



## LEGISLATIVE INTENT SERVICE, INC.

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### COMPENDIUM OF 2006 NOTABLE CALIFORNIA LEGISLATION

Prepared by Maria A. Sanders, Esq. ©

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The 2005-2006 Biennial Session of the California Legislature ended August 31, 2006. Bills passed before September 1, in the second year of the biennium and in the Governor's possession on or after September 1, must be signed or vetoed by September 30, 2006, or become law without signature. (Art. IV, Sec.10(b)(2)). Bills enacted on or before October 2, 2006 take effect January 1, 2007 (Art. IV, Sec. 8(c)).

Chaptered laws are identified below with a “c.” and indicate the bill was enacted into law.

#### **Business**

**SB 263, c. 628: Sellers of travel: regulation.** This bill requires anyone who sells land or water based transportation to comply with the sellers of travel law, establishes conditions for the sale of "travel discount programs"

and makes other changes related to enforcement and administration of the sellers of travel.

**AB 339, c. 495: Limited partnerships and limited liability companies.** This bill would revise and recast rules of organization and governance for limited partnerships by enacting the Limited Partnership Act of 2008 and would repeal the existing provisions for limited partnerships on January 1, 2010. The bill would make other related changes. This bill contains other related provisions and other existing laws.

**AB 393, c. 409: Agriculture: California Walnut Commission.** Makes substantial and technical changes to the California Walnut Commission (commission) to conform to changes in the definitions of the federal marketing order and current industry practices. Contains an urgency clause, allowing this bill to take effect immediately upon enactment.

**AB 630, c. 605: Immigration Consultant Fraud.** This bill increases the regulation of immigration consultants by: (1) requiring fingerprinting and background checks; (2) authorizing the Secretary of State to issue cease and desist orders; and (3)

requiring the Secretary of State to post information on its Internet Web site about bond compliance, filing of disclosure statements, and passing of background checks, and to post photographs of immigration consultants. In addition, the bill increases the statute of limitations for prosecuting actions under the Immigration Consultants Act to four years.

**AB 839, c. 707: Gambling control Act: nonprofit organization**

**fundraisers.** This bill authorizes nonprofit organizations to conduct fundraisers using controlled games, i.e., poker nights. Poker nights have become increasingly popular recently and this bill would allow nonprofit organizations to use poker nights as a lawful means to fundraise.

**SB 1183, c. 57: Foreign corporations.**

Provides that a foreign corporation shall not be considered to be transacting intrastate business merely because of its status as an owner of various types of interests in business entities that are transacting intrastate business. Furthermore, eliminates a two-year sunset provision for a filed amendment to articles of incorporation that imposes a "supermajority vote."

**SB 1207, c. 871: Corporations: uncontested election of a listed corporation.**

This bill allows a corporation to amend its bylaws to allow the use of majority (rather than plurality) voting to elect a member of the board of directors of a publicly-traded California corporation, in an uncontested election, as specified, and requires the term of a seated member of the board who fails to receive a majority vote in an uncontested election to end within 90 days.

**SB 1481, c. 254: Commercial**

**transactions.** This bill revises Articles 1 and 7 of the Uniform Commercial Code (UCC) based upon recommendations of the NCCUSL. Article 1 revisions reflect modifications that have been made to other parts of the UCC and accommodate changed business practices and developments in commercial transactions. They include, for example, changes to definitions of terms used in modern commercial transactions, such as "document of title," "security interest," and "good faith." Other revisions modify and supersede some provisions in the federal E-SIGN (Electronic Signatures in Global and National) Commerce Act as it relates to the UCC. Article 7 revisions update the UCC to address the use of electronic documents of title by warehouses and lienors. They clarify the negotiability characteristics of documents of title, requisite terms for a valid warehouse receipt, expand the liability of a warehouse for goods under specified circumstances and make other conforming changes.

**AB 1598, c. 499: Agriculture omnibus changes.**

This bill makes a number of changes to the Food and Agriculture Code dealing with a wide spectrum of agriculture related subjects. Specifically, this bill (1) provides for the filing of final decisions by the County Agricultural Commissioners and the entry of judgment, as specified. This bill provides for the Department of Food and Agriculture to set the fee charged for enforcing provisions of the Food and Agriculture Code relating to drugging specified horses, (2) provides for labeling to meet seed viability labeling requirements, (3) specifies to whom

counterclaim arbitration fees are submitted, (4) eliminates Baja California of Mexico as a district on the California Tomato Commission and adds a member of the Commission from the district representing all counties of the state, (5) changes the areas of representation and nomination process for the California Sea Urchin Commission, and makes various non-substantive, technical, and conforming changes to the Food and Agricultural Code.

**SB 1699, c. 682: Financial transactions: privacy.** This bill provides that no entity that accepts credit or debit cards for the transaction of business shall print more than the last five digits of the credit or debit card account number on any receipt retained by the entity which is printed at the time of purchase, exchange, refund, or return. This bill also specifies that these provisions will not become operative until January 1, 2009.

**AB 1553, c. 266: Arbitration.** This bill tolls the time period for a party to demand or commence arbitration of a controversy pursuant to an arbitration agreement when the party commences a civil action in court based on that controversy. The tolling would operate from the date the civil action is commenced until 30 days after the court's final determination in the court filing, as specified.

**AB 1959, c. 214: Corporations.** This bill provides that the annual report, as specified, issued by corporations, partnerships, limited liability companies or capital access companies shall include a statement of cash flows.

**AB 2038, c. 376: Escrow agents.** Requires the Escrow Agents Fidelity Corporation (EAFC) to provide to all of its members and the Commissioner of the Department of Corporations (DOC) with a copy of the fidelity bond or insurance policy as it is acquired or renewed, as well as, provide a copy to any member upon request.

**AB 2043, c. 521: Debt collection: businesses: identity theft.** Allows specified business entities that are the victims of identify theft to take advantage of debt relief protection currently available only to natural persons victimized by identity theft.

**AB 2318, c. 418: Repossessors.** Provides that a reposessor shall not be required to remove property that is attached to or that is on the collateral being repossessed if the reposessor cannot determine whether or not the item is a "personal effect" (i.e., property that does not belong to the legal owner of the collateral) or a part of the collateral, except that the reposessor shall remove and inventory all items that can be removed without using tools, and increases the fine to \$250 on a repossession agency that does not register repossessors with the Bureau of Security and Investigative Services (Bureau) in a timely fashion.

