action under the Elder Abuse and Dependent Adult Civil Protection Act, without petition to the court, after the death of the elder or dependent adult to an intestate heir whose interest may be affected by the action or to the decedent's successor in interest or an interested person, if there is no personal representative of the decedent. Status: Chapter 48, 2007.

**SB 611 (Steinberg) Financial abuse: elder and dependent adults.** This bill permits the use of attachment law, which authorizes a plaintiff to attach the defendant's property to secure the amount of the claimed debt of defendant to plaintiff, in cases involving financial abuse of an elder or dependent adult under the Elder Abuse and Dependent Adult Civil Protection Act. This remedy would be in addition to any other remedy sought or that may be available to plaintiff. Status: Chapter 45, 2007.

**SB 1140 (Steinberg) Elder or dependent adults: financial abuse.** This bill adds the taking or appropriation of property by undue influence to the definition of financial abuse of an elder or dependent adult. It creates a presumption that a person has taken or appropriated property of an elder or dependent adult for a wrongful use, if the person knew or should have known that his/her conduct is likely to be harmful to the elder or dependent adult. This bill creates a new cause of action for financial abuse against a person who takes the property of an elder or dependent adult who lacks capacity and then refuses to return the property after a demand for return of the property was made by the elder or dependent adult. Finally, this bill establishes that the statute of limitations for the filing of an Elder Abuse and Dependent Adult Civil Protection Act (EADACPA) financial abuse action, including the new cause of action for property taken from an elder or dependent adult who lacks capacity, is four years from the date the plaintiff discovers, or should have discovered, the facts constituting the financial abuse. This bill clarifies that in an action under EADACPA, the court shall award attorney's fees and costs in

addition to compensatory damages and all other remedies otherwise provided by law.  
Status: Chapter 475, 2008.

### **Probate**

**AB 250 (DeVore) Non-probate transfers: revocable transfer on death deeds.** This bill, following recommendations by the California Law Revision Commission, would have allowed owners of real property to transfer that property upon death, outside the normal probate procedure, through a written instrument known as a "revocable transfer upon death deed" (RTDD). The RTDD, which requires use of a statutorily created deed, does not affect any ownership rights during the transferor's lifetime nor does it convey any rights to the beneficiary or the beneficiary's creditor during the transferor's lifetime. It may be revoked at anytime by a subsequently recorded document that disposes of the property. Status: Failed, SenJud.

**AB 341 (Spitzer) Estates and trusts: creditors claims.** This bill provides greater consistency in treatment of creditors' claims against an estate, regardless of whether the decedent's estate is being distributed through probate proceedings or trust administration, by harmonizing separate Probate Code provisions for creditor claims against a trust and against an estate in probate. Status: Chapter 159, 2007.

**AB 361 (Ma) Decedents estates: creditor claims.** This bill requires the general personal representative or attorney of a decedent's estate to give notice of the administration of the estate to the Franchise Tax Board not later than 90 days after the date letters of administration are first issued. The bill applies to all decedents' estates for which letters of administration are first issued on or after July 1, 2008. Status: Chapter 105, 2007.

**AB 2248 (Spitzer) Wills: requirements.** This bill requires the witnesses to the will to sign the will during the testator's lifetime. The bill also requires that a will that fails to meet described requirements to be treated as if it has met those requirements if the proponent of the will establishes by clear and convincing evidence that the testator, at the time the testator signed the will, intended the will to constitute his or her will. Status: Chapter 53, 2008.

**SB 387 (Alquist) Dentists: providing for death or incapacity.** This bill allows specified individuals (legal representative, executor or administrator of the estate, trustee of a special trust) to take control of the dental practice of a dentist who has been incapacitated or who has died, for the purpose of an orderly disposition of the dental practice. This bill, under specified conditions, allows these individuals to hire or contract with a licensed dentist to continue providing care to patients of the dental practice for a period of no longer than 12 months. Status: Chapter 433, 2007.

**SB 553 (Aanestad) Decedents' estates: summary disposition of small estates.** As originally heard by this Committee, this bill increased the monetary value of small estates, consisting of real and personal property, that may be disposed of using simplified

non-probate procedures such as the filing of an affidavit and a petition for a court order of succession to real property. This bill made conforming changes to Probate Code sections dealing with public administrators, by increasing the value of an estate from more than \$100,000 to more than \$150,000 before the public administrator is required to file a petition to administer the estate, and increasing the value of an estate from no more than \$30,000 to no more than \$50,000 for a public administrator to dispose of a decedent's estate without court authorization. The bill was subsequently amended to address an unrelated topic. Status: Vetoed.

**SB 722 (Correa) Decedents' estates: judgment of conviction for felonious and intentional killings.** As heard by this Committee, this bill amended provisions of the Probate Code that prevent a person who feloniously or intentionally kills a decedent from inheriting any property, interest, or benefit of the decedent's estate or insurance policy. This bill would clarify that, notwithstanding any appeal, a final trial court judgment of conviction of felonious and intentional killing in a criminal court is conclusive for purposes of the provisions of the Probate Code that bar a defendant killer from benefiting or inheriting from the estate of the decedent. The bill was subsequently amended to address an unrelated issue. Status: Dead, AsmRules.

**SB 1264 (Harman) Wills and trusts: no contest clauses.** This bill establishes a new statutory scheme governing no contest clauses in wills and trusts. Specifically, for wills, trusts, and other donative instruments that become irrevocable on or after January 1, 2001, this bill provides that a no contest clause is enforceable against (1) a direct contest that is brought without probable cause; (2) if the no contest clause so provides, a pleading to challenge a transfer of property on the grounds it was not the transferor's property at the time of the transfer; and, (3) if the no contest clause so provides, the filing of a creditor's claim or prosecution of an action based on the claim. The bill defines a direct contest as an attempt to invalidate an instrument on one or more of the following grounds: forgery; lack of due execution; lack of capacity; menace, duress, fraud, or undue influence; revocation of the instrument; or, disqualification of a beneficiary. The bill also provides that probable cause exists if, at the time of filing a contest, the facts known to the contestant would cause a reasonable person to believe that there is a reasonable likelihood that the requested relief will be granted given the opportunity for further investigation or discovery. Status: Chapter 174, 2008.

