

2002

2001-2002 Bill Summary

Assembly Committee on Judiciary

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GOLDEN GATE UNIVERSITY

ASSEMBLY COMMITTEE ON JUDICIARY

2001 - 2002 BILL SUMMARY

*A Comprehensive
Breakdown of Legislation
Considered by the Committee in 2001 - 2002*

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TOM HARMAN
Vice-Chair

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Assembly California Legislature



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January 2003

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The counsel and staff of the Assembly Judiciary Committee have prepared this summary of the bills that were considered by the Committee in the 2001-2002 for your information. As in past years, the Committee was responsible for one of the largest and most complex bill loads in the Legislature, and the past session of the Legislature was productive on several policy fronts. Following is a brief summary containing some of the key areas where important progress was made. More specific descriptions of the bills can be found in this annual report.

Personal Privacy. *The Committee addressed the ever-increasing threats to the privacy rights of Californians, considering several bills to increase consumers' ability to protect their private financial information. In addition, the Committee passed legislation to protect consumers from the crime of identity theft, providing new safeguards and improved procedures for repairing the damage caused by this crime.*

Civil Rights and Discrimination. *The Committee continued its efforts to protect the civil rights of Californians and to eliminate illegal discrimination. The Committee passed legislation conferring important new rights on domestic partners. It affirmed the state's commitment to continued enforcement of the Americans with Disabilities Act (ADA) and passed legislation to ensure that the state itself can be held to the standards of the ADA. The Committee also affirmed California's commitment to upholding the reproductive rights of women.*

Secret Settlements. *Last session, the Committee took on the issue of secrecy agreements in litigation that threaten public safety by keeping critical information on product defects or other threats out of the hands of the public. Ensuring that critical information reaches the public in order to prevent further harm, without unduly impinging on a company's right to keep competitively sensitive information confidential, was one of the most difficult challenges the Committee addressed.*

Construction Defects. *The Committee approved landmark measures to provide redress for homeowners harmed by construction defects and toxic mold. It also approved important reforms to allow renters who face eviction more reasonable time to find a new place to live.*

Family Law and Domestic Violence. *Last session the Committee considered a measure to protect divorcing spouses from losing spousal support under the provisions of an unfair premarital agreement, and a measure to protect victims of domestic violence from having to pay spousal support to their abusers. The Committee also passed a measure*



giving more complete information to courts considering whether to issue domestic violence protective orders. Further the Committee passed a bill which assisted families who are adopting children by making adoptions final more quickly.

Attorneys. The Committee took up measures last session to require that the State Bar create a diversion program for the treatment of attorneys impaired due to mental illness or alcohol or drug abuse. The committee also sought to hold attorneys who contract with the State to the ethical standards of the profession by asking that such attorneys participate in providing pro bono legal services for those who cannot afford legal help.

The following annual report contains helpful statistical data regarding the disposition of the bills assigned to the Committee in 2001 and 2002 as well as summaries of these bills. I hope you'll find this information useful.

Sincerely,

A handwritten signature in black ink that reads "Ellen M. Corbett". The signature is written in a cursive style with a large, stylized "E" and "C".

*Ellen M. Corbett
Chair*

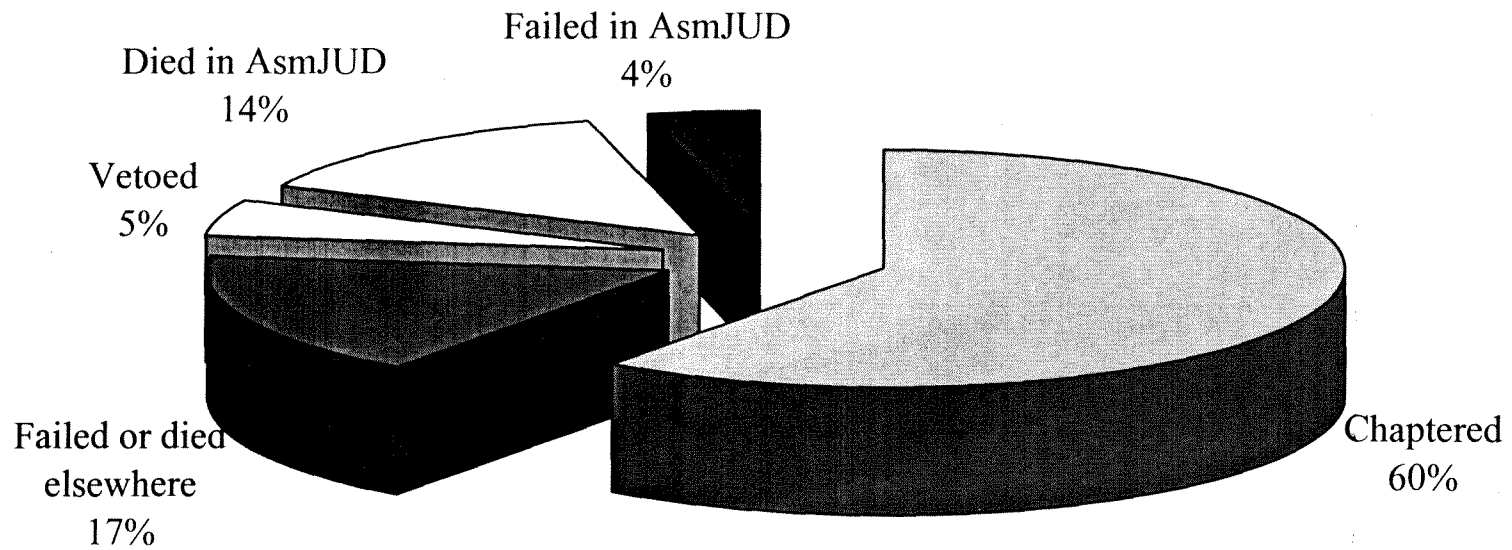
TABLE OF CONTENTS

	Page #
I. CHARTS SUMMARIZING CATEGORIES AND DISPOSITION OF BILLS	ii
II. INDEX OF BILLS IN THE 2001-2002 SESSION	1
III. BILL SUMMARIES	14

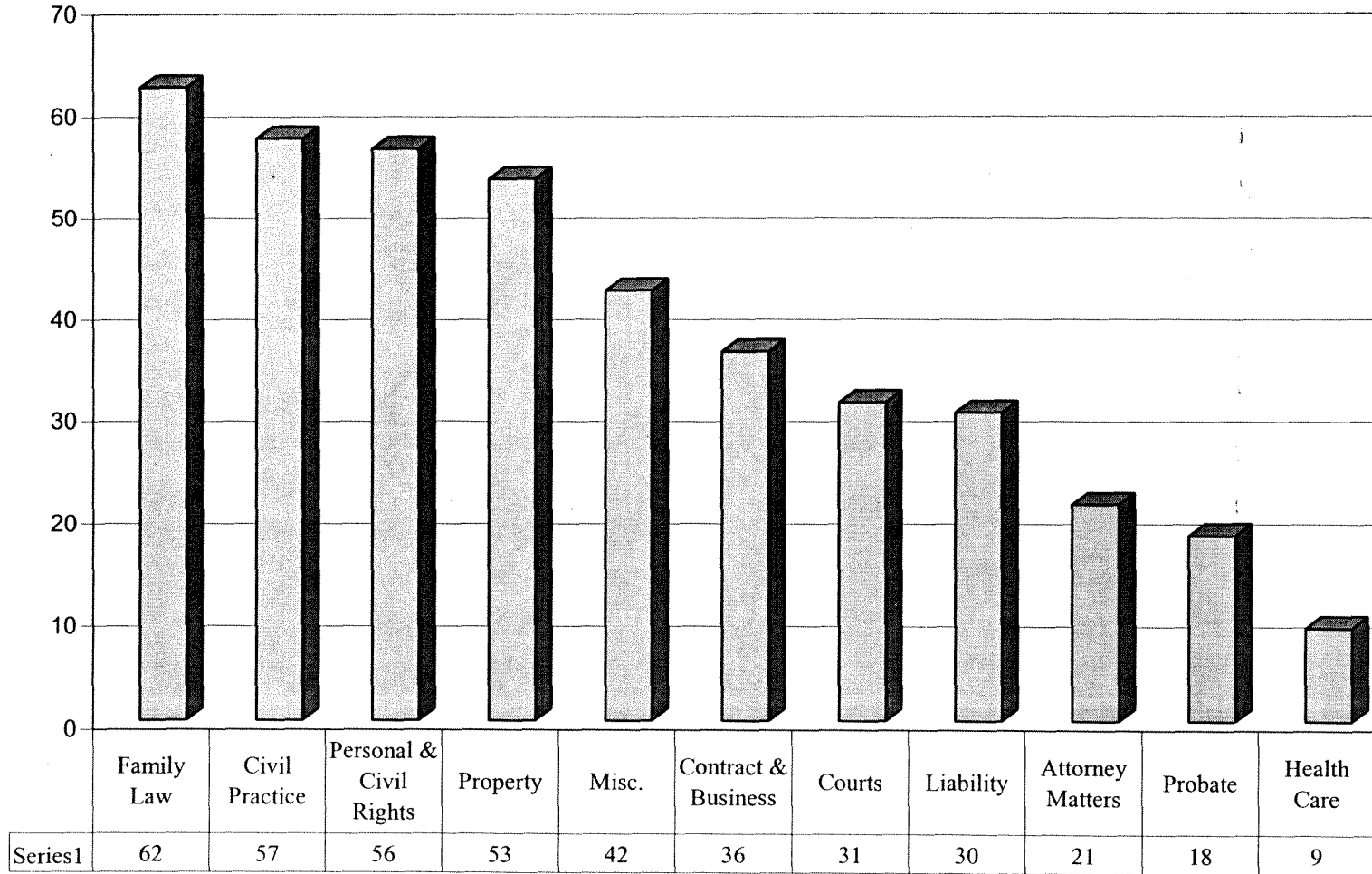
***DISPOSITION OF BILLS
ASSIGNED TO THE COMMITTEE IN 2001-2002***

ASSIGNED	Assembly: 280 Senate: 134 Total: 414	
CHAPTERED	Assembly: 145 Senate: 102 Total: 247	60%
VETOED	Assembly: 17 Senate: 2 Total: 19	5%
DIED IN AsmJUD	Assembly: 51 Senate: 8 Total: 59	14%
FAILED IN AsmJUD	Assembly: 13 Senate: 2 Total: 15	4%
FAILED OR DIED ELSEWHERE	Assembly: 54 Senate: 17 Total: 71	17%

***DISPOSITION OF BILLS ASSIGNED TO THE ASSEMBLY
JUDICIARY COMMITTEE IN 2001-2002***



***TYPES OF BILLS ASSIGNED TO THE ASSEMBLY
JUDICIARY COMMITTEE IN 2001-2002***



2001-2002 INDEX OF BILLS BY SUBJECT MATTER

Page #

ATTORNEYS AND RELATED MATTERS

Attorneys and Related Services

AB 146	(Wayne) State attorneys and administrative law judges.	15
AB 363	(Steinberg) Whistleblower protections.	15
AB 752	(Briggs) Legal advertising: construction defect attorneys.	15
AB 779	(Romero) Attorneys.	15
AB 913	(Steinberg) Pro bono.	16
AB 1083	(Bates) Paralegals.	16
AB 1703	(Steinberg) Attorneys: pro bono services.	16
AB 1999	(Correa) Immigration consultants: civil penalties.	16
AB 2517	(Chan) Estate planning services.	16
AB 2756	(Canciamilla) Paralegals.	16
AB 2914	(Wiggins) Attorneys: bankruptcy.	17
AB 2939	(Pescetti) Attorneys: contingent fee agreements.	17
SB 479	(Burton) Chemical dependency assistance program.	17
SB 1194	(Romero) Attorneys: unauthorized practice of law.	17
SB 1459	(Romero) Unauthorized practice of law.	18

Attorney's Fees

AB 456	(John Campbell) Class actions: restrictions on attorney's fees.	18
AB 1504	(Robert Pacheco) Attorney's fees: early demand.	18
SB 691	(McPherson) Attorney's fees: mobilehome parks.	19

State Bar

SB 352	(Kuehl) State Bar dues authorization.	19
SB 817	(Johnson) State Bar.	19
SB 1897	(Kuehl) State Bar of California.	19

CIVIL PRACTICE AND PROCEDURE

Arbitration and Mediation

AB 1067	(Jackson) Arbitrator's awards.	21
AB 1699	(Judiciary) Voluntary alternative dispute resolution.	21

AB 2504	(Jackson) Private judging companies: recruitment of public judges.	21
AB 2574	(Harman) Private judging companies: financial conflicts of interest.	21
AB 2656	(Corbett) Private judging companies: repeat player information.	21
AB 2915	(Wayne) Private judging companies: fees.	21
AB 3029	(Steinberg) Private judging companies: ethics.	21
AB 3030	(Corbett) Private judging companies: penalties for ethical violations.	22
SB 174	(Kuehl) Mediation proceedings.	22
SB 475	(Escutia) Arbitrator and referees.	22
SB 1538	(Burton) Employment arbitration.	22
SB 1707	(Escutia) Arbitrator ethics.	22

Civil Procedure

AB 222	(Wiggins) False Claims Act: notice to Attorney General of appeals in "qui tam" actions.	22
AB 268	(Wayne) Structured settlements: clean-up.	23
AB 732	(Wayne) Civil procedure: settlement offers.	23
AB 754	(Mountjoy) False claims actions.	23
AB 1181	(Calderon) Insurance: unfair practices.	23
AB 1702	(Judiciary) Civil procedure.	23
AB 2291	(John Campbell) Class action litigation.	23
AB 2493	(Robert Pacheco) Service of process.	24
AB 2524	(Goldberg) Notice of appeal in civil rights actions.	24
AB 2713	(Cox) Malpractice actions: design professionals.	24
AB 2835	(Longville) Liens: county hospitals.	24
AB 2865	(Koretz) Appeals.	24
AB 2961	(Wayne) Summary adjudication.	24
SB 158	(Haynes) Attorney's fees: settlement offers.	24
SB 476	(Escutia) Summary judgment.	25
SB 562	(Morrow) Limited and unlimited civil actions.	25
SB 688	(Escutia) Civil procedure.	25
SB 692	(Escutia) Summary judgment: burden of proof.	25
SB 708	(Speier) Insurance.	26
SB 789	(Kuehl) Anti-SLAPP motions.	26
SB 1218	(Romero) Class actions: unpaid residuals.	26
SB 1322	(Ackerman) Execution of writs.	26
SB 1325	(Kuehl) Personal jurisdiction: general appearance.	26
SB 1651	(Kuehl) Anti-SLAPP motions.	26
SB 1949	(Soto) Water boards: public participation.	27
SB 2009	(Morrow) Civil litigation sanctions.	27

Discovery

AB 36	(Steinberg) Secret settlements.	27
AB 421	(Wayne) Depositions: videographic recording.	27

AB 881	(Simitian) Secret settlements.	27
AB 1260	(Wayne) Discovery: misuses of the process.	27
AB 1767	(Papan) Discovery.	28
AB 1981	(Simitian) Secret settlements.	28
AB 2842	(Harman) Depositions.	28
SB 11	(Escutia) Secret settlements.	28

Evidence

AB 223	(Frommer) Depositions: forms: discovery.	28
AB 1727	(Insurance) Insurance Commissioner: confidential information.	29
AB 1962	(Hollingsworth) Electronic communications.	29
AB 2033	(Robert Pacheco) Secondary evidence.	29
AB 2280	(La Suer) Testimony: hypnosis.	29
AB 2443	(La Suer) Public safety officer-peer counselor privilege.	29
AB 2470	(Jackson) Minors: statements.	29
AB 2723	(Washington) Evidence: expressions of sympathy.	29
AB 2990	(Labor & Employment) Retaliation presumption.	30
SB 716	(Machado) Psychotherapist privilege.	30
SB 2061	(Morrow) Privileged communications.	30

CONTRACTS, BUSINESS AND COMMERCIAL MATTERS

Business

AB 1704	(Judiciary) Federal bankruptcy: applicable exemptions.	32
AB 2412	(Diaz) Enforcement of employees' access to payroll records.	32
AB 2732	(Washington) Automatic checkout systems.	32
SB 110	(Dunn) Proprietary information.	32
SB 1814	(Dunn) Antitrust.	32
SB 1872	(Bowen) Vendors: refund and return policies.	32

Contracts

AB 256	(Wayne) Consumer contracts.	33
AB 491	(Frommer) Rental vehicles: collision damage waivers; contracts.	33
AB 543	(Vargas) Mechanic's liens.	33
AB 568	(Dutra) Mechanic's liens.	33
AB 623	(Runner) Consumer warranties: return of nonconforming goods.	34
AB 678	(Papan) Unlicensed contractors.	34
AB 794	(Shelley) Licensed contractors.	34
AB 1534	(Longville) Works of improvement: financial security.	34
AB 1730	(Insurance) Contracts.	34
AB 1951	(Vargas) Home solicitation contracts: timeshares.	35
AB 2256	(Dickerson) Producers liens.	35

AB 2265	(Cardenas) Consumer purchases: seniors: cancellation.	35
AB 2331	(Wayne) Waivers: obligations; consumers.	35
AB 2377	(Florez) Producers liens.	35
AB 2457	(Frommer) Rental car contracts: oral disclosures; CDWs.	35
AB 2578	(Shelley) Contracts: breach of confidentiality: proprietary information.	36
AB 2693	(Wyman) Contractors.	36
AB 2850	(Firebaugh) Personal services contracts: legal services.	36
SB 2	(Murray) Employment: recording artists' contracts.	36
SB 281	(O'Connell) Vehicle lease contracts.	36
SB 772	(Bowen) Electronic mail: notice of termination of service.	37
SB 938	(Margett) Mechanic's liens.	37
SB 1246	(Murray) Employment: recording artists' contracts.	37
SB 1383	(Bowen) Electronic mail: notice of termination of service.	37
SB 1522	(Sher) Contracts.	37

Corporations

AB 2157	(Papan) Credit unions.	37
SB 399	(Ackerman) Corporations.	37

Unfair Trade Practices

AB 1884	(Robert Pacheco) Restrictions on unfair competition lawsuits.	38
---------	---	----

Creditor-Debtor Relations

AB 1805	(Kehoe) Consumer credit reporting agencies: statute of limitations.	38
AB 2161	(Maddox) Investigative consumer reports: criminal convictions.	38

COURTS AND RELATED MATTERS

Courts

AB 785	(Bates and Harman) Commercial courts.	40
AB 1006	(Jackson) Juvenile justice facilities: County of Ventura.	40
AB 1571	(Shelley) Court employees.	40
AB 1698	(Judiciary) Legal document assistants.	40
AB 1700	(Steinberg) Courts.	40
AB 1819	(Robert Pacheco) Collection of delinquent fines.	40
AB 1861	(Harman) Special Motion to Strike Civil Actions.	41
AB 2022	(Longville) Courthouse construction.	41
AB 2690	(Cardoza) Court financial statements: fines and penalties.	41
AB 2899	(Migden) Homeless courts.	41
AB 3027	(Judiciary) Courts.	41
AB 3028	(Judiciary) Court procedures.	41

ACA 15	(Wayne) Court consolidation.	42
SB 128	(Burton) Trial court employees.	42
SB 1112	(Polanco) Cesar Chavez court holiday.	42
SB 1316	(Judiciary) Court unification.	42
SB 1396	(Dunn) Court security.	42
SB 1732	(Escutia) Court facilities.	42

Court Reporting and Recording

SB 805	(McPherson) Deposition officers.	42
SB 852	(Figueroa) Court reporting schools.	43
SB 1371	(Morrow) Court reporting.	43

Judges

AB 329	(Jackson) Judges: court proceedings.	43
ACA 1	(Nation) Judicial elections.	43

Juries

AB 1161	(Papan) Grand jurors: compensation.	43
AB 1660	(Negrete McLeod) Jury service: pollworkers.	43
AB 1970	(Matthews) Juries: peace officer exemption.	43
AB 2925	(Migden) Jury duty.	44
SB 303	(Torlakson) Jury duty: San Francisco Bay Area Rapid Transit District Police.	44

Small Claims Court

AB 2949	(Wayne) Small claims court: jurisdiction.	44
---------	---	----

Trial Court Coordination and Funding

AB 1549	(Wiggins) Court facilities.	44
SB 1343	(Torlakson) Trial court funding: Contra Costa County.	44

FAMILY LAW, CHILDREN AND RELATED MATTERS

Adoption

AB 538	(Cardoza) Adoption.	46
AB 550	(Zettel) Adoption.	46
AB 591	(Vargas) Adoption: Indian children.	46
AB 746	(La Suer) Adoption.	46
AB 1349	(Pescetti) Open adoption records: adult adoptees.	46

AB 2279	(La Suer) Minors: custody.	47
AB 2579	(Wyland) Adoption: presumed fathers.	47
SB 104	(Scott) Adoption.	47

Children

AB 705	(Steinberg) Juvenile dependency: permanent placement of children.	47
AB 886	(Simitian) Parental authority: educational decisions.	48
AB 1129	(Liu) Juvenile court restraining orders.	48
AB 1832	(Robert Pacheco) Dependency proceedings: psychotherapist-patient.	48
SB 940	(Judiciary) Juvenile justice.	48
SB 1677	(Alpert) Educational surrogate parents.	48
SB 1956	(Polanco) Dependency proceedings.	49

Child Custody and Visitation

AB 853	(Liu) Dependent children: visitation.	49
AB 2441	(Bates) Child abduction prevention.	49
AB 3039	(Judiciary) Dependent children.	49
SB 1151	(Margett) Child custody orders.	49
SB 1512	(Scott) Parental custody and control.	49
SB 1704	(Ortiz) Child custody investigations.	50

Child, Family and Spousal Support

AB 234	(Romero) Domestic violence: spousal support.	50
AB 891	(Goldberg) Disabled non-custodial parents.	50
AB 1426	(Wright) Employer lack of compliance with assignment orders.	50
AB 1449	(Keeley) Child support arrearages.	50
AB 1607	(Bates) Independent registry.	51
AB 2240	(Wright) Paternity.	51
AB 2245	(Wright) Child support.	51
AB 2934	(Wayne) Uniform family support act.	51
AB 3032	(Judiciary) Child support enforcement.	51
AB 3033	(Judiciary) Spousal support.	51
AJR 18	(Aroner) Child support automation system.	51
SB 97	(Kuehl) Unpaid support orders.	52
SB 943	(Judiciary) Enforcement Act technical clean-up.	52
SB 1221	(Romero) Domestic violence: spousal support.	52
SB 1658	(Soto) Support: laches.	52

Domestic Partnership

AB 25	(Migden) Domestic partnership.	52
AB 1080	(Kehoe) Public contracts: benefits for domestic partners.	53

AB 2216	(Keeley) Domestic partners: intestate succession.	53
AB 2862	(Migden) Domestic partners.	53

Domestic Violence

AB 160	(Bates) Order precedence.	53
AB 362	(Corbett) DVPA definition.	54
AB 731	(Wayne) Interstate enforcement of DVPO's.	54
AB 1909	(Cohn) Domestic violence: demonstration projects.	54
AB 1933	(Reyes) Domestic violence: cause of action.	54
AB 2030	(Goldberg) Protective orders: fees.	54
AB 2652	(Chu) Domestic Violence Court Task Force.	54
SB 66	(Kuehl) Domestic violence.	55
SB 425	(Torlakson) Domestic violence: Contra Costa program.	55
SB 1265	(Alpert) Domestic violence: access to records.	55
SB 1618	(Kuehl) Domestic violence: marriage license fees.	55

Family Law

AB 511	(Matthews) Sale of the family home.	55
AB 539	(Maddox) Marital: liability; spousal debts.	56
AB 583	(Jackson) Disclosure requirements.	56
AB 799	(Shelley) Paternity establishment.	56
AB 1323	(Negrete McLeod) Marriage licenses.	56
AB 1338	(Koretz) Civil unions.	57
AB 1697	(Judiciary) Family and juvenile law.	57
AB 2263	(Kehoe) Family courts: family assistance.	57
SB 78	(Kuehl) Enforcement of pre-marital agreements.	57
SB 1479	(Morrow) Marriage licenses: fees: premarital preparation course.	58
SB 1936	(Burton) Community property.	58

HEALTH CARE

AB 505	(Robert Pacheco) Long-term health care facilities.	60
AB 1600	(Keeley) Health plans.	60
AB 2194	(Jackson) OB-GYN residency requirements.	60
AB 2328	(Wayne) Medical experiments: informed consent.	60
AB 2329	(Florez) Health facilities: plans of correction.	60
AB 2454	(Mountjoy) Minors: medication.	60
SB 458	(Escutia) Health care service plans.	61
SB 1041	(Speier) Hospitals: surrogate decisionmakers.	61
SB 1188	(Health and Human Services) Medical Experimentation Act.	61

LIABILITY AND RELATED MATTERS

Damages Provisions

AB 840	(Robert Pacheco) Statutory caps on punitive damages.	63
AB 2189	(Koretz) Worker retention.	63
AB 2221	(Keeley) Air pollution permits: civil actions.	63
AB 2957	(Koretz) Notice of mass layoffs.	63
AB 2989	(Labor & Employment) Severance pay.	63
SB 783	(Escutia) Whistleblower actions.	63
SB 1452	(Escutia) Whistleblower actions.	63

Immunity, Scope of Liability and Statute of Limitations

AB 92	(Chavez) Liability: flood control and water conservation facilities.	64
AB 946	(Kelley) Water rights.	64
AB 1040	(Dutra) Liability: disabled persons.	64
AB 1114	(Pescetti) Brownfield redevelopment: immunity.	64
AB 1217	(Briggs) Immunity: gambling establishments.	64
AB 1317	(Liu) Pupils: expulsion.	65
AB 1717	(Zettel) School reports: defamation liability.	65
AB 1758	(Nakano) Statute of limitations.	65
AB 1821	(Lowenthal) Civil liability: donated fire protection equipment.	65
AB 1831	(Runner) Statute of limitations.	65
AB 1839	(Bill Campbell) Indemnification: design professionals.	65
AB 2041	(Vargas) Liability: emergency care.	65
AB 2321	(Hertzberg) Tort Claims Act: judiciary.	66
AB 2913	(Firebaugh) Bracero workers: statute of limitations.	66
ABX2 51	(Reyes) Electrical generation: liability.	66
SB 448	(Perata) Liability: firefighter's rule.	66
SB 682	(Perata) Liability: gun manufacturers.	66
SB 688	(Burton) Statute of limitations; summary judgment.	67
SB 994	(Morrow) Liability: public skateboard parks.	67
SB 1196	(Romero) Sovereign immunity.	67
SB 1698	(Romero) Statute of limitations.	67
SB 1779	(Burton) Statute of limitations: childhood sexual abuse.	67
SB 1887	(McPherson) Statute of limitations: tort actions against felons.	68

CIVIL, CONSTITUTIONAL, AND PERSONAL RIGHTS

Civil Rights

AB 587	(Firebaugh) Civil rights: penalties for violations.	70
AB 677	(Steinberg) Equal access to state programs and activities.	70
AB 800	(Wesson) Workplace language rules.	70

AB 1088	(Jackson) Consumer gender discrimination.	70
AB 1146	(Chan) Employment discrimination: time periods.	70
AB 1309	(Goldberg) Employment reports.	70
AB 1599	(Negrete McLeod) Age discrimination.	71
AB 1928	(Jackson) Civil actions: gender-related violence.	71
AB 1950	(Wright) Disability discrimination.	71
AB 2298	(Bogh) Housing discrimination.	71
AB 2892	(Horton) Employment discrimination procedure.	71
AB 3035	(Judiciary) Access to government meetings and programs.	71
AJR 1	(Havice) Disability discrimination.	72
SB 381	(Chesbro) Human relations commissions.	72
SB 504	(Scott) Employment discrimination: religious entities.	72
SB 1045	(Polanco) Public employment and contracting outreach.	72