**AB 2482, c. 357: Arbitration: legal representation.** Extends and revises the statute authorizing appearances by out-of-state attorneys in arbitration. Specifically, this bill extends the existing sunset provision, clarifies the process for filing certificates with the State Bar, and provides for the collection of information and reporting by the Bar regarding the operation of the program.

**AB 2588, c. 324: Business entities: reinstatement.** This bill requires the Secretary of State to reinstate a business entity to active status upon a court finding that factual representations by a shareholder, member, partner or other person in support of the termination document are materially false or that the termination documents files were fraudulent.

**AB 1098, c. 458: Common interest developments.** This bill requires a common interest development association to make available all association records, as opposed to just accounting books and records and meeting minutes, to a member of the association, apply this provision to related community service organizations, and increase civil penalties for a violation of these provisions.

**AB 2624, c. 575: Common interest developments: nonjudicial foreclosure.** Adapts certain procedures concerning the rights of redemption for judicial foreclosures for use with the 90-day right of redemption in nonjudicial homeowner association foreclosures.

**SB 61, c. 450: Common interest developments: elections.** Establishes procedures for elections in common interest developments (CIDs). This bill seeks to establish substantial new voting procedures in CIDs including the requirement that voting be conducted by secret ballot. To ensure that elections are conducted fairly and impartially, this bill establishes the position of independent election inspector, drawn with revisions from the similar position for nonprofit corporations. This bill provides a remedy for any violation,

including equitable relief and a discretionary civil penalty in an amount to be determined by the court up to a maximum of \$500 per violation, and also provides for recovery of reasonable attorney's fees. Prevailing homeowner associations ["HOAs"] may also recover litigation costs if an action is frivolous, unreasonable or without foundation. This bill allows specified actions to be brought in small claims court if the amount of demand is within the jurisdiction of the court. This bill includes provisions formerly in SB 186 (Battin) which prohibits the use of HOA funds for specified campaign purposes.

**AB 2781, c. 797: Fair Child Support Collection Practices.** This bill requires private child support collectors ("PCSC"), as defined, to comply with some basic consumer protections to ensure that child support obligees have clear information about the contract they are entering into, have some basic rights to cancel the contract, receive meaningful notice of collections made and the amount of the collections kept by the private agency as its fee, requires PCSCs to follow the debt collection practices that apply to collectors of other types of consumer debt, and provides remedies when PCSCs do not comply with these requirements.

### **Civil Procedure**

**AB 333, c. 294: Civil discovery.** This bill provides that a deposition of an organization will be treated as a single deposition for purposes of the provisions applicable to discovery in a limited civil case even when more than one person may be designated or required to testify. This bill requires a deposition officer to put the deponent under oath or

affirmation and also requires the testimony and any stated objections, if taken stenographically, to be taken by a certified shorthand reporter. This bill authorizes a petitioner's successor in interest (consistent with a petitioner's rights under current law) who expects to be a party to a lawsuit in state court to petition to conduct discovery before the lawsuit is filed under specified conditions. This bill provides that a deposition is admissible in a court of this state if it was taken under the provisions of the Civil Discovery Act or under comparable provisions of another state, or the federal courts, or a foreign nation in which it was taken. This bill makes various minor substantive and nonsubstantive, technical, and conforming changes to the Civil Discovery Act.

**SB 1524, c. 443: Limitation of actions: Armenian Genocide victims.** This bill provides that any Armenian Genocide victim, or heir or beneficiary, who resides in this state and has a claim arising out of a financial institution's failure to pay or turn over deposited assets, or turn over looted assets, may bring an action or continue a pending action in any court of competent jurisdiction in this state, which court would be deemed the proper forum for that action. This bill provides that any action under this section would not be dismissed for failure to comply with the applicable statute of limitation, if the action is filed on or before December 31, 2016. This bill makes certain findings and declarations regarding the persecution between 1915 and 1923 of persons of Armenian ancestry residing in the Ottoman Empire and the difficulties of recovering bank deposits

and assets held by banks and other financial institutions.

**AB 2126, c. 86: Enforcement of judgments.** This bill provides that enforcement of a money judgment or judgment for possession or sale of property under the Family Code would be enforceable until satisfied in full. Additionally, this bill allows a court in limited civil cases to enforce orders under the Family Code.

**AB 2369, c. 277: Civil warrants.** In order to correct an oversight in AB 1150 (La Suer), Chapter 474, Statutes of 2005, this bill enables the court to issue a civil bench warrant for the arrest of a person who fails to appear for post-judgment examinations. The civil bench warrant will provide an alternative to existing law, which only authorizes issuing a warrant for criminal contempt.

**AB 2875, c. 151: Confidential settlement agreements: sex offenses.** This bill follows a growing list of states that have adopted various types of "sunshine" laws and court rules to improve the chances important safety information will be available to the public before additional injuries are suffered. As with existing California law restricting secrecy in elder abuse cases, this bill takes a surgical, narrow, and balanced approach to one area of abuse where the public is especially vulnerable, the area of felony sex abuse. Specifically, this measure seeks to prohibit confidential settlement agreements in any civil case involving a felony sex offense.

**AB 2864, c. 221: Civil actions: time of commencing.** Extends certain statutes of limitations to conform to more general

rules for calculating legal time periods. Provides that the one year statute of limitations for filing actions against a person, whether in contract, tort or otherwise, who has since deceased; and to enforce a promise by a decedent for distribution from an estate or trust must adhere to specific rules regarding determination of time for commencing the action.

### **Construction Defects**

**AB 573, c. 455: Design professionals: indemnity.** This bill provides that, for all contracts entered into, on or after January 1, 2007, with a public agency for design professional services, all provisions, clauses, covenants, and agreements contained in, collateral to, or affecting any such contract, and amendments thereto, that purport to indemnify, including the cost to defend, the public agency by a design professional against liability for claims against the public agency, are unenforceable, except for claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the design professional.

**AB 662, c. 40: Construction defects: County of San Diego: fires.** This bill authorizes a homeowner and a contractor, as defined, to voluntarily agree to incorporate the rights and remedies of SB 800 (Burton), Chapter 722, Statutes of 2002, in a contract for free reconstruction a home lost during the October 2003 Cedar Fire in San Diego County. This bill sunsets on January 1, 2008.

