RESOLUTION 01-01-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Penal Code sections 1054.7 and 1054.10, to read as follows:

§ 1054.7

(a) The disclosures required under this chapter shall be made at least 30 days prior to the trial, unless good cause is shown why a disclosure should be denied, restricted, or deferred. If the material and information becomes known to, or comes into the possession of, a party within 30 days of trial, disclosure shall be made immediately, unless good cause is shown why a disclosure should be denied, restricted, or deferred. "Good cause" is limited to threats or possible danger to the safety of a victim or witness, possible loss or destruction of evidence, or possible compromise of other investigations by law enforcement.

(b) Upon the request of any party, the court may permit a showing of good cause for the denial or regulation of disclosures, or any portion of that showing, to be made in camera. A verbatim record shall be made of any such proceeding. If the court enters an order granting relief following a showing in camera, the entire record of the showing shall be sealed and preserved in the records of the court, and shall be made available to an appellate court in the event of an appeal or writ. In its discretion, the trial court may after trial and conviction, unseal any previously sealed matter.

(c) (1) Notwithstanding subdivision (a), "good cause" includes restricted disclosure of child sexual abuse material, or any hardware, media, or other property containing, storing, or housing that material, by keeping it under seal with the court, a law enforcement agency, or the prosecuting agency, provided that such material is made reasonably available to the defendant.

(2) For purposes of paragraph (1), child sexual abuse material or any hardware, media, or other property containing, storing, or housing that material, shall be deemed to be reasonably available to the defendant if the prosecution provides ample opportunity for the inspection, viewing, and examination of that material by the defendant, the defendant's attorney, and any individual the defendant may seek to qualify to furnish expert testimony at trial, in a time, place, and manner that is mutually agreed on, or as ordered by the court.

(3) For purposes of this chapter, "child sexual abuse material" has the same meaning as stated in Section 3273.65 of the Civil Code.

(d) Any order to deny, restrict, or defer disclosure must not infringe on fundamental rights to due process and equal protection under the California Constitution or the United States Constitution.

§ 1054.10

(a) Except as provided in subdivision (b), no attorney may disclose or permit to be disclosed to a defendant, members of the defendant's family, or anyone else copies of ~~child pornography evidence~~ child sexual abuse material, unless specifically permitted to do so by the court after a hearing and a showing of good cause.

(b) Notwithstanding subdivision (a), an attorney may disclose or permit to be disclosed copies of ~~child pornography evidence~~ child sexual abuse material to persons employed by the attorney or to persons appointed by the court to assist in the preparation of a defendant's case if

that disclosure is required for that preparation. Persons provided this material by an attorney shall be informed by the attorney that further dissemination of the material, except as provided by this section, is prohibited.

(Proposed new language underlined; language to be deleted stricken)

PROPONENTS

Michael Fern, Sunita Popal, Ethan Milius, Eunice Kim, Thanh Tam Ton, Vicki Greene, Marc Sallus, H. Thomas Watson, Joel Douglas, Naris Khalatian

STATEMENT OF REASONS

The Problem (including Existing Law):

Existing law requires the prosecution to disclose to the defense "[a]ll relevant real evidence seized or obtained as a part of the investigation of the offenses charged." (Pen. Code, § 1054.1, subd. (c).) This includes child sexual abuse material. (See *Westerfield v. Superior Court* (2002) 99 Cal.App.4th 994.) For federal prosecutions involving "child pornography," the Adam Walsh Act of 2006 states that such evidence "shall remain in the care, custody, and control of the Government or the court" and directs courts to deny any request by a defendant to make copies "so long as the Government makes the property or material reasonably available to the defendant." (See 18 U.S.C., § 3069, subd. (m).) This ensures legitimate access within a secure computing environment and minimizes the risk of accidental viewing or acquisition by an unauthorized third party.

But in California, criminal courts can only deny, restrict, or defer the disclosure of discovery upon a showing of "good cause," which is limited by statute. (See Pen. Code, § 1054.7.) While Section 1054.7 defines "good cause" to include protecting against "threats and possible danger to the safety of a victim or witness," this does not include protecting the public from the dissemination of child sexual abuse material, which is incredibly toxic and can be easily lost or misplaced. As noted in the legislative history to Penal Code section 311.4, "Pedophiles often use child pornography as a 'teaching tool' in their molestations. Pornographic material depicting children involved in sexual activities is frequently utilized to sexually stimulate the molester, desensitize children and educate them to the desire of the molester, blackmail children into silence, and facilitate the molestation of additional children." (Assem. Com on Public Safety, Analysis of Assem. Bill No. 295 (1995-1996 Reg. Sess.) as amended Aug. 23, 1996, p. 4.)

The Solution: This resolution would amend Penal Code section 1054.7 to permit a court to find good cause to restrict the disclosure of child sexual abuse material in a manner consistent with federal law. It would further require that any order to deny, restrict, or defer disclosure not infringe on fundamental rights to due process and equal protection. It would also amend Section 1054.10 to replace both instances of "child pornography" with "child sexual abuse material," which is defined by Civil Code section 3273.65 to include "child pornography."
The use of "child sexual abuse material" is recommended by the National Center for Missing and Exploited Children, United States Department of Justice, and INTERPOL (See https://www.missingkids.org/theissues/csam; https://www.justice.gov/d9/2023-

06/child_sexual_abuse_material_2.pdf; https://www.interpol.int/en/Crimes/Crimes-against-children/Appropriate-terminology.)

IMPACT STATEMENT
This resolution does not affect any other law, statute, or rule.

CURRENT OR PRIOR RELATED LEGISLATION
AB 528 (2025-2026), which is currently in Senate Appropriations, would restrict disclosure of CSAM in the same manner as the Adam Walsh Act.

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RESOLUTION 01-02-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Penal Code sections 186.9, to read as follows:

§ 1214.19

(a) On or after July 1, 2022, in addition to any other penalty in infraction, misdemeanor, or felony cases, the court may impose a civil assessment of up to one hundred dollars ($100) against a defendant who fails, after notice and without good cause, to appear in court for a proceeding authorized by law ~~or who fails to pay all or any portion of a fine ordered by the court~~ or to pay an installment of bail as agreed to under Section 40510.5 of the Vehicle Code. This assessment shall be deposited with the county treasurer as provided in Section 1463.001, and transmitted to the State Treasurer for deposit into the General Fund.

(b)

(1) The assessment imposed pursuant to subdivision (a) shall not become effective until at least 20 calendar days after the court mails a warning notice to the defendant by first-class mail to the address shown on the notice to appear or to the defendant's last known address. If the defendant appears within the time specified in the notice and shows good cause for the failure to appear ~~or for the failure to pay a fine~~ or installment of bail, the court shall vacate the assessment.

(2) Payment of bail, fines, penalties, fees, or a civil assessment shall not be required in order for the court to vacate the assessment at the time of appearance pursuant to paragraph (1). Payment of a civil assessment shall not be required to schedule a court hearing on a pending underlying charge.

(c) If a civil assessment is imposed pursuant to subdivision (a), no bench warrant or warrant of arrest shall be issued with respect to the failure to appear at the proceeding for which the assessment is imposed ~~or the failure to pay the fine~~ or installment of bail. An outstanding, unserved bench warrant or warrant of arrest for a failure to appear ~~or for a failure to pay a fine~~ or installment of bail shall be recalled prior to the subsequent imposition of a civil assessment.

(d) The assessment imposed pursuant to subdivision (a) shall be subject to the due process requirements governing defense and collection of civil money judgments generally.

(e) Each court and county shall maintain the collection program that was in effect on July 1, 2005, unless otherwise agreed to by the court and county. If a court and a county do not agree on a plan for the collection of civil assessments imposed pursuant to this section, or any other collections under Section 1463.010, after the implementation of Sections 68085.6 and 68085.7 of the Government Code, the court or the county may request arbitration by a third party mutually agreed upon by the Administrative Director of the Courts and the California State Association of Counties.

(Proposed new language underlined; language to be deleted stricken)

PROPONENTS

Naris Khalatian, Collin Hu, Brad Siegel, Nicole Okung, Margaret Kame, Natasha Khamashta, Josephine Gallegos, Mark H. Aprahamian, Katherine Read, Faith Nouri

STATEMENT OF REASONS

The Problem (including Existing Law): The Eighth Amendment prohibits "excessive fines," though a penalty's burden depends on a person's financial circumstances.[1] Fines generally must be proportional to the harm caused.[2] California courts may impose civil assessments when a person fails to appear or pay a fine or bail installment.[3] These assessments are imposed without considering ability to pay and often punish poverty rather than misconduct.[4] For people unable to pay, additional fees create uncollectible debt, consume court resources, and do little to improve compliance.[5] Criminal fees can also cause lasting financial and emotional harm, restricting economic mobility and forcing families to choose between paying the court and meeting basic needs.[6] These burdens fall disproportionately on Black and Brown Californians, who are overrepresented in the criminal legal system due to targeted policing.[7] California has recognized these harms by discharging more than $6.9 billion in uncollectible criminal debt, eliminating over half of statewide criminal fees, and reducing the maximum civil assessment from $300 to $100; 45 of California's 58 counties have eliminated civil assessments entirely.[8] These reforms show that such fees are neither necessary nor effective for securing court compliance.

The Solution: This resolution eliminates the "failure to pay" penalty for civil assessments. In counties that still impose them, individuals who cannot afford to pay face additional charges, increased debt, and financial hardship, penalizing poverty and deepening involvement in the justice system. By removing "failure to pay" as a trigger for additional penalties, civil assessments will focus on actual noncompliance rather than economic hardship, while courts retain more effective compliance tools such as text reminders and flexible payment plans. Fiscal concerns are also addressed: since July 2022, civil assessment revenues are deposited into the General Fund rather than the Trial Court Trust Fund, reducing reliance on these fees to fund court operations. This reform reduces unnecessary financial burdens, promotes fairness, and is straightforward to implement.

IMPACT STATEMENT

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[1] U.S. Const. amend. VIII. In Constitution of the United States. Retrieved December 7, 2025, from https://constitution.congress.gov/constitution/amendment-8/

[2] Vista Criminal Law. (n.d.). *Court fines*. Vista Criminal Law. https://vistacriminallaw.com/court-fines/

[3] California. Penal Code § 1214.1 (Deering, LexisNexis, 2025).

[4] Judicial Branch of California. (2025, January). *AB 199: Civil assessments — Frequently asked questions* [PDF]. https://courts.ca.gov/sites/default/files/courts/default/2025-01/AB199-FAQs.pdf

[5] Legal Community Concerning Civil Assessments. (2022, March). *Civil assessments issue brief* [PDF]. LCCR SF. https://lccrsf.org/wp-content/uploads/2022/03/Civil-Assessments-Issue-Brief_v3.pdf

[6] Campos-Bui, S., & Zwerling, M. (2024). *Ending unjust and ineffective criminal fees in California*. UC Berkeley Law Policy Advocacy Clinic. https://www.law.berkeley.edu/experiential/clinics/policy-advocacy-clinic/adult-fees/ending-criminal-adult-fees-in-california/

[7] Legal Services for Prisoners with Children & Rights for Families. (2022, March). *Civil assessments issue brief* (v.3). https://lccrsf.org/wp-content/uploads/2022/03/Civil-Assessments-Issue-Brief_v3.pdf

[8] Policy Advocacy Clinic, UC Berkeley School of Law. (n.d.). *Ending unjust and ineffective criminal fees in California*. https://www.law.berkeley.edu/experiential/clinics/policy-advocacy-clinic/adult-fees/ending-criminal-adult-fees-in-california/

This resolution may require additional statutory changes. As mentioned above, AB 199 mandates civil assessment revenues be deposited into the state General Fund rather than the Trial Court Trust Fund and reported as an adjustment to alleviate financial burdens on individuals unable to pay and address concerns about the fairness of using such fines to fund court operations.[9] While this resolution would not require textual amendments, other California statutes that allow courts to impose civil assessments may be impacted, including Government Code Sections 68085.1, 68085.6, and 68085.7; Vehicle Code Sections 40510.5, 40512, 42007, 42008.5, 42008.7, and 42008.8; and Penal Code Section 1463.010.

CURRENT OR PRIOR RELATED LEGISLATION

The following bills are related to this resolution. AB 199, enacted in 2022, decreased the maximum civil assessment from $300 to $100 under Penal Code Section 1214.1. AB 134, enacted in 2023, repeals criminal administrative fees related to record selling and post-conviction remedies pursuant to Penal Code Sections 1203.4, 1203.41, 1203.42, and 1203.45. AB 1869, enacted in 2020, eliminated 23 criminal fees, repealing fees under Government Code Sections 27712, 27753, 29550(c)(f), 29550.1, 29550.2, 29550.3, and Penal Code Sections 987.4, 987.5, 987.8, 1203, 1203.016(g), 1203.018(j), 1203.1b, 1203.1e, 1208.2(b), 1210.15, 3010.8, 4024.2(e), and 6266. SB 190, enacted in 2018, amended Government Code Sections 27756 and 277567, Penal Code Sections 1203.016, 1203.1ab, 1208.2, and various sections of the Welfare and Institutions Code to abolish administrative fees for juvenile cases. SB 1290, enacted in 2020, amended Welfare and Institutions Code Sections 223.2 and 903.1 to eliminate remaining juvenile fees. AB 103 (Public Safety Omnibus), enacted in June 2017, ended driver's license suspension for unpaid fines and fees and amended Vehicle Code Sections 13365, 40509, and 40509.5. AB 177, enacted in 2022, ended collection of an additional 17 administrative fees pursuant to Sections 367.8 and 367.9 of the Code of Civil Procedure, Sections 50050, 68645, 69950, 69950.5, 69951, 77205, and 68119 of the Government Code, and Sections 1465.9, 1001.15, 1001.16, 1203.1c, 1203.1m, 1214.5, 1202.4, 1203.1, 1203.1ab, 1203.4a, 1203.9, 1205, 2085.5, 2085.6, 2085.7, and 1463.07 of the Penal Code.

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[9] *Id* at 4.

RESOLUTION 01-03-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend California Vehicle Code section 21213 to read as follows:

§21213.5

(a) The Legislature finds and declares that operation of electric bicycles using motor power on sidewalks creates a foreseeable risk of serious harm to pedestrians, including children, seniors, and persons with disabilities.

(b) A person shall not operate electric bikes, as defined in section 312.5, on a sidewalk when using motor power.

(c) This section shall not apply when operation upon a sidewalk is necessary solely for the purpose of entering or leaving adjacent property.

(d) A violation of this section is an infraction.

(e) If the operator is a minor, the parent or legal guardian who knowingly permits the operation of an electric bicycle in violation of this section shall be jointly and severally liability with the minor for any injuries and damages proximately caused by the violation.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT

Orange County Bar Association

STATEMENT OF REASONS

The Problem (including Existing Law): Electric bicycles ("e-bikes") using motor power are faster than conventional bicycles and can be operated at speeds between 20 to 28 miles per hour, depending upon the class. At these speeds, pedestrian reaction time is significantly limited, leaving little or no opportunity to avoid a collision. With such reduced reaction time by the pedestrian, even a minor misstep, unexpected movement, or momentary loss of balance can result in catastrophic consequences for the pedestrian. Current law lacks consistency and clarity on the use of e-bikes using motor power, instead of pedaling, on sidewalks, resulting in inconsistent local regulation and preventable injuries, particularly to pedestrians, including children, elderly individuals, and disabled persons, who are vulnerable to serious injury in sidewalk collisions. Additionally, because e-bikes are not subject to DMV registration, mandatory insurance coverage, or other reliable means of operator identification, collisions involving e-bikes often result in a significant lack of accountability. The absence of a law protecting the pedestrians makes it challenging for injured pedestrians to identify responsible parties and obtain compensation, further underscoring the need for clear statewide restrictions on sidewalk operation.

The Solution: This resolution establishes a bright-line statement rule prohibiting the operation of e-bikes using motor power on sidewalks, modeled after existing statutory restrictions for motorized scooters. The proposed legislation prohibits e-bike motorized use on sidewalks except

for ingress and egress to adjacent property; creates a uniform, easily enforceable safety standard; declares legislative intent supporting pedestrian protection and preventing foreseeable injuries; and clarifies that liability rests with the rider and with the minors' parents or guardians who knowingly permit unlawful operation by minors.

IMPACT STATEMENT
This resolution does not affect any other law, statute, or rule.

CURRENT OR PRIOR RELATED LEGISLATION
None

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RESOLUTION 01-04-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Penal Code sections 186.9, to read as follows:

§ 186.9

As used in this chapter:

(a) "Conducts" includes, but is not limited to, initiating, concluding, or participating in conducting, initiating, or concluding a transaction.

(b) "Financial institution" means, when located or doing business in this state, any national bank or banking association, state bank or banking association, commercial bank or trust company organized under the laws of the United States or any state, any private bank, industrial savings bank, savings bank or thrift institution, savings and loan association, or building and loan association organized under the laws of the United States or any state, any insured institution as defined in Section 401 of the National Housing Act (12 U.S.C. Sec. 1724(a)), any credit union organized under the laws of the United States or any state, any national banking association or corporation acting under Chapter 6 (commencing with Section 601) of Title 12 of the United States Code, any agency, agent or branch of a foreign bank, any currency dealer or exchange, any person or business engaged primarily in the cashing of checks, any person or business who regularly engages in the issuing, selling, or redeeming of traveler's checks, money orders, or similar instruments, any broker or dealer in securities registered or required to be registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 or with the Commissioner of Business Oversight under Part 3 (commencing with Section 25200) of Division 1 of Title 4 of the Corporations Code, any licensed transmitter of funds or other person or business regularly engaged in transmitting funds to a foreign nation for others, any investment banker or investment company, any insurer, any dealer in gold, silver, or platinum bullion or coins, diamonds, emeralds, rubies, or sapphires, any pawnbroker, any telegraph company, any person or business regularly engaged in the delivery, transmittal, or holding of mail or packages, any person or business that conducts a transaction involving the transfer of title to any real property, vehicle, vessel, or aircraft, any personal property broker, any person or business acting as a real property securities dealer within the meaning of Section 10237 of the Business and Professions Code, whether licensed to do so or not, any person or business acting within the meaning and scope of subdivisions (d) and (e) of Section 10131 and Section 10131.1 of the Business and Professions Code, whether licensed to do so or not, any person or business regularly engaged in gaming within the meaning and scope of Section 330, any person or business regularly engaged in pool selling or bookmaking within the meaning and scope of Section 337a, any person or business regularly engaged in horse racing whether licensed to do so or not under the Business and Professions Code, any person or business engaged in the operation of a gambling ship within the meaning and scope of Section 11317, any person or business engaged in controlled gambling within the meaning and scope of subdivision (e) of Section 19805 of the Business and Professions Code, whether registered to do so or not, <u>any person or business regularly engaged in transactions involving digital financial assets,</u> and any person or business defined as a "bank," "financial agency," or "financial institution" by Section 5312 of

Title 31 of the United States Code or Section 103.11 of Title 31 of the Code of Federal Regulations and any successor provisions thereto.

(c) "Transaction" includes the deposit, withdrawal, transfer, bailment, loan, pledge, payment, or exchange of currency, or a monetary instrument, as defined by subdivision (d), or the electronic, wire, magnetic, or manual transfer of funds between accounts by, through, or to, a financial institution as defined by subdivision (b).

(d) "Monetary instrument" means United States currency and coin; the currency, coin, and foreign bank drafts of any foreign country; payment warrants issued by the United States, this state, or any city, county, or city and county of this state or any other political subdivision thereof; any bank check, cashier's check, traveler's check, or money order; any personal check, stock, investment security, or negotiable instrument in bearer form or otherwise in a form in which title thereto passes upon delivery; gold, silver, or platinum bullion or coins; ~~and~~ diamonds, emeralds, rubies, or sapphires; and digital financial assets. Except for foreign bank drafts and federal, state, county, or city warrants, "monetary instrument" does not include personal checks made payable to the order of a named party which have not been endorsed or which bear restrictive endorsements, and also does not include personal checks which have been endorsed by the named party and deposited by the named party into the named party's account with a financial institution.

(e) "Criminal activity" means a criminal offense punishable under the laws of this state by death, imprisonment in the state prison, or imprisonment pursuant to subdivision (h) of Section 1170 or from a criminal offense committed in another jurisdiction punishable under the laws of that jurisdiction by death or imprisonment for a term exceeding one year.

(f) "Foreign bank draft" means a bank draft or check issued or made out by a foreign bank, savings and loan, casa de cambio, credit union, currency dealer or exchanger, check cashing business, money transmitter, insurance company, investment or private bank, or any other foreign financial institution that provides similar financial services, on an account in the name of the foreign bank or foreign financial institution held at a bank or other financial institution located in the United States or a territory of the United States.

(g) "Digital financial assets" has the same meaning as defined in subdivision (g) of Section 3102 of the Financial Code.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT

Los Angeles County Bar Association

STATEMENT OF REASONS

The Problem (including Existing Law): Money laundering is the lifeblood of financial crimes, allowing thieves, fraudsters, and dealers in contraband to disguise the illicit origins of money derived from criminal activities and underwrite ongoing criminal enterprises. Under existing law, the crime of money laundering requires a transaction involving "monetary instruments" greater than $5,000 through a "financial institution" over a specified period of time, with either the intent to facilitate criminal activity or the knowledge that the proceeds are derived from criminal activity. (Pen. Code, § 186.10, subd. (a).) A "monetary instrument" includes government-issued

currencies, checks, money orders, and certain kinds of assets, such as precious metals, gems, and securities. (Pen. Code, § 186.9, subd. (d).)

However, the current definition of a "monetary instrument" does not account for the emergence of transactions involving digital financial assets, such as non-fungible tokens (NFTs) and cryptocurrencies. (Hall, *Nations to adopt Bitcoin, crypto users to reach 1B by 2023* (Jan. 21, 2022) Cointelegraph, https://cointelegraph.com/news/nations-to-adopt-bitcoin-crypto-users-to-reach-1b-by-2023-report.) Given their use in conducting near-instant and relatively anonymous cross-border financial transactions of unlimited value, NFTs and cryptocurrencies have become major conduits for money laundering. (See Versprille, *Crypto, NFTs Are Rife With 'Mountains' of Fraud, IRS Says* (Jan. 26, 2022) Bloomberg, https://www.bloomberg.com/news/articles/2022-01-26/irs-seeing-mountains-and-mountains-of-fraud-with-crypto-nfts.)

The Solution: This resolution would close a major loophole in California's anti-money laundering provisions by adding "digital financial assets" as defined in Financial Code section 3102(g) to the list of "monetary instruments" and adding "any person or business regularly engaged in transactions involving digital financial assets" to the meaning of a "financial institution."

IMPACT STATEMENT
This resolution does not affect any other law, statute, or rule.

CURRENT OR PRIOR RELATED LEGISLATION
Similar to AB 76 (2023-24), which was based on Resolution 11-11-2022.

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RESOLUTION 01-05-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Penal Code sections 519 and 520, to read as follows:

§ 519

Fear, such as will constitute extortion, may be induced by a threat of any of the following:

1. To do an unlawful injury to the person or property of the individual threatened or of a third person.

2. To accuse the individual threatened, or a relative of his or her, or a member of his or her family, of a crime.

3. To expose, or to impute to him, her, or them a deformity, disgrace, or crime.

4. To expose a secret affecting him, her, or them.

5. To report his, her, or their immigration status or suspected immigration status.

6. To report his, her, or their free exercise or enjoyment of a right or privilege secured by the Constitution or laws of this state or by the Constitution or laws of the United States, in whole or in part, to a foreign government or agent thereof.

§ 520

Every person who extorts property or other consideration from another, including the ability to freely exercise or enjoy a right or privilege secured by the Constitution or laws of this state or by the Constitution or laws of the United States, in whole or in part, under circumstances not amounting to robbery or carjacking, by means of force, or any threat, such as is mentioned in Section 519, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 for two, three or four years.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT

Los Angeles County Bar Association

STATEMENT OF REASONS

The Problem (including Existing Law): Authoritarian governments are increasingly engaged in transnational repression of their citizens and members of diaspora communities who live in the United States. (See https://www.cfr.org/articles/transnational-repression-grew-2025-and-it-will-only-get-worse; https://www.propublica.org/article/even-on-us-campuses-china-cracks-down-on-students-who-speak-out; https://www.justice.gov/usao-ma/pr/former-berklee-college-music-student-sentenced-prison-threatening-individual-promoting.) While existing law protects against acts of violence and death threats, a more subtle form of control that currently escapes legal scrutiny is the threat of being reported to a foreign government for speaking freely on a political issue, affirming a disfavored identity, or practicing a religion. Such threats are designed to instill

fear in the safety of relatives and loved ones and and the ability to return to the country of one's birth, for exercising rights and privileges while living in a free society.

The Solution: This resolution would include within the crime of extortion a threat to report his, her, or their free exercise or enjoyment of a right or privilege secured by the Constitution or laws of this state or by the Constitution or laws of the United States, in whole or in part, to a foreign government, or an agent thereof, and clarify that the ability to exercise such rights are a type of consideration that can be extorted.

IMPACT STATEMENT
This resolution does not affect any other law, statute, or rule.

CURRENT OR PRIOR RELATED LEGISLATION
Not known.

