2015 LEGISLATIVE UPDATE

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TEXAS CRIMINAL DEFENSE LAWYERS ASSOCIATION

To protect and ensure by rule of law those individual rights guaranteed by the Texas and Federal Constitutions in criminal cases
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THE GRAVEYARD

What is not included in this legislative update?

The new law that would have abolished the Statute of Limitations for any type of sexual assault. The new law that allows police officers to sit at counsel table with the prosecutor during trials and hearings because they are exempt from the Rule. The new law that overturns the Michael Morton Act. Much of the work of the legislative team cannot be reflected in a paper, but was a critical part of the legislative work this Session.

Unfortunately, some of our best bills were vetoed. We have included the full text of the expunction reform statutes. Those arguing with prosecutors and judges on “legislative intent” will find that the Legislature consistently seeks to expand the right to expunction while the judicial and executive branches seek to limit it.

TOP TEN ISSUES OF THE SESSION

6,440 bills were filed this Session. 1,329 became law. TCDLA tracked approximately 1,000 bills, and 163 of our tracked bills passed both chambers. The crucial issues from the criminal defense bar this Session: Guns, ignition interlock, grand jury, DWI videos, voyeurism, online solicitation, improper photography, prostitution, orders of non-disclosure, property crimes, and scientific writs.

LEGISLATIVE HISTORY

Over the years we have been asked why we include the bill numbers rather than simply write a paper citing the changes to the code. We do so for three reasons.

First, we want to keep this paper to a manageable size. If you were to print a copy of every single bill that passed you would need four reams of paper. If we were going to include every single change to every single statute, it would be much harder to find the more important legislative changes and understand the context of why the changes were made.

Second, most bills create multiple changes to different parts of the Texas Code of Criminal Procedure and the Texas Penal Code. This paper is not designed to replace O’Connor’s or similar annotated code publications, but rather be a tool to help you focus on the pertinent changes to the areas of the law that you are likely to use on a daily basis.

Finally, this paper is merely a summary, and often directly quotes the bill analysis published to the Legislature. The best way to fully comprehend all of the changes in one place is to review the enrolled version of the bill. You can also review the legislative history, the bill analysis, the list of witnesses who spoke for or against the bill, and in most cases, watch the committee hearing and debate about the bill. To learn more, visit the Texas Legislature Online at http://www.capitol.state.tx.us.
DWI

OCCUPATIONAL LICENSE IGNITION INTERLOCK

- Full Legislative History: HB 2246
- Statute: TEX. CODE CRIM. PRO. art. 42.12, § 13
- Summary:

A judge would be required, rather than allowed, to restrict a person to operating a vehicle with an ignition interlock device installed if the person’s license had been suspended after conviction of a first, non-probated, intoxication offense with either no ALR credit or a suspension period longer than the ALR suspension. The court would have to order that a device remain installed for the entire period of suspension, instead of at least half of the period as under current law.

A person who was convicted of an intoxication offense and was restricted to operating a vehicle with an ignition interlock device could receive an occupational license without requiring a finding that an essential need existed for that person, as long as the person showed evidence of financial responsibility and proof that the person had a device installed on each vehicle they owned or operated.

- Relevant text:

Section 13, Article 42.12, Code of Criminal Procedure, is amended by adding Subsection (o) to read as follows:
(o) Notwithstanding any other provision of this section, a defendant whose license is suspended for an offense under Sections 49.04-49.08, Penal Code, may operate a motor vehicle during the period of suspension if the defendant:
(1) obtains and uses an ignition interlock device as provided by Subsection (i) for the entire period of the suspension; and
(2) applies for and receives an occupational driver's license with an ignition interlock designation under Section 521.2465, Transportation Code.

Section 521.244, Transportation Code, is amended by adding Subsection (e) to read as follows:
(e) A person convicted of an offense under Sections 49.04-49.08, Penal Code, who is restricted to the operation of a motor vehicle equipped with an ignition interlock device is entitled to receive an occupational license without a finding that an essential need exists for that person, provided that the person shows:
(1) evidence of financial responsibility under Chapter 601; and
(2) proof the person has had an ignition interlock device installed on each motor vehicle owned or operated by the person.
Sections 521.246(a), (b), (d), and (f), Transportation Code, are amended to read as follows:
(a) If the person's license has been suspended after a conviction of an offense under Sections 49.04-49.08 [Section 49.04, 49.07, or 49.08], Penal Code, the judge shall restrict the person to the operation of a motor vehicle equipped with an ignition interlock device.
(d) The court shall order the ignition interlock device to remain installed for the duration of the period of suspension [at least half of the period of supervision].

Section 521.248, Transportation Code, is amended by adding Subsection (d) to read as follows:
(d) A person who is restricted to the operation of a motor vehicle equipped with an ignition interlock device may not be subject to any time of travel, reason for travel, or location of travel restrictions described by Subsection (a)(1), (2), or (3) or (b).

Section 521.251, Transportation Code, is amended by amending Subsections (c) and (d) and adding Subsection (d-1) to read as follows:
(d-1) Notwithstanding Subsections (b), (c), and (d), the court may issue an occupational license to a person if the person submits proof the person has an ignition interlock device installed on each motor vehicle owned or operated by the person. If a person issued an occupational license under this subsection fails to maintain an installed ignition interlock device on each motor vehicle owned or operated by the person, the court shall revoke the occupational license under Section 521.252 and reinstate the suspension of the person's driver's license. A person granted an occupational license under this subsection may not be ordered to submit to the supervision of the local community supervision and corrections department under Section 521.2462, unless the order is entered by a court of record.

COURT ORDER AS OCCUPATIONAL LICENSE

- **Full Legislative History:** HB 441
- **Statute:** TEX. TRANSP. CODE § 521.249(a)
- **Summary:**

  Extends time to use court order as an occupational license from 31 days to 45 days.
CRIMINAL RECORDS:
EXPUNCTION, NON-DISCLOSURE, SEALING

EXPUNCTION ELIGIBILITY: VETOED

- Full Legislative History: HB 3579

According to interested parties, the law relating to the expunction of criminal records historically has been convoluted and confusing, using the terms "arrest," "charge," and "offense" seemingly interchangeably. The parties explain that this inconsistency has led to disagreement among Texas courts as to whether the proper unit of expunction is the dismissed charge or the entire arrest. For example, when a person is arrested for two offenses, it is unclear whether the charges for both offenses must be dismissed in order for the person to have the records for either offense expunged.

The parties note that a majority of Texas courts have adopted a charge-based approach, meaning that individual charges arising out of an arrest may be expunged even if others are ineligible for expunction, as long as the offense sought to be expunged meets the requirements of the statute. However, a recent court decision interpreted the law to mean that the unit of expunction is the arrest, so that unless every charge arising out of an arrest is eligible for expunction, none of the charges are eligible. The parties contend that such an approach has never been in the spirit of the expunction law, which should be construed liberally in favor of the unjustly accused, and would also have a chilling effect on plea bargaining. The parties have expressed concern that because of the prevalence of background checks for many types of employment, housing, professional licensure, and a number of other reasons, the effect of a dismissal that is not eligible for expunction is similar to the effect of a conviction. H.B. 3579 seeks to clarify the law on this issue.

H.B. 3579 amends the Code of Criminal Procedure to change the records and files that a person who has been placed under a custodial or noncustodial arrest is entitled to have expunged if certain conditions are met from records and files relating to the arrest to records and files relating to the offense for which the person was arrested. The bill reduces the amount of time that must have elapsed from the date of an arrest for a misdemeanor offense after which a person who has been released and meets other applicable criteria becomes entitled to expungement from 180 days to 30 days, for a Class C misdemeanor, and from one year to 90 days, for a Class B or Class A misdemeanor. The bill expands the information that a person is entitled to have expunged in another person's records and files if certain conditions are met to include information identifying the person in records and files relating to any ensuing criminal proceeding based on the other person's arrest. The bill applies to an expunction of records and files relating to any criminal offense that occurred before, on, or after the bill's effective date.
EXPANDED NON-DISCLOSURE: VETOED

- **Full Legislative History:** SB 130
- **Statute:** TEX. GOV’T. CODE § 411.081
- **Summary:**

S.B. 130 creates eligibility for the records of an offense and conviction that have been set aside by a judge (also called judicial clemency) to be sealed through an order of nondisclosure.

Under a set-aside, a guilty plea is initially entered by the defendant. A set-aside differs from deferred adjudication. Under deferred adjudication, there is no admission of guilt and judgment is withheld in exchange for the promise that all charges will be dismissed following successful completion of the term of community supervision.

The records of an offense where deferred adjudication has been successfully completed can be sealed, and now expunged, if a pardon has been granted. An admission of guilt carries a conviction, but the statutory remedy of a pardon is available for a conviction, enabling the records of the offense to be expunged. But a conviction that has been set aside has no available legal remedies. It can be disclosed in a criminal history record search. By statute, it is not eligible to be sealed because this is only possible for deferred adjudication. Neither can the records be expunged, because the conviction technically no longer exists.

The statutory intent of a set-aside was to provide future relief, but the records of the offense and conviction were intended to always be available to the courts in the instance of a future criminal offense. This closely parallels the intent of an order of nondisclosure.

AUTOMATIC NON-DISCLOSURE AFTER COMPLETION OF DEFERRED ADJUDICATION

- **Full Legislative History:** SB 1902
- **Statute:** TEX. TRANSP. CODE § § 411.071, 411.0715, 411.072, 411.0725, 411.073, 411.0735, 411.074, 411.0745, 411.075, 411.0755, 411.0765, 411.077, 411.0775; TEX. GOV’T. CODE § 54.656; TEX. CODE CRIM. PRO. art. 42.12
- **Summary:**

This is a 37 page bill that completely changes non-disclosures in that it expands them to certain non-violent misdemeanor convictions. It also allows for immediate/cheaper non-disclosures for a small class of successfully completed deferred adjudication misdemeanors.
Sec. 411.072. PROCEDURE FOR DEFERRED ADJUDICATION COMMUNITY SUPERVISION; CERTAIN NONVIOLENT MISDEMEANORS.
(a) This section applies only to a person who:
(1) was placed on deferred adjudication community supervision under Section 5, Article 42.12, Code of Criminal Procedure, for a misdemeanor other than a misdemeanor:
   (A) under Chapter 20, 21, 22, 25, 42, 43, 46, or 71, Penal Code; or
   (B) with respect to which an affirmative finding under Section 5(k), Article 42.12, Code of Criminal Procedure, was filed in the papers of the case; and
(2) has never been previously convicted of or placed on deferred adjudication community supervision for another offense other than an offense under the Transportation Code that is punishable by fine only.
(b) Notwithstanding any other provision of this subchapter or Subchapter F, if a person described by Subsection (a) receives a discharge and dismissal under Section 5(c), Article 42.12, Code of Criminal Procedure, and satisfies the requirements of Section 411.074, the court that placed the person on deferred adjudication community supervision shall issue an order of nondisclosure of criminal history record information under this subchapter prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the offense giving rise to the deferred adjudication community supervision. The court shall determine whether the person satisfies the requirements of Section 411.074, and if the court makes a finding that the requirements of that section are satisfied, the court shall issue the order of nondisclosure of criminal history record information:
   (1) at the time the court discharges and dismisses the proceedings against the person, if the discharge and dismissal occurs on or after the 180th day after the date the court placed the person on deferred adjudication community supervision; or
   (2) as soon as practicable on or after the 180th day after the date the court placed the person on deferred adjudication community supervision, if the discharge and dismissal occurred before that date.
(c) The person shall present to the court any evidence necessary to establish that the person is eligible to receive an order of nondisclosure of criminal history record information under this section. The person must pay a $28 fee to the clerk of the court before the court issues the order.
Court shall seal the records after adjudication if: not a determine sentence conviction and two years have passed with no new convictions/adjudications. There is no longer a need to apply.

**AUTOMATIC SEALING OF JUVENILE RECORDS – SENATE VERSION**

- **Full Legislative History**: SB 1707
- **Statute**: TEX. FAM. CODE § 58.03
- **Summary**:

  Less than one percent of eligible juveniles seal their records, either because they forget to petition the court, they do not know record sealing is an option, or they cannot afford an attorney to file the necessary paperwork. Records of these adjudications then appear in some employer background checks, hampering the redemptive goals of the juvenile system.

  S.B. 1707 makes the sealing of juvenile records automatic two years after the date of judgment so long as the juvenile does not have any pending juvenile or criminal proceedings and hasn't been adjudicated in juvenile court or convicted in criminal court of other crimes. S.B. 1707 will not seal juvenile records in certain instances, such as determinate sentences and felony offenses. Prosecutors would receive notice of the sealing of records and would be able to object to the sealing and initiate a hearing.

**EXPANDED EXPUNCTION FOR MINORS WITH CLASS C DEFERRED DISPOSITION DISMISSALS**

- **Full Legislative History**: SB 108
- **Statute**: TEX. CODE CRIM. PRO. art. 45.0216(h)
- **Summary**:

  S.B. 108 amends the Code of Criminal Procedure to expand the conditions under which the expunction of records of a person under 17 years of age relating to a complaint is authorized to include the conditions that the complaint was dismissed under any law or that the person was acquitted of the offense. The bill applies this change to arrest records and files created before, on, or after the bill's effective date. The bill expands eligibility for a defendant in a proceeding before a justice or municipal court who is under 18 years of age or enrolled full time in an accredited secondary school in a program leading toward a high school diploma to participate in a teen court program to include a defendant who is recommended to attend the program by a school employee under the bill's provisions and who meets other applicable requirements. The bill reduces from two years to one year the amount of time preceding the date of the alleged offense in which a defendant in a proceeding before a justice or municipal court must not have successfully completed a teen court program in order to be eligible to participate in such a program.
CONFIDENTIALITY OF JUVENILE RECORDS

- **Full Legislative History:** HB 1491
- **Statute:** TEX BUS. & COM. CODE ch. 109
- **Summary:**

  In recent years, certain for-profit websites have been actively collecting arrest photos and criminal records in bulk and then posting the photos and records online. These photos and records may include personally identifiable information or pre-disposition arrest information and may never be updated for accuracy or completeness.

ACCESS TO CRIMINAL HISTORY INFORMATION – TAX ASSESSOR-COLLECTOR

- **Full Legislative History:** HB 2208
- **Statute:** TEX GOVT. CODE § 411.14065
- **Summary:**

  HB 2208 would authorize county tax assessor-collectors to obtain Department of Public Safety criminal history record information about applicants for motor vehicle title service licenses.

  County tax assessor collectors currently have access to records relating to convictions for crimes committed within the county, but are unable to easily find convictions from other counties. Assessor-collectors are therefore unable to determine if an applicant has committed title fraud in other parts of the state or country.

ACCESS TO CRIMINAL HISTORY INFORMATION – CREDIT COMMISSIONER

- **Full Legislative History:** SB 1075
- **Statute:** TEX GOVT. CODE § 411.095
- **Summary:**

  Under current law, the Office of Consumer Credit Commissioner (OCCC) is authorized to obtain criminal history record information about license holders and applicants under two statutes: Chapter 14 (Consumer Credit Commissioner) of the Finance Code and Chapter 411 (Department of Public Safety of the State of Texas) of the Government Code. Under Section 14.151, Finance Code, this authority applies to any applicant for a license issued by the OCCC or any person licensed under the OCCC’s authority. However, Section 411.095, Government Code, only lists applicants and license holders under Chapters 342, 347, 348, 351, 353, or 371 of the Finance Code.
S.B. 1075 amends the provisions authorizing the OCCC to obtain criminal history record information, in order to ensure that these provisions are consistent and enable the OCCC to fulfill its regulatory functions. S.B. 1075 authorizes the OCCC to obtain criminal history record information regarding employees and volunteers of the OCCC, applicants for employment with the OCCC, and contractors or subcontractors with the OCCC. The bill also specifies the situations in which the OCCC can release or disclose criminal history record information.

In addition to posting misleading or inaccurate information, these websites can exploit the most vulnerable among us—children. Interested parties contend that children deserve a higher level of protection with regard to these sites than Texas law currently affords. It is often difficult for an affected person to remove personal information from the site, and some websites charge high fees for removal. A child is unlikely to be able to afford such fees or to have the capacity to pursue court remedies. C.S.H.B. 1491 seeks to minimize or eliminate the potential impact of this practice on children.

- Relevant text:

  Chapter 109, Business & Commerce Code, as added by Chapter 1200 (S.B. 1289), Acts of the 83rd Legislature, Regular Session, 2013, is amended by adding Section 109.0045 to read as follows:

  Sec. 109.0045. PUBLICATION OF CONFIDENTIAL JUVENILE RECORD INFORMATION OR CONFIDENTIAL CRIMINAL RECORD INFORMATION OF A CHILD PROHIBITED.
  (a) A business entity may not publish confidential juvenile record information or confidential criminal record information of a child.
  (b) If a business entity receives a written notice by any person that the business entity is publishing information in violation of this section, the business entity must immediately remove the information from the website or publication.
  (c) If the business entity confirms that the information is not confidential juvenile record information or confidential criminal record information of a child and is not otherwise prohibited from publication, the business entity may republish the information.
  (d) This section does not entitle a business entity to access confidential juvenile record information or confidential criminal record information of a child.
  (e) A business entity does not violate this chapter if the business entity published confidential juvenile record information or confidential criminal record information of a child and:

        (1) the child who is the subject of the records gives written consent to the publication on or after the 18th birthday of the child;
        (2) the publication of the information is authorized or required by other law; or
        (3) the business entity is an interactive computer service, as defined by 47 U.S.C. Section 230, and published material provided by another person.
LANDLORD BACKGROUND CHECKS: REMOVING IMPEDIMENTS TO LEASING TO PEOPLE WITH CRIMINAL RECORDS

- Full Legislative History: HB 1510
- Statute: TEX. PROP. CODE § 92.025
- Summary:

House Bill 1510 amends the Property Code to establish that a cause of action does not accrue against a landlord or a landlord's manager or agent solely for leasing a dwelling to a tenant with a criminal record. The bill does not preclude a cause of action for negligence in leasing if the tenant was convicted of certain more serious offenses or is subject to sex offender registration and the landlord, manager, or agent knew or should have known of the conviction or adjudication.

NONDISCLOSURE FOR PROSTITUTION IF COMMITTED OFFENSE AS A VICTIM OF HUMAN TRAFFICKING

- Full Legislative History: HB 2286
- Statute: TEX. GOV’T. CODE § 411.081
- Summary:

H.B. 2286 amends the Government Code to authorize a person who on conviction for a prostitution offense is placed on community supervision and with respect to whom the conviction is subsequently set aside by a court to petition the court that placed the person on community supervision for an order of nondisclosure on the grounds that the person committed the offense solely as a victim of trafficking of persons if the person satisfies the applicable requirements for an order of nondisclosure. The bill requires the court, after notice to the state, an opportunity for a hearing, and a determination by the court that the person committed the offense solely as a victim of trafficking of persons and that issuance of the order is in the best interest of justice, to issue an order prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the prostitution offense giving rise to the community supervision.

I don’t know how this provision will be used. Any person that was the victim of human trafficking should not be prosecuted. Nevertheless, defense lawyers representing a person accused of human trafficking could use this statute to cross-examine a purported victim for why they would have an incentive to claim they are the victim.
MICHAEL MORTON ACT

DISCOVERY OF EXPERT WITNESSES

- Full Legislative History: HB 510
- Statute: TEX. CODE CRIM. PRO. art. 39.14
- Summary:

“The parties contend that the necessity of filing a motion and obtaining an order to compel the sharing of information about prospective expert witnesses does not comport with the more automatic and efficient discovery procedures established by that legislation and is potentially a wasted effort since disclosure is mandated by statute. C.S.H.B. 510 seeks to address these concerns by bringing the disclosure of certain information about expert witnesses in line with other established disclosure provisions.”

Both sides must provide written disclosure of experts if request is made 30 days before trial

Includes 702, 703 and 705 information

Response is due no later than 20 days before jury selection or day of trial for TBC.

COPY OF DWI VIDEO AND SPECIMEN COLLECTION

- Full Legislative History: HB 3791
- Statute: TEX. CODE CRIM. PRO. art. 2.139
- Summary:

Prior to the Michael Morton Act, defense lawyers could provide a copy of the DWI video to their clients. In the wake of the passage of the Morton Act, the defense was required to ask for prosecutorial permission or seek a court order to release a copy of the video to clients. Some prosecutors were deliberately difficult. HB 3791 resolves the issue.

- Relevant text:

Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.139 to read as follows:
Art. 2.139. VIDEO RECORDINGS OF ARRESTS FOR INTOXICATION OFFENSES. A person stopped or arrested on suspicion of an offense under Section 49.04, 49.045, 49.07, or 49.08, Penal Code, is entitled to receive from a law enforcement agency employing the peace officer who made the stop or arrest a copy of any video made by or at the direction of the officer that contains footage of:
(1) the stop;
(2) the arrest;
(3) the conduct of the person stopped during any interaction with the officer, including during the administration of a field sobriety test; or
(4) a procedure in which a specimen of the person's breath or blood is taken.

LAW ENFORCEMENT AGENCY REPORTS FOR OFFICER-INVOLVED SHOOTINGS

- Full Legislative History: HB 1036
- Statute: TEX. CODE CRIM. PRO. arts. 2.139 & 2.1395
- Summary:

Despite the widely publicized nature of police shootings, interested parties contend that there is no way to know how many shootings occur each year because current law does not require police shootings to be reported. These parties believe that this lack of information prevents policymakers and researchers from adequately studying this issue. C.S.H.B. 1036 seeks to address this concern.

While not classified as a discovery provision, these two new statutes mandate new reports which should be requested in discovery – especially when your client is accused of assault on a peace officer.

- Relevant Text:

Art. 2.139. REPORTS REQUIRED FOR OFFICER-INVOLVED INJURIES OR DEATHS.
(a) In this article:
(1) "Deadly weapon" means:
   (A) a firearm or any object manifestly designed, made, or adapted for the purpose of inflicting death or serious bodily injury; or
   (B) any object that in the manner of its use or intended use is capable of causing death or serious bodily injury.
(2) "Officer-involved injury or death" means an incident during which a peace officer discharges a firearm causing injury or death to another.
(b) The office of the attorney general by rule shall create a written and electronic form for the reporting by law enforcement agencies of an officer-involved injury or death. The form must include spaces to report only the following information:
(1) the date on which the incident occurred;
(2) the location where the incident occurred;
(3) the age, gender, and race or ethnicity of each peace officer involved in the incident;
(4) if known, the age, gender, and race or ethnicity of each injured or deceased person involved in the incident;
(5) whether the person was injured or died as a result of the incident;
(6) whether each injured or deceased person used, exhibited, or was carrying a deadly weapon during the incident;
(7) whether each peace officer involved in the incident was on duty during the incident;
(8) whether each peace officer involved in the incident was responding to an emergency call or a request for assistance and, if so, whether the officer responded to that call or request with one or more other peace officers; and
(9) whether the incident occurred during or as a result of:
   (A) the execution of a warrant; or
   (B) a hostage, barricade, or other emergency situation.
(c) Not later than the 30th day after the date of an officer-involved injury or death, the law enforcement agency employing an officer involved in the incident must complete and submit a written or electronic report, using the form created under Subsection (b), to the office of the attorney general and, if the agency maintains an Internet website, post a copy of the report on the agency's website. The report must include all information described in Subsection (b).
(d) Not later than the fifth day after the date of receipt of a report submitted under Subsection (c), the office of the attorney general shall post a copy of the report on the office's Internet website.
(e) Not later than February 1 of each year, the office of the attorney general shall submit a report regarding all officer-involved injuries or deaths that occurred during the preceding year to the governor and the standing legislative committees with primary jurisdiction over criminal justice matters. The report must include:
   (1) the total number of officer-involved injuries or deaths;
   (2) a summary of the reports submitted to the office under this article; and
   (3) a copy of each report submitted to the office under this article.

Art. 2.1395. REPORTS REQUIRED FOR CERTAIN INJURIES OR DEATHS OF PEACE OFFICERS.
(a) The office of the attorney general by rule shall create a written and electronic form for the reporting by law enforcement agencies of incidents in which, while a peace officer is performing an official duty, a person who is not a peace officer discharges a firearm and causes injury or death to the officer. The form must include spaces to report only the following information:
   (1) the date on which the incident occurred;
   (2) the location where the incident occurred;
   (3) the age, gender, and race or ethnicity of each injured or deceased peace officer involved in the incident;
   (4) if known, the age, gender, and race or ethnicity of each person who discharged a firearm and caused injury or death to a peace officer involved in the incident; and
   (5) whether the officer or any other person was injured or died as a result of the incident.
(b) Not later than the 30th day after the date of the occurrence of an incident described by Subsection (a), the law enforcement agency employing the injured or deceased officer at the time of the incident must complete and submit a written or electronic report, using
the form created under that subsection, to the office of the attorney general and, if the agency maintains an Internet website, post a copy of the report on the agency's website. The report must include all information described in Subsection (a).

(c) Not later than February 1 of each year, the office of the attorney general shall submit a report regarding all incidents described by Subsection (a) that occurred during the preceding year to the governor and the standing legislative committees with primary jurisdiction over criminal justice matters. The report must include:

1. the total number of incidents that occurred;
2. a summary of the reports submitted to the office under this article; and
3. a copy of each report submitted to the office under this article.