**AB 753, c. 394: Construction contracts: indemnity.** This bill provides that for all residential construction

contracts entered into after January 1, 2006, all provisions, clauses, covenants, or agreements contained in any such construction contract that purport to indemnify, including cost to defend, the builder by a subcontractor against liability for claims of construction defects will be unenforceable to the extent the claims arise out of, pertain to, or relate to the negligence of the builder or the builder's other agent's, other servants, or other independent contractors who are directly responsible to the builder, or for defects in design furnished by those persons, or to the extent the claims do not arise out of, pertain to, or relate to the scope of work in the written agreement between the parties. This bill provides that the above section could not be waived or modified by contractual agreement, act, or omission of the parties, and that contractual provisions, clauses, covenants, or agreements not expressly prohibited in the bill would be reserved to the agreement of the parties. This bill provides that the above provisions will not prohibit a subcontractor and builder from mutually agreeing to the timing or immediacy of the defense, and provisions for reimbursement of defense fees and costs, so long as such agreement, upon final resolution of the claims, does not waive or modify the provisions in the bill.

### **Courts**

**SB 56, c. 390: Trial court judges and officers.** This bill requires, upon legislative appropriation, 50 additional superior court judgeships allocated to various county courts in accordance with uniform standards established by the Judicial Council.

**SB 10, c. 444: Trial court facilities.**

This bill provides, if responsibility for court facilities is transferred from the county to the state pursuant to a negotiated agreement, and the building containing those court facilities is rated as a "level V seismic rating," as defined, that the county shall be responsible for any seismic-related damage and injury only to the same extent that the county would be liable if responsibility was not transferred to the state, and the county shall indemnify, defend and hold the state harmless from any such claims, except as specified. This bill requires the county, in the event that seismic-related damage occurs, to either make repairs or provide funds to the state sufficient to make those repairs, as specified. This bill authorizes the county and the Judicial Council to agree on a method to address the seismic issue so that the state does not have a financial burden greater than it would have had if the court facilities initially transferred were court facilities in buildings rated as a level IV seismic rating. This bill authorizes the California State Association of Counties, the Judicial Council of California, and the Director of the Department of Finance to agree to alternative methods for calculating the county facilities payment amount to be used by any county meeting the criteria set forth in those alternative methods. The provisions of this bill sunset on January 1, 2010.

**AB 1459, c. 618: Small claims court: jurisdiction.** This bill would increase the small claims court jurisdiction over actions brought by a natural person, if the amount does not exceed \$7,500, with specified exceptions. The bill would also require, in small claims court actions to enforce the payment of a debt, that the

statement of calculation of liability separately state the original debt, and other payments to the debt, as specified. This bill contains other related provisions and other existing laws.

**AB 2455, c. 150: Small claims court: jurisdiction.** This bill, consistent with a recent increase in the small claims court jurisdictional limits to \$7,500 for an action brought by a natural person, would provide that the small claims court would have jurisdiction in an action brought by a natural person against the Registrar of the Contractors State License Board as the defendant guarantor holding a contractor's cash deposit, if the amount of the demand does not exceed \$7,500.

**AB 2618, c. 167: Small claims court: actions.** This bill updates various code sections that provide for small claims court jurisdiction in specified circumstances to conform to the new small claims court jurisdiction section, which provides that, in addition to the jurisdiction conferred by Section 116.220 of the Code of Civil Procedure (\$5,000), the small claims court has jurisdiction in an action brought by a natural person, if the amount of the demand, except as specified, does not exceed \$7,500.

## **Education**

**AB 1802, c. 79: Education: programs: finance.** Makes changes to a variety of education-related statutes in order to effectuate the changes included as part of the proposed 2006-07 Budget Act. Contains statutory changes necessary to implement the K-12 portion of the 2006 Budget.

**SB 1133, c. 751: School districts and community college districts: minimum funding.** Establishes the Quality Education Investment Act (QEIA) of 2006 for the purposes of implementing the terms of the *California Teachers Association, et al. v. Schwarzenegger, et al.* settlement and discharges the outstanding balance of the maintenance factor resulting from SB 1101, (Senate Committee on Budget and Fiscal Review), Chapter 213, Statutes of 2004, which suspended the state's obligation to meet the constitutionally-required minimum funding level for schools, for fiscal years 2004-05 and 2005-06.

**SB 1131, c. 371: Education funding.** This bill is a cleanup bill to correct technical errors and make clarifying changes to the education Budget trailer bill adopted as part of the 2006 Budget package.

**SB 1454, c. 601: Crimes: hazing.** Repeals the Education Code hazing provisions and instead codifies within the Penal Code a new definition of hazing and prescribes misdemeanor and felony penalties, as specified. This bill also allows a person to bring a civil action for injury or damages against individuals who participate in, or organizations that authorize the hazing.

## **Family Law**

**AB 402, c. 496: Family law court: marriage.** Enacts the Collaborative Family Law Act, which codifies an individual's ability to enter into a collaborative process for resolution of dissolution of marriage issues outside of court. This bill also requests that the

Senate and Assembly Judiciary Committees convene a working group of specified members to study and make recommendations on a comprehensive collaborative law statute, with the goal of enacting legislation in 2007-08 to provide a procedural framework for the practice of collaborative family law. This bill reiterates that parties to a child custody proceeding can request a written statement from the court of a decision containing its factual and legal basis, and requires the Judicial Council to create an information sheet for parties involved in child custody and visitation matters.

**AB 1102, c. 816: Marriage licenses.** This bill, operative January 1, 2008, revises and recasts provisions relating to the issuance of marriage licenses. Among other things, this bill conforms various statutory provisions of law to those changes. This bill regulates the issuance of confidential marriage licenses based upon an inability of the parties to appear, as specified, and makes related changes with regard to notaries public and the State Registrar. In issuing a duplicate marriage license or confidential marriage license, this bill allows the county clerk to charge any fee to cover the actual costs of issuing that duplicate license, and changes the fee charged notaries public for approval to issue confidential marriage licenses to \$300.

**SB 1325, c. 806: Adoption.** This bill revises various aspects of adoptions law including those related to assisted reproduction, felony convictions of parents, appearance by prospective adoptive parents, and presumed father proceedings.



**SB 1393, c. 809: Intercountry adoptions.** This bill creates a streamlined readoption process for state residents who finalize an adoption in a foreign country whose adoption standards meet or exceed those of California.