Constitutional Rights

AB 1592	(Wyman) Discrimination: Boy Scouts of America.	72
AB 1817	(Leslie) Schools: moment of quiet thought.	72
AB 2537	(La Suer) Abortion: ultrasound.	72
ACA 5	(Wyman) Abortion: minors.	73
ACR 140	(Robert Pacheco) Discrimination: Boy Scouts of America.	73
ACR 154	(Washington) 48 th Anniversary of <i>Brown v. Board of Education</i> .	73
ACR 231	(Pescetti) Pledge of allegiance.	73
AJR 56	(Briggs) Impeachment: Ninth Circuit Court of Appeals.	73
SB 780	(Ortiz) Exercise of reproductive and religious freedoms.	73
SB 976	(Polanco) Voting rights.	73
SB 1248	(Knight) Patriotic exercise.	74
SB 1359	(Haynes) Display of the American flag.	74
SB 2032	(Monteith) Common interest developments: display of the flag.	74
SJR 3	(Karnette) Reproductive rights.	74

Privacy Rights

AB 21	(Leslie) Privacy: financial institutions.	74
AB 203	(Jackson) Privacy: financial transactions and personal information.	74
AB 655	(Wright) Personal identifying information: identity theft.	75
AB 700	(Simitian) Personal information: privacy.	75
AB 797	(Shelley) Public records: confidentiality.	75
AB 1289	(Florez) Privacy: personal information.	76
AB 1775	(Nation) Privacy: financial institutions.	76
AB 1958	(Bates) Confidential medical information: coroners' access.	76
AB 2191	(Migden) Medical records: confidentiality.	76
AB 2297	(Simitian) Online privacy: privacy policies.	77
AB 2868	(Wright) Personal information reporting.	77
ACR 125	(Papan) Financial privacy.	77

SB 168	(Bowen) Personal information: identity theft; social security numbers.	77
SB 169	(Bowen) Personal information: restrictions on facial recognition technology.	78
SB 247	(Speier) Birth and death certificates: certified copies; access	78
SB 683	(Ortiz) Confidentiality of medical information.	78
SB 773	(Speier) Privacy: financial institutions; confidential consumer information.	79
SB 979	(Machado) -Confidentiality of medical information.	79
SB 1301	(Kuehl) Reproductive Privacy Act.	79
SB 1386	(Peace) Personal information: privacy.	79
SB 1614	(Speier) Public records: access to personal information.	80
SB 1730	(Bowen) Personal information: identity theft.	80

Personal Rights

AB 1015	(Wright) Employment discrimination and retaliation.	80
AB 1278	(Wayne) Health care decisions.	80
AB 1424	(Thomson) Mental health: involuntary treatment.	81
SB 413	(Speier) Whistleblowing: state employees.	81
SB 1516	(Romero) Peace officers.	81

PROBATE AND RELATED MATTERS

Civil Commitment, Conservatorship and Guardianship

AB 479	(Shelley) Guardians, conservators and trustees: charitable corporations.	83
AB 1286	(Rod Pacheco) Conservatorships: bonds.	83
AB 1421	(Thomson) Involuntary commitment.	83
AB 1517	(Canciamilla) Public guardian.	83
AB 1938	(Aroner) Guardianships.	84
AB 3036	(Corbett) Guardianships.	84
SB 140	(Bowen) Guardians and conservators.	84

Elder Abuse

AB 255	(Zettel) Elder abuse.	84
SB 1803	(Scott) Elder abuse.	84

Probate

AB 232	(John Campbell) Compensation of personal representatives.	85
AB 322	(Bill Campbell) Cemeteries: disposition of family plots.	85
AB 873	(Harman) Non-probate transfers: dissolution of marriage.	85
AB 1784	(Harman) Construction of instruments.	85
SB 668	(Poochigian) Estates and trusts: allocation of debts.	85
SB 669	(Poochigian) Probate: property claims.	86

SB 1271	(Ackerman) Uniform Transfer on Death Securities Registration Act.	86
SB 1575	(Sher) Wills and trusts: prohibited transferees.	86
SB 1878	(Poochigian) Will contests.	86

PROPERTY AND RELATED MATTERS

Personal Property

AB 72	(Bates) Escheated funds.	88
AB 227	(Dutra) Unclaimed property: escheat.	88
AB 1772	(Harman) Escheat.	88
SB 673	(Speier) Unclaimed property.	88

Real Property

AB 237	(Papan) Eminent domain: proceedings.	88
AB 247	(Maddox) Eminent domain: houses of worship.	88
AB 267	(Steinberg) Construction defect litigation.	89
AB 369	(Dutra) Affordable housing development projects: attorney's fees.	89
AB 478	(Canciamilla) Recordable instruments: Contra Costa county.	89
AB 600	(Dutra) Home construction warranties.	89
AB 739	(Frommer) Construction defect litigation.	89
AB 1090	(Hertzberg) Real property: reconveyances.	89
AB 1463	(Longville) Eminent domain proceedings: litigation expenses.	90
AB 1648	(Salinas) Mobilehomes and manufactured housing.	90
AB 1701	(Judiciary) Construction defect litigation.	90
AB 1770	(Papan) Eminent domain proceedings.	90
AB 1845	(Correa) Crime victims restitution liens.	90
AB 1868	(Koretz) Nuisance abatement: injunction.	90
AB 2260	(Wright) Eminent domain.	91
AB 2292	(Dutra) General plans: residential density: attorney's fees.	91
AB 2382	(Corbett) Mobilehome parks: enforcement.	91
AB 2418	(Dutra) Construction defect litigation.	91
AB 2500	(Corbett) Mobilehomes.	91
AB 2685	(Cox) Land use: restriction: just compensation.	91
AB 2757	(Calderon) Construction defect litigation.	91
AB 2812	(Pescetti) Mobilehomes: foreclosure.	92
AB 2870	(Harman) Liability of third-party building inspectors.	92
ABX1 47	(Wiggins) Public utilities.	92
ABX 129	(Hollingsworth) Eminent domain: public utilities.	92
ABX2 13	(Hollingsworth) Eminent domain: public utilities.	92
ABX2 35	(Vargas) Eminent domain.	92
SB 32	(Escutia) Contaminated property: cleanup.	93
SB 160	(Torlakson) Construction defect litigation.	93
SB 189	(Bowen) Real estate disclosures: controlled substance release.	93

SB 355	(Escutia) Construction defects.	94
SB 732	(Ortiz) Disclosure: toxic mold.	94
SB 800	(Burton) Construction defects.	94
SB 958	(Ackerman) Mortgages: deeds of trust.	94
SB 1122	(Poochigian) Disclosure of real estate assessments.	95
SB 1370	(Bowen) Servicing of indebtedness: transfer.	95
SB 1504	(Ackerman) Mortgages and deeds of trust.	95
SB 1684	(Polanco) Brownfields redevelopment: deletion of sunset.	95
SB 1879	(Poochigian) Real estate: disclosures.	95

Rental Property

AB 178	(Cox) Landlord-tenant: disclosure of dangerous mold.	95
AB 472	(Cedillo) Substandard rental housing: relocation benefits to displaced tenants.	96
AB 533	(Cedillo) Landlord-tenant: payments.	96
AB 815	(Havice) Controlled substances.	96
AB 1112	(Goldberg) Substandard property: owner registry: Los Angeles County.	96
AB 2330	(Migden) Landlord-tenant.	97
SB 617	(Ortiz) Tenancy: terminations.	97
SB 985	(Kuehl) Landlord-tenant: expanded notice requirements; Costa Hawkins Housing Act.	97
SB 1403	(Kuehl) Landlord-tenant.	98
SB 1576	(Bowen) Landlords: disclosure of demolitions.	98

MISCELLANEOUS

AB 40	(Vargas) Amusement machines: access restrictions.	100
AB 172	(Reyes) Scholarships: spouses and children of persons killed in Operation Enduring Freedom.	100
AB 260	(Frommer) Anti-trust law: Attorney General authority.	100
AB 415	(Runner) Emergency services.	100
AB 537	(Canciamilla) San Francisco Bay Delta.	100
AB 679	(Strom-Martin) Sonoma County Flood Control and Water Conservation District.	101
AB 784	(Hertzberg) Land use: model residential building code.	101
AB 914	(Shelley) Public records.	101
AB 957	(Papan) Taxpayer contributions: Lupus Foundation of America.	101
AB 982	(Firebaugh) Health care.	101
AB 1387	(Cogdill) Public utilities: natural gas.	102
AB 1486	(Dutra) Mortgage Guaranty Insurance.	102
AB 1506	(Wesson) Public works projects.	102
AB 1590	(Simitian) Search and seizure.	102
AB 1774	(Canciamilla) Tide and submerged land.	102

AB 1929	(Runner) Certificate of stillbirth.	102
AB 1956	(Vargas) Video arcades: posting requirements.	103
AB 2019	(Wayne) Unlawful gains: disgorgement.	103
AB 2071	(Jackson) Civil actions: public water systems.	103
AB 2193	(Maddox) Orange County Fire Authority.	103
AB 2289	(Kehoe) Common interest developments.	103
AB 2417	(La Suer) Common interest developments: meetings.	103
AB 2775	(Migden) Parks: county of Sonoma.	104
AB 3034	(Judiciary) Maintenance of the codes.	104
ACA 6	(Briggs) Term limits.	104
ACR 123	(Wayne) California Law Revision Commission study topics.	104
AJR 8	(Briggs) Choinumni Tribe: federal recognition.	104
AJR 58	(Dickerson) Winnemem Wintu Tribe.	104
SB 99	(Morrow) Attorney General opinions.	105
SB 238	(Kuehl) Schabarum Regional Park library.	105
SB 278	(Alarcon) Water, Coastal and Beach Protection Act of 2002.	105
SB 338	(Vincent) Notice: use of animals for biological supply.	105
SB 382	(Haynes) School vouchers.	105
SB 465	(McPherson) Transportation.	105
SB 482	(Kuehl) Salton Sea restoration.	106
SB 662	(Judiciary) Maintenance of the codes.	106
SB 1210	(Romero) Traveling circuses, carnivals: notification.	106
SB 1628	(Sher) Attorney General representation.	106
SB 2051	(Bowen) Income and corporation taxes: information privacy.	106
SCR 13	(Morrow) California Law Revision Commission study topics.	106
SCR 81	(Machado) Uniform Money Services Act.	106
SJR 1	(Murray) Slavery.	107

**ATTORNEYS AND
RELATED MATTERS**

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Attorneys and Related Services

AB 146 (Wayne) State attorneys and administrative law judges. This bill provides that attorneys employed by the state in nonelective positions and administrative law judges (ALJs) may serve on a local appointed or elected governmental board, commission, committee, or other body, or as a local elected official, if such service would otherwise not present a conflict of interest. This provision brings the rules for attorneys employed by the state into conformity with longstanding rules for attorneys employed by local entities. Status: Chapter 411, 2001.

AB 363 (Steinberg) Whistleblower protections. This bill sought to establish a limited exception to an attorney's ethical duty of confidentiality by permitting, but not requiring, an attorney who learns of improper governmental activity in the course of representing a governmental organization to directly refer that matter to the law enforcement agency or official charged with oversight of the governmental organization. It also sought to establish a "safe harbor" from State Bar discipline provided the attorney has acted reasonably and in good faith to identify the right agency for receiving the attorney's report. This "safe harbor" also extended to the attorney's cooperation with the reporting agencies execution of its oversight or regulatory responsibilities, but was strictly limited to the actions permitted by the bill. An attorney who initiated other affirmative action after having made the referral to an appropriate reporting agency would still have been subject to discipline. Status: Vetoed.

AB 752 (Briggs) Legal advertising: construction defect attorneys. Imposes special restrictions on advertisements by attorneys who practice construction defect law, including that any print, radio or television advertisements promoting the services of such attorneys detail all expenses and fees that will be assessed, that such advertisement address any legal obligations a homeowner has to disclose a construction defect known to the seller when putting the home up for sale, and the potential financial impact if the defect is not fixed. Status: Dead; AsmJUD.

AB 779 (Romero) Attorneys. Existing law prohibits a person from practicing law in California without being an active member of the State Bar, and makes it a crime for a person to hold himself or herself out as a practicing lawyer without an active membership in the State Bar. This bill permits a person who obtained services provided in violation of these prohibitions, or who purchased goods, services or real or personal property in connection with services provided in violation of these prohibitions, to bring an action for legal relief. The individual may recover damages in the amount that he or she suffered loss, equitable relief, attorney's fees, and exemplary damages from the individual practicing law without an active Bar membership or the individual who sold the goods, services, or property. Similar provisions of this bill were pursued and chaptered in SB 1194. Status: Dead; AsmJUD.

AB 913 (Steinberg) Pro bono. This bill provides that law firms which enter into substantial contracts with the state for legal services agree to make a good faith effort to provide a specified minimum number of hours of pro bono legal services during the duration of the contract. The measure also provides that failure to make a good faith effort may be cause for non-renewal of the contract and may be taken into account in the awarding of future contracts and provides a number of factors to be considered when determining whether a good faith effort has been made. Status: Chapter 880, 2001.

AB 1083 (Bates) Paralegals. This bill clarifies the statutory scheme which defines and regulates the class of persons who may call themselves paralegals and perform paralegal services. The bill narrows the definition of "paralegal" by adding the qualifying phrase "who holds himself or herself out to be a paralegal [and] who is qualified by education, training, or work experience" to the definition. The measure also clarifies that the definition and regulation of paralegals is not intended to prohibit a paralegal who is employed by an attorney, law firm, government agency or other entity from providing services to a consumer served by that entity if those services are specifically allowed by statute, case law, court rule, or administrative rule or regulation. Status: Chapter 311, 2001.

AB 1703 (Steinberg) Attorneys: pro bono services. This bill clarifies that the 10% cap used to determine the minimum number of hours of pro bono legal services a law firm contracting with the state is asked to provide under AB 913 (Steinberg), Chapter 880, Stats. 2001, means the number of hours equal to 10% of the contract amount divided by the average billing rate of the law firm. Status: Chapter 137, 2002.

AB 1999 (Correa) Immigration consultants: civil penalties. This bill allows the Attorney General to seek civil penalties for violations of the Immigration Consultants Act. The bill further expands the types of civil remedies available for such violations to include restitution and other equitable relief, and requires that these remedies be sought in actions for civil penalties by the Attorney General, a district attorney or a city attorney. Status: Chapter 705, 2002

AB 2517 (Chan) Estate planning services. This bill would regulate the sale of financial products by persons providing specified estate planning services. The bill would permit the sale of financial services to an elder or dependent adult if a fiduciary relationship has been established, the person is licensed to sell the financial product, and the terms of the transaction are fair and reasonable to the client. The bill would further required a specified disclosure to be made at the beginning of contact with a prospective purchaser. Status: Dead; AJUD.

AB 2756 (Canciamilla) Paralegals. This bill, among other things, requires that a person represent himself or herself as a paralegal in order to be considered a paralegal and that the person be qualified by education, training, or work experience to be a paralegal. The bill authorizes a paralegal to perform specified tasks if the paralegal has been

instructed to do so by a supervising attorney or has been authorized to do so by administrative, statutory, or court authority. Status: Dead; AsmJUD.

AB 2914 (Wiggins) Attorneys: bankruptcy. This bill requires any attorney engaged in the private practice of law in this state to disclose to a prospective client prior to undertaking a case on behalf of the client whether the attorney or the law firm or law corporation for which he or she works is currently filing for bankruptcy or has filed for bankruptcy within the last seven years. Status: Dead; AsmJUD.

AB 2939 (Pescetti) Attorneys: contingent fee agreements. This bill places a number of substantial restrictions on contingent fee attorneys by requiring these attorneys to make certain disclosures to a prospective client including, among other things, the estimated likelihood of success, estimated and actual attorney hours, and estimated fees. Under the bill, the attorney must, within a reasonable time but not later than 30 days after the claim is finally settled or adjudicated, disclose in a written statement to the client specified information. Status: Failed; AsmJUD.

SB 479 (Burton) Chemical dependency assistance program. This bill requires the State Bar to set up an assistance program to provide services for the treatment and recovery of attorneys who may be impaired due to mental illness or drug or alcohol abuse. The program will be funded by the Bar members themselves as part of annual dues. A participating attorney will be responsible for paying all expenses related to treatment and recovery, as well as any reasonable administrative fee charged by the Bar to offset program costs. However, financial assistance will be available to those attorneys who lack the ability to pay to participate in this innovative program. Upon successful completion of the program, including compliance with all probation conditions, an attorney will be eligible for reinstatement to active status, or to a lifting of any practice restrictions, and a dismissal of the underlying allegations or a reduction in the recommended discipline. However, participation in the program will not relieve the attorney of any duties or obligations required by the State Bar Court or another court. Status: Chapter 129, 2001.

SB 1194 (Romero) Attorneys: unauthorized practice of law. This bill strengthens the remedies available in an enforcement action by a prosecuting attorney regarding the unauthorized practice of law. In such a case, it requires the court to consider the following relief: actual damages; restitution of all amounts paid; the amount of penalties and tax liabilities incurred in connection with the sale or transfer of assets to pay for any goods, services, or property; reasonable attorney's fees and costs expended to rectify errors; prejudgment interest at the legal rate from the date of loss to the date of judgment; and appropriate equitable relief, including the rescission of sales made in connection with a violation of law. The bill provides that the newly authorized remedies shall not be construed to affect other claims, rights or remedies that may be held by a person or entity other than the Attorney General, district attorney or city attorney. In addition, it makes it unlawful for a person to disseminate any statement holding him or herself out as an immigration consultant unless the person has on file with the Secretary of State the

required bond for the entire period covered by any such statement. Status: Chapter 304, 2001.

SB 1459 (Romero) Unauthorized practice of law. This bill strengthens the misdemeanor sanctions provided under existing law for any person who advertises or holds himself or herself out as practicing or entitled to practice law who is not an active member of the State Bar by providing that the misdemeanor is punishable by up to one year in a county jail or by a fine of up to \$1,000, or both. The bill also provides that upon a second or subsequent conviction, the person shall be confined in a county jail for not less than 90 days, except in an unusual case where the interests of justice would be served by imposition of a lesser sentence or fine and requires the court to state its reasons for its sentencing choice if it imposes only a fine or a sentence of less than 90 days for a second or subsequent conviction. The bill also provides that the alternate felony-misdemeanor penalties provided under existing law with respect to any person who has: a) been involuntarily enrolled as an inactive member of the State Bar; b) been suspended or disbarred; or, c) resigned from the State Bar with charges pending and who advertises or holds himself or herself out as practicing or entitled to practice law shall also apply to these same specified individuals who practice or attempt to practice law. Finally, the bill clarifies that a person who is not an active member of the State Bar, but who is authorized by statute or court rule to practice law in this state at the time of doing so (e.g., out-of-state attorneys who appear pro hac vice) is not engaged in the unauthorized practice of law. Status: Chapter 394, 2002.

Attorney's Fees

AB 456 (John Campbell) Class actions: restriction on attorney's fees. This bill limits awards of attorney's fees in specified class actions. The measure provides that, in all class actions brought against the state, any of its subdivisions, or any non-profit organizations, the amount of attorney's fees awarded to the prevailing plaintiff attorneys shall be limited, as follows: (1) the attorney's fees may not exceed \$1,000 per hour or 15% of the judgment, arbitration award or settlement amount, whichever is less; (2) in deciding the appropriate amount, the judge, arbitrator, or agreeing parties shall examine the attorney's billable hours to determine whether they are reasonable and necessary and shall review any prior settlement offers that may have been declined; and (3) if the judge or arbitrator determines that the billable hours are not reasonable or necessary or if a reasonable settlement offer was declined, the attorney's fee is limited to a maximum of \$500 per hour or 7.5% of the judgment, whichever is less. Status: Failed; AsmJUD.

AB 1504 (Robert Pacheco) Attorney's fees: early demand. This bill requires all contingency fee agreements for legal services to include, in writing, the actual hourly rate the contracting attorney charges for his or her services. The bill would also require, in a dispute involving damages resulting from a motor vehicle accident, the attorney representing the plaintiff to make a written demand prior to filing suit. Under the bill, the demand must remain open, and the defendant's offer in response to the demand remains in effect, for specified periods of time. The bill would provide a method by which to

determine attorney's fees in actions arising from a motor vehicle accident and would further provide for the tolling of the statute of limitations in those cases during the demand and response period. Status: Dead; AsmJUD.

SB 691 (McPherson) Attorney's fees: litigation regarding regulation of mobilehome parks. This bill requires the court to award attorney's fees to a prevailing local governmental entity that successfully defends a measure regulating space rent in mobilehome parks or otherwise intended to benefit park residents against a challenge by a mobilehome park owner in two situations: 1) in an inverse condemnation claim, if the court finds that the park owner had no reasonable grounds to bring the litigation; and 2) in an action appealing an administrative decision, up to \$7500, where the court finds that the park owner acted arbitrarily and capriciously in bringing the appeal. Status: Failed; AsmFloor.

State Bar

SB 352 (Kuehl) State Bar dues authorization. This bill authorizes the State Bar of California (State Bar) to collect up to \$390 as annual State Bar membership dues for the years 2002 and 2003 and reduces from \$40 to \$35 the amount the State Bar is authorized to assess for funding of the Client Security Fund. The bill also repeals obsolete provisions of the State Bar Act and deletes existing law providing that an attorney has a duty to abstain from having an offensive personality. Status: Chapter 24, 2001.

SB 817 (Johnson) State Bar. This bill revises the law school education requirements to require that the candidate had conferred upon him or her a Juris Doctor (J.D.) or Bachelor of Laws (LL.B.) degree in law from an accredited law school. The bill also shortens by 15 days the last day to file a late application to take the bar exam and permits an out-of-state attorney to take the Attorney's Examination instead of the general bar examination when he or she has been licensed for four years in another United States jurisdiction, counting from the first day of the examination (instead of from the date of the application). Status: Chapter 46, 2001.

SB 1897 (Kuehl) State Bar of California. This bill makes various changes to the State Bar Act relating to the internal structure and operations of the State Bar. Specifically, this bill, amongst other things, 1) authorizes the Bar to permit an independent nonprofit successor to its conference of delegates to collect voluntary fees or donations via the annual fee invoice sent to members of the Bar, and requires the annual financial audit of the Bar to confirm that no mandatory fees are expended on behalf of any such successor entity; and 2) revises the statute governing the reporting responsibilities of the State Bar Chief Trial Counsel to reflect changes in the name of the committee of the board of governors to whom the chief trial counsel must report. Status: Chapter 415, 2002.

CIVIL PRACTICE AND PROCEDURE

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Arbitration and Mediation

AB 1067 (Jackson) Arbitrator's awards. Requires courts to vacate an arbitrator's award and hold a de novo hearing upon petition by a consumer if the award is the result of legal or factual error by the arbitrator that has resulted in an injustice to the party; and the arbitration was mandated by a pre-dispute binding arbitration provision in a standardized contract by the non-consumer party. Status: Dead; AsmJUD.

AB 1699 (Judiciary) Voluntary alternative dispute resolution. This bill permits a party to an arbitration agreement to obtain information from the arbitration provider regarding its policy with respect to issuing written decisions as to the arbitrator's awards. Status: Dead; SenJUD.

AB 2504 (Jackson) Private judging companies: recruitment of public judges. Requires disclosure to the parties by public judges regarding arrangements for and negotiations about employment as an arbitrator or similar dispute resolution position when the proceeding involves an issue related to arbitration and the like or when the source of prospective employment is a party to the case. Status: Chapter 1094, 2002.

AB 2574 (Harman) Private judging companies: financial conflicts of interest. Prohibits a private arbitration company from administering a consumer arbitration if the company has or had a financial interest in any party or attorney for a party, or if a party or attorney for a party has a financial interest in the private judging company. Status: Chapter 952, 2002.

AB 2656 (Corbett) Private judging companies: repeat player information. Requires that private judging companies collect and provide specified information to the public regarding the types of disputes and parties and the outcomes of consumer arbitrations they administer. Status: Chapter 1158, 2002.

AB 2915 (Wayne) Private judging companies: fees. Prohibits "loser-pays" policies under which non-prevailing consumers are required to pay the fees and costs of opposing businesses, and requires administrative fee waivers for indigent consumers. Status: Chapter 1101, 2002.

AB 3029 (Steinberg) Private judging companies: ethics. Establishes basic ethical rules for private judging companies, requiring disclosure of consulting work, solicitation and financial relationships with parties in a consumer arbitration, and provides the corresponding opportunity for a party to disqualify a private judging company. Allows consumers to opt-out when a business designates its favored arbitration company in the consumer arbitration agreement. Status: Vetoed.

AB 3030 (Corbett) Private judging companies: penalties for ethical violations. Provides a remedy, at the discretion of the court, in the form of disgorgement of fees obtained by a private arbitration company in violation of ethical rules. Status: Chapter 1159, 2002.

SB 174 (Kuehl) Mediation proceedings. This bill offers the opportunity for the Legislature and the courts to evaluate whether current state law permitting family court mediators to make custody and visitation recommendations to the court should be reformed in order to offer California families a chance to try to resolve their custody and visitation disputes through genuine confidential mediation before being tracked into non-confidential mediation. The bill authorizes a participating court to voluntarily adopt a confidential mediation program that prohibits its family court mediators from making a recommendation as to custody or visitation to anyone other than the disputing parties, except as specified. Status: Chapter 1077, 2002.

SB 475 (Escutia) Arbitrators and referees. This bill requires the Judicial Council to establish minimum ethical standards for private arbitrators and creates a vacatur remedy for an arbitrator's failure to comply with existing disclosure requirements. In addition, this bill harmonizes the processes for appointment by courts of outside referees in discovery disputes, and provides for expansion of an existing Judicial Council study to look at the use of consensual references. Status: Chapter 362, 2001.

SB 1538 (Burton) Employment arbitration. This bill precludes employers from eliciting involuntary waivers of employee rights under the Fair Employment and Housing Act as a condition of employment, and specifically provides that a predispute arbitration agreement between an employer and employee that violates this act is invalid. Status: Vetoed.

SB 1707 (Escutia) Arbitrator ethics. Clarifies the application of arbitrator ethics rules to collective bargaining agreement arbitrations. Specifically, this bill states that existing law regarding compliance by arbitrators with rules promulgated by the Judicial Council does not apply to arbitrators serving in arbitrations conducted pursuant to collectively bargained labor agreements. Status: Chapter 176, 2002.

Civil Procedure

AB 222 (Wiggins) False Claims Act: notice to Attorney General of appeals in "qui tam" actions. This bill requires appellants in "qui tam" actions to notify the Attorney General (AG) in appeals involving the False Claims Act. "Qui Tam" actions are actions brought by third parties on behalf of the state or a local government agency. Notice to the AG is required under existing law when there is an appeal of a "qui tam" action involving the Unfair Competition Act. This bill requires such notice in an appeal of an action under the False Claims Act, which creates liability for the presentation to government agencies of false claims for payment. The bill requires any person filing an appeal of an action alleging a violation of the state False Claims Act, or where the application or

interpretation of the Act is at issue, to serve a copy of each paper, including briefs, on the AG within three days of filing. The required notice will allow the AG to be informed of pending appeals at the outset, and will give the AG the opportunity to participate as Amicus where appropriate. Status: Chapter 69, 2001.

AB 268 (Wayne) Structured settlements: clean-up. This bill, sponsored by the Attorney General, adds new protections in the state's structured settlement law to protect consumers from potential abuses by companies that purchase structured settlement payments. The bill requires that the settlement buyer obtain court approval of the sale in order for the transfer to be effective, and requires the court, in approving such a sale, to make specified findings, including that the transfer is in the best interest of the payee, taking into account the welfare and support of the payee's dependents; that the payee has been advised by the transferee to seek independent professional advice; and that the transferee has made all required disclosures. The bill also clarifies the definitions of certain terms, revises the buyer's disclosure obligations, and adds specified documents to those required to be filed with the Attorney General. Status: Chapter 74, 2001.

AB 732 (Wayne) Civil procedure: settlement offers. This bill exempts public prosecutors from the imposition of monetary fines for failing to accept a pre-trial settlement offer in civil law enforcement actions brought in the name of the people. Status: Chapter 153, 2001.

AB 754 (Mountjoy) False claims actions. Existing law imposes liability on any person who submits a false claim against the state or a political subdivision of the state, with exceptions for claims made under specified code provisions. This bill creates a new exception for claims made pursuant to specified provisions governing the resolution of certain construction claims under public works contracts. Status: Dead; AsmJUD.

