



The Capitol Connection

ADMINISTRATIVE OFFICE OF THE COURTS • OFFICE OF GOVERNMENTAL AFFAIRS

In this Issue

Chief Justice Delivers State of the Judiciary Address	1
Efforts Continue to Secure Facilities Bond	1
Judicial Council-sponsored Legislation	2
Legislative Review	3
Probate Conservatorships Focus of Public Hearings	4
New Assistant Director Will Help Lead the OGA	8

Legislative Calendar

April 6 Spring Recess
April 17 Legislature Reconvenes
April 28 Last day for policy committee to hear and report fiscal bills

CHIEF JUSTICE GEORGE ADDRESSES LEGISLATURE *Judgeships, Facilities focus of 11th Annual State of the Judiciary Address*

With the need for new judgeships and court facilities funding as core messages, Chief Justice Ronald M. George delivered his annual State of the Judiciary address on Tuesday, February 28, 2006, to a joint session of the Legislature at the State Capitol in Sacramento.

Following the Chief Justice's introduction, the assembled legislators, associate justices of the Supreme Court, members of the Judicial Council; the Bench-Bar Coalition, court leaders and other invited guests observed as Chief Justice George was presented a joint legislative resolution from Senate President pro Tempore Don Perata and Assembly



Chief Justice Ronald M. George is greeted by legislators as he enters the California State Assembly chambers to give the 11th Annual State of the Judiciary Address.

Speaker Fabian Núñez in recognition of the 10th Anniversary of his appointment as California's 27th Chief Justice. The resolution was also co-authored by

(Continued on page 2)

EFFORTS CONTINUE TO SECURE FACILITIES BOND FUNDING

Senate Bill 1163 (Ackerman) and Assembly Bill 1831 (Jones), both introduced in January 2006, would have enacted the California Critical Infrastructure Facilities Bond Acts of 2006 and 2010. The Acts would authorize the issuance of bonds in the amount of \$1.227 billion - \$800 million of which would be for court facilities - and the submission of the bond acts to the voters at an unspecified election.

The Acts would also authorize the issuance of bonds in the amount of \$1 billion for the purposes of financing capital outlay related to the acquisition, design, construction, or renovation of trial court facilities. This bill would be submitted to the voters at the November 7, 2010 general election.

All bond measures that were part of the Governor's infrastructure proposal were sent to a Conference Committee

of the Legislature. The Legislature and Governor negotiated over several weeks to determine the final amounts of any bond proposal that might go before voters on the June 2006 ballot. However, court facilities' funding was not included in either of the bond proposals being discussed by the Assembly or the Senate.

Discussions between the Legislature and Governor had not yielded an agreement when the deadline arrived for including a bond measure on the June ballot. It is expected that negotiations will continue in an effort to include an infrastructure bond proposal on the November 2006 ballot.

The Judicial Council and bench and bar leaders continue to advocate for inclusion of court facilities in the final bond agreement and are working to determine the next steps to securing bond funding. ■

UPDATE ON JUDICIAL COUNCIL-SPONSORED LEGISLATION

New Judgeships/SJO Conversions

Senate Bill 56 (Dunn), which proposes the creation of new judgeships and the conversion of certain eligible subordinate judicial officers, passed the Assembly Judiciary Committee on July 5.

Presiding judges and executive officers of trial courts, bar association leadership, and Bench-Bar Coalition member organizations again sent letters of support to legislators as they had done when the bill was in the Senate. The bill is being held in the Assembly Appropriations Committee.

For more information about SB 56, contact Eraina Ortega at eraina.ortega@jud.ca.gov.

Court Facilities Bond

Senate Bill 395 (Escutia), which states the intent of the Legislature to enact the California Court Facilities Bond Act of 2006 to acquire, rehabilitate, construct, and finance court facilities, passed the Senate on June 1. The bill was amended to omit the amount of the proposed bond.

If approved by the Legislature and the Governor, the bond would be placed on the ballot in an upcoming statewide election. The bill is being held in the Assembly Appropriations Committee.

For more information on SB 395, contact Eraina Ortega at eraina.ortega@jud.ca.gov.

Judges' Retirement

SB 1187 (Ackerman), Judges' Retirement System II, as introduced on January 19, 2006, permits a judge in the Judges' Retirement System II who leaves judicial office after five or more years of service and is not eligible to retire to elect to receive the amount in his or her retirement account as an annuity.