**AB 1787, c. 82: Protective orders: service.** This single-section bill affecting only Fam. C. 6250.3 clarifies that an emergency protective order is valid only if issued by a judicial officer after making required findings and pursuant to a request by a law enforcement officer.

**AB 2129, c. 474: Restraining orders: relinquishment of firearms.** This bill affecting only CCP 527.9 requires a person who has been served with a protective order to relinquish any firearm within 24 hours regardless of whether the person was present in court when the order was served.

**AB 2139, c. 480: Emergency protective orders.** This bill requires law enforcement officers who respond to an intimate violence situation to tell the victim that they may ask the officer to request an emergency protective order, as specified.

**AB 2440, c. 820: Child support obligations: liability.** This bill imposes liability upon any person or business entity that knowingly, or should have known of a child support obligation, assists a child support obligor who has an unpaid court-ordered child support obligation to avoid, escape, or evade paying the obligation. The liability would be for three times the value of the assistance provided, such as three times the amount of wages paid to the child

support obligor but not reported, but would not exceed the entire child support obligation due. The bill contains legislative findings and declarations regarding the \$19 billion in unpaid child support obligations as of January 2006, the effect of a parent's failure to pay child support obligations on the child's living conditions, and the effect of such parent's failure to pay child support obligations on the next generation of Californians.

**AB 2480, c. 385: Dependent children: counsel.** This bill (1) provides for appellate counsel for children in dependency proceedings, and (2) presumes that a child over the age of 12 is of sufficient maturity to consent to invoke the psychotherapist-client privilege, physician patient privilege, and clergy-penitent privilege in dependency proceedings.

**AB 2488, c. 386: Adoption.** This bill lowers the age of consent to disclosure of contact information between adoptees and their siblings from 21 to 18. For those children under 18, this bill allows them to consent to disclosure of their information provided that their adoptive parent, legal parent or guardian consents. Additionally, this bill authorizes a court to appoint a confidential intermediary to obtain the consent of an adoptee or their sibling who has not already consented to disclosure.

**AB 2517, 138: Minor children: visitation rights.** Affecting only Fam. C. 3104, this bill allows a grandparent to petition the court for visitation with their grandchild when the natural or adoptive parents are married, and the grandchild has been adopted by a stepparent.

**AB 2893, c. 207: Sex offenders: child custody and visitation.** In amendments to Fam. C. 3030 only, this bill restates that a court cannot find there is no significant risk of harm and award physical or legal custody of, or unsupervised visitation with, a child to a person who is required to register as a sex offender, as specified, or who lives with anyone who is required to register as a sex offender, unless the court states the reasons for its findings in writing or on the record.

## **Government**

**SB 1586, c. 311: Government: eminent domain and inverse condemnation: public service easements: vehicles.**

This bill makes several minor, technical, corrective, and noncontroversial changes to provisions of the Code of Civil Procedure, the Streets and Highways Code, and the Vehicle Code related to compensation under eminent domain and inverse condemnation, public service easements, DMV recordkeeping on vehicle accidents and convictions related to driving under the influence, employer notification of the public record of a driver of certain emergency vehicles, driving schools and instructors, CHP use of the California Law Enforcement Telecommunications System, organ donation through driver's license indications, and headlamp use conditions.

**SB 1210, c. 594: Eminent domain.** This bill changes certain processes that relate to the taking of property by eminent domain. It prevents issuance of a pre-judgment order of possession without prior notice and an opportunity to respond for the property owner or occupants. It requires an entity seeking

to take property by eminent domain to offer to pay the property owner's reasonable costs in ordering an independent appraisal of the property. It defines litigation expenses to include reasonable attorney's fees and reasonable expert witness and appraiser fees. The bill also changes certain laws that relate to redevelopment plans. Specifically, the bill requires a finding of continuing "substantial blight" prior to any exercise of eminent domain pursuant to a redevelopment plan longer than 12 years after the adoption of the plan, and would enact a new conflict-of-interest prohibition applicable to board members of public entities.

**SB 1650, c. 602: Eminent domain.**

Prohibits a public entity from using a property for any use other than the public use stated in its resolution of necessity, unless the entity first adopts a new resolution that finds the public interest and necessity of using the property for a new stated public use. This bill also requires a public entity to adopt a new resolution finding the continued public interest and necessity of using a property for its original stated public use if the property was not put to use within ten years of adoption of the applicable resolution of necessity. Upon an entity's failure to adopt a new resolution as required, this bill requires the public entity to offer a right of first refusal for the original owner or owners of the property to repurchase the property, under specified conditions.

**AB 2511, c. 888: Land use: housing.**

Makes a number of changes to state law to promote the development of affordable housing and prevent delays in processing applications for development projects that include a housing element.

**AB 2591, c. 506: State agencies: accounts: reports.** This bill requires the Department of Finance to submit an annual report to the Legislature on the status of state agencies uncollected debt.

**AB 2941, c. 442: Public retirement systems: investments: Sudan.** Prohibits the Board of Administration of the Public Employees' Retirement System or the Teachers' Retirement Board of the State Teachers' Retirement System from investing public employee retirement funds in a company with "active business operations" in Sudan, as defined, if the company has either (1) engaged in activities related to oil, energy, or power without taking "substantial action" against the government of Sudan, or (2) demonstrated complicity with the Darfur genocide. This bill also prohibits the board from investing in a company that supplies military equipment within the borders of Sudan.

### **Insurance**

**AB 2125, c. 740: Insurance.** This bill makes numerous changes in the law regulating insurance. Among other things, it revises provisions relating to cancellation and reinstatement of financed insurance, codifies current Department of Insurance policy regarding agents of nonresident licensees, as specified, modifies insurer liquidation procedure, and changes the definition of "commercially domiciled insurer" for purposes of regulating insurance holding companies. This bill also provides that the Insurance Commissioner may approve a name using the words "savings bank" if the entire title shows that the insurer is

engaged in the business of insurance and is not a savings bank. Further, this bill modifies the definition of "insolvent insurer" and modifies the California Insurance Guarantee Association refund policy. This bill also allows the commissioner to create an examination for life agents solely for funeral and burial policies, as specified. This bill provides for the merger of foreign and domestic mutual holding companies require surplus lines brokers who make late monthly payments of premium taxes to pay interest, as specified. This bill also revises provisions that require the commissioner to prepare and propose a plan regarding low-cost automobile insurance to the relevant Senate and Assembly committees, as specified.

