

AMENDED IN ASSEMBLY MAY 26, 2006

AMENDED IN ASSEMBLY MARCH 28, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2303

**Introduced by Committee on Judiciary (Jones (Chair), Evans,
Laird, Levine, Lieber, and Montanez)**

February 22, 2006

An act to amend Section 6450 of the Business and Professions Code, to amend Section 2982 of the Civil Code, to amend Sections 1276, 1277, 1278, 1278.5, and 1279.5 of, and to amend and repeal Section 209 of, the Code of Civil Procedure, to amend Section 5220 of the Corporations Code, to amend Sections 2103, 2104, 2106, and 2107 of, and to add and repeal Sections 3150.2 and 3150.4 of, the Family Code, to amend Sections 12585, 12599, 12599.1, 12599.2, and 31000.6 of the Government Code, to amend Section 959.1 of the Penal Code, and to amend Sections 366.3 and 15657.03 of the Welfare and Institutions Code, relating to the judiciary.

LEGISLATIVE COUNSEL'S DIGEST

AB 2303, as amended, Committee on Judiciary. Judiciary: omnibus bill.

(1) Existing law requires all paralegals, as defined, to certify completion every 3 years of 4 hours of mandatory continuing legal education in legal ethics.

This bill would instead require all paralegals who are certified on or after January 1, 2007, to certify completion every 2 years of 4 hours of mandatory continuing legal education in legal ethics.

(2) The Car Buyer's Bill of Rights requires a conditional sale contract for a motor vehicle to include a specified notice to inform the buyer of a used vehicle with a purchase price of less than \$40,000 of his or her right to obtain a contract cancellation option agreement. Existing law excepts specified vehicles from that contract cancellation option requirement, including motorcycles and recreational vehicles.

This bill would require the notice provisions in a conditional sale contract to provide that a recreational vehicle is excepted from that contract cancellation option requirement.

(3) Under existing law, a prospective trial juror who has been summoned for jury service and fails to attend as directed or respond to the court may be compelled to attend, as specified. In addition, after an order to show cause hearing, the court may find the prospective juror in contempt of court, which is punishable by fine, incarceration, or both. Until January 1, 2007, existing law permits the court, in lieu of imposing penalties for contempt, to impose reasonable monetary sanctions of no more than \$250 for a first violation, \$750 for a 2nd violation, and \$1,500 for the 3rd and any subsequent violation, upon a prospective juror who has failed to respond and who has not been excused, after first providing the prospective juror with notice and an opportunity to be heard, as specified.

This bill would delete that date, thereby extending those provisions indefinitely, and would also delete a related, obsolete provision.

(4) Existing law sets forth the procedures for a change of name, including requiring an application for a name change to be made to the superior court of the county where the person whose name is proposed to be changed resides, by petition signed by the person, or if the person is under 18 years of age, signed by one of the person's parents, if living, or if both parents are dead, then by the guardian of the person.

This bill would revise and recast these provisions to, among other things, modify the procedures for persons objecting to a name change and notice thereto, as specified.

(5) The Nonprofit Public Benefit Corporation Law prohibits a director of a nonprofit public benefit corporation from being elected for terms greater than 3 years, as fixed in the articles or bylaws.

This bill would instead allow those directors to be elected for terms no greater than 4 years, as fixed in the articles or bylaws.

(6) Existing law requires each party to a proceeding for dissolution of marriage to serve on the other party specified financial disclosure

statements. Existing law authorizes a complying party to elect to take one or both of specified actions with respect to a noncomplying party.

This bill would make the first provision described above applicable to a party who has appeared in, rather than a party to, that proceeding. The bill would also expand the actions a complying party may take with respect to a noncomplying party to include filing a motion showing good cause for the court to grant the noncomplying party's voluntary waiver of the receipt of the complying party's disclosure.

(7) Existing law authorizes the court to appoint private counsel to represent the interests of a child in a custody or visitation proceeding.

On or before January 1, 2008, and until January 1, 2012, this bill would require the court to create a panel of attorneys for appointment in the above-referenced proceedings, who would be required to meet specified qualifications and report annually to the court in that regard. The bill would allow the court to appoint a nonpanel attorney in those proceedings only under special circumstances, as specified. The bill would authorize the Judicial Council to report to the Legislature on or before June 30, 2011, with regard to the number of those attorneys removed for cause or disciplinary reasons, as specified. The bill would also create new procedures with regard to allowing a parent or party to a proceeding to terminate the appointment of, or to resolve a complaint against, appointed counsel, and would provide appointed counsel with specified quasi-judicial immunity during the course of his or her representation of a minor child.

(8) Existing law requires a charitable organization, unincorporated association, or a trustee holding property for charitable purposes to register its articles of incorporation with the Attorney General's Registry of Charitable Trusts within 30 days of receiving the property.

This bill would instead require these entities to file an initial registration form with the Attorney General, and would require the Attorney General to adopt rules and regulations as to the contents of that form and related procedures. The bill would make other procedural changes relating to the means of payment of the annual registration or renewal fee by other entities required to register with the Attorney General's Registry of Charitable Trusts.

(9) Existing law provides a specified procedure that requires the county board of supervisors, upon the request of the county assessor or sheriff, to contract with and employ legal counsel to assist the assessor or sheriff in the performance of his or her duties in any case

where the county counsel or the district attorney would have a conflict of interest in representing the assessor or sheriff, as defined.

This bill would revise this procedure and extend those provisions to requests made by an assessor or sheriff after he or she leaves office, under specified circumstances.

By imposing new duties on a county, this bill would impose a state-mandated local program.

(10) Existing law allows a criminal prosecution to be commenced by filing an accusatory pleading in electronic form with the magistrate, or in a court having authority to receive it, under specified conditions. Existing law also authorizes a court to receive and file a notice of parking violation or a notice to appear in electronic form under certain conditions.

This bill would revise and recast those conditions for the receipt and filing of an accusatory pleading or a notice to appear in electronic form.

(11) Existing law requires the juvenile court to conduct periodic status review hearings every 6 months, and, in certain cases, to terminate the parental rights to, and to order a permanent plan of adoption or legal guardianship for, a dependent child of the juvenile court.

This bill would allow the court to conduct those status review hearings at any time earlier than 6 months, if in the best interest of the child.

(12) Existing law provides for emergency protective orders with respect to elder abuse, as specified. For those purposes, existing law requires the respondent to be personally served at least two days before the hearing on the protective order.

This bill would instead require at least five days service before that hearing.

(13) ~~The Administrative Office of the Courts administers various court-related programs~~ *superior courts have original jurisdiction over certain civil and criminal proceedings.*

~~This bill would require the Administrative Office of the Courts to expend all funds allocated for services to assist self-represented litigants in proportion to the number of self-represented parties in each county~~ *every superior court to provide self-help services to self-represented parties in all types of civil actions and proceedings, as specified, and to provide those services in languages other than English, where appropriate. The bill would further require each*

superior court to give priority to underserved areas and to the provision of court-based services, supervised by an attorney, and coordinated with other legal service providers in the area.

(14) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6450 of the Business and Professions
2 Code is amended to read:

3 6450. (a) "Paralegal" means a person who holds himself or
4 herself out to be a paralegal, who is qualified by education,
5 training, or work experience, who either contracts with or is
6 employed by an attorney, law firm, corporation, governmental
7 agency, or other entity, and who performs substantial legal work
8 under the direction and supervision of an active member of the
9 State Bar of California, as defined in Section 6060, or an attorney
10 practicing law in the federal courts of this state, that has been
11 specifically delegated by the attorney to him or her. Tasks
12 performed by a paralegal include, but are not limited to, case
13 planning, development, and management; legal research;
14 interviewing clients; fact gathering and retrieving information;
15 drafting and analyzing legal documents; collecting, compiling,
16 and utilizing technical information to make an independent
17 decision and recommendation to the supervising attorney; and
18 representing clients before a state or federal administrative
19 agency if that representation is permitted by statute, court rule, or
20 administrative rule or regulation.

21 (b) Notwithstanding subdivision (a), a paralegal shall not do
22 the following:

23 (1) Provide legal advice.

24 (2) Represent a client in court.

1 (3) Select, explain, draft, or recommend the use of any legal
2 document to or for any person other than the attorney who directs
3 and supervises the paralegal.

4 (4) Act as a runner or capper, as defined in Sections 6151 and
5 6152.

6 (5) Engage in conduct that constitutes the unlawful practice of
7 law.

8 (6) Contract with, or be employed by, a natural person other
9 than an attorney to perform paralegal services.

10 (7) In connection with providing paralegal services, induce a
11 person to make an investment, purchase a financial product or
12 service, or enter a transaction from which income or profit, or
13 both, purportedly may be derived.

14 (8) Establish the fees to charge a client for the services the
15 paralegal performs, which shall be established by the attorney
16 who supervises the paralegal's work. This paragraph does not
17 apply to fees charged by a paralegal in a contract to provide
18 paralegal services to an attorney, law firm, corporation,
19 governmental agency, or other entity as provided in subdivision
20 (a).

21 (c) A paralegal shall possess at least one of the following:

22 (1) A certificate of completion of a paralegal program
23 approved by the American Bar Association.

24 (2) A certificate of completion of a paralegal program at, or a
25 degree from, a postsecondary institution that requires the
26 successful completion of a minimum of 24 semester, or
27 equivalent, units in law-related courses and that has been
28 accredited by a national or regional accrediting organization or
29 approved by the Bureau for Private Postsecondary and
30 Vocational Education.

31 (3) A baccalaureate degree or an advanced degree in any
32 subject, a minimum of one year of law-related experience under
33 the supervision of an attorney who has been an active member of
34 the State Bar of California for at least the preceding three years
35 or who has practiced in the federal courts of this state for at least
36 the preceding three years, and a written declaration from this
37 attorney stating that the person is qualified to perform paralegal
38 tasks.

39 (4) A high school diploma or general equivalency diploma, a
40 minimum of three years of law-related experience under the

1 supervision of an attorney who has been an active member of the
2 State Bar of California for at least the preceding three years or
3 who has practiced in the federal courts of this state for at least the
4 preceding three years, and a written declaration from this
5 attorney stating that the person is qualified to perform paralegal
6 tasks. This experience and training shall be completed no later
7 than December 31, 2003.

8 (d) All paralegals who are certified on or before December 31,
9 2006, shall be required to certify completion every three years of
10 four hours of mandatory continuing legal education in legal
11 ethics. All paralegals who are certified on or after January 1,
12 2007, shall be required to certify completion every two years of
13 four hours of mandatory continuing legal education in legal
14 ethics. All continuing legal education courses shall meet the
15 requirements of Section 6070. Every two years, all paralegals
16 shall be required to certify completion of four hours of
17 mandatory continuing education in either general law or in a
18 specialized area of law. Certification of these continuing
19 education requirements shall be made with the paralegal's
20 supervising attorney. The paralegal shall be responsible for
21 keeping a record of the paralegal's certifications.

22 (e) A paralegal does not include a nonlawyer who provides
23 legal services directly to members of the public, or a legal
24 document assistant or unlawful detainer assistant as defined in
25 Section 6400, unless the person is a person described in
26 subdivision (a).

27 (f) This section shall become operative on January 1, 2004.

28 SEC. 2. Section 2982 of the Civil Code, as amended by
29 Section 3 of Chapter 128 of the Statutes of 2005, is amended to
30 read:

31 2982. A conditional sale contract subject to this chapter shall
32 contain the disclosures required by Regulation Z, whether or not
33 Regulation Z applies to the transaction. In addition, to the extent
34 applicable, the contract shall contain the other disclosures and
35 notices required by, and shall satisfy the requirements and
36 limitations of, this section. The disclosures required by
37 subdivision (a) may be itemized or subtotaled to a greater extent
38 than as required by that subdivision and shall be made together
39 and in the sequence set forth in that subdivision. All other
40 disclosures and notices may appear in the contract in any location

1 or sequence and may be combined or interspersed with other
2 provisions of the contract.

3 (a) The contract shall contain the following disclosures, as
4 applicable, which shall be labeled “itemization of the amount
5 financed:”

6 (1) (A) The cash price, exclusive of document preparation
7 fees, business partnership automation fees, taxes imposed on the
8 sale, pollution control certification fees, prior credit or lease
9 balance on property being traded in, the amount charged for a
10 service contract, the amount charged for a theft deterrent system,
11 the amount charged for a surface protection product, the amount
12 charged for an optional debt cancellation agreement, and the
13 amount charged for a contract cancellation option agreement.

14 (B) The fee to be retained by the seller for document
15 preparation.

16 (C) The fee charged by the seller for certifying that the motor
17 vehicle complies with applicable pollution control requirements.

18 (D) A charge for a theft deterrent device.

19 (E) A charge for a surface protection product.

20 (F) Taxes imposed on the sale.

21 (G) The amount of any optional business partnership
22 automation fee to register or transfer the vehicle, which shall be
23 labeled “Optional DMV Electronic Filing Fee.”

24 (H) The amount charged for a service contract.

25 (I) The prior credit or lease balance remaining on property
26 being traded in, as required by paragraph (6). The disclosure
27 required by this subparagraph shall be labeled “prior credit or
28 lease balance (see downpayment and trade-in calculation).”

29 (J) Any charge for an optional debt cancellation agreement.

30 (K) Any charge for a used vehicle contract cancellation option
31 agreement.

32 (L) The total cash price, which is the sum of subparagraphs
33 (A) to (K), inclusive.

34 (M) The disclosures described in subparagraphs (D), (E), and
35 (K) are not required on contracts involving the sale of a
36 motorcycle, as defined in Section 400 of the Vehicle Code, or on
37 contracts involving the sale of an off-highway motor vehicle that
38 is subject to identification under Section 38010 of the Vehicle
39 Code, and the amounts of those charges, if any, are not required
40 to be reflected in the total price under subparagraph (L).

1 (2) Amounts paid to public officials for the following:

2 (A) Vehicle license fees.

3 (B) Registration, transfer, and titling fees.