For more information on SB 1187, contact June Clark at june.clark@jud.ca.gov.

STATE OF THE JUDICIARY

(Continued from page 1)

Senator Joseph Dunn and Assembly Member Dave Jones.

Among those in attendance were members of the Bench-Bar Coalition (BBC), who held their first "Day in Sacramento" of 2006 in conjunction with the State of the Judiciary Address and Forum.

Throughout the morning and afternoon, more than 70 bench, bar and legal services leaders visited legislators and key staff to emphasize the critical need for new judgeships and for funding to improve deteriorating court facilities - themes that would later emerge in the Chief Justice's remarks.

Chief Justice George recapped significant accomplishments in the judicial branch over the last decade, but noted that the branch still faces many ongoing and new issues and challenges in the years to come - challenges that require all branches of government, working together, to resolve. "I am requesting your help

in providing the public with adequate forums for the fair and efficient resolution of their rights," George said. "Without these changes, intolerable delays and unsafe surroundings - despite our best efforts - all too frequently will make it difficult or impossible for the public to obtain justice in a meaningful way."

At the conclusion of the Chief's address, guests retired to the State Capitol Rotunda for the Judicial-Legislative-Executive Forum. The forum is an opportunity for members of the legislature, executive branch, and invited guests to network and meet informally with the Chief Justice and other judicial branch leaders.

"I am requesting your help in providing the public with adequate forums for the fair and efficient resolution of their rights."

— Chief Justice Ronald M. George to Legislators

The complete text of the State of the Judiciary Address is available on the California Courts Web site at http://www.courtinfo.ca.gov/reference/1_2speeches.htm. For more information about ongoing outreach efforts, please contact Dia Poole in the Office of Governmental Affairs (916) 323-3121 or dia.poole@jud.ca.gov.

LEGISLATIVE REVIEW

The following is an update of the second year of the 2005-2006 legislative session on selected bills of interest to the courts.

CIVIL

AB 2303 (Judiciary Committee), as amended March 28, 2006. Judiciary: omnibus.

Contains the following provisions sponsored by the Judicial Council: (1) clarifying the statutes governing a change of name, including modifying the procedures for persons objecting to a name change and notice thereto; (2) making the service of process times for elder abuse protective orders consistent with the service times for other types of protective orders; (3) authorizing electronic submission of notice to appear citations for non-parking Vehicle Code violations; and (4) Jury sanctions provisions must also mention self-help.

Status: Assembly Judiciary.

JC Position: Sponsor of items 1-4 above.

AB 2369 (La Suer), as amended March 28, 2006. Civil warrants.

Revises the law enacted last year (AB 1150 (La Suer), Stats. 2005, ch. 474) governing the issuance of civil bench warrants. Among other things, the bill makes the procedures for issuing a civil bench warrant for failure to appear in court pursuant to a subpoena or court order applicable to a failure to appear for a post-judgment asset examination.

Status: Assembly Judiciary.

AB 2455 (Nakanishi), as amended March 27, 2006. Small claims court: claims against defendant guarantors.

Increases the jurisdictional limit in small claims court from \$4,000 to \$7,500 for natural persons who are seeking to collect from a licensed contractor on a cash deposit posted by the contractor in lieu of a bond.

Status: Assembly Judiciary.

JC Position: Support.

COURT FACILITIES

SB 1163 (Ackerman), as introduced January 10, 2006. California Critical Infrastructure Facilities Bond Acts of 2006 and 2010. Enacts the California Critical Infrastructure Facilities Bond Acts of 2006 and 2010. The Act authorizes the issuance of bonds in the amount of \$1.227 billion, \$800 million of which is for courts, and the submission of the bond act to the voters at an unspecified election. The Act would also authorize for the purposes of financing capital outlay related to the acquisition, design,

construction, or renovation of trial court facilities, the issuance of bonds in the amount of \$1 billion and would provide for submission of the bond act to the voters at the November 7, 2010 general election.

Status: Senate Judiciary.

JC Position: Support.

AB 1831 (Jones), as introduced January 10, 2006. California Critical Infrastructure Facilities Bond Acts of 2006 and 2010. Enacts the California Critical Infrastructure Facilities Bond Acts of 2006 and 2010. The Act authorizes the issuance of bonds in the amount of \$1.227 billion, \$800 million of which is for courts, and the submission of the bond act to the voters at an unspecified election. The Act would also authorize for the purposes of financing capital outlay related to the acquisition, design, construction, or renovation of trial court facilities, the issuance of bonds in the amount of \$1 billion and would provide for submission of the bond act to the voters at the November 7, 2010 general election.