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RESOLUTION 01-06-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Penal Code sections 1054.7 and 1054.10, to read as follows:

§ 190.5

(a) Notwithstanding any other provision of law, neither the death penalty or the penalty of confinement in the state prison for life without the possibility of parole shall ~~not~~ be imposed on any person who is under the age of ~~18~~ 26 at the time of the commission of the crime. The burden of proof as to the age of such person shall be on the defendant.

(b) The penalty for a defendant found guilty of murder in the first degree~~, in any case in which one or more special circumstances enumerated in Section 190.2 or 190.25 has been found true under Section 190.4,~~ who was 16 years of age or older and under the age of ~~18~~ 26 years at the time of the commission of the crime, shall be confinement in the state prison for ~~life without the possibility of parole or, at the discretion of the court,~~ 25 years to life.

~~(c) The trier of fact shall determine the existence of any special circumstance pursuant to the procedure set forth in Section 190.4~~

(Proposed new language underlined; language to be deleted stricken)

PROPONENT

Women Lawyers Association of Los Angeles

STATEMENT OF REASONS

The Problem (including Existing Law): Existing law prohibits imposing a sentence of death for any person who was under the age of 18 at the time of the crime (Pen. Code § 190.5, subd. (a)) or a sentence of life imprisonment without the possibility of parole for any person who was under the age of 16 at the time of the crime (Pen. Code § 190.5, subd. (b)). The Legislature has recognized differences in culpability due to immature brain development of persons age 18 to 26. Penal Code section 3051 allows such youthful offenders to petition for a hearing to present mitigating factors not introduced at sentencing in the original trial in order to make a record for future consideration of parole, but such hearings are not authorized for persons serving a sentence of life without the possibility of parole as a result of conviction for a crime committed after they attained age 18. (Pen. Code § 3051, subd. (h).) The California Supreme Court has upheld the Legislature's decision to exclude youthful offenders serving life without parole from the benefits of section 3051. (*People v. Hardin* (2024) 15 Cal.5th 834.) Immature brain development of persons under age 26 should be a factor in sentencing, even for crimes subject to a penalty of death or life imprisonment without the possibility of parole. In *Roper v. Simmons* (2005) 543 U.S. 551, 574, the United States Supreme Court recognized "[t]he qualities that distinguish juveniles do not disappear when an individual turns 18." Scientific research supports the *Simmons* Court's observation because there is little empirical evidence supporting age 18 as an accurate age of maturity. (Sara B. Johnson, Robert W. Blum & Jay N. Giedd, *Adolescent*

Maturity and the Brain: The Promise and Pitfalls of Neuroscience Research in Adolescent Health Policy 45(3) J. Adolesc Health 216-221, available at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2892678/; Elizabeth S. Scott, Richard J. Bonnie & Laurence Steinberg, *Young Adulthood as a Transitional Legal Category: Science, Social Change and Justice Policy,* 85 Fordham L. Rev. 641, 645, 648 (2016).) Individuals mature intellectually before they achieve emotional or social maturity, but what is relevant to legal culpability is the emotional and social development that continues after age 18. (Scott, et al., 85 Fordham L. Rev, at p. 648.) Some scientific literature suggests the behavior and decision-making of adults between the ages of 18 and 25 is closer to juvenile offenders than adult offenders over age 25. (Carly Loomis-Gustafson, *Adjusting the Bright-Line Age of Accountability within the Criminal Justice System: Raising the Age of Majority to Age 21 Based on the Conclusions of Scientific Studies Regarding Neurological Development and Culpability of Young-Adult Offenders,* 55 Duq. L. Rev. 221, 229 (2017); see also Scott, et al. 85 Fordham L. Rev, at p. 642.)

This proposal is identical to a resolution proposed to the 2025 Conference (Resolution 04-05-2025). The Resolutions Committee approved the resolution, but it failed to pass the Conference by one vote.

The Solution: This proposal would apply the age range identified by the Legislature in Penal Code section 3051 to eliminate sentences of death or life imprisonment without the possibility of parole for persons who committed their crime prior to attaining age 26, and would eliminate the necessity of trying special circumstance allegations attached to murder charges against persons in this age range. Instead, those persons could receive parole-eligible life sentences.

IMPACT STATEMENT

This resolution does not affect any other law, statute, or rule.

CURRENT OR PRIOR RELATED LEGISLATION

Senate Bill No. 672 would grant young adults (age 18-25 at the time of the crime) sentenced to life without the possibility of parole for murder a chance for a parole hearing after serving 25 years, with some exceptions including hate crimes and murder of a peace officer. The bill passed the Senate in 2025. It was paused until 2026 for further work in the Assembly.

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RESPONSIBLE FLOOR DELEGATE

Mark Alan Hart

RESOLUTION 01-07-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Penal Code section 597, to read as follows:

§ 597

(a) Except as provided in subdivision (c) of this section or Section 599c, a person who maliciously and intentionally maims, mutilates, tortures, or wounds a living animal, or maliciously and intentionally kills an animal, is guilty of a crime punishable pursuant to subdivision (d).

(b) Except as otherwise provided in subdivision (a) or (c), a person who unlawfully abducts another person's companion animal with the intent to sell or deprive, who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, drink, or shelter, cruelly beats, mutilates, or cruelly kills an animal, or causes or procures an animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, drink, or shelter, or to be cruelly beaten, mutilated, or cruelly killed; and whoever, having the charge or custody of an animal, either as owner or otherwise, subjects an animal to needless suffering, or inflicts unnecessary cruelty upon the animal, or in any manner abuses an animal, or fails to provide the animal with proper food, drink, or shelter, or protection from the weather, or who drives, rides, or otherwise uses the animal when unfit for labor, is, for each offense, guilty of a crime punishable pursuant to subdivision (d).

(c) A person who maliciously and intentionally maims, mutilates, or tortures a mammal, bird, reptile, amphibian, or fish, as described in subdivision (e), is guilty of a crime punishable pursuant to subdivision (d).

(d) A violation of subdivision (a), (b), or (c) is punishable as a felony by imprisonment pursuant to subdivision (h) of Section 1170, or by a fine of not more than twenty thousand dollars ($20,000), or by both that fine and imprisonment, or alternatively, as a misdemeanor by imprisonment in a county jail for not more than one year, or by a fine of not more than twenty thousand dollars ($20,000), or by both that fine and imprisonment.

(e)

(1) Subdivision (c) applies to a mammal, bird, reptile, amphibian, or fish that is a creature described as follows:

(A) Endangered species or threatened species as described in Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code.

(B) Fully protected birds described in Section 3511 of the Fish and Game Code.

(C) Fully protected mammals described in Chapter 8 (commencing with Section 4700) of Part 3 of Division 4 of the Fish and Game Code.

(D) Fully protected reptiles and amphibians described in Chapter 2 (commencing with Section 5050) of Division 5 of the Fish and Game Code.

(E) Fully protected fish as described in Section 5515 of the Fish and Game Code.

(2) This subdivision does not supersede or affect any law relating to taking of the described species, including, but not limited to, Section 12008 of the Fish and Game Code.

(f) For the purposes of subdivision (c), each act of malicious and intentional maiming, mutilating, or torturing a separate specimen of a creature described in subdivision (e) is a separate offense. If a person is charged with a violation of subdivision (c), the proceedings shall be subject to Section 12157 of the Fish and Game Code.

(g)

(1) Upon the conviction of a person charged with a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, all animals lawfully seized and impounded with respect to the violation by a peace officer, officer of a humane society, or officer of an animal shelter or animal regulation department of a public agency shall be adjudged by the court to be forfeited and shall thereupon be awarded to the impounding officer for proper disposition. A person convicted of a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, shall be liable to the impounding officer for all costs of impoundment from the time of seizure to the time of proper disposition.

(2) Mandatory seizure or impoundment shall not apply to animals in properly conducted scientific experiments or investigations performed under the authority of the faculty of a regularly incorporated medical college or university of this state.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT
Los Angeles County Bar Association

STATEMENT OF REASONS

The Problem (including Existing Law): Approximately 2 million dogs are stolen every year, very few of whom are reunited with their owner. (See https://natlawreview.com/press-releases/sashas-pet-resort-endorses-national-pet-theft-awareness-day-february.) However, existing law treats the theft of a companion animal as purely a property crime (see Pen. Code, § 491), which ignores the familial bond that is broken and the separation anxiety caused by an indefinite abduction. And if the re-sale value of the companion animal is $950 or less, the offense is considered petty theft, no different than shoplifting a pack of gum. (See Pen. Code, §§ 484, 487.) "A spokeswoman for the Los Angeles County District Attorney George Gascón says the prosecutor — who is fighting to remain in office as the debate about stolen pets rages — agrees that California lawmakers should reexamine laws around pet theft." (See https://lamag.com/news/frenchie-connection-french-bulldog-gunpoint-thefts-los-angeles/.)

The Solution: This resolution would amend Penal Code section 597 to include a person "who unlawfully abducts another person's companion animal with the intent to sell or deprive" as a form of animal cruelty.

IMPACT STATEMENT
This resolution does not affect any other law, statute, or rule.

CURRENT OR PRIOR RELATED LEGISLATION
Not known.

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RESOLUTION 01-08-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend section 799 of the Penal Code, to read as follows:

§ 799

(a) Prosecution for an offense punishable by death or by imprisonment in the state prison for life or for life without the possibility of parole, or for the embezzlement of public money may be commenced at any time.

(b) (1) Prosecution for a felony offense described in paragraph (1), (2), (3), (4), (6), or (7) of subdivision (a) of Section 261, paragraph (1), (2), (3), (4), or (5) of subdivision (a) of former Section 262, Section 264.1, paragraph (2) or (3) of subdivision (c) of, or subdivision (d), (f), (g), (i), or (k) of, Section 286, paragraph (2) or (3) of subdivision (c) of, or subdivision (d), (f), (g), (i), or (k) of, Section 287 or former Section 288a, subdivision (a) of Section 288 involving substantial sexual conduct as defined in subdivision (b) of Section 1203.066, subdivision (b) of Section 288, Section 288.5, or subdivision (a), (b), (d), (e), or (g) of Section 289 may be commenced at any time.

(2) This subdivision applies to crimes that were committed on or after January 1, 2017, and to crimes for which the statute of limitations that was in effect prior to January 1, 2017, has not run as of January 1, 2017.

(c) This section applies when the defendant was a minor at the time of the commission of the offense and the prosecuting attorney could have petitioned the court for a fitness hearing pursuant to Section 707 of the Welfare and Institutions Code.

(d) (1) Prosecution for the grand theft of public money shall be commenced within eight years after discovery of the offense or its completion, whichever is later.

(2) This subdivision applies to crimes that were committed on or after January 1, 2028, and to crimes for which the statute of limitations that was in effect prior to January 1, 2028, has not run as of January 1, 2028.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT

Los Angeles County Bar Association

STATEMENT OF REASONS

The Problem (including Existing Law): The theft of public money defunds government programs and services, disproportionately harms low-income Californians, and increases the burden on taxpayers to make up the shortfall. By some estimates, fraud accounts for up to 20 percent of government healthcare expenditures. (See https://www.taf.org/fraud-by-the-numbers-september-20/.) Every month, cybercriminals steal an estimated $10 million from the EBT accounts of low-income Californians, with one group allegedly siphoning $180 million. (See https://calmatters.org/economy/2023/11/california-missed-chances-to-stop-ebt-theft-its-lost-tens-of-millions -of-taxpayer-dollars-since/; https://www.justice.gov/usao-sdca/pr/seven-charged-

theft-california-benefits-low-income-families.) During the pandemic (2020-2022), fraudsters and cybercriminals likely stole between $20 billion to $32.6 billion in benefits from the Employment Development Department. (See https://www.kcra.com/article/analysis-edd-fraud-326-billion-and-counting/41281662.) Yet, nearly all suspected fraudulent claims are now permanently shielded from prosecution. Although Penal Code section 799 allows a case to be filed at any time when public money is embezzled (i.e., stolen by a fiduciary), the prosecution of grand theft of public funds (more than $950) is barred after four years from when it should have been discovered. (See Pen. Code, §§ 487(a), 801.5, 803(c)(1); *People v. Zamora* (1976) 18 Cal.3d 538, 561-562.) Both crimes involve the same fiscal impact and carry the same maximum sentence. Moreover, the public harm caused by grand theft of public funds in aggregate is several magnitudes greater than that of embezzlement.

The Solution: This resolution would amend Penal Code section 799 to require the prosecution of grand theft of public money to commence within 8 years of the discovery of the offense or its completion, whichever is later. In accordance with the Ex Post Facto Clause, it would only apply to new prosecutions based to offenses whose statute of limitations have not run by January 1, 2028 (See *Stogner v. California* (2003) 539 U.S. 607.)

IMPACT STATEMENT
This resolution does not affect any other law, statute, or rule.

CURRENT OR PRIOR RELATED LEGISLATION
Similar to AB 2878 (2023-2024), which would have established a 12-year statute of limitations for offenses involving the Pandemic Unemployment Assistance program.

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RESOLUTION 01-09-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to delete repeal Penal Code sections 647f, 315, 316, 266(h), 653.20, 653.22, 653.23, 653.24; to amend Penal Code sections 647, 647.1, 318, 266i, and 11225; and to add Health and Safety Code section 429.13, to read as follows:

§ 647

Except as provided in paragraph (5) of subdivision (b) and in subdivisions (k) and (l), a person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor:

(a) An individual who solicits anyone to engage in or who engages in lewd or dissolute conduct in a public place or in a place open to the public or exposed to public view.

~~(b) (1) An individual who solicits, or who agrees to engage in, or who engages in, an act of prostitution with the intent to receive compensation, money, or anything of value from another person. An individual agrees to engage in an act of prostitution when, with specific intent to so engage, the individual manifests an acceptance of an offer or solicitation by another person to so engage, regardless of whether the offer or solicitation was made by a person who also possessed the specific intent to engage in an act of prostitution.~~

~~(2) An individual who solicits, or who agrees to engage in, or who engages in, an act of prostitution with another person who is 18 years of age or older in exchange for the individual providing compensation, money, or anything of value to the other person. An individual agrees to engage in an act of prostitution when, with specific intent to so engage, the individual manifests an acceptance of an offer or solicitation by another person who is 18 years of age or older to so engage, regardless of whether the offer or solicitation was made by a person who also possessed the specific intent to engage in an act of prostitution.~~

(b)(1~~3~~) An individual who solicits, or who agrees to engage in, or who engages in, an act of prostitution with another person who is a minor in exchange for the individual providing compensation, money, or anything of value to the minor. An individual agrees to engage in an act of prostitution when, with specific intent to so engage, the individual manifests an acceptance of an offer or solicitation by someone who is a minor to so engage, regardless of whether the offer or solicitation was made by a minor who also possessed the specific intent to engage in an act of prostitution.

(2)~~4~~) A manifestation of acceptance of an offer or solicitation to engage in an act of prostitution does not constitute a violation of this subdivision unless some act, in addition to the manifestation of acceptance, is done within this state in furtherance of the commission of the act of prostitution by the person manifesting an acceptance of an offer or solicitation to engage in that act. As used in this subdivision, "prostitution" includes any lewd act between persons for money or other consideration.

(3~~5~~) Notwithstanding paragraphs (1) to (3), inclusive, this subdivision does not apply to a child under 18 years of age who is alleged to have engaged in conduct to receive money or other consideration that would, if committed by an adult, violate this subdivision. A commercially exploited child under this paragraph may be adjudged a dependent child of the court pursuant to paragraph (2) of subdivision (b) of Section 300 of the Welfare and Institutions Code and may be

taken into temporary custody pursuant to subdivision (a) of Section 305 of the Welfare and Institutions Code, if the conditions allowing temporary custody without warrant are met.
(c) Who accosts other persons in a public place or in a place open to the public for the purpose of begging or soliciting alms.
(d) Who loiters in or about a toilet open to the public for the purpose of engaging in or soliciting a lewd or lascivious or an unlawful act.
(e) Who lodges in a building, structure, vehicle, or place, whether public or private, without the permission of the owner or person entitled to the possession or in control of it.
(f) Who is found in a public place under the influence of intoxicating liquor, a drug, controlled substance, toluene, or a combination of an intoxicating liquor, drug, controlled substance, or toluene, in a condition that they are unable to exercise care for their own safety or the safety of others, or by reason of being under the influence of intoxicating liquor, drug, controlled substance, toluene, or a combination of an intoxicating liquor, drug, or toluene, interferes with or obstructs or prevents the free use of a street, sidewalk, or other public way.
(g) If a person has violated subdivision (f), a peace officer, if reasonably able to do so, shall place the person, or cause the person to be placed, in civil protective custody. The person shall be taken to a facility, designated pursuant to Section 5170 of the Welfare and Institutions Code, for the 72-hour treatment and evaluation of inebriates. A peace officer may place a person in civil protective custody with that kind and degree of force authorized to effect an arrest for a misdemeanor without a warrant. A person who has been placed in civil protective custody shall not thereafter be subject to criminal prosecution or juvenile court proceeding based on the facts giving rise to this placement. This subdivision does not apply to the following persons:
(1) A person who is under the influence of a drug or under the combined influence of intoxicating liquor and a drug.
(2) A person who a peace officer has probable cause to believe has committed a felony, or who has committed a misdemeanor in addition to subdivision (f).
(3) A person who a peace officer in good faith believes will attempt escape or will be unreasonably difficult for medical personnel to control.
(h) Who loiters, prowls, or wanders upon the private property of another, at any time, without visible or lawful business with the owner or occupant. As used in this subdivision, “loiter” means to delay or linger without a lawful purpose for being on the property and for the purpose of committing a crime as opportunity may be discovered.
(i) Who, while loitering, prowling, or wandering upon the private property of another, at any time, peeks in the door or window of an inhabited building or structure, without visible or lawful business with the owner or occupant.
(j) (1) A person who looks through a hole or opening, into, or otherwise views, by means of any instrumentality, including, but not limited to, a periscope, telescope, binoculars, camera, motion picture camera, camcorder, mobile phone, electronic device, or unmanned aircraft system, the interior of a bedroom, bathroom, changing room, fitting room, dressing room, or tanning booth, or the interior of any other area in which the occupant has a reasonable expectation of privacy, with the intent to invade the privacy of a person or persons inside. This subdivision does not apply to those areas of a private business used to count currency or other negotiable instruments.
(2) A person who uses a concealed camcorder, motion picture camera, or photographic camera of any type, to secretly videotape, film, photograph, or record by electronic means, another identifiable person under or through the clothing being worn by that other person, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or

knowledge of that other person, with the intent to arouse, appeal to, or gratify the lust, passions, or sexual desires of that person and invade the privacy of that other person, under circumstances in which the other person has a reasonable expectation of privacy. For the purposes of this paragraph, "identifiable" means capable of identification, or capable of being recognized, meaning that someone, including the victim, could identify or recognize the victim. It does not require the victim's identity to actually be established.

(3) (A) A person who uses a concealed camcorder, motion picture camera, or photographic camera of any type, to secretly videotape, film, photograph, or record by electronic means, another identifiable person who may be in a state of full or partial undress, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, in the interior of a bedroom, bathroom, changing room, fitting room, dressing room, or tanning booth, or the interior of any other area in which that other person has a reasonable expectation of privacy, with the intent to invade the privacy of that other person. For the purposes of this paragraph, "identifiable" means capable of identification, or capable of being recognized, meaning that someone, including the victim, could identify or recognize the victim. It does not require the victim's identity to actually be established.

(B) Neither of the following is a defense to the crime specified in this paragraph:

(i) The defendant was a cohabitant, landlord, tenant, cotenant, employer, employee, or business partner or associate of the victim, or an agent of any of these.

(ii) The victim was not in a state of full or partial undress.

(4) (A) (i) A person who intentionally distributes or causes to be distributed the image of the intimate body part or parts of another identifiable person, or an image of the person depicted engaged in an act of sexual intercourse, sodomy, oral copulation, sexual penetration, or an image of masturbation by the person depicted or in which the person depicted participates, when subclauses (I) to (III), inclusive, are all true:

(I) The person distributing the image knows or should know that the distribution of the image will cause serious emotional distress.

(II) The person depicted suffers serious emotional distress.

(III) One of the following has occurred:

(ia) The person depicted in the image and the person distributing the image had agreed or had an understanding that the image shall remain private.

(ib) The image was knowingly recorded, captured, or otherwise obtained by the person distributing the image without the authorization of the person depicted, and the image was recorded or captured under circumstances in which the person depicted had a reasonable expectation of privacy.

(ic) The image is knowingly obtained by the person distributing the image by exceeding authorized access from the property, accounts, messages, files, or resources of the person depicted.

(ii) A person who intentionally creates and distributes or causes to be distributed any photo realistic image, digital image, electronic image, computer image, computer-generated image, or other pictorial representation of an intimate body part or parts of another identifiable person, or an image of the person depicted engaged in an act of sexual intercourse, sodomy, oral copulation, sexual penetration, or an image of masturbation by the person depicted or in which the person depicted participates that was created in a manner that would cause a reasonable person to believe the image is an authentic image of the person depicted, under circumstances in which the person distributing the image knows or should know that distribution of the image will cause

serious emotional distress, and the person depicted suffers that distress. This clause shall not apply to a person who was under 18 years of age at the time the person committed the offense.
(B) (i) A person intentionally distributes an image described in subparagraph (A) when that person personally distributes the image.
(ii) A person intentionally causes an image described in subparagraph (A) to be distributed when that person arranges, specifically requests, or intentionally causes another person to distribute the image.
(C) As used in this paragraph, the following terms have the following meanings:
(i) "Distribute" includes exhibiting in public or giving possession.
(ii) "Identifiable" has the same meaning as in paragraphs (2) and (3).
(iii) "Intimate body part" means any portion of the genitals, the anus and, in the case of a female, also includes any portion of the breasts below the top of the areola, that is either uncovered or clearly visible through clothing.
(D) It shall not be a violation of this paragraph to distribute an image described in subparagraph (A) if any of the following applies:
(i) The distribution is made in the course of reporting an unlawful activity.
(ii) The distribution is made in compliance with a subpoena or other court order for use in a legal proceeding.
(iii) The distribution is made in the course of a lawful public proceeding.
(iv) The distribution is related to a matter of public concern or public interest. Distribution is not a matter of public concern or public interest solely because the depicted individual is a public figure.
(5) This subdivision does not preclude punishment under any section of law providing for greater punishment.
(6) A defendant shall not be punished for both a violation of paragraph (4) of subdivision (j) and paragraph (2) of subdivision (j) or Section 502 if that punishment would be barred under Section 654.
(k) (1) Except as provided in paragraph (3), a second or subsequent violation of subdivision (j) is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding two thousand dollars ($2,000), or by both that fine and imprisonment.
(2) Except as provided in paragraph (3), if the victim of a violation of subdivision (j) was a minor at the time of the offense, the violation is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding two thousand dollars ($2,000), or by both that fine and imprisonment.
(3) If the victim of a violation of paragraph (3) of subdivision (j) was a minor at the time of the offense, a second or subsequent violation of paragraph (3) of subdivision (j) is punishable by a fine not exceeding two thousand dollars ($2,000), or by imprisonment in county jail not exceeding one year, or by imprisonment pursuant to subdivision (h) of Section 1170, or by both a fine and imprisonment. This paragraph shall not apply to a person who was under 18 years of age at the time that they committed the offense.
(l) (1) (A) If a crime is committed in violation of subdivision (b) by a defendant who is 18 years of age or older, the person who was solicited was a minor at the time of the offense, and the defendant knew or should have known that the person who was solicited was a minor at the time of the offense, the violation is punishable by imprisonment in a county jail for not less than two days and not more than one year, or by a fine not exceeding ten thousand dollars ($10,000), or by both that fine and imprisonment, except as provided in paragraph (2).

(B) The court may, in unusual cases, when the interests of justice are best served, reduce or eliminate the mandatory two days of imprisonment in a county jail required by this paragraph. If the court reduces or eliminates the mandatory two days of imprisonment, the court shall specify the reason on the record.

(2) Notwithstanding paragraph (1), a defendant 18 years of age or older may be punished by either imprisonment in a county jail for not less than two days and not more than one year, or by a fine not exceeding ten thousand dollars ($10,000), or by both that fine and imprisonment, or imprisonment pursuant to subdivision (h) of Section 1170 for any of the following:

(A) The solicited minor was under 16 years of age at the time of the offense, or the person solicited was under 18 years of age at the time of the offense and the person solicited was caused, induced, or persuaded at the time of the solicitation to engage in a commercial sex act as specified in subdivision (c) of Section 236.1.

(B) The solicited minor was more than 3 years younger than the defendant at the time of the offense.

(3) A second or subsequent violation of paragraph (2) is punishable as a felony by imprisonment pursuant to subdivision (h) of Section 1170.

(4) A defendant who is convicted of a violation of paragraph (2) shall be ordered by the court, if granted probation, to successfully complete an education program on human trafficking and the exploitation of children. A fee shall not be imposed for participation or enrollment in an education program pursuant to this paragraph.

(5) An individual who provides compensation, money, or anything of value in violation of paragraph (2) or (3) of subdivision (b) shall, in addition to any other punishment, be punished by a fine of one thousand dollars ($1,000). Fines collected pursuant to this paragraph shall be deposited in the Survivors Support Fund.