AB 1181 (Calderon) Insurance: unfair practices. This bill requires the Insurance Commissioner to make specific written findings of fact and conclusions of law when imposing a civil penalty upon a person for engaging in unfair practices in the business of insurance. The bill also requires the Commissioner to include specified written findings of fact and conclusions of law with the report that is issued and served upon a person for engaging in unfair or deceptive practices. Status: Dead; AsmJUD.

AB 1702 (Judiciary) Civil procedure. This bill was a placeholder to address civil procedure issues that could have arisen during the course of this legislative session. Status: Dead; AsmJUD.

AB 2291 (John Campbell) Class action litigation. Substantially re-writes the law regarding an attorney's obligations in class action cases by requiring that any lawyer claiming to represent an individual in a class action suit first must provide the court written authorization from that person stating the individual understands they are "waiving their right to counsel;" requiring any lawyer representing a party in a class action to provide every potential client with a detailed good faith estimate of his or her

fee; and subjects an attorney who violates the foregoing requirements to monetary sanctions and felony prosecution. Status: Failed; AsmJUD.

AB 2493 (Robert Pacheco) Service of process. This bill clarifies and updates the law regarding service of process, eliminating obsolete references and creating consistency. The bill clarifies that a court may not require, for purposes of service of process, a search of public databases where access to residential addresses is restricted. It allows a process server to levy more than once under a single writ of execution. Status: Chapter 197, 2002.

AB 2524 (Goldberg) Notice of appeal in civil rights actions. Requires any party to an appeal in state court alleging violations of specified civil rights statutes to serve a copy of the party's petition and brief, or responsive brief, on the Attorney General. Status: Chapter 244, 2002.

AB 2713 (Cox) Malpractice actions: design professionals. Imposes additional requirements and opportunities for sanctions against plaintiffs and their attorneys in malpractice actions against architects, engineers and land surveyors. Specifically, this bill requires plaintiffs and their attorneys to divulge privileged information regarding their pre-suit consultations with experts, and adds pro se plaintiffs to the person who must comply with the existing certificate of merit requirement. Status: Failed; AsmJUD.

AB 2835 (Longville) Liens: county hospitals. This bill addresses liens arising from the treatment provided to patients by county hospitals. Specifically, the bill states the Legislature's intention to resolve problems related to the recovery of the reasonable value of services by county hospitals when patients they treat receive some compensation by asserting legal claims against third parties resulting in settlement or judgment. Status: Dead; SenRules.

AB 2865 (Koretz) Appeals. This bill allows a judge, upon the written request of any party, to indicate in any interlocutory order a belief that appellate resolution of a question of law may materially advance the conclusion of the litigation. Status: Chapter 708, 2002.

AB 2961 (Wayne) Summary adjudication. This bill, as heard by the Committee, would allow, by stipulation of the parties and upon approval by the court, a motion for summary adjudication of an issue or claim for damages that does not completely dispose of a cause of action, affirmative defense or issue of duty. The bill was later amended to state legislative intent to explore the feasibility of creating such a procedure. Status: Dead; SenInactive.

SB 158 (Haynes) Attorney's fees: settlement offers. This bill resurrects for three years a pilot project in Riverside County that allows the court to award attorneys fees in specified civil actions (but not including personal injury, eminent domain, class action or injunctive relief actions) against a party who refuses a formal offer to settle and then fails

to obtain a more favorable judgment at trial. The bill also requires the Judicial Council and the Superior Court of Riverside County to report back to the Legislature on the impact of the program on settlements and sanctions. Status: Chapter 719, 2001.

SB 476 (Escutia) Summary judgment. This bill makes three changes with regard to motions for summary judgment. First, it requires a reviewing court to allow the parties to submit supplemental briefs before affirming an order granting summary judgment on a ground not relied upon by the trial court. Second, it changes the standards for the granting of summary judgment upon a motion by the defendant to require that the defendant show through admissible evidence that the cause of action cannot be established or that there is a complete defense to that cause of action. Finally, it states as the policy of the state that the right to trial by jury is a fundamental guarantee and that motions for summary judgment or summary adjudication should only be granted as to matters that are without merit or where there is no defense to the action or proceeding. Status: Dead; AsmJUD.

SB 562 (Morrow) Limited and unlimited civil actions. This bill, implementing recommendations of the California Law Revision Commission, harmonizes the standard by which courts in limited and unlimited civil cases may appoint a receiver, and adopts a non-substantive change in the language describing that standard. In addition, the bill classifies two types of currently unclassified civil actions, replaces obsolete terms describing the record of proceedings in the trial courts, and clarifies the statutes relating to the authority of a trial court in which a case is pending to transfer the case to another branch or location of the court. Status: Chapter 44, 2001.

SB 688 (Escutia) Civil Procedure. This bill would extend from one year to two years the statute of limitations for personal injury and wrongful death actions, and applies this change retroactively for victims of the September 11th terrorist attacks. The bill also makes several changes to the procedures for motions for summary judgment, including increasing the time period for notice of a motion for summary judgment from 28 days before the hearing on the motion to 75 days before the hearing. Status: Chapter 448, 2002.

SB 692 (Escutia) Summary judgment: burden of proof. This bill would make several changes in the procedures regarding motions for summary judgment. It would require a reviewing court to give the parties an opportunity to submit supplemental briefs before the court affirms an order granting summary judgment or summary adjudication on a ground not relied upon by the trial court. The bill would also change the standards for the granting of summary judgment upon a motion by the defendant, to require that the defendant show through admissible evidence that the cause of action cannot be established or that there is a complete defense to that cause of action. Finally, the bill states as the policy of the state that the right to trial by jury is a fundamental guarantee and that motions for summary judgment or summary adjudication should only be granted as to matters that are without merit or where there is no defense to the action or proceeding. Status: Dead; AJUD.

SB 708 (Speier) Insurance. This bill expands the Department of Insurance mediation program, which currently covers claims arising out of the Northridge earthquake, to cover disputes arising out of personal automotive or residential claims, and extends the sunset date of the program to January 1, 2006. The bill bars the Department of Insurance from refusing to investigate a complaint because the insured is represented by an attorney or because the complaint is the subject of litigation. It requires training and accreditation of insurance adjusters who evaluate earthquake damage. Finally, the bill requires the Department of Insurance to make public any letter or legal opinion signed by the Insurance Commissioner or the Department's Chief Counsel when the letter is in response to an inquiry from an insured and discusses application of the Insurance Code or Department regulations. Status: Chapter 727, 2001.

SB 789 (Kuehl) Anti-SLAPP motions. This bill (formerly SB 1651) prohibits use of the anti-SLAPP motion against specified public interest actions and causes of action brought against persons primarily engaged in the sale or lease of goods or services with respect to specified commercial speech and activity. The bill provides an exception to the foregoing prohibitions by allowing use of the anti-SLAPP motion when certain nonprofit organizations are sued or when specified publishers and similar persons are sued for acts arising from the collection and dissemination of information to the public, as well as the creation, dissemination, and promotion of dramatic, literary, musical, political, or artistic work. Status: Vetoed.

SB 1218 (Romero) Class actions: unpaid residuals. This bill directs that the payment of residual funds from class action litigation, after all members of the class have been paid the amount to which they are entitled, be to nonprofit organizations or foundations to support projects that will benefit the class or similarly situated persons or that promote the law consistent with the purposes and objectives of the underlying cause of action, or to child advocacy programs or legal services programs. The bill also deletes statutory provisions authorizing the establishment of the Legal Corps, which has never been funded or established. Status: Chapter 96, 2001.

SB 1322 (Ackerman) Execution of writs. Makes technical changes to the statutes regarding claim, exemption and delivery of property pre and post-judgment in order to resolve several incongruities that arise for levying officers in the law regarding the execution of pre-judgment writs of possession and post-judgment seizures of property to satisfy a judgment. Status: Chapter 68, 2002.

SB 1325 (Kuehl) Personal jurisdiction: general appearance. This bill allows defendants in civil actions to make specified motions at the same time they answer or demur to a complaint, instead of requiring such preliminary challenges to be made before a substantive response to the complaint. The bill conforms California civil practice to federal practice. Status: Chapter 69, 2002.

SB 1651 (Kuehl) Anti-SLAPP motions. See SB 789.

SB 1949 (Soto) Water boards: public participation. As referred to the Committee, this bill would have prohibited the State Water Resources Control Board member or a regional water quality control board member from conducting an ex parte communication, as defined, unless the board member fully disclosed the communication. The bill was later amended to remove this provision; the remaining provisions of the bill require the state Board to review the public participation procedures of the regional boards. Status: Chapter 604, 2002.

SB 2009 (Morrow) Civil litigation sanctions. Extends until January 1, 2006 the sunset provision in the current civil litigation sanctions statute. The bill also shortens from 30 days to 21 days the time period in which an attorney or party may correct or withdraw a challenged pleading or other paper in order to avoid potential sanctions. Status: Chapter 491, 2002.

Discovery

AB 36 (Steinberg) Secret settlements. This bill sought to continue a longtime goal of many consumer protection groups and the California Attorney General to add the state to a growing list of states that have already adopted a similar "sunshine" law or court rule. The bill restricted, but did not ban, the use of secrecy agreements in those cases where the public is most at risk of repeat harm: cases involving defective products or environmental hazards. The bill tracked a court rule already adopted by the California Supreme Court and many other courts for all documents formally filed in court. Status: Dead; SenRules.

AB 421 (Wayne) Depositions: videographic recording. This bill deletes certain procedural requirements pertaining to videotaped deposition testimony to be used at trial. It permits an attorney, an independent contractor of an attorney or an employee of an attorney to operate the videotape recording equipment to tape a deposition, and deletes the requirement that that videotaped deposition testimony of a treating or consulting physician, or expert witness, to be used at trial, must be taped by a person authorized to administer an oath who is not financially interested in the action and is not a relative or employee of any attorney of any of the parties. Status: Vetoed.

AB 881 (Simitian) Secret settlements. This bill, a competing measure to AB 36 (Steinberg) noted above, provided that, in a court action pertaining to a defective product or environmental hazard, a party could file a noticed motion for an order of the court permitting specific items or information subject to a protective order to be sent to a California state or federal governmental agency responsible for regulating or monitoring the subject matter contained in the items or information protected. Status: Failed; AsmJUD.

AB 1260 (Wayne) Discovery: misuses of the process. Existing law permits a court to impose monetary sanctions for misuse of the discovery process, including evasive

responses, failure to respond to permissible discovery, disobeying court orders and attempts to gain information outside the proper scope of discovery. This bill adds destruction of relevant evidence to the list of actions constituting misuse of the discovery process. Status: Dead; AsmJUD.

AB 1767 (Papan) Discovery. This bill would repeal the provisions of the Code of Civil Procedure relating to discovery, becoming effective upon the adoption of Rules of Court governing discovery in civil actions. Status: Dead; AJUD.

AB 1981 (Simitian) Secret settlements. This bill, also a competing measure to AB 36 (Steinberg), would have provided that, in a court action pertaining to a defective product or environmental hazard, a party may file a noticed motion for an order of the court permitting specific items or information subject to a protective order to be sent to a California state or federal governmental agency responsible for regulating or monitoring the subject matter contained in the items or information protected. The bill would also have provided that, during the pendency of the court action and more than one year after disclosure of information, the moving party that originally moved for disclosure may file another motion for the disclosure of information to a governmental agency, provided that specified requirements are met. Status: Dead; AsmJUD.

AB 2842 (Harman) Depositions. Amends the deposition statutes to reflect that current technology uses audio and video storage media other than tapes, provides notice to non-party deponents regarding the use of instant visual display technology, allows non-party deponents to obtain a copy of their testimony without requiring the deposition reporter to provide notice and an opportunity for parties to obtain a protective order, and clarifies the circumstances under which the deposition officer may go off the record. Status: Chapter 1068, 2002.

SB 11 (Escutia) Secret settlements. This bill, similarly to its Assembly companion measure AB 36 (Steinberg) noted above, continues a longtime goal of many consumer protection groups and the California Attorney General to add the state to a growing list of states that have already adopted a similar "sunshine" law or court rule. The bill restricts, but does not ban, the use of secrecy agreements in those cases where the public is most at risk of repeat harm: cases involving defective products or environmental hazards. Like AB 36, the bill tracks a court rule already adopted by the California Supreme Court and many other courts for all documents formally filed in court. However this bill also contains a provision involving the expertise of the California Attorney General for the review of specified "smoking gun" documents obtained in discovery. Status: Dead; ASM Inactive.

Evidence

AB 223 (Frommer) Depositions: forms: discovery. This bill makes numerous clean-up changes to statutes relating to trial court funding, and amends various discovery-

related statutes to make discovery practice and procedure more uniform throughout the state. Status: Chapter 812, 2001.

AB 1727 (Insurance) Insurance Commissioner: confidential documents, materials, and other information. As originally referred to the Committee, this bill revised existing provisions governing risk-based capital reports to provide that confidential documents, information, or materials associated with those reports shall also not be subject to discovery or be admissible in evidence in any private civil action. The bill also provided that the commissioner and persons in his or her office shall not be permitted or required to testify in any private civil action concerning those confidential documents, information, or materials. The bill was subsequently amended to delete these provisions. Status: Dead; AsmINS.

AB 1962 (Hollingsworth) Electronic communications. This bill includes electronic communications in the definition of "writings" for purposes of the Evidence Code and the Public Records Act, in accordance with case law on this issue. Status: Chapter 945, 2002.

AB 2033 (Robert Pacheco) Secondary evidence. Amends the specified modes of reproduction of a document recognized as admissible secondary evidence. Specifically, this bill adds reproduction by a trusted system, as defined, to the methods of reproduction of a document covered by the rule of evidence, allowing a copy to be as admissible as the original if made and preserved as part of the records of a business in the regular course of that business. Status: Chapter 124, 2002.

AB 2280 (La Suer) Testimony: hypnosis. This bill would allow a witness in a civil or criminal case to testify as to matters recalled during hypnosis, subject to specified requirements as to who must perform the hypnosis and the conditions under which it must be performed. Status: Failed; AJUD.

AB 2443 (La Suer) Public safety officer-peer counselor privilege. This bill would create a new evidentiary privilege, similar to those in existing law for communications made in the course of specified confidential relationships, for information transmitted between a public safety officer and his or her peer support counselor. Status: Dead; AsmPUBSAF.

AB 2470 (Jackson) Minors: statements. This bill allows certain out-of-court statements by minors under age 12 to be admissible in administrative licensing hearings for child care providers. Status: Chapter 707, 2002.

AB 2723 (Washington) Evidence: expressions of sympathy. Under existing law, an apology or expression of sympathy is inadmissible in a civil action as evidence of liability. This bill would extend this rule to apply in proceedings under the Administrative Procedure Act. Status: Chapter 92, 2002.

AB 2990 (Labor & Employment) Retaliation presumption. This bill provides that, if an employee is discharged, demoted, suspended, or reduced in hours of work or pay within 90 days after the employee has exercised any of the rights enumerated in the Labor Code, there is a rebuttable presumption affecting the burden of proof that the personnel action was retaliatory. Status: Vetoed.

SB 716 (Machado) Psychotherapist privilege. This bill redefines psychotherapist such that communications between a patient and a registered or licensed professional (or his or her trainee or intern) whom the patient reasonably believes is a psychotherapist would be confidential and privileged. Status: Chapter 142, 2001.

SB 2061 (Morrow) Privileged communications. This bill provides that a privileged communication should not lose its privileged status solely by reason of being communicated by electronic means. The bill further creates consistency in provisions regarding privileged communications by adding certain sexual assault victim-counselor communications and domestic violence victim-counselor communications to those presumed to be confidential, as are communications made in the course of other specified relationships. Status: Chapter 72, 2002.

**CONTRACTS, BUSINESS
AND COMMERCIAL
MATTERS**

CONTRACTS, BUSINESS AND COMMERCIAL MATTERS

Business

AB 1704 (Judiciary) Federal bankruptcy: applicable exemptions. This bill increases the amounts of certain state law exemptions available in Chapter 11 actions and ensures that the dollar amounts of these exemptions will conform to adjustments made under the federal bankruptcy laws. Status: Chapter 42, 2001.

AB 2412 (Diaz) Enforcement of employees' access to payroll records. This bill requires an employer who receives a request from a current or former employee to inspect or copy his or her payroll records to comply as soon as practicable, but in any event within 21 calendar days. Status: Chapter 933, 2002.

AB 2732 (Washington) Automatic checkout systems. This bill requires that any business establishment that uses an automatic checkout system to use a system that conspicuously displays the price to be paid by the consumer. The bill also requires that such systems display, at least once, all price reductions, surcharges, taxes, and the total amount for each transaction prior to payment by the consumer. Status: Chapter 818, 2002.

SB 110 (Dunn) Proprietary information. As first heard by the Committee, this bill allowed, for a three-year trial period, debt assignees (debt collectors) to file small claims actions under certain conditions. Under existing law, assignees are not allowed to file in small claims court. This bill allowed assignees to file a claim in small claims court if the claim were for an amount over \$825 (but under the upper limit for small claims jurisdiction), the assignee agreed to reduce the claim by ten percent, and the assignee paid a special filing fee. The defendant debtor had the option of transferring the claim to civil court without any additional filing fee. The bill appropriated \$278,000 to Judicial Council to conduct a study of the use of small claims courts by assignees and the effect on defendants. The bill was subsequently amended to create penalties for improper disclosure of the state's proprietary information, and in that form passed the Committee. The new provisions were later placed in AB 2578 (Chapter 1097, 2002). Status: Dead; AsmFloor.

SB 1814 (Dunn) Antitrust. This bill would provide that liability under the Cartwright Act prohibiting certain actions in restraint of trade is not precluded solely because the combination for anti-competitive purposes is carried out between two or more persons who are related to one another by common ownership. The bill also adds monopolization to the actions prohibited under the Cartwright Act. Status: Failed; AsmB&P.

SB 1872 (Bowen) Vendors: refund and return policies. This bill seeks to provide consumers who purchase products or services by telephone, over the Internet or through the mail with timely refund of their money when they return the product or cancel the service by requiring Internet, telephone and mail order businesses to process a refund to a

customer within 30 days if the purchase was made by a form of payment other than a credit card and within seven days if made with a credit card. Status: Chapter 326, 2002.

Contracts

AB 256 (Wayne) Consumer contracts. This bill provides that, if a resident who is a consumer in this state enters into a consumer contract for the purchase, lease, license, or bailment of goods or services primarily for personal, family, or household purposes, any action against that consumer arising out of or connected with that contract or transaction shall be filed in a court of this state. The measure also provides that any action that is commenced against the seller or any other party to the transaction shall be filed in any forum that has jurisdiction over the seller or other party and where venue is appropriate and prohibits contract provisions that restrict the venue where an action or proceeding against the consumer or seller should take place. Status: Vetoed.

AB 491 (Frommer) Rental vehicles: collision damage waiver; contracts. When initially heard by the Committee, this bill set forth legislative intent pertaining to rental vehicles, stating that it is the intent of the Legislature to address: (1) the manner in which rates are advertised, quoted, confirmed, and charged; (2) collision damage waivers; (3) customer facility charges at airports; and (4) vehicle license fees. As amended in the Senate, the bill increases the \$9 cap on collision damage waiver (CDW) fees to \$15 for those rental vehicles that have a manufacturer's suggested retail price (MSRP) of between \$19,001 and \$35,000 and are not older than the model year of the preceding calendar year. The bill permits an unlimited fee for any rental vehicle with an MSRP of over \$35,000, regardless of the model year and provides that the current \$9 maximum fee would remain applicable to rental vehicles: (1) with an MSRP of \$19,000 or below; (2) which are designated as a "compact," "sub-compact," or "economy" rental by the rental company; or (3) that are more than two model years old and had an original MSRP of between \$19,000 and \$35,000. The bill also permits rental car companies to charge a "customer facility fee," as specified, to finance, design and construct consolidated airport car rental facilities or a common use transportation system. The measure also revises the renter's liability for loss due to theft and requires the rental company to disclose that the renter's credit card used to pay for the car rental transaction may provide coverage for all or a portion of the renter's potential liability, and that the renter should consult with his or her credit card issuer to determine the amount of coverage and deductible, if any, for which the renter may be liable. Status: Chapter 661, 2001.

AB 543 (Vargas) Mechanics liens. Sets forth legislative intent regarding the need for revisions of the law governing mechanic's liens and related provisions, including provisions pertaining to payment and performance bonds, with the purpose of modernizing and simplifying the statutes, and addressing problems such as the potential for double payment by homeowners. Status: Dead; SenRules.

AB 568 (Dutra) Mechanics liens. This bill provides that if a home improvement contract is executed in an amount not exceeding \$25,000, regardless of later increases in

the contract price, the homeowner may setoff the amount of good-faith payments to the original contractor against the aggregate amount of enforceable mechanics' liens and stop notice claims, in an amount not exceeding \$25,000. The bill would also provide that a homeowner's receipt of a preliminary 20-day notice does not affect the good-faith nature of payment by the owner. Status: Dead; SenJUD.

AB 623 (Runner) Consumer warranties: return of nonconforming goods. Under existing law, a manufacturer that makes express warranties but does not provide specified service and repair facilities in this state is liable to a retail seller of the manufacturer's goods for specified costs incurred in fulfilling the express warranties. This bill provides that a flooring industry manufacturer may not require a flooring industry retail seller claiming payments of such costs to bring an action in any court other than a court of this state. The bill is intended to protect flooring industry retailers who have found it difficult or impossible to recover from manufacturers the costs of providing warranty service, due to manufacturers' contractual requirements that actions to recover such costs be brought in the home state of the manufacturer. Status: Dead; SenJUD.

AB 678 (Papan) Unlicensed contractors. When heard by the Committee, this bill authorized persons who use the services of an unlicensed contractor to bring an action to recover all compensation paid to the unlicensed contractor for performance of any act or contract unless the person knew that the contractor was unlicensed prior to the time that any payments were made to the contractor. As amended in the Senate, the bill permits such actions without regard to whether the person knew that the contractor was unlicensed prior to making any payments to the contractor. Status: Chapter 226, 2001.

AB 794 (Shelley) Licensed contractors. Prohibits a licensed contractor from inserting into contracts with an employee certain provisions deemed void or unenforceable under the Civil Code. Status: Dead; AsmJUD.

AB 1534 (Longville) Works of improvement: financial security. This bill requires an owner of property who contracts for a private work of improvement in an amount exceeding \$5 million if the owner's interest is a fee simple absolute interest or \$1 million if the owner's interest is less than a fee simple absolute interest to provide one of three specified forms of security for the project, to be used only when the owner defaults on his or her contractual obligations to the original contractor. The bill specifically exempts from the security requirement, among others, single-family residences and public works projects and further provides that the security requirement should not be interpreted as affecting any provision providing for mechanics' liens, stop notices, bond remedies, or prompt payment rights of a subcontractor, including the original contractor's payment responsibilities. Status: Chapter 823, 2001.

AB 1730 (Insurance) Contracts. When in the Committee, this bill broadened the application of certain Civil Code provisions governing the use of electronic signatures. The bill was later amended to make a technical change in a provision regarding the interpretation of contracts. Status: Dead; AsmINS.

AB 1951 (Vargas) Home solicitation contracts: timeshares. This bill extends a timeshare purchaser's contract cancellation period to seven days (instead of three days), and specifies that the cancellation period also shall apply to purchases of incidental benefits offered concurrently within the seven-day cancellation period. The bill also provides a purchaser reimbursement provision, requires additional disclosure requirements regarding timeshare transactions and amends conflicting statutes regulating specified timeshare transactions by exempting these transactions from the Civil Code and allowing the transactions to be regulated under the Business and Professions Code. Status: Dead; SenJUD.

AB 2256 (Dickerson) Producers Liens. Extends the producers lien on farm products delivered to a processor from the product in possession of the processor to the proceeds derived from the sale of the product. Status: Failed; SenAG.

AB 2265 (Cardenas) Consumer purchases: seniors: cancellation. Existing law permits a buyer to rescind a home solicitation contract, as defined, at any time prior to midnight of the third business day after the date of the transaction, except as specified. This bill permits a person who is 65 years of age or older to rescind a purchase, or an agreement to purchase, the total cost of which is in excess of \$15,000 at any time prior to midnight of the third business day after the transaction, without penalty or obligation. Status: Dead; AsmJUD.

AB 2331 (Wayne) Waivers: obligations; consumers. This bill prohibits the waiver of various consumer protection statutes by providing that any waiver of the statutes is contrary to public policy and void and unenforceable. The bill adds these anti-waiver provisions to consumer protection statutes regarding, among other things, credit card disclosures, debit cards, gift certificates, supermarket club cards, confidentiality of social security numbers, and destruction and disposition of customer records containing personal information. Status: Chapter 815, 2002.

AB 2377 (Florez) Producers Liens. Removes the restriction requiring the farm product or processed form thereof to be in the possession of the processor in order for a producer's lien to attach. Status: Dead; AsmJUD.

AB 2457 (Frommer) Rental car contracts: oral disclosures; collision damage waivers. This bill, for a three-year period beginning January 1, 2003, modifies the laws requiring written and oral disclosure to rental car customers that the collision damage waiver policy offered by the rental company may be duplicative of the coverage provided by the renter's car insurance policy. It creates a different set of disclosure rules for persons who rent through a rental company's membership program, as specified. For all other renters, the current oral disclosures will still be required and reinforced, but a specific written disclosure requirement will be repealed. Status: Chapter 948, 2002.

AB 2578 (Shelley) Contracts: breach of confidentiality: proprietary information.

When this bill was heard by the Committee, it dealt with unlawful contracts and solicitations by mail, including email in specified instances. Along with a companion measure, AB 2775 (Steinberg), the bill provided that a contract for the purchase of a consumer product or service made in response to a mail solicitation is unlawful if the consumer has not expressly provided, at the time of purchase, consent to have his or her account charged and the number of the account to be charged. For purchases made by credit card, debit card, or by bank account, the bill would provide that the last four numbers of the account number are sufficient to comply. The bill was subsequently amended to create enhanced penalties available against government contractors who intentionally disclose proprietary information gained through their contracts with state agencies. Status: Chapter 1097, 2002.

AB 2693 (Wyman) Contractors. This bill revises existing law relating to when an individual may recover compensation paid to an unlicensed contractor. The bill provides that a person who utilizes the services of an unlicensed contractor may bring an action to recover compensation paid to the unlicensed contractor during the period when the contractor was not licensed, unless a court determines that the contractor was in substantial compliance with licensure. Status: Failed; SenJUD.

AB 2850 (Firebaugh) Personal services contracts: legal services. This bill requires that notice be given by a state agency to the designated representative of State Employees Bargaining Unit 2 (state attorneys and hearing officers) prior to entering into a contract for legal services. Status: Vetoed.

SB 2 (Murray) Employment: recording artists' contracts. Existing law provides that, except as specified, a contract to render personal service may not be enforced against an employee beyond seven years from the commencement of service under the contract. However, an employee who is a party to a contract to render personal services in the production of specified phonorecords may not invoke this provision without first giving written notice to the employer that the employee will no longer render service under the contract by reason of the above provision. Existing law also specifies the rights of the parties to recover damages for certain breaches of contracts related to the production of phonorecords. Among other things, this bill (formerly SB 1246) deletes the provisions relating to personal services in the production of phonorecords and the recovery of damages for certain breaches of contracts related to the production of phonorecords. This bill also provides for certain limitations on damages in an action for breach of contract against a recording artist who is a party to a contract to render personal service in the production of phonorecords and provides that a recording company may not recover damages if the recording artist elects to produce albums for which damages are owed. Status: Dead; AsmAEST&IM.

SB 281 (O'Connell) Vehicle lease contracts. This bill, sponsored by the California Motor Car Dealers Association, clarifies the application of the "single document rule" to vehicle lease contracts. The single document rule requires that a vehicle lease contract

contain in a single document all agreements between lessor and lessee. This bill specifies the information which must be disclosed in various sections of a vehicle lease contract, requires that a preprinted form for use as a vehicle lease contract must provide sufficient space to include all required disclosures and a specified amount of blank space for the memorialization of individualized agreements. The bill further specifies that certain specified agreements, including express warranties, titling and transfer documents, and service contracts are not required to be included in a vehicle lease contract. Status: Chapter 287, 2001.