### **Labor and Employment**

**AB 1368, c. 836: Workers' compensation: apportionment: presumptions.** This single-section bill amending Labor C. 4663 clarifies the law relating to presumptive cause of certain medical conditions of specified public employees, nullifying the requirement, with respect to these employees, that other potential causes be identified and apportioned.

**AB 1835, c. 230: Minimum wage.** This bill would increase the minimum wage to \$7.50 per hour, effective on and after January 1, 2007, and to \$8.00 per hour, effective on and after January 1, 2008. This bill contains other related provisions.

**AB 2068, c. 819: Workers' compensation: designation of physician.** Enacts a specific set of medical guidelines for the provision of acupuncture treatment in the Workers

Compensation system if the Administrative Director of the Division of Workers' Compensation fails to do so. Provides for a continuation of employee rights to pre-designate a personal physician for treatment of an industrial injury and to broaden the definition of personal physician.

**AB 2087, c. 115: Workers' compensation: claimant information.**

This bill, amending only Labor C. 3702.2, requires the Administrative Director of the Division of Workers Compensation (AD) to prepare, and make available for release, an aggregated summary of all self-insured employers' liability to pay claims as reported on the annual reports submitted to the AD.

**Penal Law**

**SB 202, c. 626: Privacy: telephone calling pattern record or list.** This bill prohibits the purchase or sale of any telephone calling pattern record or list without the written consent of the subscriber making the calls.

**AB 272, c. 127: Peace officers: county custodial officers.** Adds Inyo, Kings, and Tulare Counties to the list of specified counties within which deputy sheriffs assigned to perform duties exclusively or initially relating to specified custodial assignments are defined as peace officers whose authority extends to any place in California while engaged in the performance of his or her employment.

**AB 546, c. 848: State computers: prohibited use: obscene matter.** This bill states that it is unlawful for any elected state or local officer, including

any state or local appointee, employee, or consultant, to knowingly use a state-owned or state-leased computer to access, view, download, or otherwise obtain obscene matter. The prohibitions of the bill will not apply to accessing, viewing, downloading, or otherwise obtaining obscene matter for uses consistent with legitimate law enforcement purposes, to permit a state agency to conduct an administrative disciplinary investigation, or for legitimate medical, scientific, academic, or legislative purposes.

**AB 618, c. 705: Crime.** Expands the list of information a bank, credit union, or savings association shall furnish to the police or sheriff's department or district attorney (DA) when a crime report alleging fraud has been filed by the police or sheriff's department or district attorney to include surveillance photographs and video recordings of persons accessing the crime victim's financial account via an automated teller machine (ATM) or from within the financial institution.

**Senate Bill 1128, c. 337: Sex Offender Punishment, Control, and Containment Act of 2006.** Increases the prison term for child rape to 25 years to life; Expands the Megan's Law database; Toughens penalties for child pornography; Toughens penalties for Internet predators; Ensures police can use on-line decoys to catch Internet predators; Discourages prosecutors from offering plea bargains in sex offense cases; Gives state and local officials a new system to monitor dangerous parolees; Increases parole time for violent sexual offenses; Keeps sex offenders away from schools, parks, and other places where vulnerable

populations, including the elderly and disabled, congregate.

**SB 1485, c. 660: Protected animals.**

This bill removes the current prohibition on importing alligators and crocodiles into California for commercial purposes, until January 1, 2010.

**AB 2367, c. 347: Criminal penalties.**

This bill is to convert anomalous indeterminate sentencing provisions, for terms other than life, to determinate terms and thus to create consistency in criminal sentencing.

**AB 2858, c. 799: Trials: mental**

**competence: defendant.** This bill is to provide for notice to the defense attorney, sheriff and district attorney if a defendant found mentally incompetent to stand trial on a violent felony is placed on outpatient status and provides for notice to those same people when there is the initiation of the conservatorship and provide that the court shall not appoint a conservator if it will not result in adequate protection of the public.

**Probate/Trust/  
Conservatorships**

**AB 1363, c. 493: Omnibus Conservatorship and Guardianship Reform Act of 2006.** This bill enacts the Omnibus Conservatorship and Guardianship Reform Act of 2006, significantly restructuring the courts' review of conservatorships, imposing new duties on court investigators, and requiring the Judicial Council of California to implement a range of rules, forms and notices. This bill (1) establishes more frequent court reviews of conservatorships (at six months

and one year after the initial appointment, and annually thereafter) and allows a court to order a review of a conservatorship at any time, (2) imposes new duties on court investigators (new investigations of all temporary conservatorships, full investigations after six months, status or full investigations at one-year intervals, expanded investigatory scope to include conservatees' placements, quality of care and finances, investigating proposed moves of conservatees), (3) requires more frequent accountings and court reviews of each accounting, (4) requires the public guardian of a county to apply for appointment as guardian or conservator if there is imminent threat to a proposed conservatee's health, safety, or estate, (5) requires the Judicial Council to develop by January 1, 2008, user-friendly educational materials for non-professional guardians to be made available to them free of charge, (6) requires probate courts to provide specified self-help services free of charge to non-professional guardians, (7) requires Judicial Council to report to the Legislature by January 1, 2008, the results of a study on court effectiveness in conservatorship cases, (8) eliminates the Statewide Registry of Professional Conservators, deferring instead to the Board of Professional Fiduciaries as established by 1550 (Figuroa), and (9) makes its enactment contingent on the enactment of SB 1550, SB 1116 (Scott) and SB 1716 (Bowen), *all noted below.*

**SB 1116, c. 490: Conservatorships.**

This bill revises provisions for a conservators public or private sale of the personal residence of a conservatee. This bill requires the conservator or guardian to file a notice of change of address for the ward or conservatee

within 30 days of change of residence, and to serve notice of the change on persons entitled to notice. Further, it requires the Judicial Council of California to develop forms for this purpose by January 1, 2008.

**SB 1550, c. 491: Professional**

**Fiduciaries Act.** This bill would enact the Professional Fiduciaries Act, which would create the Professional Fiduciaries Bureau in the Department of Consumer Affairs and would require the bureau to license and regulate professional fiduciaries, as specified. The bill would also create the Professional Fiduciaries Advisory Committee with specified membership and duties. On and after July 1, 2008, 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 or a certified public accountant or is enrolled as an agent to practice before the Internal Revenue Service, as specified, and would require a licensee to meet certain other requirements, including filing an application for licensure signed under penalty of perjury, passing a licensing examination, payment of licensing fees set by the bureau, submission of fingerprints for a criminal background check, and annually filing a statement containing specified information under penalty of perjury. This bill contains other related provisions and other existing laws.