§ 315

~~Every person who keeps a house of ill-fame in this state, resorted to for the purposes of prostitution or lewdness, or who willfully resides in such house, is guilty of a misdemeanor; and in all prosecutions for keeping or resorting to such a house common repute may be received as competent evidence of the character of the house, the purpose for which it is kept or used, and the character of the women inhabiting or resorting to it.~~

§ 316

~~Every person who keeps any disorderly house, or any house for the purpose of assignation or prostitution, or any house of public resort, by which the peace, comfort, or decency of the immediate neighborhood is habitually disturbed, or who keeps any inn in a disorderly manner; and every person who lets any apartment or tenement, knowing that it is to be used for the purpose of assignation or prostitution, is guilty of a misdemeanor.~~

§ 318

Whoever, through invitation or device, prevails upon any person to visit any room, building, or other places kept for the purpose of illegal gambling~~or prostitution~~, is guilty of a misdemeanor, and, upon conviction thereof, shall be confined in the county jail not exceeding six months, or fined not exceeding five hundred dollars ($500), or be punished by both that fine and imprisonment.

§ 266h

~~(a) Except as provided in subdivision (b), any person who, knowing another person is a prostitute, lives or derives support or maintenance in whole or in part from the earnings or proceeds of the person's prostitution, or from money loaned or advanced to or charged against that person by any keeper or manager or inmate of a house or other place where prostitution is practiced or allowed, or who solicits or receives compensation for soliciting for the person, is guilty of pimping, a felony, and shall be punishable by imprisonment in the state prison for three, four, or six years.~~

~~(b) Any person who, knowing another person is a prostitute, lives or derives support or maintenance in whole or in part from the earnings or proceeds of the person's prostitution, or from money loaned or advanced to or charged against that person by any keeper or manager or inmate of a house or other place where prostitution is practiced or allowed, or who solicits or receives compensation for soliciting for the person, when the prostitute is a minor, is guilty of pimping a minor, a felony, and shall be punishable as follows:~~

~~(1) If the person engaged in prostitution is a minor 16 years of age or older, the offense is punishable by imprisonment in the state prison for three, four, or six years.~~

~~(2) If the person engaged in prostitution is under 16 years of age, the offense is punishable by imprisonment in the state prison for three, six, or eight years.~~

§ 266i

(a) ~~Except as provided in subdivision (b), any~~ Any person who does any of the following with a minor is guilty of pandering, a felony~~, and shall be punishable by imprisonment in the state prison for three, four, or six years~~:

(1) Procures another person for the purpose of prostitution.

(2) By promises, threats, violence, or by any device or scheme, causes, induces, persuades, or encourages another person to become a prostitute.

(3) Procures for another person a place as an inmate in a house of prostitution or as an inmate of any place in which prostitution is encouraged or allowed within this state.

(4) By promises, threats, violence, or by any device or scheme, causes, induces, persuades, or encourages an inmate of a house of prostitution, or any other place in which prostitution is encouraged or allowed, to remain therein as an inmate.

(5) By fraud or artifice, or by duress of person or goods, or by abuse of any position of confidence or authority, procures another person for the purpose of prostitution, or to enter any place in which prostitution is encouraged or allowed within this state, or to come into this state or leave this state for the purpose of prostitution.

(6) Receives or gives, or agrees to receive or give, any money or thing of value for procuring, or attempting to procure, another person for the purpose of prostitution, or to come into this state or leave this state for the purpose of prostitution.

(7) Derives or receives support from prostitution.

(b) Any person who does any of the acts described in subdivision (a) ~~with another person who is a minor~~ is guilty of ~~pandering,~~ a felony, and shall be punishable as follows:

(1) If the other person is a minor 16 years of age or older, the offense is punishable by imprisonment in the state prison for three, four, or six years.

(2) If the other person is under 16 years of age, the offense is punishable by imprisonment in the state prison for three, six, or eight years.

§ 11225

(a) (1) Every building or place used for the purpose of illegal gambling as defined by state law or local ordinance, ~~lewdness, assignation, or prostitution,~~ and every building or place in or upon which acts of illegal gambling as defined by state law or local ordinance, ~~lewdness, assignation, or prostitution,~~ are held or occur, is a nuisance which shall be enjoined, abated, and prevented, and for which damages may be recovered, whether it is a public or private nuisance.

(2) Nothing in this subdivision shall be construed to apply the definition of a nuisance to a private residence where illegal gambling is conducted on an intermittent basis and without the purpose of producing profit for the owner or occupier of the premises.

(b) (1) Notwithstanding any other law, every building or place used for the purpose of human trafficking, and every building or place in or upon which acts of human trafficking are held or occur, is a nuisance which shall be enjoined, abated, and prevented, and for which damages may be recovered, whether it is a public or private nuisance.

(2) For purposes of this subdivision, human trafficking is defined in Section 236.1.

(c) (1) Every building or place used as a bathhouse which as a primary activity encourages or permits conduct that according to the guidelines of the federal Centers for Disease Control and Prevention can transmit AIDS, including, but not limited to, anal intercourse, oral copulation, or vaginal intercourse, is a nuisance which shall be enjoined, abated, and prevented, and for which damages may be recovered, whether it is a public or private nuisance.

(2) For purposes of this subdivision, a "bathhouse" means a business which, as its primary purpose, provides facilities for a spa, whirlpool, communal bath, sauna, steam bath, mineral bath, mud bath, or facilities for swimming.

~~**653.23**~~

~~(a) It is unlawful for a person to do either of the following:~~

~~(1) Direct, supervise, recruit, or otherwise aid another person in the commission of a violation of subdivision (b) of Section 647.~~

~~(2) Collect or receive all or part of the proceeds earned from an act or acts of prostitution committed by another person in violation of subdivision (b) of Section 647.~~

~~(b) Nothing in this section shall preclude the prosecution of a suspect for a violation of Section 266h or 266i or for any other offense, or for a violation of this section in conjunction with a violation of Section 266h or 266i or any other offense.~~

~~**§ 653.24**~~

~~If any section, subdivision, sentence, clause, phrase, or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, that portion shall be deemed a separate, distinct, and independent provision, and that holding shall not affect the validity of the remaining portion of the chapter.~~

~~**§ 653.25**~~

~~(a) It is unlawful for any person to loiter in any public place with the intent to purchase commercial sex. This intent is evidenced by acting in a manner and under circumstances that openly demonstrate the purpose of inducing, enticing, or soliciting prostitution, or procuring another to commit prostitution such as circling an area in a motor vehicle and repeatedly beckoning to, contacting, or attempting to contact or stop pedestrians or other motorists, making~~

~~unauthorized stops along known prostitution tracks, or engaging in other conduct indicative of soliciting to procure another to engage in commercial sex.~~
~~(b) A violation of this section shall, in addition to any other punishment, be punished by a fine of one thousand dollars ($1,000). Fines collected pursuant to this subdivision shall be deposited in the Survivor Support Fund.~~

§ 429.13
Operators of Businesses of Prostitution must adopt and promote safer sex practices:
(1) Every operator of a business of prostitution must:
(a) Take all reasonable steps to give health information (whether oral or written) to sex workers and clients; and
(b) If the person operates a brothel, display health information prominently in that brothel; and
(c) Not state or imply that a medical examination of a sex worker means the sex worker is not infected, or likely to be infected, with a sexually transmissible infection; and
(d) The owner and operator of a businesses of prostitution must not discourage the use of prophylactics in the course of the business.
(2) The obligations in this section apply only in relation to commercial sexual services provide for the business and to sex workers and clients in connection with those services.
(3) In this section, health information means information on safer sex practices and services for the prevention and treatment of sexually transmissible infections.
(4) The director of the Health Services Department may implement suitable regulations to enforce the above.

(Proposed new language underlined; language to be deleted stricken)

PROPONENTS
Margaret J. Grover, Kelly Borelli, Michael Fern, Mark Flory, Jeffrey Hayden, Frank Z. Leidman, Sean McCoy, Jack Osborn, Ujvala Singh, Edward Teyssier

STATEMENT OF REASONS

The Problem (including Existing Law):
Current law makes providing sexual services a crime. It is also a crime to maintain a place where sexual services are provided (disorderly house), and to derive income from one who provides sexual services.

People have bought and sold sexual services throughout history. Historically, prostitution has been regulated and criminalized in keeping with varying moral perspectives. Current condemnation and criminal prohibitions have not abated the prostitution. The underground nature of the prostitution business creates dangers and vulnerabilities for sex workers and their clients and negatively impacts public health and safety. This illegal status makes it easier for predators to commit acts or violence against prostitutes including human trafficking. Prohibitions make regulation impossible.

The Solution:
Allowing sex work to exist lawfully will:

1. Reduce violence Legal sex work creates environments in which oversight is possible which protects prostitutes and clients from violence including rape, robbery, battery, extortion, etc.

2. Reduce trafficking in human beings in the sex trade. This measure will provide a lawful environment for the sexual service industry, shifting enforcement resources to actual incidences of abuse rather than consensual commercial sex in general.

3. Promote public health. Current research reflects that prostitutes have a rate of sexually transmitted disease infections that is equal to other comparable segments of the population. Openness in the sex industry will support sexual health educational initiatives including safe sex practices and access to medical services for sex workers.

4. Promote labor rights and OSHA standards in the sex industry. Workers in the sex industry deserve the same rights as workers in any other trade.

5. Promote positive community relations. A legal sex industry provides support for community feedback addressing issues of zoning, traffic, advertising and public health.

This section retains Penal Code Sections 266, 266 a, 2666 e, and 266 f. These sections punish procurement of minors, procurement by force or fraud, acquiring a prostitute, and selling a prostitute. The penalties for these offenses remain quite severe.

The prohibition of pimping a minor has been transferred from Penal Code Section 266 h to Penal Code Section 266 i. It carries a punishment of between three and eight years.

This proposal also enacts Health and Safety Code Section 429.13, allowing for enforcement of safer sex practices in the business of prostitution.

This resolution incorporates legislation that has been enacted in New Zealand with positive experience.

IMPACT STATEMENT

This resolution does not affect any other law, statute, or rule.

CURRENT OR PRIOR RELATED LEGISLATION

None known.

AUTHOR AND/OR PERMANENT CONTACT

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RESOLUTION 02-01-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend sections 6340 and 6345 of the Family Code, to read as follows:

§ 6340

(1) The court may issue any of the orders described in Article 1 (commencing with Section 6320) after notice and a hearing. When determining whether to make any orders under this subdivision, the court shall consider whether failure to make any of these orders may jeopardize the safety of the petitioner and the children for whom the custody or visitation orders are sought. If the court makes any order for custody, visitation, or support, that order shall survive the termination of any protective order. The Judicial Council shall provide notice of this provision on any Judicial Council forms related to this subdivision.

(2) (A) If at the time of a hearing with respect to an order issued pursuant to this part based on an ex parte temporary restraining order, the court determines that, after diligent effort, the petitioner has been unable to accomplish personal service, and that there is reason to believe that the restrained party is evading service or cannot be located, the court may permit an alternative method of service designed to give reasonable notice of the action to the respondent. Alternative methods of service include, but are not limited to, the following:

(i) Service by publication pursuant to the standards set forth in Section 415.50 of the Code of Civil Procedure.

(ii) Service by first-class mail sent to the respondent at the most current address for the respondent that is available to the court or delivering a copy of the pleadings and orders at the respondent's home or place of employment, pursuant to the standards set forth in Sections 415.20 to 415.40, inclusive, of the Code of Civil Procedure.

(iii) Service by electronic mail or other electronic technology.

(B) If the court permits an alternative method of service under this paragraph, the court shall grant a continuance to allow for the alternative service pursuant to Section 245.

(b) The court shall, upon denying a petition under this part, provide a brief statement of the reasons for the decision in writing or on the record. A decision stating "denied" is insufficient.

(c) The court may issue an order described in Section 6321 excluding a person from a dwelling if the court finds that physical or emotional harm would otherwise result to the other party, to a person under the care, custody, and control of the other party, or to a minor child of the parties or of the other party.

§ 6345

(a) In the discretion of the court, the personal conduct, stay-away, and residence exclusion orders contained in a court order issued after notice and a hearing under this article may have a duration of not more than five years, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. After notice and a hearing, and subject to the provisions of Family Code Section 6340(a)(2)(A), these orders may be renewed, upon the request of a party,

either for five or more years, or permanently, at the discretion of the court, without a showing of further abuse since the issuance of the original order. Renewals and subsequent renewals shall be subject to termination, modification, or subsequent renewal by further order of the court either on written stipulation filed with the court or on the motion of a party. The request for renewal may be brought at any time within the three months before the expiration of the orders.

(b) Notwithstanding subdivision (a), the duration of any orders, other than the protective orders described in subdivision (a), that are also contained in a court order issued after notice and a hearing under this article, including, but not limited to, orders for custody, visitation, support, and disposition of property, shall be governed by the law relating to those specific subjects.

(c) The failure to state the expiration date on the face of the form creates an order with a duration of three years from the date of issuance.

(d) If an action is filed for the purpose of terminating or modifying a protective order prior to the expiration date specified in the order by a party other than the protected party, the party who is protected by the order shall be given notice, pursuant to subdivision (b) of Section 1005 of the Code of Civil Procedure, of the proceeding by personal service or, if the protected party has satisfied the requirements of Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code, by service on the Secretary of State. If the party who is protected by the order cannot be notified prior to the hearing for modification or termination of the protective order, the court shall deny the motion to modify or terminate the order without prejudice or continue the hearing until the party who is protected can be properly noticed and may, upon a showing of good cause, specify another method for service of process that is reasonably designed to afford actual notice to the protected party. The protected party may waive the right to notice if the protected party is physically present in court and does not challenge the sufficiency of the notice.

(e) <u>On or before January 1, 2025, the Judicial Council shall create one or more specific forms for the purpose of requesting a modification of an existing restraining order.</u>

(Proposed new language underlined; language to be deleted stricken)

PROPONENTS

Rebecca L. Fischer, Stacy Horth-Neubert, Karen Suri, Elizabeth Erickson, Stephanie Bailiff, Vanessa Adriance, Mark Alan Hart, Phyllis Kupferstein, Shaun Dabby Jacobs, Noelle M. Natoli, Natashia Saunders

STATEMENT OF REASONS

<u>The Problem (including Existing Law)</u>:

In the past decade, California law has been amended to permit electronic service of process of certain types of requests for protective orders when personal service cannot be effectuated because the opposing party is evading service. Amendments to the service provisions of other types of protective orders have expanded the circumstances under which alternative service may be made to instances where the requesting party otherwise has not been able to locate the opposing party following diligent attempts. However, neither of these amendments

have been incorporated into provisions relating to requests to issue or renew protective orders under the Domestic Violence Prevention Act (DVPA), leaving three separate gaps in the protections for domestic violence survivors.

First, the DVPA rules regarding service of requests to obtain or renew protective orders have not been amended to provide for alternative service when the party simply cannot be located, despite being adopted for other types of protective orders. *Compare* Fam. Code § 6340(a)(2)(A) (DVPA restraining orders and renewals) *with* CCP § 5.27.6(m)(2) (Civil Harassment Restraining Orders); Welf. & Inst. Code § 15657.03(k)(2) (elder abuse protective orders). This omission is particularly glaring because the DVPA does permit alternative service of requests to terminate or modify a protective order made by the restrained party. *See* Fam. Code § 6345(d) (court may specify "another method of service of process that is reasonably designed to afford actual notice" upon a showing of "good cause" when the protective party cannot be personally served).

Second, the DVPA rules regarding service of requests to renew protective orders have not been amended to allow for alternative service provisions of process when the party to be served is "evading" service of process. *See* Fam. Code § 6345(a).

Third, the DVPA has not been amended to permit alternative service by electronic means for requests to obtain or renew protective orders, even though such provisions have been adopted elsewhere. *Compare* Fam. Code § 6340(a)(2)(A) (no provision for electronic service) with Civ. Proc. Code § 413.30(a)(1) (allowing electronic service of summons).

The Solution:

The proposed changes update the DVPA to include all three types of amendments to service of process rules adopted in other sections of California law, and therefore will increase consistency across existing California law related to protective orders, increase protections for those experiencing domestic violence, and ensure service is achieved in a manner likely to achieve actual notice consistent with the goals of permitting alternative service of process.

IMPACT STATEMENT

This resolution does not affect any other law, statute, or rule.

CURRENT OR PRIOR RELATED LEGISLATION

None

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RESOLUTION 02-02-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend section 362.4 of the Welfare and Institutions Code, to read as follows:

§ 362.4
(a) If the juvenile court terminates its jurisdiction over a minor who has been adjudged a dependent child of the juvenile court prior to the minor's attainment of the age of 18 years, and proceedings for dissolution of marriage, for nullity of marriage, or for legal separation, of the minor's parents, or proceedings to establish the paternity of the minor child brought under the Uniform Parentage Act, Part 3 (commencing with Section 7600) of Division 12 of the Family Code, are pending in the superior court of any county, or an order has been entered with regard to the custody of that minor, the juvenile court on its own motion, may issue a protective order as provided for in Section 213.5 or as defined in Section 6218 of the Family Code, and an order determining the custody of, or visitation with, the child.
(b) In making an order under this section, the juvenile court shall consider whether either parent has perpetrated domestic violence within the previous five years against the other party, the child, or against the child or child's siblings.
(1) For purposes of this section, a person has "perpetrated domestic violence" when the person is found by the court to have intentionally or recklessly caused or attempted to cause bodily injury, or sexual assault, or to have placed a person in reasonable apprehension of imminent serious bodily injury to that person or to another, or to have engaged in behavior involving, but not limited to, threatening, striking, harassing, destroying personal property, or disturbing the peace of another, for which a court may issue an ex parte order pursuant to Family Code Section 6320 to protect the other party seeking custody of the child or to protect the child and the child's siblings.
(2) For purposes of this section, a finding by the court that a person has "perpetrated domestic violence" may be based upon, among other things, and not limited to:
(i) Evidence that a party seeking custody has been convicted within the previous five years, after a trial or a plea of guilty or no contest, of a crime against the other party that comes within the definition of domestic violence contained in Family Code Section 6211of abuse contained in Family Code Section 6203, including, but not limited to, a crime described in subdivision (e) of Section 243 of, or Section 261, 273.5, 422, or 646.9 of, or former Section 262 of, the Penal Code;
(ii) An order by the juvenile court sustaining a petition under WIC Section 300 based on the domestic violence perpetrated by one parent;
(iii) A restraining order by the juvenile court protecting the child or the other parent pursuant to Section 213.5
(c) Upon a finding by the dependency court that one of the parents has perpetrated domestic violence, there is a rebuttable presumption that an award of sole or joint physical or legal custody of a child to a person who has perpetrated domestic violence is not in the best interest of the child. When the presumption applies, the court shall not order sole or joint physical or legal

custody of a child to a person found to have perpetrated domestic violence absent findings on the record that:
(1) The perpetrator has successfully rebutted the presumption under the factors set forth in Family Code Section 3044 (b) or
(2) An award of sole legal or sole physical custody to the other parent would be detrimental to the minor child.
(d) When allegations of abuse by a parent pursuant to paragraph (b) have been brought to the attention of the court and the court makes an order for sole or joint custody or unsupervised visitation to that parent, the court shall state its reasons in writing or on the record that the order is in the best interest of the child and protects the safety of the parties and the child. In these circumstances, the court shall ensure that any order regarding custody or visitation is specific as to time, day, place, and manner of transfer of the child as set forth in subdivision (c) of Family Code Section 6323.
(e) When a finding about a parent pursuant to paragraph (c) has been made, the court shall ensure that any order regarding custody or visitation, including pursuant to stipulation, is specific as to time, day, place, and manner of transfer of the child as set forth in subdivision (c) of Family Code Section 6323.
(f) ~~(b)~~ Any order issued pursuant to this section shall continue until modified or terminated by a subsequent order of the superior court. The order of the juvenile court shall be filed in the proceeding for nullity, dissolution, or legal separation, or in the proceeding to establish paternity, at the time the juvenile court terminates its jurisdiction over the minor, and shall become a part thereof.
(g)~~(c)~~ If no action is filed or pending relating to the custody of the minor in the superior court of any county, the juvenile court order may be used as the sole basis for opening a file in the superior court of the county in which the parent, who has been given custody, resides. The court may direct the parent or the clerk of the juvenile court to transmit the order to the clerk of the superior court of the county in which the order is to be filed. The clerk of the superior court shall, immediately upon receipt, open a file, without a filing fee, and assign a case number.
~~(d)~~ (h) The clerk of the superior court shall, upon the filing of any juvenile court custody order, send a copy of the order with the case number by first-class mail or by electronic means pursuant to Section 212.5 to the juvenile court and to the parents at the address listed on the order.
(~~e~~) (i) The Judicial Council shall adopt forms for any custody or restraining order issued under this section. These form orders shall not be confidential.

(Proposed new language underlined; language to be deleted stricken)

PROPONENTS

Rebecca L. Fischer, Stacy Horth-Neubert, Karen Suri, Elizabeth Erickson, Stephanie Bailiff, Vanessa Adriance, Mark Alan Hart, Phyllis Kupferstein, Shaun Dabby Jacobs, Noelle M. Natoli, Natashia Saunders

STATEMENT OF REASONS

The Problem (including Existing Law):

Both dependency courts and family courts are required to make custodial decisions based on the best interest of the child(ren). However, over the years, the Family Code – but not the

Welf. & Inst. Code applicable to dependency courts -- has been amended to require consideration of a parent's recent history of domestic violence when making custody decisions. *See* Fam. Code §§ 3011(a)(2), 3011(a)(5)(A), 3044 & 6323(a)(2)(A). Because of the detrimental impact on children of exposure to domestic violence and the continued safety risks abuse poses to children and parents after separation, the Family Code imposes a presumption that where there has been a judicial finding of domestic violence within the past five years, joint custody to both parents or sole custody to the alleged perpetrator is not in the best interest of the child(ren). *Id.* § 3044. Similarly, family courts are required to consider both allegations and findings of domestic violence when making orders for visitation. *Id.* §§ 3011(a)(5)(A) & 6323(c).

Such provisions have not been adopted in Welf. & Inst. Code, however, even when the dependency court terminates jurisdiction over a child and the case may be transferred to family court. Further, courts have repeatedly held that the Civil and Family Codes are not applicable in dependency court unless expressly stated and therefore the Section 3044 presumption does not apply. *See e.g., In re C.M.* (2019) 38 Cal. App.5th 101. When terminating jurisdiction and entering custody orders prior to transferring the case to family court, dependency courts are instead directed to consider the totality of the circumstances. See *In re Jennifer R.* (1993) 14 Cal. App. 4th 704, 712.

In practice, this leads to final orders of joint legal or physical custody with visitation schedules issued by dependency courts that do not adequately address domestic violence, its lingering impacts, or the potential safety issues that remain even the parents' relationship has ended, relying on cooperation and continued communication between the parents. In a relationship with domestic violence, joint custody orders and unspecific visitation orders that depend on cooperation between the parents are particularly problematic because they increase the opportunities for abuse under the guise of making custodial arrangements and are nearly impossible to enforce with the police if there is a safety issue impacting the child(ren).

<u>The Solution</u>:

Modifying WIC Section 362.4 to require dependency courts at the termination of jurisdiction stage to consider the history of domestic violence and to mandate specified visitation orders when there have been allegations of abuse will help protect children, decrease safety risks to parents, and decrease the need for parents to return court to clarify court orders. The modification still permits dependency court orders to consider other factors when determining custody and visitation, including substance abuse or failure to follow court orders, but the amendments encourage consistency in orders and better protects children.

IMPACT STATEMENT

This resolution does not affect any other law, statute, or rule.

CURRENT OR PRIOR RELATED LEGISLATION

None

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RESOLUTION 03-01-2026

Resolution 03-01-2026 has been withdrawn and will not be debated.

RESOLUTION 03-02-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that the Legislature amend Code of Civil Procedure section 437c, subdivision (m)(1):

§ 437c, subdivision (m)(1)

A summary judgment entered under this section is an appealable judgment as in other cases. Upon entry of an order pursuant to this section, except the entry of summary judgment, a party may, within ~~20~~ 30 days after service upon the party of a written notice of entry of the order, petition an appropriate reviewing court for a peremptory writ. If the notice is served by mail, the initial period within which to file the petition shall be increased by five days if the place of address is within the State of California, 10 days if the place of address is outside the State of California but within the United States, and 20 days if the place of address is outside the United States. If the notice is served by facsimile transmission, express mail, or another method of delivery providing for overnight delivery, the initial period within which to file the petition shall be increased by two court days. ~~The superior court may, for good cause, and before the expiration of the initial period, extend the time for one additional period not to exceed 10 days~~.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT

Los Angeles County Bar Association

STATEMENT OF REASONS

The Problem: The 20-day deadline for seeking writ relief from the denial of a motion for summary judgment is too short for the amount of work needed to prepare an effective writ petition, often undertaken by appellate counsel who were not involved in preparing the motion for summary judgment. For this reason, the additional 10-day extension provided for by existing law is routinely granted. However, that still requires an ex parte application and hearing, which unnecessarily increases attorney time and litigation costs.

The Solution: Increase the deadline for seeking writ relief from an order denying summary judgment from 20 to 30 days, and eliminate the provision providing for a 10-day extension by application.