SB 772 (Bowen) Electronic mail: notice of termination of service. This bill (formerly SB 1383) requires electronic mail service providers to give customers 30-days notice before permanently terminating the customer's electronic mail service without cause. Status: Chapter 783, 2002.

SB 938 (Margett) Mechanics liens. This bill requires an owner of a private work of improvement to notify contractors and subcontractors when the owner records a notice of completion or cessation of the project within 10 days. Under this bill, an owner's failure to give that notice would extend the time that the subcontractor has to file a lien from 30 days to 90 days. Status: Dead; AsmJUD.

SB 1246 (Murray) Employment: recording artists' contracts. See SB 2.

SB 1383 (Bowen) Electronic mail: notice of termination of service. See SB 772.

SB 1522 (Sher) Contracts. This bill would revise Article 1 of the Uniform Commercial Code (UCC) to reflect modifications that have been made to other parts of the UCC and to accommodate changed business practices and developments in commercial transactions. In addition to largely technical changes, the bill most substantively would, with respect to choice of law provisions in consumer contracts, delete the requirement that the chosen law have a "reasonable relation to the transaction." Status: Dead; AsmJUD.

Corporations

AB 2157 (Papan) Credit unions. This bill establishes requirements for the organization, regulation and imposition of sanctions for violations of law relating to credit unions. Status: Chapter 734, 2002.

SB 399 (Ackerman) Corporations. This bill establishes procedures for a California corporation to convert into a limited liability company, general partnership or limited partnership, and vice versa, and specifies the effects of such a conversion on the rights and obligations of shareholders and creditors. Status: Chapter 480, 2002.

Unfair Trade Practices

AB 1884 (Robert Pacheco) Restrictions on unfair competition lawsuits. This bill restricts a plaintiff's ability to bring an unfair competition action by requiring that a plaintiff bringing an action under Business and Professions Code section 17200 (California's Unfair Competition Act) must have suffered a "distinct and palpable injury". In addition, the bill requires a plaintiff to wait 90 days after serving a notice of intent to sue on the defendant before filing the action and provides that an action may not be brought if the defendant, before the end of the 90-day period, corrects the business practice. The bill also provides that a consumer may not bring an unfair competition action if the Attorney General, any district attorney, city attorney or county counsel or any other private plaintiff has already commenced an action against the same defendant alleging substantially similar facts and theories of liability. The bill also provides for specified rules regarding discovery in a representative civil action. Status: Failed; AsmJUD.

Creditor-Debtor Relations

AB 1805 (Kehoe) Consumer credit reporting agencies: statute of limitations. The existing Consumer Credit Reporting Agencies Act provides for the regulation of consumer credit reporting agencies that regularly engage in the business of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer credit reports to third parties. The act prescribes civil remedies for a violation of the act and provides a statute of limitations for actions brought pursuant to the act of two years from the date the plaintiff knew or should have known of the violation, but no more than seven years from the earliest date on which the liability could have arisen. In cases in which the defendant materially and willfully misrepresented information required by the act, an action may be brought at any time within two years after the plaintiff discovers the misrepresentation. This bill revises the statute of limitations to instead provide that the plaintiff may bring an action within two years after discovery of the violation but no more than seven years after the liability could have arisen, except in cases in which the defendant materially and willfully misrepresented information, as specified. Status: Failed; AsmB&F.

AB 2161 (Maddox) Investigative consumer reports: criminal convictions. Under existing law, investigative consumer reports are prohibited from containing arrest, conviction or indictment information that is more than seven years old. This bill allows these reports to contain information on any felony irrespective of its date. The bill also prohibits information contained in an investigative consumer report from being used by any public agency to disqualify a person from voting or render a person ineligible to register to vote. Status: Failed; SenPUBSAF.

COURTS AND RELATED MATTERS

COURTS AND RELATED MATTERS

Courts

AB 785 (Bates and Harman) Commercial courts. This bill establishes a four-year pilot project in up to four superior courts to evaluate the effectiveness of maintaining separate departments within the superior courts to handle complex commercial cases. The bill requires that Judicial Council develop procedures for the implementation of the pilot project and submit specified evaluations of the pilot project to the Governor and the Legislature. Status: Dead; AsmJUD.

AB 1006 (Jackson) Juvenile justice facilities: County of Ventura. When heard by the Committee, this bill sought to establish 90% of the salary of court reporters in Los Angeles County as the floor rather than the ceiling for court reporter salaries in Ventura County. As amended in the Senate, the bill authorizes the Ventura County Board of Supervisors to adopt a resolution to establish in the county treasury a Juvenile Justice Facilities Construction Fund and to use such funds to finance any public agency funding mechanism such as retirement of bonded indebtedness, loan repayments, and monthly payments involving lease-purchase programs. Status: Chapter 432, 2001.

AB 1571 (Shelley) Court employees. Existing law provides for the appointment of employees of the Supreme Court and courts of appeal at their pleasure. This bill eliminates the provision that employees of the Supreme Court and courts of appeal serve at their pleasure and provides for the formation of employee organizations and for collective bargaining thereby with the Supreme Court and courts of appeal, as specified. Status: Dead; AsmJUD.

AB 1698 (Judiciary) Legal document assistants. This bill, sponsored by the Judicial Council, was originally a placeholder for statutory changes to the role and function of subordinate judicial officers. It was subsequently amended to repeal the sunset date for the Legal Document Assistant Pilot Project, and amends the provisions regulating legal document assistants (LDAs). Status: Chapter 1018, 2002.

AB 1700 (Steinberg) Courts. As heard by the Committee, this bill made various technical changes related to trial court funding operations necessary to conform the law to the procedures of the unified trial courts, deleted references to obsolete pilot programs and municipal court references, and increased the maximum amount for grants to Court Appointed Special Advocate programs. The bill was later amended to include, in addition to the court related provisions, the provisions of AB 267, which modify pre-litigation procedures in construction defects actions. Status: Chapter 824, 2001.

AB 1819 (Robert Pacheco) Collection of delinquent fines. This bill would allow counties and courts to implement collection programs for delinquent fines and forfeitures, if the base fine is over \$100. This bill repeals the \$100 minimum, allowing such

programs to be used to collect delinquent fines regardless of the base amount of the fine. Status: Chapter 62, 2002.

AB 1861 (Harman) Special Motion to Strike Civil Actions. Creates an expedited response filing process and court hearing procedure for pro per civil filings by inmates based on "privileged" communications made or offered at a parole hearing. Status: Failed; SenPUBSAF.

AB 2022 (Longville) Courthouse construction. Existing law permits San Bernardino County to impose a surcharge on certain filing fees, to go into the county's Courthouse Construction Fund, but does not allow the surcharge in limited civil cases. This bill would allow the surcharge in limited civil cases and would authorize certain uses of the Fund, including earthquake retrofitting of the Central San Bernardino Courthouse. Status: Chapter 367, 2002.

AB 2690 (Cardoza) Court financial statements: fines and penalties. This bill would require, in five counties selected by Judicial Council, the superior court to prepare an annual financial statement showing, for the calendar year, the fines, forfeitures, penalty assessments, and civil assessments. The bill would further require these statements to be submitted to the Bureau of State Audits for auditing. Status: Dead, SenAPPR.

AB 2899 (Migden) Homeless courts. This bill would create a homeless court pilot project to operate in three counties. The courts would operate special sessions at homeless shelters and service agencies for the homeless in order to address the cases and problems of homeless persons accused of minor crimes, allowing alternative sentencing and an expeditious means for homeless persons to dispose of the charges against them. Status: Vetoed.

AB 3027 (Judiciary) Courts. This bill makes several amendments, deletions, and additions to the Civil Code, Code of Civil Procedure, Evidence Code, and Government Code. The bill seeks to reduce the "gamesmanship" that may occur in the deposit of jury fees by requiring all parties demanding a jury to deposit advance jury fees. The bill deletes obsolete provisions regarding the transfer of cases between a municipal and superior court. The bill also makes the following amendments: extends the time for service of a claim in small claim actions; specifies a time for making a written request for postponement of a hearing in small claim action; extends immunity to independent contractors providing small claim advice on behalf of a court or county in small claim actions; requires notice and an opportunity to be heard to a party failing to comply with local court rules; clarifies the oath statute; and updates the Clergy-Penitent privilege with gender neutral language. Status: Chapter 806, 2002.

AB 3028 (Judiciary) Court procedures. This bill makes miscellaneous changes related to court operations. Status: Chapter 1008, 2002.

ACA 15 (Wayne) Court consolidation. This measure would put on the ballot a constitutional amendment to delete obsolete references to the municipal courts from the California Constitution. Status: Resolution Chapter 88, 2002.

SB 128 (Burton) Trial court employees. This bill makes technical and clarifying changes to the Trial Court Employment Protection and Governance Act. Further, this bill adds two provisions to the Act: 1) restricts agency shop elections to no more than once a year for each bargaining unit, and requires the elections to be conducted by the Division of Conciliation of the Department of Industrial Relations if the parties fail to select a neutral entity to conduct the election within 10 days of the election petition; and 2) establishes a procedure for the release of budget and management information by the trial court and the Judicial Council, including a hearing and appeal process. Status: Chapter 270, 2001.

SB 1112 (Polanco) Cesar Chavez court holiday. As originally introduced and heard in the Senate, this bill sought to delay the effective date of a Rule of Court adopted by the Judicial Council. This bill was subsequently amended to simply add Cesar Chavez Day as a court holiday as it is with the legislative and executive branches of government. Status: Chapter 542, 2001.

SB 1316 (Judiciary) Court unification. This bill makes technical statutory changes to reflect the elimination of municipal courts and their unification within the superior courts. Status: Chapter 784, 2002.

SB 1396 (Dunn) Court security. This bill would replace the Rule of Court governing court security functions with a statutory scheme requiring courts and sheriffs to develop court security plans in each county. Status: Chapter 1010, 2002.

SB 1732 (Escutia) Court facilities. This bill creates the "Trial Court Facilities Act of 2002," to transfer responsibility for trial court facilities from counties to the state. The bill sets forth procedures and transitional provisions relating to such transfer, and sets up funding mechanisms to cover some of the costs to the state. The bill provides that Judicial Council must enter into an agreement with the county regarding the transfer of responsibility of each facility. If agreement cannot be reached, the dispute must be resolved by the Court Facilities Dispute Resolution Board created under the bill. Status: Chapter 1082, 2002.

Court Reporting and Recording

SB 805 (McPherson) Deposition officers. Establishes that recordings made by a deposition officer, using methods other than stenographic recording, are to be considered the personal property of the deposition officer, not official or public records, and makes these recordings available for commercial sale by the deposition officer. Status: Dead; AsmJUD.

SB 852 (Figueroa) Court reporting schools. This bill seeks to improve the accountability of shorthand reporting schools and to improve student awareness of school requirements and performance by, among other steps, requiring disclosure of certain consumer information to current and prospective students, notifying students of changes in graduation requirements or qualifications, counseling students on completion of school requirements, and improving school record keeping and reporting requirements. Status: Chapter 616, 2001.

SB 1371 (Morrow) Court reporting. This bill, necessitated by trial court unification, consolidates two court reporting statutes, clarifies that a transcript in longhand is to be provided to a nonparty if he or she is entitled to receive the transcript whether or not he or she was entitled to attend the proceeding, and makes other technical nonsubstantive changes to the court reporting statutes. Status: Chapter 71, 2002.

Judges

AB 329 (Jackson) Judges: court proceedings. Existing law provides that a party to a civil or criminal action or proceeding may move to disqualify a judge, commissioner, or referee for prejudice, as specified, and specifies the procedure for reassignment of the cause to another judge. This bill requires that, in counties with 5 or more judges, the reassignment to a different judge shall be made on a random basis. Status: Dead; AsmJUD.

ACA 1 (Nation) Judicial elections. Under this proposed constitutional amendment, vacancies in California's Superior Courts would be filled exclusively by gubernatorial appointment, and judges would run unopposed in retention elections in which voters would be asked whether Judge X should be elected. Status: Dead; AsmJUD.

Juries

AB 1161 (Papan) Grand jurors: compensation. This bill increases the minimum amount counties may pay grand jurors from \$10 to \$15 per day, and increases the mileage reimbursement for grand jurors for 15 cents per mile, one way only, to the mileage reimbursement which is otherwise payable to county employees. Status: Chapter 218, 2001.

AB 1660 (Negrete McLeod) Jury service: pollworkers. This bill excuses an eligible person who serves as a pollworker at a national statewide or local election from jury service for a period of one year following the date of the election at which the pollworker serves. Status: Dead; AsmJUD.

AB 1970 (Matthews) Juries: peace officer exemption. This bill sought to add parole, probation and correctional peace officers to those exempted from jury service. Status: Dead; SenPUBSAF.

AB 2925 (Migden) Jury duty. This bill increases the amount of mileage reimbursement to be paid to jurors in civil and criminal cases from \$0.15 to \$0.34 per mile, in going only, and applies travel reimbursement upon the second day of attendance as a juror. Status: Chapter 144, 2002.

SB 303 (Torlakson) Jury duty: San Francisco Bay Area Rapid Transit District Police. This bill exempts San Francisco Bay Area Rapid Transit District Police from jury duty, consistent with exemptions for other specified peace officers. Status: Chapter 55, 2001.

Small Claims Court

AB 2949 (Wayne) Small claims court: jurisdiction. This bill makes void and unenforceable any provision in a consumer contract that establishes a forum outside California for the resolution of any claim that is otherwise within the jurisdiction of a small claims court of this state, in order to protect Californians from being forced to forgo claims when the amount involved is not enough to warrant the expense of litigating out of state. Status: Chapter 247, 2002.

Trial Court Coordination and Funding

AB 1549 (Wiggins) Court facilities. This urgency measure extends for 18 months the period during which the state shall assume responsibility for the court facility needs for trial court judgeships authorized after January 1, 1998, to allow appropriate review and action on the final recommendations of the Task Force on Court Facilities, which is not expected until October of this year. The bill provides that, unless a court and a county otherwise mutually agree, the state shall assume responsibility for suitable and necessary facilities for judicial officers and support staff for any judgeships authorized during the period from January 1, 1998 to December 31, 2002, inclusively. Status: Chapter 852, 2001.

SB 1343 (Torlakson) Trial court funding: Contra Costa County. This bill would allow Contra Costa County to make scheduled payments over ten years for retroactive maintenance of effort payments the county is required to make under the Trial Court Funding Act for under payments of fine and forfeiture revenue made to the state between 1997 and 1999, due to the State's miscalculations. Status: Dead; AsmAPPR.

**FAMILY LAW,
CHILDREN AND
RELATED MATTERS**

FAMILY LAW, CHILDREN AND RELATED MATTERS

Adoption

AB 538 (Cardoza) Adoption. This bill makes various clarifying amendments in the area of adoption law. The bill requires that, absent a finding of substantial hardship, the consolidation of a paternity action and an action to terminate the parental rights of an alleged father arising out of a mother's relinquishment of a child for adoption shall remove the case to the county in which the adoption is pending. It further provides that a resident of California who adopts through an intercountry adoption finalized in a foreign country may obtain a California birth certificate for the child whether or not the parent goes through the readoption procedure. The bill expands the list of those permitted to conduct stepparent adoption investigations to include licensed clinical social workers and licensed marriage family therapists. The bill provides that when there is a prospective adoptive family that intends to adopt a sibling group, the siblings shall be assigned to the same social worker unless the local agency makes specified findings. The bill authorizes a child welfare agency to provide prospective caretakers with a dependent child's health and welfare passport, and other specified information, prior to placement, if the prospective caretakers are willing to adopt the child and meet specified criteria for doing so. Status: Chapter 353, 2001.

AB 550 (Zettel) Adoption. This bill prohibits the court from making and entering an order of adoption of a child unless a home study, as defined, of the prospective adoptive parent's home has been completed, with an exception, as under existing law, for stepparent adoptions. Status: Dead; AsmJUD.

AB 591 (Vargas) Adoption: Indian children. This bill requires any party who seeks the voluntary or involuntary placement of an Indian child or termination of parental rights regarding an Indian child, to provide written notice of the proceedings to the tribe of the child within specified time frames. The bill further specifies the information which the notice must contain. The bill declares for the State of California that with regard to Indian child custody proceedings, the federal Indian Child Welfare Act supersedes all other conflicting federal and state laws. Status: Dead; AsmJUD.

AB 746 (La Suer) Adoption. This bill permits, subject to certain requirements, nonresidents of California who want to adopt children born in California to petition for adoption and finalize the adoption, through the California courts, within three business days of the court's receipt of the petitioner's request for hearing. Status: Chapter 1112, 2002.

AB 1349 (Pescetti) Open adoption records: adult adoptees. This bill provides that upon receipt of a written and notarized application to the State Registrar of Vital Statistics, any adopted person 18 years of age and older who has identified his or her birth parent or parents, as specified, shall be issued a certified copy of his or her birth certificate and a copy of the decree of adoption, a copy of the court report of adoption,

and other specified documents in the adoptee's file. The bill would require the State Registrar of Vital Statistics to provide "Contact Preference Forms" and medical history forms to birth parents and to provide a copy of the completed forms, if available, to the adopted person. The bill would also authorize the State Registrar to charge a reasonable fee for providing these forms and documents. The bill would also authorize an adult adopted person who has not identified his or her birth parents to request the State Department of Social Services or the licensed adoption agency that facilitated the adoption to conduct a search for the adopted person's birth parents using a confidential intermediary. The bill would require the department to develop an application form and to establish eligibility standards and standards of conduct for confidential intermediaries. Status: Dead; AsmAPPR.

AB 2279 (La Suer) Minors: custody. This bill would authorize a peace officer to take into temporary custody a minor who is in a hospital if the release of the minor to a prospective adoptive parent poses an immediate danger to the minor's health or safety. The bill would also create a limited exception to this provision and to an existing provision of law allowing a peace officer to take into custody a minor in a hospital if release to the parent poses an immediate danger, if the minor is a newborn who tests positive for illegal drugs or whose birth mother tests positive for illegal drugs, the minor is the subject of a petition for adoption and an adoption placement agreement, and the release of the minor to a prospective adoptive parent or parents does not pose an immediate danger to the minor. Status: Chapter 920, 2002.

AB 2579 (Wyland) Adoption: presumed fathers. This bill would put in place new requirements in order for an unwed biological father to assert parental rights when the mother of the child wishes to give the child up for adoption. As to children under six months old, the bill would require the father to have initiated proceedings to establish paternity and filed notice of those proceedings with the Department of Social Services. In addition, if the father had actual knowledge of the pregnancy, he would have had to have paid some of the expenses of pregnancy and birth. If the child were over six months old, the father would have to have a relationship with the child and to have provided financial support. Status: Dead; AJUD.

SB 104 (Scott) Adoption. This bill reduces the time period a birth parent has to revoke consent to the adoption of his or her child, or waive the right to revoke consent, from 90 days to 30 days, for independent adoptions. The change makes the time period consistent with the procedures for agency adoptions, and is more in line with procedures in use in other states. Status: Chapter 688, 2001.

Children

AB 705 (Steinberg) Juvenile dependency: permanent placement of children. This bill seeks to maintain relationships between a dependent child and his or her siblings by requiring social workers to place together siblings taken into temporary custody, whenever appropriate and practical; adds "substantial interference with a sibling

relationship" to the list of factors a judge may use as a basis for not terminating parental rights; maintains limited jurisdiction of the court post-adoption in order to enforce post-adoption sibling contact agreements; and requires social workers to provide the dependent child's counsel with a complete report, at the same time parents and/or parents' counsel are provided with the complete report. Status: Chapter 747, 2001.

AB 886 (Simitian) Parental authority: educational decisions. This bill would require appointment of a responsible adult to make educational decisions for a child under certain circumstances, when the power of the parent, guardian or conservator to make such decisions is limited by a court, or when the guardian or conservator is removed. Status: Chapter 180, 2002.

AB 1129 (Liu) Juvenile court restraining orders. This bill authorizes the juvenile dependency court, when issuing a restraining order protecting a child from certain behavior by any parent, guardian, or current or former member of the child's household, to also issue an order protecting the parent, guardian of current caretaker of the child from that person, whether the child resides with them or not. Status: Chapter 713, 2001.

AB 1832 (Robert Pacheco) Dependency proceedings: psychotherapist-patient privilege. This bill would permit a psychotherapist providing court-ordered psychotherapy to a minor to release specified information to the court and the county social worker in connection with dependency proceedings, regardless of whether the minor or the minor's counsel has invoked the psychotherapist-patient privilege. Status: Dead; SenJUD.

SB 940 (Judiciary) Juvenile justice. This bill makes several changes in the area of juvenile court law. In the section of law regarding the purpose of the juvenile courts, the bill adds a reference to a Judicial Council Standard of Judicial Administration that recommends a leadership role for juvenile court judges in developing resources and services for at-risk children and families. The bill removes the requirement of a minor's consent for a hearing to be held regarding the minor's infraction violation upon a written notice to appear. The bill requires the probation department to commence parental termination proceedings if a ward has been in foster care for 15 of the past 22 months. It provides for coordination between counties when a minor is the subject of proceedings in more than one county. Finally, as to Los Angeles County, the bill makes changes regarding access to juvenile police records, clarifying which persons and entities are entitled to access and setting forth procedures for other persons to request such records. Status: Chapter 830, 2001.

SB 1677 (Alpert) Educational surrogate parents. Existing law permits the appointment of a surrogate parent to advocate for the education needs of certain special education students. This bill would clarify the powers and duties of such surrogate parents, and creates a requirement that the surrogate parent meet with the child at least once. The bill also requires that court ordered evaluations with regard to children in dependency or delinquency proceedings look at the issue of whether the parent or

guardian's right to make educational decisions should be limited, and requires appointment of a responsible adult to make such decisions if the parent or guardian's right to do so is limited. Status: Chapter 785, 2002.

SB 1956 (Polanco) Dependency proceedings. Existing law regarding notice in dependency proceedings is confusing, scattered through various Welfare and Institutions Code proceedings, Rules of Court, federal law and regulations (for example, Indian Child Welfare Act provisions regarding notice in cases involving Indian children), and case law. SB 1956 reorganizes the notice statutes to allow those charged with giving notice more easily to understand and follow the requirements. Status: Chapter 416, 2002.

Child Custody and Visitation

AB 853 (Liu) Dependent children: visitation. Authorizes a court to order visitation between the parent or guardian and the child, for a total of not more than 60 days, for the purpose of facilitating a gradual transition for the permanent and safe return of the child to his or her home, where the court has found that there is a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child if he or she is returned home. Status: Dead; AsmJUD.

AB 2441 (Bates) Child abduction prevention. This bill provides that, in any child custody or visitation proceeding in which the court becomes aware of facts indicating a possible risk of abduction of the child, the court shall consider certain factors to determine whether measures are needed to prevent such an abduction. If the court determines that the need exists, it shall consider taking any of a specified list of measures to discourage or prevent the abduction of the child. Status: Chapter 856, 2002.

AB 3039 (Judiciary) Dependent children. This bill is a placeholder to address dependent children issues that may arise during the course of this legislative session. Status: Dead; AsmJUD.

SB 1151 (Margett) Child custody orders. This bill provides that statutorily authorized automatic stays of court orders affecting child custody do not apply to proceedings relating to parental kidnapping of a child from the state or country having jurisdiction over custody. Status: Chapter 48, 2001.

SB 1512 (Scott) Parental custody and control. This bill makes several technical, nonsubstantive changes to provisions relating to independent adoptions and one substantive change to the Interstate Compact on the Placement of Children (ICPC). The latter change to the ICPC defines the word "jurisdiction" in those provisions that affect a "sending agency's" continuing authority and control over a child who is being sent from or to California for placement in a home or appropriate institution. Status: Chapter 260, 2002.

SB 1704 (Ortiz) Child custody investigations. This bill provides that recently enacted standards for child custody evaluations in cases involving allegations of sexual abuse apply to court-connected as well as to private evaluators. The bill also supplements the minimum requirements of a child custody evaluation to include obtaining and reporting on any family history of domestic violence, child abuse, or substance abuse. Status: Chapter 305, 2002.

Child, Family and Spousal Support

AB 234 (Romero) Domestic violence: spousal support. This bill provides that in any proceeding for dissolution of marriage brought within 6 months of a criminal conviction for an act of domestic violence perpetrated by one spouse against the other spouse, there shall be a rebuttable presumption that any award of spousal support to the abusive spouse otherwise awardable pursuant to the standards of the provisions governing the award of spousal support should be reduced by at least 20%. Similar provisions of this bill were pursued and chaptered in SB 1221. Status: Dead; AsmJUD.

AB 891 (Goldberg) Disabled non-custodial parents. This bill seeks to relieve the child support obligations of disabled non-custodial parents. Specifically, this bill provides that the child support offset that currently relieves a portion of the child support obligation of disabled non-custodial parents who receive federal disability benefits (but only when the custodial parent applies for the offset) may be applied for, and received, by the non-custodial parent (with appropriate proof) if the custodial parent fails or neglects to apply for the offset. Status: Chapter 651, 2001.

AB 1426 (Wright) Employer lack of compliance with assignment orders. This bill provides that, when a local child support agency has an assignment order against an obligor's earnings, and the obligor's employer willfully has failed to comply with the order (or otherwise has failed to comply three times in a 12-month period), the agency may obtain a court order requiring payment of support by electronic transfer from the employer's bank account. In addition, the court may impose a civil penalty on such an employer in the amount of 50 percent of the support amount that has not been received by the obligee under these circumstances. Status: Chapter 371, 2001.

AB 1449 (Keeley) Child support arrearages. This bill creates a limited ability to compromise and settle child support arrearages owed to the state for reimbursement of public assistance payments where the child and parent have been reunited. It gives the county welfare agency discretion not to refer a case to the Local Child Support Agency (LCSA) to establish a reimbursement order if the child receives AFDC-FC and the county welfare department determines that referral could interfere with the parent's ability to reunify with the child or to support the child. The bill also gives LCSA authority to reduce the arrearages owed for reimbursement of AFDC-FC or CalWORKs where the obligor has regained custody and payment would interfere with the ability to support the child. It requires DSS and DCSS to promulgate regulations defining the parameters of the counties' authority. Status: Chapter 1449, 2001.

AB 1607 (Bates) Independent registry. This bill sought to provide that, notwithstanding the requirement that all employers report specified information to the employment development department about independent contractors they hire for purposes of child support collection, independent contractors who fall within the category of "direct sellers" need not be reported. Status: Dead; AsmAPPR.

AB 2240 (Wright) Paternity. This bill would create a procedure whereby a judgment of paternity, entered by default, could be set aside on the basis of DNA evidence beyond the usual time allowed for challenging such a judgment. The bill would give the court discretion as to whether to set aside the judgment, upon finding that the previously established father was not the biological father, based on specified criteria. The bill also requires that service in an action to establish paternity be by personal service, and puts in place other new requirements with regard to an action to establish paternity. Status: Vetoed.

AB 2245 (Wright) Child support. This bill sought to require that a child support order be suspended, including any arrearage, interest, or penalty that may accrue, if the support obligor is or was incarcerated in a penal institution for more than 29 consecutive days, and is without the resources to pay child support, with specified exceptions. Status: Failed; AsmJUD.

AB 2934 (Wayne) Uniform family support act. This bill makes substantive and procedural amendments to the Uniform Family Support Act, in accordance with the most recent review and analysis of practice and procedure under the Act by the National Conference of Commissioners on Uniform State Laws (NCCUSL). Status: Chapter 349, 2002.

AB 3032 (Judiciary) Child support enforcement. This bill makes technical and clarifying changes to various code sections consistent with California's new child support enforcement program. Status: Chapter 927, 2002.

AB 3033 (Judiciary) Spousal support. This bill corrects and inadvertent error in SB 1221 (Romero, Chapter 293, 2001) which created two new factors relating to domestic violence to be considered by a court in making an award of spousal support. The bill was intended to apply these two factors in consideration of an award of temporary support. Instead, the bill inadvertently incorporated all of the factors to be considered as to a permanent spousal support award into the provision regarding temporary support. AB 3033 corrects that error. In addition, AB 3033 transfers responsibility for the California Parent Locator Service and Central Registry from the Department of Justice to the new Department of Child Support Services. Status: Chapter 759, 2002.