DISCOVERY OF INVASIVE VISUAL RECORDING OF A CHILD UNDER 14

- Full Legislative History: SB 1317
- Statute: TEX. CODE CRIM. PRO. art. 39.151
- Summary:

S.B. 1317 amends the Penal Code to rename the offense of improper photography or visual recording the offense of invasive visual recording. S.B. 1317 requires a court to allow discovery of property or material that constitutes or contains an invasive visual image as described by 21.15(b) of the Texas Penal Code, of a child younger than 14 years of age, that was seized by law enforcement based on a reasonable suspicion that an invasive visual recording offense has been committed but requires such property or material to remain in the care, custody, or control of the court or the state as provided by the bill's provisions. The bill requires a court to deny any request by a defendant to copy, photograph, duplicate, or otherwise reproduce any such property or material, provided that the state makes the property or material reasonably available to the defendant and establishes that property or material is considered to be reasonably available to the defendant if, at a facility under the control of the state, the state provides ample opportunity for the inspection, viewing, and examination of the property or material by the defendant, the defendant's attorney, and any individual the defendant seeks to qualify to provide expert testimony at trial.

- Relevant text:

Art. 39.151. DISCOVERY OF EVIDENCE DEPICTING INVASIVE VISUAL RECORDING OF CHILD.
(a) In the manner provided by this article, a court shall allow discovery of property or material that constitutes or contains a visual image, as described by Section 21.15(b), Penal Code, of a child younger than 14 years of age and that was seized by law enforcement based on a reasonable suspicion that an offense under that subsection has been committed.
(b) Property or material described by Subsection (a) must remain in the care, custody, or control of the court or the state as provided by Article 38.451.
(c) A court shall deny any request by a defendant to copy, photograph, duplicate, or otherwise reproduce any property or material described by Subsection (a), provided that the state makes the property or material reasonably available to the defendant.

(d) For purposes of Subsection (c), property or material is considered to be reasonably available to the defendant if, at a facility under the control of the state, the state provides ample opportunity for the inspection, viewing, and examination of the property or material by the defendant, the defendant's attorney, and any individual the defendant seeks to qualify to provide expert testimony at trial.
HB 1396 would formally codify the "rule of lenity" to ensure that Texas courts continued to follow it when considering criminal offenses outside of the Penal Code. While the rule is a fundamental tenet applied by courts to interpret statutes, its use in Texas has eroded, and it should be codified to ensure uniform, consistent application throughout the state.

The rule of lenity says that when courts are interpreting criminal statutes, they should resolve questions about ambiguity in favor of the defendant. The U.S. Supreme Court described the rule in one of its opinions by saying that under the rule, a tie goes to the defendant. In the 2008 opinion United States v. Santos, the court stated, “Under a long line of our decisions, the tie must go to the defendant. The rule of lenity requires ambiguous criminal laws to be interpreted in favor of the defendants subjected to them.” The rule of lenity has been a cannon of courts for hundreds of years and is consistent with the idea that individuals must have fair notice of what is a crime. This is especially important when deciding cases that carry potential criminal sanctions. While the Penal Code generally is clear with well-defined language, and the rule of lenity is applied to Penal Code offenses, this is not always the case for other offenses. The application of the rule to the numerous crimes outside of the Penal Code, many of which are regulatory in nature, has eroded. In some cases, courts do not give the benefit to the accused if a law is ambiguous but instead give it to the government.

HB 1396 would address this issue of the erosion of the rule's use of lenity by formally codifying the rule for offenses outside of the Penal Code. This would plainly express the rule, emphasize its importance, and act as a reminder to courts and prosecutors working outside of the Penal Code that the rule should be applied.

As under current law, if application of the rule of lenity resulted in outcomes counter to the intention of the law, the Legislature could resolve the issue by revising the law so that its meaning was clear.

Relevant text:

Sec. 311.035. CONSTRUCTION OF STATUTE OR RULE INVOLVING CRIMINAL OFFENSE OR PENALTY.
(a) In this section, "actor" and "element of offense" have the meanings assigned by Section 1.07, Penal Code.
(b) Except as provided by Subsection (c), a statute or rule that creates or defines a criminal offense or penalty shall be construed in favor of the actor if any part of the statute or rule is ambiguous on its face or as applied to the case, including:
(1) an element of offense; or
(2) the penalty to be imposed.

(c) Subsection (b) does not apply to a criminal offense or penalty under the Penal Code or under the Texas Controlled Substances Act.

(d) The ambiguity of a part of a statute or rule to which this section applies is a matter of law to be resolved by the judge.
STANDARD VALUE LADDER

RAISING PECUNIARY LOSS AMOUNTS

Full Legislative History:

- Full Legislative History: HB 1396
  This language was added to the Rule of Lenity bill, so you will not find any legislative history regarding this provision in HB 1396. Instead, you will find legislative history in SB 390.

- Statute: TEX. PENAL CODE § 28.03 [Criminal Mischief] & other sections regarding property crimes

- Summary:
  Throughout the Penal Code, specific pecuniary loss thresholds are applied to property crimes to determine the punishment applied for the offense. For example, Penal Code, sec. 31.03 establishes the punishments for theft as a class C misdemeanor (maximum fine of $500) if the value of the property stolen is less than $50, a class B misdemeanor (up to 180 days in jail and/or a maximum fine of $2,000) if the value of the property stolen is $50 or more but less than $500, and a class A misdemeanor (up to one year in jail and/or a maximum fine of $4,000) if the value of the property stolen is $500 or more but less than $1,500. Generally, these loss thresholds were established in 1993 when the Penal Code was revised and have not been updated.

- Relevant text:
  Sections 28.03(b), (f), (h), and (j), Penal Code, are amended to read as follows:
  - Class C misdemeanor if: less than $100 [$50]; or
  - Class B misdemeanor: $100 [$50] or more but less than $750 [$500];
  - Class A misdemeanor: $750 [$500] or more but less than $2,500 [$1,500];
  - state jail felony if the amount of pecuniary loss is: $2,500 [$1,500] or more but less than $30,000 [$20,000];
  - a felony of the third degree if the amount of the pecuniary loss is $30,000 [$20,000] or more but less than $150,000 [$100,000];
  - a felony of the second degree if the amount of pecuniary loss is $150,000 [$100,000] or more but less than $300,000 [$200,000]; or
  - a felony of the first degree if the amount of pecuniary loss is $300,000 [$200,000] or more.
  - An offense under this section is a state jail felony if the damage or destruction is inflicted on a place of worship or human burial, a public monument, or a community center that provides medical, social, or educational programs and the amount of the pecuniary loss to real property or to tangible personal property is $750 or more but less...
than $30,000 [$20,000].

(h) An offense under this section is a state jail felony if the amount of the pecuniary loss to real property or to tangible personal property is $750 [$1,500] or more but less than $30,000 [$20,000] and the damage or destruction is inflicted on a public or private elementary school, secondary school, or institution of higher education.

Section 28.06(d), Penal Code, is amended to read as follows:

Sec. 28.06. AMOUNT OF PECUNIARY LOSS.
(a) The amount of pecuniary loss under this chapter, if the property is destroyed, is:
   (1) the fair market value of the property at the time and place of the destruction; or
   (2) if the fair market value of the property cannot be ascertained, the cost of replacing the property within a reasonable time after the destruction.
(b) The amount of pecuniary loss under this chapter, if the property is damaged, is the cost of repairing or restoring the damaged property within a reasonable time after the damage occurred.
(c) The amount of pecuniary loss under this chapter for documents, other than those having a readily ascertainable market value, is:
   (1) the amount due and collectible at maturity less any part that has been satisfied, if the document constitutes evidence of a debt; or
   (2) the greatest amount of economic loss that the owner might reasonably suffer by virtue of the destruction or damage if the document is other than evidence of a debt.
(d) If the amount of pecuniary loss cannot be ascertained by the criteria set forth in Subsections (a) through (c), the amount of loss is deemed to be greater than $750 [$500] but less than $2,500 [$1,500].

Section 28.07(e), Penal Code [Interference with Railroad Property]
Sections 28.08(b) and (d), Penal Code [Graffiti]
Section 31.03(e), Penal Code [Theft]
Sections 31.04(b) and (e), Penal Code [Theft of Service]
Sections 31.16(c) and (d), Penal Code [Organized Retail Theft], are amended to read as follows:
(c) An offense under this section is:
   (1) a Class C misdemeanor if the total value of the merchandise involved in the activity is less than $100;

Section 32.23(e), Penal Code [Trademark Counterfeiting]
Section 32.32(c), Penal Code [False Statement to Obtain Credit]
Sections 32.33(d) and (e), Penal Code [Hindering Secured Creditors]

Section 32.34(f) Penal Code [Fraudulent Transfer of a Motor Vehicle], is amended to read as follows:
(f) An offense under Subsection (b)(1), (b)(2), or (b)(3) is:
   (1) a state jail felony if the value of the motor vehicle is less than $30,000 [$20,000]; [or]
   (2) a felony of the third degree if the value of the motor vehicle is $30,000 [$20,000] or more but less than $150,000;
   (3) a felony of the second degree if the value of the motor vehicle is $150,000 or more but less than $300,000; or
   (4) a felony of the first degree if the value of the motor vehicle is $300,000 or more.

Section 32.35(e), Penal Code [Credit Card Transaction Record Laundering]

Section 32.45(c), Penal Code [Misapplication of Fiduciary Property]

Section 32.46(b), Penal Code [Security Execution of Document by Deception]

Section 33.02(b-2), Penal Code [Breach of Computer Security]

Section 34.02(e), Penal Code [Money Laundering]

Section 35.02(c), Penal Code [Insurance Fraud]

Section 35A.02(b), Penal Code [Medicaid Fraud]

Section 39.02(c), Penal Code [Abuse of Official Capacity]
SEARCH & SEIZURE

ELECTRONIC REQUESTS FOR SEARCH WARRANTS

- **Full Legislative History:** HB 326
- **Statute:** TEX. CODE CRIM. PRO. art. 18.01
- **Summary:**

CSHB 326 would allow magistrates to consider information communicated by telephone or other reliable electronic means when determining whether to issue a search warrant. The bill would establish procedures for accepting information and issuing search warrants under these circumstances.

If a magistrate considered additional testimony or exhibits, the magistrate would have to ensure that the testimony was recorded, notes were transcribed, written records were certified as accurate, and exhibits were preserved. Applicants submitting information by telephone would have to prepare a proposed duplicate original of the warrant and transmit its contents to the magistrate. A transmission by reliable electronic means would serve as the original search warrant. The bill also would establish procedures for modifying warrants submitted in such a manner. Magistrates issuing warrants by the means allowed in the bill would have to sign the original search warrant, record the date and time of issuance, and transmit the warrant to the applicant or direct the applicant to sign for the judge.

While CSHB 326 would track many provisions in federal rules relating to requesting search warrants by phone or electronic means, it would deviate in some ways from federal rules that could cause confusion. For example, the bill would require judges to ensure that certain exhibits were preserved, while the federal rule requires that exhibits be filed. It is unclear what preserving exhibits would mean and how such exhibits would be accessed.

- Open records request for these materials
- Smart detectives will continue to do this in person to avoid creating recordings and a paper trail

SEARCH WARRANTS

- **Full Legislative History:** HB 1396

While this language is found in HB 1396, it was taken from SB 1864. For legislative history and intent, review the documentation surrounding SB 1864.

- **Statute:** TEX. CODE CRIM. PRO. art. 18.02
Summary:

In 2014, the Supreme Court of the United States, in a 9-0 decision, ruled that law enforcement agencies must procure a warrant in order to access a cellular phone found on or around a person under arrest.

Chief Justice Roberts stated that, "The search incident to arrest exemption rests not only on the heightened government interests at stake in a volatile arrest situation, but also on an arrestee's reduced privacy interests upon being taken into police custody ... A decade ago officers might have occasionally stumbled across a highly personal item such as a diary, but today many of the more than 90% of American adults who own cell phones keep on their person a digital record of nearly every aspect of their lives.” – Chief Justice John Roberts, Riley v California (2014)

The court created a warrant requirement for cellular phones obtained incident to an arrest, but did not speak directly to devices obtained under other circumstances.

S.B. 1864 amends Article 18.02 of the Code of Criminal Procedure by adding cellular phones and other wireless communications devices as items requiring a warrant to search and establishing the rules therein.

Since an arrestee has "reduced privacy interests upon being taken into custody," this bill extends at least that same level of privacy protection to those who are not under arrest whose mobile devices fall into the possession of police or other law enforcement entities.

According to Justice Alito, "Since that time, electronic surveillance has been governed primarily, not by decision of this court, but by the statute, which authorizes but imposes detailed restrictions on electronic surveillance ... Because of the role that these devices have come to play in contemporary life, searching their contents implicates very sensitive privacy interests that this court is poorly positioned to understand and evaluate.

“In light of these developments, it would be very unfortunate if privacy protection in the 21st century were left primarily to the federal courts using the blunt instrument of the 4th amendment. Legislatures, elected by the people, are in a better position than we are to assess and respond to the changes that have already occurs and those that almost certainly will take place in the future."

The legislature has a responsibility to keep up with the rapid advance in technology. This bill places into statue a broad warrant requirement in order to ensure all Texans have at least the same privacy protections as a person under arrest. As the ruling in Riley v California demonstrated, these devices contain so much of our personal data that every one of them should require a warrant to search, every time.

Relevant text:

Article 18.02(a), Code of Criminal Procedure, is amended to read as follows:
(a) A search warrant may be issued to search for and seize:
(1) a cellular telephone or other wireless communications device, subject to Article 18.0215.

Art. 18.0215. ACCESS TO CELLULAR TELEPHONE OR OTHER WIRELESS COMMUNICATIONS DEVICE.
(a) A peace officer may not search a person's cellular telephone or other wireless communications device, pursuant to a lawful arrest of the person without obtaining a warrant under this article.
(b) A warrant under this article may be issued only by a judge in the same judicial district as the site of:
   (1) the law enforcement agency that employs the peace officer, if the cellular telephone or other wireless communications device is in the officer's possession; or
   (2) the likely location of the telephone or device.
(c) A judge may issue a warrant under this article only on the application of a peace officer. An application must be written and signed and sworn to or affirmed before the judge. The application must:
   (1) state the name, department, agency, and address of the applicant;
   (2) identify the cellular telephone or other wireless communications device to be searched;
   (3) state the name of the owner or possessor of the telephone or device to be searched;
   (4) state the judicial district in which:
      (A) the law enforcement agency that employs the peace officer is located, if the telephone or device is in the officer's possession; or
      (B) the telephone or device is likely to be located; and
   (5) state the facts and circumstances that provide the applicant with probable cause to believe that:
      (A) criminal activity has been, is, or will be committed; and
      (B) searching the telephone or device is likely to produce evidence in the investigation of the criminal activity described in Paragraph (A).
(d) Notwithstanding any other law, a peace officer may search a cellular telephone or other wireless communications device without a warrant if:
   (1) the owner or possessor of the telephone or device consents to the search;
   (2) the telephone or device is reported stolen by the owner or possessor; or
   (3) the officer reasonably believes that:
      (A) the telephone or device is in the possession of a fugitive from justice for whom an arrest warrant has been issued for committing a felony offense; or
      (B) there exists an immediate life-threatening situation, as defined by Section 1, Article 18.20.
(e) A peace officer must apply for a warrant to search a cellular telephone or other wireless communications device as soon as practicable after a search is conducted under Subsection (d)(3)(A) or (B). If the judge finds that the applicable situation under
Subsection (d)(3)(A) or (B) did not occur and declines to issue the warrant, any evidence obtained is not admissible in a criminal action.

EXECUTION OF DNA SEARCH WARRANT

- **Full Legislative History:** HB 2185
- **Statute:** TEX. CODE CRIM. PRO. art. 18.065
- **Summary:**

  Code of Criminal Procedure, art. 18.01(b) prohibits the issuance of a search warrant unless sufficient facts are first presented to satisfy the issuing magistrate that probable cause exists for the warrant. Code of Criminal Procedure, art. 18.02 (10) allows search warrants to be issued for property or items constituting evidence of an offense or constituting evidence tending to show that a particular person committed an offense.

  HB 2185 would allow search warrants issued to collect DNA specimens for the purpose of connecting an individual to a criminal offense to be executed in any county, regardless of whether the issuing court's jurisdiction extended outside of the county in which the court was located.

- **Relevant text:**

  Chapter 18, Code of Criminal Procedure, is amended by adding Article 18.065 to read as follows:

  **Art. 18.065. EXECUTION OF WARRANT ISSUED BY DISTRICT JUDGE FOR DNA SPECIMEN.**

  (a) A warrant issued by the judge of a district court under Article 18.02(10) to collect a DNA specimen from a person for the purpose of connecting that person to an offense may be executed in any county in this state.

  (b) This article does not apply to a warrant issued by a justice of the peace, judge, or other magistrate other than a judge of a district court.

IDENTITY OF MAGISTRATE SIGNING SEARCH WARRANT

- **Full Legislative History:** HB 644
- **Statute:** TEX. CODE CRIM. PRO. art 18.04
- **Summary:**

  A magistrate’s signature on such warrants may not always be clearly legible, which can increase the risk of forgery or inadequately informing individuals of who has authorized the search warrant.

- **Relevant text:**
Art. 18.04. CONTENTS OF WARRANT. A search warrant issued under this chapter shall be sufficient if it contains the following requisites:

(1) that it run in the name of "The State of Texas";
(2) that it identify, as near as may be, that which is to be seized and name or describe, as near as may be, the person, place, or thing to be searched;
(3) that it command any peace officer of the proper county to search forthwith the person, place, or thing named; [and]
(4) that it be dated and signed by the magistrate; and
(5) that the magistrate's name appear in clearly legible handwriting or in typewritten form with the magistrate's signature.

REQUIRING SEARCH WARRANT FOR BODY CAVITY SEARCH

- **Full Legislative History:** HB 324
- **Statute:** TEX. CODE CRIM. PRO. art. 18
- **Summary:**

Filed under the category of “is this really something we have to clarify,” CSHB 324 would amend Code of Criminal Procedure, ch. 18 to require an officer to obtain a search warrant before conducting a body cavity search during a traffic stop. A body cavity search would include an inspection of a person’s anal or vaginal cavity in any manner.
JURIES & GRAND JURORS

SELECTING GRAND JURORS

- **Full Legislative History:** HB 2150
- **Statute:** TEX. CODE CRIM. PRO. art. 19.01
- **Summary:**

As amended the grand jury commissioners system of organizing a grand jury known as the Key Man or Pick a Pal method is abolished, leaving only the random selection method in law.

H. B. 2150 amends the Code of Criminal Procedure to expand the causes for which an oral challenge to a particular grand juror may be made and sets out those additional causes. The bill requires a juror, if the juror determines that the juror could be subject to a valid challenge for cause during the course of the juror's service on the grand jury, to recuse himself or herself from grand jury service until the cause no longer exists. The bill establishes that a person who knowingly fails to recuse himself or herself may be held in contempt of court. The bill requires a person authorized to be present in the grand jury room to report a known violation of this requirement to the court. The bill requires the court to instruct the grand jury as to this duty.

- **Relevant text:**

Art. 19.01. SELECTION AND SUMMONS OF PROSPECTIVE GRAND JURORS The district judge shall [may] direct that 20 to 125 prospective grand jurors be selected and summoned, with return on summons, in the same manner as for the selection and summons of panels for the trial of civil cases in the district courts. The judge shall try the qualifications for and excuses from service as a grand juror and impanel the completed grand jury [in the same manner] as provided by this chapter [for grand jurors selected by a jury commission].

Article 19.26, Code of Criminal Procedure, is amended to read as follows:

Art. 19.26. JURY IMPANELED.
(a) When at least sixteen [fourteen] qualified jurors are found to be present, the court shall select twelve fair and impartial persons to serve as grand jurors and four additional persons to serve as alternate grand jurors. The grand jurors and the alternate grand jurors shall be randomly selected from a fair cross section of the population of the area served by the court.

Article 19.31, Code of Criminal Procedure, is amended to read as follows:

Art. 19.31. CHALLENGE TO JUROR.
(a) A challenge to a particular grand juror may be made orally for any of the following causes [only]:

1. That the juror is insane;
2. That the juror has such defect in the organs of feeling or hearing, or such bodily or mental defect or disease as to render the juror unfit for jury service, or that the juror is legally blind and the court in its discretion is not satisfied that the juror is fit for jury service in that particular case;
3. That the juror is a witness in or a target of an investigation of a grand jury;
4. That the juror served on a petit jury in a former trial of the same alleged conduct or offense that the grand jury is investigating;
5. That the juror has a bias or prejudice in favor of or against the person accused or suspected of committing an offense that the grand jury is investigating;
6. That from hearsay, or otherwise, there is established in the mind of the juror such a conclusion as to the guilt or innocence of the person accused or suspected of committing an offense that the grand jury is investigating as would influence the juror's vote on the presentment of an indictment;
7. That the juror is related within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to a person accused or suspected of committing an offense that the grand jury is investigating or to a person who is a victim of an offense that the grand jury is investigating;
8. That the juror has a bias or prejudice against any phase of the law upon which the state is entitled to rely for an indictment;
9. That the juror [he] is not a qualified juror; and
10. [2.] That the juror [he] is the prosecutor upon an accusation against the person making the challenge.

(b) A challenge under Subsection (a)(3) may be made ex parte and shall be reviewed and ruled on in an in camera proceeding. The court shall seal any record of the challenge.

(c) In this article, "legally blind" has the meaning assigned by Article 35.16(a).

Chapter 19, Code of Criminal Procedure, is amended by adding Article 19.315 to read as follows:

Art. 19.315. RECUSAL OF JUROR.
(a) If, during the course of a juror's service on the grand jury, the juror determines that the juror could be subject to a valid challenge for cause under Article 19.31, the juror shall recuse himself or herself from grand jury service until the cause no longer exists. A person who knowingly fails to recuse himself or herself under this subsection may be held in contempt of court. A person authorized to be present in the grand jury room shall report a known violation of this subsection to the court.
(b) The court shall instruct the grand jury as to the duty imposed by Subsection (a).

CLARIFYING JUROR EXEMPTION: “UNABLE TO CARE FOR HIMSELF OR HERSELF”

- Full Legislative History: HB 866
Interested parties note that statutory exemptions from jury service include an exemption for the primary caretaker of an "invalid," which was a word commonly used in the past to refer to people with disabilities but that is no longer in common usage. The parties contend that this outdated word should be replaced with current, more sensitive language. H.B. 866 seeks to provide for this change.

(a) A person qualified to serve as a petit juror may establish an exemption from jury service if the person:

(7) is the primary caretaker of a person who is [an invalid] unable to care for himself or herself;

CLARIFICATION OF ‘RESIDENT’ AND ‘CITIZEN’ FOR JUROR QUALIFICATION

In relation to the qualifications for petit jury service, there is concern about the potential to summon a person for jury service when that person is no longer a resident of the summoning county and potential impacts on cases in the summoning county.

H.B. 2747 seeks to remedy this situation by having potential jurors correctly note their county of residence by eliminating the word citizen and instead using the term resident and then requiring the juror be a United States Citizen to ensure citizenship status.

H.B. 2747 amends current law relating to qualifications to serve as a petit juror.

Section 62.102, Government Code, is amended to read as follows:
Sec. 62.102. GENERAL QUALIFICATIONS FOR JURY SERVICE. A person is disqualified to serve as a petit juror unless the person:
(1) is at least 18 years of age;
(2) is a citizen of the United States;
(3) is a resident [citizen] of this state and of the county in which the person is to serve as a juror;
(4) [(3)] is qualified under the constitution and laws to vote in the county in which the person is to serve as a juror;
(5) [(4)] is of sound mind and good moral character;
(6) [(5)] is able to read and write;
(7) [(6)] has not served as a petit juror for six days during the preceding three months in
the county court or during the preceding six months in the district court;
(8) [(7)] has not been convicted of misdemeanor theft or a felony; and
(9) [(8)] is not under indictment or other legal accusation for misdemeanor theft or a
felony.

BAILIFF MAY ADMINISTER ELECTRONIC JURY SELECTION

- Full Legislative History: SB 681
- Statute: TEX. GOV’T. CODE § 62.001
- Summary:

In counties with at least nine district courts, a majority of the district judges may, with the
approval of the commissioners court, appoint a bailiff to be in charge of the central jury
room for the county. The statute that authorizes the use of an electronic jury selection
system refers to “the district clerk” as the person in charge of jury selection. The
longstanding practice in Bexar County, however, has been for the bailiff in charge of the
central jury room to administer the electronic jury selection process as well. This bill
would make clear that, in Bexar County, the central jury room bailiff may administer
electronic jury selection.
FAMILY VIOLENCE

EVIDENCE OF THE “NATURE OF THE RELATIONSHIP” IN FAMILY VIOLENCE PROSECUTIONS

- Full Legislative History: HB 2645
- Statute: TEX. CODE CRIM. PRO. art. 38.371
- Summary:

The legislative history can be found in HB 2777. The original version of HB 2777 was identified as particularly problematic because it allowed for the introduction of unreliable, unsubstantiated hearsay and character evidence over the explicit prohibitions of Rules 404 and 405. We anticipate prosecutors may argue that Article 38.371 still allows the introduction of this inadmissible evidence. This is incorrect; subpart (c) clearly prohibits this. Subpart (c) was not included in the original version of the bill, or the committee substitute.