IMPACT STATEMENT

This resolution does not affect any other law, statute, or rule.

CURRENT OR PRIOR RELATED LEGISLATION

None

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RESOLUTION 03-03-2026

Resolution 03-03-2026 has been withdrawn and will not be debated.

RESOLUTION 03-04-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Code of Civil Procedure section 1985.3, to read as follows:

§ 1985.3

(a) For purposes of this section, the following definitions apply:

(1) "Personal records" means the original, any copy of books, documents, other writings, or electronically stored information pertaining to a consumer and which are maintained by any "witness" which is a physician, dentist, ophthalmologist, optometrist, chiropractor, physical therapist, acupuncturist, podiatrist, veterinarian, veterinary hospital, veterinary clinic, pharmacist, pharmacy, hospital, medical center, clinic, radiology or MRI center, clinical or diagnostic laboratory, state or national bank, state or federal association (as defined in Section 5102 of the Financial Code), state or federal credit union, trust company, anyone authorized by this state to make or arrange loans that are secured by real property, security brokerage firm, insurance company, title insurance company, underwritten title company, escrow agent licensed pursuant to Division 6 (commencing with Section 17000) of the Financial Code or exempt from licensure pursuant to Section 17006 of the Financial Code, attorney, accountant, institution of the Farm Credit System, as specified in Section 2002 of Title 12 of the United States Code, or telephone corporation which is a public utility, as defined in Section 216 of the Public Utilities Code, or psychotherapist, as defined in Section 1010 of the Evidence Code, or a private or public preschool, elementary school, secondary school, or postsecondary school as described in Section 76244 of the Education Code, or third party internet service provider (ISP), tech company or any other provider of stored wire/electronic data and transactional records.

(2) "Consumer" means any individual, partnership of five or fewer persons, association, or trust which has transacted business with, or has used the services of, the witness or for whom the witness has acted as agent or fiduciary.

(3) "Subpoenaing party" means the person or persons causing a subpoena duces tecum to be issued or served in connection with any civil action or proceeding pursuant to this code, but shall not include the state or local agencies described in Section 7465 of the Government Code, or any entity provided for under Article VI of the California Constitution in any proceeding maintained before an adjudicative body of that entity pursuant to Chapter 4 (commencing with Section 6000) of Division 3 of the Business and Professions Code.

(4) "Deposition officer" means a person who meets the qualifications specified in Section 2020.420.

(b) Prior to the date called for in the subpoena duces tecum for the production of personal records, the subpoenaing party shall serve or cause to be served on the consumer whose records are being sought a copy of the subpoena duces tecum, of the affidavit supporting the issuance of the subpoena, if any, and of the notice described in subdivision (e), and proof of service as indicated in paragraph (1) of subdivision (c). This service shall be made as follows:

(1) To the consumer personally, or at his or her last known address, or in accordance with Chapter 5 (commencing with Section 1010) of Title 14 of Part 3, or, if he or she is a party, to his or her attorney of record. If the consumer is a minor, service shall be made on the minor's parent,

guardian, conservator, or similar fiduciary, or if one of them cannot be located with reasonable diligence, then service shall be made on any person having the care or control of the minor or with whom the minor resides or by whom the minor is employed, and on the minor if the minor is at least 12 years of age.

(2) Not less than 10 days prior to the date for production specified in the subpoena duces tecum, plus the additional time provided by Section 1013 if service is by mail.

(3) At least five days prior to service upon the custodian of the records, plus the additional time provided by Section 1013 if service is by mail.

(4) If the identity of the Consumer of the third party internet service provider, tech company or any other provider of stored wire/electronic data and transactional records is not a party to the action or is unknown, then, in that event, the Subpoenaing party shall also be required to provide notice, in a typeface designed to call attention to the notice, indicating that the "CONSUMER'S IDENTITY IS PRESENTLY UNKNOWN."

(c) Prior to the production of the records, the subpoenaing party shall do either of the following:

(1) Serve or cause to be served upon the witness a proof of personal service or of service by mail attesting to compliance with subdivision (b).

(2) Furnish the witness a written authorization to release the records signed by the consumer or by his or her attorney of record. The witness may presume that any attorney purporting to sign the authorization on behalf of the consumer acted with the consent of the consumer, and that any objection to release of records is waived.

(d) A subpoena duces tecum for the production of personal records shall be served in sufficient time to allow the witness a reasonable time, as provided in Section 2020.410, to locate and produce the records or copies thereof.

(e) Every copy of the subpoena duces tecum and affidavit, if any, served on a consumer or his or her attorney in accordance with subdivision (b) shall be accompanied by a notice, in a typeface designed to call attention to the notice, indicating that (1) records about the consumer are being sought from the witness named on the subpoena; (2) if the consumer objects to the witness furnishing the records to the party seeking the records, the consumer must file papers with the court or serve a written objection as provided in subdivision (g) prior to the date specified for production on the subpoena; and (3) if the party who is seeking the records will not agree in writing to cancel or limit the subpoena, an attorney should be consulted about the consumer's interest in protecting his or her rights of privacy. If a notice of taking of deposition is also served, that other notice may be set forth in a single document with the notice required by this subdivision.

(f) A subpoena duces tecum for personal records maintained by a telephone corporation which is a public utility, as defined in Section 216 of the Public Utilities Code, shall not be valid or effective unless it includes a consent to release, signed by the consumer whose records are requested, as required by Section 2891 of the Public Utilities Code.

(g) Any consumer whose personal records are sought by a subpoena duces tecum and who is a party to the civil action in which this subpoena duces tecum is served may, prior to the date for production, bring a motion under Section 1987.1 to quash or modify the subpoena duces tecum. Notice of the bringing of that motion shall be given to the witness and deposition officer at least five days prior to production. The failure to provide notice to the deposition officer shall not invalidate the motion to quash or modify the subpoena duces tecum but may be raised by the

deposition officer as an affirmative defense in any action for liability for improper release of records.

Any other consumer or nonparty whose personal records are sought by a subpoena duces tecum may, prior to the date of production, serve on the subpoenaing party, the witness, and the deposition officer, a written objection that cites the specific grounds on which production of the personal records should be prohibited.

No witness or deposition officer shall be required to produce personal records after receipt of notice that the motion has been brought by a consumer, or after receipt of a written objection from a nonparty consumer, except upon order of the court in which the action is pending or by agreement of the parties, witnesses, and consumers affected.

The party requesting a consumer's personal records may bring a motion under Section 1987.1 to enforce the subpoena within 20 days of service of the written objection. The motion shall be accompanied by a declaration showing a reasonable and good faith attempt at informal resolution of the dispute between the party requesting the personal records and the consumer or the consumer's attorney.

(h) Upon good cause shown and provided that the rights of witnesses and consumers are preserved, a subpoenaing party shall be entitled to obtain an order shortening the time for service of a subpoena duces tecum or waiving the requirements of subdivision (b) where due diligence by the subpoenaing party has been shown.

(i) Nothing contained in this section shall be construed to apply to any subpoena duces tecum which does not request the records of any particular consumer or consumers and which requires a custodian of records to delete all information which would in any way identify any consumer whose records are to be produced.

(j) This section shall not apply to proceedings conducted under Division 1 (commencing with Section 50), Division 4 (commencing with Section 3200), Division 4.5 (commencing with Section 6100), or Division 4.7 (commencing with Section 6200), of the Labor Code.

(k) Failure to comply with this section shall be sufficient basis for the witness to refuse to produce the personal records sought by a subpoena duces tecum.

(l) If the subpoenaing party is the consumer, and the consumer is the only subject of the subpoenaed records, notice to the consumer, and delivery of the other documents specified in subdivision (b) to the consumer, is not required under this section.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT

Los Angeles County Bar Association

STATEMENT OF REASONS

The Problem (including Existing Law): The Stored Communications Act (SCA), enacted in 1986 as part of the Electronic Communications Privacy Act (ECPA), regulates how internet service providers (ISPs) disclose stored wire/electronic communications and transactional records. It prohibits unauthorized access or disclosure of stored data by providers, creating a "zone of privacy" for user data held by third parties. Thus far, California State Law does not provide for that same level of regulation when issuing Civil Subpoenas. Existing state law identifies when Consumer Notice is required, to make sure a Consumer is aware that their personal information is being sought, to enable that person to serve objections to prevent production and disclosure.

However, the statute has not been amended since 2012 and does not presently provide for Consumer Notice if personal information is sought from internet related service providers and search engines such as Google, Facebook, Instagram, and the like.

I recently had a situation where a Subpoena was served in a civil case to obtain the identity of an unknown person via their URL address—obtained from the search bar of a bad review—when the unknown person had nothing to do with the case for which the Subpoena was issued. In other words they were not a named party or a witness to anything in the case (although the attorney issuing the Subpoena claimed otherwise). The issuing attorney provided Consumer Notice to my client, a party (although later claimed they were not required to do so, which alerted me to the problem with section 1985.3) and claimed entitlement to the identity of the unknown person for evidence in my case. Her desire to obtain the identity of the unknown John Doe had nothing to do with my client or the case. Moreover, the unidentified John Doe had previously retained counsel in another action brought by that same attorney, to prevent their identity from being disclosed for an identical Subpoena. I discovered the prior effort and notified the John Doe's attorney or he would not have known of the second attempt to obtain his client's identity through the issuance of a second Subpoena in an unrelated case.

While Google has (and others may have) an internal company policy of notifying its users if a Subpoena for their private information is sought by Subpoena, that is not necessarily the case with all providers and as explained above may not protect against a second unknown effort to obtain the same private information from the same user by using a different case caption.

It is time to update the list of Consumers for whom notice is required. The ISP world has changed a lot since 2012. The party issuing the Subpoena should be required to serve Consumer Notice if they know the identity of the person whose information is sought. If unknown, the party issuing the Subpoena should be required to so state directly on the Subpoena to put the witness who receives the Subpoena on notice and to make sure that witness is able to provide notice to a Consumer/client/customer who is not a party to the action for which the Subpoena was served.

The Solution: This resolution would amend Code of Civil Procedure section 1985.3 to include internet related service providers, tech companies and other stored data providers under the definition of witnesses for whom Consumer Notice must be provided and if unknown for a warning or disclaimer to be placed on the Subpoena itself.

IMPACT STATEMENT
This resolution does not affect any other state law, statute, or rule.

CURRENT OR PRIOR RELATED LEGISLATION
Not known.

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RESOLUTION 03-05-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that the Judicial Council amend California Rules of Court, Rule 10.430, as follows:

10.430
(a) Definitions. As used in this rule, the following definitions apply:
(1) "Court staff" means all employees, contractors, volunteers, and any other persons working for or on behalf of the court.
(2) "Generative artificial intelligence" or "generative AI" means a computer-based system that uses machine learning or similar techniques to produce new content—such as text, images, audio, video, code, or data visualizations—in response to user inputs. Generative AI systems create content that is not pre-programmed or explicitly retrieved but synthesized based on underlying models trained on large datasets and may include integration with other sources, such as real-time access to proprietary databases.
(3) "Judicial officer" means all judges of the superior courts, all justices of the Courts of Appeal and the Supreme Court, all temporary and assigned judges, and all subordinate judicial officers.
(4) "Public generative AI system" means a generative AI system that allows anyone other than court staff or judicial officers to access the data that courts input or upload to the system or to use that data to train AI systems. "Public generative AI system" does not include any system that the court creates or manages, such as a generative AI system created for internal court use, or any court-operated system the court uses to provide those outside the court with access to court data, such as a court-operated chatbot that answers questions about court services.
(b) Generative AI use policies. Any court that does not prohibit the use of generative AI by court staff or judicial officers must adopt a generative AI use policy by December 15, 2025. This rule applies to the superior courts, the Courts of Appeal, and the Supreme Court.
(c) Policy scope. A use policy created to comply with this rule must cover the use of generative AI by court staff for any purpose and by judicial officers for any task outside their adjudicative role.
(d) Policy requirements. Each court's generative AI use policy must:
(1) Prohibit the entry of confidential, personal identifying, or other nonpublic information into a public generative AI system. Personal identifying information includes driver's license numbers; dates of birth; Social Security numbers; National Crime Information and Criminal Identification and Information numbers; addresses and phone numbers of parties, victims, witnesses, and court personnel; medical or psychiatric information; financial information; account numbers; and any other content sealed by court order or deemed confidential by court rule or statute.
(2) Prohibit the use of generative AI to unlawfully discriminate against or disparately impact individuals or communities based on age, ancestry, color, ethnicity, gender, gender expression, gender identity, genetic information, marital status, medical condition, military or veteran status, national origin, physical or mental disability, political affiliation, race, religion, sex, sexual orientation, socioeconomic status, and any other classification protected by federal or state law.

(3) Require court staff and judicial officers who create or use generative AI material to take reasonable steps to verify that the material is accurate, and to take reasonable steps to correct any erroneous or hallucinated output in any material used.
(4) Require court staff and judicial officers who create or use generative AI material to take reasonable steps to remove any biased, offensive, or harmful content in any material used.
(5) Require disclosure of the use of or reliance on generative AI if the final version of a written, visual, or audio work provided to the public consists entirely of generative AI outputs. Disclosure must be made through a clear and understandable label, watermark, or statement that describes how generative AI was used and identifies the system used.
(6) Require compliance with all applicable laws, court policies, and ethical and professional conduct rules, codes, and policies when using generative AI
(7) Require making the court's policy available to any member of the public, upon request. This requirement may be met by a court including its AI use policy on a website or making it available either as a part of its Local Rules, or otherwise making it available in manner similar as to how it provides its local or departmental rules, or if requested as part of a request for statement of decision.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT
San Diego County Bar Association

STATEMENT OF REASONS
The Problem (including Existing Law): By adopting Rule 10.430, the California Supreme Court has expressed a concern that rulings by the courts of this state may be written more by a computer than by a learned judge or other office of the court. Rule 10.430 requires that a court of this state that does not prohibit use of AI must create a use policy. Such a policy must provide disclosure if, "…the final version of a written, visual, or audio work provided to the public *consists entirely* of generative AI outputs [italics added.]" (R. 10.430 (5).)

But Rule 10.430 does not go far enough because it doesn't require public disclosure that AI might have provided the ruling for a key element of the court's final decision, if that decision does not "consist entirely" of AI outputs. For example, a judicial decision based on an AI generated interpretation of just the statute's key language would not trigger the disclosure of subsection (5) because of the "consists entirely" clause. Yet such a ruling might have a profound impact on the outcome of the case.

The Solution: This resolution amends Rule of Court, Rule 10.430 to require that, upon request or on-line, or as part of request for a statement of decision, a court must disclose its AI policy.

IMPACT STATEMENT
This resolution does not affect any other law, statute, or rule.

CURRENT OR PRIOR RELATED LEGISLATION
None known.

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RESOLUTION 03-06-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Code of Civil Procedure section 631, to read as follows:

§ 631

(a) The right to a trial by jury as declared by Section 16 of Article I of the California Constitution shall be preserved to the parties inviolate. In civil cases, a jury may only be waived pursuant to subdivision (f).

(b) At least one party demanding a jury on each side of a civil case shall pay a nonrefundable fee of one hundred fifty dollars ($150), unless the fee has been paid by another party on the same side of the case. The fee shall offset the costs to the state of providing juries in civil cases. If there are more than two parties to the case, for purposes of this section only, all plaintiffs shall be considered one side of the case, and all other parties shall be considered the other side of the case. Payment of the fee by a party on one side of the case shall not relieve parties on the other side of the case from waiver pursuant to subdivision (f).

(c) The fee described in subdivision (b) shall be due on or before the date scheduled for the initial case management conference in the action, except as follows:

(1) In unlawful detainer actions, the fees shall be due at least five days before the date set for trial.

(2) If no case management conference is scheduled in a civil action, or the initial case management conference occurred before June 28, 2012, and the initial complaint was filed on or after July 1, 2011, the fee shall be due no later than 365 calendar days after the filing of the initial complaint.

(3) If the initial case management conference occurred before June 28, 2012, and the initial complaint in the case was filed before July 1, 2011, the fee shall be due at least 25 calendar days before the date initially set for trial.

(4) If the party requesting a jury has not appeared before the initial case management conference, or first appeared more than 365 calendar days after the filing of the initial complaint, the fee shall be due at least 25 calendar days before the date initially set for trial.

(d) If a party failed to timely pay the fee described in subdivision (b) that was due between June 27, 2012, and November 30, 2012, the party will be relieved of a jury waiver on that basis only if the party pays the fee on or before December 31, 2012, or 25 calendar days before the date initially set for trial, whichever is earlier.

(e) The parties demanding a jury trial shall deposit with the clerk or judge, at the beginning of the second and each succeeding day's session, a sum equal to that day's fees and mileage of the jury, including the fees and mileage for the trial jury panel if the trial jury has not yet been selected and sworn. If more than one party has demanded a jury, the respective amount to be paid daily by each party demanding a jury shall be determined by stipulation of the parties or by order of the court.

(f) A party waives trial by jury in any of the following ways:

(1) By failing to appear at the trial.

(2) By written consent filed with the clerk or judge.

(3) By oral consent, in open court, entered in the minutes.

(4) By failing to announce that a jury is required, at the time the cause is first set for trial, if it is set upon notice or stipulation, or within five days after notice of setting if it is set without notice or stipulation.

(5) By failing to timely pay the fee described in subdivision (b), unless another party on the same side of the case has paid that fee.

(6) By failing to deposit with the clerk or judge, at the beginning of the second and each succeeding day's session, the sum provided in subdivision (e).

(7) In commercial agreements executed by business parties, by mutual, written agreement between parties before any dispute arises. Such pre-dispute jury waivers shall be valid and enforceable, except where a pre-dispute arbitration agreement would be deemed invalid or where grounds exist for revocation of any contract.

(A) "Business party" means a person or entity that enters into a commercial agreement primarily for business or commercial purposes and not primarily for personal, family, or household purposes. "Business party" does not include: (i) a consumer acting in such capacity; (ii) a natural person renting a residence; or (iii) an employee or independent contractor contracting that person's own personal services, whether as a natural person or through a personal service entity.

(B) "Commercial agreement" means a written contract the predominant purpose of which is a business or commercial transaction between business parties, including, without limitation, agreements for the sale of goods or services, licensing, distribution, supply, manufacturing, franchise, financing, investment, merger or acquisition, joint venture, partnership, commercial real estate other than a natural person's residential lease, or other business-to-business arrangements. "Commercial agreement" does not include any agreement entered into primarily for personal, family, or household purposes, a natural person's residential lease, or an agreement by which an employee or independent contractor contracts that person's own personal services, whether as a natural person or through a personal service entity.

(g) The court may, in its discretion upon just terms, allow a trial by jury although there may have been a waiver of a trial by jury.

(h) The court shall transmit the fee described in subdivision (b) to the State Treasury for deposit in the Trial Court Trust Fund within 45 calendar days after the end of the month in which the fee is paid to the court.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT: San Diego County Bar Association

STATEMENT OF REASONS

The Problem (including Existing Law): Although California allows pre-dispute arbitration agreements and enforces them, the same cannot be said for pre-dispute jury waivers.

As quoted by Justice Chin dissenting in *Grafton Partners v. Superior Court*, 36 Cal.4th 944 (Cal. 2005), jury waivers provide an attractive middle ground between arbitration and nothing:

> "[I]f parties are willing to agree to a non-jury trial, we think it preferable to enforce that agreement rather than leave them with

> arbitration as their only enforceable option. By agreeing to arbitration, parties waive not only their right to trial by jury but their right to appeal, whereas by agreeing to waive only the former right, they take advantage of the reduced expense and delay of a bench trial, avoid the expense of arbitration, and retain their right to appeal. The parties obtain dispute resolution of their own choosing in a manner already afforded to litigants in their courts. Their rights, and the orderly development of the law, are further protected by appeal. And even if the option appeals only to a few, some of the tide away from the civil justice system to alternate dispute resolution is stemmed." [citation omitted]

Also, as stated by Justice Chin, "it makes little sense to authorize [] forfeitures [such as failing to deposit necessary fees], and yet categorically prohibit knowing and voluntary jury trial waivers simply because they are made before any dispute arises."

The Solution: This resolution allows jury trials to be waived in a pre-dispute agreement in commercial agreements executed by business parties, similar to how such agreements can require arbitration. By limiting it to commercial agreements by business parties, it helps ensure the agreements that can have jury trial waivers are at arms length and not contracts of adhesion. It still voids such agreements in any situation where mandatory arbitration would be invalid, or where contracts would generally be invalid.

IMPACT STATEMENT
This resolution does not affect any other law, statute, or rule.

CURRENT OR PRIOR RELATED LEGISLATION
AB 2258 (2006), AB 2767 (2006), AB 3049 (2006), and SB 1386 (2006). Prior resolutions are 10-11-2006, 10-12-2006, 10-14-2006, 07-04-2009, 06-03-2013, 03-07-2024, and 03-02-2025.

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RESOLUTION 03-07-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that the Judicial Council amend California Rules of Court, rule 2.252, as follows:

§ 2.252
(a) In general
A court may provide for electronic filing of documents in actions and proceedings as provided under Code of Civil Procedure section 1010.6, Penal Code section 690.5, and the rules in this chapter.
(b) Direct and indirect electronic filing
Except as otherwise provided by law, a court may provide for the electronic filing of documents directly with the court, indirectly through one or more approved electronic filing service providers, or through a combination of direct and indirect means.
(c) No effect on filing deadline
Filing a document electronically does not alter any filing deadline.
(d) Filing in paper form
When it is not feasible for a party or other person to convert a document to electronic form by scanning, imaging, or another means, a court may allow that party or other person to file the document in paper form.
(e) Original documents
In a proceeding that requires the filing of an original document, an electronic filer may file an electronic copy of a document if the original document is then filed with the court within 10 calendar days.
(f) Application for waiver of court fees and costs
The court must permit electronic filing of an application for waiver of court fees and costs in any proceeding in which the court accepts electronic filings.
(g) Orders and judgments
The court may electronically file any notice, order, minute order, judgment, or other document prepared by the court.
(h) Proposed orders
Proposed orders may be filed and submitted electronically as provided in rule 3.1312.
(i) Retroactive effect of electronic filing
If the court rejects an electronic filing submission for any reason, the notice of rejection shall set forth detailed reasons for the rejection, and if the filing party resubmits the filing within five (5) court days of receiving the rejection and the resubmitted filing is accepted by the court, the date of the filing shall be retroactive for all purposes and all applicable law to the original date of filing preceding the rejection, and the court shall mark it as filed on such original date of filing.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT
San Diego County Bar Association

STATEMENT OF REASONS

The Problem (including Existing Law): Clerks in many counties are substantially overburdened with e-filing submissions, resulting in long delays between filing and approval or rejection, with any rejection coming long after the applicable deadline for the documents to be filed has passed. In addition, while many e-filing errors are made by the filing parties or lawyers, rules for e-filing vary from county to county and are not always clear, leading to rejections for non-substantive or unspecified reasons. These problems create unworkable pressures on litigants and their lawyers, who cannot reasonably file all documents weeks or months before they are due to account for potential e-filing issues and delays. A highly technical e-filing error that can be corrected almost instantly can therefore lead to missed deadlines, increasing the burden and costs on litigants, their lawyers, and the court system, and potentially compromising, reducing, eliminating, or vitiating substantive legal rights.

The Solution: In the federal courts, any submission is effective when made, even if some sort of e-filing error needs later correction. In many states (including New York), an e-filing error that is promptly corrected results in the newly corrected filing marked retroactively with the original date. There is no valid reason for the current California system of rejections without an opportunity to correct retroactive to the original date. The proposed language above would not cost courts any money. In fact, it would save courts time and resources because judges would not be burdened by all-too-frequent subsequent motions to deem corrections of rejected e-filings to be effective nunc pro tunc to the original date. The added language would make any corrected e-filing within a reasonable time retroactive to the original filing date, substantially increasing the efficiency of the e-filing process, reducing the anxieties and pressures of current litigation practice, and declogging the court system of motion practice after rejected e-filings. This proposed resolution would also mirror practice in the courts before mandatory e-filing, in which clerks were not empowered to reject timely-filed documents. Everyone appreciates the efficiency and convenience of e-filing, but there is no reason to make it punitive in nature when this proposed alternative exists.

IMPACT STATEMENT

This resolution may require the Judicial Council adopt conforming changes to Rules of Court. Some other sections of the Rules of Court may need to be changed in order to conform to this change, but a diligent review of the other Rules did not reveal any, and this notice is included only in an abundance of caution.

CURRENT OR PRIOR RELATED LEGISLATION

None known.

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RESOLUTION 03-08-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend sections 2024.030 of the Code of Civil Procedure, to read as follows:

2024.030.
In any case in which a class has been certified, claims are asserted on a collective basis, or which has been designated as complex, any ~~Any~~ party shall be entitled as a matter of right to complete discovery proceedings pertaining to a witness identified under Chapter 18 (commencing with Section 2034.010) on or before the ~~15~~75th day, and to have motions concerning that discovery heard on or before the ~~10~~70th day, before the date initially set for the trial of the action. In all other matters, party shall be entitled as a matter of right to complete such discovery proceedings on or before the 15th day, and to have motions concerning that discovery heard on or before the 10th day, before the date initially set for the trial of the action.