AJR 18 (Aroner) Child support automation system. This resolution makes various findings regarding the child support automation system and substantial penalties being assessed against California for its tardiness in getting a statewide child support

automation system up and running. It further urges Congress to enact legislation to allow states assessed penalties for failing to implement a child support automation system to reinvest those penalties in child support program improvements and automation system developments. Status: Resolution Chapter 117, 2001.

SB 97 (Kuehl) Unpaid support orders. This bill clarifies current law regarding interest charges on unpaid support obligations. Specifically, this bill: 1) states legislative intent to abrogate the holding of the California Court of Appeal in Dupont v. Dupont, a 2001 decision affecting the accrual of interest on unpaid support orders, to ensure the consistent treatment of parents and their support obligations, and to allow the Department of Child Support Services (DCSS) to address the issue of interest as part of a comprehensive approach to maximize collections; 2) requires that, for purposes of a specified Code of Civil Procedure section, only the initial support order is to be considered an installment judgment. Clarifies that interest accrues on the total unpaid principal balance, and not just missed installments, for all support orders that either set forth the amount of support owed for prior periods, or establish a periodic payment schedule to liquidate support arrearages; and. 3) requires DCSS to submit to the Legislature by March 31, 2003, a specified analysis of the amounts owed, causes of, and recommendations for improving collection of child support arrearages. Status: Chapter 539, 2002.

SB 943 (Judiciary) Enforcement act technical clean-up. Makes technical changes to various code sections consistent with California's new child support enforcement program enacted last year. Status: Chapter 755, 2001.

SB 1221 (Romero) Domestic violence: spousal support. This bill provides that, in a court's determination to award spousal support, a rebuttable presumption affecting the burden of proof shall exist that a supported spouse who has been convicted of domestic violence within five years of the dissolution, before or after the commencement of the proceedings, shall have any support award eliminated. The bill further provides that the court may consider a convicted spouse's history as a victim of domestic violence as a condition for rebutting the presumption. Status: Chapter 293, 2001.

SB 1658 (Soto) Support: laches. This bill provides that, in an action to enforce a judgment for child, family, or spousal support, the defense of laches may be raised by the defendant and considered by the court only with respect to any portion of the judgment owed to the state. Status: Chapter 304, 2002.

Domestic Partnership

AB 25 (Migden) Domestic partnership. This bill confers over a dozen new legal rights, privileges and standing on all registered domestic partners, including, among other things: (1) the right to recover damages for negligent infliction of emotional distress; (2) the right to assert a cause of action for wrongful death; (3) the right of a domestic partner to adopt a child of his or her partner as a stepparent; (4) the right to make health care

decisions for an incapacitated partner; (5) the right to be appointed as administrator of the decedent's estate, in the same manner and priority as a spouse; (6) the right to use employee sick leave to attend to an illness of his or her partner or his or her partner's child and the right not to be discriminated against for using sick leave for such a purpose; and (7) the right to file a claim for disability benefits for his or her partner, in the same manner as a spouse may file such a claim. Status: Chapter 893, 2001.

AB 1080 (Kehoe) Public contracts: benefits for domestic partners. This bill prohibits a state agency from entering into any contract for goods or services with a vendor or contractor who does not provide the same benefits to an employee with a registered domestic partner that it provides to an employee with a spouse. The bill also requires a state agency to take all reasonable measures to find a contractor or vendor who does not discriminate in its employee benefit plan against employees with registered domestic partners instead of spouses, but would otherwise permit contracting without compliance under specified circumstances. Status: Dead; AsmJUD.

AB 2216 (Keeley) Domestic partners: intestate succession. This bill establishes intestate succession rights of domestic partners by expanding the legal rights of a registered domestic partner to include the right to inherit property if one partner dies without a will. The bill also contains a notification requirement by the Secretary of State to inform registered domestic partners and domestic partner applicants of this change. Status: Chapter 447, 2002.

AB 2862 (Migden) Domestic partners. This bill provides for clean-up provisions to AB 25 (Migden), Chapter 893, Statutes of 2001, which amended various code provisions to confer rights and privileges to domestic partners registered pursuant to the Domestic Partnership Act. Among other things, this bill allows a state retiree to appoint his or her domestic partner as beneficiary of an optional settlement elected after retirement, just as a spouse may be so appointed and requires that the appointment be made within 12 months of the registration of the domestic partnership (existing law requires the appointment to be made within two months of marriage if spouse is to be named the beneficiary). The bill also makes a clarifying change relating to domestic partner health care coverage provided by employers and makes clarifying and technical changes to existing provisions of law providing that a cause of action for the death of a person caused by the wrongful act or neglect of another may be brought by specified parties. Status: Vetoed.

Domestic Violence

AB 160 (Bates) Order precedence. This bill specifies that domestic violence protective orders issued by a criminal court have precedence over any civil court order pertaining to the same persons. The bill also directs the Judicial Council to establish a protocol for coordination of all orders regarding the same persons. It further requires modifications of domestic violence protective orders to be entered into the Domestic Violence Restraining Order System, and requires all such orders to be issued on forms adopted by the Judicial Council. Status: Chapter 698, 2001.

AB 362 (Corbett) DVPA definition. This bill defines the term dating relationship, for purposes of the Domestic Violence Prevention Act and the issuance of various protective orders under the Act, by incorporating the definition of that term currently contained in Penal Code Section 243. Status: Chapter 110, 2001.

AB 731 (Wayne) Interstate Enforcement of DVPO's. This bill replaces current law relating to enforcement of domestic violence protective orders from other states with the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act, promulgated by the National Conference on Uniform State Laws. The bill further prescribes the criteria for determining the validity of an order; specifies that registration of a valid order in this state is not required for its enforcement; requires a law enforcement officer of this state to enforce an order if probable cause exists that the order is valid and has been violated; and provides immunity for law enforcement officers attempting in good faith to enforce the order in accordance with this section. Status: Chapter 816, 2001.

AB 1909 (Cohn) Domestic violence: demonstration projects. This bill would, subject to discretionary funding from a city or county, authorize the superior courts in San Diego County, Santa Clara County, and any other county able and willing to participate, to develop a demonstration project to identify the best practices in civil, juvenile, and criminal court cases involving domestic violence. The bill would require superior courts participating in this demonstration project to report their findings and recommendations to the Judicial Council and the Legislature by May 1, 2004, and would permit the Judicial Council to make those recommendations available to any court or county. Status: Chapter 192, 2002.

AB 1933 (Reyes) Domestic violence: Cause of action. This bill creates a new cause of action for damages for the tort of domestic violence. The bill provides that a person who commits an act of domestic violence upon another, as defined, is liable to that person for damages including but not limited to general damages, special damages and punitive damages, and permits the court to award a prevailing plaintiff costs and attorney's fees. Status: Chapter 193, 2002.

AB 2030 (Goldberg) Protective orders: fees. This bill provides that the fee for service of a protective order for a victim of domestic violence, stalking or sexual assault shall be waived. This change will allow California to continue to receive federal funding under the Violence Against Women Act. Status: Chapter 1009, 2002.

AB 2652 (Chu) Domestic Violence Court Task Force. This bill would establish the Domestic Violence Court Task Force to create guidelines for establishing and operating domestic violence courts, and appropriates \$100,000 to Judicial Council to support the task force activities. Status: Vetoed.

SB 66 (Kuehl) Domestic violence. This bill helps to protect victims of domestic violence by ensuring that any court considering issuance of a domestic violence protective order has specified background information regarding the subject of the order. The bill requires the court, prior to a hearing on the issuance of a domestic violence protective order, to ensure that a search of specified records and databases is conducted to determine if the subject of the order has any prior criminal convictions for a serious or violent felony or any misdemeanor involving violence or weapons, outstanding warrants, is on probation or parole, or has prior restraining orders or a violation of a prior restraining order. It specifies the information from such a search that must be considered in determining whether to issue and order, and makes other provisions regarding the release of information from the search. The bill provides that its provisions shall only be implemented in those courts identified by Judicial Council as having resources currently available for these purposes, and in other courts to the extent that funds are appropriated for that purpose in the Budget Act. Status: Chapter 572, 2001.

SB 425 (Torlakson) Domestic violence: Contra Costa program. This bill authorizes the Contra Costa County Board of Supervisors to increase the fees for marriage licenses and certified copies of marriage certificates, birth certificates, fetal death records and death records by up to two dollars, with further increases permitted on an annual basis based on inflation. The fees would then be deposited in a special fund to be used for oversight and coordination of domestic violence prevention, intervention and prosecution efforts, in line with the county's policy of "zero tolerance for domestic violence." The county would be required to submit a report to the Assembly and Senate Judiciary Committees by July 1, 2006, with information on the funds received and expended from the fee increases, and the outcomes achieved. Status: Chapter 90, 2001.

SB 1265 (Alpert) Domestic violence: access to records. This bill expands current law giving domestic violence victims access to incident reports to give such access to specified representatives of the victim if the victim is deceased, in order to assist such representatives as they seek custody of the victim's children or take other legal action. Status: Chapter 377, 2002.

SB 1618 (Kuehl) Domestic violence: marriage license fees. This bill would increase by ten dollars the existing surcharge for a marriage license fee that goes to fund domestic violence centers, with a portion of the fee increase earmarked for centers serving underserved areas and populations. Status: Failed; AsmFloor.

Family Law

AB 511 (Matthews) Sale of the family home. Existing law authorizes a court to grant an order temporarily delaying the sale of a home and awarding temporarily the exclusive use and possession of the family home, known as a deferred sale of home order, to a custodial parent in order to minimize the adverse impact on a child resulting from a dissolution of marriage or legal separation of the parties. This bill additionally sought to authorize the court to grant that order to the lower wage earner where the parties were in a

long-term marriage and there is substantial disparity in the parties' relative economic situation. The bill also sought to require the court, in exercising its discretion to grant or deny a deferred sale of home order, to additionally consider the economic disparity between the parties, whether the resident party is responsible for caring for aged or disabled parents who have been residing in the family home, and whether the resident party operates a business out of the home and demonstrates a substantial likelihood that the party will be unable to relocate the business. Status: Dead; AsmJUD.

AB 539 (Maddox) Marital: liability; spousal debts. This bill provides that a one-year statute of limitations applies to actions brought against a surviving spouse for debts incurred for the necessities of life of a deceased spouse unless the surviving spouse had actual knowledge of the debt prior to the expiration of the one-year period and the personal representative of the deceased spouse's estate failed to provide the creditor with timely written notice of the probate administration of the estate as required under the Probate Code. Status: Chapter 702, 2001.

AB 583 (Jackson) Disclosure requirements. This bill seeks to ensure that parties to a marital dissolution or legal separation, and the court, have complete, accurate information about the value of the community estate in order to ensure a fair division of any community assets and liabilities. Specifically, this bill provides that in valuing an asset for purposes of an award to the other spouse as a remedy for a breach of fiduciary duty, the value of the asset shall be its highest value at the date of the breach, the date of the sale or disposition of the asset, or the date of the award by the court. It further provides that the duty to update and augment required property disclosures must be undertaken immediately, fully, and accurately. The bill further revises the requirements that apply when parties stipulate to the waiver of the final declaration of disclosure, including adding a requirement that the parties have fully complied with other disclosure requirements and a requirement that the waiver be executed under penalty of perjury. Status: Chapter 703, 2001.

AB 799 (Shelley) Paternity establishment. Existing law, the Uniform Parentage Act, provides for the establishment of a parent and child relationship between the child and the natural mother, the natural father, and an adoptive parent. This bill additionally authorizes the parent and child relationship between a child and those persons who, with the intent to parent a child, consented to and initiated a medical procedure that resulted in the birth of the child to one of them. Consent shall be presumed where those persons lived together at the time of the child's birth and hold themselves out to the community as parents, or where those persons have signed an agreement to parent. This bill specifies that its provisions do not alter specified presumptions regarding the natural father of a child conceived by artificial insemination. Status: Dead; AsmJUD.

AB 1323 (Negrete McLeod) Marriage licenses. This bill requires that a certificate of registry be returned to the county recorder by the person solemnizing the marriage within 10 days after the ceremony and, among other things, repeals the existing requirement that

the person solemnizing the marriage give a copy of the confidential marriage certificate to the parties who were married. Status: Chapter 39, 2001.

AB 1338 (Koretz) Civil unions. This bill permits same-sex couples to formalize their relationships by entering into civil unions in California. The measure provides that a partner in a civil union shall have all the same rights, protections, benefits, and responsibilities as those granted to a spouse in a civil marriage, and provides that any state statute that applies to a formerly married person shall also apply to a person who was formerly a spouse in a civil union. Any state statute that applies to a widow or widower shall also apply to a person who was a spouse in a civil union where the spouse is deceased. The bill also provides that the right of spouses in a civil union with respect to a child of either of them shall be the same as those of married spouses, and the dissolution of a civil union shall follow the same procedures and be subject to the same substantive rights and obligations as apply to the dissolution of a marriage. Status: Dead; AsmJUD.

AB 1697 (Judiciary) Family and juvenile law. This bill makes clarifying changes with regard to family law procedures. The bill also re-instates a juvenile law provision requiring a consideration of the importance of maintaining sibling relationships which was inadvertently chaptered out last year. Status: Chapter 754, 2001.

AB 2263 (Kehoe) Family courts: family assistance. This bill sought to require the Judicial Council to conduct a study of projects or programs that provide services to parents and children undergoing divorce, as specified. Status: Vetoed.

SB 78 (Kuehl) Enforcement of pre-marital agreements. This bill seeks to clarify the circumstances when courts may enforce pre-marital agreements requiring spouses to waive spousal support upon dissolution of the marriage. The bill thereby keeps California statutorily in line with over 40 states which take the view that waivers of spousal support contained in pre-marital agreements are not "void per se," and instead may be enforced on a case-by-case basis if specified conditions are met. It sets forth several fairness conditions which must be present for spousal support waivers to be enforceable. Among other things, the bill requires that pre-marital waivers of spousal support may only be enforced if: (1) the party whom allegedly waived spousal support was represented by independent counsel at the time the agreement was signed; and (2) the court does not later determine at the time enforcement is sought that enforcement of the spousal support waiver would be unconscionable. The bill further makes clear the fact that a waiving party was represented by independent counsel at the time of signing a spousal support waiver shall not ipso facto make the spousal support waiver enforceable. The bill also: (1) clarifies that pre-marital agreements are not enforceable, whether they contain spousal support waivers or not, if the party against whom enforcement of the agreement is now sought did not, prior to signing the agreement, receive a full, as well as fair and reasonable disclosure, of the property or financial obligations of the other party; and (2) clarifies the circumstances that must be present for a court to find that a particular pre-marital agreement was executed voluntarily. The enumerated pre-conditions include,

among other things, that the party against whom enforcement of the pre-marital agreement is sought was either represented by independent legal counsel at the time of signing the agreement or, after being advised to seek independent legal counsel, expressly waived, in separate writing, representation by independent legal counsel. Status: Chapter 286, 2001.

SB 1479 (Morrow) Marriage licenses: fees: premarital preparation course. This bill allows counties to adopt an ordinance to reduce the marriage license fee and to reduce the confidential marriage license fee by \$7 if the couple filing for a marriage license has taken and completed a premarital preparation course given by a premarital preparation course provider who has registered with the county clerk and issues a certificate of completion to the couple to be filed with the county clerk. Status: Vetoed.

SB 1936 (Burton) Community property. This bill updates and clarifies the law regarding the fiduciary duties of spouses to ensure that spouses are held to the same duty of care with regard to the management of community property as would unmarried business partners. Status: Chapter 310, 2002.

HEALTH CARE

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AB 505 (Robert Pacheco) Long-term health care facilities: citations and penalties.

Existing law specifies the procedures for a licensee of a long-term health care facility to contest a citation or the proposed assessment of a civil penalty, which includes the option to adjudicate the validity of the citation in the municipal or superior court in the county in which the facility is located. This bill would authorize a licensee, in lieu of seeking to adjudicate the validity of a class "AA" or "A" citation in the municipal or superior court, to elect to submit the matter to binding arbitration as specified. Status: Dead; AsmHealth.

AB 1600 (Keeley) Health plans. This bill expressly authorizes a private right of action for equitable relief from violations of the Knox-Keene Act, except as to an enrollee or subscriber's individual grievance under specified sections. It further provides for the continuation of health service contracts that expire during the pendency of an action, prohibits retaliation by licensees against persons who exercise their rights under the bill, and prohibits licensees from seeking or obtaining waiver of the rights provided under the bill or indemnification for liability for violation. Status: Failed; AsmConcurrence.

AB 2194 (Jackson) Obstetrics and gynecology residency requirements. This bill requires that all residency programs in obstetrics and gynecology comply with program requirements of the Accreditation Council for Graduate Medical Education (ACGME). In addition to in-patient care, the program is geared toward the development of competence in ambulatory primary health care for women, including, but not limited to, training in the performance of abortion services. The ACGME program requirements include experience in all methods of family planning, as well as provisions for religious or moral objections. Status: Chapter 384, 2002.

AB 2328 (Wayne) Medical experiments: informed consent. This bill would authorize certain persons to give surrogate informed consent for a person to be subjected to a medical experiment when conducted within an institution that holds an assurance with the United States Department of Health and Human Services in accordance with specified regulations, if that person is unable to give that consent. This bill would provide that these provisions apply only to medical experiments that relate to the cognitive impairment, lack of capacity, or serious or life threatening diseases and conditions of research participants. Status: Chapter 477, 2002.

AB 2329 (Florez) Health facilities: plans of correction. This bill sought to improve nursing home care by permitting "plans of correction" issued by health department authorities against nursing homes to be admissible as evidence if they are probative on an issue other than as an admission by the nursing home of the underlying violation. Status: Dead; AsmJUD.

AB 2454 (Mountjoy) Minors: medication. This bill sought to prevent a child from being removed from his or her home for medical neglect solely because the parent or

guardian refused to administer, or refused to consent to the administration, of any medication for the child. Status: Failed; AsmJUD.

SB 458 (Escutia) Health care service plans. This bill sought to provide that a health care service plan or managed care entity's liability for its breach of duty of care to provide medically necessary health care services to its subscribers and enrollees shall be determined in a court of law and not through forced arbitration. The bill further sought to provide that any prohibited waiver of a person's rights under the statutory right to sue shall also prohibit a contract requirement that the subscriber or enrollee waive his or her right to a jury trial through the use of a pre-dispute mandatory arbitration clause. Status: Failed; AsmHealth.

SB 1041 (Speier) Hospitals: surrogate decisionmakers. As heard by the Committee, this bill required a hospital, within twenty-four hours of the arrival in the emergency department of a patient who is unconscious or otherwise unable to communicate, to make reasonable efforts to contact a person the hospital believes has the authority to make health care decisions on behalf of the patient. The bill defined reasonable efforts, and made an exception for certain emergency situations. These provisions of SB 1041 were later amended into SB 751, and enacted as Chapter 329 of 2001. SB 1041 was later amended to eliminate the original provisions and instead establish the Donated Dental Services Program within the State Department of Developmental Services. Status: Vetoed.

SB 1188 (Health and Human Services) Medical Experimentation Act. This bill reenacts the exception from normal informed consent requirements contained in the Protection of Human Subjects in Medical Experimentation Act until January 1 of this year. The bill reinstates the sunset for another decade, until January 1, 2011. The 1997 legislation creating the exception from this Act was unanimously passed by the Legislature. It was enacted to comply with the 1996 federal requirements for clinical trials where informed consent could not be obtained from patients in life-threatening situations. Those federal regulations are still in place, but the state's compliance statute expired on January 1, 2001. Therefore, with the enactment of this bill, California will no longer be out of compliance with federal law. Status: Chapter 122, 2001.

LIABILITY AND RELATED MATTERS

LIABILITY AND RELATED MATTERS

Damages Provisions

AB 840 (Robert Pacheco) Statutory caps on punitive damages. This bill sought to continue a long tradition by some business groups in California to try to restrict the historical right of Californians serving on juries to determine the appropriate amount of punitive damages in the rare cases where punitive damages are deemed necessary. Contrary to earlier efforts to limit the right of juries to award punitive damages in all cases, this legislation sought to limit jury authority in this area solely for those defendants that meet federal regulations classifying "small businesses." Status: Dead; AsmJUD.

AB 2189 (Koretz) Worker retention. This bill requires a public transit service contractor to retain the employees of a former contractor providing such services during a 60-day transition employment period. Status: Vetoed.

AB 2221 (Keeley) Air pollution permits: civil actions. This bill would authorize any person to commence a civil action against any person that is alleged to be constructing or operating any article, machine, equipment, or other contrivance without a required permit, or in violation of a condition of that permit, or to have discharged from any source quantities of air contaminants or other material that cause injury, detriment, nuisance, or annoyance to any considerable number of persons, as specified, or any emission standard or limitation. The bill would also authorize any person to commence a civil action on his or her own behalf against any district that is alleged to have failed to perform any act required by the state air pollution laws. Status: Dead; AsmNatRes.

AB 2957 (Koretz) Notice of mass layoffs. This bill requires advance notice of large-scale layoffs, terminations, and relocations. Violators are liable for back wages and civil penalties. Status: Chapter 780, 2002.

AB 2989 (Labor & Employment) Severance pay. This bill provides in the event of a lay off, termination or relocation, specified employees are entitled to severance pay in specified circumstances. Status: Vetoed.

SB 783 (Escutia) Whistleblower actions. This bill (formerly SB 1452) amends the whistleblower protection statute to mandate reporting of improper activity to the Attorney General when companies and their management have actual knowledge of wrongdoing. It requires posting of a notice regarding employee rights, provides that top company officials shall be subject to civil penalties for failing to report such wrongdoing, and requires the AG maintain a hotline for the receipt of whistleblowing complaints. Status: Vetoed.

SB 1452 (Escutia) Whistleblower actions. See SB 783.

Immunity, Scope of Liability and Statute of Limitations

AB 92 (Chavez) Liability: flood control and water conservation facilities. This bill extends for another five years the existing conditional immunity from liability granted to the Los Angeles County Department of Public Works and its employees for injuries caused by the condition and use of unlined flood control channels or adjacent flood control spreading grounds. The bill also requires a new Judicial Council report on the incidences of injuries incurred, claims asserted and paid, for this study period. Status: Chapter 756, 2001.

AB 946 (Kelley) Water rights. This bill makes various changes to the procedures of the State Water Resources Control Board (Board) and also clarifies existing law regarding when the Board's decisions may be appealed to the state courts by stating that reconsideration before the Board is not required except when the decision has been made under authority delegated to an officer or employee of the Board. Status: Chapter 315, 2001.

AB 1040 (Dutra) Liability: disabled persons. This bill specifies that a person may not be held liable for damages for interfering with rights against disability discrimination unless the plaintiff provided the defendant with notice of the alleged violation of the Americans with Disabilities Act of 1990 at least 90 days before filing the complaint, the notice identified the specific facts of the alleged violation, and the defendant failed to correct the violation within 90 days. The bill also provides that a defendant may avoid liability if the defendant shows that, prior to receiving notice of the alleged violation, the defendant either employed a consultant with expertise in compliance with the Americans with Disabilities Act of 1990, and took the actions recommended by the consultant to comply with the act or complied with the requirements of the act as a condition of the issuance of a building permit. Status: Dead; AsmJUD.

AB 1114 (Pescetti) Brownfield redevelopment: immunity. Among other things, this bill provides that any person who resolves specified liability in an administrative or judicially approved settlement is not liable for any claim for contribution, cost recovery, or equitable share, regarding matters addressed in the settlement, if specified notice of the settlement is provided. The bill would immunize a public agency, charitable corporation, or trust from liability if the entity meets specified requirements and would also immunize an eligible person from liability at a hazardous materials release site or portion of a site owned or operated by the eligible person, if a remedial action plan for the site is approved by the department or regional board and the eligible person meets specified conditions. Under the measure, an eligible person who transfers ownership or operation of a site, or who owns or operates a site after a "no further action" determination is obtained would also be immune from liability. Status: Dead; AsmES&TM.

AB 1217 (Briggs) Immunity: gambling establishments. This bill exempts from civil liability any gambling establishment that ejects or excludes an individual if the ejection or exclusion was based on a reasonable and good faith belief that such exclusion or ejection

was required or permitted under specified provisions of the Gambling Control Act. The bill does not relieve an establishment from liability for damages arising from the means of ejection or exclusion. Status: Chapter 254, 2001.

AB 1317 (Liu) Pupils: expulsion. This bill provides that testimony provided by a pupil witness in an expulsion hearing is expressly deemed to be a privileged communication pursuant to an existing provision of law protecting communications in legislative, judicial and other official proceedings. The bill will thus protect students who testify in expulsion proceedings from liability for slander or libel. Status: Chapter 136, 2002.

AB 1717 (Zettel) School reports: defamation liability. This bill provides that a communication by any person to specified school personnel relative to a threat on school grounds of violence with a firearm is subject to liability in defamation only if the communication is carried out knowing that it is false, as specified. Status: Chapter 570, 2001.

AB 1758 (Nakano) Statute of limitations. This bill would extend until December 31, 2010 the statute of limitations for an owner, or heir or beneficiary of the owner of Holocaust-era artwork, as defined, to bring an action in superior court to recover that artwork from any museum or gallery. Status: Chapter 332, 2002.

AB 1821 (Lowenthal) Civil liability: donated fire protection equipment. This bill provides that, except for damage or injury caused by gross negligence or willful or wanton misconduct, no public entity that donates fire protection equipment to a volunteer fire department is liable for any damage or injury that results from the use of that equipment provided that certain disclosures about the equipment are made at the time of donation. Status: Chapter 388, 2002.

AB 1831 (Runner) Statute of limitations. This bill would require Judicial Council to conduct a study on the impact of trial court delay reduction programs in relation to the commencement of personal injury actions and the effect of expanding the statute of limitations for those actions from one to two years. Status: Dead; AsmJUD.

AB 1839 (Bill Campbell) Indemnification: design professionals. This bill seeks to place limitations on contractual indemnity provisions in public works contracts by prohibiting a public agency from using contractual indemnity provisions in a public works contract to require the contracting design professional to defend, indemnify or hold harmless the public agency from any claim, action or proceeding except for claims, demands, liabilities, damages, losses and costs (including, but not limited to, reasonable attorney's fees) caused by the negligence, recklessness or willful misconduct of the design professional and other people employed or utilized by the design professional in the performance of the contract. Status: Dead; SenJUD.

AB 2041 (Vargas) Liability: emergency care. This bill broadens the current immunity for the use or purchase of an Automatic External Defibrillator (AED) in an effort to

encourage their purchase and use to save lives. The bill repeals the CPR and AED use training requirement for a Good Samaritan user of an AED in rendering emergency care. It also repeals or substantially relaxes the current requirement that building owners and others who acquire AEDs must ensure that expected AED users complete an accepted CPR and AED course as a condition of immunizing that building owner from any liability arising from the use of the acquired AED. The immunities from civil liabilities would not apply in cases of gross negligence or willful or wanton misconduct. Status: Chapter 718, 2002.

AB 2321 (Hertzberg) Tort Claims Act: judiciary. This bill provides the proper procedure under the Tort Claims Act for the filing of claims against a judicial branch entity (court, appellate court, the Supreme Court, the Judicial Council, the Administrative Office of the Court), or a judge of a court, a court executive officer, or a trial court employee. This bill authorizes the Judicial Council to act on a claim filed against a judicial branch entity, a judge or a trial court employee and to adopt rules of court authorizing any committee of the Judicial Council to perform its functions related to tort claims against the judiciary. Status: Chapter 1007, 2002.

AB 2913 (Firebaugh) Bracero workers: statute of limitations. This bill provides that a defined group of guest workers from Mexico known as braceros, or their heirs or beneficiaries, may sue on claims for failure to pay withheld wages under the federal Bracero program in any court of competent jurisdiction in the state, and that any such claim shall not be dismissed for failure to comply with the otherwise applicable statute of limitations provided that the claim is filed on or before December 31, 2005. Status: Chapter 1070, 2002.