**SB 1716, c. 492: Conservatorships.**

This bill: (1) requires the court to review a conservatorship one year after a conservator is appointed, and biennially thereafter, and at any other time, on its own motion, (2) requires the investigators evaluation to include an

examination of the conservatee's placement, quality of care he or she is receiving, and the conservatee's finances, and (3) refers to the court investigator ex parte communications between any party or attorney for the party and the court concerning a conservatee or a ward or concerning a fiduciary's performance of his or her duties. The Judicial Council will be required to adopt a rule of court to implement this bill's provisions by July 1, 2008.

**AB 2042, c. 84: Trustees: removal.**

This single-section bill affecting only Probate C. 15642 authorizes removal of a trustee by the court if the trustee is (1) substantially unable to manage the trust's financial resources or is otherwise substantially unable to execute properly the duties of the office, or (2) substantially unable to resist fraud or undue influence, as specified. These grounds for removal would be in addition to grounds for removal of a trustee under existing law.

**AB 2347, c. 569: Trusts: distributions.**

This bill (1) establishes default rules for allocation (as to income, principal or capital gain) of distributions by a trustee to beneficiaries, (2) alters the allocation between income and principal for distributions received from individual retirement plans and accounts when the trust is the beneficiary of the individual account, (3) requires a general or specific pecuniary gift paid from a trust to carry the same benefits as well as burdens as a pecuniary devise from a will, and to bear interest in the same manner as a gift under a will, and (4) permits a trustee to allocate trust receipts from interests in minerals and other natural resources owned by the trust on

January 1, 2000, in the same manner said receipts were allocated by the trustee prior to that date, and apply the current allocation rules under the Uniform Principal and Income Act as to those interests in mineral and other natural resources acquired by the trust after January 1, 2000. It immunizes a trustee from liability for allocations made between January 1, 2000 and December 1, 2006.

### **Property**

**SB 504, c. 51: Real property sales contracts.** This bill amending CC 2985 only seeks to exclude large condominium developments from current requirements for "real property sales contracts," which, among other things, require any person who sells a parcel of land under a sales contract to obtain written consent from the purchaser each time the seller either changes its financing or adds a new encumbrance to the land.

**SB 1609, c. 202: Reverse mortgages: annuities.** This bill prohibits a reverse mortgage lender from accepting a reverse mortgage application or assessing any fees until the lender has received a certification from the potential borrower that the borrower received independent counseling regarding the transaction, as specified. The lender would also be required to notify the borrower of the counseling requirement, as specified. This bill prohibits a lender from requiring a borrower to purchase an annuity as a part of the reverse mortgage transaction. This bill also requires a reverse mortgage contract to be translated into Spanish, Chinese, Tagalog, Vietnamese, or Korean if the

contract was primarily in one of those languages.

**AB 2416, c. 356: Consumer loans: automated valuation model fees.** Financial C. 22317.2 was added to provide that a California Finance Lender (CFL) licensee may collect a fee, not to exceed the actual cost, for an automated valuation model (AVM) result in lieu of an appraisal.

**AB 2962, c. 428: Taxation: real estate withholding requirements.** This bill provides a seller of California real estate with the option of basing the amount of withholding on either 3.33 percent of the property's sales price or the maximum tax rate for the expected taxable gain from the transaction.

**AB 3020, c. 429: Real estate: time-share developments.** This bill is a clean-up amendment to the Vacation Ownership and Timeshare Act of 2004, which came into effect on July 1, 2005; contains substantive, clarifying, and technical changes to the Act.

### **Streets and Highways**

**AB 1467, c. 32: Transportation projects: facilities: public-private partnerships.** This bill authorizes the Department of Transportation and regional agencies to enter into lease agreements for transportation projects designed to improve goods movement. This bill also allows a regional transportation agency to apply to the California Transportation Commission to develop and operate high-occupancy toll lanes, as specified.

## **Taxation**

**AB 1418, c. 716: Tax: public disclosure of tax delinquencies.** This bill, effective January 1, 2007, requires the BOE (on a quarterly basis) and the FTB (on an annual basis) to make public record lists of the top 250 taxpayers with delinquencies in excess of \$100,000, as specified.

**AB 1798, c. 896: Disaster relief.** This bill adds the severe rainstorms that occurred in selected counties in Northern California from December 17, 2005, to January 3, 2006, to the list of disasters eligible for full state reimbursement of local property tax losses, beneficial homeowners' exemption treatment, full state reimbursement of local agency costs under the Disaster Assistance Act (Act), and favorable net operating loss carry-forward treatment.

**SB 1827, c. 802: Taxation: domestic partners.** Requires registered domestic partners to file personal income tax returns, as either (1) married filing joint, or (2) married filing separate.

**AB 2341, c. 773: Tax clearance certificate: minimum franchise tax: relief.** Amends both the Corporations Code and the Revenue & Taxation Code by eliminating the tax clearance certificate process for dissolving business; also provides that the \$800 minimum tax will not be assessed for a taxable year after the year for which the final return is filed, so long as (1) the entity did not do business in California after the final return was filed, and (2) the dissolution, cancellation or surrender of the business is completed before the end of the 12 month period following the

date the final tax return is filed with Franchise Tax Board.

**AB 2533, c. 281: Sales and use taxes: exemption: public art.** R&T 6365 was amended to expand the sales tax exemption for original works of art from one non-profit organization to another, to include long-term leases of this artwork.

**AB 2831, c. 580: Insurance, income, and corporation tax credits: CDFI.** Extends the sunset date on the 20 percent tax credit for investments in Community Development Financial Institutions until January 1, 2012, and requires Legislative Analyst to prepare an analysis of the tax credit, as specified.

## **Technology**

**AB 2415, c. 860: Network security.** This bill requires manufacturers of wireless access points for small offices, home offices, or residences, which allow wireless clients to connect to a wireless network for the purpose of connecting to an Internet service provider, to integrate one of several specified measures into the product or packaging to provide consumers an opportunity to place security protections on the wireless access point before using the product.