(Proposed new language underlined; language to be deleted stricken)

PROPONENTS

Margaret J. Grover, Michael Fern, Suzanne Fidler, Mark Flory, Shaun Jacobs, Sean McCoy, Jack Osborn, Edward Teyssier, Darrin Wessel, K. Martin White

STATEMENT OF REASONS

The Problem (including Existing Law):
Class and collective actions and other complex matters often involve numerous expert witnesses and detailed analysis by expert witnesses. Class actions are governed by California Code of Civil Procedure section 382, which states "when the question is one of a common or general interest, of many persons, or when the parties are numerous, and it is impracticable to bring them all before the court, one or more may sue or defend for the benefit of all." A "complex case" is a civil action that requires "exceptional judicial management to avoid placing unnecessary burdens on the court or the litigants." (Cal. Rules of Court, rule 3.400). This designation is intended to expedite the case's resolution, maintain reasonable costs, and facilitate effective decision-making. The determination of whether a case is complex evaluates several factors, including number of parties, legal issues, and other logistical challenges the case presents. Class, collective, and complex cases typically involve multiple parties and thorny legal issues.

Current law allows disclosure of expert witnesses less than 2 months before trial, and supplemental disclosure of expert witnesses only 1 month before trial (CCP §§ 2034.230 and 2034.280). Given the number of attorneys involved, the parties often have difficulty scheduling expert depositions before trial. Although CCP section 2024.030 mandates that discovery proceedings pertaining to an expert witness be completed on or before the 15th day before trial, in complex matters, it may be impossible to meet that deadline. Parties often agree to conduct deposition after the statutory deadline. In some cases, depositions even occur during trial. The last-minute discovery places an unfair burden on solo practitioners and small firms, who lack

additional attorneys to take or defend expert depositions while the lead trial attorney is preparing for trial.

The Solution:
This resolution would alleviate the last minute scramble by requiring that expert discovery in complex cases be completed 75 days prior to the initial trial date.

IMPACT STATEMENT
This resolution may require additional statutory changes.

CURRENT OR PRIOR RELATED LEGISLATION
None known.

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RESOLUTION 03-09-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend sections 2034.220 and 2034.230 of the Code of Civil Procedure, to read as follows:

2034.220.
Any party may make a demand for an exchange of information concerning expert trial witnesses without leave of court. For cases in which a class has been certified, claims are asserted on a collective basis, or which has been designated as complex, party shall make this demand no later than 130 days before the initial trial date. In all other matters, a~~A~~ party shall make this demand no later than the 10th day after the initial trial date has been set, or 70 days before that trial date, whichever is closer to the trial date.

2034.230.
(a) A demand for an exchange of information concerning expert trial witnesses shall be in writing and shall identify, below the title of the case, the party making the demand. The demand shall state that it is being made under this chapter.
(b) The demand shall specify the date for the exchange of lists of expert trial witnesses, expert witness declarations, and any demanded production of writings. For cases in which a class has been certified, claims are asserted on a collective basis, or which has been designated as complex, the specified date of exchange shall be 110 days before the initial trial date, or 20 days after service of the demand, unless the court, on motion and showing of good cause, orders an earlier or later date of exchange. In all other matters, the ~~The~~ specified date of exchange shall be 50 days before the initial trial date, or 20 days after service of the demand, whichever is closer to the trial date, unless the court, on motion and showing of good cause, orders an earlier or later date of exchange.

(Proposed new language underlined; language to be deleted stricken)

PROPONENTS
Margaret J. Grover, Michael Fern, Suzanne Fidler, Mark Flory, Shaun Jacobs, Frank Leidman, Sean McCoy, Jack Osborn, Edward Teyssier, Darrin Wessel, K. Martin White

STATEMENT OF REASONS

The Problem (including Existing Law):
Class and collective actions and other complex matters often involve numerous expert witnesses and detailed analysis by expert witnesses. Class actions are governed by California Code of Civil Procedure section 382, which states "when the question is one of a common or general interest, of many persons, or when the parties are numerous, and it is impracticable to bring them all before the court, one or more may sue or defend for the benefit of all." A "complex case" is a civil action that requires "exceptional judicial management to avoid placing unnecessary burdens on the court or the litigants." (Cal. Rules of Court, rule 3.400). This designation is intended to

expedite the case's resolution, maintain reasonable costs, and facilitate effective decision-making. The determination of whether a case is complex evaluates several factors, including number of parties, legal issues, and other logistical challenges the case presents. Class, collective, and complex cases typically involve multiple parties and thorny legal issues.

Current law allows disclosure of expert witnesses less than 2 months before trial, and supplemental disclosure of expert witnesses only 1 month before trial (CCP §§ 2034.230 and 2034.280). Given the number of attorneys involved, the parties often have difficulty scheduling expert depositions before trial. Although CCP section 2024.030 mandates that discovery proceedings pertaining to an expert witness be completed on or before the 15th day before trial, in complex matters, it may be impossible to meet that deadline. Parties often agree to conduct deposition after the statutory deadline. In some cases, depositions even occur during trial. The last-minute discovery places an unfair burden on solo practitioners and small firms, who lack additional attorneys to take or defend expert depositions while the lead trial attorney is preparing for trial.

The Solution:
This resolution would require that, in complex cases, expert disclosure occur 110 days before the initial trial date.

IMPACT STATEMENT
This resolution may require additional statutory changes.

CURRENT OR PRIOR RELATED LEGISLATION
None known.

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RESOLUTION 03-10-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend section 2034.260 of the Code of Civil Procedure, to read as follows:

§**2034.260** (a) All parties who have appeared in the action shall exchange information concerning expert witnesses in writing on or before the date of exchange specified in the demand. The exchange of information may occur at a meeting of the attorneys for the parties involved or by serving the information on the other party by any method specified in Section 1011 or 1013, on or before the date of exchange.
(b) The exchange of expert witness information shall include either of the following:
(1) A list setting forth the name and address of a person whose expert opinion that party expects to offer in evidence at the trial.
(2) A statement that the party does not presently intend to offer the testimony of an expert witness.
(c) If a witness on the list is an expert as described in subdivision (b) of Section 2034.210, the exchange shall also include or be accompanied by an expert witness declaration signed only by the attorney for the party designating the expert, or by that party if that party has no attorney. This declaration shall be under penalty of perjury and shall contain all of the following:
(1) A brief narrative statement of the qualifications of each expert.
(2) A brief narrative statement of the general substance of the testimony that the expert is expected to give.
(3) A representation that the expert has agreed to testify at the trial.
(4) A representation that the expert will be sufficiently familiar with the pending action to submit to a meaningful oral deposition concerning the specific testimony, including an opinion and its basis, that the expert is expected to give at trial.
(5) A statement of the expert's hourly and daily fee for providing deposition testimony and for consulting with the retaining attorney.
(d) If the case has been designated as complex, has been certified as a class action, or contains claims being asserted on a collective basis, the exchange shall also include or be accompanied by a report from each designated expert witness. The report must contain:
(1) a complete statement of all opinions the witness will express and the basis and reasons for them;
(2) the facts or data considered by the witness in forming them;
(3) any exhibits that will be used to summarize or support them;
(4) a list of all publications authored by the expert in the previous 10 years; and
(5) a list of all other cases in which, during the previous 4 years, the witness testified as an expert at trial or by deposition.

(Proposed new language underlined; language to be deleted stricken)

PROPONENTS
Margaret J. Grover, Michael Fern, Suzanne Fidler, Mark Flory, Shaun Jacobs, Frank Leidman, Sean McCoy, Jack Osborn, Edward Teyssier, Darrin Wessel, K. Martin White

STATEMENT OF REASONS

The Problem (including Existing Law):
Class and collective actions and other complex matters often involve numerous expert witnesses and detailed analysis by expert witnesses. Class actions are governed by California Code of Civil Procedure section 382, which states "when the question is one of a common or general interest, of many persons, or when the parties are numerous, and it is impracticable to bring them all before the court, one or more may sue or defend for the benefit of all." A "complex case" is a civil action that requires "exceptional judicial management to avoid placing unnecessary burdens on the court or the litigants." (Cal. Rules of Court, rule 3.400). This designation is intended to expedite the case's resolution, maintain reasonable costs, and facilitate effective decision-making. The determination of whether a case is complex evaluates several factors, including number of parties, legal issues, and other logistical challenges the case presents. Class, collective, and complex cases typically involve multiple parties and thorny legal issues.

Current law allows disclosure of expert witnesses less than 2 months before trial, and supplemental disclosure of expert witnesses only 1 month before trial (CCP §§ 2034.230 and 2034.280). Given the number of attorneys involved, the parties often have difficulty scheduling expert depositions before trial. Although CCP section 2024.030 mandates that discovery proceedings pertaining to an expert witness be completed on or before the 15th day before trial, in complex matters, it may be impossible to meet that deadline. Parties often agree to conduct depositions after the statutory deadline. In some cases, depositions even occur during trial. The last-minute discovery places an unfair burden on solo practitioners and small firms, who lack additional attorneys to take or defend expert depositions while the lead trial attorney is preparing for trial.

Requiring that an expert submit a report could minimize the need for expert depositions. For example, an accountant's report would likely include any assumptions made, calculations, and conclusions. This requirement is similar to the requirements of the Federal Rules of Civil Procedure, which were designed to streamline the discovery process, and will apply only to class actions and other complex cases.

The Solution:
This resolution would reduce the need for last minute depositions in complex cases by requiring that each expert provide a written report with specific elements.

IMPACT STATEMENT
Choose an item.

CURRENT OR PRIOR RELATED LEGISLATION
None known.

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RESOLUTION 04-01-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Government Code section 13996.42, to read as follows:

§ 13996.42

(a) The Governor's Office of Business and Economic Development may establish an international trade and investment office outside of the United States if both of the following conditions are met:

~~(a)~~ (1) The country where an international trade and investment office would be located is among those with the greatest potential for direct foreign investment in California, export growth, or both, as determined by the director.

~~(b)~~ (2) The Director of the Governor's Office of Business and Economic Development has included the new international trade and investment office in the Governor's Office of Business and Economic Development's current annual program budget and strategy and business plan for the year for the International Trade and Investment Program as required by Section 13996.65.

(b) For purposes of this chapter, a "country" includes Taiwan.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT

Los Angeles County Bar Association

STATEMENT OF REASONS

The Problem (including Existing Law): Existing law allows California, through the Governor's Office of Business and Economic Development, to establish an international trade and investment office in another "country." However, it is unclear whether this would include Taiwan. In California's list of Sister-State relationships, beginning with Taiwan in 1983, the "country" field for Taiwan is conspicuously left blank. (See https://soir.senate.ca.gov/sisterstates.) And under Vehicle Code section 5006.5, a special license plate that DMV can issue to Taiwan's officers and employees must carry the inscription "foreign organization." Despite the lack of formal recognition of Taiwan's sovereign status, the California State Senate adopted Senate Resolution 63 (2025-2026), which encourages further collaboration with Taiwan on semiconductor technology and artificial intelligence. (See https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202520260SR63) Similarly, National Association of Secretaries of State reauthorized a resolution supporting U.S.-Taiwan Bilateral Trade and Investment. (See https://www.nass.org/sites/default/files/resolutions/2025-08/nass-resolution-taiwan-trade-summer2025.pdf.) Taiwan is California's third-largest trading partner. (See https://www.ppic.org/blog/californiastrade-landscape-is-shifting-not-shrinking-so-far/.) And Taiwan's use of digital platforms to enhance civic participation serves as the inspiration for California's deliberative democracy program, Engaged California. (See https://www.gov.ca.gov/2025/02/23/california-to-launch-first-in-the-nation-digital-democracy-

effort-to-improve-public-engagement.) Currently, 26 U.S. states and territories have trade offices in Taiwan, more than half of which were established in the last three years. (See https://www.taipeitimes.com/News/taiwan/archives/2025/11/25/2003847791.)

The Solution: This resolution would amend Government Code section 13996.42 to include Taiwan with the meaning of a "country" under the International Trade and Investment chapter of the Government Code. (Gov't Code, §§ 13996.4-13996.75.) Similarly, 22 U.S.C. § 3303 states: "Whenever the laws of the United States refer or relate to foreign countries, nations, states, governments, or similar entities, such terms shall include and such laws shall apply with respect to Taiwan."

IMPACT STATEMENT
This resolution does not affect any other law, statute, or rule.

CURRENT OR PRIOR RELATED LEGISLATION
Not known.

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RESOLUTION 04-02-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Government Code section 6808, to read as follows:

§ 6808
(a) (1) The standard time within the state is that of the fifth zone designated by federal law as Pacific standard time (15 U.S.C. Secs. 261 and 263).
~~(b)~~ (2) The ~~standard time within~~ state and all political subdivisions of the state shall ~~advance by one hour during the daylight saving time period commencing at 2 a.m. on the second Sunday of March of each year and ending at 2 a.m. on the first Sunday of November of each year.~~ observe the standard time pursuant to paragraph (1).
(b) The state and all political subdivisions of the state, pursuant to the exemption from the advancement of standard time authorized by Section 260a of Title 15 of the United States Code, shall be exempt from the advancement of standard time.
(c) Notwithstanding subdivision (b), the Legislature may amend this section by a two-thirds vote to change the dates and times of the daylight saving time period, consistent with federal law, and, if federal law authorizes the state to provide for the year-round application of daylight saving time the Legislature may amend this section by a two-thirds vote to provide for that application.

(Proposed new language underlined; language to be deleted stricken)

PROPONENTS
Ben Rudin, Lisa Hird Chung, Matthew Norris, Ted Holmquist, Tara Shaw, Nick Stewart-Oaten, Michael Fern, Robert Bitonte, Catherine Rucker, Ryan Dean, Lauren Grochow, Douglas Robbins, Alicia Gámez, Marc Sallus, Phyllis Kupferstein, James Mink

STATEMENT OF REASONS

The Problem (including Existing Law): Switching the clocks twice a year is a hassle. Not only is it an inconvenience, it is detrimental to our health and circadian rhythms. It increases heart attacks, industrial and workplace injuries, traffic accidents, and fatalities. https://newsroom.heart.org/news/heres-your-wake-up-call-daylight-saving-time-may-impact-your-heart-health, https://www.kxan.com/news/local/austin/drowsy-driving-after-daylight-saving-time/

L. Weed, & J.M. Zeitzer, Circadian-informed modeling predicts regional variation in obesity and stroke outcomes under different permanent US time policies, Proc. Natl. Acad. Sci. U.S.A. 122 (38) e2508293122, https://doi.org/10.1073/pnas.2508293122 (2025).

The Solution: This resolution would end the practice of switching clocks twice a year by giving California permanent standard time. Unlike permanent daylight saving time, permanent standard time aligns better with our internal clocks, preserves morning light (essential for mental physical health), and would reduce obesity and strokes to a greater degree than permanent daylight saving

time would. Furthermore, permanent daylight saving time would mean sunrise around 7:30-8:00 a.m. on the shortest days. In Northern California, sunrise could be as late as 8:30 a.m. to 9:00 a.m. Kids would be waking up, waiting at bus stops, or walking to school in darkness for months in Winter, even with middle and high schools starting at 8:00 and 8:30 a.m., respectively.

American Academy of Sleep Medicine (AASM), American Medical Association (AMA), Sleep Research Society, National Sleep Foundation, World Sleep Society, American College of Chest Physicians (CHEST), American Academy of Cardiovascular Sleep Medicine, American Academy of Dental Sleep Medicine, American Thoracic Society, Society for Research on Biological Rhythms, National Safety Council, and National PTA, have all embraced ditching the switch in favor of permanent standard time because it's better for our health, sleep, and safety.

Finally, unlike permanent daylight saving time, permanent standard time would not need Congressional approval.

IMPACT STATEMENT
This resolution does not affect any other law, statute, or rule.

CURRENT OR PRIOR RELATED LEGISLATION
SB 1197 (Niello, 2025-2026 Reg. Sess.), SB 51 (Niello, 2025-2026 Reg. Sess.), AB 1776 (Ta, 2023-2024 Reg. Sess.), AB 385 (Chu, 2015-2016 Reg. Sess.).

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RESOLUTION 04-03-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to add Elections Code sections 18525 and 18549 to read as follows:

§ 18525
(a) A person shall not directly or through another person suggest, hint at, or promise any pay increase, benefit, or other advantage to any voter or person contingent on the outcome of an election, directly from that person, regardless of voting behavior. A violation of this section shall be punishable by imprisonment in the state prison for 16 months or two or three years.
(b) This section does not apply to lawful activities involving predictions or stakes on election results.

§ 18549
(a) Every person who suggests, hints at, or threatens any pay decrease, benefit reduction, or other disadvantage contingent on the outcome of an election, directly from that person, is guilty of a felony punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years.
(b) This section does not apply to lawful activities involving predictions or stakes on election results.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT
San Diego County Bar Association

STATEMENT OF REASONS

The Problem (including Existing Law): Currently, we have laws against bribing and intimidating people into voting, voting a certain way, and so on. That is good and necessary. However, instances have occurred of promising employees a raise or a deduction if an election goes a particular way. Although that is not dependent on how they vote or whether they vote, it can have a similar effect and should be treated the same.

Examples include the Daniels Manufacturing Group president warning employees they might be laid off if Biden wins (https://www.wesh.com/article/letter-president-company-layoffs-dmc/34401148), the owner of Westgate Resorts warning employees they'll likely be fired if Obama is re-elected (https://www.cnbc.com/2012/10/10/ceo-to-workers-youll-likely-be-fired-if-obama-is-reelected.html), the Koch Brothers making a similar mailing in 2012 (https://inthesetimes.com/article/koch-industries-sends-45000-employees-pro-romney-mailing),

The Solution: This resolution would ensure that anyone who suggests a benefit or disadvantage based on the election results is treated just as severely as if they based it on how the person votes. The definition is narrow enough that it would not include general predictions of what would

happen if an election goes a certain way (e.g., your taxes will go [up or down] if [x] gets elected) and encompasses only benefits or disadvantages promised from that person. Because the scope could suggest betting on election outcomes are prohibited, an exception is made to ensure that is still allowed.

IMPACT STATEMENT
This resolution does not affect any other law, statute, or rule. Click or tap here to enter text if additional explanation is necessary.

CURRENT OR PRIOR RELATED LEGISLATION
None known

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RESOLUTION 04-04-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to add Government Code section 69957.5 as follows:

§69957.5.
(a) Notwithstanding Section 69957, if a court is unable, after due diligence, to hire or retain sufficient official reporters or official reporters pro tempore to provide verbatim records to civil litigants who cannot afford to retain a private court reporter and have requested a verbatim record of the civil proceedings, the court may, subject to the requirements of this section, use electronic recording to make a record of those civil proceedings. A transcript derived from such an electronic recording may be utilized whenever a transcript of court proceedings is required. Transcripts derived from electronic recordings shall include a designation of "inaudible" or "unintelligible" for those portions of the recording that contain no audible sound or are not discernible.
(b) Notwithstanding this section, electronic recording shall not be used to make the record in juvenile dependency proceedings, juvenile delinquency proceedings, proceedings under the Sexually Violent Predator Act (Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code), or other civil commitment proceedings. Electronic recording shall not be used in criminal proceedings, except as permitted by Section 69957 for misdemeanor and infraction proceedings. This section does not apply to the use of electronic recording in limited civil proceedings as permitted by Section 69957.
(c) Electronic recording may be utilized in the circumstances authorized by this section only if the judicial officer presiding over the civil proceeding finds that all of the following requirements are satisfied:
(1) The litigant has requested a verbatim record of the proceeding.
(2) The litigant cannot afford to retain a private court reporter to make a verbatim record of the proceeding.
(3) No official reporter or official reporter pro tempore hired or retained by the court is available to make a verbatim record of the proceeding.
(4) No other party to the proceeding has retained a private court reporter to serve as an official reporter pro tempore for the proceeding.
(d) If a court lacks sufficient official reporters or official reporters pro tempore to provide verbatim records to civil litigants who cannot afford to retain private court reporters and have requested a verbatim record of the civil proceedings, all of the following requirements shall apply:
(1) The court shall provide public notice that the court is accepting applications from certified shorthand reporters for positions as official court reporters. The court shall provide such notice to major court reporter job boards and to court reporting schools in California. The court shall maintain records of its outreach and recruitment activities.
(2) The court shall offer employment to all qualified certified shorthand reporters who apply for official reporter positions unless the court has a reasonable basis for rejecting the applicant. In the event of a dispute, the court shall have the burden of showing that the court had a reasonable

basis for rejecting the applicant. The court shall maintain records of applications received, interviews conducted, and reasons for hiring decisions.

(3) The court shall not adopt any unreasonable barriers to applications or to hiring applicants. In the event of a dispute, the court shall have the burden of showing that its requirements are reasonable.

(4) In addition to hiring official reporters, the court shall make all reasonable efforts, consistent with the court's budget, to retain official reporters pro tempore to supplement the work of official reporters. In the event of a dispute, the court shall have the burden of showing that its efforts were reasonable.

(5) The court shall have a reasonable protocol for determining whether official reporters pro tempore assigned to other departments in the same courthouse are available to report civil proceedings.

(6) The court shall maintain records identifying dates, departments, and civil proceedings for which electronic recording was used in the circumstances authorized by this section.

(7) (A) If the official reporters in the court are represented by a recognized employee organization, the court shall, upon request of the employee organization, meet and confer with the employee organization about the court's efforts to recruit official court reporters and provide the employee organization with the records that the court is required by this section to maintain. The court shall redact personal information that is necessary to protect confidentiality.

(B) If the official reporters are not represented by a recognized employee organization, the court shall, upon the request of any official reporter employed by the court, provide the official reporter with the records that the court is required by this section to maintain. The court shall redact personal information that is necessary to protect confidentiality.

(8) (A) If the official reporters in the court are represented by a recognized employee organization, the employee organization may file a grievance with the court if the employee organization contends that the court has violated this subdivision. Unless the parties to the dispute agree upon other procedures after the dispute arises, or other procedures are provided in a memorandum of understanding or agreement with a recognized employee organization, unresolved disputes between the recognized employee organization and the court concerning a violation of this subdivision shall be submitted for binding arbitration to the California State Mediation and Conciliation Service.

(B) The grievance and arbitration process set forth in this paragraph shall be the exclusive means of resolving disputes about compliance with this subdivision.

(e) Paragraph (1), (2), or (3) of subdivision (d) does not apply to a court that lacks sufficient work for an additional full-time official reporter.

(f) For purposes of this section, a court shall find that a litigant who has requested a verbatim record of a proceeding cannot afford to retain a private court reporter if any of the following requirements is satisfied:

(1) The litigant has been granted a waiver of court fees for the proceeding.

(2) The litigant is represented in the proceeding without charge by a nonprofit legal aid organization.

(3) The litigant establishes to the satisfaction of the judicial officer that the litigant lacks the financial ability to retain a private court reporter for the proceeding.

(g) (1) The Judicial Council shall develop and approve official forms for use in trial courts consistent with the provisions of subdivisions (a), (b), (c), and (f).

(2) Each trial court shall report to the Judicial Council on a quarterly basis the number of applications received by the court from certified shorthand reporters for positions as official reporters pro tempore, the number of applicants who were offered employment, and the number of applicants who accepted employment. The Judicial Council shall make this information available to the public on its internet website.

(h) This section shall remain in effect only until January 1, 2028, and as of that date is repealed.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT

San Diego County Bar Association

STATEMENT OF REASONS

The Problem (including Existing Law): Certified shorthand court reporters ("CSRs") are retiring and/or simply changing vocations resulting in a chronic shortage so that cost of having a CSR at a deposition or for a court hearing is prohibitively expensive, if any are even available at all. This leaves vast numbers of litigants left without a verbatim transcript, or even any verbatim record of what occurred in hearings that may have a profound impact on their rights and lives.

Some of the efforts the Contra Costa County Superior Court ("CCSC"), for example, has undertaken to encourage applications and retention include paying bonuses and salary increases for CSRs, and attending job fairs, advertising in CSR-related media and on billboards, providing finder's fees, hiring bonuses, tuition reimbursement, and flex-time accrual bank, and creating an internship program. Yet none of these efforts have resulted in any significant improvement in the CSR shortage. Between January 1, 2023, and August 31, 2025, the Contra Costa County Superior Court held approximately 93,370 hearings without a CSR in its Civil, Family and Probate departments. (Source: CCSC First Amended General Order re: Use of Electronic Recording Equipment, dated 10/6/2025.) Other courts are experienced similar difficulties in finding CSRs. Similar examples of chronic CSR shortages with exorbitant fees and charges have been reported in other counties, as well.

The Solution: This resolution adds Government Code section 69957.5 to authorize a court to issue an order authorizing the use of electronic recording, instead of a CSR, to create a verbatim transcript and under specific circumstances. Additionally, the court must continue hiring and promoting human CSRs.

IMPACT STATEMENT

This resolution may require additional statutory changes. Presently, this issue is before the California Supreme Court, *Family Violence Appellant Project v. Superior Court*, Case No. S288176. The Court issued an order to show cause why the relief sought in the petition should not be granted. This case presents the following issue: Does the prohibition on electronic recording of certain proceedings in Government Code section 69957, subdivision (a) violate the California Constitution when an official court reporter is unavailable and a litigant cannot afford to pay a private court reporter? The purpose of this CCBA resolution is to raise awareness of the issue, and to ensure that CCBA supports whatever legislation might be required after the Supreme Court's ruling.