Thus, it is important to note that HB 2777 did not pass either the House or the Senate. The language in HB 2645 was from a committee substitute, and the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

<table>
<thead>
<tr>
<th>INTRODUCED</th>
<th>HOUSE COMMITTEE SUBSTITUTE</th>
</tr>
</thead>
<tbody>
<tr>
<td>SECTION 1. Chapter 38, Code of Criminal Procedure, is amended by adding Article 38.371 to read as follows:</td>
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</tr>
<tr>
<td>Art. 38.371. EVIDENCE IN PROSECUTIONS OF OFFENSES INVOLVING FAMILY VIOLENCE AND OTHER SIMILAR OFFENSES.</td>
<td>Art. 38.371. EVIDENCE IN PROSECUTIONS OF CERTAIN ASSAULTIVE OFFENSES INVOLVING FAMILY VIOLENCE.</td>
</tr>
<tr>
<td>(a) This article applies to a proceeding in the prosecution of a defendant for an offense, or for an attempt or conspiracy to commit an offense, that is committed under the following provisions of the Penal Code against a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005,</td>
<td>(a) This article applies to a proceeding in the prosecution of a defendant for an offense, or for an attempt or conspiracy to commit an offense, that is committed under Section 22.01 or 22.02, Penal Code, against a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005,</td>
</tr>
</tbody>
</table>
Family Code:

(1) Chapter 19 (Criminal Homicide);
(2) Chapter 20 (Kidnapping, Unlawful Restraint, and Smuggling of Persons);
(3) Chapter 20A (Trafficking of Persons);
(4) Section 21.02 (Continuous Sexual Abuse of Young Child or Children);
(5) Section 21.11 (Indecency with a Child);
(6) Section 22.01 (Assault);
(7) Section 22.011 (Sexual Assault);
(8) Section 22.02 (Aggravated Assault);
(9) Section 22.021 (Aggravated Sexual Assault);
(10) Section 22.04 (Injury to a Child, Elderly Individual, or Disabled Individual);
(11) Section 25.07 (Violation of Certain Court Orders or Conditions of Bond in a Family Violence, Sexual Assault or Abuse, or Stalking Case);
(12) Section 25.072 (Repeated Violation of Certain Court Orders or Conditions of Bond in Family Violence Case);
(13) Section 25.11 (Continuous Violence Against the Family);
(14) Section 36.05 (Tampering with Witness);
(15) Section 36.06 (Obstruction or Retaliation);
(16) Section 38.112 (Violation of Protective Order Issued on Basis of Sexual Assault or Abuse, Stalking, or Trafficking);
(17) Section 42.07 (Harassment);
(18) Section 42.072 (Stalking);
(19) Section 43.05 (Compelling Prostitution); or
(20) Section 43.25 (Sexual Performance by a Child).

(b) Notwithstanding Rules 404 and 405, Texas Rules of Evidence, evidence of other crimes, wrongs, or acts committed by the defendant against the victim of the alleged offense shall be admitted for its bearing on

(b) In the prosecution of an offense described by Subsection (a), subject to the Texas Rules of Evidence or other applicable law, each party may offer testimony or other evidence of all relevant
relevant matters, including:
(1) the state of mind of the defendant and
the victim;
(2) the previous and subsequent
relationship between the defendant and
the victim; and
(3) the character of the defendant and acts
performed in conformity with the
character of the defendant.
(c) Notwithstanding Rules 404 and 405,
Texas Rules of Evidence, in the trial of an
alleged offense described by Subsection (a),
evidence that the defendant has committed a
separate offense described by Subsection (a)
against an individual other than the victim of
the instant alleged offense may be admitted
for any bearing the evidence has on relevant
matters, including the character of the
defendant and acts performed in conformity
with the character of the defendant.
(d) On timely request by the defendant
within a reasonable period before trial, the
state shall, within a reasonable period after
the defendant's request, provide the
defendant with notice of the state's intent to
introduce in the case in chief evidence
described by Subsection (b) or (c), except
that the state is not required to provide the
defendant with notice under this subsection if
the applicable evidence arose in the same
criminal transaction as the instant alleged
offense.
(e) This article does not limit the
admissibility of evidence of extraneous
crimes, wrongs, or acts under any other
applicable law.

Relevant text:

Art. 38.371. EVIDENCE IN PROSECUTIONS OF CERTAIN OFFENSES
INVOLVING FAMILY VIOLENCE.
(a) This article applies to a proceeding in the prosecution of a defendant for an offense, or
for an attempt or conspiracy to commit an offense, that is committed under:

No equivalent provision.
(1) Section 22.01 or 22.02, Penal Code, against a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code; or
(2) Section 25.07 or 25.072, Penal Code, if the offense is based on a violation of an order or a condition of bond in a case involving family violence.

(b) In the prosecution of an offense described by Subsection (a), subject to the Texas Rules of Evidence or other applicable law, each party may offer testimony or other evidence of all relevant facts and circumstances that would assist the trier of fact in determining whether the actor committed the offense described by Subsection (a), including testimony or evidence regarding the nature of the relationship between the actor and the alleged victim.

(c) This article does not permit the presentation of character evidence that would otherwise be inadmissible under the Texas Rules of Evidence or other applicable law.

EXPANDED CRIME: TAMPERING WITH GPS DEVICE WHILE ON BOND FOR ASSAULT – FAMILY VIOLENCE

- **Full Legislative History:** HB 2645
- **Statute:** TEX. PENAL CODE § 25.07
- **Summary:**

Penal Code, sec. 25.07 makes it a class A misdemeanor (up to one year in jail and/or a maximum fine of $4,000) to commit certain actions in violation of certain court orders or conditions of bonds in a family violence, sexual assault or abuse, or stalking case.

HB 2645 would expand the Penal Code, sec. 25.07 offense involving violating certain court orders or bond conditions in family violence, sexual assault or abuse, and stalking cases to include removing or attempting to remove a global positioning monitoring system.

- **Relevant text:**

Section 25.07(a), Penal Code, is amended to read as follows:

(a) A person commits an offense if, in violation of a condition of bond set in a family violence, sexual assault or abuse, or stalking case and related to the safety of a victim or the safety of the community, an order issued under Article 17.292, Code of Criminal Procedure, an order issued under Section 6.504, Family Code, Chapter 83, Family Code, if the temporary ex parte order has been served on the person, or Chapter 85, Family Code, or an order issued by another jurisdiction as provided by Chapter 88, Family Code, the person knowingly or intentionally:

(1) commits family violence or an act in furtherance of an offense under Section 22.011, 22.021, or 42.072;
(2) communicates:

(A) directly with a protected individual or a member of the family or household in a threatening or harassing manner;
(B) a threat through any person to a protected individual or a member of the family or household; or
(C) in any manner with the protected individual or a member of the family or household except through the person's attorney or a person appointed by the court, if the violation is of an order described by this subsection and the order prohibits any communication with a protected individual or a member of the family or household;
(3) goes to or near any of the following places as specifically described in the order or condition of bond:
   (A) the residence or place of employment or business of a protected individual or a member of the family or household; or
   (B) any child care facility, residence, or school where a child protected by the order or condition of bond normally resides or attends;
(4) possesses a firearm; [or]
(5) harms, threatens, or interferes with the care, custody, or control of a pet, companion animal, or assistance animal that is possessed by a person protected by the order; or
(6) removes, attempts to remove, or otherwise tampers with the normal functioning of a global positioning monitoring system.

FAMILY VIOLENCE DEFINITIONS: SECTION 71.0021(A) PENAL CODE

- Full Legislative History: SB 817
- Statute: TEX. FAM. CODE PRO. §§ 71.0021, 71.004, 153.005
- Summary:

How the law changes:
- The definition of dating violence now includes “applicant for protective order”
- The definition of family violence is expanded to include “abuse” as defined by sections 261.001 (H), (I), (J) and (K) of the Texas Family Code
- Use in child custody determinations in Family Code Section 153.005:

(c) In making an appointment authorized by this section, the court shall consider whether, preceding the filing of the suit or during the pendency of the suit:
   (1) a party engaged in a history or pattern of family violence, as defined by Section 71.004;
   (2) a party engaged in a history or pattern of child abuse or child neglect; or
   (3) a final protective order was rendered against a party.

- Implications:
  - The dating violence definition change is semantic
  - Fairly narrow scope: mean to apply to parents or prosecutors who were not involved in a dating relationship with the person
  - Does not change the day-to-day realities of family violence and dating violence cases. While the history of violence will be introduced into evidence in a custody trial, this statute elevates family violence and protective orders into the formal
- The family violence change is significant because it creates new categories of family violence

- Legal challenges
  - Does this language inadvertently give tremendous power to mere “applicants?” What about an application that is unfounded? Or determined to be untrue? What about pro se applicants? There is no formal finding of fact.
  - On the other hand, this may be a meaningless distinction if the complainant is already the victim in a criminal case or subject to a protective order.

MANDATORY RESTITUTION FOR CHILD WITNESS OF FAMILY VIOLENCE

- Full Legislative History: HB 2159
- Statute: CCP art. 42.0373
- Relevant Text:

Art. 42.0373. MANDATORY RESTITUTION FOR CHILD WITNESS OF FAMILY VIOLENCE.
(a) If after a conviction or a grant of deferred adjudication a court places a defendant on community supervision for an offense involving family violence, as defined by Section 71.004, Family Code, the court shall determine from the complaint, information, indictment, or other charging instrument, the presentence report, or other evidence before the court whether:

(1) the offense was committed in the physical presence of, or in the same habitation or vehicle occupied by, a person younger than 15 years of age; and
(2) at the time of the offense, the defendant had knowledge or reason to know that the person younger than 15 years of age was physically present or occupied the same habitation or vehicle.

(b) If the court determines both issues described by Subsection (a) in the affirmative, the court shall order the defendant to pay restitution in an amount equal to the cost of necessary rehabilitation, including medical, psychiatric, and psychological care and treatment, for a person described by Subsection (a)(1).

(c) The court shall, after considering the financial circumstances of the defendant, specify in a restitution order issued under Subsection (b) the manner in which the defendant must pay the restitution. The order must require restitution payments to be delivered in the manner described by Article 42.037(g)(4)(iii).

(d) A restitution order issued under Subsection (b) may be enforced by the state, or by a person or a parent or guardian of the person named in the order to receive the restitution, in the same manner as a judgment in a civil action.

(e) The court may hold a hearing, make findings of fact, and amend a restitution order issued under Subsection (b) if the defendant fails to pay the person named in the order in the manner specified by the court.

(f) A determination under this article may not be entered as an affirmative finding in the judgment for the offense for which the defendant was placed on community supervision.
USE OF PSEUDONYM IN STALKING CASES

- **Full Legislative History:** HB 1293
- **Statute:** TEX. CODE CRIM. PRO. ch. 57A

House Bill 1293 amends the Code of Criminal Procedure and Property Code to provide for the use of a pseudonym by a victim of a stalking offense instead of the victim's name in all public files and records and legal proceedings concerning the offense. The bill requires the office of the attorney general to develop and distribute to all state law enforcement agencies a pseudonym form and provides for the implementation of the pseudonym by the law enforcement agency receiving a completed pseudonym form. The bill provides for limited disclosure of a stalking victim's identifying information and establishes Class C misdemeanors for certain conduct involving the knowing disclosure of that information to a person not associated with the case.

House Bill 1293 requires a tenant who is a stalking victim seeking to terminate a lease, vacate, and avoid related liability and who is identified in the applicable law enforcement incident report by means of a pseudonym to provide a copy of the completed pseudonym form to the landlord.

EXPANSION OF VICTIM'S RIGHTS IN FAMILY VIOLENCE CASES

- **Full Legislative History:** SB 630
- **Summary:**

Senate Bill 630 amends the Code of Criminal Procedure to expand the persons authorized to file an application for a protective order for certain victims of sexual assault or abuse, stalking, or trafficking and to entitle victims of those offenses or the victim's parent or guardian to additional crime victims' rights relating to the protective order.
PROTECTIVE ORDERS

CONSOLIDATION OF PROTECTIVE ORDER STATUTES

- **Full Legislative History:** SB 147
- **Statute:** TEX. PENAL CODE § 25.07
- **Summary:**

Currently, two separate provisions of the Penal Code are used to prosecute violations of protective orders. Section 25.07 (Violation of Certain Court Orders or Conditions of Bond in a Family Violence, Sexual Assault or Abuse, or Stalking Case) covers family violence protective orders, and Section 38.112 (Violation of Protective Order Issued on Basis of Sexual Assault or Abuse, Stalking, or Trafficking) covers sexual assault, stalking, and human trafficking protective orders. Section 25.07 provides more protections for victims and more severe penalties for violations, including the possibility of charging defendants with a felony for repeat violations under Section 25.072 (Repeated Violation of Certain Court Orders or Conditions of Bond in Family Violence Case), rather than separate misdemeanor charges for each violation.

S.B. 147 amends Section 25.07, Penal Code, to allow violations of sexual assault protective orders, stalking protective orders, and human trafficking protective orders issued under Chapter 7A (Protective Order for Victims of Sexual Assault or Abuse, Stalking, or Trafficking), Code of Criminal Procedure, to be prosecuted under that statute, and amends Section 25.072 to allow repeated violations of such orders to be prosecuted under that statute. The bill also adds references to human trafficking to Section 411.042 (Bureau of Identification and Records), Government Code, to require the Bureau of Identification and Records of the Department of Public Safety of the State of Texas (DPS) to collect and maintain data concerning human trafficking protective orders. The bill also repeals Section 38.112, Penal Code, the current statute used to prosecute violations of sexual assault, stalking, and human trafficking protective orders.

By repealing Section 38.112 and providing that all violations of protective orders be prosecuted under Section 25.07, S.B. 147 strengthens protections for victims of sexual assault, stalking, and human trafficking and provides more enforcement tools to prosecutors. S.B. 147 also improves data concerning protective orders by requiring DPS to collect and maintain data on human trafficking protective orders.

ISSUANCE OF PROTECTIVE ORDERS: ARTICLE 17.292

- **Full Legislative History:** SB 737
- **Statute:** TEX. CODE CRIM. PRO. art. 17.292
- **Summary:**
Current law authorizes judges to issue emergency orders to protect the victims of family violence. The issuing court reports these orders to law enforcement, enabling them to keep victims safe from further violence. However, under current law and practice, there are often delays in the execution of the order. Victims are not notified that the order has been issued, and law enforcement officers may go to the scene of a family violence investigation unaware of an existing order for emergency protection. In some counties, it can take up to a month for the order to be reported. Delays in notification make enforcement more difficult and pose serious risks for victims. In addition, one form of protective order, a magistrate's order for emergency protection, is not currently reported to the Texas Crime Information Center (TCIC), which collects offender information for the use of law enforcement across the state and across the country.

S.B. 737 amends Article 17.292, Code of Criminal Procedure, to require courts to send protective orders to law enforcement by the end of the next business day and to permit transmission in electronic form. The bill also requires orders to be sent to victims at the same time. In addition, S.B. 737 shortens the timeline that law enforcement has to enter the orders from the tenth day after receiving the order to the third day. Lastly, S.B. 737 amends Section 411.042, Government Code, to require the reporting of magistrates' orders for emergency protection to TCIC. These measures will help victims who depend on protective orders for their safety. (Original Author's/Sponsor's Statement of Intent)

**EMERGENCY PROTECTIVE ORDERS: ARTICLE 17.292**

- **Full Legislative History:** SB 112
- **Statute:** TEX. CODE CRIM. PRO. art. 17.292
- **Summary:**

  How the law changes:

  - (c) The magistrate in the order for emergency protection may prohibit the arrested party from:

    1. committing:
       - (A) family violence or an assault on the person protected under the order; or
       - (B) an act in furtherance of an offense under Section 42.072, Penal Code;
    2. communicating:
       - (A) directly with a member of the family or household or with the person protected under the order in a threatening or harassing manner; or
       - (B) a threat through any person to a member of the family or household or to the person protected under the order; or
       - (C) if the magistrate finds good cause, in any manner with a person protected under the order or a member of the family or household of a person protected under the order, except through the party's attorney or a person appointed by the court;
    3. going to or near:
(A) the residence, place of employment, or business of a member of the family or household or of the person protected under the order; or
(B) the residence, child care facility, or school where a child protected under the order resides or attends; or
(4) possessing a firearm, unless the person is a peace officer, as defined by Section 1.07, Penal Code, actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision.

- Implications: full gag order and significant impact on parent child relationship without “best interest” consideration.
- Legal challenges
  - What is good cause?
  - And “good cause” for what? Violence? Threats?
  - First Amendment: overbreadth challenge?

  **Effective date: 5-23-2015**

**RETRIEVAL OF PROPERTY FROM FORMER RESIDENCE**

- **Full Legislative History:** HB 2486
- **Statute:** TEX. PROP. CODE ch. 24A
- **Summary:**

This bill highlights another reason why clients need counsel before agreeing to a protective order. In what is a constant source of friction post-separation, this bill amends the property code to allow a person to enter a locked residence (with a peace officer) to retrieve certain items if there is no active protective order.

Expect to receive questions from clients once this statute is publicized. It is important enough to include the full text of the statute in this paper.

- **Relevant Texts:**

Title 4, Property Code, is amended by adding Chapter 24A to read as follows:

**CHAPTER 24A. ACCESS TO RESIDENCE OR FORMER RESIDENCE TO RETRIEVE PERSONAL PROPERTY**

Sec. 24A.001. DEFINITION. In this chapter, ”peace officer” means a person listed under Article 2.12(1) or (2), Code of Criminal Procedure.

Sec. 24A.002. ORDER AUTHORIZING ENTRY AND PROPERTY RETRIEVAL; PEACE OFFICER TO ACCOMPANY.

(a) If a person is unable to enter the person's residence or former residence to retrieve personal property belonging to the person or the person's dependent because the current occupant is denying the person entry, the person may apply to
the justice court for an order authorizing the person to enter the residence accompanied by a peace officer to retrieve specific items of personal property.  

(b) An application under Subsection (a) must:  

(1) certify that the applicant is unable to enter the residence because the current occupant of the residence has denied the applicant access to the residence;  
(2) certify that, to the best of the applicant's knowledge, the applicant is not:  
(A) the subject of an active protective order under Title 4, Family Code, a magistrate's order for emergency protection under Article 17.292, Code of Criminal Procedure, or another court order prohibiting entry to the residence; or  
(B) otherwise prohibited by law from entering the residence;  
(3) allege that the applicant or the applicant's minor dependent requires personal items located in the residence that are only of the following types:  
(A) medical records;  
(B) medicine and medical supplies;  
(C) clothing;  
(D) child-care items;  
(E) legal or financial documents;  
(F) checks or bank or credit cards in the name of the applicant;  
(G) employment records; or  
(H) personal identification documents;  
(4) describe with specificity the items that the applicant intends to retrieve;  
(5) allege that the applicant or the applicant's dependent will suffer personal harm if the items listed in the application are not retrieved promptly; and  
(6) include a lease or other documentary evidence that shows the applicant is currently or was formerly authorized to occupy the residence.  

c) Before the justice of the peace may issue an order under this section, the applicant must execute a bond that:  

(1) has two or more good and sufficient non-corporate sureties or one corporate surety authorized to issue bonds in this state;  
(2) is payable to the occupant of the residence;  
(3) is in an amount required by the justice; and  
(4) is conditioned on the applicant paying all damages and costs adjudged against the applicant for wrongful property retrieval.  

d) The applicant shall deliver the bond to the justice of the peace issuing the order for the justice's approval. The bond shall be filed with the justice court.  

e) On sufficient evidence of urgency and potential harm to the health and safety of any person and after sufficient notice to the current occupant and an opportunity to be heard, the justice of the peace may grant the application under this section and issue an order authorizing the applicant to enter the residence
accompanied by a peace officer and retrieve the property listed in the application if the justice of the peace finds that:

1. the applicant is unable to enter the residence because the current occupant of the residence has denied the applicant access to the residence to retrieve the applicant's personal property or the personal property of the applicant's dependent;
2. the applicant is not:
   A. the subject of an active protective order under Title 4, Family Code, a magistrate's order for emergency protection under Article 17.292, Code of Criminal Procedure, or another court order prohibiting entry to the residence; or
   B. otherwise prohibited by law from entering the residence;
3. there is a risk of personal harm to the applicant or the applicant's dependent if the items listed in the application are not retrieved promptly;
4. the applicant is currently or was formerly authorized to occupy the residence according to a lease or other documentary evidence; and
5. the current occupant received notice of the application and was provided an opportunity to appear before the court to contest the application.

Sec. 24A.003. AUTHORIZED ENTRY PROCEDURES; DUTIES OF PEACE OFFICER.

(a) If the justice of the peace grants an application under Section 24A.002, a peace officer shall accompany and assist the applicant in making the authorized entry and retrieving the items of personal property listed in the application.

(b) If the current occupant of the residence is present at the time of the entry, the peace officer shall provide the occupant with a copy of the court order authorizing the entry and property retrieval.

(c) Before removing the property listed in the application from the residence, the applicant must submit all property retrieved to the peace officer assisting the applicant under this section to be inventoried. The peace officer shall create an inventory listing the items taken from the residence, provide a copy of the inventory to the applicant, provide a copy of the inventory to the current occupant or, if the current occupant is not present, leave the copy in a conspicuous place in the residence, and return the property to be removed from the residence to the applicant. The officer shall file the original inventory with the court that issued the order authorizing the entry and property retrieval.

(d) A peace officer may use reasonable force in providing assistance under this section.

(e) A peace officer who provides assistance under this section in good faith and with reasonable diligence is not:
   1. civilly liable for an act or omission of the officer that arises in connection with providing the assistance; or
   2. civilly or criminally liable for the wrongful appropriation of any personal property by the person the officer is assisting.

Sec. 24A.004. IMMUNITY FROM LIABILITY. A landlord or a landlord's agent who permits or facilitates entry into a residence in accordance with a court order issued under this chapter is not civilly or criminally liable for an act or omission that arises in connection with permitting or facilitating the entry.
Sec. 24A.005. OFFENSE.
(a) A person commits an offense if the person interferes with a person or peace officer entering a residence and retrieving personal property under the authority of a court order issued under Section 24A.002.
(b) An offense under this section is a Class B misdemeanor.
(c) It is a defense to prosecution under this section that the actor did not receive a copy of the court order or other notice that the entry or property retrieval was authorized.

Sec. 24A.006. HEARING; REVIEW.
(a) The occupant of a residence that is the subject of a court order issued under Section 24A.002, not later than the 10th day after the date of the authorized entry, may file a complaint in the court that issued the order alleging that the applicant has appropriated property belonging to the occupant or the occupant's dependent.
(b) The court shall promptly hold a hearing on a complaint submitted under this section and rule on the disposition of the disputed property.
(c) This section does not limit the occupant's remedies under any other law for recovery of the property of the occupant or the occupant's dependent.

PROTECTIVE ORDER – PRESUMPTION WHEN CHILD ABUSE CONVICTION

- **Full Legislative History:** HB 1782
- **Statute:** TEX. FAM. CODE § 81.0015
- **Summary:**

  Under current law, Chapter 81 of the Family Code allows for protective orders when family violence has occurred and is likely to occur in the future. Adopted children whose parents’ rights have been terminated are not automatically extended these same protections, even when a family violence offense has been committed.

  H.B. 1782 allows for the issuance of a protection order when the respondent has been convicted of, or placed on, deferred adjudication community supervision for an offense involving family violence or offense under Title 6, Penal Code, and the respondent’s parental rights with respect to the child have been terminated and the respondent is seeking or attempting to seek contact with the child.

- **Relevant text:**

  Chapter 81, Family Code, is amended by adding Section 81.0015 to read as follows:

  **Sec. 81.0015. PRESUMPTION.** For purposes of this subtitle, there is a presumption that family violence has occurred and is likely to occur in the future if:
  (1) the respondent has been convicted of or placed on deferred adjudication community supervision for any of the following offenses against the child for whom the petition is filed:
      (A) an offense under Title 5, Penal Code, for which the court has made an affirmative finding that the offense involved family violence under Article 42.013, Code of Criminal Procedure; or
      (B) an offense under Title 6, Penal Code;
(2) the respondent's parental rights with respect to the child have been terminated; and
(3) the respondent is seeking or attempting to seek contact with the child.

LONGER AUTOMATIC EXTENSION OF PROTECTIVE ORDER WHEN PERSON IS IN PRISON

- **Full Legislative History:** HB 388
- **Statute:** TEX. FAM. CODE § 85.025(c)
- **Summary:**

House Bill 388 amends the Family Code to postpone the expiration of a protective order against a person confined or imprisoned on the order's expiration date to the second anniversary of the date the person was released from confinement or imprisonment if the sentence was for five years or less, or to the first anniversary of release if the sentence was for more than five years.