4 (C) California tire fees imposed pursuant to Section 42885 of
5 the Public Resources Code.

6 (3) The aggregate amount of premiums agreed, upon
7 execution of the contract, to be paid for policies of insurance
8 included in the contract, excluding the amount of any insurance
9 premium included in the finance charge.

10 (4) The amount of the state fee for issuance of a certificate of
11 compliance, noncompliance, exemption, or waiver pursuant to
12 any applicable pollution control statute.

13 (5) A subtotal representing the sum of the foregoing items.

14 (6) The amount of the buyer's downpayment itemized to show
15 the following:

16 (A) The agreed value of the property being traded in.

17 (B) The prior credit or lease balance, if any, owing on the
18 property being traded in.

19 (C) The net agreed value of the property being traded in,
20 which is the difference between the amounts disclosed in
21 subparagraphs (A) and (B). If the prior credit or lease balance of
22 the property being traded in exceeds the agreed value of the
23 property, a negative number shall be stated.

24 (D) The amount of any portion of the downpayment to be
25 deferred until not later than the due date of the second regularly
26 scheduled installment under the contract and that is not subject to
27 a finance charge.

28 (E) The amount of any manufacturer's rebate applied or to be
29 applied to the downpayment.

30 (F) The remaining amount paid or to be paid by the buyer as a
31 downpayment.

32 (G) The total downpayment. If the sum of subparagraphs (C)
33 to (F), inclusive, is zero or more, that sum shall be stated as the
34 total downpayment and no amount shall be stated as the prior
35 credit or lease balance under subparagraph (I) of paragraph (1). If
36 the sum of subparagraphs (C) to (F), inclusive, is less than zero,
37 then that sum, expressed as a positive number, shall be stated as
38 the prior credit or lease balance under subparagraph (I) of
39 paragraph (1), and zero shall be stated as the total downpayment.

40 The disclosure required by this subparagraph shall be labeled

1 “total downpayment” and shall contain a descriptor indicating
2 that if the total downpayment is a negative number, a zero shall
3 be disclosed as the total downpayment and a reference made that
4 the remainder shall be included in the disclosure required
5 pursuant to subparagraph (I) of paragraph (1).

6 (7) The amount of any administrative finance charge, labeled
7 “prepaid finance charge.”

8 (8) The difference between item (5) and the sum of items (6)
9 and (7), labeled “amount financed.”

10 (b) No particular terminology is required to disclose the items
11 set forth in subdivision (a) except as expressly provided in that
12 subdivision.

13 (c) If payment of all or a portion of the downpayment is to be
14 deferred, the deferred payment shall be reflected in the payment
15 schedule disclosed pursuant to Regulation Z.

16 (d) If the downpayment includes property being traded in, the
17 contract shall contain a brief description of that property.

18 (e) The contract shall contain the names and addresses of all
19 persons to whom the notice required under Section 2983.2 and
20 permitted under Sections 2983.5 and 2984 is to be sent.

21 (f) (1) If the contract includes a finance charge determined on
22 the precomputed basis, the contract shall identify the method of
23 computing the unearned portion of the finance charge in the
24 event of prepayment in full of the buyer’s obligation and contain
25 a statement of the amount or method of computation of any
26 charge that may be deducted from the amount of any unearned
27 finance charge in computing the amount that will be credited to
28 the obligation or refunded to the buyer. The method of
29 computing the unearned portion of the finance charge shall be
30 sufficiently identified with a reference to the actuarial method if
31 the computation will be under that method. The method of
32 computing the unearned portion of the finance charge shall be
33 sufficiently identified with a reference to the Rule of 78’s, the
34 sum of the digits, or the sum of the periodic time balances
35 method in all other cases, and those references shall be deemed
36 to be equivalent for disclosure purposes.

37 (2) If the contract includes a finance charge that is determined
38 on the simple-interest basis but provides for a minimum finance
39 charge in the event of prepayment in full, the contract shall

1 contain a statement of that fact and the amount of the minimum
2 finance charge or its method of calculation.

3 (g) (1) If the contract includes a finance charge that is
4 determined on the precomputed basis and provides that the
5 unearned portion of the finance charge to be refunded upon full
6 prepayment of the contract is to be determined by a method other
7 than actuarial, the contract shall contain a notice, in at least
8 10-point boldface type if the contract is printed, reading as
9 follows: "Notice to buyer: (1) Do not sign this agreement before
10 you read it or if it contains any blank spaces to be filled in. (2)
11 You are entitled to a completely filled-in copy of this agreement.
12 (3) You can prepay the full amount due under this agreement at
13 any time and obtain a partial refund of the finance charge if it is
14 \$1 or more. Because of the way the amount of this refund will be
15 figured, the time when you prepay could increase the ultimate
16 cost of credit under this agreement. (4) If you default in the
17 performance of your obligations under this agreement, the
18 vehicle may be repossessed and you may be subject to suit and
19 liability for the unpaid indebtedness evidenced by this
20 agreement."

21 (2) If the contract includes a finance charge that is determined
22 on the precomputed basis and provides for the actuarial method
23 for computing the unearned portion of the finance charge upon
24 prepayment in full, the contract shall contain a notice, in at least
25 10-point boldface type if the contract is printed, reading as
26 follows: "Notice to buyer: (1) Do not sign this agreement before
27 you read it or if it contains any blank spaces to be filled in. (2)
28 You are entitled to a completely filled-in copy of this agreement.
29 (3) You can prepay the full amount due under this agreement at
30 any time and obtain a partial refund of the finance charge if it is
31 \$1 or more. (4) If you default in the performance of your
32 obligations under this agreement, the vehicle may be repossessed
33 and you may be subject to suit and liability for the unpaid
34 indebtedness evidenced by this agreement."

35 (3) If the contract includes a finance charge that is determined
36 on the simple-interest basis, the contract shall contain a notice, in
37 at least 10-point boldface type if the contract is printed, reading
38 as follows: "Notice to buyer: (1) Do not sign this agreement
39 before you read it or if it contains any blank spaces to be filled in.
40 (2) You are entitled to a completely filled-in copy of this

1 agreement. (3) You can prepay the full amount due under this
2 agreement at any time. (4) If you default in the performance of
3 your obligations under this agreement, the vehicle may be
4 repossessed and you may be subject to suit and liability for the
5 unpaid indebtedness evidenced by this agreement.”

6 (h) The contract shall contain a notice in at least 8-point
7 boldface type, acknowledged by the buyer, that reads as follows:

8
9 “If you have a complaint concerning this sale, you should try to
10 resolve it with the seller.

11 Complaints concerning unfair or deceptive practices or
12 methods by the seller may be referred to the city attorney, the
13 district attorney, or an investigator for the Department of Motor
14 Vehicles, or any combination thereof.

15 After this contract is signed, the seller may not change the
16 financing or payment terms unless you agree in writing to the
17 change. You do not have to agree to any change, and it is an
18 unfair or deceptive practice for the seller to make a unilateral
19 change.

20
21 _____
22 Buyer’s Signature”
23

24 (i) (1) The contract shall contain an itemization of any
25 insurance included as part of the amount financed disclosed
26 pursuant to paragraph (3) of subdivision (a) and of any insurance
27 included as part of the finance charge. The itemization shall
28 identify the type of insurance coverage and the premium charged
29 therefor, and, if the insurance expires before the date of the last
30 scheduled installment included in the repayment schedule, the
31 term of the insurance shall be stated.

32 (2) If any charge for insurance, other than for credit life or
33 disability, is included in the contract balance and disbursement of
34 any part thereof is to be made more than one year after the date
35 of the conditional sale contract, any finance charge on the
36 amount to be disbursed after one year shall be computed from the
37 month the disbursement is to be made to the due date of the last
38 installment under the conditional sale contract.

39 (j) (1) Except for contracts in which the finance charge or
40 portion thereof is determined by the simple-interest basis and the

1 amount financed disclosed pursuant to paragraph (8) of
2 subdivision (a) is more than two thousand five hundred dollars
3 (\$2,500), the dollar amount of the disclosed finance charge may
4 not exceed the greater of:

5 (A) (i) One and one-half percent on so much of the unpaid
6 balance as does not exceed two hundred twenty-five dollars
7 (\$225), 1 $\frac{1}{6}$ percent on so much of the unpaid balance in excess
8 of two hundred twenty-five dollars (\$225) as does not exceed
9 nine hundred dollars (\$900) and five-sixths of 1 percent on so
10 much of the unpaid balance in excess of nine hundred dollars
11 (\$900) as does not exceed two thousand five hundred dollars
12 (\$2,500).

13 (ii) One percent of the entire unpaid balance; multiplied in
14 either case by the number of months (computed on the basis of a
15 full month for any fractional month period in excess of 15 days)
16 elapsing between the date of the contract and the due date of the
17 last installment.

18 (B) If the finance charge is determined by the precomputed
19 basis, twenty-five dollars (\$25).

20 (C) If the finance charge or a portion thereof is determined by
21 the simple-interest basis:

22 (i) Twenty-five dollars (\$25) if the unpaid balance does not
23 exceed one thousand dollars (\$1,000).

24 (ii) Fifty dollars (\$50) if the unpaid balance exceeds one
25 thousand dollars (\$1,000) but does not exceed two thousand
26 dollars (\$2,000).

27 (iii) Seventy-five dollars (\$75) if the unpaid balance exceeds
28 two thousand dollars (\$2,000).

29 (2) The holder of the contract may not charge, collect, or
30 receive a finance charge that exceeds the disclosed finance
31 charge, except to the extent (A) caused by the holder's receipt of
32 one or more payments under a contract that provides for
33 determination of the finance charge or a portion thereof on the
34 365-day basis at a time or times other than as originally
35 scheduled whether or not the parties enter into an agreement
36 pursuant to Section 2982.3, (B) permitted by paragraph (2), (3),
37 or (4) of subdivision (c) of Section 226.17 of Regulation Z, or
38 (C) permitted by subdivisions (a) and (c) of Section 2982.8.

39 (3) If the finance charge or a portion thereof is determined by
40 the simple-interest basis and the amount of the unpaid balance

1 exceeds five thousand dollars (\$5,000), the holder of the contract
2 may, in lieu of its right to a minimum finance charge under
3 subparagraph (C) of paragraph (1), charge, receive, or collect on
4 the date of the contract an administrative finance charge not to
5 exceed seventy-five dollars (\$75), provided that the sum of the
6 administrative finance charge and the portion of the finance
7 charge determined by the simple-interest basis shall not exceed
8 the maximum total finance charge permitted by subparagraph (A)
9 of paragraph (1). Any administrative finance charge that is
10 charged, received, or collected by a holder shall be deemed a
11 finance charge earned on the date of the contract.

12 (4) If a contract provides for unequal or irregular payments, or
13 payments on other than a monthly basis, the maximum finance
14 charge shall be at the effective rate provided for in paragraph (1),
15 having due regard for the schedule of installments.

16 (k) The contract may provide that for each installment in
17 default for a period of not less than 10 days the buyer shall pay a
18 delinquency charge in an amount not to exceed in the aggregate 5
19 percent of the delinquent installment, which amount may be
20 collected only once on any installment regardless of the period
21 during which it remains in default. Payments timely received by
22 the seller under an extension or deferral agreement may not be
23 subject to a delinquency charge unless the charge is permitted by
24 Section 2982.3. The contract may provide for reasonable
25 collection costs and fees in the event of delinquency.

26 (l) Notwithstanding any provision of a contract to the contrary,
27 the buyer may pay at any time before maturity the entire
28 indebtedness evidenced by the contract without penalty. In the
29 event of prepayment in full:

30 (1) If the finance charge was determined on the precomputed
31 basis, the amount required to prepay the contract shall be the
32 outstanding contract balance as of that date, provided, however,
33 that the buyer shall be entitled to a refund credit in the amount of
34 the unearned portion of the finance charge, except as provided in
35 paragraphs (3) and (4). The amount of the unearned portion of
36 the finance charge shall be at least as great a proportion of the
37 finance charge, including any additional finance charge imposed
38 pursuant to Section 2982.8 or other additional charge imposed
39 because the contract has been extended, deferred, or refinanced,
40 as the sum of the periodic monthly time balances payable more

than 15 days after the date of prepayment bears to the sum of all the periodic monthly time balances under the schedule of installments in the contract or, if the contract has been extended, deferred, or refinanced, as so extended, deferred, or refinanced. If the amount of the refund credit is less than one dollar (\$1), no refund credit need be made by the holder. Any refund credit may be made in cash or credited to the outstanding obligations of the buyer under the contract.

(2) If the finance charge or a portion thereof was determined on the simple-interest basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, including any earned finance charges that are unpaid as of that date and, if applicable, the amount provided in paragraph (3), and provided further that in cases where a finance charge is determined on the 360-day basis, the payments theretofore received will be assumed to have been received on their respective due dates regardless of the actual dates on which the payments were received.

(3) Where the minimum finance charge provided by subparagraph (B) or subparagraph (C) of paragraph (1) of subdivision (j), if either is applicable, is greater than the earned finance charge as of the date of prepayment, the holder shall be additionally entitled to the difference.

(4) The provisions of this subdivision may not impair the right of the seller or the seller's assignee to receive delinquency charges on delinquent installments and reasonable costs and fees as provided in subdivision (k) or extension or deferral agreement charges as provided in Section 2982.3.

(5) Notwithstanding any provision of a contract to the contrary, whenever the indebtedness created by any contract is satisfied prior to its maturity through surrender of the motor vehicle, repossession of the motor vehicle, redemption of the motor vehicle after repossession, or any judgment, the outstanding obligation of the buyer shall be determined as provided in paragraph (1) or (2). Notwithstanding, the buyer's outstanding obligation shall be computed by the holder as of the date the holder recovers the value of the motor vehicle through disposition thereof or judgment is entered or, if the holder elects to keep the motor vehicle in satisfaction of the buyer's

1 indebtedness, as of the date the holder takes possession of the
2 motor vehicle.