Status: Assembly.

JC Position: Support.

CRIMINAL PROCEDURE

AB 2159 (Cogdill), as introduced. Bail: residential burglaries. Adds residential burglary to the list of offenses for which the court would be required to hold a hearing before deviating from the bail schedule.

Status: Assembly Appropriations.

JC Position: No Position.

AB 2380 (Dymally), as introduced. Involuntary psychotropic medication. Requires that at the time of an involuntary commitment or recommitment to a medical facility, the court would determine whether involuntary psychotropic medication should be ordered.

Status: Assembly Public Safety.

AB 2814 (Berg), as introduced. Criminal procedure: continuances. Adds cases involving elder or dependent abuse to the list of types of cases that constitute good cause for a continuance in criminal proceedings under PC sec. 1050.

Status: Assembly Public Safety.

JC Position: Oppose.

AB 2858 (Leno), as introduced. Trials: mental competency. Requires that a defendant who has been found incompetent to stand trial shall be returned to the committing court when there has been a reasonable amount of time to determine whether the defendant will ever regain

(Continued on page 5)

PROBATE CONSERVATORSHIPS FOCUS OF HEARINGS

Witnesses testify to urgent need for more court oversight; suggest agency collaboration

Improving the handling of conservatorships in California’s trial courts was the subject of two public hearings held in March by the Judicial Council’s new Probate Conservatorship Task Force. The task force convened the hearings to obtain testimony from the public and from individuals and organizations with knowledge and expertise about the conservatorship system.

Witnesses at the March 17 and March 24 hearings in Los Angeles and San Francisco, respectively, testified about the urgent need to increase court oversight in conservatorship cases and to hold accountable those given the fiduciary responsibility of protecting a vulnerable segment of California’s population.

The panel also heard recommendations for improving collaboration with law enforcement and other key justice system partners and for incorporating best practices and elements of model programs operating in California and around the country.

“The panelists’ knowledge of how the conservatorship system works and their ideas for how it could be improved will assist the task force in better understanding the current challenges and help shape our recommendations in order to better detect, deter and prevent abuse of conservatees, as well as making sure they are treated with dignity and



LEFT: Members of the Judicial Council’s new Probate Conservatorship Task Force listen to testimony during one of two public hearings held on March 17 in Los Angeles and March 24 in San Francisco. **ABOVE:** Administrative Presiding Justice Roger W. Boren of the Second District Court of Appeal listens to public comment on March 24 in San Francisco. Boren is the chair of the Judicial Council’s 16-member Probate Conservatorship Task Force.

respect and receive the best possible care and treatment,” said Administrative Presiding Justice Roger W. Boren of the Second District Court of Appeal and chair the 16-member task force.

Abuses within the system were the focus of a series of articles in the *Los Angeles Times* in December 2005.

The articles described cases in which senior citizens and other vulnerable adults – conservatees – suffered abuse and neglect at the hands of the conservators appointed by the courts to oversee and protect conservatees’ financial and real property assets.

The *Times* articles also spawned legislation aimed at giving the courts more oversight in conservatorship

cases, better regulating real estate transactions involving conservatees, and requiring licensure for private professional fiduciaries (see “*Legislative Review*” in this issue).

The task force will be meeting over the next several months to continue its evaluation of possible changes needed to existing laws, court rules and education and training programs, as well as developing model policies and procedures and recommending other reforms to the Judicial Council for improvements to the overall system of conservatorship administration.

The full hearing agenda and list of witnesses can be found on the Probate Conservatorship Task Force’s Web page at: <http://www.courtinfo.ca.gov/jc/tflists/probcons.htm>. For more information, contact Dan Pone in the Office of Governmental Affairs at dan.pone@jud.ca.gov. ■

LEGISLATIVE REVIEW

(Continued from page 3)

mental competence based on consideration of specified factors, rather than after three years or the maximum term of imprisonment provided by law for the most serious charged offense, whichever is shorter.

Status: Assembly Public Safety.

AB 2910 (Baca), as introduced. Sentencing: state prison commitments. Provides that, regardless of whether the person's term of imprisonment is deemed to have been served, any person sentenced to state prison shall be ordered by the sentencing judge to be transported to the Department of Corrections and Rehabilitation for processing.

Status: Assembly Public Safety.