CURRENT OR PRIOR RELATED LEGISLATION
Previously, SB662, introduced in 2023, would have expanded the use of electronic recording to proceedings when no court reporter was available, but this bill did not advance. Presently, AB882 has been introduced by Assemblymember Papan, which is essentially copied above. Other bills have also been introduced, but those are not presently known to this author.

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RESOLUTION 04-05-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Elections Code sections 100 and 9020 as follows:

§100.
(a) Notwithstanding any other provision of law, whenever an initiative, referendum, recall, nominating petition or paper, or any other petition or paper is required to be signed by voters of a county, city, school district, or special district subject to petitioning, only a person who is an eligible registered voter at the time of signing the petition or paper is entitled to sign the petition or paper. A person who submits their affidavit of registration pursuant to subdivision (d) of Section 2102 is not eligible to sign a petition or paper unless at the time of the signing of the petition or paper that person is 18 years of age.
(b) A signer shall at the time of signing the petition or paper personally affix their ~~signature,~~ signature and printed name, and confirm that their place of ~~residence,~~ residence is correctly affixed thereon, including the street and number of the place of residence, and if no street or number for the place of residence exists, then a designation of the place of residence that will enable the location to be readily ascertained. An incomplete or inaccurate apartment or unit number in the signer's residence address shall not invalidate their signature pursuant to Section 105. A space at least one inch wide shall be left blank after each name for the use of the elections official in verifying the petition or paper.
(c) The part of a petition for the signatures, printed names, and residence addresses of the voters and for the blank spaces for verification purposes shall be numbered consecutively commencing with the number one and continuing through the number of signature spaces allotted to each section. The petition format shall be substantially in the following form:

Official
Use
Only

(Print Name)

1.
(Signature)

(Residence Address
ONLY)

(City)

(Print Name)

2.
(Signature)

(Residence Address
ONLY)

(City)

(d) A county elections official who verifies signatures on an initiative, referendum, recall, nominating petition or paper, or any other petition or paper that is required to be signed by voters of a county, city, school district, or special district subject to petitioning may establish and require the use of a standardized petition form for distribution within and submission to the county.

§9020

~~(a) The petition sections shall be designed so that each signer shall personally affix all of the following:~~

~~(1) The signer's signature.~~

~~(2) The signer's printed name.~~

~~(3) The signer's residence address, giving street and number, or if no street or number exists, adequate designation of residence so that the location may be readily ascertained. An incomplete or inaccurate apartment or unit number in the signer's residence address shall not invalidate their signature pursuant to Section 105.~~

~~(4) The name of the signer's incorporated city or unincorporated community.~~

(a) The petition sections shall be designed so that:

(1) Each signer shall personally affix the signer's name and signature

(2) Then, by signing, the signature confirms the signer's residence address, giving street and number, or if no street number exists, adequate designation of residence so that the location may be readily ascertained. The address shall include the name of the signer's incorporated city or unincorporated community. An incomplete or inadequate apartment or unit number in the signer's residence address shall not invalidate their signature pursuant to Section 105.

(3) ~~(5)~~ If the petition does not include the disclosure statement described by subdivision (b) of Section 107, the following text on a separate horizontal line below the signer's printed name and above the signer's signature: "DO NOT SIGN UNLESS you have seen Official Top Funders sheet and its month is still valid." The text "DO NOT SIGN UNLESS" shall be in all capitals and in boldface. The other text shall be capitalized as shown and shall not be in boldface.

(b) Only a person who is a qualified registered voter at the time of signing the petition is entitled to sign it.

(c) The number of signatures attached to each section shall be at the pleasure of the person soliciting the signatures.

(Proposed new language underlined; language to be deleted stricken)

PROPONENTS

Edward M. Teyssier, Lisa Hurd Chang, Tara Shaw, Matthew Norris, Catherine L. Rucker, Sean M. Gaffney, Ernest Rey Calhoon, Ben Rudin, Ricky Shah, Cynthia L. Eldred, Mark Alan Hart, Olga Dombrovskaya, Ted Holmquist

STATEMENT OF REASONS

The Problem (including Existing Law): The requirement that a voter "personally affix" his or her address is being interpreted by some Registrars of Voters to invalidate petitions that are otherwise validly signed by the voter, but have the signer's address filled in by others, such as the signer's spouse or the petition circulator. This violates both First Amendment and Equal Protection.

Equal Protection is violated because this requirement is not uniformly enforced throughout the state. Voters in, say, San Bernadino County have a much easier time getting their signatures validated then, say, San Diego County. Also, validating the handwriting of the signer's address is highly subjective and because the voter's registration card does necessarily have his/her personally affixed address, the Registrar has no exemplar to objectively determine who wrote the address on the petition.

First Amendment rights are violated because invalidating otherwise valid petition signatures from validly registered voters on a technically burdens the rights of free speech and petitioning. These burdens are unconstitutional when, as here, the burden does not advance any valid state interest and there is no rational basis for the burden. On the contrary, since the address is only used for information, the state's interests of validating the signature and ensuring the voter's current address is correct as registered is actually enhanced when that address is affixed by someone else who might have more legible handwriting.

The Solution: This resolution amends Elections Code sections 100 & 9020 so that the signer of the petition or paper is only required to confirm the correctness of the address, so that the Registrar of Voter no longer may subjectively interpret the penmanship of the address or have any discretion to reject, or not, otherwise validly signed petitions.

Elections code section 100's requirement for "personally affix" residence address was derived from the former Election Code section 41, about circa 1994. It has remained largely unchanged since that time. Code sections added since that time, such as Elections Code sections 8041, and 8400, et seq., do not require "personally affixed" addresses. Section 8041 already only requires, that the signer is attesting: "My residence is correctly set forth after my signature hereto." Sections 8400, et seq, the nomination petitions for independent candidates, already do not require that the signer also "personally affix" his/her address (See, Election Code §§ 8400, et seq. Hence, there are internal inconsistencies in the Elections Code that this proposed legislation would also resolve. By this Resolution, that the address only have correct information, and not necessarily in the same hand as the signature on the petition, would then be a requirement that is consistent throughout the Elections Code, and in every county throughout the state.

IMPACT STATEMENT
This resolution does not require additional statutory changes. However, there would be changes required by the Secretary of State to bring her internal rules and guidelines in accord with the statutes. Also, it would also resolve certain internal inconsistencies in the Elections Code (see below).

CURRENT OR PRIOR RELATED LEGISLATION
None

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RESOLUTION 05-01-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Business and Professions Code section 801.1, to read as follows:

§801.01

(a) A complete report shall be sent to the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, or the Physician Assistant Board with respect to a licensee of the board as to the following:

(1) A settlement over ~~thirty~~ one hundred thousand dollars ($~~30~~100,000) or arbitration award of any amount or a civil judgment of any amount, whether or not vacated by a settlement after entry of the judgment, that was not reversed on appeal, of a claim or action for damages for death or personal injury caused by the licensee's alleged negligence, error, or omission in practice, or by the licensee's rendering of unauthorized professional services.

(2) A settlement over ~~thirty~~ one hundred thousand dollars ($~~30~~100,000), if the settlement is based on the licensee's alleged negligence, error, or omission in practice, or on the licensee's rendering of unauthorized professional services, and a party to the settlement is a corporation, medical group, partnership, or other corporate entity in which the licensee has an ownership interest or that employs or contracts with the licensee.

(b) The report shall be sent by any of the following:

(1) The insurer providing professional liability insurance to the licensee.

(2) The licensee, or the licensee's counsel.

(3) A state or local governmental agency that self-insures the licensee. For purposes of this section, "state governmental agency" includes, but is not limited to, the University of California.

(c) The entity, person, or licensee obligated to report pursuant to subdivision (b) shall send the complete report if the judgment, settlement agreement, or arbitration award is entered against or paid by the employer of the licensee and not entered against or paid by the licensee. "Employer," as used in this paragraph, means a professional corporation, a group practice, a health care facility or clinic licensed or exempt from licensure under the Health and Safety Code, a licensed health care service plan, a medical care foundation, an educational institution, a professional institution, a professional school or college, a general law corporation, a public entity, or a nonprofit organization that employs, retains, or contracts with a licensee referred to in this section. Nothing in this paragraph shall be construed to authorize the employment of, or contracting with, any licensee in violation of Section 2400.

(d) The report shall be sent to the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, or the Physician Assistant Board as appropriate, within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto, within 30 days after service of the arbitration award on the parties, or within 30 days after the date of entry of the civil judgment.

(e) The entity, person, or licensee required to report under subdivision (b) shall notify the claimant or the claimant's counsel, if the claimant is represented by counsel, that the report has been sent to the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, or the Physician Assistant Board. If the claimant or the claimant's counsel has not received this notice within 45 days after the settlement was reduced to

writing and signed by all of the parties or the arbitration award was served on the parties or the date of entry of the civil judgment, the claimant or the claimant's counsel shall make the report to the appropriate board.

(f) Failure to substantially comply with this section is a public offense punishable by a fine of not less than five hundred dollars ($500) and not more than five thousand dollars ($5,000).

(g)(1) The Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board may develop a prescribed form for the report.

(2) The report shall be deemed complete only if it includes the following information:

(A) The name and last known business and residential addresses of every plaintiff or claimant involved in the matter, whether or not the person received an award under the settlement, arbitration, or judgment.

(B) The name and last known business and residential addresses of every licensee who was alleged to have acted improperly, whether or not that person was a named defendant in the action and whether or not that person was required to pay any damages pursuant to the settlement, arbitration award, or judgment.

(C) The name, address, and principal place of business of every insurer providing professional liability insurance to any person described in subparagraph (B), and the insured's policy number.

(D) The name of the court in which the action or any part of the action was filed, and the date of filing and case number of each action.

(E) A description or summary of the facts of each claim, charge, or allegation, including the date of occurrence and the licensee's role in the care or professional services provided to the patient with respect to those services at issue in the claim or action.

(F) The name and last known business address of each attorney who represented a party in the settlement, arbitration, or civil action, including the name of the client the attorney represented.

(G) The amount of the judgment, the date of its entry, and a copy of the judgment; the amount of the arbitration award, the date of its service on the parties, and a copy of the award document; or the amount of the settlement and the date it was reduced to writing and signed by all parties and a copy of the settlement agreement. If an otherwise reportable settlement is entered into after a reportable judgment or arbitration award is issued, the report shall include both a copy of the settlement agreement and a copy of the judgment or award.

(H) The specialty or subspecialty of the licensee who was the subject of the claim or action.

(I) Any other information the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, or the Physician Assistant Board may, by regulation, require.

(3) Every professional liability insurer, self-insured governmental agency, or licensee or the licensee's counsel that makes a report under this section and has received a copy of any written or electronic patient medical or hospital records prepared by the treating physician and surgeon, podiatrist, or physician assistant, or the staff of the treating physician and surgeon, podiatrist, or hospital, describing the medical condition, history, care, or treatment of the person whose death or injury is the subject of the report, or a copy of any deposition in the matter that discusses the care, treatment, or medical condition of the person, shall include with the report, copies of the records and depositions, subject to reasonable costs to be paid by the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, or the Physician Assistant Board. If confidentiality is required by court order and, as a result, the reporter is unable to provide the records and depositions, documentation to that effect

shall accompany the original report. The applicable board may, upon prior notification of the parties to the action, petition the appropriate court for modification of any protective order to permit disclosure to the board. A professional liability insurer, self-insured governmental agency, or licensee or the licensee's counsel shall maintain the records and depositions referred to in this paragraph for at least one year from the date of filing of the report required by this section.
(h) If the board, within 60 days of its receipt of a report filed under this section, notifies a person named in the report, that person shall maintain for the period of three years from the date of filing of the report any records that person has as to the matter in question and shall make those records available upon request to the board to which the report was sent.
(i) Notwithstanding any other provision of law, no insurer shall enter into a settlement without the written consent of the insured, except that this prohibition shall not void any settlement entered into without that written consent. The requirement of written consent shall only be waived by both the insured and the insurer.
(j)(1) A state or local governmental agency that self-insures licensees shall, prior to sending a report pursuant to this section, do all of the following with respect to each licensee who will be identified in the report:
(A) Before deciding that a licensee will be identified, provide written notice to the licensee that the agency intends to submit a report in which the licensee may be identified, based on the licensee's role in the care or professional services provided to the patient that were at issue in the claim or action. This notice shall describe the reasons for notifying the licensee. The agency shall include with this notice a reasonable opportunity for the licensee to review a copy of records to be used by the agency in deciding whether to identify the licensee in the report.
(B) Provide the licensee with a reasonable opportunity to provide a written response to the agency and written materials in support of the licensee's position. If the licensee is identified in the report, the agency shall include this response and materials in the report submitted to a board under this section if requested by the licensee.
(C) At least 10 days prior to the expiration of the 30-day reporting requirement under subdivision (d), provide the licensee with the opportunity to present arguments to the body that will make the final decision or to that body's designee. The body shall review the care or professional services provided to the patient with respect to those services at issue in the claim or action and determine the licensee or licensees to be identified in the report and the amount of the settlement to be apportioned to the licensee.
(2) Nothing in this subdivision shall be construed to modify either the content of a report required under this section or the timeframe for filing that report.
(k) For purposes of this section, “licensee” means a licensee of the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, or the Physician Assistant Board.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT
ORANGE COUNTY BAR ASSOCIATION

STATEMENT OF REASONS

The Problem (including Existing Law): Outdated Malpractice Reporting Threshold Burdens

Regulatory System
Business and Professions Code section 801.01 requires reporting to the Medical Board of California when malpractice settlements exceed $30,000. This threshold has remained unchanged for decades despite significant inflation that has substantially eroded its real-world value.
The low threshold generates substantial reports for minor settlements that do not indicate serious quality-of-care concerns or negligence patterns requiring regulatory scrutiny. This administrative burden diverts Medical Board resources from investigating significant cases that genuinely threaten public safety. Healthcare providers, insurers, and self-insured entities must likewise dedicate staff time to filing reports on modest settlements falling far below MICRA damages caps.
The reporting requirement was intended to identify physicians whose malpractice history suggests substandard care warranting board attention. However, the outdated threshold now captures routine settlements reflecting ordinary litigation defense costs rather than meaningful indicators of physician competence. Many settlements below $100,000 are made for economic reasons unrelated to actual negligence—including expert witness costs, discovery, and trial preparation expenses that can exceed the settlement amount itself.
Updating this threshold would focus regulatory resources on cases presenting genuine public safety concerns while reducing unnecessary administrative burdens on the healthcare system..

The Solution: This resolution addresses the problem by raising the reporting threshold from thirty thousand dollars to one hundred thousand dollars. This adjustment better reflects current economic realities and focuses regulatory attention on settlements and verdicts that more reliably indicate potential quality-of-care issues requiring Medical Board investigation. The proposed one-hundred-thousand-dollar threshold maintains robust public protection while reducing unnecessary administrative burden. Medical Board enforcement resources can be concentrated on reviewing settlements and verdicts of sufficient magnitude to warrant serious scrutiny, rather than processing reports on minor settlements that rarely lead to disciplinary action. Healthcare providers and insurers benefit from reduced compliance costs, allowing them to allocate resources more efficiently. This adjustment aligns the reporting threshold more closely with MICRA damage caps, which begin at three hundred fifty thousand dollars for noneconomic damages as of 2023 and increase annually. By raising the reporting threshold to one hundred thousand dollars, the statute will capture settlements representing a meaningful percentage of potential damages rather than the lowest tier of routine settlements. The change maintains transparency and accountability while ensuring the Medical Board focuses its limited investigative resources on matters most likely to affect patient safety and healthcare quality.

IMPACT STATEMENT
This resolution does not affect any other law, statute, or rule. This resolution affects Business and Professions Code section 803.2, which cross-references section 801.01 and applies the same thirty-thousand-dollar reporting threshold to employers of physicians. If this resolution is approved, section 803.2 should be similarly amended to maintain consistency. The resolution does not affect reporting requirements for arbitration awards or civil judgments of any amount, which remain reportable regardless of amount under section 801.01(a)(1).

CURRENT OR PRIOR RELATED LEGISLATION
Assem. Bill No. 35 (2021-2022 Reg. Sess.) significantly amended MICRA provisions including damage caps and attorney fee limitations but did not address the thirty-thousand-dollar reporting threshold in Business and Professions Code section 801.01. No current legislation proposes to adjust this reporting threshold.

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RESOLUTION 06-01-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend add Evidence Code section 1154.5, to read as follows:

§ 1154.5. Inadmissibility of Third-Party Medical Lien Compromises Without Plaintiff Consent

(a) Evidence that a health care provider who rendered services to a person with a claim or potential claim against a tortfeasor or the tortfeasor's insurer has accepted a compromise, settlement, reduction, or discount of the medical provider's lien, charges, or invoices before trial or judgment is inadmissible to prove the reasonable value of medical services or the amount of damages unless:
(1) The injured person and the person's attorney, if represented, have agreed in writing to the compromise, settlement, reduction, or discount; or
(2) The compromise, settlement, reduction, or discount was negotiated and approved by the injured person's attorney in the course of representing the injured person's interests.
(b) If subdivision (a) applies, the health care provider's original charges or invoices shall be admissible as evidence of the reasonable value of medical services provided, subject to challenge as to reasonableness pursuant to applicable law. In no event shall evidence of the compromise, settlement, reduction, or discount be presented to the trier of fact or argued to the jury.
(c) If the injured person proceeds to trial and obtains a judgment, and if the tortfeasor or tortfeasor's insurer made pretrial payments to compromise a health care provider's lien without compliance with subdivision (a), the court shall, upon motion of the injured person, determine the manner of adjusting the judgment to account for such payments, including but not limited to ordering restitution of payments made to the health care provider, awarding the full judgment amount to the injured person, or imposing sanctions as appropriate.
(d) This section does not apply to:
(1) Compromises, settlements, reductions, or discounts negotiated by the injured person's attorney in the course of settlement of the entire claim;
(2) Reductions required by statute, regulation, or contractual obligation of the health care provider;
(3) An action for breach of the covenant of good faith and fair dealing or violation of subdivision (h) of Section 790.03 of the Insurance Code, where such evidence may be admissible to prove bad faith or unfair practices; or
(4) Liens subject to Medicare, Medicaid (Medi-Cal), or other federal statutory lien rights governed by federal law.
(e) As used in this section:
(1) "Health care provider" has the same meaning as in Section 56.05 of the Civil Code.
(2) "Tortfeasor" means a person or entity alleged to be liable for the injured person's damages.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT
Orange County Bar Association

STATEMENT OF REASONS

The Problem (including Existing Law): Insurance companies are systematically negotiating with medical providers to reduce liens without plaintiffs' knowledge or consent. Through third-party companies like ClaimTECH, insurers contact providers directly, offering "prompt payment" for 40-60% discounts—bypassing injured plaintiffs and their attorneys entirely.
This exploits California's Howell v. Hamilton Meats ruling, which limits recovery to amounts actually paid. By secretly settling a $50,000 lien for $20,000, insurers manufacture an artificially low damage ceiling—regardless of the care's true value.
The practice violates fundamental legal principles. It interferes with the attorney-client relationship by settling damage components without plaintiff consent. It weaponizes settlement privilege policies meant to encourage fair negotiation. It incentivizes litigation delays while insurers systematically reduce liens. It misleads providers who unknowingly undermine their patients' cases. And it shifts costs to taxpayers when inadequately compensated plaintiffs turn to public assistance.
This is not isolated conduct. The emergence of specialized lien reduction companies demonstrates intentional, systematic design. Insurers are deliberately gaming evidentiary rules by creating artificially suppressed "amounts paid" through secret settlements with uninformed providers—undermining justice for injured Californians while subsidizing their own profits.

The Solution: This resolution adds Evidence Code section 1154.5, making inadmissible any evidence of medical lien compromises negotiated without the injured plaintiff's and plaintiff attorney's written consent. The provision addresses a specific abuse while preserving legitimate settlement practices and statutory lien schemes. **Core Evidentiary Rule (Subdivision a)** Lien compromises negotiated by third parties—insurance companies or their representatives—without plaintiff consent are inadmissible to prove the reasonable value of medical services or damages. Plaintiffs retain control over whether to consent to such compromises, protecting their right to preserve full documentation of medical expenses for presentation to the trier of fact. **Preserving Original Medical Bills (Subdivision b)** When third-party lien compromises are excluded, original medical bills remain admissible as evidence of reasonable value, subject to the defendant's right to challenge reasonableness through expert testimony or other evidence. This preserves the adversarial process—defendants can argue bills are excessive, but cannot manufacture artificially low values through secret settlements. **Remedies for Unauthorized Payments (Subdivision c)** When insurance companies have already paid to settle liens without authorization, courts have discretion to adjust judgments appropriately, including ordering restitution of unauthorized payments or awarding plaintiffs the full judgment amount. This provides meaningful remedies and deters future misconduct. **Critical Exceptions (Subdivision d)** The proposal preserves legitimate practices through four exceptions: (1) settlements negotiated by plaintiff's counsel during global settlement remain unaffected—attorneys can still negotiate resolutions including lien compromises; (2) statutory or contractual reductions such as Medicare/Medicaid rates, insurance plan discounts, or provider fee schedules remain valid; (3) evidence of bad faith settlements may still be used in insurance bad faith cases under existing Evidence Code exceptions; and (4) federal statutory liens are excluded to avoid conflicts with federal law. **Narrow Tailoring** The proposal addresses the specific abuse without disrupting legitimate settlement negotiations, statutory lien schemes, or contractual obligations. It does not

prevent medical providers from accepting discounts—it simply requires that discounts negotiated by insurance companies cannot reduce plaintiffs' recovery unless plaintiffs consent. Providers remain free to negotiate, but insurers cannot use those negotiations to manipulate trial evidence. **Consistency with Existing Policy** This protection aligns with existing Evidence Code policy. Section 1152 protects settlement offers from proving liability. Section 1154 protects settlement acceptances from proving claim invalidity. Section 1154.5 extends these principles to prevent insurers from using covert settlements with medical providers to diminish plaintiffs' damage evidence. All three provisions share the same underlying policy: settlement discussions should facilitate fair resolution, not create evidentiary traps undermining legitimate claims. **Protecting the Attorney-Client Relationship** California law prohibits attorneys from settling cases without client consent. This resolution prevents insurance companies from accomplishing indirectly—through lien settlements—what plaintiff attorneys cannot do directly. It ensures decisions about presenting and proving damages remain within plaintiffs' control, consistent with fundamental principles of agency and professional responsibility.

IMPACT STATEMENT
This resolution does not affect any other law, statute, or rule.

CURRENT OR PRIOR RELATED LEGISLATION
None.

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RESOLUTION 07-01-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Civil Code section 4950 to read as follows:

§ 4950

(a) The minutes, minutes proposed for adoption that are marked to indicate draft status, or a summary of the minutes, of any board meeting, other than an executive session, shall be available to members within 30 days of the meeting. The minutes, proposed minutes, or summary minutes shall be distributed to any member upon request and upon reimbursement of the association's costs for making that distribution. There shall be no charge for minutes distributed electronically.

(b) The minutes, or minutes proposed minutes, shall include, but not limited to the following:

1. Date of the meeting;
2. Time of the meeting;
3. Location of the meeting, and when;
4. The type of meeting, such as regular, special, emergency, executive, committee;
5. Whether notice and agenda of the meeting was given to the membership;
6. Names of directors present;
7. Names of absent directors;
8. Whether members also present, and names and titles of any guest speakers.

~~(b)~~(c) The annual policy statement, prepared pursuant to Section 5310, shall inform the members of their right to obtain copies of board meeting minutes and of how and where to do so.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT

San Diego County Bar Association

STATEMENT OF REASONS

The Problem (including Existing Law): Presently, while there is a requirement that meeting minutes of the Board of Directors of an association must be kept, there isn't any requirement as to what those minutes must contain. Hence, meeting minutes for some associations do not have basic information, such as what was decided, and how each director voted, or even which directors were at the meeting!

Also, associations may charge members for requesting meeting minutes, even though Civil Code section 5205 (f) only allows an association to collect the actual costs of copying and mailing, and there aren't any variable costs for emailing.

The Solution: This resolution specifies the minimum content of meeting minutes, and makes clear that there isn't any copying or mailing costs for emailed minutes. This improved version of Resolution 02-05-2025 addresses the concerns voiced in objection to that previous Resolution. This Resolution only requires the essential elements of what should be included in meeting minutes.

IMPACT STATEMENT
This resolution does not affect any other law, statute, or rule.

CURRENT OR PRIOR RELATED LEGISLATION
This Resolution is essentially the same as section 7 of AB1184 (2026: Patterson). AB1184 includes some of the provisions of AB21 (2025: De Maio), which didn't get out of committee due to scheduling issues. Assemblymember Patterson has "brought back" certain provisions of AB21. This Resolution is an improved version of Resolution CCBA No. 02-05-2025, which was rejected by the delegates, presumably because it required too many details in the minutes. This Resolution should get passed so that CCBA can support AB1184, at least as to this provision.