3 (m) Notwithstanding any other provision of this chapter to the
4 contrary, any information required to be disclosed in a
5 conditional sale contract under this chapter may be disclosed in
6 any manner, method, or terminology required or permitted under
7 Regulation Z, as in effect at the time that disclosure is made,
8 except that permitted by paragraph (2) of subdivision (c) of
9 Section 226.18 of Regulation Z, provided that all of the
10 requirements and limitations set forth in subdivision (a) of this
11 section are satisfied. This chapter does not prohibit the disclosure
12 in that contract of additional information required or permitted
13 under Regulation Z, as in effect at the time that disclosure is
14 made.

15 (n) If the seller imposes a fee for document preparation, the
16 contract shall contain a disclosure that the fee is not a
17 governmental fee.

18 (o) A seller may not impose an application fee for a
19 transaction governed by this chapter.

20 (p) The seller or holder may charge and collect a fee not to
21 exceed fifteen dollars (\$15) for the return by a depository
22 institution of a dishonored check, negotiated order of withdrawal,
23 or share draft issued in connection with the contract, if the
24 contract so provides or if the contract contains a generalized
25 statement that the buyer may be liable for collection costs
26 incurred in connection with the contract.

27 (q) The contract shall disclose on its face, by printing the word
28 “new” or “used” within a box outlined in red, that is not smaller
29 than one-half inch high and one-half inch wide, whether the
30 vehicle is sold as a new vehicle, as defined in Section 430 of the
31 Vehicle Code, or as a used vehicle, as defined in Section 665 of
32 the Vehicle Code.

33 (r) The contract shall contain a notice with a heading in at least
34 12-point bold type and the text in at least 10-point bold type,
35 circumscribed by a line, immediately above the contract
36 signature line, that reads as follows:

1 THERE IS NO COOLING-OFF PERIOD UNLESS YOU
2 OBTAIN A CONTRACT CANCELLATION OPTION.

3
4 California law does not provide for a “cooling-off” or other
5 cancellation period for vehicle sales. Therefore, you cannot later cancel
6 this contract simply because you change your mind, decide the vehicle
7 costs too much, or wish you had acquired a different vehicle. After you
8 sign below, you may only cancel this contract with the agreement of the
9 seller or for legal cause, such as fraud.

10 However, California law does require a seller to offer a 2-day contract
11 cancellation option on used vehicles with a purchase price of less than
12 \$40,000, subject to certain statutory conditions. This contract
13 cancellation option requirement does not apply to the sale of a
14 recreational vehicle, a motorcycle, or an off-highway motor vehicle
15 subject to identification under California law. See the vehicle contract
16 cancellation option agreement for details.

17
18 SEC. 3. Section 209 of the Code of Civil Procedure, as
19 amended by Section 28 of Chapter 75 of the Statutes of 2005, is
20 amended to read:

21 209. (a) Any prospective trial juror who has been summoned
22 for service, and who fails to attend as directed or to respond to
23 the court or jury commissioner and to be excused from
24 attendance, may be attached and compelled to attend. Following
25 an order to show cause hearing, the court may find the
26 prospective juror in contempt of court, punishable by fine,
27 incarceration, or both, as otherwise provided by law.

28 (b) In lieu of imposing sanctions for contempt as set forth in
29 subdivision (a), the court may impose reasonable monetary
30 sanctions, as provided in this subdivision, on a prospective juror
31 who has not been excused pursuant to Section 204 after first
32 providing the prospective juror with notice and an opportunity to
33 be heard. If a juror fails to respond to the initial summons within
34 12 months, the court may issue a second summons indicating that
35 the person failed to appear in response to a previous summons
36 and ordering the person to appear for jury duty. Upon the failure
37 of the juror to appear in response to the second summons, the
38 court may issue a failure to appear notice informing the person
39 that failure to respond may result in the imposition of money
40 sanctions. If the prospective juror does not attend the court within

1 the time period as directed by the failure to appear notice, the
2 court shall issue an order to show cause. Payment of monetary
3 sanctions imposed pursuant to this subdivision does not relieve
4 the person of his or her obligation to perform jury duty.

5 (c) (1) The court may give notice of its intent to impose
6 sanctions by either of the following means:

7 (A) Verbally to a prospective juror appearing in person in
8 open court.

9 (B) The issuance on its own motion of an order to show cause
10 requiring the prospective juror to demonstrate reasons for not
11 imposing sanctions. The court may serve the order to show cause
12 by certified or first-class mail.

13 (2) The monetary sanctions imposed pursuant to subdivision
14 (b) may not exceed two hundred fifty dollars (\$250) for the first
15 violation, seven hundred fifty dollars (\$750) for the second
16 violation, and one thousand five hundred dollars (\$1,500) for the
17 third and any subsequent violation. Monetary sanctions may not
18 be imposed on a prospective juror more than once during a single
19 juror pool cycle. The prospective juror may be excused from
20 paying sanctions pursuant to subdivision (b) of Section 204 or in
21 the interests of justice. The full amount of any sanction paid shall
22 be deposited in a bank account established for this purpose by the
23 Administrative Office of the Courts and transmitted from that
24 account monthly to the Controller for deposit in the Trial Court
25 Trust Fund, as provided in Section 68085.1 of the Government
26 Code. It is the intent of the Legislature that the funds derived
27 from the monetary sanctions authorized in this section be
28 allocated, to the extent feasible, to the family courts and the civil
29 courts. The Judicial Council shall, by rule, provide for a
30 procedure by which a prospective juror against whom a sanction
31 has been imposed by default may move to set aside the default.

32 SEC. 4. Section 209 of the Code of Civil Procedure, as added
33 by Section 2 of Chapter 359 of the Statutes of 2003, is repealed.

34 SEC. 5. Section 1276 of the Code of Civil Procedure is
35 amended to read:

36 1276. (a) All applications for change of names shall be made
37 to the superior court of the county where the person whose name
38 is proposed to be changed resides, except as specified in
39 subdivision (e), either (1) by petition signed by the person or, if
40 the person is under 18 years of age, either by one of the person's

1 parents, or by any guardian of the person, or if both parents are
2 dead and there is no guardian of the person, then by some near
3 relative or friend of the person or (2) as provided in Section 7638
4 of the Family Code.

5 The petition or pleading shall specify the place of birth and
6 residence of the person, his or her present name, the name
7 proposed, and the reason for the change of name.

8 (b) In a proceeding for a change of name commenced by the
9 filing of a petition, if the person whose name is to be changed is
10 under 18 years of age, the petition shall, if neither parent of the
11 person has signed the petition, name, as far as known to the
12 person proposing the name change, the parents of the person and
13 their place of residence, if living, or if neither parent is living,
14 near relatives of the person, and their place of residence.

15 (c) In a proceeding for a change of name commenced by the
16 filing of a petition, if the person whose name is proposed to be
17 changed is under 18 years of age and the petition is signed by
18 only one parent, the petition shall specify the address, if known,
19 of the other parent if living. If the petition is signed by a
20 guardian, the petition shall specify the name and address, if
21 known, of the parent or parents, if living, or the grandparents, if
22 the addresses of both parents are unknown or if both parents are
23 deceased, of the person whose name is proposed to be changed.

24 (d) In a proceeding for a change of name commenced by the
25 filing of a petition, if the person whose name is proposed to be
26 changed is 12 years of age or older, has been relinquished to an
27 adoption agency by his or her parent or parents, and has not been
28 legally adopted, the petition shall be signed by the person and the
29 adoption agency to which the person was relinquished. The near
30 relatives of the person and their place of residence shall not be
31 included in the petition unless they are known to the person
32 whose name is proposed to be changed.

33 (e) All petitions for the change of the name of a minor
34 submitted by a guardian appointed by the juvenile court or the
35 probate court shall be made in the appointing court.

36 (f) If the petition is signed by a guardian, the petition shall
37 specify relevant information regarding the guardianship, the
38 likelihood that the child will remain under the guardian's care
39 until the child reaches the age of majority, and information

1 suggesting that the child will not likely be returned to the custody
2 of his or her parents.

3 SEC. 6. Section 1277 of the Code of Civil Procedure is
4 amended to read:

5 1277. (a) If a proceeding for a change of name is commenced
6 by the filing of a petition, except as provided in subdivisions (b)
7 and (e), the court shall thereupon make an order reciting the
8 filing of the petition, the name of the person by whom it is filed,
9 and the name proposed. The order shall direct all persons
10 interested in the matter to appear before the court at a time and
11 place specified, which shall be not less than six or more than 12
12 weeks from the time of making the order, unless the court orders
13 a different time, to show cause why the application for change of
14 name should not be granted. The order shall direct all persons
15 interested in the matter to make known any objection that they
16 may have to the granting of the petition for change of name by
17 filing a written objection, which includes the reasons for the
18 objection, with the court at least two court days before the matter
19 is scheduled to be heard and by appearing in court at the hearing
20 to show cause why the petition for change of name should not be
21 granted. The order shall state that, if no written objection is
22 timely filed, the court may grant the petition without a hearing.

23 A copy of the order to show cause shall be published pursuant
24 to Section 6064 of the Government Code in a newspaper of
25 general circulation to be designated in the order published in the
26 county. If no newspaper of general circulation is published in the
27 county, a copy of the order to show cause shall be posted by the
28 clerk of the court in three of the most public places in the county
29 in which the court is located, for a like period. Proof shall be
30 made to the satisfaction of the court of this publication or
31 posting, at the time of the hearing of the application.

32 Four weekly publications shall be sufficient publication of the
33 order to show cause. If the order is published in a daily
34 newspaper, publication once a week for four successive weeks
35 shall be sufficient.

36 If a petition has been filed for a minor by a parent and the other
37 parent, if living, does not join in consenting thereto, the petitioner
38 shall cause, not less than 30 days prior to the hearing, to be
39 served notice of the time and place of the hearing or a copy of the
40 order to show cause on the other parent pursuant to Section

1 413.10, 414.10, 415.10, or 415.40. If notice of the hearing cannot
2 reasonably be accomplished pursuant to Section 415.10 or
3 415.40, the court may order that notice be given in a manner that
4 the court determines is reasonably calculated to give actual notice
5 to the nonconsenting parent. For good cause, the court may
6 determine that publication of the order to show cause pursuant to
7 this subdivision is sufficient notice to the nonconsenting parent.

8 (b) If the petition for a change of name alleges that the reason
9 for the petition is to avoid domestic violence, as defined in
10 Section 6211 of the Family Code, or stalking, as defined in
11 Section 646.9 of the Penal Code, and the petitioner is a
12 participant in the address confidentiality program created
13 pursuant to Chapter 3.1 (commencing with Section 6205) of
14 Division 7 of Title 1 of the Government Code, the petition, the
15 order of the court, and the copy published pursuant to subdivision
16 (a) shall, in lieu of reciting the proposed name, indicate that the
17 proposed name is confidential and will be on file with the
18 Secretary of State pursuant to the provisions of the address
19 confidentiality program.

20 (c) A proceeding for a change of name for a witness
21 participating in the state Witness Protection Program established
22 by Title 7.5 (commencing with Section 14020) of Part 4 of the
23 Penal Code who has been approved for the change of name by
24 the program is exempt from the requirement for publication of
25 the order to show cause under subdivision (a).

26 (d) If application for change of name is brought as part of an
27 action under the Uniform Parentage Act (Part 3 (commencing
28 with Section 7600) of Division 12 of the Family Code), whether
29 as part of a petition or cross-complaint or as a separate order to
30 show cause in a pending action thereunder, service of the
31 application shall be made upon all other parties to the action in a
32 like manner as prescribed for the service of a summons, as is set
33 forth in Article 3 (commencing with Section 415.10) of Chapter
34 4 of Title 5 of Part 2. Upon the setting of a hearing on the issue,
35 notice of the hearing shall be given to all parties in the action in a
36 like manner and within the time limits prescribed generally for
37 the type of hearing (whether trial or order to show cause) at
38 which the issue of the change of name is to be decided.

39 (e) If a guardian files a petition to change the name of his or
40 her minor ward pursuant to Section 1276:

1 (1) The guardian shall provide notice of the hearing to any
2 living parent of the minor by personal service at least 30 days
3 prior to the hearing.

4 (2) If either or both parents are deceased or cannot be located,
5 the guardian shall cause, not less than 30 days prior to the
6 hearing, to be served a notice of the time and place of the hearing
7 or a copy of the order to show cause on the child's grandparents,
8 if living, pursuant to Section 413.10, 414.10, 415.10, or 415.40.

9 SEC. 7. Section 1278 of the Code of Civil Procedure is
10 amended to read:

11 1278. (a) Except as provided in subdivisions (c) and (d), the
12 petition or application shall be heard at the time designated by
13 the court, only if objections are filed by any person who can, in
14 those objections, show to the court good reason against the
15 change of name. At the hearing, the court may examine on oath
16 any of the petitioners, remonstrants, or other persons, touching
17 the petition or application, and may make an order changing the
18 name, or dismissing the petition or application, as to the court
19 may seem right and proper.

20 If no objection is filed at least two court days before the date
21 set for hearing, the court may, without hearing, enter the order
22 that the change of name is granted.

23 (b) If the provisions of subdivision (b) of Section 1277 apply,
24 the court shall not disclose the proposed name unless the court
25 finds by clear and convincing evidence that the allegations of
26 domestic violence or stalking in the petition are false.

27 (c) If the application for a change of name is brought as part of
28 an action under the Uniform Parentage Act (Part 3 (commencing
29 with Section 7600) of Division 12 of the Family Code), the
30 hearing on the issue of the change of name shall be conducted
31 pursuant to statutes and rules of court governing those
32 proceedings, whether the hearing is conducted upon an order to
33 show cause or upon trial.

34 (d) If the petition for a change of name is filed by a guardian
35 on behalf of a minor ward, the court shall first find that the ward
36 is likely to remain in the guardian's care until the age of majority
37 and that the ward is not likely to be returned to the custody of his
38 or her parents. Upon making those findings, the court shall
39 consider the petition and may grant the petition only if it finds
40 that the proposed name change is in the best interest of the child.