AB 2952 (Niello), as introduced. Criminal procedure: appeals. Allows the people to appeal an order by the court that makes a crime that is punishable, in the discretion of the court, by imprisonment in the state prison or by a fine or imprisonment in a county jail, a misdemeanor for all purposes.

Status: Assembly Public Safety.

SB 803 (Ducheny), as amended August 8, 2005. Prop. 36: Appropriates \$120 million dollars to fund Proposition 36, the Substance Abuse and Crime Prevention Act of 2000, and makes several changes to the Act. Among other things, SB 803:

- Provides that Prop. 36 funds shall not be used to fund drug treatment courts.
- Allows the court to re-fer a parolee who has once failed treatment back into drug rehabilitation or incarcerate the parolee at the court's discretion. If the court re-refers the parolee to Prop. 36 treatment, the court may intensify the goals of drug treatment.
- States that if a defendant has been convicted of three non-drug-related felonies for which the defendant has served three separate prison terms, a court may exclude the defendant from participating in Prop. 36 if the court find the defendant poses a danger to others and would not benefit from drug treatment.
- Prohibits a defendant armed with a deadly weapon while unlawfully in possession of an illegal substance or under the influence of a controlled substance from being eligible for Prop. 36.
- Authorizes short jail sanction for Prop. 36 probation violations, and establishes factors for consideration in determining whether to impose this sanction.

- Allows a court to place a defendant into a detoxification program, including in a county jail program if a non-jail program is unavailable, for up to 10 days for recent drug use.
- States that the courts must impose, as a condition of probation or parole, appropriate drug testing and to the greatest extent possible monitor the defendant on probation.

Status: Assembly Public Safety

EMPLOYMENT

AB 1797 (Bermudez), as introduced January 9, 2006. Trial courts: limited-term employees. Prohibits the Superior Court of Los Angeles from employing any limited-term law clerk for more than 180 days. Provides that any limited-term law clerk employed for more than 180 calendar days becomes a regular employee. This bill is identical to AB 176 (Bermudez) that was introduced last year.

Status: Assembly Public Employees, Retirement and Social Security.

JC Position: Oppose.

AB 2305 (Klehs), as introduced February 22, 2006. Courts: court reporting. Shifts court reporter transcript fees from a word or folio rate to a page rate and creates a standard format for each page. Increases the transcript rate to \$3.57 per page and \$.63 per copied page. Adds an additional 18 percent differential per page for civil transcripts. Expands the 50 percent additional charge for daily copy service to criminal transcripts. Prohibits any court, party, or person who has purchased the transcript from loaning it to another party or person.

Status: Assembly Judiciary.

JC Position: (1) No position on transcript rate increase, if funded; (2) seek amendment to exempt courts from 18 percent page differential and 50 percent charge for daily copy service; and (3) support shift from word to page rate and the standard page format, to the extent that it is consistent with recommendations of the Reporting of the Record Task Force.

JUDICIAL OFFICERS

SB 506 (Poochigian), as amended February 10, 2006. Voter records: confidentiality. Allows a county elections official to, upon application of a public safety officer, make confidential the residence information of the officer contained in the affidavit of registration, subject to certain

(Continued on page 6)

LEGISLATIVE REVIEW

(Continued from page 5)

requirements. Provides that public safety officer includes judges and court commissioners for the purposes of the bill.

Notes: Product of 2004 Final Report of the Public Safety Officials' Home Protection Act Advisory Task Force.

Sponsor: Author

Status: Assembly Governmental Organization.

JC Position: Support.

SCA 16 (Runner), as amended September 1, 2005. Judicial districts: superior court judges. Provides that the superior court of any county with a population of more than 5,000,000 shall be divided into judicial districts established by three special masters appointed by the Supreme Court.

Sponsor: Author.

Status: Senate Judiciary.

JC Position: Oppose.

JUDICIAL SERVICE

SB 1346 (Ortiz), as introduced February 17, 2006. Criminal procedure: disposition. Provides that disposition reports made by the superior court to the Department of Justice shall also contain the subject's right and left thumbprints. Provides that the implementation date of the thumbprint submission provision shall be mutually agreed upon by the Department of Justice and the Administrative Office of the Courts for each county.

Status: Senate Public Safety.

JURY

AB 1993 (Nakanishi), as introduced. Jurors: exemptions. Exempts a person who holds an active license as a registered nurse from jury service.

Status: Assembly Judiciary

JC position: Oppose.