### **Trusts**

**SB 685 (Yee) Pet trusts.** This bill repeals the provisions regarding domestic or pet animal trusts and provides instead that a trust for the care of a domestic or pet animal is for a lawful noncharitable purpose and terminates when no animal is living on the date of the settlor's death, unless otherwise provided in the trust. Status: Chapter 168, 2008.

**SB 795 (Yee) Cemeteries: investment of special care trust funds.** This bill provides that any investment that is lawful for cemetery endowment care funds is also a lawful investment for any cemetery special care trust, including a revocable trust, and provides specific requirements for administration of special care trust funds. This bill stipulates

that any person or entity that violates the bill's administrative requirements is subject to disciplinary action and/or by a civil fine of up to \$500, as determined by the Cemetery and Funeral Bureau, and is not guilty of a crime. Status: Chapter 307, 2007.

**SB 1421 (Harman) Trust administration: income and principal.** This bill would have raised the value of assets in a trust that a trustee could terminate without court approval from \$20,000 to \$40,000. This bill also would have allowed a trustee who was unable to charge specified disbursements to income for expenses incurred, such as for accountings, because of insufficient income to charge any deficiency in those disbursements to the principal after the trustee has received approval of the court or approval of all beneficiaries. Status: Dead, AsmJud.

## **PROPERTY AND RELATED MATTERS**

### **Intellectual Property**

**AB 479 (DeVore) Intellectual property: study.** This bill would have directed the Little Hoover Commission to study whether further review and study by a third party is necessary to ensure the proper assignment of intellectual property rights in connection with state-funded research conducted by universities, private companies, and other entities. Status: Dead, AsmJud.

**AB 541 (Huffman) Liability: genetically engineered plants.** This bill establishes sampling and analysis protocols in order to determine whether patent infringement has occurred between a farmer and a party holding a patent on a genetically engineered plant; provides for a notification procedure prior to entry on property; provides protection for farmers in possession of de minimus amounts of proprietary material; defines farmer, genetically engineered plant, and modern biotechnology; and, makes legislative findings. Status: Chapter 424, 2008.

**AB 1456 (Mullin) Office of Intellectual Property.** As originally referred to this Committee, this bill established the State Office of Intellectual Property for overseeing intellectual property owned by the state or created with state funds. As subsequently amended, this bill prohibits the amount paid by Medi-Cal from being considered as evidence of past medical damages or for the purpose of reducing a third party's liability to the beneficiary in any third-party action. Status: Dead, SenInactive.

**AB 1484 (Krekorian) Model state trademark law.** This bill repeals the Trademark Law and enacts the Model State Trademark Law. The bill expands the information required to be provided with an application for registration of a mark to include, among other things, a drawing of the mark and 3 specimens of that mark as it is actually used. The bill also requires that the application include a declaration of accuracy signed by a specified person and subjects that person to a civil penalty of not more than \$10,000 for willfully stating as true in the declaration any material fact he or she knows to be false. The bill provides procedures for amendment of an application and, if the secretary refuses registration, authorizes the applicant to seek a writ of mandamus to compel registration.



The bill provides that registration of a mark is effective for 5 years, and may be renewed for successive 5-year periods. The bill expands the grounds upon which the secretary shall cancel a registration and specifies procedures for actions to compel registration or cancel a registration. The bill revises and recasts the provisions dealing with actions and remedies for violation of a registered mark. Status: Chapter 711, 2007.

### **Mortgage Lending and Foreclosure**

**AB 180 (Bass) Mortgages.** This bill makes several changes in the law regarding foreclosure consultants. Most notably, this bill extends the right of an owner to cancel a contract to five days (from the current three) and requires a foreclosure consultant to register with the Department of Justice and to maintain a surety bond of \$100,000. Status: Chapter 278, 2008.

**AB 512 (Lieber) Mortgage contracts: translations.** This bill would have required supervised financial organizations, as defined, who negotiate any material term of a contract or agreement, in one of five listed foreign languages, to provide either an approved disclosure form or a translated copy of the contract or agreement to the borrower, as specified; subjects violators to specified penalties for failure to comply; and gives aggrieved borrowers certain rights to rescind contracts. Status: Dead, SenBanking.

**AB 1830 (Lieu) High-cost sub-prime, and non-traditional loans.** This bill would have regulated certain predatory lending practices regarding higher-priced (subprime) mortgages. Status: Vetoed.

**AB 2187 (Caballero) Mortgages: foreclosures.** This bill would have required a lender foreclosing on real estate property to include with the notice of default a foreclosure statement of rights, which specified the process of foreclosure and set forth the rights of the borrower regarding contracts with mortgage foreclosure consultants. This bill also required that the foreclosure notice be provided in the language of the borrower. This bill required that, until January 1, 2013, a mortgage lender or other person acquiring a property through the foreclosure process maintain the exterior of vacant residential property. Status: Dead, AsmApprops.

**AB 2359 (Jones) Mortgage lending: waiver of rights.** This bill would have prohibited a broker, trustee, or mortgagee, or his or her agent, beneficiary, or assigns from requiring as a condition of an agreement regarding a covered loan, subprime loan, or nontraditional mortgage, as defined, that a borrower or an applicant for the loan waive any rights, duties, remedies, forums or procedures of California law with respect to a residential mortgage or mortgage foreclosure. This bill also would have prohibited a broker, trustee, or mortgagee, or his or her agent, beneficiary, or assigns from refusing to enter into an agreement with a borrower or an applicant regarding a covered loan, subprime loan, or nontraditional mortgage solely because he or she refused to waive rights, duties, remedies, forums, or procedures provided for in those provisions. Status: Failed, SenBF&I.

**AB 2880 (Wolk) Mortgage lending.** This bill would have required a real estate broker who made, arranged, or serviced loans secured by real property to maintain a surety bond with the Real Estate Commissioner, as specified. This bill also would have provided that a mortgage broker, as defined, who provided brokerage services to a borrower, was the fiduciary of the borrower. This bill would have created various duties that these mortgage brokers would have been required to satisfy when making, arranging, or servicing consumer loans, as defined. Status: Dead, AsmApprops.