**AB 2987, c. 700: Cable and video service.** This bill enacts the Digital Infrastructure and Video Competition Act of 2006 to allow video service providers to go to a single entity, PUC, to get a franchise to provide video service across the state. PUC will be required to review and either deny or issue a franchise within a 44-day time period. PUC will also enforce certain standards of the bill, including buildout



and redlining requirements, but the courts will be the final arbitrators on disputes over other provisions such as franchise fee and PEG support obligations.

**SB 1627, c. 676: Wireless telecommunications facilities.** This bill requires a city or county to administratively approve, through the issuance of a building permit or nondiscretionary permit issued by the planning department, an application for a collocation facility on or immediately adjacent to a wireless telecommunications facility that complies with specified state and local requirements for such projects. This bill defines the term "development project" within the Permit Streamlining Act to include projects involving the issuance of a permit for construction or reconstruction but not a permit to operate. This bill prohibits a development project for a wireless telecommunications facility from being subject to a permit to operate.

### **Trade Secrets**

**SB 1636, c. 62: Trade secrets.** Only CC 3426.4 was amended to permit the recovery of costs by a prevailing party in specified circumstances relating to the litigation of a claim for misappropriation of trade secrets, and defines costs to include expert witness fees that are "actually incurred and reasonably necessary," unless the witness is a regular employee of a party.

**AB 699, c. 589: Vaccines: influenza.** Requires manufacturers and distributors of influenza vaccine and nonprofit service plans that contract with a single medical group to report information to

DHS about influenza vaccine sold in California, requires entities that possess influenza vaccine or conduct influenza clinics to cooperate with local health officers in determining local inventories, and requires that the information reported, pursuant to this bill, from any vaccine manufacturer, distributor or nonprofit health care service plan that is a trade secret is not subject to the Public Records Act.

### **Utilities**

**AB 32, c. 488: Air pollution: greenhouse gases: California Global Warming Solutions Act of 2006.** Enacts the Global Warming Act of 2006, which creates a statewide greenhouse gas emission limit that would reduce emissions by 25% by 2020.

**SB 1368, c. 598: Electricity: emissions of greenhouse gases.** This bill requires the State Energy Conservation and Development Commission to set emission (e.g., pollution) standards for those entities providing electricity in the state. The bill requires the Public Utilities Commission to prohibit electricity providers and corporations from entering long-term contracts which do not meet the State Energy Conservation and Development Commission's standard.

**SB 107, c. 464: Renewable energy: Public Interest Energy Research, Demonstration, and Development Program.** This bill accelerates the Renewables Portfolio Standard ("RPS") requirement from 2017 to 2010. The RPS is a program that requires investor-owned utilities to, among other things, achieve a 20 percent renewable

electricity portfolio. The bill also makes other several other changes.

## Vehicles

**AB 68, c. 128: Motor vehicle sale contracts: Cary Buyer's Bill of Rights.** This bill, effective on July 1, 2006, enacts the Car Buyers Bill of Rights; requires a car dealer selling a used vehicle for a purchase price under \$40,000 to offer the buyer a two-day contract cancellation option agreement, priced as specified, and under which the buyer may return the vehicle without cause so long as certain conditions are met, including that the vehicle has not been driven more than 250 miles and is in the same condition, except as specified, as when it was purchased; prohibits a car dealer from advertising a used vehicle as "certified" or any similar descriptive term that implies the vehicle has been certified to meet the terms of a used vehicle certification program, if, among other things, the odometer has been rolled back, the vehicle was reacquired under a warranty law, or the vehicle has sustained damage that after repair prior to sale substantially impairs its use or safety; provides that when a seller assigns or sells a conditional sale contract, the amount of money the seller is allowed to receive from the assignment, with specified exceptions, is limited as specified; requires car dealers who finance a motor vehicle sale to disclose to the buyer the price of additional products, services, or other items, if the sales contract includes a charge for those items; defines certain of those items; requires car dealers who finance a motor vehicle sale to disclose the buyer's credit score, the range of possible credit scores established by the credit reporting agency, and provide the

buyer a written notice regarding credit scores. The provisions do not apply to motorcycles, recreational vehicles, or off-road vehicles, as specified.

**SB 1542, c. 433: Vehicles: key information access.** Veh. C. 9954 was added to establish a statutory scheme whereby a motor vehicle owner or family member could, through the use of a registered locksmith, access the needed information from the motor vehicle manufacturer to enable the locksmith to reproduce a replacement key that would enable the vehicle owner to enter, start and operate the motor vehicle.

**AB 1660, c. 580: Vehicular air pollution: energy-efficient vehicles.** Enacts the California Energy-Efficient Vehicle Group Purchase Program (Program) to encourage the purchase of energy-efficient vehicles by local and state agencies through a group-purchasing program that uses the purchasing leverage of state and local agencies to lower the purchase price of those vehicles.

**AB 2253, c. 765: Vehicles: illegal dumping.** This single-section bill adding section 23112.7 to the Veh. C. authorizes the impoundment and, in specific instances, civil forfeiture of a motor vehicle when the registered owner has multiple convictions for misdemeanor illegal dumping of waste.

**AB 2291, c. 353: Vehicles: dealer: data security.** This bill prohibits auto manufacturers and auto distributors from accessing, modifying, or extracting information from an auto dealer's computer system without providing safeguards to protect that information; and prohibits a computer vendor from

accessing, modifying, or extracting information from an auto dealer's computer system without first obtaining the dealer's express consent and providing safeguards to protect that information.

## **Welfare and Institutions & Health and Safety**

### **AB 1808, c. 75: Human services.**

This bill is the omnibus human services trailer bill which makes statutory changes necessary to implement the Budget Act of 2006.

**SB 676, c. 525: Medi-Cal: pharmacy reimbursement.** This bill permits the Department of Health Services to establish per diem or bundled reimbursement rates for pharmacies that provide home infusion supplies and services that are budget neutral.

**SB 678, c. 838: Indian children.** This bill revises and recasts the portions of the Family, Probate, and Welfare and Institutions Codes that address Indian child custody proceedings by codifying into state law various provisions of the federal Indian Child Welfare Act, the Bureau of Indian Affairs Guidelines for State Courts, and state Rules of Court.