PROBATE

AB 1363 (Jones), as amended March 21, 2006. Omnibus Conservatorship and Guardianship Reform Act of 2006. Among other things, the Act would: (1) establish a licensing program for professional conservators and guardians, to be administered by the Department of Consumer Affairs; (2) require annual, rather than biennial, reviews of conservatorships at noticed hearings; (3) require conservators and guardians to present to the courts annual, rather than biennial, accountings; (4) prohibit a court from reducing the amount of a bond in conservatorship proceedings

without good cause; (5) impose new duties on court investigators with respect to cases involving proposed conservatees; (6) require the Judicial Council to adopt rules of court relating to conservatorships and guardianships and to develop and make available, free of charge, educational programs for non-licensed conservators and guardians; (7) require courts to provide free assistance to non-licensed conservators and guardians, and require the Judicial Council to develop a form providing notice of the availability of these services; (8) require the Judicial Council to establish qualifications and educational classes for probate court judges, attorneys, investigators, and to establish specified conservatorship accountability measures; and (9) establish in the California Department of Aging the Office of Conservatorship Ombudsman to collect and analyze data relative to complaints about conservatorships and to investigate and resolve complaints and concerns communicated by or on behalf of conservatees.

Status: Senate Business and Professions.

JC Position: Support if amended and funded.

SB 1116 (Scott), as introduced January 4, 2006. Conservatorships. Requires a conservator, prior to the sale of real property of a conservatee and placement of the conservatee in a group home, nursing facility, or other residential care facility, to obtain from a licensed realtor at least 2 market valuations of the conservatee's real property proposed for sale, and submit those valuations along with specified documents, to the court for review and authorization. Also requires the conservator, within 30 days after completion of a sale of a conservatee's real property, to submit in writing to the court confirmation of the sale price and any commissions paid, and to whom those commissions are paid.

Status: Senate Judiciary.

SB 1211 (Poochigian), as introduced January 30, 2006. Estates and trusts: creditor's claims. Makes various changes to the provisions governing creditors' claims against decedents' estates and trusts, primarily to resolve inconsistencies between the two types of claims procedures. Among other things, the bill revises the procedure for giving notice to a creditor of a trust, lengthens the period of time that a creditor of a trust may file a claim, and revises provisions pursuant to which a creditor of a trust may file, and a court may allow, a late claim.

Status: Senate Judiciary.

JC Position: Support.

(Continued on page 7)

LEGISLATIVE REVIEW

(Continued from page 6)

SB 1550 (Figueroa), as introduced February 23, 2006. Professional Fiduciaries Act.

Among other things, the Act would create the Board of Professional Fiduciaries in the Department of Consumer Affairs and would require the board to license and regulate professional fiduciaries. The Act would require a person acting or holding himself or herself out as a professional fiduciary to be licensed as a professional fiduciary, unless he or she is licensed as an attorney, and annually filing a statement containing specified information under penalty of perjury. This bill would also require the statement filed with the court by a private professional conservator, private professional guardian, or private professional trustee under penalty of perjury to include evidence that he or she is certified as a professional fiduciary. The bill would prohibit a court from appointing a person as a professional fiduciary unless he or she is certified as a professional fiduciary. The bill would also prohibit a court from appointing a public agency or financial institution to act as a conservator, guardian, trustee, personal representative, or agent under a durable power of attorney, unless the agency or institution certifies that it has at least one professional fiduciary on its staff and that all of its professional fiduciaries are licensed.

Status: Senate Business and Professions.

JC Position: Support if amended.

SB 1716 (Bowen), as introduced February 24, 2006. Conservatorships.

Requires the court to review conservatorships within one year after the appointment of the conservator and at least biennially thereafter. Specifically authorizes the court to order a review of the conservatorship at any other time. Requires the court investigator's evaluation to include the appropriateness of the conservatee's placement, the conservatee's quality of care, and the conservatee's financial condition. Requires the Judicial Council, by July 1, 2007, to adopt a rule of court authorizing a court to take appropriate action on ex parte communications regarding a conservatee or a conservator's exercise of his or her fiduciary duties.

Status: Senate Judiciary.

JC Position: Support, if funded.