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RESOLUTION 07-02-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to add section 4941 to the Civil Code as follows:

§ 4941
(a) If open session meetings of the board are electronically recorded using audio, or audio and video, the recordings shall be considered a record of the association, and shall be made available to members on the same basis as written meeting minutes.
(b) Notice shall be given at the beginning of every open session of the board that the meeting is being recorded.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT
San Diego County Bar Association

STATEMENT OF REASONS

The Problem (including Existing Law):

Members of associations should have a way of verifying and confirming that their board's meeting minutes are accurate.

Associations are required to keep minutes of their Board's meetings, and a draft version of those meeting minutes must be made available to any member who requests after 30 days of the meeting. (Civil Code §4950.) But there isn't any way for a member to know whether those minutes, due to either inadvertence or improper intent, are accurate.

Board meetings are typically recorded for use by the Association's secretary or its management agent for the purposes of drafting the minutes and are also available to the Board members. But then those recordings are not available to the membership.

The Solution: This resolution adds Civil Code section 4941 to require that, if the open session board meetings are going to be electronically recorded anyway, then the members will have at least an audio or audio and video record to verify what transpired at the meeting. This Resolution would not impose requirement that is either onerous or costly. Since 2020, when COVID-19 made in-person meetings difficult, many homeowner associations all over the state have been conducting their monthly board meetings on-line. Hence, associations have the means for electronic recording readily available, and in fact, have been using those recordings for use in making minutes of meetings. All this Resolution would do is allow the member the same access to meeting recordings that are already available to the Board.

IMPACT STATEMENT
This resolution may require additional statutory changes. Civil Code section 5205, the section that applies to association records, such as meeting minutes, might need to be updated to handle making copies of audio and video recordings.

CURRENT OR PRIOR RELATED LEGISLATION
This proposed resolution is an improved version of CCBA Resolution 02-04-2025, that was not adopted. That Resolution _required_ recording of HOA Board meetings without exception. Resolution 02-04-2025 also reflected the language of AB21 (2025: De Maio). That bill died in committee due to scheduling problems. But during the review of that bill, the Assembly Housing and Community Development commented that AB21 "may not actually strike the right balance of promoting accountability and transparency while also minimizing the cost on homeowners in these HOAs." It suggested that electronic recordings of session meetings "if made" be made available to members, as opposed to _requiring_ the session meetings to be electronically recorded. This Resolution adopts that recommendation. The language of this bill is essentially the same as the current version of AB21, which is: AB1184 (2026: Patterson). Adoption of this Resolution would allow CCBA to write a letter in support of that legislation, at least as to this issue.

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RESOLUTION 07-03-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Civil Code section 4910 as follows.

§4910
(a) The board shall not take action on any item of business outside of a board meeting.
(b) (1) Notwithstanding Section 7211 of the Corporations Code, the board shall not conduct a meeting via a series of electronic transmissions, including, but not limited to, electronic mail, except as specified in paragraph (2).
(2) Electronic transmissions may be used as a method of conducting an emergency board meeting if all directors, individually or collectively, consent in writing to that action, and if the written consent or consents are filed with the minutes of the board meeting. These written consents may be transmitted electronically.
(c) A majority of the directors shall not, outside a meeting authorized by this article, use a series of communications to deliberate or act on any item of business within the authority of the board, except in an emergency. Informational or ministerial communications that do not solicit responses, or do not involve discussion among a majority of directors, or do not result in board action, are not prohibited by this subdivision.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT

San Diego County Bar Association

STATEMENT OF REASONS

The Problem (including Existing Law): Until a recent court decision held otherwise, it was generally understood that the Board of Directors of an association was required to conduct the business of the association at a properly noticed and open meeting.

However, a few years ago, the Fourth District Court of Appeal ruled in *LNSU#1 v. Alta Del Mar Coastal Collection Community* (2023) 94 Cal App 5th 1050, that all of the Board discussions, debates and compromises were deemed allowed under section 4910, just as long as the final vote wasn't taken in secret. This means that by the time of the open Board meeting, all the discussions, debates and compromises have already occurred and the members in attendance have no idea what the Board is voting on. All the members hear is the Board's final vote, without even any clarity as to what the vote is about, or why. (It's worse than trying to watch a movie while blindfolded!)

The Solution: This resolution adds subsection (c) to Civil Code section 4910 to reverse the Fourth District's LNSU#1 ruling by again prohibiting the Board from conducting the business of the association in secret by prohibiting discussions among a majority of directors except at Board meetings.

IMPACT STATEMENT
This resolution does not affect any other law, statute, or rule.

CURRENT OR PRIOR RELATED LEGISLATION
This proposed resolution is essentially the same as section 3 of AB1184 (Patterson, 2026). It is an improved version of CCBA Resolutions 02-02-2024, and 02-07-2024, which both failed. Resolution 02-02-2024 is similar to AB21 (De Maio: 2025), that died in committee. Those Resolutions and Assembly Bill did not make it clear that the prohibition against backroom meetings still allowed for emergency, informational, or ministerial communications that do not solicit responses. Resolution 02-02-2024 was not passed by the delegates and AB21 bill died in committee due to scheduling problems. This Resolution addresses the concerns voiced about those previous CCBA resolutions by specifically allowing for emergency, informational, or ministerial communications that do not require a response, nor involve a majority of directors.

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RESOLUTION 07-04-2026

TEXT OF RESOLUTION

RESOLVED, that the Conference of California Bar Associations recommends that legislation be sponsored to add Civil Code section 5815 to read as follows:

§ 5815

(a) Each member of the board of directors of an association in a common interest development shall file an annual disclosure statement, under penalty of perjury, with the association disclosing all compensation or benefits obtained by the board member during the previous calendar year in connection with their service as a board member or arising from their relationship with the association.

(b) The disclosure statement required by subdivision (a) shall include, but is not limited to, all of the following:

(1) All monetary compensation received from the association, including salaries, stipends, consulting fees, or payments of any kind.

(2) All reimbursements for expenses, including the nature and amount of each expense reimbursed.

(3) All benefits received from the association, including, but not limited to, free or reduced-cost services, use of association facilities or resources, or any other item of value.

(4) All compensation, payments, or benefits received from any vendor, contractor, or service provider doing business with the association.

(5) Any financial interest in, or employment relationship with, any entity that has contracted with or provided goods or services to the association during the disclosure period.

(c) The disclosure statement shall be filed with the association's managing agent or, if the association has no managing agent, with the association's secretary, no later than March 1 of each year for the preceding calendar year.

(d) The association shall make all disclosure statements filed pursuant to this section available for inspection and copying by any member of the association, in accordance with the procedures set forth in Article 5 (commencing with Section 5200) of Chapter 6.

(e) The association shall maintain all disclosure statements for a period of not less than seven years.

(f) A member of the board of directors who willfully fails to file the disclosure statement required by this section is guilty of a misdemeanor punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment.

(g) A member of the board of directors who knowingly makes a material misrepresentation on the disclosure statement required by this section is guilty of a felony punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or by a fine not exceeding ten thousand dollars ($10,000), or by both that imprisonment and fine.

(h) Any violation of this section may be prosecuted by the Attorney General or by the district attorney of the county in which the association is located.

(i) This section shall not apply to a director who serves without any compensation or benefits whatsoever and who certifies that fact in writing to the association.

(j) For purposes of this section, "compensation or benefits" does not include the payment of actual and necessary expenses incurred in the performance of duties as a director, provided that such expenses are reasonable and properly documented.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT
Orange County Bar Association

The Problem: Homeowners associations in California manage billions of dollars in assessments and reserve funds on behalf of millions of homeowners. The boards of directors that govern these associations exercise significant authority over residents' property rights and financial obligations. Despite this substantial power and responsibility, California law currently imposes no requirement that board members disclose compensation or benefits they receive in connection with their service.

This lack of transparency creates opportunities for self-dealing, conflicts of interest, and financial impropriety. Board members may receive payments, benefits, or other consideration from the association or from vendors doing business with the association without any obligation to disclose these arrangements to the membership. Homeowners have no systematic way to determine whether their board members are acting with undisclosed financial interests or whether association funds are being used to compensate board members in ways that may not serve the membership's best interests.

While *Civil Code* section 5800 addresses liability protection for "volunteer" board members, and section 5800(c) acknowledges that some directors receive compensation, there is no affirmative disclosure requirement. The absence of mandatory disclosure undermines the fiduciary duties board members owe to the association and creates an environment where financial conflicts can flourish unchecked.

The Solution: This resolution addresses the transparency deficit by requiring each homeowners association board member to file an annual disclosure statement under penalty of perjury. The statement must identify all compensation and benefits received from the association, from vendors doing business with the association, or arising from the board member's relationship with the association.

The proposed statute establishes meaningful enforcement mechanisms. Willful failure to file the required disclosure is designated as a misdemeanor, while knowing misrepresentation on the disclosure form constitutes a felony prosecutable by the California Department of Justice or local district attorneys. These criminal sanctions reflect the seriousness of breaches of fiduciary duty by those entrusted with authority over community association resources.

The disclosure statements must be made available to all association members and maintained for seven years, ensuring accountability and enabling members to identify potential conflicts of interest. The statute includes reasonable exceptions for directors who serve entirely without compensation and clarifies that reimbursement of reasonable, documented expenses does not constitute compensable benefits requiring disclosure beyond the reimbursement itself.

This resolution promotes transparency, deters self-dealing, and provides homeowners with the information necessary to hold their board members accountable. It aligns with California's public policy of ensuring ethical governance of common interest developments and protecting homeowners' property rights.

IMPACT STATEMENT
This resolution does not affect any other law, statute, or rule. The criminal penalties for misdemeanor and felony violations reference existing provisions of the Penal Code. The disclosure access requirements incorporate by reference the existing inspection procedures in Civil Code sections 5200 et seq.

CURRENT OR PRIOR RELATED LEGISLATION
No similar legislation is currently pending or has been previously introduced in the California Legislature specifically addressing annual compensation disclosure requirements for homeowners association board members with criminal penalties for noncompliance.

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RESOLUTION 07-05-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Civil Code Section 5100, to read as follows:

§ 5100
(a) (1) Notwithstanding any other law or provision of the governing documents, elections regarding assessments legally requiring a vote, election and removal of directors, amendments to the governing documents, or the grant of exclusive use of common area pursuant to Section 4600 shall be held by secret ballot in accordance with the procedures set forth in this article.

(2) An association shall hold an election for a seat on the board of directors in accordance with the procedures set forth in this article at the expiration of the corresponding director's term and at least once every ~~four~~two years.(b) This article also governs an election on any topic that is expressly identified in the operating rules as being governed by this article.

(3) Each director position shall be placed up for election at least every two years.

(c) The provisions of this article apply to both incorporated and unincorporated associations, notwithstanding any contrary provision of the governing documents.

(d) The procedures set forth in this article shall apply to votes cast directly by the membership, but do not apply to votes cast by delegates or other elected representatives.

(e) In the event of a conflict between this article and the provisions of the Nonprofit Mutual Benefit Corporation Law (Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code) relating to elections, the provisions of this article shall prevail.

(f) Directors shall not be required to be elected pursuant to this article if the governing documents provide that one member from each separate interest is a director.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT
San Mateo County Bar Association

STATEMENT OF REASONS

The Problem (including Existing Law): When a homeowners association (HOA) has a board that abuses its authority, Civil Code Section 5100 currently allows the board to remain in power for up to four years – unless the governing documents set out a shorter term. Although the Corporations Code allows HOA members to petition for recall elections, the process is daunting and expensive, especially when a lawsuit is required to enforce the petition. For example, before a member can file a lawsuit against an HOA, the member must offer Alternate Dispute Resolution (ADR) for at least 30 days. See Civil Code Section 5930. However, most HOAs carry Directors & Officers (D&O) insurance, with either $500,000 or $1,000,000 in coverage, to spend on their portion of the ADR and their litigation attorneys. See Civil Code Section 5800.

Meanwhile, the members have to pay out of pocket because they do not have any insurance. Because there are so many obstacles for HOA members to overcome, few of them are willing or able to stand up for their right to member elections. In addition, although elections involving secret ballots are necessarily expensive, having directors who abuse their power – for up to four years - can and will cause harm to the members in other ways. Please note that all HOA boards have the authority to plan for and collect funding for required elections. For example, all HOA boards are required to prepare an annual budget. See Civil Code Section 5300. In addition, HOA boards are able to increase the regular assessments by up to 20% each year (without member approval). See Civil Code Section 5605(b).

The Solution: The proposed amendments will ensure that all HOAs will carry out the required elections at least every two years. In addition, it is necessary to require that each seat is placed up for election every two years – to prevent HOA Boards from continuing to have four-year director terms that are staggered. Further, because Civil Code Section 5100 is within the Davis-Stirling Act Article for "Member Election," the member-favorable enforcement measures within Civil Code Section 5145 (which include asymmetrical attorney fees, civil penalties, and cost provisions) would apply. These reforms are needed to motivate all HOA boards to get into and remain in compliance by holding "member elections" for all of the director positions at least every two years.

IMPACT STATEMENT
This resolution does not affect any other law, statute, or rule.

CURRENT OR PRIOR RELATED LEGISLATION
See Corporations Code section 7220(a) (which states: "[D]irectors shall be elected for terms of not longer than four years, as fixed in the articles or bylaws"). See also AB 2460 (Ta, 2023-2024 Reg. Sess.) (which amended Civil Code Section 5115(d)(2) to allow that, in the absence of quorum, the quorum can be reduced to 20 percent at a reconvened membership meeting. Please note that Section 5115(d)(2) does not "require" the meeting to be reconvened. See also Corporations Code Sections 7510(c) (for when corporations fail to hold "regular" meetings, a court can order the ballot to be conducted), 7510(e) (to allow 5 percent of the members to petition for a "special meeting," such as a "recall election"), and 7515 (for when it is "impractical or unduly difficult" for an HOA to carry out a meeting for an election). See AB 1184 (Patterson, 2025-2026 Reg. Sess.), the "Homeowner Association Accountability and Transparency Act of 2026," Section 8, which proposes other types of amendments to Civil Code Section 5100.

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RESOLUTION 07-06-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Civil Code Section 5120, to read as follows:

§ 5120

(a) All votes shall be counted and tabulated by the inspector or inspectors of elections, or the designee of the inspector or inspectors of elections, in public at a properly noticed open meeting of the board or members. Any candidate or other member of the association may witness the counting and tabulation of the votes. A person, including a member of the association or an employee of the management company, shall not open or otherwise review any ballot before the time and place at which the ballots are counted and tabulated. The inspector or inspectors of elections, or the designee of the inspector or inspectors of elections, may verify the member's information and signature on the outer envelope prior to the meeting at which ballots are tabulated. Once a secret ballot is received by the inspector or inspectors of elections, it shall be irrevocable.

(b) The tabulated results of the election shall be promptly reported to the board and shall be recorded in the minutes of the next meeting of the board and shall be available for review by members of the association. Within 15 days of the election, the board shall give general notice pursuant to Section 4045 of the tabulated results of the election.

(c) A person, including a member of the association or an employee of the management company, shall not open or otherwise review any tally sheet of votes cast by electronic secret ballots before the time and place at which the ballots are counted and tabulated.

(d) At the conclusion of the board or membership meeting for the election of directors, as required by subpart (a), the terms for the newly-elected directors shall take effect.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT
San Mateo County Bar Association

STATEMENT OF REASONS

The Problem (including Existing Law): For homeowner association (HOA) elections for directors, unless the bylaws include specific provisions, there is ambiguity about when the terms for the newly-elected directors begin. See the Davis-Stirling Act Article for "Member Election" in Civil Code Sections 5100-5145, which is silent about this issue. For example, there is ambiguity about whether the newly-directed directors are "seated" at the end of the meeting for the election or whether they are "seated" at the subsequent board meeting. HOA members must be certain about who the directors are because HOA boards have the authority to write checks, issue violations, hold violation hearings, record liens, decide to foreclose on liens, and make decisions for the HOA during lawsuits. Further, under Civil Code Section 5800, volunteer

directors are protected from personal liability only if the HOA has an insurance policy for either $500,000 or $1,000,000 (if there are more than 100 separate interests). See Civil Code Section 5800. However, the identities of the directors and officers must be "certain" - or they will not be protected. (Please note that Section 5103(e), which is for "election by acclamation" (for when the number of candidates is less than or equal to the number of open director positions) specifies that the board "votes to consider the qualified candidates elected by acclamation" at a board meeting. As a result, Section 5103(e) provides certainty for when those types of newly-elected directors are seated.)

The Solution: Because HOA boards have so much authority over the association's finances, enforcement measures, and legal issues, the members must "know" who the directors are – at all times. The Resolution would provide that certainty. Further, if the resolution's amendments create a conflict with an HOA's governing documents regarding when the new directors are "seated," the new statutory provision would automatically control. See Civil Code Section 4205, for the hierarchy between the law (statutes) and HOA governing documents (including the "bylaws"). See also Civil Code Section 5100(e), which states: "In the event of a conflict between [the Davis-Stirling Act Article for "Member Election"] and the provisions of the Nonprofit Mutual Benefit Corporation Law … relating to elections, the provisions of [the Davis-Stirling Act Article for "Member Election"] shall prevail.

IMPACT STATEMENT
This resolution does not affect any other law, statute, or rule.

CURRENT OR PRIOR RELATED LEGISLATION
Civil Code Section 5120 was amended by Stats. 2024, Ch. 383, Sec. 4. (AB 2159) Effective January 1, 2025. See also AB 1184 (Patterson, 2025-2026 Reg. Sess.), the "Homeowner Association Accountability and Transparency Act of 2026, Section 9, which proposes other amendments to Civil Code Section 5120.

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RESOLUTION 07-07-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to add Civil Code Section 4921, to read as follows:

§ 4921
If an association becomes involved in litigation or arbitration, the board shall announce the litigation or arbitration at the subsequent board meeting. The minutes shall state the name of the court and the case number or the name of the arbitrator.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT
San Mateo County Bar Association

STATEMENT OF REASONS

The Problem (including Existing Law): For homeowner associations (HOAs), "the Common Interest Development Open Meeting Act" (Act) is within Civil Code Sections 4900-4955. The basic premise of the Act is that HOA boards are required to inform the members about almost all of the "actions" they take on "business items." See Civil Code Section 4910. However, Civil Code Section 4935 provides limited exceptions for matters the board may discuss privately, in "executive session." For example, HOA boards are allowed to "consider litigation" during executive session. Furthermore, when HOA boards discuss litigation strategy with the attorneys, those discussions are protected by the attorney-client privilege. However, when an HOA becomes involved in litigation or arbitration, Section 4935 and the "attorney-client privilege" do not allow HOA boards to withhold such basic information from the members.

The Solution: When HOA boards "decide to" sue someone or to request arbitration, or when HOA boards "decide to" defend the HOA through litigation or arbitration, the members have the right to know about those decisions – in real time. This Resolution would require HOA boards to provide proper notice to the members about such decisions during board meetings, in open session – when members are present – and to record the information in the meeting minutes.

IMPACT STATEMENT
This resolution does not affect any other law, statute, or rule.

CURRENT OR PRIOR RELATED LEGISLATION
See AB 1184 (Patterson, 2025-2026 Reg. Sess.), the "Homeowner Association (HOA) Accountability and Transparency Act of 2026," Section 4, which would add Civil Code Section 4921 to require HOAs to provide generic information about "litigation" just once per year, in the "annual budget report." See also Civil Code Sections 4525 and 4528, for "transfer disclosure," which do not require disclosure about litigation or arbitration when HOA separate interests are being sold. See also CCBA Resolution 02-02-2025 (San Diego), which was "Disapproved."

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RESOLUTION 07-08-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Civil Code Sections 4525 and 4528, to read as follows:

§ 4525

(a) The owner of a separate interest shall provide the following documents to a prospective purchaser of the separate interest, as soon as practicable before the transfer of title or the execution of a real property sales contract, as defined in Section 2985:

(1) A copy of all governing documents. If the association is not incorporated, this shall include a statement in writing from an authorized representative of the association that the association is not incorporated.

(2) If there is a restriction in the governing documents limiting the occupancy, residency, or use of a separate interest on the basis of age in a manner different from that provided in Section 51.3, a statement that the restriction is only enforceable to the extent permitted by Section 51.3 and a statement specifying the applicable provisions of Section 51.3.

(3) A copy of the most recent documents distributed pursuant to Article 7 (commencing with Section 5300) of Chapter 6.

(4) A true statement in writing obtained from an authorized representative of the association as to the amount of the association's current regular and special assessments and fees, any assessments levied upon the owner's interest in the common interest development that are unpaid on the date of the statement, and any monetary fines or penalties levied upon the owner's interest and unpaid on the date of the statement. The statement obtained from an authorized representative shall also include true information on late charges, interest, and costs of collection which, as of the date of the statement, are or may be made a lien upon the owner's interest in a common interest development pursuant to Article 2 (commencing with Section 5650) of Chapter 8.

(5) A copy or a summary of any notice previously sent to the owner pursuant to Section 5855 that sets forth any alleged violation of the governing documents that remains unresolved at the time of the request. The notice shall not be deemed a waiver of the association's right to enforce the governing documents against the owner or the prospective purchaser of the separate interest with respect to any violation. This paragraph shall not be construed to require an association to inspect an owner's separate interest.

(6) A copy of the initial list of defects provided to each member pursuant to Section 6000, unless the association and the builder subsequently enter into a settlement agreement or otherwise resolve the matter and the association complies with Section 6100. Disclosure of the initial list of defects pursuant to this paragraph does not waive any privilege attached to the document. The initial list of defects shall also include a statement that a final determination as to whether the list of defects is accurate and complete has not been made.

(7) A copy of the latest information provided for in Section 6100.

(8) Any change in the association's current regular and special assessments and fees which have been approved by the board, but have not become due and payable as of the date disclosure is provided pursuant to this subdivision.

(9) If there is a provision in the governing documents that prohibits the rental or leasing of any of the separate interests in the common interest development to a renter, lessee, or tenant, a statement describing the prohibition.

(10) If requested by the prospective purchaser, a copy of the minutes of board meetings, excluding meetings held in executive session, conducted over the previous 12 months, that were approved by the board.

(11) A copy of the report issued pursuant to the most recent inspection conducted pursuant to Section 5551.

(12) If the association is involved in litigation or arbitration, the name of the court and the case number or the name of the arbitrator.

(b) This section does not apply to an owner that is subject to Section 11018.6 of the Business and Professions Code.

§ 4528

The form for billing disclosures required by Section 4530 shall be in at least 10-point type and substantially the following form:

CHARGES FOR DOCUMENTS PROVIDED AS REQUIRED BY SECTION 4525*
The seller may, in accordance with Section 4530 of the Civil Code, provide to the prospective purchaser, at no cost, current copies of any documents specified by Section 4525 that are in the possession of the seller.
A seller may request to purchase some or all of these documents, but shall not be required to purchase ALL of the documents listed on this form.
Property Address
Owner of Property
Owner's Mailing Address (If known or different from property address.)

Provider of the Section 4525 Items:
Print Name _____ Position or Title _____ Association or Agent
Date Form Completed

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Check or Complete Applicable Column or Columns Below			
Document	Civil Code Section Included	Fee for Document	Not Available (N/A), Not Applicable (N/App), or Directly Provided by Seller and confirmed in writing by Seller as a current document (DP)
Articles of Incorporation or statement that not incorporated	Section 4525(a)(1)		
CC&Rs	Section 4525(a)(1)		

Bylaws	Section 4525(a)(1)		
Operating Rules	Section 4525(a)(1)		
Age restrictions, if any	Section 4525(a)(2)		
Rental restrictions, if any	Section 4525(a)(9)		
Annual budget report or summary, including reserve study	Sections 5300 and 4525(a)(3)		
Assessment and reserve funding disclosure summary	Sections 5300 and 4525(a)(4)		
Financial statement review	Sections 5305 and 4525(a)(3)		

Assessment enforcement policy	Sections 5310 and 4525(a)(4)		
Insurance summary	Sections 5300 and 4525(a)(3)		
Regular assessment	Section 4525(a)(4)		
Special assessment	Section 4525(a)(4)		
Emergency assessment	Section 4525(a)(4)		
Other unpaid obligations of seller	Sections 5675 and 4525(a)(4)		
Approved changes to assessments	Sections 5300 and 4525(a)(4), (8)		
Settlement notice regarding common area defects	Sections 4525(a)(6), (7), and 6100		

Preliminary list of defects	Sections 4525(a)(6), 6000, and 6100		
Notice(s) of violation	Sections 5855 and 4525(a)(5)		
Required statement of fees	Section 4525		
Minutes of regular board meetings conducted over the previous 12 months, if requested	Section 4525(a)(10)		
Copy of the report issued pursuant to the most recent inspection of exterior elevated elements	Sections 4525(a)(11) and 5551		
Litigation disclosure	Section 4525(a)(12)		
Total fees for these documents:			

56

(Proposed new language underlined; language to be deleted stricken)

PROPONENT
San Mateo County Bar Association

STATEMENT OF REASONS

The Problem (including Existing Law): For homeowners associations (HOAs), if the HOA is involved in active litigation or arbitration, the seller of a separate interest is not required to disclose that fact to a potential buyer. This is unfair to the potential buyers because when an HOA is involved in litigation or arbitration, there are associated financial risks. For example, the HOA might lose its Directors & Officers insurance coverage, or it might have to impose a "special assessment" to cover the costs. In addition, HOA members have the right to attend board meetings, and they might be aware of the litigation or arbitration. However, potential buyers will probably have no idea about the HOA's legal issues. Further, because Civil Code Section 4525(a)(6) requires the disclosure of "defects" to potential buyers, shouldn't litigation and arbitration be disclosed as well?