**SB 1604 (Machado) Escrow agents' fidelity corporation.** When heard by this Committee, this bill specified new net-worth and bonding requirements for finance lenders under the California Finance Lenders (CFL) Law and required an application for any person seeking employment with a CFL or an entity licensed under Residential Mortgage Lending Act. This bill was subsequently amended to require that any private insurance policy maintained by an escrow agent be applied as primary coverage, in the event of a loss covered by both the private insurance and the Escrow Agents Fidelity Corporation. Status: Chapter 285, 2008.

### **Personal Property**

**AB 594 (Dymally) Farm animals: confinement.** As referred to the Committee, this bill prohibited the tethering and confinement of hogs under specified conditions. As subsequently amended, this bill addressed an unrelated issue. Status: Dead, AsmAg.

**AB 1016 (Plescia) Racehorses: liens for services.** This bill would have permitted a general lien on racehorses in the possession of a breeder, trainer, owner, breeding farm, fair training facility, or racetrack for their compensation in caring for, boarding, feeding, and medical treatment of racehorses. The bill would permit that breeder, trainer, owner, breeding farm, fair training facility, or racetrack, if the obligations of the owner of the racehorse are not satisfied, to sell a racehorse that has a value of \$4,000 or less without obtaining the consent of the owner, court order, or judgment, if the amount of the lien is at least 50% of the value of the racehorse and notice is sent to the owner prior to the sale of the racehorse, as specified. The bill would require that the notice of sale be under penalty of perjury. Status: Failed, SenJud.

**AB 2221 (Wolk) Unclaimed property.** This bill would have increased the dormancy period for property contained in safe deposit boxes from three years to five years before the property escheated to the state. This bill also would have required the notices to the owner of safe deposit box contents, required under current law to be provided at two specified times prior to the date the property would escheat to the state, to be of a specified format and language and to contain specified warnings. Status: Dead, SenApprops.

**AB 2642 (Niello) Unclaimed property.** This bill would have provided that when an owner of an account or other intangible property had not received a tax report or regular statement of the account or intangible property for a period of three years, the account or other intangible property would be deemed inactive and would escheat to the state. The

bill also would have created a presumption that a tax report or regular statement of an account or other intangible property that was mailed first class to the owner of the account or intangible property by the holder of the property and that was not returned was received by the owner of the property. Status: Failed, SenJud.

**SB 1319 (Machado) Unclaimed property: escheat.** This bill would have amended existing law that governs the disposition of unclaimed property, including the escheat of specified property to the state. Specifically, this bill required, with respect to certain unclaimed property, that the holder of the property notify the owner between six and 12 months before the property becomes reportable to the Controller. This bill also imposed specified requirements regarding the content of the notice and allowed the holder to provide additional notices regarding escheat. Status: Vetoed.

### **Real Property**

**AB 980 (Calderon) Real property: transfer fees.** This bill requires, except as specified, that any fee payment requirement imposed by a covenant, restriction, or condition contained in any deed, contract, security instrument, or other document affecting the transfer or sale of, or any interest in, real property obligating the transferor or transferee to pay a fee upon transfer of the real property be recorded against the property in a separate document entitled "Payment of Transfer Fee Required," and provides that if a property being transferred on or after January 1, 2008 is subject to a transfer fee, as defined, the transferor shall provide at the same time as the transfer disclosure statement required pursuant to Civil Code Section 1102.6 is provided an additional disclosure statement. Status: Chapter 689, 2007.

**AB 987 (Jones) Redevelopment: affordability covenants.** This bill requires a redevelopment agency to make certain changes as to the monitoring and recording of affordability covenants and gives persons directly affected by a breach standing to enforce affordability covenants. Status: Chapter 690, 2007.

**AB 1131 (Jeffries) Joint powers agreements: joint powers agencies: powers.** This bill would have: (1) required the agreement for a joint powers agency (JPA) that is authorized to levy a general or special tax, exercise eminent domain, or make a change to, or enact a regulation restricting land uses, to require that at least one member of the joint powers agency directly represent any affected landowner, prior to any of the above listed actions taking place; (2) stated that a member of the JPA directly represents an affected landowner if that member is an elected official representing the specific land that will be affected by the levy, eminent domain proceedings, a change to permissible land uses, or enactment of a regulation of land uses, including persons already serving on the joint powers agency, persons elected to a city council, or county board of supervisors, or other government agency representing the affected land, or a person elected for the purposes of representing the interests of the affected landowners; (3) stated that failure by the JPA to comply with these requirements prior to the levy of any general or special tax, the commencement of eminent domain proceedings, a change to permissible land uses, or

enactment of a regulation of land uses, shall result in the invalidation of any action taken by the agency. Status: Dead, AsmLGov.

**AB 1161 (Tran) Eminent domain.** This bill would have required the Department of Transportation, upon acquiring property through eminent domain, to designate the particular project for which the property is being acquired, and would require the department to use the property for that purpose within 7 years, plus an extension of an additional 5 years, if obtained, or to otherwise sell the property, as specified. The bill would require the department to first the property for sale to the original owner, or his or her descendants, as applicable, at the original purchase price paid by the department or the current market price, whichever is less. Status: Dead, AsmApprops.

**AB 1356 (Houston) Real property: equity purchasers.** This bill would have permitted a licensed representative of an "equity purchaser" to demonstrate financial responsibility by providing written proof to the parties to the contract that he or she has an unrestricted California Real Estate License and meets financial responsibility requirements in one of the following ways: (1) having professional liability coverage in an amount equal to at least twice the value of the subject property or \$1 million, whichever is less, and an unrestricted real estate license; or (2) having a surety bond in an amount equal to at least twice the value of the subject property. Status: Dead, SenJud.

**AB 1574 (Plescia) Private transfer fees.** When heard by this Committee, this bill regulated private transfer fees on real property. This bill was subsequently amended in the Senate to address an unrelated issue. Status: Vetoed.

