

# **2011 LEGISLATIVE UPDATE**

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## **Preface:**

### Why do we include the bill numbers?

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 starting place and a summary. 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>. Note: because a Special Session was convened, you will need to search for bill numbers filed in the 82<sup>nd</sup> Regular term: 82(R) – 2011.

## Criminal Procedure

- **HB 27** - *Relating to the payment of fines and costs by indigent defendants in misdemeanor cases.*
  - Amends Article 42.15, Code of Criminal Procedure. In misdemeanor cases, when imposing a fine and costs, requires a court to allow a defendant to create an installment payment plan.
- **HB 215** - *Relating to photograph and live lineup identification procedures in criminal cases.*
  - Adds Article 38.20, Photographic and Live Lineup Identification Procedures, to provide that each law enforcement agency adopt and implement a written policy on photographic and live lineup identification procedures.
  - Provides that the Bill Blackwood Law Enforcement Management Institute at Sam Houston State University will develop the model policy and best practices.
- **HB 976** - *Relating to the issuance of a warrant or summons by a magistrate.*
  - Amends Article 15.03, Code of Criminal Procedure, to allow a person to appear before the magistrate in person or through an electronic broadcast system. Requires the recording to be preserved until defendant is acquitted or appeals have been exhausted.
- **HB 1028** - *Relating to certain contact between a criminal defendant and the victim of the offense of which the defendant is convicted or a member of the victim's family.*
  - Adds Article 42.24, Code of Criminal Procedure, to allow a judge to impose, as part of a sentence that includes a term of confinement or imprisonment, a condition prohibiting the defendant from contacting the victim if the defendant is a member of the victim's family.
  - Authorizes the detention facility to forfeit good conduct time if a person violates the no-contact provision of Article 42.24.
  - Adds Section 508.1531, Government Code, to allow a parole panel to consider whether a defendant violated the no-contact provision of Article 42.24 when considering release on parole.
- **HB 1113** - *Relating to the sentencing hearing or deferred adjudication hearing and conditions of community supervision for defendants convicted of certain offenses involving controlled substances.*
  - Adds Article 42.025, Code of Criminal Procedure, to allow a judge to receive a deferred adjudication plea and order the sentencing hearing of a defendant convicted of a drug offense to be held at a secondary school.
  - Amends Article 42.12, Code of Criminal Procedure, to authorize a judge to allow a defendant on community supervision to perform not more than 30 hours of community outreach in lieu of community service.
- **HB 1573** - *Relating to certain pretrial and post-trial procedures in a criminal case.*
  - Amends Article 17.085, Code of Criminal Procedure, to change deadline by which the clerk of a court that does not have online dockets to post criminal court docket settings not less than 48 hours before docket setting.

- Amends Article 20.22, Code of Criminal Procedure, to prohibit a grand jury indictment from being made public if a defendant is not in custody or under bond at the time of the presentment of the indictment.
  - Amends Article 55.02, Code of Criminal Procedure, to add the applicable physical or e-mail addresses of those specified entities and officials to the information the attorney representing the state in the prosecution of felonies in the county in which a petitioner resides is required to attach to the copy of the petitioner's application for expunction that is forwarded to the appropriate district court.
  - Adds Article 64.035, Code of Criminal Procedure, to require a convicting court to order any unidentified DNA profile to be compared with the DNA profiles in the FBI and DPS databases.
  - Amends Article 64.04, Code of Criminal Procedure to require the convicting court to hold a hearing, after examining the results of the DNA testing and comparisons, and to make a finding as to whether, had the results been available during the trial, it is reasonably probable that the person would not have been convicted.
- **HB 1646** - *Relating to representation of certain applicants for writs of habeas corpus in cases involving the death penalty.*
    - Amends Section 6, Article 11.071, Code of Criminal Procedure, to require the convicting court to appoint an attorney on a subsequent application for writ of habeas corpus in cases involving the death penalty.
- **HB 1891** - *Relating to the execution of a search warrant for data or information contained in or on certain devices.*
    - Amends Article 18.07, Code of Criminal Procedure, Days Allowed for Warrant to Run, to provide that if a warrant is issued to search and seize data or information contained on a computer, disk drive, flash drive, cellular telephone, or other electronic or data device, the warrant is considered to have been executed within the three days allowed and data may be recovered and analyzed after the three days.
- **HB 1994** - *Relating to the creation of a first offender prostitution prevention program.*
    - Adds Chapter 169, Health and Safety Code, to create a first offender prostitution prevention program and provides that if a defendant successfully completes the program, the court shall enter an order of nondisclosure if the defendant has no prior felony convictions.
- **HB 2014** - *Relating to certain criminal and civil consequences of trafficking of persons, compelling prostitution, and certain other related criminal offenses and to the prevention, prosecution, and punishment of those offenses.*
    - Amends Article 17.153(a), Code of Criminal Procedure, to add Trafficking of Persons and Compelling Prostitution to the list of offenses in which a defendant can be denied bail for a violation of a condition of bond.
    - Adds Article 42.0372, Code of Criminal Procedure, to require a court to order a defendant convicted of Trafficking of Persons or Compelling Prostitution to pay restitution in an amount equal to the costs of necessary rehabilitation if victim is younger than 18.