1 SEC. 8. Section 1278.5 of the Code of Civil Procedure is
2 amended to read:

3 1278.5. In any proceeding pursuant to this title in which a
4 petition has been filed to change the name of a minor, and both
5 parents, if living, do not join in consent, the court may deny the
6 petition in whole or in part if it finds that any portion of the
7 proposed name change is not in the best interest of the child.

8 SEC. 9. Section 1279.5 of the Code of Civil Procedure is
9 amended to read:

10 1279.5. (a) Except as provided in subdivision (b), (c), (d), or
11 (e), nothing in this title shall be construed to abrogate the
12 common law right of any person to change his or her name.

13 (b) Notwithstanding any other law, no person imprisoned in
14 the state prison and under the jurisdiction of the Director of
15 Corrections shall be allowed to file a petition for change of name
16 pursuant to Section 1276, except as permitted at the discretion of
17 the Director of Corrections.

18 (c) A court shall deny a petition for a name change pursuant to
19 Section 1276 made by a person who is under the jurisdiction of
20 the Department of Corrections, unless that person's parole agent
21 or probation officer grants prior written approval. Before
22 granting that approval, the parole agent or probation officer shall
23 determine that the name change will not pose a security risk to
24 the community.

25 (d) Notwithstanding any other law, a court shall deny a
26 petition for a name change pursuant to Section 1276 made by a
27 person who is required to register as a sex offender under Section
28 290 of the Penal Code, unless the court determines that it is in the
29 best interest of justice to grant the petition and that doing so will
30 not adversely affect the public safety. If a petition for a name
31 change is granted for an individual required to register as a sex
32 offender, the individual shall, within five working days, notify
33 the chief of police of the city in which he or she is domiciled, or
34 the sheriff of the county if he or she is domiciled in an
35 unincorporated area, and additionally with the chief of police of
36 a campus of a University of California or California State
37 University if he or she is domiciled upon the campus or in any of
38 its facilities.

39 (e) For the purpose of this section, the court shall use the
40 California Law Enforcement Telecommunications System

(CLETS) and Criminal Justice Information System (CJIS) to determine whether or not an applicant for a name change is under the jurisdiction of the Department of Corrections or is required to register as a sex offender pursuant to Section 290 of the Penal Code. Each person applying for a name change shall declare under penalty of perjury that he or she is not under the jurisdiction of the Department of Corrections or is required to register as a sex offender pursuant to Section 290 of the Penal Code. If a court is not equipped with CLETS or CJIS, the clerk of the court shall contact an appropriate local law enforcement agency, which shall determine whether or not the petitioner is under the jurisdiction of the Department of Corrections or is required to register as a sex offender pursuant to Section 290 of the Penal Code.

SEC. 10. Section 5220 of the Corporations Code is amended to read:

5220. (a) Except as provided in subdivision (d), directors shall be elected for the terms, not longer than four years, as are fixed in the articles or bylaws. However, the terms of directors of a corporation without members may be up to six years. In the absence of any provision in the articles or bylaws, the term shall be one year. The articles or bylaws may provide for staggering the terms of directors by dividing the total number of directors into groups of one or more directors. The terms of office of the several groups and the number of directors in each group need not be uniform. No amendment of the articles or bylaws may extend the term of a director beyond that for which the director was elected, nor may any bylaw provision increasing the terms of directors be adopted without approval of the members (Section 5034).

(b) Unless the articles or bylaws otherwise provide, each director, including a director elected to fill a vacancy, shall hold office until the expiration of the term for which elected and until a successor has been elected and qualified.

(c) The articles or bylaws may provide for the election of one or more directors by the members of any class voting as a class.

(d) Subdivisions (a) through (c) notwithstanding, all or any portion of the directors authorized in the articles or bylaws of a corporation may hold office by virtue of designation or selection as provided by the articles or bylaws rather than by election by a

1 member or members. ~~Such~~ *Those* directors shall continue in
2 office for the term prescribed by the governing article or bylaw
3 provision, or, if there is no term prescribed, until the governing
4 article or bylaw provision is duly amended or repealed, except as
5 provided in subdivision (e) of Section 5222. A bylaw provision
6 authorized by this subdivision may be adopted, amended, or
7 repealed only by approval of the members (Section 5034),
8 subject, if so provided in the bylaws, to the consent of the person
9 or persons entitled to designate or select ~~any such~~ *the* director or
10 directors.

11 (e) If a corporation has not issued memberships and (1) all the
12 directors resign, die, or become incompetent, or (2) a
13 corporation's initial directors have not been named in the articles
14 and all incorporators resign, die, or become incompetent before
15 the election of the initial directors, the superior court of any
16 county may appoint directors of the corporation upon application
17 by any party in interest.

18 SEC. 11. Section 2103 of the Family Code is amended to
19 read:

20 2103. In order to provide full and accurate disclosure of all
21 assets and liabilities in which one or both parties may have an
22 interest, each party who has appeared in a proceeding for
23 dissolution of the marriage or legal separation of the parties shall
24 serve on the other party a preliminary declaration of disclosure
25 under Section 2104 and a final declaration of disclosure under
26 Section 2105, unless service of the final declaration of disclosure
27 is waived pursuant to Section 2105 or 2110, and shall file proof
28 of service of each with the court.

29 SEC. 12. Section 2104 of the Family Code is amended to
30 read:

31 2104. (a) Except by court order for good cause as provided in
32 Section 2107, after or concurrently with service of the petition
33 for dissolution or nullity of marriage or legal separation of the
34 parties, each party shall serve on the other party a preliminary
35 declaration of disclosure, executed under penalty of perjury on a
36 form prescribed by the Judicial Council. The commission of
37 perjury on the preliminary declaration of disclosure may be
38 grounds for setting aside the judgment, or any part or parts
39 thereof, pursuant to Chapter 10 (commencing with Section
40 2120), in addition to any and all other remedies, civil or criminal,

1 that otherwise are available under law for the commission of
2 perjury.

3 (b) The preliminary declaration of disclosure shall not be filed
4 with the court, except on court order. However, the parties shall
5 file proof of service of the preliminary declaration of disclosure
6 with the court.

7 (c) The preliminary declaration of disclosure shall set forth
8 with sufficient particularity, that a person of reasonable and
9 ordinary intelligence can ascertain, all of the following:

10 (1) The identity of all assets in which the declarant has or may
11 have an interest and all liabilities for which the declarant is or
12 may be liable, regardless of the characterization of the asset or
13 liability as community, quasi-community, or separate.

14 (2) The declarant's percentage of ownership in each asset and
15 percentage of obligation for each liability where property is not
16 solely owned by one or both of the parties. The preliminary
17 declaration may also set forth the declarant's characterization of
18 each asset or liability.

19 (d) A declarant may amend his or her preliminary declaration
20 of disclosure without leave of the court. Proof of service of any
21 amendment shall be filed with the court.

22 (e) Along with the preliminary declaration of disclosure, each
23 party shall provide the other party with a completed income and
24 expense declaration unless an income and expense declaration
25 has already been provided and is current and valid.

26 SEC. 13. Section 2106 of the Family Code is amended to
27 read:

28 2106. Except as provided in subdivision (d) of Section 2105,
29 Section 2110, or absent good cause as provided in Section 2107,
30 no judgment shall be entered with respect to the parties' property
31 rights without each party, or the attorney for that party in this
32 matter, having executed and served a copy of the final
33 declaration of disclosure and current income and expense
34 declaration. Each party, or his or her attorney, shall execute and
35 file with the court a declaration signed under penalty of perjury
36 stating that service of the final declaration of disclosure and
37 current income and expense declaration was made on the other
38 party or that service of the final declaration of disclosure has
39 been waived pursuant to subdivision (d) of Section 2105 or in
40 Section 2110.

1 SEC. 14. Section 2107 of the Family Code is amended to
2 read:

3 2107. (a) If one party fails to serve on the other party a
4 preliminary declaration of disclosure under Section 2104 or a
5 final declaration of disclosure under Section 2105, or fails to
6 provide the information required in the respective declarations
7 with sufficient particularity, and if the other party has served the
8 respective declaration of disclosure on the noncomplying party,
9 the complying party may, within a reasonable time, request
10 preparation of the appropriate declaration of disclosure or further
11 particularity.

12 (b) If the noncomplying party fails to comply with a request
13 under subdivision (a), the complying party may do one or more
14 of the following:

15 (1) File a motion to compel a further response.

16 (2) File a motion for an order preventing the noncomplying
17 party from presenting evidence on issues that should have been
18 covered in the declaration of disclosure.

19 (3) File a motion showing good cause for the court to grant the
20 complying party's voluntary waiver of receipt of the
21 noncomplying party's preliminary declaration of disclosure
22 under Section 2104 or final declaration of disclosure under
23 Section 2105. The voluntary waiver does not affect the right of
24 either party to request the court to set aside the judgment as
25 provided in subdivision (d).

26 (c) If a party fails to comply with any provision of this
27 chapter, the court shall, in addition to any other remedy provided
28 by law, impose money sanctions against the noncomplying party.
29 Sanctions shall be in an amount sufficient to deter repetition of
30 the conduct or comparable conduct, and shall include reasonable
31 attorney's fees, costs incurred, or both, unless the court finds that
32 the noncomplying party acted with substantial justification or
33 that other circumstances make the imposition of the sanction
34 unjust.

35 (d) Except as otherwise provided in this subdivision, if a court
36 enters a judgment when the parties have failed to comply with all
37 disclosure requirements of this chapter, the court shall set aside
38 the judgment. The failure to comply with the disclosure
39 requirements does not constitute harmless error. If the court
40 granted the complying party's voluntary waiver of receipt of the

1 noncomplying party's preliminary declaration of disclosure
2 pursuant to paragraph (3) of subdivision (b), the court shall set
3 aside the judgment only at the request of the complying party.

4 (e) Upon the motion to set aside judgment, the court may order
5 the parties to provide the preliminary and final declarations of
6 disclosure that were exchanged between them. Absent a court
7 order to the contrary, the disclosure declarations shall not be filed
8 with the court and shall be returned to the parties.

9 SEC. 15. Section 3150.2 is added to the Family Code, to read:

10 3150.2. (a) In order to ensure a high quality of expertise for
11 appointed private counsel for minors, each court shall, on or
12 before January 1, 2008, create a minor's counsel panel of
13 attorneys meeting the minimum qualifications set forth below,
14 for appointment in case proceedings under this division requiring
15 minor's counsel.

16 (b) Court-approved minor's counsel shall provide verification
17 of all of the following:

18 (1) Licensure as an attorney for at least three years during
19 which time period at least 50 percent of the attorney's practice
20 was devoted to family law with substantial emphasis in custody
21 cases.

22 (2) A minimum of eight hours of training per year, accredited
23 for mandatory continuing legal education and offered by the
24 Judicial Council, State Bar, a local bar association, the court, or
25 any other group in subjects specifically relating to the
26 representation of children.

27 (3) Professional liability insurance.

28 (c) Each court, subject to the exceptions in subdivision (e),
29 shall maintain a list of attorneys who meet the qualifications in
30 subdivision (b). A qualified attorney shall provide verification of
31 his or her meeting the qualification requirements to the court and
32 annually certify to the court the following:

33 (1) Current licensure in good standing and proof of liability
34 insurance.

35 (2) Completion of eight hours per year of accredited
36 continuing education in the area of custody and representing
37 children.

38 (d) Each attorney appointed to represent minors shall notify
39 the court within five days of any public or private disciplinary
40 proceeding by the State Bar, or any removal for cause pursuant to

1 Section 3150.4, stating the basis of the complaint and, when
2 available, the result of the proceeding.

3 (e) A court may appoint an attorney not on the court-approved
4 minor's counsel panel in special circumstances, taking into
5 consideration factors such as language, culture, special needs of
6 children, other specialized training of the attorney, unless
7 appointment from outside the panel is otherwise prohibited by a
8 local rule of court.

9 (f) In counties where the attorney population or expertise does
10 not make the creation of a panel possible, each court is
11 encouraged to form a partnership or regional panel of qualified
12 attorneys willing to be appointed in the courts participating in
13 that regional endeavor.

14 (g) The Judicial Council may, on or before June 30, 2011,
15 report to the Legislature on the number of appointed counsel
16 removed for cause or who have had disciplinary proceedings
17 instituted against them and the results of those actions.

18 (h) This section shall remain in effect only until January 1,
19 2012, and as of that date is repealed unless a later enacted statute,
20 that is enacted before January 1, 2012, deletes or extends that
21 date.

22 SEC. 16. Section 3150.4 is added to the Family Code, to read:

23 3150.4. (a) If the court has appointed private counsel to
24 represent the best interest of the child pursuant to Section 3150, a
25 parent or a party to the proceeding may request that the court
26 terminate the appointment of the counsel or resolve any
27 complaint by the parent or party regarding the actions of the
28 appointed counsel.

29 (b) That request shall be by noticed motion to the appointing
30 court. The motion shall include a declaration under penalty of
31 perjury by the moving party stating the basis for the request. The
32 motion shall be filed and served in the same manner and time
33 limits as any other family law motion.

34 (c) Private counsel appointed by the court pursuant to Section
35 3150.2, meeting the requirements set forth in subdivision (b) of
36 Section 3150.2, and not retained by one party to advocate for the
37 child, shall be entitled to quasi-judicial immunity for any
38 communications or conduct during the course of counsel's duties
39 as counsel for the minor child from the date of appointment until
40 the order relieving counsel from that appointment. Quasi-judicial

1 immunity provided herein is the same as that provided to
2 court-appointed mediators, investigators, and evaluators by case
3 law.

4 (d) This section shall remain in effect only until January 1,
5 2012, and as of that date is repealed unless a later enacted statute,
6 that is enacted before January 1, 2012, deletes or extends that
7 date.