**AB 1867 (Keene) Real estate appraisers.** This bill would have allowed public agencies to accept bids on a public contract for appraisal services from an appraiser who could have been a member of any appraisal organization affiliated with the (national) Appraisal Foundation, as specified, and allowed the appraiser to bring civil action for equitable relief against the public agency if they were not allowed to submit a proposal. This bill also specified that a public agency could award a contract for appraisal services based on appraiser qualifications. Status: Vetoed.

**AB 1921 (Saldana) Common interest developments.** This bill would have repealed the existing Davis-Stirling Act that regulates Common Interest Developments and replace it with a new re-organized statute that will bring all existing statutes, which are now scattered among three different Codes, into a comprehensive statutory scheme within a single Code. Status: Dead, SenT&H.

**AB 2020 (Fuentes) Residential property.** This bill, commencing July 1, 2009, and until July 1, 2014, increases the amount of presumptively proper liquidated damages in a contract to purchase a newly constructed attached condominium unit, as described, from three percent to six percent. This bill also provides for the annual adjustment of that minimum purchase price. Status: Chapter 665, 2008.

**AB 2204 (De La Torre) Real property: discriminatory restrictions.** The bill would have required the county recorder, under specified circumstances and for properties constructed prior to 1964, to obtain from the county counsel a determination as to whether a document contains an unlawful restriction, including but not limited to racially restrictive covenants that were once common in California. If the county counsel determines that a document contains an unlawful restrictive covenant, then this bill would require the county counsel to file a Restrictive Covenant Modification Form and attach a copy of the original document with the unlawful restrictive language stricken. The bill would require the county recorder to record any modification and send a notice to the legal owner of the property that a Restrictive Covenant Modification has been filed on the property. Status: Dead, SenApprops.

**AB 2259 (Mullin) Common interest developments.** This bill would have provided that an owner of a separate interest in a common interest development would not be subject to a provision in a governing document that prohibited the rental or leasing of their unit, unless that provision was effective prior to the date the owner acquired title. This bill also required an owner who wished to rent his or her unit to provide the homeowners' association with verification of the date of acquisition for the unit and with contact information for the tenant. Status: Vetoed.

**AB 2323 (Huff) Escrow agents.** This bill expands the Escrow Law to include federal summary criminal history information from the Federal Bureau of Investigation. This bill also authorizes Department of Justice to charge a fee sufficient to cover the costs of processing the request from the Department of Corporations, which would be paid by the applicant. Status: Chapter 262, 2008.

**AB 2454 (Emmerson) Real Estate: Recovery Account.** This bill increases the limit on the amount for which the Department of Real Estate Recovery Account may be liable for injuries caused by licensed realtors, and it deletes obsolete provisions relating to causes of action brought prior to January 1, 1980. Specifically, this bill provides that for causes of action which occurred on or after January 1, 1980, the liability of the Recovery Account shall not exceed \$20,000 for any one transaction and \$100,000 for any one licensee. It would provide that for any applications for payment from the Recovery Account filed on or after January 1, 2009, the liability of the Recovery Account shall not exceed \$50,000 for any one transaction and \$250,000 for any one licensee. Status: Chapter 279, 2008.

**AB 2479 (Hancock) Civil actions: earth movement.** This bill would have required the California Law Revision Commission (CLRC) to submit a report to the Legislature, on or before March 1, 2009, that generally discusses existing remedies, including under the laws of accretion, for a property owner whose property is affected, adversely or favorably, when the boundaries of land owned by the person has been disturbed by gradual earth movement. Status: Vetoed.

**AB 2683 (Houston) Title insurance: mechanic's liens.** This bill would have regulated the provision of title insurance policies for certain new residential property. Specifically,

it requires that in every sales contract for the purchase of real property on which is located a newly constructed residential structure or structures, the builder or developer shall provide the purchaser with an owner's policy of title insurance that includes coverage for loss and cost of defense by reason of the assertion of mechanics' liens for works of improvement commenced prior to transfer of the property to the purchaser. Status: Dead, AsmJud.

**AB 2738 (Jones) Construction defects.** This bill provides for and specifies the application of wrap-up insurance policies in the context of residential construction projects and their relationship to indemnification and defense obligations in residential construction projects. Status: Chapter 467, 2008.

**AB 2830 (Nakanishi) Wind energy.** This bill would have provided that covenants, restrictions, or conditions that effectively prohibited or restricted the installation or use of a wind energy system were void and unenforceable. This bill also would have provided that whenever approval was required for the installation or use of a wind energy system, the application for approval would have to be processed and approved by the appropriate approving entity in the same manner as an application for approval of an architectural modification to the property, and not be willfully avoided or delayed. Status: Dead, AsmHC&D.

**AB 2878 (Anderson, DeSaulnier, and Jones) Homestead exemptions.** This bill would have increased homestead exemptions and require the Judicial Council to determine, at three-year intervals, the amount by which the exemption should be increased and to report that amount the Legislature. Specifically, this bill would (1) increase the base exemption from \$50,000 to \$75,000; increases the exemption from \$75,000 to \$100,000 for a married couple who resides in the homestead; and increases the exemption from \$150,000 to \$175,000 if the judgment debtor or spouse is 65 years of age or older, disabled, or 55 years of age or older with a limited income; and (2) require the Judicial Council to determine on or before April 1, 2010, and at each three year interval thereafter, the amount by which the dollar amounts may be increased and submit this amount to the Legislature. Provides further that the proposed increases shall not take effect unless they are approved by the Legislature and requires the Judicial Council to publish a list of the current dollar amounts of those exemptions. Status: Vetoed.

**AB 2881 (Wolk) Nuisance: agricultural activity.** This bill requires that any person who intends to offer subdivided lands within California for sale or lease file with the Department of Real Estate (DRE) an application for a public report, consisting of, among other things, a statement regarding the property's location near designated farm or ranch land. This bill also requires an expert, when responding to a request regarding natural hazards, to also determine whether the residential property is located near designated farm or ranch land and to provide a specified notice to that effect. Status: Chapter 686, 2008.