- Amends Section 13B(b), Article 42.12, Code of Criminal Procedure, to add Trafficking of Persons or Compelling Prostitution to list of offenses in which the judge shall establish a child safety zone as a condition of community supervision.
  - Amends Section 25.08, Penal code, Sale or Purchase of a Child, to enhance offense to a felony of the second degree if the actor commits the offense with the intent to commit an offense of Trafficking of Persons, Prostitution, Compelling Prostitution, or Sexual Performance by a Child. Amends Section 43.02(c), Penal Code, Prostitution, to enhance offense to a Class A misdemeanor if defendant has one or two prior convictions; a state jail felony if defendant has three or more prior convictions; a third degree felony if the person solicited is 14 < 18; or a second degree felony if the person solicited is < 14.
  - Amends Section 43.251(c), Penal Code, Employment Harmful to Children, to enhance offense to a second degree felony, except the offense is a first degree felony if the child is younger than 14 at the time the offense is committed.
- **HB 2124** - *Relating to victim notification regarding the release of a defendant who was acquitted by reason of insanity in a criminal case.*
    - Adds Article 46C.003, Code of Criminal Procedure, to require that the clerk of court notify crime victims when a court orders a person found not guilty of a crime by reason of insanity to be released on a discharge from a mental health commitment or treatment or released to outpatient mental health care.
- **HB 2337** - *Relating to the admissibility in a court proceeding of certain statements.*
    - Amends 51.095, Family Code, to allow statements of a child to be admissible in a juvenile court proceeding if they were recorded by an electronic recording device, including a device that records images, and is obtained in another state in compliance with the laws of that state or this state; or by a federal law enforcement office in this state or another state in compliance with the laws of the United States.
- **HB 2425** - *Relating to notice to the attorney general of challenges to the constitutionality of Texas statutes.*
    - Adds Section 402.010, Government Code, Legal Challenges to Constitutionality of State Statutes, and provides that if a party challenges the constitutionality of a state statute, the court shall serve notice on the attorney general and that a court may not hold a state statute unconstitutional before the 45<sup>th</sup> day after notice is served.
- **HB 2472** - *Relating to the reporting of certain warrant or capias information to the national crime information center.*
    - Amends Article 2.195, Code of Criminal Procedure, to provide that not later than the 30<sup>th</sup> day after the clerk issues a warrant or capias, the sheriff shall report it to NCIC if charged offense is a felony and may report it to NCIC if charged offense is a misdemeanor, other than a Class C misdemeanor.
- **HB 2847** - *Relating to the use of video conferencing systems in certain criminal proceedings.*
    - Adds Article 20.151, Code of Criminal Procedure, Certain Testimony by Video Teleconferencing, to provide that a peace officer may testify before the grand jury via video.