- **Relevant text:**

Section 85.025(c), Family Code, is amended to read as follows:
(c) If a person who is the subject of a protective order is confined or imprisoned on the date the protective order would expire under Subsection (a) or (a-1), or if the protective order would expire not later than the first anniversary of the date the person is released from confinement or imprisonment, the period for which the order is effective is extended, and the order expires on:

1. the first anniversary of the date the person is released from confinement or imprisonment, if the person was sentenced to confinement or imprisonment for more than five years; or
2. the second anniversary of the date the person is released from confinement or imprisonment, if the person was sentenced to confinement or imprisonment for five years or less.
ASSAULTS

EXPANDED DEFINITION OF ‘DISABLED INDIVIDUAL’ FOR INJURY TO CHILD, ELDERLY OR DISABLED INDIVIDUAL; NARROWS AFFIRMATIVE DEFENSE

- Full Legislative History: HB 1286
- Statute: TEX. PENAL CODE § 22.04
- Summary:

HB 1286 would not add a new crime but would give prosecutors options when trying cases in which the defendant was accused of injuring a disabled person who is also a child. Under current law, an individual accused of injuring a disabled person younger than 14 years old can be prosecuted for the crime of injuring a child but not for injuring a disabled person. The bill would allow prosecutors to seek convictions in such cases under either part of Penal Code, sec. 22.04, which creates an offense for injuring a child as well as for injuring a disabled person. This would allow the conviction in such a case to more accurately reflect the crime committed.

- Relevant text:

Section 22.04(c)(3), Penal Code, is amended to read as follows:
(3) "Disabled individual" means a person:
   (A) with one or more of the following:
       (i) autism spectrum disorder, as defined by Section 1355.001, Insurance Code;
       (ii) developmental disability, as defined by Section 112.042, Human Resources Code;
       (iii) intellectual disability, as defined by Section 591.003, Health and Safety Code;
       (iv) severe emotional disturbance, as defined by Section 261.001, Family Code; or
       (v) traumatic brain injury, as defined by Section 92.001, Health and Safety Code;

Section 22.04, Penal Code, is amended by amending Subsection (l) and adding Subsection (m) to read as follows:
(m) It is an affirmative defense to prosecution under Subsections (a)(1), (2), and (3) for injury to a disabled individual that the person did not know and could not reasonably have known that the individual was a disabled individual, as defined by Subsection (c), at the time of the offense.
DIFFERENT DEFINITION OF ‘DISABLED INDIVIDUAL’ FOR AGGRAVATED SEXUAL ASSAULT PROSECUTION

- **Full Legislative History:** HB 2589
- **Statute:** TEX. PENAL CODE § 22.021
- **Summary:**

Prosecutors have expressed concern that there is a gap in current law regarding the age at which a juvenile is considered a disabled individual for purposes of certain sexual assault offenses. These prosecutors have reported instances in which, because of this age gap, a victim who is not old enough to be considered a disabled individual for purposes of the more serious offense of aggravated sexual assault is, at the same time, not young enough for purposes of that same offense when the age of the victim is considered, and so the offender can only be charged with the less serious offense of sexual assault.

H.B. 2589 amends the Penal Code to lower from 14 years of age to 13 years of age the age above which a person is considered a disabled individual for purposes of the offense of aggravated sexual assault if the person, by reason of age or physical or mental disease, defect, or injury is substantially unable to protect the person's self from harm or to provide food, shelter, or medical care for the person's self.

- **Relevant text:**

Section 22.021(b), Penal Code, is amended by amending Subdivision (2) and adding Subdivision (3) to read as follows:

(2) "Elderly individual" has [and "disabled individual" have] the meaning [meanings] assigned by Section 22.04(c).

(3) "Disabled individual" means a person older than 13 years of age who by reason of age or physical or mental disease, defect, or injury is substantially unable to protect the person's self from harm or to provide food, shelter, or medical care for the person's self.
JUVENILE JUSTICE

JUVENILES CERTIFIED AS ADULTS: ARTICLE 44.47 CCP

- Full Legislative History: SB 888
- Statute: TEX. CODE CRIM. PRO. art. 4.18 & TEX. FAM. CODE §§ 51.041 & 56.01
- Summary:

  Currently, a juvenile who is certified to stand trial as an adult cannot appeal that certification until after conviction or after an order of deferred adjudication has been entered, a process that can take years. Interested parties contend that allowing an appeal at an earlier point could save the state valuable resources if it is determined that a certification was improper prior to the adult trial.

  Repeals Article 44.47, Code of Criminal Procedure and amends the Texas Family Code, thereby authorizing a defendant to immediately appeal an order of a juvenile court certifying the juvenile to stand trial as an adult and transferring the juvenile from a juvenile court to a criminal court.

DECRIMINALIZATION OF TRUANCY

- Full Legislative History: HB 2398
- Summary:

  House Bill 2398 amends Code of Criminal Procedure, Education Code, Family Code, Government Code, and Local Government Code provisions relating to truancy. Among other provisions, the bill repeals the offense of failure to attend school, removes school absences from the conduct considered conduct indicating a need for supervision under the juvenile justice code, and establishes a range of fines for the offense of parent contributing to a student's nonattendance. The bill establishes truancy court procedures for a child who is required to attend school and who is alleged to have failed to attend school on 10 or more days or parts of days within a six-month period in the same school year. The bill provides for the dismissal of parent contributing to nonattendance charges and the expunction of failure to attend school records. The bill changes the types of counties that must adopt a uniform truancy policy. The bill revises a school district's duty to impose truancy prevention measures, refer a truant student to court, or file a complaint against the student's parent. The bill provides for the establishment of local judicial donation trust funds to benefit children or families who appear before a court for a truancy or curfew violation or for a misdemeanor offense before the court.
Texas has developed zero tolerance policies that require the expulsion of students who commit certain serious acts. Interested parties express concern that the zero tolerance policies leave no room for discretion on the part of a school to consider extenuating circumstances or allow for alternate resolutions and point to many situations over the years in which students have been expelled from school for acts that were not harmful.

S.B. 107 amends the Education Code to require a person at each school campus to be designated to serve as the campus behavior coordinator and to authorize the designated person to be the campus principal or any other campus administrator selected by the principal. The bill makes the campus behavior coordinator primarily responsible for maintaining student discipline and the implementation of statutory provisions relating to alternative settings for behavior management and authorizes the specific duties of the campus behavior coordinator to be established by campus or district policy. The bill requires a duty imposed on a campus principal or other campus administrator under those provisions to be performed by the campus behavior coordinator and authorizes a power granted to a campus principal or other campus administrator under those provisions to be exercised by the campus behavior coordinator, unless otherwise provided by campus or district policy.

S.B. 107 requires the campus behavior coordinator to promptly notify a student's parent or guardian if the student is placed into in-school or out-of-school suspension, placed in a disciplinary alternative education program, expelled, or placed in a juvenile justice alternative education program or is taken into custody by a law enforcement officer by contacting the parent or guardian by telephone or in person and by making a good faith effort to provide written notice of the disciplinary action to the student, on the day the action is taken, for delivery to the student's parent or guardian. The bill requires a campus behavior coordinator, if a parent or guardian entitled to the notice has not been reached by telephone or in person by 5 p.m. of the first business day after the day the disciplinary action is taken, to mail written notice of the action to the parent or guardian at the parent's or guardian's last known address.

S.B. 107 removes from the circumstances under which a student's expulsion is required the student's use, exhibition, or possession of certain weapons on school property or while attending a school-sponsored or school-related activity on or off of school property and instead includes among such circumstances the student's engagement in conduct that contains the elements of the offense of unlawfully carrying weapons or elements of an offense relating to prohibited weapons.

S.B. 107 requires a campus behavior coordinator, before ordering the suspension,
expulsion, removal to a disciplinary alternative education program, or placement in a juvenile justice alternative education program of a student, to consider whether the student acted in self-defense, the intent or lack of intent at the time the student engaged in the conduct for which the student was removed from class, the student's disciplinary history, and whether the student has a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct, regardless of whether the coordinator's decision concerns a mandatory or discretionary action. The bill removes from the circumstances under which a student's placement may exceed one year the school district's determination that extended placement is in the student's best interest.

**POST-ADJUDICATION FACILITIES AND DETERMINATE SENTENCE PAROLE**

- **Full Legislative History:** SB 1149
- **Statutes:**
  - Human Resources Code § 152
  - Texas Family Code § 51.13
- **Summary:**
  
  This is a cleanup bill to legislation passed during the 83rd legislative session which authorized the commitment of a juvenile in certain counties to a local post-adjudication secure correctional facility in lieu of a TJJD commitment.

**INCREASING LOCAL DISPOSITIONS IN JUVENILE CASES**

- **Full Legislative History:** SB 1630
- **Statutes:**
  - TEX. FAM. CODE § 54.04
- **Summary:**

  The Justice Center of the Council for State Government released its first of a kind study of Texas youth involved with the juvenile justice system at the Texas Supreme Courtroom last January. It provides that juveniles under community-based supervision are far less likely to reoffend than youth with very similar profiles who are confined in Texas Juvenile Justice Department (TJJD) facilities. Based on an unprecedented dataset of 1.3 million individual juvenile case records, the study results show that youth incarcerated in state facilities are 21 percent more likely to be rearrested than those who remain under supervision closer to home in local county programs. Also when they do reoffend, youth released from state-secure facilities are three times more likely to commit a felony than youth under community supervision.

  This study also revealed that a youth secured at a TJJD facility for an average stay of just over 18 months cost the state $158,000.00, much greater than the cost of supervision on community supervision or community inpatient programs.

  S.B. 1630 is designed to implement the recommendations of the Justice Center's study and continue the movement of the Texas juvenile justice system from the 1950's model of large rural institutions into a regional system that supervises and treats a youth closer to the youth's home community. The bill instructs TJJD to adopt a regionalization plan for keeping youth closer to
home in lieu of commitment to the secure facilities operated by the department and adjust its budget accordingly. It also instructs the TJJD to create specialized programs and special programs for determinate-sentenced youth. It establishes a new sentence scheme for sending indeterminate youth to the state facilities, requiring a valid needs assessment and determination that the needs of the youth cannot be met with the resources available within the community. The state appropriations for the TJJD for fiscal years 2016 and 2017 have been aligned to accommodate the new structure.

S.B. 1630 will not only provide for better outcomes of the youth served but will use the significant resources that are provided for their rehabilitation in a more effective system.

As proposed, S.B. 1630 amends current law relating to keeping children adjudicated as delinquent closer to home, funding for juvenile probation departments, powers of the independent ombudsman, and indeterminate commitment of children adjudicated as delinquent.
DRUGS

SYNTHETIC MARIJUANA: HEALTH & SAFETY CODE

- **Full Legislative History:** SB 173
- **Statute:** TEX. HEALTH & SAFETY CODE §§ 481.002, 481.1031
- **Summary:**

  K2 (aka Spice, Genie, Fire & Ice) is marketed as incense, but is actually a product that has been sprayed with a chemical compound that mimics the effects of THC, the active ingredient in marijuana, and is being smoked to produce intoxicating effects.

  S.B. 173 covers all 12 of the potential cores and ring structures from which synthetic compounds can be made. Lab technicians and chemists have only recently discovered this process.

  With all core structures and rings made illegal, S.B. 173 will now cover 100 percent of synthetic cases statewide that district attorney offices have seen.

- **Implications:**

  “Some crime lab technicians have had difficulty proving that synthetic marihuana mimics the pharmacological effect of a naturally occurring cannabinoid because of insufficient research and literature regarding the effects of synthetic marihuana, which the parties contend has severely inhibited prosecutions across the state.”

  Translation: Our crime labs could run marijuana through a gas chromatograph mass spectrometer, but that’s a lot of work for just a marijuana case and it’s easier to just change the law.

SYNTHETIC MARIJUANA: HEALTH & SAFETY CODE

- **Full Legislative History:** SB 172
- **Statute:** TEX. HEALTH & SAFETY CODE §§ 481.002, 481.1021
- **Summary:**

  S.B. 172 amends the Health and Safety Code to expand the definition of "abuse unit" for purposes of the Texas Controlled Substances Act to include 40 micrograms of a controlled substance in solid form, including any adulterant or dilutant. The bill adds certain substances to the controlled substances listed in Penalty Groups 1-A and 2 of the act, removes certain substances from the controlled substances listed in Penalty Group 2, and establishes that, to the extent the bill's provisions adding certain substances to each penalty group conflict with another law, the other law prevails. The bill establishes that if a substance listed in Penalty Group 2 is also listed in another penalty group, the listing in the other group controls. The bill establishes that, if a substance listed in Penalty Group 2
is approved by the Federal Drug Administration, the inclusion of that substance in that penalty group does not apply and prohibits the conviction of a person for the manufacture, delivery, or possession of the substance.

**ABUSABLE SYNTHETIC SUBSTANCES**

- **Full Legislative History:** HB 1212
- **Statute:** TEX. HEALTH & SAFETY CODE ch. 431, G-1
- **Summary:**

Health and Safety Code, ch. 481 established the Texas Controlled Substances Act, which categorizes controlled substances into penalty groups and provides specific penalties. Health and Safety Code, sec. 481.1031 defines Penalty Group 2-A as any quantity of a synthetic chemical compound that is a cannabinoid receptor agonist and mimics the pharmacological effect of naturally occurring cannabinoids — effectively, synthetic cannabis or marijuana. Penalty Group 2-A provides offenses for possession of a controlled substance in this group that range from a class B misdemeanor (up to 180 days in jail and/or a maximum fine of $2,000) to life in prison.

HB 1212 would allow the Department of State Health Services (DSHS) commissioner to designate a consumer commodity as an “abusable synthetic substance” and would allow the commissioner to issue an emergency order to schedule that substance as a controlled substance.

Definitions. The bill would include within the definitions of “controlled substance” and “controlled substance analogue” Penalty Group 2-A, which governs synthetic cannabinoid substances. The bill also would add Penalty Group 2-A to the list of penalty groups that, for the purposes of prosecution, include controlled substance analogues that are structurally similar to controlled substances and produce a similar effect to those compounds.

The bill would remove an existing affirmative defense to prosecution for an offense involving the manufacture, delivery, or possession of a controlled substance analogue that the analogue was not in any part intended for human consumption.

[Signed version eliminated the Amnesty Overdose provisions]

- **Relevant text:**

Sec. 431.171. DESIGNATION OF CONSUMER COMMODITY AS ABUSABLE SYNTHETIC SUBSTANCE.
(a) The commissioner may designate a consumer commodity as an abusable synthetic substance if the commissioner determines that the consumer commodity is likely an abusable synthetic substance and the importation, manufacture, distribution, or retail sale of the commodity poses a threat to public health.
(b) In determining whether a consumer commodity is an abusable synthetic substance, the commissioner may consider:
(1) whether the commodity is sold at a price higher than similar commodities are ordinarily sold;
(2) any evidence of clandestine importation, manufacture, distribution, or diversion from legitimate channels;
(3) any evidence suggesting the product is intended for human consumption, regardless of any consumption prohibitions or warnings on the packaging of the commodity; or
(4) whether any of the following factors suggest the commodity is an abusable synthetic substance intended for illicit drug use:
   (A) the appearance of the packaging of the commodity;
   (B) oral or written statements or representations of a person who sells, manufactures, distributes, or imports the commodity;
   (C) the methods by which the commodity is distributed; and
   (D) the manner in which the commodity is sold to the public.

MEDICAL MARIJUANA FOR EPILEPSY

- **Full Legislative History:** SB 339
- **Statute:** TEX. HEALTH & SAFETY CODE ch. 487
- **Summary:**

S.B. 339 amends the Occupations Code to authorize a qualified physician to prescribe low-THC cannabis to a patient with intractable epilepsy, defined by the bill as a seizure disorder in which the patient's seizures have been treated by two or more appropriately chosen and maximally titrated antiepileptic drugs that have failed to control the seizures. The bill establishes that a physician is qualified to prescribe low-THC cannabis to such a patient if the physician is licensed under the Medical Practice Act, dedicates a significant portion of clinical practice to the evaluation and treatment of epilepsy, and is certified by the appropriate certification board in epilepsy, neurophysiology, or neurology with special qualification in child neurology if the physician is otherwise qualified for the examination for certification in epilepsy.

S.B. 339 authorizes a qualified physician to prescribe low-THC cannabis to alleviate a patient's seizures if the patient is a permanent Texas resident; the physician complies with the bill's registration requirements; and the physician certifies to the Department of Public Safety (DPS) that the patient is diagnosed with intractable epilepsy, that the physician determines the risk of the medical use of low-THC cannabis by the patient is reasonable in light of the potential benefit for the patient, and that a second qualified physician has concurred with that determination and the second physician's concurrence is recorded in the patient's medical record.

UNLISTED SYNTHETIC DRUG CONVICTION PUNISHMENT ENHANCEMENT

- **Full Legislative History:** HB 1424
Statute:  
TEX. HEALTH & SAFETY CODE § 431.119

Summary:

Catch-all provision for diligent chemists who can create new synthetic drugs before the health and safety commission classify the substance into a schedule. Punishment enhancements for repeat offenders.

Relevant text:

Sec. 481.119. OFFENSE: MANUFACTURE, DELIVERY, OR POSSESSION OF MISCELLANEOUS SUBSTANCES.  
(a) A person commits an offense if the person knowingly manufactures, delivers, or possesses with intent to deliver a controlled substance listed in a schedule by an action of the commissioner under this chapter but not listed in a penalty group. An offense under this subsection is a Class A misdemeanor, except that the offense is:

(1) a state jail felony, if the person has been previously convicted of an offense under this subsection; or
(2) a felony of the third degree, if the person has been previously convicted two or more times of an offense under this subsection.

(b) A person commits an offense if the person knowingly or intentionally possesses a controlled substance listed in a schedule by an action of the commissioner under this chapter but not listed in a penalty group. An offense under this subsection is a Class B misdemeanor.

SELLING MISLABLED ABUSABLE SYNTHETIC SUBSTANCES

Full Legislative History:  
SB 461

Statute:  
TEX. HEALTH & SAFETY CODE ch. 484

Summary:

S.B. 461 amends the Health and Safety Code to make it a Class C misdemeanor to knowingly produce, distribute, sell, or offer for sale a mislabeled abusable synthetic substance in the course of business. The bill defines "abusable synthetic substance" as a substance that is not otherwise regulated under statutory provisions relating to food, drugs, alcohol, and hazardous substances or under federal law; is intended to mimic a controlled substance or controlled substance analogue; and, when inhaled, ingested, or otherwise introduced into a person's body, produces an effect on the central nervous system similar to the effect produced by a controlled substance or controlled substance analogue, creates a condition of intoxication, hallucination, or elation similar to a condition produced by a controlled substance or controlled substance analogue, or changes, distorts, or disturbs the person's eyesight, thinking process, balance, or coordination in a manner similar to a controlled substance or controlled substance analogue. The bill enhances the penalty for such an offense from a Class C misdemeanor to a Class A misdemeanor if it is shown on the trial of the offense that the actor has previously been convicted of the offense or of a deceptive business practice offense for
selling an adulterated or mislabeled commodity that was an abusable synthetic substance. The bill establishes that if conduct constituting the offense of selling a mislabeled abusable synthetic substance in the course of business also constitutes another offense, the person may be prosecuted for either offense.

S.B. 461 authorizes the attorney general or a district, county, or city attorney to institute an action in district court to collect a civil penalty from a person who produces, distributes, sells, or offers for sale a mislabeled abusable synthetic substance in the course of business. The bill caps the civil penalty at $25,000 a day for each offense and establishes that each day the offense is committed constitutes a separate violation for purposes of the penalty assessment. The bill requires the court to consider, in determining the amount of the penalty, the person's history of any previous offenses of selling a mislabeled abusable synthetic substance or an adulterated or mislabeled commodity; the seriousness of the offense; any hazard posed to the public health and safety by the offense; and demonstrations of good faith by the person charged. The bill establishes that venue for a suit to collect such a civil penalty is in the city or county in which the offense occurred or in Travis County and requires a civil penalty recovered in such a suit instituted by a local government to be paid to that local government. The bill establishes an affirmative defense to prosecution or liability for producing, distributing, selling, or offering for sale a mislabeled abusable synthetic substance in the course of business that the abusable synthetic substance was approved for use, sale, or distribution by the U.S. Food and Drug Administration or other state or federal regulatory agency with authority to approve the substance's use, sale, or distribution and that the abusable synthetic substance was lawfully produced, distributed, sold, or offered for sale by the person who is the subject of the criminal or civil action. The bill establishes that it is not a defense in a prosecution or civil action for the offense of selling a mislabeled abusable synthetic substance in the course of business that the abusable synthetic substance was in packaging labeled with "Not for Human Consumption," or other wording indicating the substance is not intended to be ingested.

**PRESCRIPTION DRUG MONITORING PROGRAM TRANSFERRED FROM DPS TO STATE BOARD OF PHARMACY**

- **Full Legislative History:** SB 195
- **Statute:** TEX. GOVT. CODE § 552.021
- **Summary:**

CSSB 195 would transfer rulemaking authority over the state’s prescription drug monitoring program and related duties from the Department of Public Safety (DPS) to the Texas State Board of Pharmacy. The bill also would require a person to register or be exempt from registration with the U.S. Drug Enforcement Administration under the federal Controlled Substances Act to manufacture, distribute, analyze, or dispense a controlled substance or conduct research with a controlled substance under the Texas Controlled Substances Act. Prescription information system. The Texas State Board of Pharmacy, rather than the director of DPS, would design and implement a system for submission of information to the board by electronic or other means and for retrieval of
that information. The bill would specify that the Texas State Board of Pharmacy would submit to DPS the system’s design and that the design would be sent to the Texas Medical Board for review and comment within a reasonable time before the system would be implemented. The board would have to comply with the comments of those agencies unless it were unreasonable to do so.

**LSD INCLUDED IN DRUG-FREE ZONES**

- **Full Legislative History:** SB 236
- **Statute:** TEX. HEALTH & SAFETY CODE § 481.134
- **Summary:**

SB 236 would add Penalty Group 1-A, LSD, to the Health and Safety Code provisions on drug-free zones. The penalty group would be added to provisions that increase the punishments for the manufacture or delivery of the substances and that increase the minimum term of confinement and the maximum fine for the manufacture, delivery, or possession of the substances.

When LSD was moved from Penalty Group 1 to a Penalty Group 1-A so that offenses would be based on abuse units and not weight, the drug-free zone laws were not updated to include the new penalty group. SB 236 would correct this oversight and ensure that the penalties for drug offenses involving LSD in drug-free zones were consistent with the penalties for other drug offenses.
WEAPONS

OPEN CARRY

- **Full Legislative History:** HB 910
- **Statutes:** TEX. PENAL CODE §§ 30.07, 30.05(f), 30.06, 42.02(a-1), 46.035
- **Summary:**

  All places in all codes cited “concealed” are removed and replaced with conforming language for open carry.

  “The committee substitute to H.B. 910 removes language from the House's engrossed version providing that the police cannot stop someone who is openly carrying and demand to see identification simply because the person is openly carrying. This language was redundant, because basic principles of constitutional law already establish that the fact that a person is engaged in an activity that is only legal with a license is not sufficient cause for the police to stop the person. All police detentions require reasonable suspicion of criminal activity at a minimum, and that will remain the case for people who openly carry in Texas after this bill becomes law.”

- **Relevant Provisions:**

Sec. 30.07. TRESPASS BY LICENSE HOLDER WITH AN OPENLY CARRIED HANDGUN.
(a) A license holder commits an offense if the license holder:
   (1) openly carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, on property of another without effective consent; and
   (2) received notice that entry on the property by a license holder openly carrying a handgun was forbidden.
(b) For purposes of this section, a person receives notice if the owner of the property or someone with apparent authority to act for the owner provides notice to the person by oral or written communication.
(c) In this section:
   (1) "Entry" has the meaning assigned by Section 30.05(b).
   (2) "License holder" has the meaning assigned by Section 46.035(f).
   (3) "Written communication" means:
      (A) a card or other document on which is written language identical to the following: "Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly"; or
      (B) a sign posted on the property that:
         (i) includes the language described by Paragraph (A) in both English and Spanish;
(ii) appears in contrasting colors with block letters at least one inch in height; and
(iii) is displayed in a conspicuous manner clearly visible to the public at each entrance to the property.

(d) An offense under this section is a Class C misdemeanor punishable by a fine not to exceed $200, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that, after entering the property, the license holder was personally given the notice by oral communication described by Subsection (b) and subsequently failed to depart.

(e) It is an exception to the application of this section that the property on which the license holder openly carries the handgun is owned or leased by a governmental entity and is not a premises or other place on which the license holder is prohibited from carrying the handgun under Section 46.03 or 46.035.

(f) It is not a defense to prosecution under this section that the handgun was carried in a shoulder or belt holster.

Section 30.05(f), Penal Code, is amended to read as follows:

(f) It is a defense to prosecution under this section that:
   (1) the basis on which entry on the property or land or in the building was forbidden is that entry with a handgun was forbidden; and
   (2) the person was carrying:
      (A) a [concealed handgun and a] license issued under Subchapter H, Chapter 411, Government Code, to carry a [concealed] handgun; and
      (B) a handgun:
         (i) in a concealed manner; or
         (ii) in a shoulder or belt holster.