**AB 2925 (Davis) Substandard buildings.** This bill would have required a person or entity that had an ownership interest in a property for which an enforcement agency had

recorded with the county recorder, on or after July 1, 2009, any of specified documents relating to substandard building violations to provide that enforcement agency with specified information and documents. This bill also would have authorized the enforcement agency to impose a fee in an amount sufficient to cover its costs for processing the submitted information. This bill would have imposed specified civil penalties for failure to comply with these reporting requirements. Status: Failed, SenT&H.

**AB 2949 (DeSaulnier) Abandoned pets.** This bill provides that an involuntary deposit of an animal is made by the abandonment or leaving of a live animal in or about any premises or real property that has been vacated, upon, or immediately preceding, the termination of a rental agreement or foreclosure of the property. This bill also requires any person or private entity with whom a live animal is left, as specified, to immediately notify animal control officials for the purpose of retrieving the animal. This bill authorizes animal control officers to secure a lien upon the animal for the purpose of recovering the costs of rescuing it. Status: Chapter 265, 2008.

**ACA 2 (Walters) Eminent Domain.** This bill would have placed before the voters of California a constitutional amendment that would prohibit, subject to certain exemptions, the use of eminent domain for purposes of economic development, increasing tax revenue, or private use. The measure would also make other changes relative to offers of just compensation and a property owner's right to repurchase if the property is not put to its stated use. Status: Failed, AsmJud.

**ACA 8 (De La Torre) Eminent Domain.** This bill would have placed before the voters a constitutional amendment that would prohibit or limit the use of eminent domain under certain circumstances, including when the property that the government seeks to require is an owner-occupied residence, a house of worship, or a small business. Status: Dead, AsmFloor.

**SB 127 (Kuehl) Property transfers: disclosures.** This bill would have required delivery of transfer disclosure statements relating to the sale of real property, manufactured homes and mobilehomes before transfer of title as soon as practical, but not later than 10 calendar days after the execution of the purchase agreement. Status: Vetoed.

**SB 433 (Harman) Homestead exemptions.** This bill extends the automatic homestead exemption to cases where the judgment debtor's separated or former spouse, but not the debtor himself or herself, resides in the homestead, until the entry of judgment or legally enforceable agreement dividing the community property. Status: Chapter 153, 2007.

**SB 698 (Torlakson) Eminent domain.** This bill clarifies that if a defendant's opposition to a pre-judgment order of possession asserts a hardship, that assertion must be supported by a declaration stating facts supporting the hardship, signed under penalty of perjury. This bill also requires a public entity exercising the power of eminent domain, at the time

of sending an offer to purchase, to provide the property owner with an informational pamphlet outlining the process and their rights. Status: Chapter 436, 2007.

**SB 702 (Torlakson) Liquidated damages: new residential condominiums.** This bill would have (1) increased from 3% to 5% the presumptively valid amount of liquidated damages that may be assessed against a buyer for defaulting on an agreement to purchase a newly-constructed attached residential condominium in a building of 10 units or more if the buyer has signed two or more presale contracts within 90 days in the same metropolitan area; (2) prohibited a seller from disclosing information regarding presale contracts except pursuant to court order; (3) provided that a real property sales contract for the purposes of installment land sales contract law does not include a real estate sales contract for purchase of an attached residential condominium unit entered into pursuant to a final subdivision public report issued by the Department of Real Estate (DRE), if the real estate sales contract requires conveyance of title to occur not less than two years after the date of formation of the contract; and (4) provided that the DRE shall conduct a study of the operation and effectiveness of the act and report to the Legislature prior to this bill's sunset date of January, 2012. Status: Dead, AsmInactive.

**SB 1287 (Hollingsworth) Local government: records.** This bill authorizes the Riverside County Board of Supervisors to adopt a resolution which permits the County Recorder of Riverside County to notify a party of the execution of an instrument affecting their interest in real property. Status: Chapter 117, 2008.

**SB 1396 (Cox) Local government: recording fees.** This bill increases, from \$2 to \$3, the maximum additional recording fee that counties can impose on real estate instruments for payment into the Real Estate Fraud Protection Trust Fund. This bill adds three documents to the list of real estate instruments that are subject to an additional fee: a substitution of trustee, a notice of trustee sale, and a notice of rescission of declaration of default. This bill also makes revisions to the annual legislative report that a district attorney must file with the county board of supervisors and the Legislative Analyst's Office. Status: Chapter 405, 2008.

**SB 1449 (Calderon) Works of improvement: liens.** This bill would have required each person entitled to a mechanics lien in an amount greater than \$400 on a work improvement, to prepare a list of other persons with whom that person has contracted to provide labor or materials on the project who would therefore also be eligible to file a mechanic's lien. This bill also required any person who was required to prepare a list to deliver an addendum to that list within 14 days after entering into a new contract with an additional person entitled to a mechanic's lien. Status: Dead, AsmJud.

**SB 1452 (Correa) Manufactured housing: civil penalties.** This bill allows the Department of Housing and Community Development (HCD) to refuse to issue a manufactured housing occupational license to an applicant who is liable in a civil court action for any act or conduct that involved moral turpitude and was substantially related to the qualifications, functions, or duties of the licensed activity. This bill also adds the failure by HCD-certified, third-party inspectors to perform their legal duties to the list of



violations for which HCD may assess an additional civil penalty payable to HCD against a manufactured housing occupational licensee. This bill allows, under the Factory Built Housing Law, HCD to assess a civil penalty payable to HCD for specified violations. Status: Chapter 750, 2008.

**SB 1691 (Lowenthal) Mechanics liens.** The California Constitution grants laborers and materials suppliers a mechanic's lien on any property improved by their labor or material. The mechanic's lien law in the Civil Code generally specifies the obligations, rights, and remedies of those involved in a construction project. This omnibus bill would have reorganized and restated statutory mechanics lien law in order to improve its clarity and usability. This omnibus bill modernized terminology and made it more uniform, eliminated inconsistencies throughout the statute, divided longer provisions into shorter and more readable provisions, and organized all provisions in a functionally coherent order. The reorganization and restatement was primarily non-substantive. Status: Vetoed.