**SB 739, c. 526: Hospitals: infection control.** This bill requires the Department of Health Services (DHS) to appoint a healthcare associated infection (HAI) advisory committee by July 1, 2007, to make recommendations regarding reporting cases of HAI in hospitals. This bill requires each general acute care hospital, on or after January 1, 2008, to implement and annually report to DHS its implementation of infection surveillance and infection prevention

process measures that have been recommended by the Centers for Disease Control and Prevention (CDC) Healthcare Infection Control Practices Advisory Committee, as suitable for a mandatory public reporting program. This bill requires, initially, these process measures to include the CDC guidelines for central line insertion practices, surgical antimicrobial prophylaxis, and influenza vaccination of patients and healthcare personnel. This bill requires DHS, in consultation with the HAI advisory committee, to make this information public no later than six months after the data. This bill also contains other provisions regarding HAI.

**SB 1018, c. 140: Elder and dependent adult abuse.** Enacts the Financial Elder Abuse Reporting Act of 2005. This bill, from January 1, 2007 until January 1, 2013, makes all officers and employees of banks, federal and state credit unions and their affiliates who suspect financial elder or dependent adult abuse, as specified, mandated reporters of suspected financial abuse of elders and dependent adults. This bill makes a failure by a mandated reporter to report suspected financial abuse of an elder or dependent adult subject to civil penalties currently imposed on other mandated reporters of elder or dependent adult abuse, and makes such penalties payable by the employer financial institution.

**SB 1206, c. 595: Redevelopment.** This bill amends statutory elements necessary to establish that land is blighted for the purpose of redevelopment: (1) narrowing the descriptions of conditions underlying blight; (2) using a performance standard to justify a finding of blight; and (3) deleting antiquated subdivision conditions as conditions that

establish blight, absent a showing that land is also predominantly urbanized and economically blighted.

**SB 1248, c. 530: Long-term health care facilities: resident rights.** This bill requires as of July 1, 2007, that specified federal regulations regarding the rights of residents in long-term care facilities and the duties of facilities toward their residents apply to each skilled nursing facility and intermediate care facility regardless of a resident's payment source or the Medi-Cal or Medicare certification status of the skilled nursing facility or intermediate care facility in which the resident resides.

**AB 179, c. 456: Residential care facilities for the elderly: elder abuse information.** This bill increases the availability of information about how to report elder and dependent adult abuse for residential care facilities for the elderly residents and their families.

**AB 530, c. 543: Medi-Cal: withholding payments or suspension: informal hearing.** Requires the Department of Health Services (DHS) to develop, in consultation with provider representatives including but not limited to, a physician, pharmacy and medical supplies provider representative, a process that would enable a provider to meet and confer with the appropriate DHS officials within 30 days after the issuance of a letter notifying the provider of a temporary withhold of payments, or a temporary suspension, for the purpose of presenting and discussing information and evidence that may impact DHS' decision to modify or terminate the sanction.

**AB 782, c. 113: Redevelopment: project area.** This bill repeals the so-called antiquated subdivision exception [which is defined as subdivided lots with irregular shapes and inadequate sizes for proper development] to the statutory definition of blighted areas. This bill also eliminates antiquated subdivisions from the definition of a predominantly urbanized area.

**AB 2805, c. 579: Advanced health care directives.** This bill states that electronic advance health care directives or powers of attorney for health care purposes are legally sufficient, provided that certain requirements are met. Those directives, or powers of attorney, allow an individual to detail their wishes for treatment in the event they are unable to do so in the future.

**SB 1379, c. 599: Biomonitoring.** Establishes the California Environmental Contaminant Biomonitoring Program to collect data on the presence of dangerous synthetic chemicals in humans, to reduce exposure, and to improve the public health by identifying communities disproportionately affected by chemical exposure.

**SB 1307, c. 249: Medical information: confidentiality.** This bill conforms California law to the federal Health Insurance Portability and Accountability Act by allowing a physician to disclose medical information to a health care agent, as specified.

**SB 1667, c. 389: Dependent children.** This bill facilitates foster parent involvement in dependency review hearings by requiring social workers to serve a copy of the Judicial Council Caregiver Information Form and

instructions on how to file the form along with a summary of recommendations regarding the foster child. Additionally, foster parents and other individuals are authorized to attend and provide written evidence in post permanency planning hearings.

**SB 1759, c. 902: Health: background checks: fees: inspections.** Makes a number of revisions to criminal clearance provisions for departments under the jurisdiction of the California Health and Human Services Agency including the Department of Health Services and the Department of Social Services with regard to clearance requirements before work.

**AB 1953, c. 853: Lead plumbing.** This bill tightens standards that pipes and other plumbing parts must meet in order to be termed "lead free."

**AB 2384, c. 236: Nutrition: Healthy Food Purchase Pilot Program.** Establishes a "Healthy Food Purchase" pilot program (pilot program) to increase the sale and purchase of fresh fruits and vegetables in low-income communities.

**AB 525, c. 701: Child abuse reporting.** Amends several provisions of the Child Abuse and Neglect Reporting Act to conform the procedures for reporting of instances of child abuse or neglect, emotional damage, evidenced by states of being or behavior, including, but not limited to, severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others.

**AB 2911, c. 619: California Discount Prescription Drug Program.** Establishes the California Discount Prescription Drug Program (Program) in

the Department of Health Services to use manufacturer rebates and pharmacy discounts in order to reduce prescription drug prices and improve the quality of health care for eligible Californians.

**SB 1702, c. 683: Health care coverage.** This bill extends until December 31, 2007, the duration of a four-year pilot project which, among other things: (1) limits enrollment of persons in the Major Risk Medical Insurance Program (MRMIP) to 36 months; (2) requires private health plans offering coverage in the individual market in California to offer a standard benefit plan and accept for coverage persons reaching the 36-month limit, as specified; and, (3) allocates responsibility for health care expenditures above amounts paid by subscribers for the coverage equally between the state and the health plans providing coverage.

**AB 2651, c. 335: Newborns: hearing screening.** Requires every general acute care hospital that has not been approved by the California Children Services (CCS) and with licensed perinatal services, on or after January 1, 2008, to administer a hearing screening test to every newborn, as specified.

**AB 3013, c. 833: Medical information: disclosures.** This bill provides that a health care provider, health care service plan, or contractor may, as conditioned, disclose to a family member, other relative, domestic partner, a close personal friend of the patient, or any other person identified by the patient, medical information directly relevant to that other person's involvement with the patient's care or payment related to the patient's health care.

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