Sec. 30.06. TRESPASS BY LICENSE HOLDER WITH A [OF LICENSE TO CARRY] CONCEALED HANDGUN.
SECTION 42. Sections 30.06(a) and (d), Penal Code, are amended to read as follows:

(a) A license holder commits an offense if the license holder:
   (1) carries a concealed handgun under the authority of Subchapter H, Chapter 411, Government Code, on property of another without effective consent; and
   (2) received notice that:
      (A) entry on the property by a license holder with a concealed handgun was forbidden[; or
      [(B) remaining on the property with a concealed handgun was forbidden and failed to depart].

(d) An offense under this section is a Class C misdemeanor punishable by a fine not to exceed $200, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that, after entering the property, the license holder was personally given the notice by oral communication described by Subsection (b) and subsequently failed to depart.

Section 46.02(a-1), Penal Code, is amended to read as follows:
(a-1) A person commits an offense if the person intentionally, knowingly, or recklessly carries on or about his or her person a handgun in a motor vehicle or watercraft that is owned by the person or under the person's control at any time in which:

1. The handgun is in plain view, unless the person is licensed to carry a handgun under Subchapter H, Chapter 411, Government Code, and the handgun is carried in a shoulder or belt holster; or

2. The person is:
   A. Engaged in criminal activity, other than a Class C misdemeanor that is a violation of a law or ordinance regulating traffic or boating;
   B. Prohibited by law from possessing a firearm; or
   C. A member of a criminal street gang, as defined by Section 71.01.

Section 46.035, Penal Code, is amended by amending Subsections (a), (b), (c), (d), (g), (h), (i), and (j) and adding Subsection (a-1) to read as follows:

(a) A license holder commits an offense if the license holder carries a handgun on or about the license holder's person under the authority of Subchapter H, Chapter 411, Government Code, and intentionally displays the handgun in plain view of another person. It is an exception to the application of this subsection that the handgun was partially or wholly visible but was carried in a shoulder or belt holster by the license holder.

(a-1) Notwithstanding Subsection (a), a license holder commits an offense if the license holder carries a partially or wholly visible handgun, regardless of whether the handgun is holstered, on or about the license holder's person under the authority of Subchapter H, Chapter 411, Government Code, and intentionally displays the handgun in plain view of another person:

1. On the premises of an institution of higher education or private or independent institution of higher education; or

2. On any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area of an institution of higher education or private or independent institution of higher education.

CAMPUS CARRY

- Full Legislative History: SB 11
- Statute: TEX. GOV’T. CODE § 411.2031
  TEX. PENAL CODE § 46.03 & 46.035
- Summary:

SB 11 would allow concealed handgun license holders to carry concealed handguns onto the campuses of public higher education institutions or private or independent higher education institutions, including in passenger vehicles or any grounds or building on which an institution sponsored activity was being conducted, unless the private or independent institutions opted out. The bill would prohibit institutions of higher education from adopting any rules prohibiting license holders from carrying handguns on the institution’s campus, with a few exceptions. These institutions could establish rules
concerning storage of handguns in dormitories or other residential facilities that were owned or leased and operated by the institution and located on the institution campus.

**Penalty for open carry.** The bill would create a class A misdemeanor offense (up to one year in jail and/or a maximum fine of $4,000) for a license holder who intentionally or knowingly openly carried a handgun, regardless of whether the handgun was holstered: • on the premises of an institution of higher education; or • on any public or private driveway, street, sidewalk or parking area of an institution of higher education

**Penalty for unlawful campus carry.** The bill would create a class A misdemeanor offense (up to one year in jail and/or a maximum fine of $4,000) if an individual carried a handgun on the campus of a private or independent institution of higher education that had prohibited license holders from carrying handguns, as long as the institution provided notice under Penal Code, sec. 30.06.

- Relevant text:

  Sec. 411.2031. CARRYING OF HANDGUNS BY LICENSE HOLDERS ON CERTAIN CAMPUSES.
  (a) For purposes of this section:
    (1) "Campus" means all land and buildings owned or leased by an institution of higher education or private or independent institution of higher education.
    (2) "Institution of higher education" and "private or independent institution of higher education" have the meanings assigned by Section 61.003, Education Code.
    (3) "Premises" has the meaning assigned by Section 46.035, Penal Code.
  (b) A license holder may carry a concealed handgun on or about the license holder's person while the license holder is on the campus of an institution of higher education or private or independent institution of higher education in this state.
  (c) Except as provided by Subsection (d), (d-1), or (e), an institution of higher education or private or independent institution of higher education in this state may not adopt any rule, regulation, or other provision prohibiting license holders from carrying handguns on the campus of the institution.
  (d) An institution of higher education or private or independent institution of higher education in this state may establish rules, regulations, or other provisions concerning the storage of handguns in dormitories or other residential facilities that are owned or leased and operated by the institution and located on the campus of the institution.
  (d-1) After consulting with students, staff, and faculty of the institution regarding the nature of the student population, specific safety considerations, and the uniqueness of the campus environment, the president or other chief executive officer of an institution of higher education in this state shall establish reasonable rules, regulations, or other provisions regarding the carrying of concealed handguns by license holders on the campus of the institution or on premises located on the campus of the institution. The president or officer may not establish provisions that generally prohibit or have the effect of generally prohibiting license holders from carrying concealed handguns on the campus of the institution. The president or officer may amend the provisions as necessary for campus safety. The provisions take effect as determined by the president or officer.
unless subsequently amended by the board of regents or other governing board under Subsection (d-2). The institution must give effective notice under Section 30.06, Penal Code, with respect to any portion of a premises on which license holders may not carry. (d-2) Not later than the 90th day after the date that the rules, regulations, or other provisions are established as described by Subsection (d-1), the board of regents or other governing board of the institution of higher education shall review the provisions. The board of regents or other governing board may, by a vote of not less than two-thirds of the board, amend wholly or partly the provisions established under Subsection (d-1). If amended under this subsection, the provisions are considered to be those of the institution as established under Subsection (d-1).

(d-3) An institution of higher education shall widely distribute the rules, regulations, or other provisions described by Subsection (d-1) to the institution's students, staff, and faculty, including by prominently publishing the provisions on the institution's Internet website.

(d-4) Not later than September 1 of each even-numbered year, each institution of higher education in this state shall submit a report to the legislature and to the standing committees of the legislature with jurisdiction over the implementation and continuation of this section that:

1. Describes its rules, regulations, or other provisions regarding the carrying of concealed handguns on the campus of the institution; and
2. Explains the reasons the institution has established those provisions.

(e) A private or independent institution of higher education in this state, after consulting with students, staff, and faculty of the institution, may establish rules, regulations, or other provisions prohibiting license holders from carrying handguns on the campus of the institution, any grounds or building on which an activity sponsored by the institution is being conducted, or a passenger transportation vehicle owned by the institution.

Sections 46.03(a) and (c), Penal Code, are amended to read as follows:

(a) A person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with a firearm, illegal knife, club, or prohibited weapon listed in Section 46.05(a):

1. On the physical premises of a school or educational institution, any grounds or building on which an activity sponsored by a school or educational institution is being conducted, or a passenger transportation vehicle of a school or educational institution, whether the school or educational institution is public or private, unless:
   A. Pursuant to written regulations or written authorization of the institution; or
   B. The person possesses or goes with a concealed handgun that the person is licensed to carry under Subchapter H, Chapter 411, Government Code, and no other weapon to which this section applies, on the premises of an institution of higher education or private or independent institution of higher education, on any grounds or building on which an activity sponsored by the institution is being conducted, or in a passenger transportation vehicle of the institution;
Section 46.035, Penal Code, is amended by adding Subsections (a-1), (a-2), (a-3), and (l) and amending Subsections (g), (h), and (j) to read as follows:

(a-1) Notwithstanding Subsection (a), a license holder commits an offense if the license holder carries a partially or wholly visible handgun, regardless of whether the handgun is holstered, on or about the license holder's person under the authority of Subchapter H, Chapter 411, Government Code, and intentionally or knowingly displays the handgun in plain view of another person:

(1) on the premises of an institution of higher education or private or independent institution of higher education; or
(2) on any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area of an institution of higher education or private or independent institution of higher education.

(a-2) Notwithstanding Subsection (a) or Section 46.03(a), a license holder commits an offense if the license holder carries a handgun on the campus of a private or independent institution of higher education in this state that has established rules, regulations, or other provisions prohibiting license holders from carrying handguns pursuant to Section 411.2031(e), Government Code, or on the grounds or building on which an activity sponsored by such an institution is being conducted, or in a passenger transportation vehicle of such an institution, regardless of whether the handgun is concealed, provided the institution gives effective notice under Section 30.06.

(a-3) Notwithstanding Subsection (a) or Section 46.03(a), a license holder commits an offense if the license holder intentionally carries a concealed handgun on a portion of a premises located on the campus of an institution of higher education in this state on which the carrying of a concealed handgun is prohibited by rules, regulations, or other provisions established under Section 411.2031(d-1), Government Code, provided the institution gives effective notice under Section 30.06 with respect to that portion.

(g) An offense under Subsection (a), (a-1), (a-2), (a-3), (b), (c), (d), or (e) is a Class A misdemeanor, unless the offense is committed under Subsection (b)(1) or (b)(3), in which event the offense is a felony of the third degree.

(h) It is a defense to prosecution under Subsection (a), (a-1), (a-2), or (a-3) that the actor, at the time of the commission of the offense, displayed the handgun under circumstances in which the actor would have been justified in the use of force or deadly force under Chapter 9.

(j) Subsections (a), (a-1), (a-2), (a-3), and (b)(1) do not apply to a historical reenactment performed in compliance with the rules of the Texas Alcoholic Beverage Commission.

(l) Subsection (b)(2) does not apply on the premises where a collegiate sporting event is taking place if the actor was not given effective notice under Section 30.06.

○ Effective date: Except as otherwise provided by this section, this Act takes effect August 1, 2016.

GUNS IN AIRPORTS – DEFENSE FOR CHL HOLDERS

○ Full Legislative History: HB 554
○ Statute: TEX. PENAL CODE § 46.03
PROTECTING RIGHT TO OPEN CARRY: RESTRICTING LOCAL GOVERNMENT FROM FORBIDDING CONCEALED CARRY ON PREMISES

- **Full Legislative History:** SB 273
- **Statute:** **TEX. PENAL CODE § 46.03**
- **Summary:**

SB 273 would prohibit a state agency or political subdivision from posting a sign or similar notice forbidding a concealed handgun license holder from carrying a handgun on a premises owned or leased by the governmental entity unless the license holder was prohibited from carrying a weapon on the premises under Penal Code, secs. 46.03 or 46.035.

WEAPONS: PENAL CODE 46

- **Full Legislative History:** SB 473
- **Statute:** **TEX. PENAL CODE § 46.05**
- **Summary:**

S.B. 473 amends the Penal Code to exclude an item registered in the National Firearms Registration and Transfer Record maintained by the Bureau of Alcohol, Tobacco, Firearms and Explosives or classified as a curio or relic by the U.S. Department of Justice from the items of which the intentional or knowing possession, manufacture, transport, repair, or sale constitutes a prohibited weapons offense.

S.B. 473 repeals Section 46.05(c), Penal Code, establishing a defense to prosecution for a prohibited weapons offense that the actor's possession of the weapon was pursuant to registration under the federal National Firearms Act.
SEX RELATED OFFENSES

STATUTE OF LIMITATIONS: FIVE OR MORE VICTIMS
  o Full Legislative History: HB 189
  o Statute: TEX. CODE CRIM. PRO. art. 12.01
  o Summary

*TCDLA PRIORITY BILL
Original version eliminated statute of limitations for ALL sexual assault offenses. Lengthens statute of limitations for civil suit for sexual assault of a child under § 16.0045 Civil Practice and Remedies Code from 5 years to 15 years. Eliminates statute of limitations for sexual assault if “probable cause exists to believe that the defendant has committed the same or a similar sexual offense against five or more victims.”

TRIAL PRIORITY FOR CHILD VICTIMS
  o Full Legislative History: HB 1396

This language was added to the Rule of Lenity bill, so you will not find any legislative history regarding this provision in HB 1396. Instead, you will find legislative history in SB 390.
  o Statute: TEX. CODE CRIM. PRO. art. 32A
  o Relevant text:

Article 32A.01, Code of Criminal Procedure, is amended to read as follows:

Art. 32A.01. TRIAL PRIORITIES.
(a) Insofar as is practicable, the trial of a criminal action shall be given preference over trials of civil cases, and the trial of a criminal action against a defendant who is detained in jail pending trial of the action shall be given preference over trials of other criminal actions not described by Subsection (b).
(b) Unless extraordinary circumstances require otherwise, the trial of a criminal action in which the alleged victim is younger than 14 years of age shall be given preference over other matters before the court, whether civil or criminal.

NEW OFFENSE: REVENGE PORN
  o Full Legislative History: SB 1135
  o Statute: TEX. PENAL CODE § 21.16
  o Relevant text:
Sec. 21.16. UNLAWFUL DISCLOSURE OR PROMOTION OF INTIMATE VISUAL MATERIAL.

(a) In this section:

(1) "Intimate parts" means the naked genitals, pubic area, anus, buttocks, or female nipple of a person.
(2) "Promote" means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise or to offer or agree to do any of the above.
(3) "Sexual conduct" means sexual contact, actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse.
(4) "Simulated" means the explicit depiction of sexual conduct that creates the appearance of actual sexual conduct and during which a person engaging in the conduct exhibits any uncovered portion of the breasts, genitals, or buttocks.
(5) "Visual material" means:

(A) any film, photograph, videotape, negative, or slide or any photographic reproduction that contains or incorporates in any manner any film, photograph, videotape, negative, or slide; or
(B) any disk, diskette, or other physical medium that allows an image to be displayed on a computer or other video screen and any image transmitted to a computer or other video screen by telephone line, cable, satellite transmission, or other method.

(b) A person commits an offense if:

(1) without the effective consent of the depicted person, the person intentionally discloses visual material depicting another person with the person's intimate parts exposed or engaged in sexual conduct;
(2) the visual material was obtained by the person or created under circumstances in which the depicted person had a reasonable expectation that the visual material would remain private;
(3) the disclosure of the visual material causes harm to the depicted person; and
(4) the disclosure of the visual material reveals the identity of the depicted person in any manner, including through:

(A) any accompanying or subsequent information or material related to the visual material; or
(B) information or material provided by a third party in response to the disclosure of the visual material.

(c) A person commits an offense if the person intentionally threatens to disclose, without the consent of the depicted person, visual material depicting another person with the person's intimate parts exposed or engaged in sexual conduct and the actor makes the threat to obtain a benefit:

(1) in return for not making the disclosure; or
(2) in connection with the threatened disclosure.

(d) A person commits an offense if, knowing the character and content of the visual material, the person promotes visual material described by Subsection (b) on an Internet website or other forum for publication that is owned or operated by the person.

(e) It is not a defense to prosecution under this section that the depicted person:
(1) created or consented to the creation of the visual material; or
(2) voluntarily transmitted the visual material to the actor.

(f) It is an affirmative defense to prosecution under Subsection (b) or (d) that:
   (1) the disclosure or promotion is made in the course of:
       (A) lawful and common practices of law enforcement or medical
           treatment;
       (B) reporting unlawful activity; or
       (C) a legal proceeding, if the disclosure or promotion is permitted or
           required by law;
   (2) the disclosure or promotion consists of visual material depicting in a public or
       commercial setting only a person's voluntary exposure of:
       (A) the person's intimate parts; or
       (B) the person engaging in sexual conduct; or
   (3) the actor is an interactive computer service, as defined by 47 U.S.C. Section
       230, and the disclosure or promotion consists of visual material provided by
       another person.

(g) An offense under this section is a Class A misdemeanor.

- Contains provisions for civil liability as well

NEW OFFENSE: VOYEURISM

- Full Legislative History: HB 207
- Statute: TEX. PENAL CODE § 21.16
- Relevant text:

Sec. 21.16. VOYEURISM.
(a) A person commits an offense if the person, with the intent to arouse or gratify the
sexual desire of the actor, observes another person without the other person's consent
while the other person is in a dwelling or structure in which the other person has a
reasonable expectation of privacy.
(b) Except as provided by Subsection (c) or (d), an offense under this section is a Class C
misdemeanor.
(c) An offense under this section is a Class B misdemeanor if it is shown on the trial of
the offense that the actor has previously been convicted two or more times of an offense
under this section.
(d) An offense under this section is a state jail felony if the victim was a child younger
than 14 years of age at the time of the offense.

- Summary:

This is the new “Peeping Tom” bill. There are several significant legal concerns, namely:
- It is overbroad;
- How prove “intent to arouse or gratify the sexual desire?”
- Will this be selectively enforced for pretextual stops (“I thought he was “observing”
another person in their home”)
REVAMPED & RENAMED OFFENSE: INVASIVE VISUAL RECORDING

- **Full Legislative History:** SB 1317
- **Statute:** TEX. CODE CRIM. PRO. art. 32A
- **Summary:**

S.B. 1317 amends the Penal Code to rename the offense of improper photography or visual recording the offense of invasive visual recording. The bill removes from the conduct constituting the offense the conditions that the actor commits the offense with the intent to arouse or gratify the sexual desire of any person, if the image or recording is of another at a location that is not a bathroom or private dressing room, or that the actor commits the offense with the intent either to invade the other person's privacy or to arouse or gratify the sexual desire of any person, if the image or recording is of another in a bathroom or private dressing room. The bill instead makes it an offense for a person, without another person's consent and with intent to invade that other person's privacy, to photograph or by videotape or other electronic means record, broadcast, or transmit a visual image of an intimate area of another person if the other person has a reasonable expectation that the intimate area is not subject to public view; to photograph or by videotape or other electronic means record, broadcast, or transmit a visual image of another in a bathroom or changing room; or to promote such a photograph, recording, broadcast, or transmission knowing the character and content of the photograph, recording, broadcast, or transmission.

This bill is an attempt to resurrect the prior statute that was declared unconstitutional but instead of fixing the problem with the prior statute it seems to create additional constitutional problems.

- **Relevant text:**

  (2) "Intimate area" means the naked or clothed genitals, pubic area, anus, buttocks, or female breast of a person.

(b) A person commits an offense if, without the other person's consent and with intent to invade the privacy of the other person, the person:

  (1) photographs or by videotape or other electronic means records, broadcasts, or transmits a visual image of an intimate area of another person if the other person has a reasonable expectation that the intimate area is not subject to public view;

REVAMPED CIVIL COMMITMENT STATUTE

- **Full Legislative History:** SB 746
- **Statute:** TEX. HEALTH & SAFETY CODE § 841 et al
- **Summary:**

This bill is difficult to summarize. It is long, it is complicated, and if you are defending a civil commitment, you simply need to read the full text of the bill and all of the problems that led to its enactment.

Senate Bill 746 amends the Code of Criminal Procedure, Government Code, and Health and Safety Code to revise procedures relating to the civil commitment of sexually violent predators in Texas. The bill renames the Office of Violent Sex Offender Management as the Texas Civil Commitment Office, establishes the office's and the Texas Department of Criminal Justice's (TDCJ) duties with respect to a mandatory sex offender treatment program for committed persons before release, and provides for the office's development and oversight of a tiered program for the supervision and treatment of a committed person. Among other provisions, the bill revises the time frame for TDCJ to provide notice of a potential predator's release to the multidisciplinary team assessing the likelihood of a repeat sexually violent offender's recidivism, revises the team's composition, and revises outpatient civil commitment requirements.

HUMAN TRAFFICKING & COMPELLING PROSTITUTION

- **Full Legislative History:** HB 10
- **Statute:** TEX. CODE CRIM. PRO. art. 12.01
- **Summary:**

House Bill 10 amends provisions of the Code of Criminal Procedure, Education Code, Government Code, and Penal Code relating to trafficking of persons and compelling prostitution. The bill removes the statute of limitations on compelling prostitution of a child younger than 18 years of age. The bill expands the offense of prostitution conduct for which the penalty is enhanced to a second degree felony to include conduct in which the person solicited is represented to the actor as being, or believed by the actor to be, younger than 18 years of age. The bill makes a prostitution offense punishable as a second degree felony a "reportable conviction or adjudication" for purposes of sex offender registration. The bill authorizes a prosecutor to compel a party to a trafficking of persons offense to provide evidence or testify about the offense in exchange for immunity from prosecution.

CHILD PORNOGRAPHY VICTIM RESTITUTION

- **Full Legislative History:** HB 2291
- **Statute:** TEX. CODE CRIM. PRO. art. 42.037
- **Relevant provisions:**

Article 42.037, Code of Criminal Procedure, is amended by adding Subsection (r) to read as follows:
(r) The court may order a defendant convicted of an offense under Section 43.26, Penal Code, to make restitution to an individual who as a child younger than 18 years of age was depicted in the visual material, in an amount equal to the expenses incurred by the individual as a result of the offense, including:

1. medical services relating to physical, psychiatric, or psychological care;
2. physical and occupational therapy or rehabilitation;
3. necessary transportation, temporary housing, and child care expenses;
4. lost income; and
5. attorney's fees.

CHILD PORNOGRAPHY CONVICTION ENHANCEMENTS

- **Full Legislative History:** HB 2291
- **Statute:** TEX. PENAL CODE § 43.26(d)
- **Summary:**

Prior conviction for possession of child pornography elevates punishment to second degree and first degree felony punishment range with prior conviction(s);

Prior conviction for possession with intent to promote elevates to first degree felony with prior conviction.

MANDATORY SEX OFFENDER TREATMENT AS CONDITION OF PAROLE

- **Full Legislative History:** HB 3387
- **Statute:** TEX. GOV'T. CODE § 508.1862
- **Summary:**

Current law allows the Board of Pardons and Paroles to impose certain special conditions on sex offenders supervised by the Texas Department of Criminal Justice but that the statutes do not explicitly state as a condition of release to parole or mandatory supervision that a sex offender participate in a sex offender treatment program.

The law changes to provide for (almost) mandatory treatment as a condition of release as the release has an incredibly high hurdle to overcome to be exempt from treatment.

Section 508.228 is an attempt to codify an inmate’s right to a Coleman hearing.

- **Relevant provisions:**

Sec. 508.1862. SEX OFFENDER TREATMENT. A parole panel shall require as a condition of release on parole or to mandatory supervision that a releasee participate in a sex offender treatment program developed by the department if:

1. the releasee:
   A. was serving a sentence for an offense under Chapter 21, Penal Code; or
   B. is required to register as a sex offender under Chapter 62, Code of Criminal Procedure; and
(2) immediately before release, the releasee is participating in a sex offender treatment program established under Section 499.054.

Subchapter G, Chapter 508, Government Code, is amended by adding Section 508.228 to read as follows:

Sec. 508.228. SEX OFFENDER TREATMENT. A parole panel may require as a condition of release on parole or to mandatory supervision that a releasee participate in a sex offender treatment program as specified by the parole panel if:
(1) the releasee:
   (A) was serving a sentence for an offense under Chapter 21, Penal Code; or
   (B) is required to register as a sex offender under Chapter 62, Code of Criminal Procedure; or
(2) a designated agent of the board after conducting a hearing that allows the releasee to contest the evidence, on evidence that a sex offense occurred during the commission of the offense for which the releasee was serving a sentence, makes an affirmative finding that, regardless of the offense for which the releasee was serving a sentence, the releasee constitutes a threat to society because of the releasee's lack of sexual control.

CHILD ADVOCACY VIDEO:

   o Full Legislative History: SB 60
   o Statute: TEX. FAM CODE § 264.408(d)
   o Summary:

S.B. 60 amends the Family Code to clarify that a video recording of an interview of a child that is made by a child advocacy center, rather than at a child advocacy center, is the property of the prosecuting attorney involved in the criminal prosecution of a case involving the child. The bill removes a provision making a child advocacy center that employs a custodian of records for video recordings of interviews of children responsible for the custody of the video recording and a provision authorizing a video recording of an interview to be shared with other agencies under a written agreement.

PRETRIAL DIVERSION PROGRAM FOR PROSTITUTION – VETOED

   o Full Legislative History: HB 1363
   o Statute: TEX. CODE CRIM. PRO. art. 32.02
   o Relevant provisions:

Chapter 32, Code of Criminal Procedure, is amended by adding Article 32.03 to read as follows:
Art. 32.03. DISMISSAL OF CERTAIN PROSTITUTION OFFENSES. At any time before trial commences for an offense under Section 43.02, Penal Code, a court may, on the request of the defendant and with the consent of the attorney representing the state, defer proceedings without entering an adjudication of guilt and permit the defendant to
participate in a prostitution prevention program established under Chapter 169 or 169A, Health and Safety Code, if the defendant is otherwise eligible to participate in the program under the applicable chapter. If the defendant successfully completes the prostitution prevention program, the court may dismiss the proceedings against the defendant and discharge the defendant.

EXPANSION OF PROSTITUTION OFFENSE & REDUCTION OF PUNISHMENT FOR REPEAT OFFENDERS – VETOED

- **Full Legislative History:** HB 1363
- **Statute:** TEX. PENAL CODE § 43.02
- **Relevant provisions:**

Section 43.02, Penal Code, is amended by amending Subsections (a), (b), (c), and (d) and adding Subsections (b-1) and (c-1) to read as follows:

(a) A person commits an offense if, in return for receipt of a fee, the person knowingly:
   (1) offers to engage, agrees to engage, or engages in sexual conduct [for a fee]; or
   (2) solicits another in a public place to engage with the actor [person] in sexual conduct for hire.