### **Rental Property**

**AB 285 (Garcia) Mobilehomes: rent control.** This bill would have: (1) changed the exemption from rent control for mobilehomes that are the "principle residence" of a mobilehome owner to mobilehomes which are the "sole residence" owned by a homeowner; (2) deleted the exemption from a local rent control ordinance provided if a homeowner has not rented their mobilehome to another party; (3) deleted the requirement that park management provide a homeowner with the documents relied upon to establish the mobilehome is not the homeowner's principle residence or that their principle residence is out of state before altering the rent and replaces it with a requirement that the management provide the homeowner with a "notice of all evidence" that the mobilehome is not the owners sole residence; (4) deleted the provision that provides the rent control exemption does not apply when a mobilehome owner is prevented from renting their mobilehome because the park management does not permit or limits subleasing the park space; and (5) provided the rent control exemption does not apply if the mobilehome is the principal residence of a homeowner and it is subleased because a homeowner is receiving emergency or medical treatment and is absent from their home or the home is leased under other specified provisions. Status: Failed, AsmH&CD.

**AB 410 (Adams) Termination of tenancy: unclaimed property.** This bill would have increased the minimum value of a former tenant's unclaimed personal property that a landlord must offer at a public sale rather than keeping the property for his or her own use or disposing of it. This bill would have increased the threshold value, from \$300 to \$650, of a former tenant's unclaimed personal property that a landlord may retain for his or her own use or dispose of in any manner rather than having to hold a public sale for it. Status: Failed, SenJud.

**AB 1013 (Krekorian) Weapons and ammunitions: nuisance abatement.** This bill creates pilot programs in specified cities to permit specified weapons related conduct to form the basis of an unlawful detainer action brought in the name of the people. It

provides that a person who commits a specified offense having a weapons or ammunition purpose or who uses the premises to further that purpose shall be deemed to have committed a nuisance upon the premises that is a ground for unlawful detainer. This bill also authorizes a city prosecutor or city attorney in specified California cities (i.e., Los Angeles, Long Beach, San Diego, Oakland, and Sacramento) to file, in the name of the people, an action for unlawful detainer against any person who is in violation of the proposed nuisance or illegal purpose provisions with respect to an unlawful weapons or ammunition purpose as defined. Status: Chapter 456, 2007.

**AB 1234 (Wolk) Real property: furnaces.** This bill would have established that a dwelling unit containing a floor furnace after January 1, 2014, be deemed untenable. This bill would have required the PUC to establish a new program, to run from July 1, 2008 to December 31, 2013, to replace gas floor furnaces in residential dwelling units occupied by customers who were eligible for the electrical corporations' and gas corporations' low-income energy efficiency programs. Status: Dead, AsmApprops.

**AB 1309 (Calderon) Mobilehomes: rent control.** This bill would have established vacancy decontrol for mobilehomes sold in mobilehome parks in jurisdictions with local rent control ordinances. The bill provides that after the initial rent is set pursuant to these provisions, an increase in the rent shall be subject to any rent increase regulations adopted by the local agency with jurisdiction over the mobilehome park. Status: Dead, AsmInactive.

**AB 1333 (Hancock) Utility charges: foreclosures.** This bill would have provided that the legal owner of real property must pay the utilities provided to a property or its tenants following a foreclosure under specified circumstances. This bill specifically allowed a municipal utility district to place a lien on a property for delinquent fees or charges for the furnishing of water or sewer service to residential property, as specified. Status: Vetoed.

**AB 2025 (Silva) Commercial real property: termination of tenancies.** This bill provides for the disposition of personal property remaining on the premises of commercial real property at the termination of a tenancy. The bill also generally provides that, in the case of a tenancy of commercial real property, if the landlord reasonably believes that the total value of the personal property is the lesser of \$750 or \$1 per square foot of the premises occupied by the tenant, the landlord may retain the property for his or her own use or dispose of it in any manner. Status: Chapter 161, 2008.

**AB 2052 (Lieu) Residential tenancies: domestic violence.** The bill provides that a tenant, who is a victim of domestic violence, sexual assault, or stalking, may terminate a rental agreement and be discharged from payment due, if specified conditions are met. The bill also clarifies that, for purposes of the law of unlawful detainer, if a person commits domestic violence, sexual assault, or stalking against another tenant, then there is a rebuttable presumption affecting the burden of proof that the person has committed a nuisance on the premises; however this provision shall not apply if the victim or a

member of the victim's household (other than the perpetrator) has not vacated the premises. Status: Chapter 440, 2008.

**AB 2363 (Ma and Adams) Residential tenancies: registered sex offenders.** This bill would have required the Sex Offender Management Board (Board) to conduct an assessment of: (1) the availability of rental housing for registered sex offenders, and (2) the effect on public safety of making registration or any information disclosed on a sex offender Web site a basis upon which to refuse to rent to, or terminate the residential tenancy of, a registered sex offender. The bill requires the Board to submit a summary of its findings to the Legislature and the Governor on or before January 1, 2010. Status: Dead, SenApprops.

**AB 2586 (Torrico) Residential tenancies: foreclosures.** This bill would have provided a number of protections for tenants who face an eviction or other adverse action as a result of a foreclosure. Specifically, this bill would (1) define landlord, for specified situations, to include successors in interest to the landlord's property, including any interest acquired pursuant to foreclosure; (2) revise various protections afforded to tenants under existing law, including disclosure requirements, provisions relating to the return of security deposits, and prohibitions against changing locks, cutting off utilities, or blocking access to premises, so that lenders or other successors in interest must honor these protections after a foreclosure sale; (3) authorize a tenant or occupant who has made a payment to a public utility to deduct the amount of the payment from the rent due; and (4) require that whenever a public utility, or a corporation that furnishes electrical, gas, heat, or water residential units, as specified, and where the owner, manager, or operator of the residential units is listed by the corporation as the customer of record, the public utility or corporation would be required to provide written notification to the residential occupants at least 15 days prior to termination. Status: Vetoes.

**SB 706 (Runner) Civil action: unlawful detainer.** This bill adds the City of Palmdale to a limited pilot project that allows city prosecutors or city attorneys to file unlawful detainer actions to evict drug dealers and users from a rental property, while allowing a law-abiding tenant to remain under a "partial eviction." It also modifies the current law to allow the action to be filed only when it is based upon an arrest report, or on another action or report, by a law enforcement agency. Status: Chapter 95, 2007.