8 SEC. 17. Section 12585 of the Government Code is amended
9 to read:

10 12585. (a) Every charitable corporation, unincorporated
11 association, and trustee subject to this article shall file with the
12 Attorney General an initial registration form, under oath, setting
13 forth information and attaching documents prescribed in
14 accordance with rules and regulations of the Attorney General,
15 within 30 days after the corporation, unincorporated association,
16 or trustee initially receives property. A trustee is not required to
17 register as long as the charitable interest in a trust is a future
18 interest, but shall do so within 30 days after any charitable
19 interest in a trust becomes a present interest.

20 (b) The Attorney General shall adopt rules and regulations as
21 to the contents of the initial registration form and the manner of
22 executing and filing that document or documents.

23 SEC. 18. Section 12599 of the Government Code is amended
24 to read:

25 12599. (a) “Commercial fundraiser for charitable purposes”
26 means any individual, corporation, unincorporated association, or
27 other legal entity who for compensation does any of the
28 following:

29 (1) Solicits funds, assets, or property in this state for charitable
30 purposes.

31 (2) As a result of a solicitation of funds, assets, or property in
32 this state for charitable purposes, receives or controls the funds,
33 assets, or property solicited for charitable purposes.

34 (3) Employs, procures, or engages any compensated person to
35 solicit, receive, or control funds, assets, or property for charitable
36 purposes.

37 A commercial fundraiser for charitable purposes shall include
38 any person, association of persons, corporation, or other entity
39 that obtains a majority of its inventory for sale by the purchase,
40 receipt, or control for resale to the general public, of salvageable

1 personal property solicited by an organization qualified to solicit
2 donations pursuant to Section 148.3 of the Welfare and
3 Institutions Code.

4 A commercial fundraiser for charitable purposes shall not
5 include a “trustee” as defined in Section 12582 or 12583, a
6 “charitable corporation” as defined in Section 12582.1, or any
7 employee thereof. A commercial fundraiser for charitable
8 purposes shall not include an individual who is employed by or
9 under the control of a commercial fundraiser for charitable
10 purposes registered with the Attorney General. A commercial
11 fundraiser for charitable purposes shall not include any federally
12 insured financial institution that holds as a depository funds
13 received as a result of a solicitation for charitable purposes.

14 As used in this section, “charitable purposes” includes any
15 solicitation in which the name of any organization of law
16 enforcement personnel, firefighters, or other persons who protect
17 the public safety is used or referred to as an inducement for
18 transferring any funds, assets, or property, unless the only
19 expressed or implied purpose of the solicitation is for the sole
20 benefit of the actual active membership of the organization.

21 (b) A commercial fundraiser for charitable purposes shall,
22 prior to soliciting any funds, assets, or property, including
23 salvageable personal property, in California for charitable
24 purposes, or prior to receiving and controlling any funds, assets,
25 or property, including salvageable personal property, as a result
26 of a solicitation in this state for charitable purposes, register with
27 the Attorney General’s Registry of Charitable Trusts on a
28 registration form provided by the Attorney General. Renewals of
29 registration shall be filed with the Registry of Charitable Trusts
30 by January 15 of each calendar year in which the commercial
31 fundraiser for charitable purposes does business and shall be
32 effective for one year. A registration or renewal fee of two
33 hundred dollars (\$200) shall be required for registration of a
34 commercial fundraiser for charitable purposes, and shall be
35 payable by certified or cashier’s check to the Attorney General’s
36 Registry of Charitable Trusts at the time of registration or
37 renewal. The Attorney General may adjust the annual registration
38 or renewal fee, or means of payment, as needed pursuant to this
39 section. The Attorney General’s Registry of Charitable Trusts

1 may grant extensions of time to file annual registration as
2 required, pursuant to subdivision (b) of Section 12586.

3 (c) A commercial fundraiser for charitable purposes shall file
4 with the Attorney General's Registry of Charitable Trusts an
5 annual financial report on a form provided by the Attorney
6 General, accounting for all funds collected pursuant to any
7 solicitation for charitable purposes during the preceding calendar
8 year. The annual financial report shall be filed with the Attorney
9 General's Registry of Charitable Trusts no later than 30 days
10 after the close of the preceding calendar year.

11 (d) The contents of the forms for annual registration and
12 annual financial reporting by commercial fundraisers for
13 charitable purposes shall be established by the Attorney General
14 in a manner consistent with the procedures set forth in
15 subdivisions (a) and (b) of Section 12586. The annual financial
16 report shall require a detailed, itemized accounting of funds,
17 assets, or property, solicited for charitable purposes on behalf of
18 each charitable organization exempt from taxation under Section
19 501(c)(3) of the Internal Revenue Code or for each charitable
20 purpose during the accounting period, and shall include, among
21 other data, the following information for funds, assets, or
22 property, solicited by the commercial fundraiser for charitable
23 purposes:

24 (1) Total revenue.

25 (2) The fee or commission charged by the commercial
26 fundraiser for charitable purposes.

27 (3) Salaries paid by the commercial fundraiser for charitable
28 purposes to its officers and employees.

29 (4) Fundraising expenses.

30 (5) Distributions to the identified charitable organization or
31 purpose.

32 (6) The names and addresses of any director, officer, or
33 employee of the commercial fundraiser for charitable purposes
34 who is a director, officer, or employee of any charitable
35 organization listed in the annual financial report.

36 (e) A commercial fundraiser for charitable purposes that
37 obtains a majority of its inventory for sale by the purchase,
38 receipt, or control for resale to the general public, of salvageable
39 personal property solicited by an organization qualified to solicit
40 donations pursuant to Section 148.3 of the Welfare and

1 Institutions Code shall file with the Attorney General's Registry
2 of Charitable Trusts, and not with the sheriff of any county, an
3 annual financial report on a form provided by the Attorney
4 General that is separate and distinct from forms filed by other
5 commercial fundraisers for charitable purposes pursuant to
6 subdivisions (c) and (d).

7 (f) It shall be unlawful for any commercial fundraiser for
8 charitable purposes to solicit funds in this state for charitable
9 purposes unless the commercial fundraiser for charitable
10 purposes has complied with the registration or annual renewal
11 and financial reporting requirements of this article. Failure to
12 comply with these registration or annual renewal and financial
13 reporting requirements shall be grounds for injunction against
14 solicitation in this state for charitable purposes and other civil
15 remedies provided by law.

16 (g) A commercial fundraiser for charitable purposes is a
17 constructive trustee for charitable purposes as to all funds
18 collected pursuant to solicitation for charitable purposes and shall
19 account to the Attorney General for all funds. A commercial
20 fundraiser for charitable purposes is subject to the Attorney
21 General's supervision and enforcement over charitable funds and
22 assets to the same extent as a trustee for charitable purposes
23 under this article.

24 (h) Not less than 10 working days prior to the commencement
25 of each solicitation campaign, event, or service, or not later than
26 commencement of solicitation for solicitations to aid victims of
27 emergency hardship or disasters, a commercial fundraiser for
28 charitable purposes shall file with the Attorney General's
29 Registry of Charitable Trusts a notice on a form prescribed by the
30 Attorney General that sets forth all of the following:

31 (1) The name, address, and telephone number of the
32 commercial fundraiser for charitable purposes.

33 (2) The name, address, and telephone number of the charitable
34 organization with whom the commercial fundraiser has
35 contracted.

36 (3) The fundraising methods to be used.

37 (4) The projected dates when performance under the contract
38 will commence and terminate.

1 (5) The name, address, and telephone number of the person
2 responsible for directing and supervising the work of the
3 commercial fundraiser under the contract.

4 (i) There shall be a written contract between a commercial
5 fundraiser for charitable purposes and a charitable organization
6 for each solicitation campaign, event, or service, that shall be
7 signed by the authorized contracting officer for the commercial
8 fundraiser and by an official of the charitable organization who is
9 authorized to sign by the organization's governing body. The
10 contract shall be available for inspection by the Attorney General
11 and shall contain all of the following provisions:

12 (1) The legal name and address of the charitable organization
13 as registered with the Registry of Charitable Trusts, unless the
14 charitable organization is exempt from registration.

15 (2) A statement of the charitable purpose for which the
16 solicitation campaign, event, or service is being conducted.

17 (3) A statement of the respective obligations of the
18 commercial fundraiser and the charitable organization.

19 (4) If the commercial fundraiser is to be paid a fixed fee, a
20 statement of the fee to be paid to the commercial fundraiser and a
21 good faith estimate of what percentage the fee will constitute of
22 the total contributions received. The contract shall clearly
23 disclose the assumptions upon which the estimate is based, and
24 the stated assumptions shall be based upon all of the relevant
25 facts known to the commercial fundraiser regarding the
26 solicitation to be conducted by the commercial fundraiser.

27 (5) If a percentage fee is to be paid to the commercial
28 fundraiser, a statement of the percentage of the total
29 contributions received that will be remitted to or retained by the
30 charitable organization, or, if the solicitation involves the sale of
31 goods or services or the sale of admissions to a fundraising event,
32 the percentage of the purchase price that will be remitted to the
33 charitable organization. The stated percentage shall be calculated
34 by subtracting from contributions received and sales receipts not
35 only the commercial fundraiser's fee, but also any additional
36 amounts that the charitable organization is obligated to pay as
37 fundraising costs.

38 (6) The effective and termination dates of the contract and the
39 date solicitation activity is to commence within the state.

1 (7) A provision that requires that each contribution in the
2 control or custody of the commercial fundraiser shall in its
3 entirety and within five working days of its receipt comply with
4 either of the following:

5 (A) Be deposited in an account at a bank or other federally
6 insured financial institution that is solely in the name of the
7 charitable organization and over which the charitable
8 organization has sole control of withdrawals.

9 (B) Be delivered to the charitable organization in person, by
10 United States express mail, or by another method of delivery
11 providing for overnight delivery.

12 (8) A statement that the charitable organization exercises
13 control and approval over the content and frequency of any
14 solicitation.

15 (9) If the commercial fundraiser proposes to make any
16 payment in cash or in kind to any person or legal entity to secure
17 any person's attendance at, or sponsorship, approval, or
18 endorsement of, a charity fundraising event, the maximum dollar
19 amount of those payments shall be set forth in the contract.
20 "Charity fundraising event" means any gathering of persons,
21 including, but not limited to, a party, banquet, concert, or show,
22 that is held for the purpose or claimed purpose of raising funds
23 for any charitable purpose or organization.

24 (10) A provision that includes all of the following statements:

25 (A) The charitable organization has the right to cancel the
26 contract without cost, penalty, or liability for a period of 10 days
27 following the date on which the contract is executed.

28 (B) The charitable organization may cancel the contract by
29 serving a written notice of cancellation on the commercial
30 fundraiser.

31 (C) If mailed, service shall be by certified mail, return receipt
32 requested, and cancellation shall be deemed effective upon the
33 expiration of five calendar days from the date of mailing.

34 (D) Any funds collected after effective notice that the contract
35 has been canceled shall be deemed to be held in trust for the
36 benefit of the charitable organization without deduction for costs
37 or expenses of any nature.

38 (E) The charitable organization shall be entitled to recover all
39 funds collected after the date of cancellation.

40 (11) A provision that includes all of the following statements:

1 (A) Following the initial 10-day cancellation period, the
2 charitable organization may terminate the contract by giving 30
3 days' written notice.

4 (B) If mailed, service of the notice shall be by certified mail,
5 return receipt requested, and shall be deemed effective upon the
6 expiration of five calendar days from the date of mailing.

7 (C) In the event of termination under this subdivision, the
8 charitable organization shall be liable for services provided by
9 the commercial fundraiser up to 30 days after the effective
10 service of the notice.

11 (12) A provision that, following the initial 10-day cancellation
12 period, the charitable organization may terminate the contract at
13 any time upon written notice, without payment or compensation
14 of any kind to the commercial fundraiser, if the commercial
15 fundraiser or its agents, employees, or representatives do any of
16 the following:

17 (A) Make any material misrepresentations in the course of
18 solicitations or with respect to the charitable organization.

19 (B) Are found by the charitable organization to have been
20 convicted of a crime arising from the conduct of a solicitation for
21 a charitable organization or purpose punishable as a
22 misdemeanor or a felony.

23 (C) Otherwise conduct fundraising activities in a manner that
24 causes or could cause public disparagement of the charitable
25 organization's good name or good will.

26 (13) Any other information required by the regulations of the
27 Attorney General.

28 (j) It shall be unlawful for a commercial fundraiser for
29 charitable purposes to not disclose the percentage of total
30 fundraising expenses of the fundraiser upon receiving a written
31 or oral request from a person solicited for a contribution for a
32 charitable purpose. "Percentage of total fundraising expenses," as
33 used in this section, means the ratio of the total expenses of the
34 fundraiser to the total revenue received by the fundraiser for the
35 charitable purpose for which funds are being solicited, as
36 reported on the most recent financial report filed with the
37 Attorney General's Registry of Charitable Trusts. A commercial
38 fundraiser shall disclose this information in writing within five
39 working days from receipt of a request by mail or facsimile. A
40 commercial fundraiser shall orally disclose this information

1 immediately upon a request made in person or in a telephone
2 conversation and shall follow this response with a written
3 disclosure within five working days. Failure to comply with the
4 requirements of this subdivision shall be grounds for an
5 injunction against solicitation in this state for charitable purposes
6 and other civil remedies provided by law.

7 (k) If the Attorney General issues a report to the public
8 containing information obtained from registration forms or
9 financial report forms filed by commercial fundraisers for
10 charitable purposes, there shall be a separate section concerning
11 commercial fundraisers for charitable purposes that obtain a
12 majority of their inventory for sale by the purchase, receipt, or
13 control for resale to the general public, of salvageable personal
14 property solicited by an organization qualified to solicit
15 donations pursuant to Section 148.3 of the Welfare and
16 Institutions Code. The report shall include an explanation of the
17 distinctions between these thrift store operations and other types
18 of commercial fundraising.

19 (l) No person may act as a commercial fundraiser for
20 charitable purposes if that person, any officer or director of that
21 person's business, any person with a controlling interest in the
22 business, or any person the commercial fundraiser employs,
23 engages, or procures to solicit for compensation, has been
24 convicted by a court of any state or the United States of a crime
25 arising from the conduct of a solicitation for a charitable
26 organization or purpose punishable as a misdemeanor or felony.