(b) A person commits an offense if, based on the payment of a fee by the actor or another person on behalf of the actor, the person knowingly:
   (1) offers to engage, agrees to engage, or engages in sexual conduct; or
   (2) solicits another in a public place to engage with the actor in sexual conduct for hire.

(b-1) An offense is established under Subsection (a) regardless of [(a)(1)] whether the actor is offered or actually receives the [is to receive or pay a] fee. An offense is established under Subsection (b) regardless of [(a)(2)] whether the actor or another person on behalf of the actor offers or actually pays the fee [solicits a person to hire the actor or offers to hire the person solicited].

(c) An offense under Subsection (a) [this section] is a Class B misdemeanor, except that the offense is:
   (1) a Class A misdemeanor if the actor has previously been convicted three, four, or five [one or two] times of an offense under Subsection (a) [this section]; or
   (2) a state jail felony if the actor has previously been convicted six [three] or more times of an offense under Subsection (a).

(c-1) An offense under Subsection (b) is a Class B misdemeanor, except that the offense is:
   (1) a Class A misdemeanor if the actor has previously been convicted one or two times of an offense under Subsection (b);
   (2) a state jail felony if the actor has previously been convicted three or more times of an offense under Subsection (b) [this section]; or
   (3) a felony of the second degree if the person solicited is younger than 18 years of age, regardless of whether the actor knows the age of the person solicited at the time the actor commits the offense.
EXPANSION OF INTERNET MONITORING FOR THOSE ON PROBATION OR PAROLE

- Full Legislative History: HB 372
- Statute: TEX. CODE CRIM. PRO. art. 42.12 Section 13G
- Tex. Gov’t. Code § 508.1861
- Summary:

While current law already allows for this, HB 372 would require courts and parole panels that currently must impose restrictions on certain sex offenders’ use of the Internet to require the probationers and parolees to demonstrate compliance by submitting to regular inspection or monitoring of each electronic device they use to access the Internet.

REVISED DEFINITION OF PROSTITUTION

- Full Legislative History: SB 82.5
- Statute: TEX. PENAL CODE § 43.02
- Summary:

This bill distinguishes the Jane from the John, thus recognizing the importance of distinguishing the roles of buyers and sellers of sex.

- Relevant text:

Section 43.02, Penal Code, is amended by amending Subsections (a), (b), (c), and (d) and adding Subsections (b-1) and (c-1) to read as follows:

(a) A person commits an offense if, in return for receipt of a fee, the person knowingly:
   (1) offers to engage, agrees to engage, or engages in sexual conduct [for a fee]; or
   (2) solicits another in a public place to engage with the actor [person] in sexual conduct for hire.

(b) A person commits an offense if, based on the payment of a fee by the actor or another person on behalf of the actor, the person knowingly:
   (1) offers to engage, agrees to engage, or engages in sexual conduct; or
   (2) solicits another in a public place to engage with the actor in sexual conduct for hire.

(b-1) An offense is established under Subsection (a) regardless of [(a)(1)] whether the actor is offered or actually receives the [is to receive or pay a] fee. An offense is established under Subsection (b) regardless of [(a)(2)] whether the actor or another person on behalf of the actor offers or actually pays the fee [solicits a person to hire the actor or offers to hire the person solicited].
FORENSICS

DESTRUCTION OF TOXOLOGICAL EVIDENCE:

- **Full Legislative History:** HB 1264
- **Statute:** TEX. CODE CRIM. PRO. art. 38.50
- **Summary:**

  Current law provides rules for retention and storage of biological material but does not differentiate toxicological evidence from biological evidence. Unlike biological evidence, toxological evidence is not used for identification purposes and no longer has any evidentiary value following disposition of a case. There is no code provision for the disposal of the blood and urine evidence in alcohol-related offenses. As an example, the Houston Police Department property room is at 97 percent storage capacity because it has stored blood and urine from these offenses since 1988. The facility was built in 2010. There is currently no plan for additional storage.

  H.B. 1264 amends current law by creating a new section that provides explicit direction regarding retention and storage of blood and urine evidence collected for use in a DWI/DUI investigation. The new section would follow Article 38.43 (Evidence Containing Biological Material), Code of Criminal Procedure. H.B. 1264 is a permissive statute that provides direction regarding retention, storage, and disposal of toxological evidence.

  H.B. 1264 amends current law relating to the preservation of toxicological evidence collected in connection with certain intoxication offenses.

DNA DATABASE:

- **Full Legislative History:** HB 941
- **Statute:** TEX. GOV’T. CODE § 411.1471
- **Summary:**

  CSHB 941 would expand the state’s DNA database to include samples from those convicted of enticing a child. Courts would have to require defendants convicted of enticing a child to provide a sample for the purpose of creating a DNA record. Courts would no longer have to require those placed on deferred adjudication for public lewdness or indecent exposure to submit a sample for the database. The bill would require DPS to destroy DNA samples collected solely to create a DNA record. The destruction would have to occur immediately after test results associated with the sample were entered into the state DNA and federal CODIS databases.

  Senate floor amendments added several other eligible crimes to the list that allows collection of DNA samples.
POSTCONVICTION DNA TESTING:

- **Full Legislative History:** SB 487
- **Statute:** TEX. CODE CRIM. PRO. art. 64
- **Summary:**

Interested parties note that current law allows for post-conviction DNA testing in criminal cases under certain conditions to ensure a more reliable and accurate justice system. Unfortunately, recent court decisions have strictly interpreted statutory language to require proof that biological evidence exists before a judge can allow testing to see if exculpatory biological evidence exists. The parties express concern that this new interpretation severely restricts a judge's ability to order DNA testing, even when the defendant has shown that the evidence in question is likely to contain biological material, which in turn prevents the discovery of exonerations in cases where exculpatory evidence is often microscopic. The goal of S.B. 487 is to ensure that Texas judges can properly allow post-conviction DNA testing in appropriate cases so that the state has a more accurate, reliable, and transparent justice system.

S.B. 487 amends the Code of Criminal Procedure to change the type of evidence for which a convicted person is authorized to submit to the convicting court a motion for forensic DNA testing from evidence containing biological material to evidence that has a reasonable likelihood of containing biological material. The bill adds to the conditions on the authority of a convicting court to order forensic DNA testing of evidence the condition that the court finds there is a reasonable likelihood that the evidence contains biological material suitable for DNA testing.

HABEAS RELIEF FOR CHANGES IN FIELD OF SCIENTIFIC KNOWLEDGE

- **Full Legislative History:** HB 3724
- **Statute:** TEX. CODE CRIM. PRO. art. 11.073(d)
- **Summary:**

A recent Texas Court of Criminal Appeals opinion *Ex. Parte Robbins, WR-73,484-02 (Tex. Crim. App – 2014, rehearing granted)* held that a change in the scientific knowledge of a testifying expert would be a basis for habeas relief under the law. C.S.H.B. 3724 seeks to codify this decision.

Code of Criminal Procedure, Art. 11.073 allows courts to grant relief on writs of habeas corpus, subject to certain criteria, if relevant scientific evidence that is currently available was not available at the time of trial because the evidence was not ascertainable through the exercise of reasonable diligence. Under Art. 11.073(d) when courts are making certain required findings about the scientific evidence, they must consider whether the scientific knowledge or method on which the relevant scientific evidence was based had changed since the trial or the date of an application for a writ of habeas corpus.
CSHB 3724 would revise the items that courts reviewing writs of habeas corpus under Code of Criminal Procedure, Art. 11.073 must consider when making a finding on whether relevant scientific evidence was ascertainable. Instead of considering whether scientific knowledge had changed, courts would consider whether the field of scientific knowledge had changed. Court also would have to consider a new item, whether a testifying expert's scientific knowledge had changed.

- **Relevant provisions:**

  **Article 11.073(d), Code of Criminal Procedure,** is amended to read as follows:
  (d) In making a finding as to whether relevant scientific evidence was not ascertainable through the exercise of reasonable diligence on or before a specific date, the court shall consider whether the field of scientific knowledge, a testifying expert's scientific knowledge, or a scientific method on which the relevant scientific evidence is based has changed since:
  1. the applicable trial date or dates, for a determination made with respect to an original application; or
  2. the date on which the original application or a previously considered application, as applicable, was filed, for a determination made with respect to a subsequent application.

**CREATION OF FORENSIC ANALYST LICENSE & SHIFTING CRIME LAB ACCREDITATION**

- **Full Legislative History:** SB 1287
- **Statute:** TEX. CODE CRIM. PRO. art. 38.01
- **Summary:**

  Interested parties note that crime laboratories practicing certain forensic disciplines are currently required to be accredited by the Department of Public Safety and that, if the laboratory is not accredited, any analysis performed by that laboratory is not admissible in criminal cases. The parties also note that, while this practice has made Texas a national leader in forensic science reform, accreditation remains focused on the crime laboratory as an entity and does not measure the competency of individual forensic analysts to perform their duties. The parties have expressed concern regarding the lack of a requirement that forensic examiners be certified or licensed to practice or testify in court, as forensic analyses and related testimony often are the deciding factors in criminal cases where punishment involves the life and liberty of accused defendants. C.S.S.B. 1287 seeks to address this issue by, among other things, establishing a forensic licensing program.
VETERANS

EXPANSION OF VETERANS COURT ELIGIBILITY

- **Full Legislative History:** SB 1474
- **Statute:** TEX. GOV’T. CODE ch. 174
  Health & Human Resources Chapter 53
- **Summary:**

  More than 1.6 million veterans live in Texas. Some veterans have difficulty transitioning from military service to everyday life and suffer from conditions such as addiction and post-traumatic stress disorder. These ailments often lead to negative consequences including unemployment, homelessness, and criminal convictions.

  Since 2009 Texas has led the nation in creating specialized veterans courts. These special court dockets provide structured treatment and accountability for veterans in an effort to keep them out of the criminal justice system. There are currently 20 veterans courts in the state.

  Under current statute, only veterans who have served in a combat zone or other similar hazardous duty area are eligible to participate in a veterans court. Some veterans, although they have not seen actual combat, may experience other traumas as part of their service such as a shooting or sexual assault, but under current statute would be ineligible to enter a veterans court treatment program.

  S.B. 1474 broadens the eligibility for veteran participation in veterans courts. The bill would provide the courts with more flexibility over who was admitted into the program by removing the requirement that any illness or injury have occurred “in a combat zone or other similar hazardous duty area.”

MENTAL HEALTH PROGRAMS FOR VETERANS WHO HAVE COMMITTED FAMILY VIOLENCE

- **Full Legislative History:** HB 19
- **Statute:** TEX. HUM. RES. CODE ch. 53
- **Relevant text:**

  Sec. 53.002.  VETERANS AND MILITARY FAMILIES PREVENTIVE SERVICES PROGRAM.  
(a) The department shall develop and implement a preventive services program to serve veterans and military families who have committed or experienced or who are at a high risk of:
  (1) family violence; or
  (2) abuse or neglect.
(b) The program must:
  (1) be designed to coordinate with community-based organizations to provide
prevention services;
(2) include a prevention component and an early intervention component;
(3) include collaboration with services for child welfare, services for early
care childhood education, and other child and family services programs; and
(4) coordinate with the community collaboration initiative developed under
Subchapter I, Chapter 434, Government Code, and committees formed by local
communities as part of that initiative.
(c) The program must be established initially as a pilot program in areas of the state in
which the department considers the implementation practicable. The department shall
evaluate the outcomes of the pilot program and ensure that the program is producing
positive results before implementing the program throughout the state.
(d) The department shall evaluate the program and prepare an annual report on the
outcomes of the program. The department shall publish the report on the department's
Internet website.

FAMILY MEMBERS PART OF VETERANS COURT

- **Full Legislative History:** HB 3729
- **Statute:** TEX. GOV’T. CODE 124.001(a)
- **Summary:**

House Bill 3729 amends the Government Code to specify that an essential characteristic
of a veterans court program, among others, is the inclusion of a program participant's
family members who agree to be involved in the treatment and services provided to the
participant under the program.
ENHANCEMENTS

COMMERCIAL DL VIOLATION

○ Full Legislative History: HB 1888
○ Statute: TEX. TRANSP. CODE § 502.047(a)
○ Summary:

H.B. 1888 amends the Transportation Code to increase from a Class C misdemeanor to a misdemeanor punishable by a fine not to exceed $1,000 the penalty for a repeat offender of an offense in violation of the requirement to hold a commercial driver's license or commercial driver learner's permit while driving a commercial motor vehicle.

ENVIRONMENTAL CRIMES

○ Full Legislative History: HB 1794
○ Statute: TEX. WATER CODE § 7.107
○ Summary:

H.B. 1794 amends the Water Code to limit the amount of a civil penalty that may be assessed against a person in a civil suit brought by a local government in response to certain environmental violations to an amount not less than $50 and not more than $25,000 for each day of each violation. The bill caps the total amount of a civil penalty in such a suit brought by a local government at $4.3 million and expressly does not limit the state's authority to pursue the assessment of a civil penalty under Water Code provisions governing enforcement.

FAKE ID

○ Full Legislative History: SB 835
○ Statute: TEX. PENAL CODE § 32.54(c)
○ Summary:

SB 835: SB. 835 amends the Penal Code to increase the penalty for the offense of fraudulent or fictitious military record from a Class C misdemeanor to a Class B misdemeanor.
REDUCTIONS

CRIMINAL TRESPASS ON PRIVATE OR PUBLIC COLLEGE GROUNDS

- **Full Legislative History:**  
  - **Statute:**
  - **Summary:**

According to interested parties, the punishment for criminal trespass on the grounds of a private or independent institution of higher education is a Class B misdemeanor, while the punishment for criminal trespass on the grounds of a public institution of higher education is a Class C misdemeanor. The parties contend that if campus police for private institutions of higher education were afforded the option of issuing citations to individuals trespassing on campus grounds, the police would not be forced to detain the individuals and would be able to remain on campus and handle the incident in proportion to its seriousness.
HUMAN TRAFFICKING & SMUGGLING

OMNIBUS BILL INCREASING LAW ENFORCEMENT POWERS AND CREATING NEW OFFENSE

- Full Legislative History: HB 11
- Statute: TEX. PENAL CODE § 20.05
- Summary:

CSHB 11 would enhance certain penalties for the smuggling of persons, create a new offense of continuous smuggling of persons, expand the use of wiretapping for certain crimes, change certain policies and duties of the Department of Public Safety, implement technology and crime reporting strategies, and reauthorize an anti-gang grant program.

- Relevant Statutes:

Sec. 20.05. SMUGGLING OF PERSONS.
(a) A person commits an offense if the person, with the intent to obtain a pecuniary benefit, knowingly:
   (1) [intentionally] uses a motor vehicle, aircraft, [or] watercraft, or other means of conveyance to transport an individual with the intent to:
      (A) [(1)] conceal the individual from a peace officer or special investigator; or
      (B) [(2)] flee from a person the actor knows is a peace officer or special investigator attempting to lawfully arrest or detain the actor; or
   (2) encourages or induces a person to enter or remain in this country in violation of federal law by concealing, harboring, or shielding that person from detection.
(b) An [Except as provided by Subsection (c), an] offense under this section is [a state jail felony.
[(c) An offense under this section is] a felony of the third degree, except that [if the actor commits] the offense is:
   (1) a felony of the second degree if:
      (A) the actor commits the offense [for pecuniary benefit; or
      [(2)] in a manner that creates a substantial likelihood that the smuggled [transported] individual will suffer serious bodily injury or death; or
      (B) the smuggled individual is a child younger than 18 years of age at the time of the offense; or
   (2) a felony of the first degree if:
      (A) it is shown on the trial of the offense that, as a direct result of the commission of the offense, the smuggled individual became a victim of sexual assault, as defined by Section 22.011, or aggravated sexual assault, as defined by Section 22.021; or
      (B) the smuggled individual suffered serious bodily injury or death.
(c) [(d)] It is an affirmative defense to prosecution of an offense under this section, other than an offense punishable under Subsection (b)(1)(A) or (b)(2), that the actor is related
to the smuggled [transported] individual within the second degree of consanguinity or, at
the time of the offense, within the second degree of affinity.
(d) [(e)] If conduct constituting an offense under this section also constitutes an offense
under another section of this code, the actor may be prosecuted under either section or
under both sections.

Sec. 20.06. CONTINUOUS SMUGGLING OF PERSONS.
(a) A person commits an offense if, during a period that is 10 or more days in duration,
the person engages two or more times in conduct that constitutes an offense under
Section 20.05.
(b) If a jury is the trier of fact, members of the jury are not required to agree
unanimously on which specific conduct engaged in by the defendant constituted an
offense under Section 20.05 or on which exact date the defendant engaged in that
conduct. The jury must agree unanimously that the defendant, during a period that is 10
or more days in duration, engaged two or more times in conduct that constitutes an
offense under Section 20.05.
(c) If the victim of an offense under Subsection (a) is the same victim as a victim of an
offense under Section 20.05, a defendant may not be convicted of the offense under
Section 20.05 in the same criminal action as the offense under Subsection (a), unless the
offense under Section 20.05:
(1) is charged in the alternative;
(2) occurred outside the period in which the offense alleged under Subsection (a)
was committed; or
(3) is considered by the trier of fact to be a lesser included offense of the offense
alleged under Subsection (a).
(d) A defendant may not be charged with more than one count under Subsection (a) if all
of the conduct that constitutes an offense under Section 20.05 is alleged to have been
committed against the same victim.
(e) Except as provided by Subsections (f) and (g), an offense under this section is a
felony of the second degree.
(f) An offense under this section is a felony of the first degree if:
(1) the conduct constituting an offense under Section 20.05 is conducted in a
manner that creates a substantial likelihood that the smuggled individual will
suffer serious bodily injury or death; or
(2) the smuggled individual is a child younger than 18 years of age at the time of
the offense.
(g) An offense under this section is a felony of the first degree, punishable by
imprisonment in the Texas Department of Criminal Justice for life or for any term of not
more than 99 years or less than 25 years, if:
(1) it is shown on the trial of the offense that, as a direct result of the commission
of the offense, the smuggled individual became a victim of sexual assault, as
defined by Section 22.011, or aggravated sexual assault, as defined by Section
22.021; or
(2) the smuggled individual suffered serious bodily injury or death.
PROBATION

AUTOMATIC NOTICE FOR SJF PROBATION ELIGIBILITY – VETOED

- Full Legislative History: HB 1015
- Statute: TEX. CODE CRIM. PRO. art. 42.12, § 15(f)
- Summary:

Currently, sentencing judges already have discretion to pull a defendant out of a state jail facility and place them in community supervision after they have served 75 days in the jail. But there is currently no mechanism in place to notify judges when a defendant has served 75 days.

H.B. 1015 requires the Texas Department of Criminal Justice to use e-mail or other electronic communication to notify sentencing courts about the date on which the defendant will have served 75 days in the facility.

- Relevant provisions:

Section 15(f), Article 42.12, Code of Criminal Procedure, is amended by adding Subdivision (2-a) to read as follows:
(2-a) Not later than the 60th day after the date a defendant is received into the custody of a state jail felony facility, the Texas Department of Criminal Justice shall notify the sentencing court of the date on which the defendant will have served 75 days in the facility. The notice must be provided by e-mail or other electronic communication.

WAIVER OF PROBATION REVOCATION HEARING IF ALREADY IN TDCJ

- Full Legislative History: HB 518
- Statute: TEX. CODE CRIM. PRO. art. 42.12, § 21
- Summary:

When a defendant on probation is incarcerated, the hearing to revoke probation is often a formality. Still, to waive this hearing, the defendant must be transported to a court to sign a waiver. HB 518 would provide a more efficient alternative by allowing defendants to waive the hearing in front of a notary public. Many correctional facilities have a notary on staff so offenders could waive their hearing without leaving the facility. Offenders’ rights would be protected by standard remedies available for such proceedings, and the choice of using a notary or a court appearance to waive a probation hearing would remain entirely with the offender.
EXPANDED OPTIONS FOR DONATIONS IN LIEU OF COMMUNITY SERVICE

Full Legislative History: HB 583
Statute: TEX. CODE CRIM. PRO. art. 42.12, § 16
Summary:

House Bill 583 amends the Code of Criminal Procedure to include certain charitable and nonprofit organizations among the entities to which a judge may order a defendant to make a donation in lieu of performing community service.

Relevant text:

Section 16, Article 42.12, Code of Criminal Procedure, is amended by amending Subsection (f) and adding Subsection (h) to read as follows:

(f) In lieu of requiring a defendant to work a specified number of hours at a community service project or projects under Subsection (a), the judge may order a defendant to make a specified donation to:
   (1) a nonprofit food bank or food pantry in the community in which the defendant resides;
   (2) a charitable organization engaged primarily in performing charitable functions for veterans in the community in which the defendant resides; or
   (3) in a county with a population of less than 50,000, another nonprofit organization that:
      (A) is exempt from taxation under Section 501(a) of the Internal Revenue Code of 1986 because it is listed in Section 501(c)(3) of that code; and
      (B) provides services or assistance to needy individuals and families in the community in which the defendant resides.

(h) In this section:
   (1) "Charitable organization" has the meaning assigned by Section 2252.906, Government Code.
   (2) "Veteran" has the meaning assigned by Section 434.022, Government Code.

NON-SUBSTANTIVE REWRITE OF ARTICLE 42.12

Full Legislative History: HB 2299
Statute: TEX. CODE CRIM. PRO. art. 42.12
Summary:

Amends the Code of Criminal Procedure to authorize a court to adopt an alternative procedure for collecting a defendant's past due payment on a judgment for a fine and related court costs if a capias pro fine has been issued in the case. The bill requires, under the alternative procedure, that a peace officer who executes a capias pro fine or who is authorized to arrest a defendant on other grounds and who knows that the defendant owes such a past due payment, to inform the defendant of the possibility of making an immediate payment of the fine and related court costs by use of a credit or debit card and of the defendant's available alternatives to making an immediate payment. The bill authorizes the peace officer, on behalf of the court, to accept the defendant's immediate payment of the fine and related court costs by use of a credit or debit card, after which the peace officer is authorized to release the defendant as appropriate based on the officer's authority for the arrest. The bill authorizes a peace officer accepting such an immediate payment to also accept payment for fees for the issuance and execution of the capias pro fine.

Relevant provisions:

Art. 103.0025. ALTERNATIVE PAYMENT PROCEDURE FOR CERTAIN PAST DUE FINES AND COSTS.
(a) This article applies to a defendant's past due payment on a judgment for a fine and related court costs if a capias pro fine has been issued in the case.
(b) Notwithstanding any other provision of law, the court may adopt an alternative procedure for collecting a past due payment described by Subsection (a). Under the procedure, a peace officer who executes a capias pro fine or who is authorized to arrest a defendant on other grounds and knows that the defendant owes a past due payment described by Subsection (a):
   (1) shall inform the defendant of:
       (A) the possibility of making an immediate payment of the fine and related court costs by use of a credit or debit card; and
       (B) the defendant's available alternatives to making an immediate payment; and
   (2) may accept, on behalf of the court, the defendant's immediate payment of the fine and related court costs by use of a credit or debit card, after which the peace officer may release the defendant as appropriate based on the officer's authority for the arrest.
(c) A peace officer accepting a payment under Subsection (b)(2) may also accept payment for fees for the issuance and execution of the capias pro fine.
PROHIBITION ON DOUBLE CHARGING FOR COURT COSTS

- **Full Legislative History**: SB 740
- **Statute**: TEX. CODE CRIM. PRO. art 102.073
- **Summary**:

In Attorney General Opinion No. GA-1063 (2014), the Texas attorney general addressed the assessment of criminal court costs in such multiple-count criminal actions and suggested that costs not based on the performance of a particular service should be assessed on each count. Since criminal court costs are “a nonpunitive recoupment of the costs of judicial resources expended in connection with the trial of [a] case” (Weir v. State, 278 S.W.3d 364, 366-67 (Tex. Crim.App. 2009)), the assessment of court costs on each count is unnecessary to recoup the costs of judicial resources expended in connection with the trial of the case. S.B. 740 amends the Code of Criminal Procedure to authorize a court, in a single criminal action in which a defendant is convicted of two or more offenses or of multiple counts of the same offense, to assess each court cost or fee only once against the defendant. The bill requires in such an action each court cost or fee the amount of which is determined according to the category of offense to be assessed using the highest category of offense that is possible based on the defendant's convictions. The bill establishes that its provisions do not apply to a single criminal action alleging only the commission of two or more offenses punishable by fine only for which a citation or notice to appear was issued under specified Transportation Code and Code of Criminal Procedure provisions, as applicable.

CAPIAS PRO FINE ALTERNATIVES

- **Full Legislative History**: SB 873
- **Statute**: TEX. CODE CRIM. PRO. art. 43.05
- **Summary**:

A capias pro fine warrant is a post-adjudication warrant issued for people who have failed to pay fines and court costs. Unlike other warrants, a capias pro fine requires the arresting officer to take the defendant specifically to the issuing court for a hearing. If the court finds the defendant is indigent, the court can waive the fines and court costs and prevent the jailing of indigent defendants. However, the judge is often not available to see the defendant within a reasonable length of time, being occupied with another proceeding or away from the courthouse. The officer is then left to decide whether to release the defendant, wait until the judge is available, or jail the defendant. Releasing the defendant defeats the purpose of the warrant, while waiting for the judge or jailing the defendant are costly alternatives.