ABX2 51 (Reyes) Electrical generation: liability. This bill provides that an operator of an electric generation facility that reduces or discontinues service for solely economic reasons, as defined, shall be held strictly liable for any damages proximately caused by the reduction or discontinuance. Status: Dead; AsmEC&A.

SB 448 (Perata) Liability: firefighter's rule. Under existing case law, the "firefighter's rule" bars suit by firefighters, police officers or emergency medical personnel with regard to injuries caused by negligent conduct when they are injured in the course of responding to an emergency as part of their jobs. Existing statute provides certain exemptions from this rule. This bill expands the statutory exemptions to allow suit whenever the negligent conduct in question violated a statute, ordinance or regulation, and was not itself the event causing the emergency worker to be present. Status: Chapter 140, 2001.

SB 682 (Perata) Liability: gun manufacturers. This bill deletes the existing code section providing statutory protection from liability for manufacturers and sellers of firearms. The bill is intended to address the recent California Supreme Court decision, in Merrill v. Navegar, holding that California's existing statutory language barred liability

for the manufacturer of the guns used in the infamous 101 California Street massacre in a suit brought under a theory of common law negligence. Status: Chapter 913, 2002.

SB 688 (Burton) Statute of limitations; summary judgment. This bill extends the statute of limitations in personal injury, wrongful death, and assault and battery actions from one year to two years, and applies this change retroactively to victims of the September 11th terrorist attacks. The bill also increases from 28 days to 75 days before hearing the length of time required for notice of a motion for summary judgment and provides that a party may make an ex parte motion to continue the hearing on a motion for summary judgment to obtain necessary discovery, at any time on or before the date the opposition is due. The bill also mandates the court either to grant a continuance to permit the discovery to go forward, or to deny the motion for summary judgment if, after a motion for a continuance to allow specified discovery has been granted, the party seeking summary judgment has unreasonably failed to allow the discovery to be conducted. The bill requires a reviewing court to allow the parties to submit supplemental briefs before affirming an order granting summary judgment or summary adjudication on a ground not relied upon by the trial court and provides that the supplemental briefing may include an argument that additional evidence relating to that ground exists, but that the party has not had adequate opportunity to present such evidence or to conduct discovery on the issue, and provides that the court may reverse or remand based upon the supplemental briefing to allow the parties to present additional evidence or to conduct discovery on the issue. Status: Chapter 448, 2002.

SB 994 (Morrow) Liability: public skateboard parks. This bill extends the sunset date of provisions protecting public skateboard parks from liability for injuries sustained by persons 14 years old or older, from January 1, 2003 to January 1, 2008. The bill also requires the Judicial Council to submit a report to the Legislature that compiles the annual reports on skateboarding-related incidents and injuries at public skateboarding parks, on March 1, 2007. Status: Chapter 409, 2002.

SB 1196 (Romero) Sovereign immunity. This bill declares that the State of California waives its immunity to suit under the Eleventh Amendment of the United States Constitution and consents to be sued in state or federal court by any person seeking to enforce rights under enumerated federal civil rights and employment laws. Status: Dead; AsmAPPR.

SB 1698 (Romero) Statute of limitations. This bill would make clarifying changes in the statute of limitations for actions based upon a statute for a penalty or forfeiture if the action is available to an individual or to an individual and the state. Status: Dead; AsmJUD.

SB 1779 (Burton) Statute of limitations: childhood sexual abuse. This bill seeks to ensure that victims severely damaged by childhood sexual abuse are able to seek compensation from those responsible. The bill provides that the extended statute of limitations in childhood sexual abuse cases against a third party not the perpetrator of the

sexual abuse extends beyond age 26 of the victim, when the third party knew, had reason to know, or was otherwise on notice, of unlawful sexual conduct by an employee, volunteer, representative or agent and failed to take reasonable steps and to implement reasonable safeguards to avoid acts of unlawful sexual conduct by that individual in the future. The bill also provides that "reasonable steps" and "reasonable safeguards" includes, but is not limited to, preventing or avoiding placement of that person in a function or environment in which contact with children is an inherent part of that function or environment. The bill states that providing or requiring counseling is not sufficient, in and of itself, to constitute a reasonable step or reasonable safeguard. The bill applies retroactively and provides victims of childhood sexual abuse a one-year window to bring an action against a third party, as provided above, when that claim would otherwise be barred solely because the statute of limitations has or had expired, and a cause of action is commenced within one year of January 1, 2003. Finally, the bill provides that this revival of claims would not apply to any claim that had been litigated to finality on the merits or in which a written, compromised settlement agreement had been entered into, as specified. Status: Chapter 149, 2002.

SB 1887 (McPherson) Statute of limitations: tort actions against felons. This bill extends the statute of limitations for actions against person convicted of specified felonies, when the action is based upon commission of the felony, to allow suit to be filed up to ten years after the person is discharged from parole. The bill is intended to allow crime victims better opportunity to recover damages from the criminals who harmed them. Status: Chapter 633, 2002.

**CIVIL,
CONSTITUTIONAL, AND
PERSONAL RIGHTS**

CIVIL, CONSTITUTIONAL, AND PERSONAL RIGHTS

Civil Rights

AB 587 (Firebaugh) Civil rights: penalties for violations. This bill allows the Attorney General, district attorney or city attorney prosecuting enforcement actions under the Bane Civil Rights Act to seek a civil penalty of \$25,000, awarded to the person whose civil rights are violated, in addition to injunctive and equitable relief available under current law. The bill also increases the statutory penalty for a violation of civil rights under Sections 51 and 51.5, or 51.6 of the Civil Code, from \$1,000 to \$4,000. Status: Chapter 261, 2001.

AB 677 (Steinberg) Equal access to state programs and activities. This bill requires the state to comply with the same non-discrimination obligations that are applied to its political subdivisions, contractors, and others receiving state funds. It also revises the definition of "disability" for these purposes to conform to the definition under the state employment and housing discrimination law. The bill also eliminates the fee for disability parking placards and takes steps to reduce fraud with respect to such placards. Status: Chapter 708, 2001.

AB 800 (Wesson) Workplace language rules. This bill codifies existing regulations making it an unlawful employment practice for an employer to adopt or enforce a policy that prohibits the use of any language in the workplace unless the policy is justified by a business necessity and notice of the policy is given to employees. Status: Chapter 295, 2001.

AB 1088 (Jackson) Consumer gender discrimination. Requires specified business establishments to disclose in writing the price for each standard service, to display a sign stating that it is illegal to base pricing on gender and that a complete price list is available upon request, to display a price list, and to provide the customer with a copy of the complete price list upon request. Failure to correct a violation of these requirements within 30 days of receiving written notice of a violation would subject the business to a civil penalty of \$1,000. Status: Chapter 312, 2001.

AB 1146 (Chan) Employment discrimination: time periods. This bill tolls the one year statute of limitations for filing an employment discrimination action in state court in cases where the Department of Fair Employment and Housing has deferred its investigation of the claim to the United States Equal Employment Opportunity Commission. The bill tolls the statute until the federal right-to-sue period commences or one year from the date of the right-to-sue notice, whichever is later. Status: Chapter 294, 2002.

AB 1309 (Goldberg) Employment reports. This bill would require specified employers, labor organizations, and apprenticeship programs to annually file prescribed

reports breaking down the composition of their workforce by gender and ethnicity and job classification. Status: Vetoed.

AB 1599 (Negrete McLeod) Age discrimination. This bill repeals a provision of the Fair Employment and Housing Act that makes it an unlawful employment practice for any employer to refuse to hire or employ, or to discharge, dismiss, reduce, suspend, or demote any individual over the age of 40 on the basis of age, except where the law compels or provides for that action. Status: Chapter 525, 2002.

AB 1928 (Jackson) Civil actions: gender-related violence. This bill creates a new civil cause of action for damages for gender violence, as defined. Status: Chapter 842, 2002.

AB 1950 (Wright) Disability discrimination. Grants state agencies the authority to extend the probationary period of new employees for a period not to exceed six months in order to address disability accommodation issues, and authorizes state agencies to enter into an agreement with employees who may need reasonable accommodation of disabilities as an alternative to terminating the employee or accepting them as permanent employees. Status: Chapter 236, 2002.

AB 2298 (Bogh) Housing Discrimination. Creates an exception to the anti-discrimination provisions of the Unruh Civil Rights Act for housing designed to meet the physical and social needs of senior citizens, as specified, and deletes the requirement that the housing be designed in a specified manner to meet the physical and social needs of senior citizens. Status: Dead; AsmH&CD.

AB 2892 (Horton) Employment discrimination procedure. This bill provides that a failure to exhaust judicial remedies after losing an administrative appeal from a State Personnel Board decision will not bar a related discrimination action by that person. The bill also provides that, as long as a person properly exhausts his or her administrative remedies under the Fair Employment and Housing Act the person may bring a FEHA discrimination claim in court, without also having to exhaust his or her state civil service administrative remedies. Status: Vetoed.

AB 3035 (Judiciary) Access to government meetings and programs. This bill amends the state "open meetings" acts to cross-reference the federal requirement that notices of agendas and public records distributed at government meetings be available to persons with a disability, and that published agendas include information on the availability of disability-related aids or services. The bill also adds race and national origin to the list of factors on which basis a person may not be unlawfully denied full and equal access to a program or activity by the state or a recipient of state financial assistance. Status: Chapter 300, 2002.

AJR 1 (Havice) Disability discrimination. This measure memorializes the President and the Congress to uphold the current provisions of the Americans with Disabilities Act. Status: Resolution Chapter 82, 2001.

SB 381 (Chesbro) Human relations commissions. This bill ratifies the existing practice of city and county human relations commissions by amending the authorizing statute to permit consideration of a broad range of factors when local city and county governments select commission members, and to allow these commissions to help address the variety of tensions and conflicts that may arise in the community. Status: Chapter 66, 2001.

SB 504 (Scott) Employment discrimination: religious entities. This bill provides that a nonprofit public benefit corporation which is formed by, or affiliated with, a particular religion, and which operates an educational institution as its sole or primary activity may restrict employment opportunities to individuals of a particular religion. Such entities shall in all other respects be subject to the prohibitions against discrimination in the Fair Employment and Housing Act. Status: Chapter 910, 2001.

SB 1045 (Polanco) Public employment and contracting outreach. Consistent with the California Supreme Court's interpretation of Proposition 209, this bill authorizes public sector employers to conduct focused outreach programs with the goal of increasing diversity in the public sector workforce. The bill also authorizes state and local government agencies to engage in focused outreach in their contracting and procurement activities. In addition, as recommended in the report of the Governor's Task Force on Diversity and Outreach, the bill requires state agencies to collect data and report on the level of participation by minority, women and disabled veteran-owned business enterprises in contract and procurement activities. Status: Chapter 1165, 2002.

Constitutional Rights

AB 1592 (Wyman) Discrimination: Boy Scouts of America. This bill affirmatively allows a charitable, expressive, and social organization, such as the Boy Scouts of America, to discriminate in its membership decisions by exempting such organizations from the Unruh Civil Rights Act, where the organization's formation and activities are unrelated to the promotion or advancement of the economic or business interests of its members. Status: Failed; AsmJUD.

AB 1817 (Leslie) Schools: moment of quiet thought. This bill would authorize the governing body of a school district to require or permit every public school to have a moment of quiet thought in the first regularly scheduled class or activity period. Status: Failed; AsmJUD.

AB 2537 (La Suer) Abortion: ultrasound. This bill would require an ultrasound to be performed on a woman seeking an abortion within 24 hours prior to the abortion

procedure, and would require the ultrasound to be shown to the woman before commencing the procedure. Status: Dead; AsmHealth.

ACA 5 (Wyman) Abortion: minors. This measure would place on the ballot a constitutional amendment to add to the California Constitution a provision requiring parental notification before an abortion could be performed on an unemancipated minor. Status: Dead; AsmHealth.

ACR 140 (Robert Pacheco) Discrimination: Boy Scouts of America. This resolution makes various findings in congratulating the Boy Scouts of America on the anniversary of the granting of its Federal Congressional Charter and "recognizes the valuable contributions made by the Boy Scouts of America in training our young people for citizenship, service, and leadership." Status: Failed; AsmJUD.

ACR 154 (Washington) 48th Anniversary of *Brown v. Board of Education*. This resolution designates May 17 as California's official day to commemorate the Brown v. Board of Education court case of 1954 where the United State Supreme Court issued its decision overturning the "separate but equal" doctrine in American law. Status: Res. Chapter 168, 2002.

ACR 231 (Pescetti) Pledge of allegiance. This measure would urge the Governor and the Attorney General to participate as defendants in the case of Newdow v. U.S. Congress, in which the United States Ninth Circuit Court of Appeals held the words "under God" in the Pledge of Allegiance to violate the establishment clause of the U.S. Constitution. Status: Dead; AsmJUD.

AJR 56 (Briggs) Impeachment: Ninth Circuit Court of Appeals. This measure urges members of Congress to initiate impeachment proceedings against judges of the United States Court of Appeals for the Ninth Circuit, citing rulings of that court, including the ruling in Newdow v. U.S. Congress, holding the words "under God" in the Pledge of Allegiance to violate the establishment clause of the U.S. Constitution, as not being based on the rule of law and as being out of step with the U.S. Constitution. Status: Dead; AsmJUD.

SB 780 (Ortiz) Exercise of reproductive and religious freedoms. This bill enacts a California version of the Federal "FACE" (Freedom of Access to Clinic and Church Entrances) Act which provides criminal and civil penalties for injuring, intimidating or interfering with a reproductive health services client or provider or a person entering a place of worship. Status: Chapter 899, 2001.

SB 976 (Polanco) Voting rights. This bill establishes criteria by which local at-large elections may be found to have abridged the rights of certain voters, and provides that an at-large method of election may not be imposed or applied in a manner that impairs the ability of a protected class to elect candidates of its choice or its ability to influence the

outcome of an election, as a result of the dilution or the abridgment of the rights of voters who are members of a protected class. Status: Chapter 129, 2002.

SB 1248 (Knight) Patriotic exercise. This bill requires public elementary and secondary school students to recite the Pledge of Allegiance daily and accommodate students or employees who decline to participate. Status: Dead; AsmAPPR.

SB 1359 (Haynes) Display of the American flag. This bill would prohibit local government agencies from adopting policies or regulations restricting employees from displaying an American flag or a pin of that flag on their persons, in the workplace, or on an agency vehicle, other than restrictions necessary for the order or discipline of the workplace. Status: Chapter 73, 2002.

SB 2032 (Monteith) Common interest developments: restrictions on the display of the United States flag. This bill prohibits any declaration or governing document of a common interest development from limiting or prohibiting the display of an American flag, except as required for the protection of public health or safety. Status: Chapter 178, 2002.

SJR 3 (Karnette) Reproductive rights. This resolution memorializes the President and the U.S. Congress to take necessary action to preserve the integrity of the U.S. Supreme Court decision in Roe v. Wade. The resolution makes findings regarding the importance of reproductive rights and of the constitutional limits established by Roe v. Wade as to states' power to restrict the right of a woman to choose to terminate a pregnancy. Status: Resolution Chapter 112, 2001.

Privacy Rights

AB 21 (Leslie) Privacy: financial institutions. This bill provides that, before a financial institution may disclose or share a consumer's nonpublic personal information with any affiliate or nonaffiliated third party, as defined, the financial institution must, among other things, provide the consumer the opportunity, before the time that the information is initially disclosed or shared, to direct in writing that the information not be disclosed or shared with an affiliate or a nonaffiliated third party. A financial institution must make specified disclosures to a consumer prior to collecting nonpublic personal information from the consumer. The bill provides that a financial institution may disclose nonpublic personal information if the disclosure is necessary to, among other things, effect, administer or enforce a transaction requested or authorized by the consumer in connection with any one of several specified activities. Status: Failed; AsmJUD.

AB 203 (Jackson) Privacy: financial transactions and personal information. This bill prohibits a financial institution from disclosing to or through an affiliate or nonaffiliated third party, or making an unrelated use of, any personal information without the express written consent of the consumer. The bill provides a specified exception to these requirements for any person or entity licensed as an insurance agent, life agent, or

life and disability insurance analyst, as specified, and any person or entity licensed to sell securities. The bill requires various disclosures by financial institutions to consumers. The bill also provides that an individual may bring an action against a financial institution, or affiliate, or nonaffiliated third party that has negligently disclosed or used personal information in violation of the measure. Status: Failed; AsmB&F.

AB 655 (Wright) Personal identifying information: identity theft. This bill makes a number of changes to assist consumers in preventing identity theft, in limiting the damage done by identity theft, and in gaining redress when identity theft occurs. The bill expands the protections for consumers with regard to the accuracy of information collected and provided by consumer credit reporting agencies and investigative consumer reporting agencies. The bill allows a consumer to request that his or her name be removed from lists that a consumer credit agency furnishes for credit card solicitations for at least two years. It requires a consumer credit reporting agency to permanently block certain information when a consumer provides verified information indicating that another person has unlawfully used the consumer's personal identifying information, and provides for unblocking of information when such information was improperly blocked. The bill requires that a consumer credit reporting agency delete from a consumer credit report inquiries for credit reports that were initiated as the result of identity theft. It requires the user of a credit report in connection with a credit transaction, who discovers that the address on the consumer credit report does not match the address of the consumer requesting or being offered credit, to take reasonable steps to verify the accuracy of the consumer's address. The bill creates a new cause of action to make it easier for identity theft victims to protect themselves against creditors pursuing claims arising out of the identity theft. Status: Chapter 354, 2001.

AB 700 (Simitian) Personal information: privacy. As originally introduced, this bill provided that an electronic signature conforming to the regulations adopted by the Secretary of State shall be deemed to comply with the requirements of the provision governing notarized electronic signatures, under specified conditions. The bill was subsequently amended in conjunction with SB 1386 (Peace) to require a state agency or a person or business that conducts business in California to disclose any breach in the security of computerized data that includes personal information. The bill requires that disclosure be made to any resident of California whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The bill permits the notifications required by its provisions to be delayed if a law enforcement agency determines that it would impede a criminal investigation. Status: Chapter 1054, 2002.

AB 797 (Shelley) Public records: confidentiality. This bill expands the Safe At Home program that protects the addresses of domestic violence and stalking victims to reproductive health care services providers and their employees, volunteers and patients. Status: Chapter 380, 2002.

AB 1289 (Florez) Privacy: personal information. This bill enacts the Californian's Right to Privacy Act. The bill prohibits specified financial institutions, without a consumer's prior written consent, from disclosing or making an unrelated use of the personal information collected by the financial institution in connection with any transaction with the consumer involving any financial product or any financial service obtained by the financial institution. The bill also requires various disclosures by financial institutions to consumers. The measure also prohibits, as of January 1, 2003, a business, private organization, or state or local agency, from using a person's social security number to identify the person as a new employee or new client and, as of January 1, 2005, would prohibit the use of a person's social security number to identify any employee or client. Status: Dead; AsmJUD.

AB 1775 (Nation) Privacy: financial institutions. This bill prohibits a financial institution from disclosing "sensitive information," as defined, to an affiliate or nonaffiliated third party unless the customer has given his or her permission to permit the disclosure (an "opt-in" approach). The measure specifies that the disclosure by the financial institution shall be for use in marketing nonfinancial products or services by either affiliates or parties with whom the financial institution has a third party marketing agreement. The bill also provides that a financial institution must give a customer an opportunity to restrict the sharing of his or her nonpublic personal information (an "opt-out" approach). This opt-out applies when a financial institution wishes to disclose such information to an affiliate, a party with whom the financial institution has a joint agreement, or a nonaffiliated third party for that entity's use in marketing its own products or services. Status: Dead; AsmJUD.

AB 1958 (Bates) Confidential medical information: coroners' access. This bill extends indefinitely provisions of existing law relating to coroners' access to confidential medical records which are currently set to sunset on January 1, 2003. This bill lifts the sunset on the requirement that health care providers, service plans or contractors disclose medical information or records to a coroner without delay when requested in the course of an investigation by the coroner's office for the purpose of identifying the decedent or locating next of kin, or when investigating deaths that may involve specified circumstances including, among others, child abuse, elder abuse, suicides, accidents, suspicious or unknown deaths, or when otherwise authorized by the decedent's representative. The bill also extends indefinitely the provision of existing law which provides that in all other cases, the information may be provided to the coroner at the discretion of the health care provider, service plan or contractor. Status: Chapter 123, 2002.

AB 2191 (Migden) Medical records: confidentiality. Existing law prohibits providers of health care, health care service plans, and contractors from disclosing medical information regarding a patient, without first obtaining authorization, except in specified instances. This bill would prohibit pharmaceutical companies or agents or representatives of pharmaceutical companies, from disclosing medical information regarding a patient, without first obtaining authorization. The bill also applies existing provisions prohibiting

providers of health care, health care service plans, and contractors from requiring a patient, as a condition of receiving health care services, to sign an authorization, release, consent, or waiver permitting the disclosure of medical information, to pharmaceutical companies, their agents or representatives. The bill also requires pharmaceutical companies to adhere to specified procedures regarding the maintenance, disposal, and release of medical information and records. Status: Chapter 853, 2002.

AB 2297 (Simitian) Online privacy: privacy policies. This bill, which becomes operative July 1, 2003, requires an operator that collects personal and identifying information through the Internet about individuals located in California to do the following: (1) conspicuously post and comply with a privacy policy that identifies the categories of information collected, and the categories of persons or entities with whom the operator may share the information, and requires that the privacy policy must meet certain criteria; and (2) post or provide, upon request, previous privacy policies that were either posted by the operator in the past two years or that were retained and remain available for a period greater than two years. The bill provides that an operator who fails or refuses to conspicuously post a privacy policy on its web site within 60 days after being notified of its failure to comply with that requirement, shall be in violation of the Act. The bill does not apply to individuals or entities with fewer than 25 employees and who do less than 10 percent of their business with individuals located in the State. Status: Vetoed.

AB 2868 (Wright) Personal information reporting. This bill is a cleanup measure to AB 655 (Wright, Chapter 354, 2001) which made numerous changes to the Investigative Consumer Reporting Act intended better to protect consumers from identity theft. AB 2868 makes numerous changes to ease the implementation of the requirements imposed under AB 655 and to avoid inappropriate application of certain provisions. Status: Chapter 1029, 2002.

ACR 125 (Papan) Financial privacy. This resolution requests and authorizes the California Law Revision Commission to study, report on, and prepare recommended legislation concerning the issue of financial privacy. Status: Resolution Chapter 167, 2002.

SB 168 (Bowen) Personal information: identity theft; social security numbers. This bill permits a consumer to request that a credit reporting agency place a security alert, to be in place for at least 90 days, in his or her credit report, within specified timeframes, and defines a security alert as a notice that informs recipients of a credit report that the consumer's identity may have been used without the consumer's consent. The bill also permits a consumer to request, in writing by certified mail, that a credit reporting agency place a security freeze in his or her credit report and defines a security freeze as a notice that prohibits the credit reporting agency from releasing the consumer's credit report or any information from it without the express authorization of the consumer. The freeze must remain in place until the consumer requests that it be removed and must then be lifted within three business days of receipt of a request from a consumer who must

provide specified identification. The bill also regulates usage of social security numbers by providing that a person or entity, not including a state or local agency, may not do any of the following after July 1, 2002, with limited specified exceptions: (1) print an individual's social security number on any card required for the individual to access products or services; (2) publicly post an individual's social security number; (3) require an individual to transmit his or her social security number over the Internet unless the connection is secure or the social security number is encrypted; (4) require an individual to use his or her social security number to access an Internet Web site, unless a password is also required to access the Web site; or, (5) print an individual's social security number on any materials that are mailed to the individual, unless required by state or federal law. The bill establishes graduated implementation timetables over the next three years for health care service plans, health care providers, insurers, pharmacy benefits managers, and contractors, as specified. Status: Chapter 720, 2001.

SB 169 (Bowen) Personal information: restrictions on facial recognition technology. When heard by the Committee, this bill sought to restrict the use of facial recognition technology by permitting private entities to use facial recognition technology in situations where a transaction is initiated by a consumer and the consumer consents to use of the technology. In all other cases, businesses may only collect biometric identifier information and attempt to identify a person using facial recognition technology when it is reasonably necessary to protect public safety, personal property or to protect against a violation of law and when the business has posted clear and conspicuous notice that the information is being collected. The bill also originally placed restrictions on when businesses may sell or share the information for commercial purposes and required that the information be encrypted or otherwise secure from unauthorized access. Finally, the measure imposed varying civil penalties for violation of its provisions. The bill was amended to set forth the intent of the Legislature to establish public policy on the public and private uses of biometrics technology to ensure personal privacy and civil liberties. Status: Failed; AsmJUD.

SB 247 (Speier) Birth and death certificates: certified copies; access. This bill seeks to control release of and access to birth and death records by providing that the State Registrar, local registrar or county recorder may provide a certified copy of a birth or death record to an authorized person who submits a statement sworn under penalty of perjury that the requester is signing his or her own legal name and is an authorized person. Status: Chapter 914, 2002.

SB 683 (Ortiz) Confidentiality of medical information. This bill provides that all information collected under the California Cancer Registry and the Birth Defects Monitoring Program shall be confidential and conditions the release of such information to authorized program staff and other persons Department of Health Services finds to have "a valid scientific interest" in the data who have demonstrated that they have established procedures for maintaining the confidentiality of the data. The bill also provides that no part of the confidential information shall be subject to subpoena or discoverable in any civil, criminal, administrative or other proceeding, nor shall the

information be deemed admissible as evidence in any such proceeding "for any reason." The furnishing of confidential information under the bill shall not expose any person, agency or entity furnishing the information to liability, nor shall it be considered a waiver of privilege or a violation of a confidential relationship. Status: Chapter 444, 2001.

SB 773 (Speier) Privacy: financial institutions; confidential consumer information.

When this bill was heard by the Committee, it required a financial institution, before disclosing confidential consumer information to an affiliate, to give a consumer an opportunity to direct that his or her confidential consumer information not be disclosed (an "opt-out" approach). The bill also required a financial institution to obtain the consent of a consumer before the financial institution is permitted to disclose or share the consumer's "confidential consumer information" with any nonaffiliated third party (an "opt-in" approach). The bill was subsequently amended to delete the opt-out restriction on affiliate-sharing. The bill was also amended to permit a financial institution to share information with another financial institution when the two institutions have entered into a written agreement to jointly offer a financial product or financial service, provided that specified requirements are met. Status: Failed; SenConcurrence.

SB 979 (Machado) Confidentiality of medical information. Existing law prohibits providers of health care, health care service plans, and contractors from releasing medical information to persons authorized by law to receive that information if the information specifically relates to the patient's participation in outpatient treatment with a psychotherapist, unless the requester of the information submits a specified written request for the information to the patient and to the provider of health care, health care service plan, or contractor. For purposes of that provision, a "psychotherapist" is defined as a person who comes within the definition of a psychotherapist under a specified provision of the Evidence Code and who is a provider of health care, as defined. This bill revises and further limits the circumstances under which a provider of health care, health care service plan, or contractor may release medical information that relates to the patient's participation in outpatient treatment with a psychotherapist unless specifically authorized by the patient or the patient's representative for each release. Status: Dead; AsmHealth.

SB 1301 (Kuehl) Reproductive Privacy Act. This bill deletes various statutory provisions regarding abortion and enacts in their place the Reproductive Privacy Act. The new Act provides, among other things, that (1) every individual possesses a fundamental right of privacy with respect to reproductive decisions; and (2) the state shall not deny or interfere with a woman's right to choose an abortion prior to viability of the fetus, as defined in the act. Status: Chapter 385, 2002.

SB 1386 (Peace) Personal information: privacy. This bill, in conjunction with AB 700 (Simitian) requires an agency, person, or business that conducts business in California and owns or licenses computerized data containing personal information to disclose any security breach to any resident of California whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The bill

requires disclosure to be made in the most expedient time frame possible consistent with the legitimate needs of law enforcement. Status: Chapter 915, 2002.

SB 1614 (Speier) Public records: access to personal information. This bill provides that the Department of Health Services shall maintain the following three indices containing birth and death data: (1) comprehensive and continuous birth and death indices to be kept confidential with access limited to other governmental agencies; (2) non-comprehensive birth and death indices to be made available to the public that omit the individual's Social Security number and mother's maiden name; and (3) non-comprehensive birth and death indices to be used for purposes of law enforcement or preventing fraud containing the individual's Social Security number and mother's maiden name. Access to the latter indices would be limited to specified entities for purposes of law enforcement or preventing fraud and some posting of the information contained in these indices on the Internet would be permitted, provided that specified requirements are met. Status: Chapter 712, 2002.