27 (m) A commercial fundraiser for charitable purposes shall not
28 solicit in the state on behalf of a charitable organization unless
29 that charitable organization is registered or is exempt from
30 registration with the Attorney General's Registry of Charitable
31 Trusts.

32 (n) If any provision of this section or the application thereof to
33 any person or circumstances is held invalid, that invalidity shall
34 not affect any other provision or application of this section that
35 can be given effect without the invalid provision or application,
36 and to this end the provisions of this section are severable.

37 SEC. 19. Section 12599.1 of the Government Code is
38 amended to read:

39 12599.1. (a) "Fundraising counsel for charitable purposes" is
40 defined as any individual, corporation, unincorporated

1 association, or other legal entity who is described by all of the
2 following:

3 (1) For compensation plans, manages, advises, counsels,
4 consults, or prepares material for, or with respect to, the
5 solicitation in this state of funds, assets, or property for charitable
6 purposes.

7 (2) Does not solicit funds, assets, or property for charitable
8 purposes.

9 (3) Does not receive or control funds, assets, or property
10 solicited for charitable purposes in this state.

11 (4) Does not employ, procure, or engage any compensated
12 person to solicit, receive, or control funds, assets, or property for
13 charitable purposes.

14 (b) “Fundraising counsel for charitable purposes” does not
15 include any of the following:

16 (1) An attorney, investment counselor, or banker who in the
17 conduct of that person’s profession advises a client when actually
18 engaged in the giving of legal, investment, or financial advice.

19 (2) A trustee as defined in Section 12582 or 12583.

20 (3) A charitable corporation as defined in Section 12582.1, or
21 any employee thereof.

22 (4) A person employed by or under the control of a
23 fundraising counsel for charitable purposes, as defined in
24 subdivision (a).

25 (5) A person, corporation, or other legal entity, engaged as an
26 independent contractor directly by a trustee or a charitable
27 corporation, that prints, reproduces, or distributes written
28 materials prepared by a trustee, a charitable corporation, or any
29 employee thereof, or that performs artistic or graphic services
30 with respect to written materials prepared by a trustee, a
31 charitable corporation, or any employee thereof, provided that
32 the independent contractor does not perform any of the activities
33 described in paragraph (1) of subdivision (a).

34 (6) A person whose total annual gross compensation for
35 performing any activity described in paragraph (1) of subdivision
36 (a) does not exceed twenty-five thousand dollars (\$25,000).

37 (c) A fundraising counsel for charitable purposes shall, prior to
38 managing, advising, counseling, consulting, or preparing material
39 for, or with respect to, the solicitation in this state of funds,
40 assets, or property for charitable purposes, register with the

1 Attorney General's Registry of Charitable Trusts on a
2 registration form provided by the Attorney General. Renewals of
3 registration shall be filed with the Registry of Charitable Trusts
4 by January 15 of each calendar year in which the fundraising
5 counsel for charitable purposes does business and shall be
6 effective for one year.

7 A registration or renewal fee of two hundred dollars (\$200)
8 shall be required for registration of a fundraising counsel for
9 charitable purposes, and shall be payable by certified or cashier's
10 check to the Attorney General's Registry of Charitable Trusts at
11 the time of registration and renewal. The Attorney General may
12 adjust the annual registration or renewal fee, or means of
13 payment, as needed pursuant to this section. The Attorney
14 General's Registry of Charitable Trusts may grant extensions of
15 time to file annual registration as required, pursuant to
16 subdivision (b) of Section 12586.

17 (d) A fundraising counsel for charitable purposes shall file
18 annually with the Attorney General's Registry of Charitable
19 Trusts on a form provided by the Attorney General, a report
20 listing each person, corporation, unincorporated association, or
21 other legal entity for whom the fundraising counsel has
22 performed any services described in paragraph (1) of subdivision
23 (a), and a statement certifying that the fundraising counsel had a
24 written contract with each listed person, corporation,
25 unincorporated association, or other legal entity that complied
26 with the requirements of subdivision (f).

27 (e) Not less than 10 working days prior to the commencement
28 of the performance of any service for a charitable organization by
29 a fundraising counsel for charitable purposes, or not later than
30 commencement of solicitation for solicitations to aid victims of
31 emergency hardship or disasters, the fundraising counsel shall
32 file with the Attorney General's Registry of Charitable Trusts a
33 notice on a form prescribed by the Attorney General that sets
34 forth all of the following:

35 (1) The name, address, and telephone number of the
36 fundraising counsel for charitable purposes.

37 (2) The name, address, and telephone number of the charitable
38 organization with whom the fundraising counsel has contracted.

39 (3) The projected dates when performance under the contract
40 will commence and terminate.

(4) The name, address, and telephone number of the person responsible for directing and supervising the work of the fundraising counsel under the contract.

(f) There shall be a written contract between a fundraising counsel for charitable purposes and a charitable organization for each service to be performed by the fundraising counsel for the charitable organization, that shall be signed by the authorized contracting officer for the fundraising counsel and by an official of the charitable organization who is authorized to sign by the organization's governing body. The contract shall be available for inspection by the Attorney General and shall contain all of the following provisions:

(1) The legal name and address of the charitable organization as registered with the Registry of Charitable Trusts unless the charitable organization is exempt from registration.

(2) A statement of the charitable purpose for which the solicitation campaign is being conducted.

(3) A statement of the respective obligations of the fundraising counsel and the charitable organization.

(4) A clear statement of the fees and any other form of compensation, including commissions and property, that will be paid to the fundraising counsel.

(5) The effective and termination dates of the contract and the date services will commence with respect to solicitation in this state of contributions for a charitable organization.

(6) A statement that the fundraising counsel will not at any time solicit funds, assets, or property for charitable purposes, receive or control funds, assets, or property solicited for charitable purposes, or employ, procure, or engage any compensated person to solicit, receive, or control funds, assets, or property for charitable purposes.

(7) A statement that the charitable organization exercises control and approval over the content and frequency of any solicitation.

(8) A provision that includes all of the following statements:

(A) The charitable organization has the right to cancel the contract without cost, penalty, or liability for a period of 10 days following the date on which the contract is executed.

1 (B) The charitable organization may cancel the contract by
2 serving a written notice of cancellation on the fundraising
3 counsel.

4 (C) If mailed, service shall be by certified mail, return receipt
5 requested, and cancellation shall be deemed effective upon the
6 expiration of five calendar days from the date of mailing.

7 (9) A provision that includes all of the following statements:

8 (A) Following the initial 10-day cancellation period, the
9 charitable organization may terminate the contract by giving 30
10 days' written notice.

11 (B) If mailed, service of the notice shall be by certified mail,
12 return receipt requested, and shall be deemed effective upon the
13 expiration of five calendar days from the date of mailing.

14 (C) In the event of termination under this subdivision, the
15 charitable organization shall be liable for services provided by
16 the fundraising counsel to the effective date of the termination.

17 (10) Any other information required by the regulations of the
18 Attorney General.

19 (g) It shall be unlawful for any fundraising counsel for
20 charitable purposes to manage, advise, counsel, consult, or
21 prepare material for, or with respect to, the solicitation in this
22 state of funds, assets, or property for charitable purposes unless
23 the fundraising counsel for charitable purposes has complied
24 with the registration or annual renewal and financial reporting
25 requirements of this article.

26 (h) A fundraising counsel for charitable purposes is subject to
27 the Attorney General's supervision and enforcement to the same
28 extent as a trustee for charitable purposes under this article.

29 (i) If any provision of this section or the application thereof to
30 any person or circumstances is held invalid, that invalidity shall
31 not affect other provisions or application of this section which
32 can be given effect without the invalid provision or application,
33 and to this end the provisions of this section are severable.

34 SEC. 20. Section 12599.2 of the Government Code is
35 amended to read:

36 12599.2. (a) "Commercial coventurer" is defined as any
37 person who, for profit, is regularly and primarily engaged in
38 trade or commerce other than in connection with the raising of
39 funds, assets, or property for charitable organizations or
40 charitable purposes, and who represents to the public that the

1 purchase or use of any goods, services, entertainment, or any
2 other thing of value will benefit a charitable organization or will
3 be used for a charitable purpose.

4 (b) A commercial coventurer is a trustee as defined in Section
5 12582. Notwithstanding the requirements of Sections 12585 and
6 12586, a commercial coventurer is not required to register or file
7 periodic reports with the Attorney General provided that the
8 commercial coventurer:

9 (1) Has a written contract with a trustee or charitable
10 corporation subject to this article, signed by two officers of the
11 trustee or charitable corporation, prior to representing to the
12 public that the purchase or use of any goods, services,
13 entertainment, or any other thing of value will benefit the trustee
14 or charitable corporation or will be used for a charitable purpose.

15 (2) Within 90 days after commencement of those
16 representations, and at the end of each successive 90-day period
17 during which the representations are made, transfers to that
18 trustee or charitable corporation subject to this article all funds,
19 assets, or property received as a result of the representations.

20 (3) Provides in conjunction with each transfer required by
21 paragraph (2) a written accounting to the trustee or charitable
22 corporation subject to this article of all funds, assets, or property
23 received sufficient to enable the trustee or charitable corporation
24 (A) to determine that representations made to the public on its
25 behalf have been adhered to accurately and completely, and (B)
26 to prepare its periodic report filed with the Attorney General
27 pursuant to Section 12586.

28 (c) A commercial coventurer that does not meet the
29 requirements of paragraphs (1), (2), and (3) of subdivision (b)
30 shall register and report to the Attorney General on forms
31 required by the Attorney General. An annual registration or
32 renewal fee of two hundred dollars (\$200) shall be required for
33 registration or renewal of registration of a commercial
34 coventurer, and shall be payable by certified or cashier's check to
35 the Attorney General's Registry of Charitable Trusts at the time
36 of registration or renewal. The Attorney General may adjust the
37 annual registration or renewal fee, or means of payment, as
38 needed pursuant to this section.

39 SEC. 21. Section 31000.6 of the Government Code is
40 amended to read:

1 31000.6. (a) Upon request of the assessor or the sheriff of the
2 county, the board of supervisors shall contract with and employ
3 legal counsel to assist the assessor or the sheriff in the
4 performance of his or her duties in any case where the county
5 counsel or the district attorney would have a conflict of interest
6 in representing the assessor or the sheriff.

7 (b) In the event that the board of supervisors does not concur
8 with the assessor or the sheriff that a conflict of interest exists,
9 the assessor or the sheriff, after giving notice to the county
10 counsel or the district attorney, may initiate an ex parte
11 proceeding before the presiding judge of the superior court. The
12 county counsel or district attorney may file an affidavit in the
13 proceeding in opposition to, or in support of, the assessor's or the
14 sheriff's position.

15 (c) The presiding superior court judge that determines in any
16 ex parte proceeding that a conflict actually exists, must, if
17 requested by one of the parties, also rule whether representation
18 by the county counsel or district attorney through the creation of
19 an "ethical wall" is appropriate. The factors to be considered in
20 this determination of whether an "ethical wall" should be created
21 are: (1) equal representation, (2) level of support, (3) access to
22 resources, (4) zealous representation, or (5) any other
23 consideration that relates to proper representation.

24 (d) If a court determines that the action brought by the
25 assessor or sheriff is frivolous and in bad faith, the assessor's
26 office or sheriff's office shall pay their own legal costs and all
27 costs incurred in the action by the opposing party. As used in this
28 section, "bad faith" and "frivolous" have the meaning given in
29 Section 128.5 of the Code of Civil Procedure.

30 (e) If the presiding judge determines that a conflict of interest
31 does exist, and that representation by the county counsel or
32 district attorney through the creation of an ethical wall is
33 inappropriate, the board of supervisors shall immediately employ
34 legal counsel to assist the assessor or the sheriff.

35 (f) This section shall also apply to any matter brought after an
36 assessor or sheriff leaves office under the circumstances that if
37 the matter had arisen or been discovered while the official was
38 still in office, he or she would have been authorized under this
39 section to request the appointment of independent counsel.

(g) As used in this section, “conflict of interest” means a conflict of interest as defined in Rule 3-310 of the Rules of Professional Conduct of the State Bar of California, as construed for public attorneys.

SEC. 22. Section 959.1 of the Penal Code is amended to read:

959.1. (a) Notwithstanding Sections 740, 806, 949, and 959 or any other law to the contrary, a criminal prosecution may be commenced by filing an accusatory pleading in electronic form with the magistrate or in a court having authority to receive it.

(b) As used in this section, accusatory pleadings include, but are not limited to, the complaint, the information, and the indictment.

(c) A magistrate or court is authorized to receive and file an accusatory pleading in electronic form if all of the following conditions are met:

(1) The accusatory pleading is issued in the name of, and transmitted by, a public prosecutor or law enforcement agency filing pursuant to Chapter 5c (commencing with Section 853.5) or Chapter 5d (commencing with Section 853.9), or by a clerk of the court with respect to complaints issued for the offenses of failure to appear, pay a fine, or comply with an order of the court.

(2) The magistrate or court has the facility to electronically store the accusatory pleading for the statutory period of record retention.

(3) The magistrate or court has the ability to reproduce the accusatory pleading in physical form upon demand and payment of any costs involved.

An accusatory pleading shall be deemed to have been filed when it has been received by the magistrate or court.

When transmitted in electronic form, the accusatory pleading shall be exempt from any requirement that it be subscribed by a natural person. It is sufficient to satisfy any requirement that an accusatory pleading, or any part of it, be sworn to before an officer entitled to administer oaths, if the pleading, or any part of it, was in fact sworn to and the electronic form indicates which parts of the pleading were sworn to and the name of the officer who administered the oath.