S.B. 873 amends Article 43.05, Code of Criminal Procedure, to allow peace officers to take defendants to another court in the same jurisdiction, if available, as an alternative to putting them in jail. This change would prevent the unnecessary
jailing of defendants when other courts are available to conduct the hearing. S.B. 873 will permit local governments to manage their jail costs, avoid the inefficient use of peace officers' time, and prevent the inappropriate jailing of indigent defendants.
INDIGENT DEFENSE

INDIGENT DEFENSE: REPAYMENT OF COURT APPOINTED LEGAL FEES CCP 42.12 & CCP 26.05

- Full Legislative History: HB 3633
- Statute: TEX. CODE CRIM. PRO. arts. 42.12 & 26.05
- Summary:

Under existing Texas law, a judge may order a defendant who was represented by appointed counsel to pay in full, or in part, the cost of legal representation if the court can establish that the defendant has the ability to pay.

However, these chapters do not establish the defendant’s ability to comply with certain payments required by the courts as part of the term of community supervision prior to ordering those conditions to be met. Neither does current statute limit the amount to be paid by a defendant to the actual costs incurred by a jurisdiction to obtain legal representation for a defendant that is provided by appointed counsel.

- Provides that a defendant will not be required to repay an amount that exceeds the actual cost of legal services provided by appointed counsel.
- Provides that the defendant is not ordered to pay twice for the costs of legal services at the time of sentencing if the defendant has already paid those costs prior to the start of court proceedings.
- Provides that a defendant’s probation cannot be revoked if the only violation of the terms of supervision is that the defendant failed to repay the cost of legal representation provided by appointed counsel.

PROCEDURES FOR APPOINTMENT OF COUNSEL FOR OUT OF COUNTY WARRANT ARRESTS

- Full Legislative History: SB 1517
- Statute: TEX. CODE CRIM. PRO. art. 1.051
- Summary:

S.B. 1517 amends the Code of Criminal Procedure to require a court or the courts' designee who is authorized to appoint counsel for indigent defendants in the county that issued the applicable warrant, if the indigent defendant is arrested under the warrant issued in a county other than the county in which the arrest was made and the defendant is entitled to and requests appointed counsel, to appoint counsel within the applicable periods, regardless of whether the defendant is present within the county issuing the warrant and even if adversarial judicial proceedings have not yet been initiated against the defendant in that county.

S.B. 1517 requires a magistrate, if a person arrested for an offense is taken before the
magistrate and the magistrate serves a county other than the county that issued the warrant, to inform the person arrested of the procedures for requesting appointment of counsel and to ensure that reasonable assistance in completing the necessary forms for requesting appointment of counsel is provided to the person at the same time. The bill requires the magistrate, if the person requests the appointment of counsel, to transmit or cause to be transmitted, without unnecessary delay but not later than 24 hours after the person requested the appointment of counsel, the necessary request forms for appointed counsel to the court or designee in the county issuing the warrant.

PRIORITIZING PUBLIC DEFENDER AND MANAGED ASSIGNED COUNSEL PROGRAMS

- **Full Legislative History**: SB 316
- **Statute**: TEX. CODE CRIM. PRO. art. 26.04
- **Summary**:

  Current law authorizes a court in a county in which a public defender's office is created or designated to appoint that office to represent an indigent defendant in a criminal case. Senate Bill 316 amends the Code of Criminal Procedure to require such a court to give priority in appointing that office for that representation and to establish circumstances under which the court is not required to make that appointment.

  - **Relevant text**:

    Articles 26.04(f), (h), and (i), Code of Criminal Procedure, are amended to read as follows:

    (f) In a county in which a public defender's office is created or designated under Article 26.044, the court or the courts' designee shall give priority in appointing [may appoint] that office to represent the defendant. However, the court is not required to appoint the public defender's office if:

    1. the court has reason to appoint other counsel; or
    2. a managed assigned counsel program also exists in the county and an attorney will be appointed under that program [in accordance with guidelines established for the office].

JURY TRIAL COSTS

- **Full Legislative History**: HB 2182
- **Statute**: TEX. GOV’T. CODE 51.305(b); TEX. CODE CRIM. PRO. art. 102.004(a)
- **Summary**:

  HB 2182 would increase fees for:

  - a defendant convicted by a jury in a county court, a county court at law, or a district court from $20 to $50;
  - civil cases in which a person applied for a jury trial in district court from $30 to $50;
-civil cases in which a person applied for a jury trial in a county court or statutory county court from $22 to $50.
COMPUTER CRIMES

ONLINE SOLICITATION OF A MINOR: PENAL CODE 33

- **Full Legislative History:** SB 344
- **Statute:** TEX. PENAL CODE § 33.021
- **Summary:**

This is an example of the summary explaining what the bill does is longer than the changes to the text itself. Given the constitutional challenges to the statute, it is worth repeating all changes in detail:

S.B. 344 amends the Penal Code to change who is considered a minor for purposes of an online solicitation of a minor offense from an individual who represents himself or herself to be younger than 17 years of age to an individual who is younger than 17 years of age. The bill changes the requisite intent for an online solicitation of a minor offense committed by a person who is 17 years of age or older and who communicates in a sexually explicit manner with a minor or distributes sexually explicit material to a minor from the intent to arouse or gratify the sexual desire of any person to the intent to commit one of the following offenses: continuous sexual abuse of a young child or children, indecency with a child, sexual assault, aggravated sexual assault, prohibited sexual conduct with a family member, compelling prostitution, sexual performance by a child, possession or promotion of child pornography, or a certain human trafficking offense. The bill removes the defenses to prosecution for online solicitation of a minor involving that conduct and removes statutory provisions establishing that it is not a defense to prosecution for online solicitation of a minor that an actor who knowingly solicits a minor to meet another person with the intent that the minor will engage in sexual contact, sexual intercourse, or deviate sexual intercourse with the actor or another person either did not intend for the meeting to occur or was engaged in a fantasy at the time of the commission of the offense.

- **Relevant Text:**

SECTION 1. Section 33.021(a)(1), Penal Code, is amended to read as follows:

(1) "Minor" means:

(A) an individual who **represents** himself or herself to be younger than 17 years of age; or

(B) an individual whom the actor believes to be younger than 17 years of age.

SECTION 2. Section 33.021, Penal Code, is amended by amending Subsections (b), (d), and (e) to read as follows:

(b) A person who is 17 years of age or older commits an offense if, with the intent to commit an offense listed in Article 62.001(5)(A), (B), or (K), Code of Criminal Procedure **arouse or gratify the sexual desire of any person**, the person, over the Internet, by electronic mail or text message or other electronic message service or system, or through a commercial online service, intentionally:

(1) communicates in a sexually explicit manner with a minor; or

(2) distributes sexually explicit material to a minor.
(d) It is not a defense to prosecution under Subsection (c) that:
   [(1)] the meeting did not occur;
   [(2)] the actor did not intend for the meeting to occur; or
   [(3)] the actor was engaged in a fantasy at the time of commission of the offense.

(e) It is a defense to prosecution under this section that at the time conduct described by
Subsection [(b) or] (c) was committed:
   (1) the actor was married to the minor; or
   (2) the actor was not more than three years older than the minor and the minor
       consented to the conduct.

BREACH OF COMPUTER SECURITY:

- Full Legislative History: HB 896
- Statute: TEX. PENAL CODE § 33.02
- Summary:

CSHB 896 would make it easier to prosecute computer hackers who maliciously breach
computer security without necessarily demonstrating intent to defraud or harm another or
alter, damage, or delete property. This intent can be difficult to prove under current law
because hackers often take information or data for reasons other than to cause harm to the
owner. For example, some hackers are simply interested in accessing, disseminating, or
selling information that does not belong to them. This bill would allow proof of obtaining or
using a file, data, or proprietary information stored in the computer, network, or system to
serve as proof of intent to defraud or harm another or alter, damage or delete property.

- Relevant Text:

(f) It is a defense to prosecution under Subsection (b-1)(2)
    that the actor's conduct consisted solely of action taken pursuant
    to a contract that was entered into with the owner of the computer,
    computer network, or computer system for the purpose of assessing
    the security of the computer, network, or system or providing other
    security-related services.
BONDS & BAIL

ALLOWING SUMMONS INSTEAD OF WARRANTS FOR CERTAIN PAROLE VIOLATIONS

- Full Legislative History: SB 710
- Statute: TEX. GOV’T. CODE § 508.254
- Summary:

House Bill 710 amends the Government Code to provide for the issuance of a summons to appear at a hearing, instead of a warrant, to a person who, in addition to meeting other criteria, is charged only with committing a certain new offense after the first anniversary of the person's release on parole or to mandatory supervision and to apply that same time frame to the circumstances under which a person may be issued such a summons after committing an administrative violation of release. The bill revises procedures for the issuance of a warrant requiring a releasee who has violated a condition of parole or mandatory supervision to be held in county jail.

- Relevant Text:

  Section 508.251(c), Government Code, is amended to read as follows:

  (c) Instead of the issuance of a warrant under this section, the division:

  (1) may issue to the person a summons requiring the person to appear for a hearing under Section 508.281 if the person:

  (A) is not a releasee who is:
      (i) [(A)] on intensive supervision or superintensive supervision;
      (ii) [(B)] an absconder; or
      (iii) [(C)] determined by the division to be a threat to public safety; or
  (B) is charged only with committing a new offense that is alleged to have been committed after the first anniversary of the date the person was released on parole or to mandatory supervision if:
      (i) the new offense is a Class C misdemeanor under the Penal Code, other than an offense committed against a child younger than 17 years of age or an offense involving family violence, as defined by Section 71.004, Family Code;
      (ii) the person has maintained steady employment for at least one year;
      (iii) the person has maintained a stable residence for at least one year; and
      (iv) the person has not previously been charged with an offense after the person was released on parole or to mandatory supervision; and
  (2) shall issue to the person a summons requiring the person to appear for a hearing under Section 508.281 if the person:
(A) is charged only with committing an administrative violation of release that is alleged to have been committed after the first [third] anniversary of the date the person was released on parole or to mandatory supervision; (B) is not serving a sentence for, and has not been previously convicted of, an offense listed in or described by Article 62.001(5), Code of Criminal Procedure; and (C) is not a releasee with respect to whom a summons may not be issued under Subdivision (1).

**PAROLE BONDS IF ONLY A TECHNICAL VIOLATION**

- **Full Legislative History:** SB 790
- **Statute:** TEX. GOV'T. CODE § 508.254
- **Summary:**

A blue warrant is issued when a person who is on parole violates the terms of his or her parole. There is no discretion in issuing these warrants based on the severity of the violation. Some blue warrants are issued for parolees who only violate administrative or technical aspects of their parole agreement. These minor infractions can include crossing a county line without permission or forgetting to pay a fine. The state mandates that all parole violations must result in incarceration until a parole hearing can occur, despite the fact that in many instances there is no intention to ever revoke the offender’s parole.

S.B. 790 allows a county magistrate to release on bond with parole supervision or mandatory release supervision a person who is arrested for a technical violation on a pre-revocation warrant by the parole division of the Texas Department of Criminal Justice. The bill also requires that the board of paroles or a parole panel make a final determination of a parole violation before issuing a warrant for the parolee's arrest.

- **Relevant text:**

(d) A magistrate of the county in which the person is held in custody may release the person on bond pending the hearing if:

1. the person is arrested or held in custody only on a charge that the person committed an administrative violation of release;
2. the division, in accordance with Subsection (e), included notice on the warrant for the person's arrest that the person is eligible for release on bond; and
3. the magistrate determines that the person is not a threat to public safety.

(e) The division shall include a notice on the warrant for the person's arrest indicating that the person is eligible for release on bond under Subsection (d) if the division determines that the person:

1. has not been previously convicted of:
   
   A offense under Chapter 29, Penal Code;
   B offense under Title 5, Penal Code, punishable as a felony; or
   C offense involving family violence, as defined by Section 71.004, Family Code;
(2) is not on intensive supervision or super-intensivesupervision;
(3) is not an absconder; and
(4) is not a threat to public safety.

DIGITAL BAIL BONDS

- Full Legislative History: HB 2499
- Statute: TEX. CODE CRIM. PRO. art. 17.026
- Summary: Bringing the sheriff’s office kicking and screaming into the 20th century (yes, I meant 20th century).

- Relevant provisions:
  - Art. 17.026. ELECTRONIC FILING OF BAIL BOND. In any manner permitted by the county in which the bond is written, a bail bond may be filed electronically with the court, judge, magistrate, or other officer taking the bond.

FILING COPY OF PERSONAL BONDS

- Full Legislative History: SB 965
- Statute: TEX. CODE CRIM. PRO. art. 17.42
- Summary: S.B. 965 amends the Code of Criminal Procedure to require a personal bond pretrial release office to file a copy of the record containing information about any accused person who after review by the office is released by a court on personal bond with the district clerk in any county served by the office, instead of with the county clerk in any such county, if applicable based on court jurisdiction over the categories of offenses addressed in the records.

RELEASE OF SURETY FOR UNCHARGED CASES

- Full Legislative History: HB 643
- Statute: TEX. CODE CRIM. PRO. art. 32.01
- Summary: Under current law, even though an information or indictment in a court case is sometimes never pursued, a surety's liability remains committed with the prosecutor or defense attorney authorized to file a motion to discharge the case and bond.

H.B. 643 provides that a surety may file a motion to discharge a defendant's bond in a case in which prosecutors have not moved to file information or bring an indictment in 180 days or by the last day of the next term of court.
A motion to discharge by a surety applies to the bond only, and does not impact the case or prosecution. This frees up the surety's liability for future bond business.

H.B. 643 amends current law relating to the procedures for discharging bail in certain criminal proceedings.
EXPANDING DEFINITION OF ‘RELATIONSHIP’ – DOXING

- **Full Legislative History:** SB 923
- **Statute:** TEX. PENAL CODE § 36.06(a)
- **Summary:**

Interested parties contend that current law does not expressly prohibit the act commonly referred to as "doxing," which involves posting the personal information of individuals online with malicious intent. The parties assert that individuals often target law enforcement officers and their family members in retaliation against an officer performing the officer's sanctioned duties.

S.B. 923 amends the Penal Code to expand the conduct that constitutes an offense of retaliation to include posting on a publicly accessible website the residence address or telephone number of an individual the actor knows is a public servant or a member of a public servant's family or household with the intent to cause harm or a threat of harm to the individual or a member of the individual's family or household in retaliation for or on account of the service or status of the individual as a public servant. The bill enhances the penalty for such conduct from a third degree felony to a second degree felony if the conduct results in the bodily injury of a public servant or a member of a public servant's family or household. The bill establishes that it is prima facie evidence of the intent to cause harm or a threat of harm to an individual the person knows is a public servant or a member of a public servant's family or household if the actor receives a written demand from the individual to not disclose the address or telephone number for reasons of safety and either fails to remove the address or telephone number from the publicly accessible website within a period of 48 hours after receiving the demand or reposts the address or telephone number on the same or a different publicly accessible website, or makes the information publicly available through another medium, within a period of four years after receiving the demand, regardless of whether the individual is no longer a public servant.

- **Relevant Text:**

  (a-1) A person commits an offense if the person posts on a publicly accessible website the residence address or telephone number of an individual the actor knows is a public servant or a member of a public servant's family or household with the intent to cause harm or a threat of harm to the individual or a member of the individual's family or household in retaliation for or on account of the service or status of the individual as a public servant.

  (c) An offense under this section is a felony of the third degree, except that the offense is a felony of the second degree if:
(1) [unless] the victim of the offense was harmed or threatened because of the victim's service or status as a juror; or
(2) the actor's conduct is described by Subsection (a-1) and results in the bodily injury of a public servant or a member of a public servant's family or household[, in which event the offense is a felony of the second degree].

(d) For purposes of Subsection (a-1), it is prima facie evidence of the intent to cause harm or a threat of harm to an individual the person knows is a public servant or a member of a public servant's family or household if the actor:

(1) receives a written demand from the individual to not disclose the address or telephone number for reasons of safety; and
(2) either:
   (A) fails to remove the address or telephone number from the publicly accessible website within a period of 48 hours after receiving the demand; or
   (B) reposts the address or telephone number on the same or a different publicly accessible website, or makes the information publicly available through another medium, within a period of four years after receiving the demand, regardless of whether the individual is no longer a public servant.

NEW REBUTTABLE PRESUMPTION – DOXING

- **Full Legislative History:** HB 1061
- **Statute:** TEX. PENAL CODE § 38.15
- **Summary:**

Penal Code, sec. 38.15 makes interference with public duties a criminal offense. Under sec. 38.15(a)(1) it is a class B misdemeanor (up to 180 days in jail and/or a maximum fine of $2,000) to interrupt, disrupt, impede, or otherwise interfere with a peace officer while the officer is performing a duty or exercising lawful authority.

CSHB 1061 would create a rebuttable presumption, under the offense of interfering with public duties, that a person interfered with a peace officer if during the trial it was shown that the person intentionally disseminated the officer’s personal, private, or confidential information.

While current law makes it a crime to interfere with the duties of a peace officer, an increasing activity called “doxing” can negatively affect investigations and the personal security of officers but is not covered explicitly under the offense laws. Doxing can involve using the Internet to research and publish personal information such as phone numbers, addresses, Social Security numbers, passwords, and financial information.

“The bill would help protect peace officers from interference in conducting their duties without infringing on free speech or non-criminal activities. While the bill would create a presumption, many other factors would have to be present for a case to be prosecuted or to result in a conviction. The bill would not change the essence of the current offense, which still would require interference with peace officers performing their duties or exercising their lawful authority. The presumption that would be established by the bill would be rebuttable.
by defendants. The offense itself would have to be committed with criminal negligence, and
the dissemination of information would have to be done intentionally. The information also
would have to be personal, private, or confidential. As with any criminal case, the offense of
interference with public duties would have to be proved beyond a reasonable doubt, and
prosecutors would use their discretion only to prosecute appropriate cases.”

  o  Relevant provisions:

Section 38.15, Penal Code, is amended by adding Subsections (d-1) and (d-2) to read as
follows:
(d-1) Except as provided by Subsection (d-2), in a prosecution for an offense under
Subsection (a)(1), there is a rebuttable presumption that the actor interferes with a peace
officer if it is shown on the trial of the offense that the actor intentionally disseminated the
home address, home telephone number, emergency contact information, or social security
number of the officer or a family member of the officer or any other information that is
specifically described by Section 552.117(a), Government Code.
(d-2) The presumption in Subsection (d-1) does not apply to information disseminated by:
    (1) a radio or television station that holds a license issued by the Federal
        Communications Commission; or
    (2) a newspaper that is:
        (A) a free newspaper of general circulation or qualified to publish legal notices;
        (B) published at least once a week; and
        (C) available and of interest to the general public.

OFFENSE COMMITTED AGAINST PERSON IN CUSTODY

  o  Full Legislative History:  HB 511
  o  Statute:  TEX. PENAL CODE § Penal Code
  o  Summary:

Section 39.04, Penal Code, provides a criminal offense for correctional facility employees who
commit civil rights violations against people confined in their facilities or engage in sexual
conduct with them. The statute currently applies to jails, prisons, juvenile facilities, and
correctional facilities operated on contract. However, personnel in facilities that detain
individuals on the grounds of immigration status are not subject to this penalty, despite
performing substantially the same job as correctional officers.

H.B. 511 remedies this gap in law by amending the Penal Code to expand the definition of
"correctional facility," for purposes of statutory provisions, making it an offense for certain
individuals to intentionally violate the civil rights of a person in custody or engage in improper
sexual activity with a person in custody in immigration detention facilities.

POLICE: CANINE TRAINING. SECTION 1701 OCCUPATIONS CODE

  o  Full Legislative History:  HB 593
**Statute:**

**TEX. OCC. CODE §§ 1701.253 & 1701.261**

**Summary:**

Interested parties note that not all Texas police officers receive adequate training to prepare for a canine encounter even though many officers will likely encounter a canine at some point in the officer's career. C.S.H.B. 593 seeks to equip a police officer with the knowledge and skills necessary to properly handle canine encounters.

H.B. 593 amends the Occupations Code to require the Texas Commission on Law Enforcement (TCOLE), not later than January 1, 2016, to establish a statewide comprehensive education and training program on canine encounters and canine behavior that consists of at least four hours of classroom instruction and practical training, developed and approved by TCOLE, that addresses the following: handling canine-related calls, anticipating unplanned encounters with canines, and using humane methods and tools in handling canine encounters; recognizing and understanding canine behavior; state laws related to canines; canine conflict avoidance and de-escalation; use of force continuum principles in relation to canines; using nonlethal methods, tools, and resources to avoid and defend against a canine attack; and a general overview of encounters with other animals. The bill requires TCOLE to review the training program's content at least once every four years and update the program as necessary.

**STATE GRANTS AND REGULATIONS FOR BODY WORN CAMERAS**

- **Full Legislative History: SB 158**
- **Statute:**
  **TEX. OCC. CODE § 1701.651**
- **Summary:**

SB 158 would authorize municipal police departments, sheriffs, and the Department of Public Safety to apply to the governor's office for grants to defray the cost of implementing the bill and to equip peace officers with body worn cameras. This would apply to law enforcement agencies that employed officers who were engaged in traffic or highway patrol, regularly detained or stopped motor vehicles, or were primary responders. Sheriffs would need the approval of their commissioners court to apply for a grant.

Local policies. Law enforcement agencies that received a state grant for body worn cameras or that operated a program with the cameras would have to adopt a policy on their use. The policy would have ensure that a camera was activated only for law enforcement purposes and could not require that the cameras be activated for the entire period of an officer's shift. The policies would have to include:

- guidelines on activating and discontinuing a recording;
- provisions for data retention, including requiring a minimum of 90 days retention;
- provisions for storage, backup, and security of the recordings;
- guidelines for public access to recordings that were public information;
- provisions for officer access to recordings before an officer had to make a statement about an incident that was recorded;
- procedures for supervisory or internal review; and
- handling and documenting equipment and equipment malfunctions

**SPECIFIC TRAINING FOR SCHOOL RESOURCE OFFICERS**

- **Full Legislative History:** HB 2684
- **Statute:** TX. EDUC. CODE § 37.081
  TX. OCC. CODE § 1701.601
- **Summary:**

  House Bill 2684 amends the Education and Occupations Codes to provide for a model training curriculum, created and updated by the Texas Commission on Law Enforcement, for school district peace officers and school resource officers that addresses, among other issues, child and adolescent development and psychology, positive behavioral interventions and supports, and mental health crisis intervention. The bill requires officers in certain large school districts to complete an education and training program that uses the curriculum, establishes program requirements, and requires applicable school districts to adopt policies regarding the required training program.

**ARSON INVESTIGATORS CAN NOW APPLY FOR WIRETAP**

- **Full Legislative History:** HB 3668
- **Statute:** TX. CODE CRIM. PRO. art. 18.21
- **Summary:**

  H.B. 3668 amends the Code of Criminal Procedure to include a member of an arson investigating unit commissioned by a municipality, county, or the state in the definition of "authorized peace officer," for purposes of statutory provisions relating to the interception or collection of information in relation to certain communications in an investigation conducted by an arson investigating unit.

  Information recorded by a body camera and held by a law enforcement agency would not be subject to disclosure under the Public Information Act requirements in Government Code, sec. 552.021, except that information that was or could be used as evidence in a criminal prosecution would be subject to the requirements.

**EXPANDED DEFINITION FOR CIVIL RIGHTS VIOLATIONS TO JUVENILE FACILITIES**

- **Full Legislative History:** SB 183
- **Statutes:** TX. PENAL CODE
Senate Bill 183 amends the Penal Code to revise the offenses of the violation of the civil rights of a person in custody and of improper sexual activity with a person in custody. Among other provisions, the bill expands the actors to whom the offenses apply to include an official, employee, and certain other persons working or volunteering at a juvenile facility and enhances the penalty for improper sexual activity with an individual placed in a juvenile facility.
PRISONS & JAILS

PRESERVING IN-PERSON VISITATION AT COUNTY JAILS

- Full Legislative History: HB 549
- Statute: TEX. GOV’T. CODE § 511.009
- Summary:

House Bill 549 amends the Government Code to require the Commission on Jail Standards to establish minimum standards for prisoner visitation that provide each prisoner at a county jail with a minimum of two in-person, noncontact visitation periods per week of at least 20 minutes duration each.

However, there was significant disagreement over the exceptions that jails wanted that allow unlimited discretion to disregard this requirement. The relevant text is reproduced below.

- Relevant text:

(a-1) A county jail that as of September 1, 2015, has incurred significant design, engineering, or construction costs to provide prisoner visitation that does not comply with a rule or procedure adopted under Subsection (a)(20), or does not have the physical plant capability to provide the in-person prisoner visitation required by a rule or procedure adopted under Subsection (a)(20), is not required to comply with any commission rule or procedure adopted under Subsection (a)(20).

(a-2) A commission rule or procedure adopted under Subsection (a)(20) may not restrict the authority of a county jail under the commission's rules in effect on September 1, 2015, to limit prisoner visitation for disciplinary reasons.