SB 1730 (Bowen) Personal information: identity theft. This bill modifies provisions in existing law relating to security freezes and permissible publication of Social Security numbers. The bill provides that existing provisions of law relating to security freezes do not apply to the use of a consumer report by any person or entity administering a credit file monitoring subscription service to which the consumer has subscribed. The bill also provides that the security freeze provisions do not apply to the provision of a consumer credit report to a consumer at the request of such consumer and permits social security numbers to be included in applications and forms sent by mail, including documents sent as part of an application or enrollment process, or to establish, amend or terminate an account, contract or policy, or to confirm the accuracy of the social security number. The bill also makes other technical and clarifying clean-up changes to SB 168 (Bowen), Chapter 720, 2001. Status: Chapter 786, 2002.

Personal Rights

AB 1015 (Wright) Employment discrimination and retaliation. Prohibits employers from discriminating against applicants for employment and training programs because the applicant has filed a claim with or instituted a proceeding before the Labor Commissioner, has or will testify in such a proceeding, or because the applicant has exercised rights afforded employees by the Labor Code. This bill also prohibits discrimination against applicants engaged in lawful conduct occurring during non-working hours away from the employer's premises. Certain collective bargaining agreements and employment contracts are not affected, nor does the bill affect existing law regarding employment discrimination related to the consumption of tobacco products. Law enforcement agencies, certain religious corporations and certain members of the press are exempt from provisions of the bill. Status: Chapter 820, 2001.

AB 1278 (Wayne) Health care decisions. This bill, sponsored by the California Law Revision Commission, makes a number of minor substantive and technical revisions as a

follow up to AB 891 (Alquist), Chapter 658, 1999, the Health Care Decisions Law. Among other things, the bill returns the law concerning capacity to execute a power of attorney for health care to the rule in effect under the Power of Attorney Law, reverses the presumption that a surrogate designation revokes the appointment of a health care agent and eliminates an agent's automatic liability for funeral expenses. Status: Chapter 230, 2001.

AB 1424 (Thomson) Mental health: involuntary treatment. This bill expands family involvement in the Lanterman-Petris-Short involuntary commitment process by requiring that treatment facilities make every reasonable effort to make information provided by a patient's family available to the court. It adds patients' medical and psychiatric records to the list of historical information that must be considered in involuntary commitment proceedings, and requires that an agency or facility providing mental health treatment to an individual subject to a 72 hour hold, 14 day certification, further 14 day certification, or 30 day certification, must obtain his or her medication history if possible. Finally, it prohibits disability insurers, health plans and the Medi-Cal program from conditioning services eligibility on a patient's legal status. Status: Chapter 506, 2001.

SB 413 (Speier) Whistleblowing: state employees. This bill takes steps to improve state employee awareness of protected whistleblowing rights, ensures that persons who exercise such rights are protected against interference or retaliation, and that persons who commit improper governmental activities or retaliate against those who report them are appropriately disciplined. Amends statutes protecting state employees who blow the whistle on improper governmental activities. Status: Chapter 883, 2001.

SB 1516 (Romero) Peace Officers. Amends the Public Safety Officers Procedural Bill of Rights Act to provide that, in addition to existing relief, upon a finding by a superior court that a public safety department willfully and maliciously violated any provision of the act with the intent to injure a public safety officer, the department shall be liable for the actual damages to the office, a civil penalty, and attorney's fees, as specified, and to provide for additional damages and limitations. The bill also provides for sanctions in cases the court finds were frivolous or filed in bad faith. Status: Chapter 1156, 2002.

PROBATE AND RELATED MATTERS

PROBATE AND RELATED MATTERS

Civil Commitment, Conservatorship and Guardianship

AB 479 (Shelley) Guardians, conservators and trustees: charitable corporations. This bill eliminates existing restrictions on qualified non-profit charitable corporations acting as guardians, conservators or trustees. Under existing law, non-profits acting as guardians, conservators or trustees cannot recover fees based on the value of the estate, although for-profit entities and individuals serving the same capacity may do so. This bill increases the ability of qualified non-profits to serve in these important roles by permitting this kind of compensation, and thus increases the availability of help for seniors and other dependent adults who need assistance managing their affairs. Status: Chapter 351, 2001.

AB 1286 (Rod Pacheco) Conservatorships: bonds. This bill makes several changes to help deter financial fraud by guardians and conservators. The bill reorganizes and expands the scope of reports filed by financial institutions when a guardian or conservator makes certain changes regarding an account of a ward or conservatee, and clarifies the authority of financial institutions to make these reports. The bill requires a guardian or conservator to file the original account statements (not copies) from financial institutions as part of the required accountings that must be submitted to the court. Finally, it prohibits the court in a conservatorship proceeding from waiving the filing of a bond except for good cause. Status: Chapter 563, 2001.

AB 1421 (Thompson) Involuntary mental health treatment. Allows court-ordered outpatient treatment services for people with serious mental illnesses when a court finds that a person's recent history of hospitalizations or violent behavior, coupled with noncompliance with voluntary treatment, indicate the person is likely to become dangerous or gravely disabled without the treatment. Status: Chapter 1017, 2002.

AB 1517 (Canciamilla) Public guardian. This bill makes several changes to the powers and duties of Public Guardians (PGs). It requires that guardians and conservators file with the court original account statements received from institutions as part of the accounts they are required to file with the court, and sets forth procedures to keep confidential personal information regarding wards or conservatees contained in documents filed with the court. It exempts PGs from the requirement of filing financial institution account statements with regard to the funds of conservatees or wards when such funds are pooled. It extends from 5 to 15 days the period of validity of a certification allowing the PG to take temporary control of property of a person and sets forth a form for such certification. The bill allows the PG to take control of jointly held property of, and to terminate the occupancy of anyone living in the home of, an elder subject to financial abuse. It sets forth a form for the written certification allowing the PG to take possession of the property of an elder person subject to financial abuse, provides that such a certification is valid for 15 days, and that the PG may petition the court for additional certifications. Status: Chapter 232, 2001.

AB 1938 (Aroner) Guardianships. This bill makes changes in order better to protect children who are the subject of guardianships. It clarifies that protections against vexatious litigants apply in proceedings under the Family Code and Probate Code. It modifies the law regarding granting custody to a person other than a parent, requiring that it be shown by clear and convincing evidence that parental custody would be detrimental to the child, and including in the definition of detriment to the child removal from a stable placement with a person who has assumed the role of parent. The bill also makes other clarifying changes in this area. Status: Chapter 193, 2002.

AB 3036 (Corbett) Guardianships. This bill requires the courts, subject to the availability of court resources, to have guardians of minors to return a status report questionnaire to the court by mail on an annual basis. The bill also includes provisions previously contained in AB 1666 (Keeley), exempting foster parents who wish to become legal guardians from the registration requirements that apply to private professional guardians. Status: Chapter 1115, 2002.

SB 140 (Bowen) Guardians and conservators. This bill is intended to protect those who must have their assets managed by a guardian or conservator by making changes in the requirements as to the bond to be filed by a guardian or conservator, and procedures to be followed when a guardian or conservator fails to file a required account with the court. The bill provides that when a guardian or conservator has knowledge of facts from which the guardian or conservator knows or should know that the bond posted is less than the amount required, the guardian or conservator shall apply for an order increasing the bond to the amount required. It further provides that certain orders are not effective until the required amount of bond is filed. Finally, the bill requires the court to take specified actions when a guardian or conservator fails to file a required account with the court. Status: Chapter 359, 2001.

Elder Abuse

AB 255 (Zettel) Elder abuse. This bill adds humane society and animal control officers, environmental health and code enforcement workers and clergy members to the list of mandated reporters of elder and dependent adult abuse under the Elder Abuse and Dependent Adult Civil Protection Act. It authorizes Adult Protective Services and law enforcement agencies to share with district attorneys' offices otherwise confidential information relevant to incidences of elder or dependent adult abuse, and makes other technical and conforming changes in the Elder Abuse and Dependent Adult Civil Protection Act. Status: Chapter 54, 2002.

SB 1803 (Scott) Elder abuse. This bill changes the word "fiduciary" to "financial" in Welfare and Institutions Code Section 15657, correcting a legislative oversight when provisions relating to financial abuse of the elderly were revised in 1998 and 2000. Status: Failed; AsmJUD.

Probate

AB 232 (John Campbell) Compensation of personal representatives. This bill increases the compensation of personal representatives and attorneys of personal representatives of estates under \$200,000, the first such increase in over twenty years. The bill is intended to ensure that qualified persons are willing to act as executors and administrators of small estates, and that attorneys are willing to represent these personal representatives. In addition, the bill corrects a statutory oversight by including in the list of appealable orders made by a probate court a final order prorating estate taxes or generation-skipping transfer taxes. Status: Chapter 699, 2001.

AB 322 (Bill Campbell) Cemeteries: disposition of family plots. Under existing law, when the owner of a cemetery plot dies without making a disposition of the plot, the plot becomes inalienable and becomes the "family plot" of the owner, to be used solely for the remains of family members. This bill makes a cemetery plot a family plot when the remains of the owner or a relative of the owner is interred in the plot. The bill deletes the provision of law making a family plot inalienable, instead providing that unoccupied portions of a family plot pass by disposition of the owner in a will or declaration filed with the cemetery authority, or by intestate succession if no such disposition is made. Status: Chapter 516, 2001.

AB 873 (Harman) Non-probate transfers: dissolution of marriage. This bill implements two recommendations of the California Law Revision Commission with regard to nonprobate transfers of assets upon death. Under existing law, the dissolution or annulment of a marriage automatically revokes a disposition to a former spouse in a will. This bill similarly provides that a nonprobate transfer created before or during the marriage shall fail upon the divorce or annulment of the partner. The bill creates an exception where the transferor clearly intended to preserve the nonprobate transfer, or if the court has ordered that the instrument be maintained. The bill also clarifies the effects of an automatic restraining order issued in a proceeding for dissolution or annulment on estate planning changes. Status: Chapter 417, 2001.

AB 1784 (Harman) Construction of instruments. This bill implements the recommendations of the California Law Revision Commission for clarification of Probate Code provisions regarding the construction of trusts and other instruments. The bill limits application of certain rules of construction to apply only where appropriate, clarifies existing law and updates obsolete references. Status: Chapter 138, 2002.

SB 668 (Poochigian) Estates and trusts: allocation of debts. This bill revises the procedures for allocation of debts between the surviving spouse and a decedent's estate or the surviving spouse and the trust of a deceased settlor, harmonizing the procedure and standards for allocation of debts in these cases with those used for allocation of debts in proceedings for the dissolution of marriage. Status: Chapter 72, 2001.

SB 669 (Poochigian) Probate: property claims. This bill consolidates separate probate code provisions regarding property claims against estates of decedents, minors and conservatees, and trusts, creating a single procedure for the trial of all property questions within the probate court's jurisdiction. Status: Chapter 49, 2001.

SB 1271 (Ackerman) Uniform Transfer on Death Securities Registration Act. Existing law, the Uniform Transfer on Death Securities Registration Act, permits certain registered assets to be transferred on death to a beneficiary designated by the owner. This bill would include investment management and custody accounts in the definition of security accounts subject to the Act, permitting the assets therein to be so transferred. The bill would also include cash equivalents, as defined, among the assets that could be so transferred. Status: Chapter 67, 2002.

SB 1575 (Sher) Wills and trusts: prohibited transferees. Under existing law, certain persons are disqualified from receiving a transfer under a will or trust, including the drafter of the instrument or a person related to the drafter. There is an exception to this disqualification if the drafter is related to or is a cohabitant with the transferor. This bill expressly applies the exception where the transferor is the registered domestic partner of the transferee or the drafter, makes an exception for transfers under three thousand dollars, and makes other clarifying changes. Status: Chapter 412, 2002.

SB 1878 (Poochigian) Will contests. This bill make clarifying changes to the provisions of law regarding "no contest" clauses in wills, trusts and other instruments. The bill clarifies what actions constitute "contests" under such clauses, and adds specified actions to the list of actions that may not be considered "contests" as a matter of public policy. Status: Chapter 150, 2002.

PROPERTY AND RELATED MATTERS

PROPERTY AND RELATED MATTERS

Personal Property

AB 72 (Bates) Escheated funds. Seeks to address the shortage of housing opportunities for elderly individuals by requiring that unclaimed money from a deceased person's estate that has permanently escheated to the state be targeted for the construction, rehabilitation, or acquisition of multi-family rental housing developments for elderly persons or households, including on-site support facilities. Status: Dead; AsmAPPR.

AB 227 (Dutra) Unclaimed property: escheat. This bill extends, from December 31, 2001 to December 31, 2002, the deadline for participating in a program that gave the holder of unclaimed, escheated property, amnesty in the form of forgiven penalties and interest for the late delivery of the escheated property to the state. The bill provides that the holder of the property may not be the subject of an investigation by the Attorney General or be a party to litigation with the State Controller relating to the property on or before January 1, 2003 and may not be the subject of an audit by the Controller relating to the property prior to January 3, 2000. The bill also extends the date of the Controller's report to the Legislature on the amnesty program from December 31, 2002 to July 31, 2003. Status: Chapter 22, 2002.

AB 1772 (Harman) Escheat. This bill prescribes the notice and information that a bank or financial institution must give to owners of financial accounts that are about to escheat to the state under the Unclaimed Property Law. Status: Chapter 813, 2002.

SB 673 (Speier) Unclaimed property. This bill provides for notices to be sent by mail from the Controller to apparent owners of unclaimed property, and for the Controller to take further steps, including searches of other governmental records and outreach to the general public, in a further effort to alert owners that the state holds their unclaimed property. Status: Dead; AsmAPPR.

Real Property

AB 237 (Papan) Eminent domain: proceedings. This bill requires the final offer of the plaintiff and final demand of the defendant in eminent domain proceedings relating to compensation to include all elements of required compensation, including compensation for the loss of goodwill, and to indicate whether or not interest and costs are included. The measure also provides that the parties to such proceedings may, by agreement, refer the dispute to resolution by mediation or binding or non-binding arbitration, and changes the date of exchange of valuation data in eminent domain proceedings to 90 days before trial from 60 days. Status: Chapter 428, 2001.

AB 247 (Maddox) Eminent domain: houses of worship. This bill provides that the Eminent Domain Law may not be exercised to acquire buildings, land on which they are

situated, or equipment, used exclusively for religious worship, if they are exempt from property taxes under the California Constitution. Status: Dead; AsmJUD.

AB 267 (Steinberg) Construction defect litigation. Substantially revises the Calderon pre-litigation process in construction defect suits by requiring that all relevant parties are involved in early efforts to resolve the dispute prior to litigation through a guided and structured dispute resolution system with strong incentives for good faith negotiation. To accommodate Senate amendments, the language of this bill was added to AB 1700, and enacted as Chapter 824, 2001. Status: Dead; SenDesk.

AB 369 (Dutra) Affordable housing development projects: attorney's fees. This bill authorizes a court, when it finds that a local agency disapproved or conditioned a project rendering it infeasible for the development of housing for very low-, low-, or moderate-income households without making findings supporting its decision as required, to award attorney's fees and costs of suit, except under extraordinary circumstances where the court finds that awarding fees would not further the purposes of the statute. Status: Chapter 237, 2001.

AB 478 (Canciamilla) Recordable instruments: Contra Costa county. This bill grants authority to the Contra Costa county recorder to accept a digitized image or electronic record of a recordable instrument if specified conditions are met. The bill allows the district attorney to review and approve the system for acceptance of digitized images or electronic records of recordable instruments and permits the district attorney or county recorder to decertify or suspend the system upon a finding of system defects. Status: Dead; AsmLGOV.

AB 600 (Dutra) Home construction warranties. Provides 10-year home construction warranties, to be offered at the option of the builder, for all new residential properties, and a process under the warranty for resolution of construction defects. By purchasing a home with a home warranty, the homeowner is deemed to have waived any tort remedies, including negligence, strict liability, implied warranties, or any other common law remedy other than for breach of warranty contract. If the warranty so provides, the homeowner would also be deemed to have waived any noncontractual claims against any design, professional, or trade contractors. This bill also eliminates the current prohibition against requiring construction defect claims to be resolved through binding arbitration. Status: Dead; AsmJUD.

AB 739 (Frommer) Construction defect litigation. This spot bill extends from 90 to 180 days the time frame for completion of the pre-filing litigation process for construction defect claims in common interest developments with 20 or more units. Status: Dead; AsmJUD.

AB 1090 (Hertzberg) Real property: reconveyances. This bill abrogates a recent California Court of Appeal decision interpreting the Civil Code to require the immediate reconveyance of a real estate trust deed upon the satisfaction of the mortgage loan upon

which the deed was based. The bill declares that the intent of existing law is to give the lender 30 days, and the trustee 21 days, to perform their reconveyance duties, so reconveyance occurs within 60 days of the satisfaction of the loan. The measure changes the law prospectively to specify the lender grace period as 30 days for reconveyances occurring after the effective date of the bill. In addition, the bill reduces the maximum total fees the borrower may be charged for the reconveyance as specified. Status: Chapter 560, 2001.

AB 1463 (Longville) Eminent domain proceedings: litigation expenses. This bill limits the liability of plaintiffs in eminent domain actions for the litigation expenses of specified defendants. It provides that in an eminent domain proceeding where the plaintiff has filed a notice of abandonment or request for dismissal against a particular defendant, and the defendant is determined by the court not to own or have any interest in the property in question, that the court shall award to the defendant only those litigation expenses incurred up to the time of filing the notice of abandonment or request for dismissal. Status: Chapter 192, 2001.

AB 1648 (Salinas) Mobilehomes and manufactured housing. This bill creates additional mechanisms available to the Department of Housing and Community Development and authorizes local jurisdictions to enforce compliance with the Mobilehome Parks Act, as well as existing mobilehome alteration permit laws. Status: Dead; AsmAPPR.

AB 1701 (Judiciary) Construction defect litigation. Corrects typographical errors in AB 1700 (Steinberg) of 2001. Status: Dead; SenJUD.

AB 1770 (Papan) Eminent domain proceedings. This bill provides that, in determining litigation expenses to be awarded to the defendant as costs in an eminent domain proceeding, the court shall consider the reasonableness of any prejudgment deposit made by the plaintiff to cover probable compensation to the defendant. The bill also provides that, if an appraiser places one value on the property for prejudgment deposit purposes and swears to a different amount at trial, the appraiser may be questioned about the discrepancy. Status: Chapter 295, 2002.

AB 1845 (Correa) Crime victims restitution liens. Prioritizes certain crime victim's restitution orders over state tax liens against a criminal defendant. Status: Dead; SenAPPR.

AB 1868 (Koretz) Nuisance abatement: injunction. This bill provides that a court may issue a temporary restraining order or injunction to enjoin subsequent owners who acquire the building where a narcotics, gambling or prostitution nuisance exists specifying that the owner of the property subject to the temporary restraining order or injunction shall notify any prospective purchaser, commercial lessee, or other successor in interest of the existence of the order or injunction, and of its application to successors in interest, prior to entering into any agreement to sell or lease the property. The bill also

provides that the order or injunction shall not constitute a title defect, lien, or encumbrance on the real property and allows a court in a controlled substances nuisance abatement action to order the person owning or controlling the property to reside in the property until the nuisance is abated. Status: Chapter 1057, 2002.

AB 2260 (Wright) Eminent domain. This bill would require certain declarations to be presented in support of a resolution of necessity when the Los Angeles Unified School District proposes to take residential housing by eminent domain for the purpose of building a public school. Status: Dead; AsmAPPR.

AB 2292 (Dutra) General plans: residential density: attorney's fees. This bill prohibits a city or county from reducing, requiring, or permitting the reduction of residential density on any parcel below the density that was used to determine compliance with the housing element of the its general plan, with specified exceptions. The bill would also require a court, until January 1, 2007, to award attorney's fees and costs of suit to specified plaintiffs or petitioners if the court finds that an action of a city, county, or city and county is in violation of these provisions, except as specified. Status: Chapter 706, 2002.

AB 2382 (Corbett) Mobilehome parks: enforcement. This bill would give greater enforcement authority to the Attorney General, county counsels, and city attorneys in actions under two existing provisions of law to enforce standards for the maintenance of mobilehome parks. Status: Chapter 141, 2002.

AB 2418 (Dutra) Construction defect litigation. This bill declares that it is the intent of the Legislature to protect the interests of homeowners and subsequent purchasers against construction defects, and to require construction defects to be repaired. Status: Dead; SenRules.

AB 2500 (Corbett) Mobilehomes. Expressly permits the recovery of actual and punitive damages for violations of the mobilehome residency law, and specifies that the action may not be moved except to remove the action to the county where the park is located. Status: Vetoed.

AB 2685 (Cox) Land use: restriction: just compensation. This bill would require that if the state or any political subdivision of the state enacts or enforces a regulation that restricts the use of private real property, and the restriction has the effect of reducing the value of a property upon which the restriction is imposed, the property owner shall be paid just compensation equal to the reduction in the fair market value of the property, except as specified. Status: Dead; AsmJUD.

AB 2757 (Calderon) Construction defect litigation. This bill would declare the intent of the Legislature to protect the interests of homeowners and subsequent purchasers against construction defects, and to require construction defects to be repaired. The bill would also prohibit the filing of an action against the builder of an improvement to real

property unless the builder is given at least 90 days notice of the facts and legal theories upon which the action will be based, during which time the builder shall have the right to enter the property to inspect and repair the claimed defects. Status: Dead; AsmJUD.

AB 2812 (Pescetti) Mobilehomes: foreclosure. This bill, sponsored by mobile home owners, sought to require that reasonable notice be provided to heirs and other affected individuals upon the death of a mobilehome owner when there are outstanding liabilities on the home. The bill further provided that park management would have a warehouseman's lien placed against the mobilehome if the responsibilities and liabilities on the home were not met within specified time frames. Status: Dead; SenJUD.

AB 2870 (Harman) Liability of third-party building inspectors. This bill provides that there is no personal monetary liability on the part of any person who is under contract with an applicant for a residential building permit to check the plans and specifications provided with the application in order to determine compliance with all applicable requirements imposed pursuant to the State Housing Law or any rules or regulations adopted pursuant to that law, or to inspect a work of improvement to determine compliance with these plans and specifications, as specified. Status: Dead; AsmJUD. (But see SB 800.)

ABX1 47 (Wiggins) Public utilities. As heard by the Committee, this bill reinstated the conclusive presumption rules for condemnation of privately-owned electric or gas utility property, conforming the standard to that for the condemnation of other property through eminent domain proceedings. The bill was later amended to delete these provisions, and to add provisions to modify the requirements for incorporation of a municipal utility district. Status: Dead; AsmEC&A.

ABX1 129 (Hollingsworth) Eminent domain: public utilities. This bill requires state or local entities and public utilities to first use available public lands before acquiring private property for the construction of public utility infrastructure. Status: Dead; AsmJUD.

ABX2 13 (Hollingsworth) Eminent domain: public utilities. This bill requires state or local entities and public utilities to first use available public lands before acquiring private property for the construction of public utility infrastructure. Status: Dead; AsmJUD.

ABX2 35 (Vargas) Eminent domain. This bill requires the California Consumer Power and Conservation Financing Authority to acquire under eminent domain proceedings, for a period of at least 18 months but not to exceed 24 months, possession and use of all specified property that the authority determines is necessary for the generation of electrical power. The bill also requires the authority, upon condemning property under these provisions, to also condemn any contracts for the sale of electrical power that is generated with or on the property condemned, to which the property owner is a party. The bill requires the authority to condemn all labor contracts necessary to provide for

services the state cannot adequately and competently perform in operating and maintaining the property for the duration of the acquisition. The bill, which sunsets on January 1, 2005, also provides that the valuation of all property acquired, for the purposes of determining just compensation to be paid, shall be equivalent to the reasonable rental value of the property, for the period of time the property is acquired, as determined by the Public Utilities Commission. Status: Dead; AsmEC&A.

SB 32 (Escutia) Contaminated property: cleanup. This bill establishes the California Land Environmental Restoration and Reuse Act (Act), authorizing a local agency to compel investigation and cleanup of specified sites if the city or county adopts a specified ordinance to implement the Act. The bill applies only to idle properties that are smaller than five acres and does not apply to specified sites, including state or federal superfund sites. The bill also authorizes the local agency to require a property owner to, among other things, furnish the local agency with specified information regarding whether a hazardous materials release may be present on the property and conduct a specified environmental assessment of the property if the local agency determines that the property may be affected by a hazardous materials release or the threat of a release. The bill also proscribes the procedures for conducting a site investigation and remedial action by the owner pursuant to a remediation plan approved by the oversight agency. It also authorizes the local agency to initiate site investigation and remedial action if the local government passes a resolution that the remedial action is necessary and that the owner is not going to take any action of his/her own accord. In that case, the owner of the property is strictly liable for the costs incurred by the local agency pursuant to this process. The bill also provides certain immunities for a local agency that undertakes and completes a property investigation and remedial action pursuant to the Act and receives a written determination of completion issued by the oversight agency with regard to the release identified and addressed in accordance with the approved remediation plan. Status: Chapter 764, 2001.

SB 160 (Torlakson) Construction defect litigation. This bill would revise the timeline for the Calderon pre-litigation process in construction defect suits by limiting any stipulated extension of the initial 90-day pre-litigation period to an additional 90 days. Status: Dead; AsmJUD.

SB 189 (Bowen) Real estate disclosures: controlled substance release. This bill requires a seller or lessor of residential property who knows that any release of an illegal controlled substance has come to be located on or beneath the real property to notify in writing any prospective purchaser or tenant. The bill also requires a seller of residential real property who knows of any release of an illegal controlled substance on the property to check "yes" in the box on the Real Estate Transfer Disclosure Statement indicating that he or she is aware of substances, materials or products on the property which may be an environmental hazard and to then give the prospective purchaser or tenant a copy of any notice received from, among others, law enforcement, the Department of Toxic Substances Control or the county health department, advising the owner of the release on

the property. The bill, which also imposes civil damages (and, in appropriate cases, civil penalties) for nondisclosure, sunsets on January 1, 2004. Status: Chapter 466, 2001.

SB 355 (Escutia) Construction defects. This bill defines the term "construction defect." Status: Dead; AsmJUD.

SB 732 (Ortiz) Disclosure: toxic mold. This bill enacts the Toxic Mold Protection Act, requiring sellers of commercial or industrial real property and residential and commercial landlords who know or, in the case of residential landlords, have reasonable cause to believe, that mold affects the unit or building and either exceeds permissible exposure limits or poses a health threat according to Department of Health Services' (DHS) guidelines to disclose this fact to prospective buyers and current and prospective tenants. The bill requires DHS to consider the feasibility of adopting permissible exposure limits to mold in indoor environments and to adopt such standards if feasible and requires DHS to adopt practical guidelines to assess the health threat posed by the presence of mold in an indoor environment and determine whether the presence of mold constitutes mold infestation. Commercial tenants who know that mold is present in specified locations in the building must inform the landlord of this knowledge and the commercial landlord must conduct any necessary remedial action. The bill also adds mold to the list of substances, materials or products which may be an environmental hazard and which must be disclosed to a prospective purchaser of residential property as part of the standard "Real Estate Transfer Disclosure Statement." Status: Chapter 584, 2001.

SB 800 (Burton) Construction defects. This bill defines construction defects to ensure performance with specified standards, requires claimants to provide notice to builders regarding alleged violations, gives builders an absolute right to repair alleged defects before a claimant may sue, and preserves the right of homeowners to pursue remedies if the repair is not made or is inadequate. This bill also provides that there is no personal monetary liability on the part of persona under contract with an applicant for a residential building permit to provide independent quality review of the plans and specifications provided with the application in order to determine compliance with all applicable requirements imposed pursuant to the State Housing Law or its rules or regulations, or to inspect a work of improvement to determine compliance with these plans and specifications, except as specified. Status: Chapter 722, 2002.