(d) Notwithstanding any other law, a notice to appear issued on a form approved by the Judicial Council may be received and

1 filed by a court in electronic form, if the following conditions are
2 met:

3 (1) The notice to appear is issued and transmitted by a law
4 enforcement agency prosecuting pursuant to Chapter 5c
5 (commencing with Section 853.5) or Chapter 5d (commencing
6 with Section 853.9) of Title 3 of Part 2 of this code, or Chapter 2
7 (commencing with Section 40300) of Division 17 of the Vehicle
8 Code.

9 (2) The court has all of the following:

10 (A) The ability to receive the notice to appear in electronic
11 format.

12 (B) The facility to electronically store an electronic copy and
13 the data elements of the notice to appear for the statutory period
14 of record retention.

15 (C) The ability to reproduce the electronic copy of the notice
16 to appear and those data elements in printed form upon demand
17 and payment of any costs involved.

18 (3) The issuing agency has the ability to reproduce the notice
19 to appear in physical form upon demand and payment of any
20 costs involved.

21 (e) A notice to appear that is received under subdivision (d) is
22 deemed to have been filed when it has been accepted by the court
23 and is in the form approved by the Judicial Council.

24 (f) If transmitted in electronic form, the notice to appear is
25 deemed to have been signed by the defendant if it includes a
26 digitized facsimile of the defendant's signature on the notice to
27 appear. A notice to appear filed electronically under subdivision
28 (d) need not be subscribed by the citing officer. An electronically
29 submitted notice to appear need not be verified by the citing
30 officer with a declaration under penalty of perjury if the
31 electronic form indicates which parts of the notice are verified by
32 that declaration and the name of the officer making the
33 declaration.

34 SEC. 23. Section 366.3 of the Welfare and Institutions Code
35 is amended to read:

36 366.3. (a) If a juvenile court orders a permanent plan of
37 adoption or legal guardianship pursuant to Section 360 or 366.26,
38 the court shall retain jurisdiction over the child until the child is
39 adopted or the legal guardianship is established, except as
40 provided for in Section 366.29. The status of the child shall be

1 reviewed every six months to ensure that the adoption or legal
2 guardianship is completed as expeditiously as possible. When the
3 adoption of the child has been granted, the court shall terminate
4 its jurisdiction over the child. Following establishment of a legal
5 guardianship, the court may continue jurisdiction over the child
6 as a dependent child of the juvenile court or may terminate its
7 dependency jurisdiction and retain jurisdiction over the child as a
8 ward of the legal guardianship, as authorized by Section 366.4.
9 If, however, a relative of the child is appointed the legal guardian
10 of the child and the child has been placed with the relative for at
11 least 12 months, the court shall, except if the relative guardian
12 objects, or upon a finding of exceptional circumstances,
13 terminate its dependency jurisdiction and retain jurisdiction over
14 the child as a ward of the guardianship, as authorized by Section
15 366.4. Following a termination of parental rights, the parent or
16 parents shall not be a party to, or receive notice of, any
17 subsequent proceedings regarding the child.

18 (b) If the court has dismissed dependency jurisdiction
19 following the establishment of a legal guardianship, or no
20 dependency jurisdiction attached because of the granting of a
21 legal guardianship pursuant to Section 360, and the legal
22 guardianship is subsequently revoked or otherwise terminated,
23 the county department of social services or welfare department
24 shall notify the juvenile court of this fact. The court may vacate
25 its previous order dismissing dependency jurisdiction over the
26 child.

27 Notwithstanding Section 1601 of the Probate Code, the
28 proceedings to terminate a legal guardianship that has been
29 granted pursuant to Section 360 or 366.26 shall be held in the
30 juvenile court, unless the termination is due to the emancipation
31 or adoption of the child. Prior to the hearing on a petition to
32 terminate legal guardianship pursuant to this paragraph, the court
33 shall order the county department of social services or welfare
34 department to prepare a report, for the court's consideration, that
35 shall include an evaluation of whether the child could safely
36 remain in the legal guardian's home, without terminating the
37 legal guardianship, if services were provided to the child or legal
38 guardian. If applicable, the report shall also identify
39 recommended services to maintain the legal guardianship and set
40 forth a plan for providing those services. If the petition to

1 terminate legal guardianship is granted, the juvenile court may
2 resume dependency jurisdiction over the child, and may order the
3 county department of social services or welfare department to
4 develop a new permanent plan, which shall be presented to the
5 court within 60 days of the termination. If no dependency
6 jurisdiction has attached, the social worker shall make any
7 investigation he or she deems necessary to determine whether the
8 child may be within the jurisdiction of the juvenile court, as
9 provided in Section 328.

10 Unless the parental rights of the child's parent or parents have
11 been terminated, they shall be notified that the legal guardianship
12 has been revoked or terminated and shall be entitled to
13 participate in the new permanency planning hearing. The court
14 shall try to place the child in another permanent placement. At
15 the hearing, the parents may be considered as custodians but the
16 child shall not be returned to the parent or parents unless they
17 prove, by a preponderance of the evidence, that reunification is
18 the best alternative for the child. The court may, if it is in the best
19 interests of the child, order that reunification services again be
20 provided to the parent or parents.

21 (c) If, following the establishment of a legal guardianship, the
22 county welfare department becomes aware of changed
23 circumstances that indicate adoption may be an appropriate plan
24 for the child, the department shall so notify the court. The court
25 may vacate its previous order dismissing dependency jurisdiction
26 over the child and order that a hearing be held pursuant to
27 Section 366.26 to determine whether adoption or continued legal
28 guardianship is the most appropriate plan for the child. The
29 hearing shall be held no later than 120 days from the date of the
30 order. If the court orders that a hearing shall be held pursuant to
31 Section 366.26, the court shall direct the agency supervising the
32 child and the licensed county adoption agency, or the State
33 Department of Social Services if it is acting as an adoption
34 agency in counties that are not served by a county adoption
35 agency, to prepare an assessment under subdivision (b) of
36 Section 366.22.

37 (d) If the child is in a placement other than the home of a legal
38 guardian and jurisdiction has not been dismissed, the status of the
39 child shall be reviewed at least every six months. The review of
40 the status of a child for whom the court has ordered parental

1 rights terminated and who has been ordered placed for adoption
2 shall be conducted by the court. The review of the status of a
3 child for whom the court has not ordered parental rights
4 terminated and who has not been ordered placed for adoption
5 may be conducted by the court or an appropriate local agency.
6 The court shall conduct the review under the following
7 circumstances:

8 (1) Upon the request of the child's parents or legal guardians.

9 (2) Upon the request of the child.

10 (3) It has been 12 months since a hearing held pursuant to
11 Section 366.26 or an order that the child remain in long-term
12 foster care pursuant to Section 366.21, 366.22, 366.26, or
13 subdivision (g).

14 (4) It has been 12 months since a review was conducted by the
15 court.

16 The court shall determine whether or not reasonable efforts to
17 make and finalize a permanent placement for the child have been
18 made.

19 (e) Except as provided in subdivision (f), at the review held
20 every six months pursuant to subdivision (d), the reviewing body
21 shall inquire about the progress being made to provide a
22 permanent home for the child, shall consider the safety of the
23 child, and shall determine all of the following:

24 (1) The continuing necessity for and appropriateness of the
25 placement.

26 (2) Identification of individuals other than the child's siblings
27 who are important to a child who is 10 years of age or older and
28 has been in out-of-home placement for six months or longer, and
29 actions necessary to maintain the child's relationship with those
30 individuals, provided that those relationships are in the best
31 interest of the child. The social worker shall ask every child who
32 is 10 years of age or older and who has been in out-of-home
33 placement for six months or longer to identify individuals other
34 than the child's siblings who are important to the child, and may
35 ask any other child to provide that information, as appropriate.
36 The social worker shall make efforts to identify other individuals
37 who are important to the child, consistent with the child's best
38 interests.

39 (3) The continuing appropriateness and extent of compliance
40 with the permanent plan for the child, including efforts to

1 maintain relationships between a child who is 10 years of age or
2 older and who has been in out-of-home placement for six months
3 or longer and individuals who are important to the child and
4 efforts to identify a prospective adoptive parent or legal guardian,
5 including, but not limited to, child-specific recruitment efforts
6 and listing on an adoption exchange.

7 (4) The extent of the agency's compliance with the child
8 welfare services case plan in making reasonable efforts to return
9 the child to a safe home and to complete whatever steps are
10 necessary to finalize the permanent placement of the child.

11 (5) Whether there should be any limitation on the right of the
12 parent or guardian to make educational decisions for the child.
13 That limitation shall be specifically addressed in the court order
14 and may not exceed what is necessary to protect the child. If the
15 court specifically limits the right of the parent or guardian to
16 make educational decisions for the child, the court shall at the
17 same time appoint a responsible adult to make educational
18 decisions for the child pursuant to Section 361.

19 (6) The adequacy of services provided to the child. The court
20 shall consider the progress in providing the information and
21 documents to the child, as described in Section 391. The court
22 shall also consider the need for, and progress in providing, the
23 assistance and services described in paragraphs (3) and (4) of
24 subdivision (b) of Section 391.

25 (7) The extent of progress the parents or legal guardians have
26 made toward alleviating or mitigating the causes necessitating
27 placement in foster care.

28 (8) The likely date by which the child may be returned to and
29 safely maintained in the home, placed for adoption, legal
30 guardianship, or in another planned permanent living
31 arrangement.

32 (9) Whether the child has any siblings under the court's
33 jurisdiction, and, if any siblings exist, all of the following:

34 (A) The nature of the relationship between the child and his or
35 her siblings.

36 (B) The appropriateness of developing or maintaining the
37 sibling relationships pursuant to Section 16002.

38 (C) If the siblings are not placed together in the same home,
39 why the siblings are not placed together and what efforts are

1 being made to place the siblings together, or why those efforts
2 are not appropriate.

3 (D) If the siblings are not placed together, the frequency and
4 nature of the visits between siblings.

5 (E) The impact of the sibling relationships on the child's
6 placement and planning for legal permanence.

7 The factors the court may consider as indicators of the nature
8 of the child's sibling relationships include, but are not limited to,
9 whether the siblings were raised together in the same home,
10 whether the siblings have shared significant common experiences
11 or have existing close and strong bonds, whether either sibling
12 expresses a desire to visit or live with his or her sibling, as
13 applicable, and whether ongoing contact is in the child's best
14 emotional interests.

15 (10) For a child who is 16 years of age or older, the services
16 needed to assist the child to make the transition from foster care
17 to independent living.

18 The reviewing body shall determine whether or not reasonable
19 efforts to make and finalize a permanent placement for the child
20 have been made.

21 Each licensed foster family agency shall submit reports for
22 each child in its care, custody, and control to the court
23 concerning the continuing appropriateness and extent of
24 compliance with the child's permanent plan, the extent of
25 compliance with the case plan, and the type and adequacy of
26 services provided to the child.

27 Unless their parental rights have been permanently terminated,
28 the parent or parents of the child are entitled to receive notice of,
29 and participate in, those hearings. It shall be presumed that
30 continued care is in the best interests of the child, unless the
31 parent or parents prove, by a preponderance of the evidence, that
32 further efforts at reunification are the best alternative for the
33 child. In those cases, the court may order that further
34 reunification services to return the child to a safe home
35 environment be provided to the parent or parents for a period not
36 to exceed six months.

37 (f) At the review conducted by the court and held at least
38 every six months, regarding a child for whom the court has
39 ordered parental rights terminated and who has been ordered

1 placed for adoption, the county welfare department shall prepare
2 and present to the court a report describing the following:

3 (1) The child's present placement.

4 (2) The child's current physical, mental, emotional, and
5 educational status.

6 (3) If the child has not been placed with a prospective adoptive
7 parent or guardian, identification of individuals, other than the
8 child's siblings, who are important to the child and actions
9 necessary to maintain the child's relationship with those
10 individuals, provided that those relationships are in the best
11 interest of the child. The agency shall ask every child who is 10
12 years of age or older to identify any individuals who are
13 important to him or her, consistent with the child's best interest,
14 and may ask any child who is younger than 10 years of age to
15 provide that information as appropriate. The agency shall make
16 efforts to identify other individuals who are important to the
17 child.

18 (4) Whether the child has been placed with a prospective
19 adoptive parent or parents.

20 (5) Whether an adoptive placement agreement has been signed
21 and filed.

22 (6) If the child has not been placed with a prospective adoptive
23 parent or parents, the efforts made to identify an appropriate
24 prospective adoptive parent or legal guardian, including, but not
25 limited to, child-specific recruitment efforts and listing on an
26 adoption exchange.

27 (7) Whether the final adoption order should include provisions
28 for postadoptive sibling contact pursuant to Section 366.29.

29 (8) The progress of the search for an adoptive placement if one
30 has not been identified.

31 (9) Any impediments to the adoption or the adoptive
32 placement.

33 (10) The anticipated date by which the child will be adopted,
34 or placed in an adoptive home.

35 (11) The anticipated date by which an adoptive placement
36 agreement will be signed.

37 (12) Recommendations for court orders that will assist in the
38 placement of the child for adoption or in the finalization of the
39 adoption.

1 The court shall determine whether or not reasonable efforts to
2 make and finalize a permanent placement for the child have been
3 made.

4 The court shall make appropriate orders to protect the stability
5 of the child and to facilitate and expedite the permanent
6 placement and adoption of the child.

7 (g) At the review held pursuant to subdivision (d) for a child in
8 long-term foster care, the court shall consider all permanency
9 planning options for the child including whether the child should
10 be returned to the home of the parent, placed for adoption, or
11 appointed a legal guardian, or, if compelling reasons exist for
12 finding that none of the foregoing options are in the best interest
13 of the child, whether the child should be placed in another
14 planned permanent living arrangement. The court shall order that
15 a hearing be held pursuant to Section 366.26 unless it determines
16 by clear and convincing evidence, that there is a compelling
17 reason for determining that a hearing held pursuant to Section
18 366.26 is not in the best interest of the child because the child is
19 being returned to the home of the parent, the child is not a proper
20 subject for adoption, or no one is willing to accept legal
21 guardianship. If the licensed county adoption agency, or the
22 department when it is acting as an adoption agency in counties
23 that are not served by a county adoption agency, has determined
24 it is unlikely that the child will be adopted or one of the
25 conditions described in paragraph (1) of subdivision (c) of
26 Section 366.26 applies, that fact shall constitute a compelling
27 reason for purposes of this subdivision. Only upon that
28 determination may the court order that the child remain in foster
29 care, without holding a hearing pursuant to Section 366.26.