STATE JAIL DILIGENT PARTICIPATION CREDITS

- Full Legislative History: HB 1546
- Statute: TEX. CODE CRIM. PRO. art. 42.0199
- Summary:

By the 30th day before defendants have served 80 percent of their sentences, the Texas Department of Criminal Justice (TDCJ) is required to report to the court the number of days an inmate has diligently participated in a program. Judges are authorized to use the report to credit an inmate time for each day the inmate diligently participated in a program. The time credited cannot exceed one-fifth of an inmate’s original sentence.

Instead of reporting to a court the number of days an inmate diligently participated in the programs, TDCJ would be required to record the information. TDCJ would be required to credit against an inmate’s sentence time for each day of diligent participation, and judges no longer would be authorized to make such credits.
H.B. 1546 streamlines the process involved in awarding diligent participation credits to those participating in education, vocational, treatment, or work programs in state jails by authorizing TDCJ to automatically grant credits in certain circumstances. Doing so will allow credit to be applied as soon as it is earned, which will provide an ongoing incentive to participate in rehabilitative programs throughout the duration of the sentence while allowing the state to conserve judicial resources.

TRANSFER TO TDCJ PENDING APPEAL

- **Full Legislative History:** HB 904
- **Statute:** TEX. CODE CRIM. PRO. art. 42.09

Current law does not mandate transfer to TDCJ from county jails for certain people who have been convicted of crimes and sentenced to prison if they received a sentence of 10 years or less and are appealing the conviction. If these defendants cannot make an appeal bond, they remain in the county jail while the case is appealed. Housing these offenders has become burdensome for some counties as the Legislature has gradually restricted the right to an appeal bond. HB 904 would help alleviate this burden by requiring all offenders who were ineligible for bail to be transferred to TDCJ during their appeals. The bill would affect mainly two small groups not currently sent to TDCJ: offenders with sentences of exactly 10 years and “3g” offenders with sentences of less than 10 years. These offenders have been sentenced to prison either for a long term or for a violent offense and should be housed by the state while their appeals are pending, especially now that the state has available prison beds.

RE-ENTRY RESOURCES:

- **Full Legislative History:** SB 578
- **Statute:** TEX. GOV’T. CODE § 501.0971

In 2014, the Texas Department of Criminal Justice (TDCJ) released an estimated 70,000 individuals. However, approximately 29,000 individuals discharged from prison and state jail do not qualify for TDCJ’s Reentry and Integration Division programs. Many of these individuals are in desperate need of housing assistance, employment opportunities, and contact information for organizations that will provide medical and mental health care. Research suggests that the most critical period for someone leaving prison is the period immediately following release.

Many Texas organizations—private, non-profit, local, and faith-based—have compiled locale-specific resource lists that could be made available to incarcerated individuals preparing for their return to society. Access to resources would greatly help incarcerated individuals formulate reentry plans based on available community providers, and it would
increase the chances that these individuals will successfully reintegrate into their community and become productive, law-abiding citizens.

S.B. 578 requires TDCJ to identify organizations that provide reentry and reintegration resources guides and to collaborate with those organizations to make those resource guides available to all inmates.

LIMITATION ON SOLITARY CONFINEMENT

- **Full Legislative History:** [HB 1083](https://www.capitol.texas.gov/Session/BillText/82R/HB1083/HB1083.pdf)
- **Statute:** [TEX. GOV'T. CODE § 501.068](https://www.capitol.texas.gov/Session/BillText/82R/HB1083/HB1083.pdf)
- **Summary:**

H.B. 1083 amends the Government Code to require an appropriate medical or mental health care professional to perform a mental health assessment of an inmate before the Texas Department of Criminal Justice (TDCJ) may confine the inmate in administrative segregation. The bill prohibits TDCJ from confining an inmate in administrative segregation if the mental health assessment indicates that type of confinement is not appropriate for the inmate's medical or mental health.

LONGER WAIT TIME FOR PAROLE RECONSIDERATION ON MOST SERIOUS OFFENSES

- **Full Legislative History:** [HB 1914](https://www.capitol.texas.gov/Session/BillText/82R/HB1914/HB1914.pdf)
- **Statute:** [TEX. GOV'T. CODE § 508.145](https://www.capitol.texas.gov/Session/BillText/82R/HB1914/HB1914.pdf)
- **Summary:**

Under Government Code, sec. 508.145(d)(1), inmates serving time for certain serious and violent offenses, including aggravated sexual assault, are not eligible for parole until their actual calendar time served, not considering good conduct time, equals one-half of their sentence or 30 years, whichever is less, with a minimum of two years. Under Government Code, sec. 508.145(b) an inmate serving a life sentence for a capital felony is not eligible for release on parole until actual calendar time equals 40 years, without consideration of good conduct time. Government Code, sec. 508.141(g) requires the Board of Pardons and Paroles to adopt a policy establishing the dates the board may reconsider for release inmates who previously have been denied release on parole or mandatory supervision. For inmates convicted of aggravated sexual assault and those convicted of capital murder who are serving life terms, the board may reconsider them after an initial denial anytime between one and five years.

HB 1914 would allow the Board of Pardons and Paroles to delay reconsideration for parole after an initial denial for up to 10 years, instead of five years, for offenders convicted of aggravated sexual assault and offenders serving a life sentence for a capital felony.
PROTECTION FOR PREGNANT PRISONERS

- Full Legislative History: HB 1140
- Statute: TEX. GOV’T. CODE 511.0103
- Summary:

House Bill 1140 amends the Government Code to require a county jail to notify the Commission on Jail Standards of any change in the jail's policies and procedures related to the provision of health care to pregnant prisoners and the placement of a pregnant prisoner in solitary confinement or administrative segregation. The bill requires each sheriff to report to the commission certain information regarding the implementation of policies and procedures to provide adequate care to pregnant prisoners and requires the commission to compile, analyze, and summarize the information contained in those submitted reports.

SCHOOL CREDIT IN TDCJ

- Full Legislative History: SB 1024
- Summary:

The Wyndham school district provides education in TDCJ and this bill requires TEA to award credit for the courses provided the courses meet the requirements adopted by the State Board of Education.
DEATH PENALTY

SECRECY OF EXECUTION DRUGS

- **Full Legislative History:** SB 1697
- **Statute:** TEX. GOV’T. CODE § 552.1081
- **Summary:**
  
  S.B. 1697 amends the Government Code and Code of Criminal Procedure to make confidential and exempt from disclosure under state public information law the identifying information of any person who participates in an execution procedure, including a person who uses, supplies, or administers a substance during the execution, and any person or entity that manufactures, transports, tests, procures, compounds, prescribes, dispenses, or provides a substance or supplies used in an execution.

NOTICE OF EXECUTION DATE

- **Full Legislative History:** SB 1071
- **Statute:** TEX. CODE CRIM. PRO. art. 43.141
- **Summary:**
  
  Attorneys for capital defendants should have the same notice as the state and the court about when executions will be set. Requiring sufficient notice of the scheduling of execution dates will ensure that defendants have an opportunity to fairly prepare for the impending execution.

  S.B. 1071 requires both state attorneys and convicting courts to provide written notice to attorneys representing condemned persons once motions are made to set an execution date. The bill also sets time requirements for when notice should be delivered before the court will enter an order setting the execution date. The bill will ensure that attorneys for condemned persons are given sufficient notice of an execution date.

  - **Relevant text:**

    Article 43.141, Code of Criminal Procedure, is amended by adding Subsections (b-1) and (b-2) and amending Subsection (c) to read as follows:

    (b-1) Not later than the second business day after the date on which the convicting court enters an order setting the execution date, a copy of the order must be sent by first-class mail, e-mail, or fax to:
    
    (1) the attorney who represented the condemned person in the most recently concluded stage of a state or federal postconviction proceeding; and
    
    (2) the office of capital writs established under Subchapter B, Chapter 78, Government Code.

    (b-2) The exclusive remedy for a failure to comply with Subsection (b-1) is the resetting of the execution date under this article.
MENTAL HEALTH

IMMEDIATE NOTIFICATION OF COMPETENCY RESTORATION

- **Full Legislative History:** HB 211
- **Statute:** TEX. CODE CRIM. PRO. art. 46B.084
- **Summary:**

HB 211 would require the court to notify the attorney representing the state and the defendant’s attorney of the defendant’s return to the court after a prior determination of incompetency to stand trial. This would be required **no later than the next business day** following the return.

Within three days of receiving the notice, the defendant’s attorney would be required to meet with the defendant to evaluate whether there was any suggestion that the defendant had not regained competency. The bill would amend the date that a court would be required to make a determination of the defendant’s competency to stand trial to within 20 days after notice was received or not later than the fifth day after the date of the defendant’s return to court, whichever occurred first. If a defendant was found competent to stand trial, the bill would require that criminal proceedings resume on the court’s own motion within 14 days after the court determined that the defendant’s competency had been restored.

GOOD TIME CREDIT DURING COMPETENCY RESTORATION

- **Full Legislative History:** SB 1326
- **Statute:** TEX. CODE CRIM. PRO. art. 46B.084
- **Summary:**

Current statute requires a court to commit a defendant determined incompetent to stand trial to a mental health facility or a residential care facility for further examination and treatment toward the specific objective of attaining competency to stand trial. The commitment is for a period not to exceed 120 days and can be extended one time for an additional 60-day period. Currently, such a committed defendant does not receive any time credits against any subsequent sentence and judgment that may result from the ultimate adjudication of the charge for the time committed for competency restoration, regardless of the outcome of the competency restoration program. In the 82nd Legislature, two bills were passed affecting Article 46B.0095(d), Code of Criminal Procedure. Currently, the statute creates two alternatives to Article 46B.0095(d) and no direction to the courts as to which section applies to a particular case or circumstance.

S.B. 1326 seeks to resolve the discrepancies between H.B. 748, 82nd Legislature, Regular Session, 2011 and H.B. 2725, 82nd Legislature, Regular Session, 2011. S.B. 1326 creates Subsection (e) to allow a judge to grant an inmate good conduct time for a period of confinement described in Subsection (d).
As proposed, S.B. 1326 amends current law relating to the maximum cumulative period allowed for restoration of a defendant's competency to stand trial and to certain time credits awarded against that cumulative period.

CONTINUITY OF CARE FOR MENTAL HEALTH CLIENTS FOR RELEASE ON PROBATION OR PAROLE

- **Full Legislative History:** HB 1908
- **Statute:** TEX. HEALTH & SAFETY CODE § 614.013
- **Summary:**

House Bill 1908 amends the Health and Safety Code to require the methods used in establishing the continuity of care system for offenders with mental impairments to ensure that each such offender is identified and qualified for the system and to serve adults with severe and persistent mental illness who are experiencing significant functional impairment due to a mental health disorder.

- **Relevant provisions:**

Section 614.013, Health and Safety Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) Subject to available resources, and to the extent feasible, the methods established under Subsection (b) must ensure that each offender with a mental impairment is identified and qualified for the continuity of care system and serve adults with severe and persistent mental illness who are experiencing significant functional impairment due to a mental health disorder that is defined by the Diagnostic and Statistical Manual of Mental Disorders, 5th Edition (DSM-5), including:

1. major depressive disorder, including single episode or recurrent major depressive disorder;
2. post-traumatic stress disorder;
3. schizoaffective disorder, including bipolar and depressive types;
4. psychotic disorder;
5. anxiety disorder;
6. delusional disorder; or
7. any other diagnosed mental health disorder that is severe or persistent in nature.

RIGHTS OF GUARDIANS

- **Full Legislative History:** HB 634
- **Statute:** TEX. CODE CRIM. PRO. art. 59.06; TEX. GOV’T. CODE 501.010
- **Summary:**

H.B. 634 amends the Code of Criminal Procedure to authorize the court-appointed guardian of an incapacitated defendant to provide information relevant to the determination of the
defendant's indigency, request that counsel be appointed for the defendant's arraignment, and visitation access with the defendant.
INDIGENT DEFENSE

PROVIDING COURT APPOINTED COUNSEL FOR WRITS FOR HABEAS CORPUS

- **Full Legislative History:** SB 662
- **Statute:** TEX. CODE CRIM. PRO. art. 11.074
- **Summary:**

S.B. 662 amends the Code of Criminal Procedure to require a convicting court, if at any time the state represents to the court that an eligible indigent defendant who was sentenced or had a sentence suspended by the court is not guilty, is guilty of only a lesser offense, or was convicted or sentenced under a law that has been found unconstitutional by the court of criminal appeals or the U.S. Supreme Court, to appoint an attorney to represent the indigent defendant for purposes of filing an application for a writ of habeas corpus, if such an application has not been filed, or to otherwise represent the indigent defendant in a habeas corpus proceeding based on the application for the writ. The bill applies only to a felony or misdemeanor case in which the applicant seeks relief from a judgment of conviction that imposes a penalty other than death or orders community supervision. The bill requires an appointed attorney to be compensated as provided by statutory provisions regarding compensation of counsel appointed to defend.

INDIGENT DEFENSE ADMINISTRATION: SECTION 79 GOVERNMENT CODE

- **Full Legislative History:** SB 1353
- **Statute:** TEX. GOV’T. CODE § 501.068
- **Summary:**

The Texas Indigent Defense Commission is charged with providing financial and technical support to assist counties in improving their indigent defense systems. However, because the commission may make grants only to counties, one of the participating counties must serve as the official grantee responsible for the receipt and appropriate expenditure of grant funds, as well as compliance with grant terms and accounting. The parties are concerned that a county serving in such a capacity cannot currently recoup administrative expenses related to these responsibilities. S.B. 1353 seeks to amend the applicable law to address this issue.
PRETRIAL VICTIM-OFFENDER MEDIATION

ESTABLISHING A PRETRIAL VICTIM-OFFENDER MEDIATION PROGRAM – VETOED

- Full Legislative History: HB 3184
- Statute: TEX. CODE CRIM. PRO. arts. 28.01 & 56.21
- Summary:

H.B. 3184 would have amended the Code of Criminal Procedure to authorize the commissioners court of a county or governing body of a municipality, in coordination with the office of the attorney representing the state in the county or municipality, to establish a pretrial victim-offender mediation program for persons who have been arrested for or charged with a misdemeanor or state jail felony property offense and have not previously been convicted of a felony or a misdemeanor, other than a misdemeanor regulating traffic and punishable by fine only.

Although the bill was vetoed, it is worth reviewing – and pushing for local prosecutor’s offices to implement these types of provisions. The fact that it passed the Legislature is indicative that the bill will return.

The prosecutors killed this bill because they detest the thought that the defense team may be able to provide better service to crime victims than victim-witness coordinators. A victim of a crime should have every resolution option available, and the veto of this bill should be used to demonstrate that prosecutors often would prefer to speak for victims rather than allow them to speak for themselves.
PROSECUTION

PROSECUTION OF PUBLIC OFFICIALS IN HOME JURISDICTION

- Full Legislative History: HB 1690
- Statute: TEX. GOV’T. CODE Chapter 411
- Summary:

Investigations. Officers of the Texas Rangers would be required to investigate formal or informal complaints alleging an offense against public administration. If there were a conflict of interest involving an investigation of a member of the executive branch, the Rangers could refer an investigation to the local law enforcement agency that would otherwise have authority to investigate the complaint. Local law enforcement would have to comply with all the bill’s requirements.

Prosecutions. Investigations that demonstrate a reasonable suspicion that an offense occurred would be referred to the prosecutor in either:

- the county where the defendant resides; or

- the county where the defendant resided when the defendant was elected to a statewide office subject to a residency requirement in the Texas Constitution.

A prosecutor could request to be recused from a case for good cause. If the court with jurisdiction over the complaint approved the request, an alternate prosecutor would be selected by a majority vote of the presiding judges of the state’s nine administrative judicial regions. The administrative judges would be required to select an alternate prosecutor from the same administrative judicial region and would have to consider the proximity of the county or district represented by the new prosecutor to the county in which venue is proper. The alternate prosecutor could pursue a waiver to extend the statute of limitations for the offense only with approval of a majority of the administrative judges.

CSHB 1690 would remove the Travis County district attorney from prosecutions for contempt of the Legislature under Government Code, sec. 301.027.

The bill would not disturb Travis County’s jurisdiction over offenses involving insurance fraud and motor fuels tax collections. The Travis County D.A.’s Public Integrity Unit would continue to prosecute fraud and financial crimes targeting various state programs and certain crimes committed by state employees. These cases make up the vast majority of the Public Integrity Unit’s caseload. Under the House-passed budget, the unit would receive $6.5 million in general revenue and general revenue dedicated funds for fiscal 2016-17.
Relevant provisions:

Sec. 411.0256. VENUE. Notwithstanding Chapter 13, Code of Criminal Procedure, or other law, if the defendant is a natural person, venue for prosecution of an offense against public administration and lesser included offenses arising from the same transaction is the county in which the defendant resided at the time the offense was committed.

Sec. 411.0257. RESIDENCE. For the purposes of this subchapter, a person resides in the county where that person:
(1) claims a residence homestead under Chapter 41, Property Code, if that person is a member of the legislature;
(2) claimed to be a resident before being subject to residency requirements under Article IV, Texas Constitution, if that person is a member of the executive branch of this state;
(3) claims a residence homestead under Chapter 41, Property Code, if that person is a justice on the supreme court or judge on the court of criminal appeals; or
(4) otherwise claims residence if no other provision of this section applies.

RESERVE INVESTIGATORS

- Full Legislative History: HB 480
- Statute: TEX. GOV’T. CODE § 41.102
- Summary:

Interested parties raise the concern that while other governmental entities are authorized to commission reserve or unpaid peace officers there is no statutory authority for a prosecuting attorney to appoint reserve investigators. The parties are also concerned about the inability of the counties to retain investigators because they are unable to pay a competitive wage to these professionals. C.S.H.B. 480 recognizes the need for reserve investigators and proposes to provide this additional investigative support to prosecutors.
H.B. 48 creates the Tim Cole Exoneration Review Commission to review proven wrongful convictions, identify the main causes of those convictions, and make recommendations to prevent such tragedies from reoccurring in the future.

The commission would review convictions of innocent people in much the same way as the National Transportation Safety Board investigates major accidents. When a major airplane, train, or space shuttle accident occurs, an in depth investigation begins within hours to identify the causes and possible remedies to ensure it is not repeated. The Tim Cole Exoneration Review Commission would provide similar safeguards to ensure justice is served in our state, make sure that we are locking up only the guilty and protecting the innocent, and continuing to make our justice system as reliable, fair, and effective as possible.

**Commission composition.** The commission would be composed of the following nine members or, in some cases, their designee:
- the presiding judge of the Texas Court of Criminal Appeals;
- the chief justice of the Texas Supreme Court;
- a district judge appointed by the presiding judge of the Court of Criminal Appeals;
- the presiding officer of the Texas Commission on Law Enforcement;
- the presiding officer of the Texas Indigent Defense Commission;
- the presiding officer of the Texas Forensic Science Commission;
- the chair of the Senate Committee on Criminal Justice;
- the chair of the House Committee on Criminal Jurisprudence; and
- the president of the State Bar of Texas.

**Duties.** The commission would be required to thoroughly review and examine all cases in which an innocent person was convicted and exonerated, including convictions vacated based on a plea to time served to:
- identify the causes of wrongful convictions and suggest ways to prevent future wrongful convictions and improve the reliability and fairness of the criminal justice system;
- determine errors and defects in the laws, evidence, and procedures applied or omitted in a case;
- identify errors and defects in the Texas criminal justice system in general;
- consider suggestions to correct the errors and defects through legislation or procedural changes;
- identify procedures, programs, and education or training opportunities to eliminate or minimize the causes of wrongful convictions; and
- collect and evaluate information from an actual innocence exoneration reported to the commission by a state-funded innocence project.

**JUVENILE RECORDS – ADVISORY COMMITTEE**

- **Full Legislative History:** HB 431
- **Summary:**

  Under Chapter 58 of the Family Code, juvenile records receive the protection of confidentiality. Many juveniles who enter the juvenile justice system go on to lead law-abiding lives as adults with no subsequent criminal history. The confidentiality of their records ensures they have access to work, education, housing, and other opportunities. In addition, the information collected by the juvenile justice system serves an important public safety purpose. However, over time, Chapter 58 has grown more complex, and the confidentiality it was intended to provide has gradually eroded.

  In 2013, the 83rd Legislature passed S.B. 1769, creating an advisory committee to study the fingerprinting of juveniles. Composed of judges, prosecutors, juvenile system administrators, and others from across Texas, that committee recommended the formation of a practitioner workgroup to conduct a comprehensive examination of Chapter 58. H.B. 431, as engrossed, creates that advisory body, which is instructed to advise the Texas Juvenile Justice Board and the 85th Legislature on reforms needed to ensure the continued effectiveness and security of confidential juvenile record-keeping.

  H.B. 431 is identical to S.B. 645, which was heard in the Senate State Affairs Committee on April 27, 2015.

  H.B. 431 amends current law relating to the creation of an advisory committee to examine and recommend revisions to any state laws pertaining to juvenile records.

**HUMAN TRAFFICKING PREVENTION TASK FORCE**

- **Full Legislative History:** HB 188
- **Statute:** TEX. GOV’T. CODE § 402.035
- **Summary:**

  Several years ago the Texas Legislature created the Human Trafficking Prevention Task Force in an effort to create a statewide partnership between law enforcement agencies, nongovernmental organizations, legal representatives, and state agencies that are fighting against the crime of human trafficking. Observers note that the task force has worked to develop policies and procedures to assist in the prevention and prosecution of human trafficking crimes as well as propose legislative recommendations that better protect both adult and child victims. H.B. 188 seeks to continue the task force.
MISCELLANEOUS

ATTORNEY OATH
  o Full Legislative History: SB 534
  o Statute: TEX. GOV’T. CODE § 82.037
  o Relevant text:

  Section 82.037(a), Government Code, is amended to read as follows:
  (a) Each person admitted to practice law shall, before receiving a license, take an oath that the person will:
      (1) support the constitutions of the United States and this state;
      (2) honestly demean oneself [himself] in the practice of law; [and]
      (3) discharge the attorney's duty to the attorney's [his] client to the best of the attorney's ability; and
      (4) conduct oneself with integrity and civility in dealing and communicating with the court and all parties.

CLASS C TRIALS – SECOND CHAIRS ALLOWED
  o Full Legislative History: HB 1386
  o Statute: TEX. CODE CRIM. PRO. art. 45.020
  o Summary:

  Removes antiquated provision that limits Class C hearings or trials on only one lawyer per side.

REMOTE ENGINE START
  o Full Legislative History: HB 2194
  o Statute: TEX. TRANSP. CODE § 545.404
  o Summary:

  Excepts prosecution under Section 545.404, Transportation Code [Unattended motor vehicle] if engine is started with a remote starter and the key must be placed in the ignition or in the car before operated.

KEEP AUSTIN LOUD
  o Full Legislative History: HB 2533
  o Statute: TEX. ALCO. BEV. CODE § 101.62
  o Summary:

  H.B. 2533 repeals Section 101.62, Alcoholic Beverage Code, which prohibits an alcoholic beverage licensee or permittee, on premises under the licensee's or permittee's
control, from maintaining or permitting a radio, television, amplifier, piano, phonograph, music machine, orchestra, band, singer, speaker, entertainer, or other device or person that produces, amplifies, or projects music or other sound that is loud, vociferous, vulgar, indecent, lewd, or otherwise offensive to persons on or near the licensed premises.

Note: many cities also have local sound ordinances which are often used instead of this provision.

- **Relevant provisions:**

  [Sec. 101.62. OFFENSIVE NOISE ON PREMISES. No licensee or permittee, on premises under his control, may maintain or permit a radio, television, amplifier, piano, phonograph, music machine, orchestra, band, singer, speaker, entertainer, or other device or person that produces, amplifies, or projects music or other sound that is loud, vociferous, vulgar, indecent, lewd, or otherwise offensive to persons on or near the licensed premises.]

**WRONGFUL IMPRISONMENT COMPENSATION CAN PASS TO SPOUSE AFTER DEATH**

- **Full Legislative History:** HB 638
- **Statute:** TEX. CIV. PRAC. & REM. CODE 103.53
- **Summary:**

  CSHB 638 would allow an individual entitled to compensation for wrongful imprisonment to select alternative annuity payments that would allow the claimant’s spouse and/or dependent to receive payments after the claimant’s death.

**GOODBYE TELEGRAPH**

- **Full Legislative History:** HB 2300
- **Statute:** TEX. CODE CRIM. PRO. art. 15.08
- **Summary:**

  H.B. 2300 amends and repeals certain provisions of the Code of Criminal Procedure to eliminate a telegraph transmission as a method to communicate certain information relating to arrest under warrant.

**ASSET FORFEITURE ANNUAL REPORT**

- **Full Legislative History:** HB 530
- **Statute:** TEX. CODE CRIM. PRO. art. 59.06
- **Summary:**
H.B. 530 requires the attorney general, not later than June 1 of each year, to develop a report based on information submitted by law enforcement agencies and attorneys representing the state detailing the total amount of funds forfeited, or credited after the sale of forfeited property, in Texas in the preceding calendar year and to maintain in a prominent location on the attorney general's publicly accessible website a link to the most recent annual report. H.B. 530 seeks to allow for a portion of the proceeds to be used to provide college scholarships for children of certain peace officers killed in the line of duty.