TRAFFIC

AB 1832 (Bermudez), as amended March 1, 2006. Vehicles: driving under the influence: alcohol monitoring program. Upon conviction of a second or subsequent

DUI, requires the court to order the person to participate in a remote alcohol monitoring program. Requires that the term of the participation in the program be for a period that does not exceed three years from the date of the recent conviction or until the term of the probation period has expired, whichever term is shorter. Specifies that alcohol monitoring program be administered by the sheriff, probation department, or the county department of corrections, as determined by each county and the court in that county.

Status: Assembly Public Safety.

AB 2527 (Baca), as introduced. Alcoholic beverages: underage drinking: penalties. Expands existing provisions prohibiting a person under 21 years of age from attempting to purchase any alcoholic beverage from an Alcoholic Beverage Control licensee to include possession and consumption. Increases maximum fine from \$100 for a first offense to \$250, and from \$250 for a second or subsequent violation to \$500. In addition to these fines, the bill requires the court to suspend or restrict the person's driver's license for not less than six months nor more than one year.

Status: Assembly Transportation.

AB 2558 (Benoit), as amended March 27, 2006. Vehicles: license suspension and revocation: punishment. Provides that a person who drives with a license suspended or revoked for a DUI four or more times within a ten-year period is punishable by imprisonment in either state prison, or in county jail for not less than 180 days but not more than one year, and a fine of not less than \$500, but not more than \$2,000. Requires the revocation of the person's driving privilege, and the designation of that person as a habitual traffic offender for three years, subsequent to the conviction. Prohibits the court from striking a finding that brings a person within these provisions.

Status: Assembly Public Safety.

OTHER

AB 2302 (Jones), as introduced (Committee on Judiciary), as introduced February 22, 2006. Evidence: court interpreters. Requires that an interpreter be present whenever needed in any civil matter, including family law and probate, or in any court-ordered or court-provided alternative dispute resolution, including mediation and arbitration. Requires that unless a party has notified the court that he or she has made arrangements for a private interpreter, the court shall provide the interpreter.

Status: Assembly Judiciary. ■



Judicial Council of California
Administrative Office of the Courts
Office of Governmental Affairs

770 L Street, Suite 700
Sacramento, CA 95814
Telephone 916-323-3121
Fax 916-323-4347

Editor-in-Chief

Dia S. Poole

Contributors

June Clark
Kate Howard
Tracy Kenny
Eraina Ortega
Daniel Pone

Story Manager

Christina Fonseca

Production Staff

Christina Fonseca

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Archives

Looking for a past issue of *The Capitol Connection*? Find it online at www.courtinfo.ca.gov/courtadmin/aoc/capconn.htm.

OGA WELCOMES NEW ASSISTANT DIRECTOR

The Administrative Office of the Courts is pleased to announce the appointment of Donna Hershkowitz as assistant director of the Office of Governmental Affairs.

As assistant director, Ms. Hershkowitz will have a lead role in the development of the Judicial Council's sponsored legislation package and day-to-day division operations.

"Over the years I've worked quite a bit with AOC staff, and I am thrilled to now be joining the AOC family," Hershkowitz said. "I look forward to delving into the complex, important issues that we tackle every day to ensure access to the courts for all Californians."

A Capitol veteran, Donna most recently served as principal consultant with the Senate Office of Research where she directed a team of consultants responsible for conducting research and analysis, and legislative drafting in the areas of corrections, public safety, family law, child support, consumer law, and the judiciary.

She was also responsible for monitoring ongoing activities with regard to these issues in the executive branch, federal government, and judiciary, and reporting on developments to senators.



Donna Hershkowitz joined the Administrative Office of the Courts in January 2006 as the new assistant director of the Office of Governmental Affairs.

Previously, Ms. Hershkowitz served as deputy director of the state Department of Child Support Services where she managed six branches and 160 people within the division.

In addition, she developed and assisted in the formulation, implementation, and evaluation of division programs, policies, and procedures and ensured the uniform statewide application of federal and state policies and procedures.

Please join us in welcoming Ms. Hershkowitz to the AOC and to the Office of Governmental Affairs. Donna can be reached in Sacramento at (916) 323-3121. ■

News from the AOC

In addition to *The Capitol Connection*, the Administrative Office of the Courts publishes several publications reporting on various aspects of court business. Visit these online on the California Courts Web site at www.courtinfo.ca.gov

In an ongoing effort to provide information to the juvenile and family court community, The Center for Families, Children & the Courts publishes an annual academic journal that covers contemporary and important issues regarding children, families, and the interplay between these parties and the courts. See www.courtinfo.ca.gov/programs/cfcc/resources/publications/