30 (h) If, as authorized by subdivision (g), the court orders a
31 hearing pursuant to Section 366.26, the court shall direct the
32 agency supervising the child and the licensed county adoption
33 agency, or the State Department of Social Services when it is
34 acting as an adoption agency in counties that are not served by a
35 county adoption agency, to prepare an assessment as provided for
36 in subdivision (i) of Section 366.21 or subdivision (b) of Section
37 366.22. A hearing held pursuant to Section 366.26 shall be held
38 no later than 120 days from the date of the 12-month review at
39 which it is ordered, and at that hearing the court shall determine

1 whether adoption, legal guardianship, or long-term foster care is
2 the most appropriate plan for the child.

3 (i) The implementation and operation of the amendments to
4 subdivision (e) enacted at the 2005–06 Regular Session shall be
5 subject to appropriation through the budget process and by phase,
6 as provided in Section 366.35.

7 (j) The reviews conducted pursuant to subdivision (a) or (d)
8 may be conducted earlier than every six months if the court
9 determines that an earlier review is in the best interests of the
10 child or as courts rules prescribe.

11 SEC. 24. Section 15657.03 of the Welfare and Institutions
12 Code is amended to read:

13 15657.03. (a) An elder or dependent adult who has suffered
14 abuse as defined in Section 15610.07 may seek protective orders
15 as provided in this section.

16 (b) For the purposes of this section, “protective order” means
17 an order that includes any of the following restraining orders,
18 whether issued ex parte, after notice and hearing, or in a
19 judgment:

20 (1) An order enjoining a party from abusing, intimidating,
21 molesting, attacking, striking, stalking, threatening, sexually
22 assaulting, battering, harassing, telephoning, including, but not
23 limited to, annoying telephone calls as described in Section 653m
24 of the Penal Code, destroying personal property, contacting,
25 either directly or indirectly, by mail or otherwise, or coming
26 within a specified distance of, or disturbing the peace of the
27 petitioner.

28 (2) An order excluding a party from the petitioner’s residence
29 or dwelling, except that this order shall not be issued if legal or
30 equitable title to, or lease of, the residence or dwelling is in the
31 sole name of the party to be excluded, or is in the name of the
32 party to be excluded and any other party besides the petitioner.

33 (3) An order enjoining a party from specified behavior that the
34 court determines is necessary to effectuate orders described in
35 paragraph (1) or (2).

36 (c) An order may be issued under this section, with or without
37 notice, to restrain any person for the purpose of preventing a
38 recurrence of abuse, if an affidavit shows, to the satisfaction of
39 the court, reasonable proof of a past act or acts of abuse of the
40 petitioning elder or dependent adult.

(d) (1) Upon filing a petition for protective orders under this section, the petitioner may obtain a temporary restraining order in accordance with Section 527 of the Code of Civil Procedure, except to the extent this section provides a rule that is inconsistent. The temporary restraining order may include any of the protective orders described in subdivision (b). However, the court may issue an ex parte order excluding a party from the petitioner's residence or dwelling only on a showing of all of the following:

(A) Facts sufficient for the court to ascertain that the party who will stay in the dwelling has a right under color of law to possession of the premises.

(B) That the party to be excluded has assaulted or threatens to assault the petitioner.

(C) That physical or emotional harm would otherwise result to the petitioner.

(2) If a temporary restraining order is granted without notice, the matter shall be made returnable on an order requiring cause to be shown why a permanent order should not be granted, on the earliest day that the business of the court will permit, but not later than 20 days or, if good cause appears to the court, 25 days from the date the temporary restraining order is granted, unless the order is otherwise modified or terminated by the court.

(e) The court may issue, upon notice and a hearing, any of the orders set forth in subdivision (b). The court may issue, after notice and hearing, an order excluding a person from a residence or dwelling if the court finds that physical or emotional harm would otherwise result to the other party.

(f) In the discretion of the court, an order issued after notice and a hearing under this section may have a duration of not more than three years, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. These orders may be renewed upon the request of a party, either for three years or permanently, without a showing of any further abuse since the issuance of the original order, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. The failure to state the expiration date on the face of the form creates an order with a duration of three years from the date of issuance.

1 (g) Upon the filing of a petition for protective orders under
2 this section, the respondent shall be personally served with a
3 copy of the petition, notice of the hearing or order to show cause,
4 temporary restraining order, if any, and any affidavits in support
5 of the petition. Service shall be made at least five days before the
6 hearing. The court may, on motion of the petitioner or on its own
7 motion, shorten the time for service on the respondent.

8 (h) The court may, upon the filing of an affidavit by the
9 applicant that the respondent could not be served within the time
10 required by statute, reissue an order previously issued and
11 dissolved by the court for failure to serve the respondent. The
12 reissued order shall be made returnable on the earliest day that
13 the business of the court will permit, but not later than 20 days
14 or, if good cause appears to the court, 25 days from the date of
15 reissuance. The reissued order shall state on its face the date of
16 expiration of the order.

17 (i) (1) If the person named in a temporary restraining order is
18 personally served with the order and notice of hearing with
19 respect to a restraining order or protective order based thereon,
20 but the person does not appear at the hearing, either personally or
21 by counsel, and the terms and conditions of the restraining order
22 or protective order are identical to the temporary restraining
23 order, except for the duration of the order, then the restraining
24 order or protective order may be served on the person by
25 first-class mail sent to that person at the most current address for
26 the person available to the court.

27 (2) The judicial form for orders issued pursuant to this
28 subdivision shall contain a statement in substantially the
29 following form:
30

31 “NO ADDITIONAL PROOF OF SERVICE IS REQUIRED IF
32 THE FACE OF THIS FORM INDICATES THAT BOTH
33 PARTIES WERE PERSONALLY PRESENT AT THE
34 HEARING WHERE THE ORDER WAS ISSUED. IF YOU
35 HAVE BEEN PERSONALLY SERVED WITH A
36 TEMPORARY RESTRAINING ORDER OR EMERGENCY
37 PROTECTIVE ORDER AND NOTICE OF HEARING, BUT
38 YOU DO NOT APPEAR AT THE HEARING EITHER IN
39 PERSON OR BY COUNSEL, AND A RESTRAINING ORDER
40 OR PROTECTIVE ORDER IS ISSUED AT THE HEARING

1 THAT DOES NOT DIFFER FROM THE PRIOR
2 TEMPORARY RESTRAINING ORDER OR EMERGENCY
3 PROTECTIVE ORDER, A COPY OF THE ORDER WILL BE
4 SERVED UPON YOU BY MAIL AT THE FOLLOWING
5 ADDRESS _____. IF THAT ADDRESS IS NOT CORRECT OR
6 YOU WISH TO VERIFY THAT THE TEMPORARY OR
7 EMERGENCY ORDER WAS MADE PERMANENT
8 WITHOUT SUBSTANTIVE CHANGE, CALL THE CLERK
9 OF THE COURT AT _____.”

10
11 (j) (1) The court shall order the petitioner or the attorney for
12 the petitioner to deliver, or the clerk of the court to mail, a copy
13 of an order issued under this section, or a reissuance, extension,
14 modification, or termination of the order, and any subsequent
15 proof of service, by the close of the business day on which the
16 order, reissuance, extension, modification, or termination was
17 made, to each local law enforcement agency designated by the
18 petitioner or the attorney for the petitioner having jurisdiction
19 over the residence of the petitioner, and to any additional law
20 enforcement agencies within the court’s discretion as are
21 requested by the petitioner. Each appropriate law enforcement
22 agency shall make available information as to the existence and
23 current status of these orders to law enforcement officers
24 responding to the scene of reported abuse.

25 (2) An order issued under this section shall, on request of the
26 petitioner, be served on the respondent, whether or not the
27 respondent has been taken into custody, by any law enforcement
28 officer who is present at the scene of reported abuse involving
29 the parties to the proceeding. The petitioner shall provide the
30 officer with an endorsed copy of the order and a proof of service,
31 which the officer shall complete and send to the issuing court.

32 (3) Upon receiving information at the scene of an incident of
33 abuse that a protective order has been issued under this section,
34 or that a person who has been taken into custody is the
35 respondent to that order, if the protected person cannot produce
36 an endorsed copy of the order, a law enforcement officer shall
37 immediately attempt to verify the existence of the order.

38 (4) If the law enforcement officer determines that a protective
39 order has been issued, but not served, the officer shall
40 immediately notify the respondent of the terms of the order and

1 where a written copy of the order can be obtained, and the officer
2 shall at that time also enforce the order. The law enforcement
3 officer's verbal notice of the terms of the order shall constitute
4 service of the order and is sufficient notice for the purposes of
5 this section and for the purposes of Section 273.6 of the Penal
6 Code.

7 (k) Nothing in this section shall preclude either party from
8 representation by private counsel or from appearing on the
9 party's own behalf.

10 (l) There is no filing fee for a petition, response, or paper
11 seeking the reissuance, modification, or enforcement of a
12 protective order filed in a proceeding brought pursuant to this
13 section.

14 (m) (1) Fees otherwise payable by a petitioner to a law
15 enforcement agency for serving an order issued under this section
16 may be waived in any case in which the petitioner has requested
17 a fee waiver on the initiating petition and has filed a declaration
18 that demonstrates, to the satisfaction of the court, the financial
19 need of the petitioner for the fee waiver. The declaration required
20 by this subdivision shall be on one of the following forms:

21 (A) The form formulated and adopted by the Judicial Council
22 for litigants proceeding in forma pauperis pursuant to Section
23 68511.3 of the Government Code, but the petitioner is not subject
24 to any other requirements of litigants proceeding in forma
25 pauperis.

26 (B) Any other form that the Judicial Council may adopt for
27 this purpose pursuant to subdivision (r).

28 (2) In conjunction with a hearing pursuant to this section, the
29 court may make an order for the waiver of fees otherwise payable
30 by the petitioner to a law enforcement agency for serving an
31 order issued under this section.

32 (n) The prevailing party in any action brought under this
33 section may be awarded court costs and attorney's fees, if any.

34 (o) (1) An order issued pursuant to this section shall prohibit
35 the person subject to it from owning, possessing, purchasing,
36 receiving, or attempting to purchase or receive, a firearm.

37 (2) Paragraph (1) shall not apply to a case consisting solely of
38 financial abuse unaccompanied by force, threat, harassment,
39 intimidation, or any other form of abuse.

1 (3) The court shall order a person subject to a protective order
2 issued under this section to relinquish any firearms he or she
3 owns or possesses pursuant to Section 527.9 of the Code of Civil
4 Procedure.

5 (4) Every person who owns, possesses, purchases, or receives,
6 or attempts to purchase or receive a firearm while the protective
7 order is in effect is punishable pursuant to subdivision (g) of
8 Section 12021 of the Penal Code.

9 (p) Any willful disobedience of any temporary restraining
10 order or restraining order after hearing granted under this section
11 is punishable pursuant to Section 273.6 of the Penal Code.

12 (q) This section does not apply to any action or proceeding
13 covered by Title 1.6C (commencing with Section 1788) of Part 4
14 of Division 3 of the Civil Code, by Chapter 3 (commencing with
15 Section 525) of Title 7 of Part 2 of the Code of Civil Procedure,
16 or by Division 10 (commencing with Section 6200) of the Family
17 Code. Nothing in this section shall preclude a petitioner's right to
18 use other existing civil remedies.

19 (r) The Judicial Council shall promulgate forms and
20 instructions therefor, rules for service of process, scheduling of
21 hearings, and any other matters required by this section. The
22 petition and response forms shall be simple and concise.

23 ~~SEC. 25. It is the intent of the Legislature that effective~~
24 ~~self-help services be made available to assist self-represented~~
25 ~~parties in civil matters in every county. The Administrative~~
26 ~~Office of the Courts shall expend all funds allocated for services~~
27 ~~to assist self-represented litigants so as to provide services in all~~
28 ~~civil cases in proportion to the number of self-represented parties~~
29 ~~in each county. In the allocation of funds for new or augmented~~
30 ~~services, priority shall be given to rural and other underserved~~
31 ~~areas and to the provision of court-based services, supervised by~~
32 ~~an attorney, and coordinated with other legal service providers in~~
33 ~~the community, including, but not limited to, qualified legal~~
34 ~~service providers, pro bono legal service projects, and local bar~~
35 ~~association referral services, allowing assessment of the legal~~
36 ~~needs and provision of referral information, as appropriate.~~

37 *SEC. 25. All funds allocated for services to assist*
38 *self-represented parties shall be expended so as to provide*
39 *services in all types of civil actions and proceedings in each*
40 *superior court. Self-help services shall be provided in each*

1 superior court in proportion to the number of self-represented
2 parties appearing in that court in each type of civil matter.
3 Services shall be provided in languages other than English where
4 appropriate to meet the needs of self-represented parties, and
5 shall be provided in a culturally sensitive manner. In the
6 allocation of funds for new or augmented services, each court
7 shall give priority to underserved areas and to the provision of
8 court-based services, supervised by an attorney, and coordinated
9 with other legal service providers in the community, including,
10 but not limited to, qualified legal service providers, pro bono
11 legal service projects, and local bar association referral
12 services, in order to provide for assessment of the legal needs of
13 the parties and provision of referral information for accessing
14 other services or legal representation consistent with the legal
15 needs and goals of the parties.

16 SEC. 26. If the Commission on State Mandates determines
17 that this act contains costs mandated by the state, reimbursement
18 to local agencies and school districts for those costs shall be
19 made pursuant to Part 7 (commencing with Section 17500) of
20 Division 4 of Title 2 of the Government Code.

21
22
23 CORRECTIONS:

24 Text-Page 25.
25