**SB 1598 (Padilla) Tenancies: prohibition of smoking tobacco products.** This bill would have clarified the right of landlords to impose no-smoking policies in residential rental units, a right that landlords have always been assumed to possess but about which existing statutes are silent. This bill would also add new proposed statutory limitations that protect existing smokers and generally exempt rent control units. Status: Dead, AsmJud.

## MISCELLANEOUS

**AB 233 (Jones) Children's Breathing Rights Act.** As referred to this Committee, this bill enacted the Children's Breathing Rights Act and increased penalties for violations of

air pollution laws. The bill was subsequently amended to require the Air Resources Board (ARB) to develop a strategic plan for consistent, comprehensive, and fair enforcement of ARB's diesel emission control regulations, increase the minimum civil penalty, from \$100 to \$300, for a violation of ARB's idling restriction on diesel-fueled commercial motor vehicles, and prohibit the Department of Motor Vehicles from registering or renewing the registration of a commercial vehicle, if the owner or operator has been found in violation of air pollution control laws and regulations, until the violation has been cleared by ARB. Status: Chapter 592, 2008.

**AB 299 (Tran) Annual Legislative Counsel "maintenance of the codes" bill.** This bill makes various grammatical and other technical changes suggested by Legislative Counsel in order to correct non-substantive errors that exist in the original bill text. Status: Chapter 130, 2007.

**AB 310 (Silva) Maintenance of the codes: CLRC.** This bill makes non-substantive changes to the codes by recommendation of the California Law Review Commission (CLRC). This bill makes various grammatical and other non-substantive changes in order to correct technical defects that exist in various statutory provisions. Status: Chapter 263, 2007.

**AB 349 (Salas) Recorded instruments: translation certificates.** This bill provides that a translation in English of an instrument executed or certified in whole or in part in any language other than English may be presented to the county clerk for verification that the translation was performed by a certified or registered court interpreter or by an accredited translator registered with the American Translators Association. The bill authorizes the county clerk to charge a fee of \$10 for verification and certification of each document. Status: Chapter 231, 2007.

**AB 624 (Coto) Foundations: diversity.** This bill would have required private, corporate or public operating foundations with assets over \$250 million to collect race and gender related data related to their governance structure and domestic grantmaking and to post this information on their websites. Status: Dead, SenBP&ED.

**AB 679 (Benoit) Illegal dumping: assessments.** This bill provides that in any case in which a defendant is convicted of Penal Code Sections 372, 373a, 374.3, 374.4, 374.7 or 374.8 the court shall order the defendant to pay a fine of \$100, if the conviction is for an infraction and \$200 if the conviction is for a misdemeanor, in addition to any other penalty or fine imposed. If the court determines that the defendant has the ability to pay all or part of the fine, the court shall set the amount to be paid and order the defendant to pay that sum to the city or, if not within a city, the county, where the violation occurred, to be used for the city's or county's illegal dumping enforcement program. The bill specifies that notwithstanding any other provision of law, no state or county penalty, assessment, fee, or surcharge shall be imposed on the fine ordered under the bill. Status: Chapter 394, 2007.

**AB 886 (Runner) Notaries.** This bill (1) makes notaries public subject to a civil penalty not exceeding \$2,500 for failing to obtain the thumbprint of a party signing a document where the document to be notarized is a deed, quitclaim deed, deed of trust affecting real property, or a power of attorney document, (2) requires notaries public, prior to executing a document, to determine by satisfactory evidence only, that the person acknowledging the instrument is the individual who is described in, and who signed, the instrument, and to certify the document under penalty of perjury and (3) requires notaries public to surrender their journal of notarial acts to a peace officer investigating a criminal offense who has reasonable suspicion to believe the journal contains evidence, and allows the peace officer to seize the journal upon probable cause, and makes a notary subject to a civil penalty not exceeding \$2,500 for refusing or failing to surrender their journal when requested by a peace officer. Status: Chapter 399, 2007.

**AB 1021 (Galgiani) Apple pests.** This bill would have established a committee of the California Apple Commission (the commission) with enumerated powers and duties for the purpose of recommending to the Secretary of Food and Agriculture (the Secretary) the adoption of regulations to prevent the introduction and spread of designated apple destroying pests and diseases in California. Specifically, this bill requires the Secretary to appoint a ten-member committee and provides that the committee shall designate pests and diseases known to pose a threat to the California apple industry, public health and safety, or the environment; designate regions that contain designated pests or diseases; and remove such designations whenever appropriate. Also this bill provides that the committee shall make regulatory recommendations to the Secretary regarding the handling of apples from designated areas. Status: Vetoed.

**AB 1098 (Saldana) Hazardous materials: administrative: penalties.** Requires the Secretary for Environmental Protection to adopt regulations and implement the Unified Hazardous Waste and Hazardous Materials Management Regulatory Program. A city or local agency that meets specified requirements can be authorized to assume enforcement duties of the program as a Certified Unified Program Agency (CUPA). Under the CUPA program, current law authorizes local city and county agencies to unify the administration and enforcement of six environmental programs: the hazardous waste, above-ground and underground storage tank, hazardous materials inventory, extremely hazardous materials accidental release, and hazardous materials/fire code programs. This bill further provides an administrative order/administrative penalty program to enforce the corrective action order provisions of the hazardous materials/waste laws. Status: Chapter 623, 2007.

**AB 1393 (Leno) Public records.** This bill would have required, by July 1, 2009, any state agency that publishes an Internet Web site to include on its homepage specified information that is not exempt from disclosure under the California Public Records Act (CPRA), about how to contact the agency, how to request records under the CPRA, and a form for submitting requests for records online, as described. This bill would have specified additional Web site flags that would have been required to be prominently displayed, and linked to specified information. This bill required the Department of Justice to convene an advisory body to consider and make recommendations for a statutory standard governing the posting of requests and denials, and public documents

not exempt under the CPRA, on the Internet Web sites of state agencies, and report its findings and recommendations to the Governor and Legislature by January 1, 2009.  
Status: Vetoed.