SB 958 (Ackerman) Mortgages: deeds of trust. This bill increases the fees trustees may charge when handling nonjudicial foreclosures of deeds of trust and provides that if postponement of a foreclosure sale is based on a stay imposed by Title 11 of the United States Code, the sale shall be conducted no sooner than the expiration of the stay imposed by that title, and the seven-day waiting period provided under existing state law shall not apply. The bill also extends the July 1, 2001 mandate in which a report, dealing with certain relationships between attorneys and insurers, is due to the Legislature and the Supreme Court as required by AB 2069 (Corbett), Chapter 472, Statutes of 2000. The bill also requires a mortgagee, trustee or other person authorized to record a notice of

default to provide a copy of the notice of sale to the Internal Revenue Service, in accordance with federal law, if a "Notice of Federal Tax Lien under Internal Revenue laws" has been recorded against the real property to which the notice of sale applies. Status: Chapter 438, 2001.

SB 1122 (Poochigian) Disclosure of real estate assessments. This bill requires owners of real property in any local assessment district to notify prospective purchasers of any such continuing assessment upon the property. In addition, this bill requires the local government body levying the assessment to designate a department to prepare a roll of assessment obligations, to respond to inquiries, and to provide a notice of assessment on any affected property upon the request of any individual for a reasonable fee not to exceed ten dollars. Status: Chapter 673, 2001.

SB 1370 (Bowen) Servicing of indebtedness: transfer. This bill would require a mortgage lender to provide insurance policy information when transferring servicing of indebtedness to a new servicing agent, in order to protect borrowers from inconvenience and potential cancellation of insurance policies. Status: Chapter 70, 2002.

SB 1504 (Ackerman) Mortgages and deeds of trust. This bill makes changes to the law regarding trustees acting under deeds of trust. The bill permits rescission of a sale of property subject to a federal tax lien when notice of the sale has not been properly made and provides that the reconveyance instrument contain specified options for delivery of the instrument. Status: Chapter 809, 2002.

SB 1684 (Polanco) Brownfields redevelopment: deletion of sunset. This bill would delete the January 1, 2004 sunset date for the Polanco Redevelopment Act, thereby putting it into permanent effect. The Polanco Redevelopment Act authorizes redevelopment agencies to conduct a cleanup of properties contaminated by hazardous waste (brownfields) and to recover the costs of cleanup from responsible parties. Redevelopment agencies that conduct such a cleanup, and individuals that enter into redevelopment agreements with the agency, are immunized from future cleanup liability. Status: Chapter 1004, 2002.

SB 1879 (Poochigian) Real estate: disclosures. This bill addresses concerns arising out of the passage of SB 1122 (Poochigian, Chapter 673, 2001). That bill required that property owners notify prospective purchasers of applicable property assessments, and required local governments levying the assessments to provide a Notice of Assessment to be used for that purpose. Many levying agencies have not yet made such notices available. SB 1879 allows an owner of real property to fulfill the disclosure requirement using a substantially equivalent notice, until December 31, 2004. Status: Chapter 770, 2002.

Rental Property

AB 178 (Cox) Landlord-tenant: disclosure of dangerous mold. This bill requires landlords who knew or should have known that mold is or has been present in the

building, the heating, ventilating, or air conditioning system, or the surrounding environments to provide a specified notice to current and prospective tenants if the mold exceeds specified levels. The bill also adds mold contamination of the indoor air to the list of dangerous conditions that constitute a substandard building. Status: Dead; AsmH&CD.

AB 472 (Cedillo) Substandard rental housing: relocation benefits to displaced tenants; receiverships. This bill requires property owners to pay relocation benefits to tenants ordered by a local agency to vacate a unit due to an immediate threat to their health and safety. The measure also requires receivers who manage substandard properties to notify the court about the need for repairs, and clarifies that the appointment of a receiver to carry out repair or abatement orders on rental property is an interim remedy that may be implemented prior to a final civil or criminal judgment against the property owner. A notice to abate may be issued by a local enforcement agency if a building is in violation of local ordinances relating to building standards. Status: Chapter 414, 2001.

AB 533 (Cedillo) Landlord-tenant: payments. This bill provides that it shall be unlawful to demand any payment of money, including, but not limited to, "key money" or the lessor's attorney's fees reasonably incurred in preparing the lease or rental agreement, as a condition of initiating, continuing, or renewing a commercial lease agreement unless the amount of the payment is stated in the written lease agreement. The measure, which applies only to commercial leases and nonresidential tenancies of real property, also provides that any person who demands a payment in violation of the above shall be subject to a civil penalty of three times the amount of actual damages proximately suffered by the person seeking to obtain the lease. Status: Chapter 368, 2001.

AB 815 (Havice) Controlled substances. This bill re-authorizes for another 3 years a pilot project which is scheduled to lapse this year to allow several Los Angeles courts to continue to experiment with "partial eviction" orders to protect innocent tenants from being evicted due to the illegal drug activities of fellow tenants. According to the initial evaluation of the pilot prepared by the Judicial Council, sufficient data is not yet available to determine the program's merits. Status: Chapter 431, 2001.

AB 1112 (Goldberg) Substandard property: owner registry: Los Angeles County. This bill establishes a three-year pilot program to create an owners registry for specified substandard properties in Los Angeles County. Private apartment owners in Los Angeles County must register specified information with the county board of supervisors if a code enforcement agency has recorded against the property a notice of substandard conditions or other document declaring the property to be untenable. The bill requires that an apartment owner of substandard property who resides out of state designate with the Department of Housing and Community Development a person who resides in the state and manages the property, and the designee must submit a notarized statement accepting the designation. All registration records are available only to local code enforcement officials, except that the owner's name and address may be provided to the tenants of the

property. The bill provides that a tenant may raise the owner's failure to register as an affirmative defense in an eviction, except in cases brought by the district attorney to remove a tenant involved in the selling of illegal drugs. Status: Chapter 487, 2001.

AB 2330 (Migden) Landlord-tenant. This bill seeks to provide tenants additional rights and protections. Among other things, this bill: (1) provides that, within a reasonable time after notification of either party's intention to terminate the tenancy or before the end of the lease term, the landlord must notify the tenant in writing of his or her option to request an initial inspection and of his or her right to be present at the inspection; (2) provides that the landlord, or an agent of the landlord, must, upon the request of the tenant, make an initial inspection of the premises prior to any final inspection the landlord makes after the tenant has vacated the premises; (3) provides that specified requirements must be met if an inspection is requested; (4) provides that a tenant shall have the opportunity during the period following the initial inspection until termination of the tenancy to remedy identified deficiencies, in a manner consistent with the rights and obligations of the parties under the rental agreement in order to avoid deductions from the security; (5) amends the definition of security deposit to include any payment, fee, deposit, or charge, except an application screening fee, that is imposed at the beginning of the tenancy to be used to reimburse the landlord for costs associated with processing a new tenant; and (6) increases the damages that may be awarded for a bad faith claim or retention by a landlord of the security deposit from \$600 to twice the amount of the security. Status: Chapter 1061, 2002.

SB 617 (Ortiz) Tenancy: terminations. This bill seeks to provide tenants who have been subjected to notices of mass eviction with additional time to relocate and find suitable replacement housing. The bill provides that, on or after February 1, 2002, if 50 or more tenants within a single five-mile radius are issued notices of intention to terminate within a 30-day period by, or on behalf of, the same owner, the period within which the tenant shall terminate his or her tenancy is 90 days after receiving the notice of intention to terminate. The bill also permits a court to stay the execution of a judgment in an unlawful detainer action, upon a showing of hardship, for a period not to exceed 90 days from the date of entry of judgment and provides that the court shall require the tenant to pay rent during the stay. The bill provides that the above power of the court to stay the execution of judgment applies only to cases where 50 or more dwelling units within a single five-mile radius have been issued eviction notices within a 30-day period by, or on behalf of, the same owner. Status: Dead; AsmFloor.

SB 985 (Kuehl) Landlord-tenant: expanded notice requirement; Costa-Hawkins Housing Act. This bill requires an owner of property in the cities of Los Angeles, Santa Monica, or West Hollywood to serve a 60-day notice to terminate a month-to-month or other periodic hiring of residential real property. The additional notice applies only to a tenant who has been living in a dwelling for at least one year and does not apply if specified conditions are met, including, among other things, that the dwelling is alienable separate from the title to any other dwelling unit, the dwelling was sold to a bona fide purchaser for value and the purchaser in good faith intends to reside in the property for at

least one full year after the termination of the tenancy. The additional notice provided by the bill does not apply in a city in which an entity that regulates residential rents determines that the rental vacancy rate in the city exceeds 10%, and the additional notice provisions established by the bill sunset on January 1, 2005. The bill also revises the Costa-Hawkins Housing Act exemption for condominiums to apply the exemption only to condominium units that have been sold separately by the subdivider to a bona fide purchaser for value and provides that the initial rent for such a unit would be the lawful rent in effect on May 7, 2001. The bill requires any rental agreement and 3-day notice to pay-or-quit to disclose the name, telephone number, and address of the person to whom the rent shall be paid. Status: Chapter 729, 2001.

SB 1403 (Kuehl) Landlord-tenant. This bill requires a property owner, until January 1, 2006, to serve a 60-day notice to terminate a month-to-month or other periodic hiring of residential real property to a tenant who has resided in the dwelling unit for more than one year except as specified. In the case of a tenant who has resided in the dwelling unit for less than one year, notice shall be given 30 days prior to the proposed date of termination. The bill also makes changes to existing law relating to landlord entry into rental units, providing that the required notice by a landlord to a tenant of his or her intent to enter a rental unit must be in writing. The bill allows a court on its own motion or upon application of a tenant, in case of hardship, to reinstate an evicted to a rental agreement (in addition to a lease allowed under existing law) if that tenant pays all rents due and performs all required conditions. The bill makes changes to the Ellis Act regarding the removal of rental units in rent control jurisdictions. Finally, the bill makes inoperative a provision of law allowing for reasonable costs for professional services in calculating operating costs for a landlord in a rent control jurisdiction that has been made obsolete by passage of the Costa-Hawkins Act. Status: Chapter 301, 2002.

SB 1576 (Bowen) Landlords: disclosure of demolitions. This bill seeks to provide both current and prospective tenants with notice when their dwelling units are slated to be demolished. The bill requires an owner of a residential dwelling unit or the owner's agent who applies to a public agency for a permit to demolish the unit to give written notice of that fact to prospective and current tenants, as specified and requires that the notice contain specified information relating to the earliest possible approximate date on which the owner expects the demolition to occur. The bill provides that a tenant may bring an action against the landlord if a landlord fails to comply with the disclosure requirements of this bill and provides that the remedies a court may order shall include, but are not limited to, actual damages, a civil penalty not to exceed \$2,500 and, in the case of a prospective tenant who moved into a unit without receiving the required notice, moving expenses. Status: Chapter 285, 2002.

MISCELLANEOUS

MISCELLANEOUS

AB 40 (Vargas) Amusement machines: access restrictions. This bill restricts minors' unsupervised access to graphically violent and sexually explicit games in amusement arcades by requiring video arcades to post a sign within three feet of each entrance notifying patrons that a rating has been assigned to each amusement machine in the facility as follows: (1) GREEN: Suitable for all ages; (2) YELLOW: Contains mild life-like violence or mild sexual content; and (3) RED: Contains graphic violence or sexually explicit content. The measure also requires that these ratings be displayed on every amusement machine and requires all amusement machines with a "red" rating to be located in a separate area of the facility, at least 10 feet away from any "green-" or "yellow-rated" machines. A partition is required to completely obstruct the playing surface or display screen of the "red" machines from the view of anyone outside the area. Under the bill, an owner, operator, manager, or employee of a video arcade facility who knowingly allows a minor (under the age of 18) unaccompanied by an adult to enter the restricted area, as described above, is guilty of a misdemeanor, and an owner or operator of a video arcade facility who fails to comply with the bill's display requirements is guilty of a misdemeanor. Status: Dead; AsmAPPR.

AB 172 (Reyes) Scholarships: spouses and children of persons killed in Operation Enduring Freedom. When this bill was heard by the Committee, it permitted the State Board of Equalization (BOE) to verify address information submitted to it by a debt collector seeking verification of the address of a BOE licensee or registrant for purposes of debt collection. The bill was subsequently amended to provide up to 100 Cal Grants to the surviving spouse or children of a member of the United States armed forces who was killed as a result of service during Operation Enduring Freedom. Status: Dead; SenED.

AB 260 (Frommer) Anti-trust law: Attorney General authority. This bill makes several procedural clarifications to the Attorney General's (AG's) authority under the state's anti-trust law. It clarifies that the AG may use interrogatories in addition to subpoenas for testimony and documents when conducting investigations of possible violations of state or federal anti-trust law. The bill also clarifies that the AG and county district attorneys may employ cy pres remedies in discharging their parens patriae authority on behalf of consumers affected by anti-trust violations. Status: Chapter 74, 2001.

AB 415 (Runner) Emergency services. As heard by the Committee, this bill imposed liability, not to exceed \$1,000 per incident, upon any person who knowingly or willfully flees a peace officer and proximately causes any incident that results in an appropriate emergency response by a public agency, for the expense of the emergency response. The bill was later amended to require use of the Emergency Alert System to disseminate information on child abductions in certain cases. Status: Chapter 517, 2002.

AB 537 (Canciamilla) San Francisco Bay Delta. This bill states legislative intent to enact programs to remove the potentially dangerous and harmful obstacles of nonnative

plant life and unseaworthy water vessels from navigable waterways. Status: Dead; AsmTrans.

AB 679 (Strom-Martin) Sonoma County Flood Control and Water Conservation District. This bill requires the Sonoma County Flood Control and Water Conservation District, when adopting an urban water management plan, to consult with and provide notice to specified organizations, including environmental and community organizations, regarding the plan, and to provide specified information. The bill also requires the district to post a copy of its plan and any amendment or proposed amendment to the plan on the district's website. Status: Dead; AsmWP&W.

AB 784 (Hertzberg) Land use: model residential building code. When this bill was heard by the Committee, it required businesses to dispose of a customer's bank account balance information in a manner which protects the privacy of such information. The measure includes bank account balance information in the list of personal information that businesses are required to dispose of in a manner which makes such information unreadable or undecipherable. The bill was subsequently amended to require the Governor's Office of Planning and Research to develop a model residential building code that emphasizes economically, socially, and environmentally sustainable residential developments, including porches, large front yards, and garages towards the rear of residences. Status: Failed; SenLGOV.

AB 914 (Shelley) Public records. This bill amends the Public Records Act to require public agencies and courts to release to the public any record not expressly prohibited from disclosure by a specific provision of law if the agency or court finds that withholding the record would harm the public interest, public safety, or the constitutional rights of any person. Status: Dead; AsmGO.

AB 957 (Papan) Taxpayer contributions: Lupus Foundation of America, California Chapters Fund. Existing law provides that portions of statements, writings, or benevolent gestures expressing sympathy or a general sense of benevolence that are made to a person involved in an accident or to that person's family, are inadmissible as evidence of an admission of liability in a civil action. When this bill was heard by the Committee, it provided that a statement concerning negligence or culpable conduct that is part of, or in addition to any of the above evidence, is admissible. The bill was subsequently amended to clarify that the Department of Health Services serves only as a pass-through entity for money contributed to the Lupus Foundation of America by taxpayers using the Lupus Foundation of America, California Chapters Fund Checkoff option. Status: Chapter 135, 2002.

AB 982 (Firebaugh) Health care. When this bill was heard by the Committee, it set forth various statements of legislative intent regarding accreditation of law schools in connection with the Baby Bar examination and Internet-based legal research and instruction services. The bill was later amended to establish the Dental Loan Repayment Program of 2002, the Physician Loan Repayment Program of 2002 and the California

Medical and Dental Student Loan Repayment Program of 2002. Status: Chapter 1131, 2002.

AB 1387 (Cogdill) Public utilities: natural gas. This bill creates a new requirement for a gas corporation to approve or deny a request by a gas producer to connect a developed gas well to a utility pipeline within 21 days of the request, and creates procedures for the Public Utilities Commission to process any complaint arising out of the failure of a gas corporation to comply with the new requirement. Status: Dead; AsmU&C.

AB 1486 (Dutra) Mortgage Guaranty Insurance. As heard by the Judiciary Committee, this bill provided a broad immunity from liability for certain engineers, land surveyors, and architects, who contract with developers to inspect and check plans relating to residential building construction. It was subsequently amended to increase from 100% to 103% the allowable total indebtedness on which mortgage guaranty insurance may be written to insure loans secured by first or junior liens on authorized real estate securities. Status: Chapter 429, 2002.

AB 1506 (Wesson) Public works projects. As heard by the Judiciary Committee, this bill would create a new licensure requirement for those engaged in the business of unclaimed property recovery. The bill was subsequently amended to require an awarding body choosing to use funds for a public works project, from either the Kindergarten-University Public Education Facilities Bond Act of 2002, or the Kindergarten-University Public Education Facilities Bond Act of 2004, to initiate and enforce, or contract with a third-party to initiate and enforce, a labor compliance program. Status: Chapter 868, 2002.

AB 1590 (Simitian) Search and seizure. When in the Committee, this bill would have required the court clerk to serve responsive pleadings for the defendant in an unlawful detainer case. The bill was later amended to make changes in the Penal Code with regard to the procedures for hearings on motions to suppress evidence obtained as the result of a search or seizure. Status: Chapter 401, 2002.

AB 1774 (Canciamilla) Tide and submerged land. As heard by the Committee, this bill sought to clarify that exemplary damages are recoverable for wrongful injuries to animals which were committed willfully or by gross negligence. It was subsequently amended out of the Committee's jurisdiction to address tidal issues. Status: Chapter 387, 2002.

AB 1929 (Runner) Certificate of stillbirth. This bill would require a certificate of fetal death to contain information as to whether the fetal death was a stillbirth, and would require specified health facilities to provide a certificate of birth resulting in stillbirth upon the request of either parent. Status: Dead; AsmJUD.

AB 1956 (Vargas) Video arcades: posting requirements. This bill requires a video arcade to post a sign that notifies consumers that a video arcade game rating system, created by the video arcade gaming industry, is available to aid in the selection of a game. The bill requires that the sign be posted on the wall of the arcade in a prominent area and be in specified type and requires a video arcade to make a brochure available upon request to consumers that explains the rating system. Status: Chapter 748, 2002.

AB 2019 (Wayne) Unlawful gains: disgorgement. This bill sought to plug an arguable loophole in the range of remedies available to courts when a defendant is convicted of a crime or found civilly liable of unlawful conduct in an action filed by the AG or DA in the name of the people. In addition to the power to order that such individuals make restitution to the identified victims of their crime, the bill would have authorized the court, when it feels the interests of justice require it, to order the defendant to disgorge any ill-gotten gains that might otherwise be retained by the defendant because restitution and other available remedies do not completely deplete the ill-begotten fruits of the defendant's misconduct. Status: Failed; AsmFloor.

AB 2071 (Jackson) Civil actions: public water systems. This bill would allow a public water system that prevails in an action regarding drinking water contamination to recover the costs of investigating and treating the contamination, court costs, and attorney's fees. The bill also tolls the statute of limitations for bringing such an action for up to three years while the public water system investigates the contamination. Status: Dead; AsmInactive.

AB 2193 (Maddox) Orange County Fire Authority. Existing law provides that a public entity is not liable for injury caused by its failure to make an inspection, or by reason of making an inadequate or negligent inspection, of any property, other than as specified, for the purpose of determining whether the property complies with or violates any enactment or contains or constitutes a hazard to health or safety. As originally introduced, this bill specified that this provision also applies to an agent of the public entity. The bill was subsequently amended and re-referred to the Assembly Local Government Committee to provide that when property tax revenues of Orange County are allocated by that county to an agency formed for the purpose of providing fire protection pursuant to the Joint Exercise of Powers Act, those funds may only be appropriated for expenditure by that agency for fire protection purposes. Status: Chapter 339, 2002.

AB 2289 (Kehoe) Common interest developments. This bill makes numerous changes to the procedures followed by homeowners associations when a homeowner is delinquent on assessments. Status: Chapter 1111, 2002.

AB 2417 (La Suer) Common interest developments: meetings. This bill clarifies that matters discussed in executive session that are currently required to be noted in board minutes are noted in the minutes of the next meeting open to the entire membership. Status: Chapter 195, 2002.

AB 2775 (Migden) Parks: county of Sonoma. When this bill was heard by the Committee, it dealt with unlawful contracts and solicitations by telephone. Along with a companion measure, AB 2578 (Corbett), the bill provided that a contract for the purchase of a consumer product or service made in response to a telephone solicitation is unlawful if the consumer has not expressly provided, at the time of purchase, consent to have his or her account charged and the number of the account to be charged. For purchases made by credit card, debit card, or by bank account, the bill would provide that the last four numbers of the account number are sufficient to comply. The bill also required the person or entity soliciting the purchase to retain a taped recording verifying compliance with the bill, as specified. The bill was subsequently amended to allow a city in Sonoma County to use its eminent domain power to condemn property between the nearest street and the exterior limit of a city-owned public park or playground situated wholly or partly outside of the limits of the city. Status: Dead; SenJUD.

AB 3034 (Judiciary) Maintenance of the codes. This bill makes technical changes and restates existing provisions of law to effectuate the recommendations made by the Legislative Counsel to the Legislature for consideration during 2002. Specifically, this bill corrects grammatical and other errors without substantive change to the law. Status: Chapter 664, 2002.

ACA 6 (Briggs) Term limits. As referred to the Committee, this measure would have put on the ballot a constitutional amendment to prohibit any state or local governmental agency from expending any public funds to initiate any court action to nullify or stay an initiative measure adopted by the voters. The measure was later amended to alter the term limits provisions of the California Constitution to limit each person to 12 years total service as a member of the Legislature. Status: Dead; AsmER&CA.

ACR 123 (Wayne) California Law Revision Commission study topics. This resolution authorizes the California Law Revision Commission (the Commission) to continue its study of designated topics that the Legislature previously authorized or directed the commission to study. Status: Resolution Chapter 166, 2002.

AJR 8 (Briggs) Choinumni Tribe: federal recognition. This resolution memorializes the President and Congress of the United States and the Assistant Secretary of Indian Affairs in the United States Department of the Interior to grant the Choinumni Tribe full federal recognition and all the rights and privileges that arise therefrom. Status: Resolution Chapter 71, 2002.

AJR 58 (Dickerson) Winnemem Wintu Tribe. This measure would memorialize the President and Congress of the United States, and the Assistant Secretary for Indian Affairs in the United States Department of the Interior to reaffirm that the Winnemem Wintu Tribe possesses full federal recognition and all the rights and privileges that arise from that status. Status: Dead; AsmJUD.

SB 99 (Morrow) Attorney General Opinions. This bill expands the list of public officials who may request written opinions from the Attorney General to include members of the Legislature, the Lieutenant Governor, the Insurance Commissioner, county counsels, and sheriffs. The bill is intended to eliminate confusion by expanding the statutory list in accordance with current Attorney General practice as to those who may request an opinion. Status: Chapter 76, 2001.

SB 238 (Kuehl) Schabarum Regional Park library. When heard by the Committee, this bill allowed the court to waive the bond requirement in a case where a preliminary injunction is sought, if the case is brought in the public interest and the principal has no direct financial interest in the determination of the matter. The bill was introduced in response to a high-profile case brought by the Sierra Club and the Environmental Protection Information Center over alleged violations of law regarding approval of a timber harvest plan in the Headwaters Forest in Humboldt County. In that case, the judge granted a preliminary injunction to bar the implementation of the plan, but ordered the plaintiffs to post a \$250,000 bond. This bill made it easier for non-profits to litigate public interest cases by giving judges discretion as to whether to impose bond in such a case when a preliminary injunction is sought. The bill was subsequently amended to authorize the County of Los Angeles to operate a library in Schabarum Regional Park. Status: Chapter 967, 2002.

SB 278 (Alarcon) Water, Coastal and Beach Protection Act of 2002. As originally introduced, the measure contained legislative findings that accidents involving commercial drivers pose a serious danger to public health and safety and to the safety of commercial drivers, and that the primary underlying cause of these accidents is driver fatigue caused by motor carriers that require commercial drivers to drive for periods in excess of the lawful limitations on hours of service. The bill was subsequently amended to address unrelated issues pertaining to water. Status: Chapter 892, 2002.

SB 338 (Vincent) Notice: use of animals for biological supply. Existing law requires that animal shelters provide notice if they turn over animals to research facilities. This bill further requires that a shelter that provides animals or biological materials such as blood to research facilities, educational institutions, or veterinarians to post a sign including notice of that fact and include the notice on owner surrender forms. Status: Chapter 139, 2001.

SB 382 (Haynes) School vouchers. As heard by the Judiciary Committee, this bill required state certifications of and grants immunity and other protections to developments and individuals that discriminate on the basis of age and familial status with respect to developments claiming to be Senior Citizen Housing Developments. It was subsequently amended to address school vouchers. Status: Dead; AsmED.

SB 465 (McPherson) Transportation. This measure makes various non-controversial changes to the law authorizing the Santa Cruz county regional transportation commission to strengthen the commission's powers to address Santa Cruz County's transportation

problems. Among these changes is a grant of the power of eminent domain. This measure is modeled after similar authority already granted by the Legislature to the County of Monterey. Status: Chapter 472, 2001.

SB 482 (Kuehl) Salton Sea restoration. This bill, as heard by the Committee, authorized the Attorney General or a District Attorney to petition the superior court to impose a civil penalty for violations of the Z'berg-Nejedly Forest Practice Act regardless of whether misdemeanor charges have been filed with regard to the same conduct. Existing law allows the AG or DA to seek such a penalty only as part of a misdemeanor action. The bill was subsequently amended to make changes regarding restoration of the Salton Sea. Status: Chapter 617, 2002.

SB 662 (Judiciary) Maintenance of the codes. This bill makes technical changes and restates existing provisions of law to effectuate the recommendations made by the Legislative Counsel to the Legislature for consideration during 2001. Specifically, this bill corrects grammatical and other errors without substantive change to the law. Status: Chapter 159, 2001.

SB 1210 (Romero) Traveling circuses, carnivals: notification. This bill requires any traveling circus or carnival to provide local animal control services with: (1) a plan for the recapture or destruction of an escaped animal, (2) a list of names and credentials for its animal keepers, and (3) a list of animals it intends to exhibit, including any previous history of incidents of escape and/or injuries to humans associated with any animal being exhibited. Status: Failed; SenConcurrence.

SB 1628 (Sher) Attorney General representation. This bill permits the Attorney General in an appropriate case to represent both an identified state board and another state agency in the same matter, if the affected board and agency consent. If the AG chooses to represent the state agency, the board would be represented by its inside counsel, or by outside counsel if the AG consented. Status: Chapter 396, 2002.

SB 2051 (Bowen) Income and corporation taxes: information privacy. This bill conforms California's tax laws with the Internal Revenue Code provision that excludes tax information and liability from the amendment procedures of the Information Practices Act. Status: Chapter 694, 2002.

SCR 13 (Morrow) California Law Revision Commission study topics. This resolution authorizes the California Law Revision Commission to continue its study of selected topics, deleting one topic on environmental quality and natural resources, and adding one topic regarding the Subdivision Map and the Mitigation Fee Acts. Status: Resolution Chapter 78, 2001.

SCR 81 (Machado) Uniform Money Services Act. This resolution directs the California Law Revision Commission, with the help of the State Department of Corporations and the State Department of Financial Institutions and the technical

assistance of the regulated industry, to conduct a study of the various statutes involving nonbank money transactions and the applicability of the Uniform Money Services Act and an industry model legislative proposal affecting those transactions, for the purpose of recommending whether a single comprehensive regulatory scheme for nonbank money transactions and the businesses that service those transactions is necessary and appropriate. The California Law Revision Commission will also be required to make recommendations to the Legislature by December 31, 2005. Status: Dead; AsmAPPR.

SJR 1 (Murray) Slavery. This resolution urges Congress to enact legislation which acknowledges the injustices of slavery, makes an apology to African-Americans for this blight in American history, urges the establishment of a national museum and memorial regarding slavery, and recommends the establishment of the Commission to Study Reparation Proposals for African-Americans. Status: Resolution Chapter 86, 2001.