The Solution: The resolution would require that if an HOA is involved in litigation or arbitration, the HOA and the seller of a separate interest disclose the court name and case number or the name of the arbitrator to each potential buyer.

IMPACT STATEMENT
This resolution does not affect any other law, statute, or rule.

CURRENT OR PRIOR RELATED LEGISLATION
See AB 1184 (Patterson, 2025-2026 Reg. Sess.), the "Homeowner Association Accountability and Transparency Act of 2026," Section 4, which would add Civil Code Section 4921 (within the Article for "Board Meeting") to require HOAs that are involved in litigation to disclose that fact just once per year, in the "annual budget report." In addition, AB 1184, Section 5, would amend Civil Code Section 4935 (within the Article for "Board Meeting") to require the Board to include the "case name" in its executive session meeting minutes – which the members are not entitled access to. Further, see Resolution 02-02-2025, which would have required "HOA boards to announce at meetings and include in their minutes any involvement in litigation and any changes to insurance policies," which was "Disapproved" at the 2025 CCBA Conference.

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RESOLUTION 08-01-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to add Labor Code section 1414 to read as follows:

§ 1414

(a) In any action under the statutes of this state or under common law, constructive discharge may only be established by either of the following:

(1) Evidence of objectively intolerable working conditions to the extent that a reasonable employee would feel compelled to resign, if the employer has been given at least fifteen days' notice by the employee that the employee intends to resign because of these conditions, and the employer fails to respond to the employee's concerns; or

(2) Evidence of outrageous conduct by the employer or a managing agent of the employer that is directed at the employee, such as sexual assault, threats of violence, or a continuous pattern of unlawful discrimination or harassment, if the conduct would cause a reasonable employee to feel compelled to resign.

(b) As a precondition to the right of an employee to bring a constructive discharge claim against an employer pursuant to paragraph (a), subpart (1) of this section, the employee shall take each of the following actions before deciding whether to resign:

(1) Notify an appropriate representative of the employer, in writing, that a working condition exists that the employee believes is so intolerable that the employee feels compelled to resign or intends to resign;

(2) Allow the employer at least fifteen calendar days to respond in writing to the matters presented in the employee's written communication; and

(3) Read and consider the employer's response to the employee's written communication.

(c) If an employee reasonably believes that the employee cannot continue to work during the period for the employer to respond to the employee's written communication regarding the conditions allegedly constituting constructive discharge, the employee is entitled to apply accrued vacation or paid time off hours, if any, or take an unpaid leave of up to fifteen calendar days or until the time when the employer has responded in writing to the employee's written communication, whichever occurs first. Nothing in this section prevents an employer from offering paid leave while the employer responds to the employee's written notice.

(d) Any communications or actions by an employer in response to an employee's communications about the employee's working conditions shall not be deemed an admission by the employer that it has committed any action that gives rise to any claim or cause of action by the employee against the employer.

(e) An employer shall be deemed to have waived the right to notice under paragraph (a), subpart 1 if the employer fails to provide written notice to its employees of the requirements of this section, which must include an identification by name, job title or department of an appropriate representative or representatives to whom employees must provide written notice under paragraph (b), subpart (1).

(f) Notwithstanding any other requirements of this section, an employee may bring a constructive discharge claim without prior written notice in the event of outrageous conduct by

the employer or by a managing agent of the employer that is directed at the employee, such as sexual assault, threats of violence, or a continuous pattern of unlawful discrimination or harassment, if the outrageous conduct would cause a reasonable employee to feel compelled to resign.

(g) For constructive discharge claims to which subpart (1) of paragraph (a) of this section applies, the statute of limitations begins no sooner than fifteen calendar days after the employee provides written notice to the employer as set forth in subpart (2) of paragraph (b).

(Proposed new language underlined; language to be deleted stricken)

PROPONENT
San Diego County Bar Association

STATEMENT OF REASONS

The Problem (including Existing Law): While at-will employment is the default in California, courts recognize that an employer may not unlawfully force an employee to resign by creating or knowingly allowing intolerable working conditions. An employer might not be aware of an employee's perception of intolerable conditions that, had the employer known, might have been corrected. The employee instead quits, which leads to loss of employment for that individual, pressure on the employer to fill or eliminate the role or delegate duties, and increased litigation. Constructive discharge is regarded legally as a firing rather than a resignation. (*Mullins v. Rockwell Int'l Corp.* (1997) 15 Cal.4th 731, 737.) It is a cause of action alleged with significant frequency in California, especially in wrongful termination suits.

The Solution: As a prerequisite to filing a constructive termination claim, the employee must (1) notify their employer, in writing, if a working condition exists that the employee believes is so intolerable that the employee feels forced to resign from their employment; (2) allow the employer at least 15 calendar days to provide a written response to the employee's written notice; and (3) read and consider the employer's response to the employee's written notice. At the employer's discretion, or the employee opts to use vacation or paid time off, the employee would be entitled to paid or unpaid leave during the 15-day period. Such pre-litigation communications promote fairness and respect and will in some situations lead to employee retention, improved workplace morale, and fewer lawsuits between employers and employees. Employees who comply preserve the right to bring a claim against the employer alleging that a working condition forced the employee to resign. Employees who do not comply cannot sue for constructive termination unless the employer's conduct was outrageous. Nothing alters employees' ability to sue for harassment, retaliation, discrimination, or any other legal claim.

Standing alone, constructive discharge is neither a tort nor a breach of contract, but a doctrine that transforms what is ostensibly a resignation into a firing. (*Turner v. Anheuser-Busch, Inc.* (1994) 7 Cal.4th 1238, 1251.) Codifying the doctrine adds clarity while preserving the elements of liability, namely, that the employer intentionally created or knowingly permitted working conditions to exist that would cause a reasonable person to resign. (See CACI 2510.) This resolution is based on an Arizona law implemented in 1997. (A.R.S. 23-1502.)

IMPACT STATEMENT
This resolution does not affect any other law, statute, or rule. Constructive termination is currently a tort claim in California.

CURRENT OR PRIOR RELATED LEGISLATION
None.

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RESOLUTION 08-02-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Labor Code section 246 to read as follows:

§ 246
(a) (1) An employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section. For an individual provider of waiver personal care services under Section 14132.97 of the Welfare and Institutions Code who also provides in-home supportive services in an applicable month, eligibility shall be determined based on the aggregate number of monthly hours worked between in-home supportive services and waiver personal care services pursuant to subdivision (d) of Section 14132.971.

(2) On and after July 1, 2018, a provider of in-home supportive services under Section 14132.95, 14132.952, or 14132.956 of, or Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of, the Welfare and Institutions Code, who works in California for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in subdivision (e) and subject to the rate of accrual in paragraph (1) of subdivision (b). For an individual provider of waiver personal care services under Section 14132.97 of the Welfare and Institutions Code, entitlement to paid sick days begins on July 1, 2019.

(b) (1) An employee shall accrue paid sick days at the rate of not less than one hour per every 30 hours worked, beginning at the commencement of employment or the operative date of this article, whichever is later, subject to the use and accrual limitations set forth in this section.

(2) An employee who is exempt from overtime requirements as an administrative, executive, or professional employee under a wage order of the Industrial Welfare Commission is deemed to work 40 hours per workweek for the purposes of this section, unless the employee's normal workweek is less than 40 hours, in which case the employee shall accrue paid sick days based upon that normal workweek.

(3) An employer may use a different accrual method, other than providing one hour per every 30 hours worked, provided that the accrual is on a regular basis so that an employee has no less than 24 hours of accrued sick leave or paid time off by the 120th calendar day of employment or each calendar year, or in each 12-month period, and no less than 40 hours of accrued sick leave or paid time off by the 200th calendar day of employment or each calendar year, or in each 12-month period.

(4) An employer may satisfy the accrual requirements of this section by providing not less than 24 hours or 3 days of paid sick leave that is available to the employee to use by the completion of the employee's 120th calendar day of employment, and no less than 40 hours or 5 days of paid sick leave that is available to the employee to use by the completion of the employee's 200th calendar day of employment.

(c) An employee shall be entitled to use accrued paid sick days beginning on the 90th day of employment, after which day the employee may use paid sick days as they are accrued.

(d) Accrued paid sick days shall carry over to the following year of employment. However, an employer may limit an employee's use of accrued paid sick days to 40 hours or five days in each

year of employment, calendar year, or 12-month period. This section shall be satisfied and no accrual or carryover is required if the full amount of leave is received at the beginning of each year of employment, calendar year, or 12-month period. The term "full amount of leave" means five days or 40 hours, which can be prorated for employees in their first partial year of employment based on the number of days remaining in the calendar year or 12-month period. Prorating is inapplicable when sick leave is received at the beginning of each year of employment. Prorated sick time entitlements must be rounded up to the nearest hour or the smallest increment that the employer's payroll system uses, whichever is smaller.

(e) For a provider of in-home supportive services under Section 14132.95, 14132.952, or 14132.956 of, or Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of, and an individual provider of waiver personal care services under Section 14132.97 of, the Welfare and Institutions Code, the term "full amount of leave" is defined as follows:

(1) Eight hours or one day in each year of employment, calendar year, or 12-month period beginning July 1, 2018.

(2) Sixteen hours or two days in each year of employment, calendar year, or 12-month period beginning when the minimum wage, as set forth in paragraph (1) of subdivision (b) of Section 1182.12 and accounting for any years postponed under subparagraph (D) of paragraph (3) of subdivision (d) of Section 1182.12, has reached thirteen dollars ($13) per hour.

(3) Twenty-four hours or three days in each year of employment, calendar year, or 12-month period beginning when the minimum wage, as set forth in paragraph (1) of subdivision (b) of Section 1182.12 and accounting for any years postponed under subparagraph (D) of paragraph (3) of subdivision (d) of Section 1182.12, has reached fifteen dollars ($15) per hour.

(4) Forty hours or five days in each year of employment, calendar year, or 12-month period beginning January 1, 2024.

(f) An employer is not required to provide additional paid sick days pursuant to this section if the employer has a paid leave policy or paid time off policy, the employer makes available an amount of leave applicable to employees that may be used for the same purposes and under the same conditions as specified in this section, and the policy satisfies one of the following:

(1) Satisfies the accrual, carryover, and use requirements of this section.

(2) Provided paid sick leave or paid time off to a class of employees before January 1, 2015, pursuant to a sick leave policy or paid time off policy that used an accrual method different than providing one hour per 30 hours worked, provided that the accrual is on a regular basis so that an employee, including an employee hired into that class after January 1, 2015, has no less than one day or eight hours of accrued sick leave or paid time off within three months of employment of each calendar year, or each 12-month period, and the employee was eligible to earn at least five days or 40 hours of sick leave or paid time off within six months of employment. If an employer modifies the accrual method used in the policy it had in place prior to January 1, 2015, the employer shall comply with any accrual method set forth in subdivision (b) or provide the full amount of leave at the beginning of each year of employment, calendar year, or 12-month period. This section does not prohibit the employer from increasing the accrual amount or rate for a class of employees covered by this subdivision.

(3) Notwithstanding any other law, sick leave benefits provided pursuant to the provisions of Sections 19859 to 19868.3, inclusive, of the Government Code, or annual leave benefits provided pursuant to the provisions of Sections 19858.3 to 19858.7, inclusive, of the Government Code, or by provisions of a memorandum of understanding reached pursuant to Section 3517.5 that incorporate or supersede provisions of Section 19859 to 19868.3, inclusive,

or Sections 19858.3 to 19858.7, inclusive, of the Government Code, meet the requirements of this section.

(g) (1) Except as specified in paragraph (2), an employer is not required to provide compensation to an employee for accrued, unused paid sick days upon termination, resignation, retirement, or other separation from employment.

(2) If an employee separates from an employer and is rehired by the employer within one year from the date of separation, previously accrued and unused paid sick days shall be reinstated. The employee shall be entitled to use those previously accrued and unused paid sick days and to accrue additional paid sick days upon rehiring, subject to the use and accrual limitations set forth in this section. An employer is not required to reinstate accrued paid time off to an employee that was paid out at the time of termination, resignation, or separation of employment.

(h) An employer may lend paid sick days to an employee in advance of accrual, at the employer's discretion and with proper documentation.

(i) An employer shall provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee's payment of wages. If an employer provides unlimited paid sick leave or unlimited paid time off to an employee, the employer may satisfy this section by indicating on the notice or the employee's itemized wage statement "unlimited." The penalties described in this article for a violation of this subdivision shall be in lieu of the penalties for a violation of Section 226. This subdivision shall apply to employers covered by Wage Order 11 or 12 of the Industrial Welfare Commission only on and after January 21, 2016.

(j) An employer has no obligation under this section to allow an employee's total accrual of paid sick leave to exceed 80 hours or 10 days, provided that an employee's rights to accrue and use paid sick leave are not limited other than as allowed under this section.

(k) An employee may determine how much paid sick leave they need to use, provided that an employer may set a reasonable minimum increment, not to exceed two hours, for the use of paid sick leave.

(l) For the purposes of this section, an employer shall calculate paid sick leave using any of the following calculations:

(1) Paid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek.

(2) Paid sick time for nonexempt employees shall be calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment.

(3) Paid sick time for exempt employees shall be calculated in the same manner as the employer calculates wages for other forms of paid leave time.

(m) If the need for paid sick leave is foreseeable, the employee shall provide reasonable advance notification. If the need for paid sick leave is unforeseeable, the employee shall provide notice of the need for the leave as soon as practicable.

(n) An employer shall provide payment for sick leave taken by an employee no later than the payday for the next regular payroll period after the sick leave was taken.

(o) The State Department of Social Services, in consultation with stakeholders, shall convene a workgroup to implement paid sick leave for in-home supportive services providers as specified

in this section. This workgroup shall finish its implementation work by November 1, 2017, and the State Department of Social Services shall issue guidance such as an all-county letter or similar instructions by December 1, 2017.

(p) No later than February 1, 2019, the State Department of Social Services, in consultation with the Department of Finance and stakeholders, shall reconvene the paid sick leave workgroup for in-home supportive services providers. The workgroup shall discuss how paid sick leave affects the provision of in-home supportive services. The workgroup shall consider the potential need for a process to cover an in-home supportive services recipient's authorized hours when a provider needs to utilize their sick time. This workgroup shall finish its work by November 1, 2019.

(q) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the State Department of Social Services may implement, interpret, or make specific this section by means of an all-county letter, or similar instructions, without taking any regulatory action.

(r) Subdivisions (g), (h), (i), (l), (m), and (n) shall preempt any local ordinance to the contrary.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT

San Diego County Bar Association

STATEMENT OF REASONS

The Problem (including Existing Law): The law is unclear concerning the amount of paid sick time that must be provided up-front to employees hired mid-year by an employer that frontloads sick time. Specifically, there are two lawful methods for providing paid sick leave: (1) the accrual method, where employees earn sick hours bit by bit based on hours worked; or (2) the frontload method, where at least 40 hours (5 days) of paid sick time are provided up-front at the start of a 12-month period. Unfortunately, Labor Code § 246 does not address whether employers that use the frontload method can prorate sick hours for employees who are hired mid-year. Paragraph (d) reads instead that the frontloaded method requires that employees receive the "full amount of leave," defined as "five days or 40 hours," at the "beginning of each year of employment, calendar year, or 12-month period." Paragraph (b)(4) permits employers to provide not less than 24 hours or 3 days of sick time by the completion of the employee's 120th calendar day of employment; however, that subpart applies to employers that use the accrual method, stating, "An employer may *satisfy the accrual requirements* of this section by . . . ." Cautious employers err on the side of frontloading to new hires the full amount of paid sick time (40 hours/5 days), even if the person is hired a few months before the 12-month period restarts. This approach, even if the company implements a 90-day wait period for use of sick time (optional), can result in a windfall to new employees compared to their peers.

No court has resolved this issue. The California Labor Commissioner published a Frequently Asked Question on its website that advises prorating for "initial hires" is allowed. But agency guidance is not binding legal authority. Also, the Labor Commissioner ignores the qualifier "accrual requirements" and the definition of "full amount of leave" noted above. See https://www.dir.ca.gov/dlse/paid_sick_leave.htm.

Several California Supreme Court and appellate court opinions have determined that the Labor Commissioner's enforcement positions or manuals were not binding or were incorrect interpretations of California labor law. (See, e.g., *Troester v. Starbucks* (2018) [rejecting de minimus doctrine to CA wage and hour claims]; *Alvarado v. Dart Container* (2018) [calculating overtime on flat-sum bonus].) Violating the paid sick leave law exposes employers to individual liability, class actions, and Private Attorneys General Act penalties.

The Solution: Clarify that employers that use the frontload method can prorate the total amount of paid sick leave provided to employees who are hired after the start of the designated 12-month period. This solution will not affect employers who frontload sick time based on the employee's hire date, i.e. 40 hours/5 days provided at the start of each year of employment. But for employers that calculate the 12-month period based on calendar year or some other start date, prorating promotes fairness by preventing windfall allotments to new hires, and it avoids uncertainty and costly litigation by clarifying the law.

IMPACT STATEMENT
This resolution does not affect any other law, statute, or rule.

CURRENT OR PRIOR RELATED LEGISLATION
None known.

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RESOLUTION 08-03-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend sections 351 and 353 of the Labor Code, to read as follows:

351.
(a) No employer or agent shall collect, take, or receive any gratuity or a part thereof that is paid, given to, or left for an employee by a patron, or deduct any amount from wages due an employee on account of a gratuity, or require an employee to credit the amount, or any part thereof, of a gratuity against and as a part of the wages due the employee from the employer. Every gratuity is hereby declared to be the sole property of the employee or employees to whom it was paid, given, or left for. An employer that permits patrons to pay gratuities by credit card shall pay the employees the full amount of the gratuity that the patron indicated on the credit card slip, without any deductions for any credit card payment processing fees or costs that may be charged to the employer by the credit card company. Payment of gratuities made by patrons using credit cards shall be made to the employees not later than the next regular payday following the date the patron authorized the credit card payment.

(b) An employer that requires employees to participate in any tip pool shall provide a written policy stating how tips are to be shared and shall provide each employee participating in any tip pool with an accounting of the receipt and payment of gratuities concurrently with distribution of tips. In any such action, the right to recover attorney's fees and costs shall be governed by Section 218.5.

(c~~b~~) The Labor Commissioner may investigate and issue a citation or file a civil action for gratuities taken or withheld in violation of this section. If a citation is issued, the procedures for issuing, contesting, and enforcing judgments for citations and civil penalties issued by the Labor Commissioner shall be the same as those set out in Section 1197.1, as appropriate.

(d) An employee may file a civil action for failure to provide an appropriate accounting or for gratuities taken or withheld in violation of this section.

353.
Every employer shall keep accurate records of all gratuities received by him, whether received directly from the employee or indirectly by means of deductions from the wages of the employee or otherwise. Such records shall be open to inspection at all reasonable hours by the department. Such records shall be open to inspection at all reasonable hours by any employee receiving gratuities.

(Proposed new language underlined; language to be deleted stricken)

PROPONENTS
Margaret J. Grover, Michael Fern, Suzanne Fidler, Mark Flory, Shaun Jacobs, Sean McCoy, Jack Osborn, Ujvala Singh, Darin Wessel, K. Martin White

STATEMENT OF REASONS

The Problem (including Existing Law):
Under California law, employers are permitted to mandate that tipped employees participate in a tip pool so long as the policy is fair and equitable.. *Leighton v. Old Heidelberg, Ltd.* (1990) 219 C.A.3d 1062 (1990). Only employees who are in the "chain of service" may partake in a mandatory tip pool. *Etheridge v. Reins International California, Inc.* (2009) 172 C.A.4th 908. The law explicitly allows the Labor Commissioner to inspect records of gratuities, but does not provide employees with similar rights. Under Labor Code section 226, employers are obligated to provide detailed information regarding wages. However, section 226 does not require the employer to provide information about tips. When tips are pooled, employees do not have information about total tip collection, nor do they have information about how the pooled tips have been allocated. This provides an opportunity for employers to allocate tips to benefit certain employees or to withhold a portion of the tips from distribution.

The Solution:
This resolution would require that employers provide tipped employees with information about the tip sharing policy, the amount of tips collected, and the distribution of those tips. It also provides employees with the right to file a civil action for failure to provide an accounting of tip pools and failure to pay tips and the right to recover attorney's fees in such an action.

IMPACT STATEMENT
This resolution may require additional statutory changes.

CURRENT OR PRIOR RELATED LEGISLATION
None known.

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RESOLUTION 08-04-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend section 970 of the Labor Code, to read as follows:

970.
No person, or agent or officer thereof, directly or indirectly, shall influence, persuade, or engage any person to resign from any position of employment, or to change from one place to another in this State or from any place outside to any place within the State, or from any place within the State to any place outside, for the purpose of working in any branch of labor, through or by means of knowingly false representations, whether spoken, written, or advertised in printed form, concerning either:
(a) The kind, character, or existence of such work;
(b) The length of time such work will last, or the compensation therefor;
(c) The sanitary or housing conditions relating to or surrounding the work;
(d) The existence or nonexistence of any strike, lockout, or other labor dispute affecting it and pending between the proposed employer and the persons then or last engaged in the performance of the labor for which the employee is sought.

(Proposed new language underlined; language to be deleted stricken)

PROPONENTS
Margaret J. Grover, Michael Fern, Suzanne Fidler, Mark Flory, Shaun Jacobs, Frank Z. Leidman, Sean McCoy, Jack Osborn, Edward Teyssier, Darrin Wessel, K. Martin White

STATEMENT OF REASONS

The Problem (including Existing Law):
Under current law, an individual who is induced to move for a job by false representations about the job is entitled to recover double damages (Lab. Code § 972). An individual who is induced to resign from existing employment by false representations about the job can suffer similar damages. The individual's prior employer may have filled the position or may not wish to rehire a worker who has resigned. As a result, the individual may be looking for work while unemployed and having to explain a gap in employment , both of which can make it more difficult to secure employment.

For many employment law claims, a prevailing worker can recover attorneys' fees. (*See*, e.g., Lab. Code § 1194 (wage claims) and Gov. Code § 12965(c)(6)(discrimination claims). Attorney's fees are not available when an individual is fraudulently induced to accept employment. This resolution would give some additional relief to that individual.

The Solution:
This resolution permit individuals who are induced to resign from an existing job to recover double damages.

IMPACT STATEMENT
This resolution does not affect any other law, statute, or rule.

CURRENT OR PRIOR RELATED LEGISLATION
None known.

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RESOLUTION 09-01-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend California Probate Code section 6110 to read as follows:

§ 6110
(a) Except as provided in this part, a will shall be in writing and satisfy the requirements of this section.
(b) The will shall be signed by one of the following:
(1) By the testator.
(2) In the testator's name by some other person in the testator's presence and by the testator's direction.
(3) By a conservator pursuant to a court order to make a will under Section 2580.
(c) (1) Except as provided in paragraph (2), the will shall be witnessed by being signed, during the testator's lifetime, by at least two persons each of whom (A) being present at the same time, witnessed either the signing of the will or the testator's acknowledgment of the signature or of the will and (B) understand that the instrument they sign is the testator's will.
(2) If a will was not executed in compliance with paragraph (1), the will shall be treated as if it was executed in compliance with that paragraph if the proponent of the will establishes by clear and convincing evidence that, at the time the testator signed the will, the testator intended the will to constitute the testator's will.
(d) As an alternative to subdivision (c) the will shall be validly executed if the testator's signature is acknowledged before a notary public who notarizes the will in accordance with California law.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT
San Diego County Bar Association

STATEMENT OF REASONS

The Problem: Existing California law requires that a will (other than a fully holographic will) be executed with the signatures of two witnesses. This creates practical difficulties for many testators and solo attorneys. Members of the public commonly and mistakenly believe that a will must be notarized, and are unaware of the two witness requirement, which can result in improperly executed and invalid wills. Members of the public also tend to use family members or individuals named in the will as witnesses, which may raise questions regarding conflicts of interest or undue influence.

The two witness requirement also presents logistical barriers for solo practitioners, clients who are hospitalized, homebound, or in long-term care facilities, and situations where two disinterested witnesses are not readily available. In contrast, obtaining a notary public is more feasible in all of these circumstances.

The Solution: This resolution proposes amending Probate Code section 6110 to allow notarization as an alternative to the two witness requirement for executing a will. This approach aligns wills with California Advance Health Care Directives, which already may be executed either by witnesses or by notarization. All other estate planning documents such as trusts and powers of attorney already allow notarization as well.

Providing this alternative method of execution preserves existing safeguards while increasing flexibility and access to estate planning services. Allowing notarization would reduce technical execution errors, better reflect public understanding, and assist solo attorneys and clients in time-sensitive or constrained settings without eliminating the traditional witness option.

Additionally, allowing notarization may provide an added safeguard against fraud and undue influence by requiring identity verification by a neutral, state-commissioned notary public and introducing an independent third party into the execution process.

IMPACT STATEMENT
This resolution does not affect any other law, statute, or rule.

CURRENT OR PRIOR RELATED LEGISLATION
None

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