**AB 1408 (Villines) Affidavits of registration: cancellation.** This bill would have required the superior court clerk, 32 days before every statewide election, to provide the county elections official with a statement showing information on persons who have been convicted of felonies and requires the elections official to cancel those individuals' names from the voter rolls. Status: Failed, AsmJud.

**AB 1548 (Solorio) Transparency in college textbook publishing.** This bill establishes the College Textbook Transparency Act requiring publishers and bookstores offering textbooks for sale to public colleges and universities to disclose specified information and requiring faculty and other employees of public higher education to follow specified practices in the adoption and purchase of textbooks. Status: Chapter 574, 2007.

**AB 1617 (DeSaulnier) Tobacco products.** This bill would have prohibited transportation of cigarettes to persons in California except when such shipments are made either to an entity that is licensed by the Board of Equalization (BOE) for tobacco transactions or to certain other specified entities, and broadens the definition of bidis, a prohibited tobacco product. Status: Vetoed.

**AB 1818 (Fuentes) Housing: veterans.** This bill would have allowed sponsors of permanent supportive housing projects funded under the Multifamily Housing Program to restrict occupancy to veterans who had barriers to social reintegration. Status: Dead, SenInactive.

**AB 2299 (Silva) California Law Review Commission: code maintenance.** This bill would have made numerous technical changes in the California Codes that were recommended by the California Law Revision Commission. The changes proposed technical and minor substantive revisions to generalize and modernize existing statutory references to audio or video recording. Status: Vetoed.

**AB 2592 (Ma) Locksmiths.** This bill makes various changes to the statutes governing the licensure and regulation of locksmiths, and revises and recasts the provisions relating to unlicensed activity relating to the locksmith business. Among these changes, this bill prohibits the issuance of licenses to persons convicted of unlicensed locksmith activity for a period of one year, as specified, and prohibits a locksmith from duplicating a key when a key is stamped, imprinted, marked, or incised with the wording "Do Not Duplicate" or "Unlawful to Duplicate." Status: Chapter 679, 2008.

**AB 2610 (Davis) Unattended donation boxes.** This bill would have provided that a local jurisdiction could implement a permitting process for unattended collection boxes, as specified. This bill also provided that a local jurisdiction could prohibit a person or entity from placing, using, or employing a collection box for solicitation purposes. This bill provided that the local jurisdiction could impose an annual fee for any permit issued

not to exceed the estimated reasonable cost of administering the permit program. Status: Vetoed.

**AB 2695 (Niello) Solid waste facilities.** This bill would have amended the Integrated Waste Management Act of 1989 by making additional definitions; providing that the act did not limit the power of a city, county or district to impose and enforce any conditions or restrictions on, or abate the effects of, illegal dumping or any other disposal or abandonment of solid waste at a location that violated a local ordinance or regulation, as specified; expanding what could be included in inspection programs for illegal dumping to include public awareness activities and abatement; and authorizing the application of administrative and civil penalties to injunctive relief to enforce, and civil penalties imposed for violations of, specified provisions relating to garbage and refuse disposal. Status: Dead, SenApprops.

**ACR 35 (Evans) California Law Revision Commission: studies.** This resolution authorizes the California Law Revision Commission (CLRC) to study specific topics and requires that before commencing work on any project within the list of topics authorized for study by the Legislature, CLRC shall submit a detailed description of the scope of work to the Chairs and Vice Chairs of the Committees on Judiciary of the Senate and Assembly, and if during the course of the project there is a major change to the scope of work, submit a description of the change. Status: Resolution Chapter 100, 2007.

**AJR 2 (Dymally) Filipino: benefits.** This bill provides several historical statistics reflecting Filipino contributions during World War II (WWII). This bill states that America has failed to meet promises made to those Filipino soldiers who fought as American soldiers during WWII. This bill states that Congress, in 1946, passed legislation which precluded Filipino veterans from receiving benefits available. This bill memorializes the President and Congress to favorably consider legislation granting full benefits to Filipino veterans of the U.S. Armed Forces. Status: Resolution Chapter 122, 2007.

**SB 783 (Torlakson) Amusement Rides Safety Law.** This bill extends to temporary amusement rides provisions of the permanent amusement ride requirements currently in law. Status: Chapter 478, 2008.

**SB 850 (Maldonado) Certificates of still birth.** This bill requires the local county registrar to issue a certificate in the case of a fetal death, for fetuses beyond the 20th week of gestation, upon request of the mother or father of the fetus, regardless of the date the fetal death certificate was issued, as specified. This bill requires the certificate to be on a form prescribed by the State Registrar of Vital Statistics (State Registrar) in Department of Public Health, to comply with the format requirements for a certificate of live birth and to contain only specified information taken from the fetal death certificate. This bill prohibits the State Registrar from using the information included on a certificate for any governmental purpose other than to respond to the request for the certificate. Status: Chapter 661, 2007.

**SB 1329 (Harman) Charitable institutions: fund management.** This bill repeals the Uniform Management of Institutional Funds Act (UMIFA) and enacts the Uniform Prudent Management of Institutional Funds Act (UPMIFA), which revises and reenacts the provisions contained in UMIFA. Among other things, the bill requires an institution, when managing and investing an institutional fund, to consider the charitable purposes, as defined, of the institution and the purposes of the fund, to act in good faith and with the care of an ordinarily prudent person, to incur only reasonable and appropriate costs, and to take specified factors into consideration. Status: Chapter 715, 2008.

**SB 1498 (Judiciary) Code Maintenance.** This bill makes numerous technical changes in the California codes that have been recommended by the Office of the Legislative Counsel. The proposed changes do not make any substantive change in the law. Status: Chapter 179, 2008.

**SB 1582 (Simitian) Ocean Resources: ocean rangers.** As heard by this Committee, this bill required that, until January 1, 2015, large passenger vessels operating within the marine waters of the state must have on board an ocean ranger, as defined, in order to monitor compliance with laws relating to waste discharge and to assist in criminal investigations. In order to implement this requirement, the bill also made several other changes to existing law, including, among other things, the enactment of a long-arm statute and a requirement that the Attorney General enter into memoranda of understanding with appropriate state or foreign jurisdictions. Status: Dead, AsmPubS.