- **HB 3856** - *Relating to the proceedings that may be referred to and the powers of a criminal law magistrate in Travis County.*
  - Amends Section 54.976, Section 54.977, Section 54.978, Government Code, to expand jurisdiction of a Travis County magistrate to include:
    - any matter relating to a criminal case involving:
      - setting, setting conditions, modifying, revoking, and surrendering of bonds;
      - a civil commitment procedure;
      - a motion to modify community supervision;
      - specialty court proceedings;
      - expunction or a petition for nondisclosure;
      - occupational driver's license;
      - a waiver of extradition
      - issuance of subpoenas and orders requiring the production of medical records.
  - a magistrate may select a jury but may not preside over a trial on the merits.
  - a magistrate may issue grand jury subpoenas but may not impanel a grand jury.
  - a magistrate may issue a search warrant under Article 18.02(10) (property or items constituting evidence of an offense).
  - a magistrate may issue a search warrant under Article 18.02(12) (contraband).
  - a magistrate may sign a motion to dismiss submitted by the state and may consider unadjudicated cases under 12.45, Penal Code.
  - Specifies that a magistrate does not have the authority to issue a subsequent search warrant.
  - A magistrate may issue an order for a pen register, an ESN reader, a trap and trace device; issue an order to obtain access to stored communications; and issue an order for use of a mobile tracking device.
- **SB 82** - *Relating to the prosecution of the offense of stalking.*
  - Amends Section 42.072, Penal Code, Stalking, to expand the conduct to include an individual with whom the other person has a dating relationship.
  - Enhances penalty to a second degree felony if defendant has a prior conviction.
  - Provides that a trier of fact may find that different types of conduct, if engaged in more than one occasion, constitute conduct that is engaged in pursuant to the same scheme or course of conduct.
  - Adds Article 38.46, Code of Criminal Procedure, Evidence in Prosecution for Stalking, to provide that in a prosecution for stalking, each party may offer testimony as to all relevant facts and circumstances that would aid the trier of fact in determining whether the actor's conduct would cause a reasonable person to experience fear, including the facts and circumstances surrounding any existing or previous relationship between the actor and the alleged victim, a member of the alleged victim's family or household, or an individual with whom the alleged victim has a dating relationship.
- **SB 122** - *Relating to postconviction forensic DNA analysis.*
  - Amends Article 64.01, Code of Criminal Procedure, to provide a motion for post-conviction DNA testing would be granted if the biological evidence was not previously tested; or the biological evidence was previously tested, but can be subjected to newer

testing techniques that provide a reasonable likelihood that the results will be more accurate and probative than the previous test results.

- Adds Article 64.035, Code of Criminal Procedure, Unidentified DNA Profiles, to require a convicting court to order any unidentified DNA profile discovered during post-conviction DNA testing to be compared with the DNA profiles in the FBI DNA database and the DPS DNA database.
- **SB 315** - *Relating to the agencies and entities responsible for compiling and maintaining information pertaining to criminal combinations and criminal street gangs.*
  - Adds representatives to gang task force and encourages task force to cooperate with federal law enforcement agencies
- **SB 316** - *Relating to criminal asset forfeiture, the disposition of proceeds and property from criminal asset forfeiture, and accountability for that disposition.*
  - Police may not request, require or induce a person to execute a waiver of interest in the property
  - Eliminates “slush fund” of seized cash and now distributes 40% to law enforcement, 30% to attorney representing state and 30% to general revenue fund
  - Requires annual audit
  - Violations by law enforcement subject to civil penalties that result in donations to drug court programs
- **SB 578** - *Relating to the testimony of children in criminal cases.*
  - Adds Article 38.074, Code of Criminal Procedure, Testimony of Child in Prosecution of Offense, to enhance a child’s rights during testimony in a criminal case by requiring a judge to set limits on a child’s testimony.
  - Provides that a court shall allow a child to have a toy, blanket, or similar comfort item or a support person to assist a child during testimony if the court finds by a preponderance of the evidence that both the child cannot reasonably testify without the possession of the comfort item or the presence of the support person, and granting the motion is not likely to prejudice the trier of fact in evaluating the child's testimony.
- **SB 1010** - *Relating to providing a victim, guardian of a victim, or close relative of a deceased victim with notice of a plea bargain agreement in certain criminal cases.*
  - Amends Article 26.13, Code of Criminal Procedure, to require a court, prior to accepting a plea of guilty or nolo contendere as applicable in the case, to inquire as to whether the attorney representing the state has given notice of the existence and terms of any plea bargain agreement to the victim, guardian of a victim, or close relative of a deceased victim.
  - Amends Article 56.08 to provide that the attorney representing the state, as far as reasonably practical, shall give to the victim, guardian of a victim, or close relative of a deceased victim notice of the existence and terms of any plea bargain agreement to be presented to the court.
- **SB 485** - *Relating to proper venue for certain criminal prosecutions of mortgage fraud.*
  - Amends Article 13.271, Code of Criminal Procedure, to authorize a prosecution for mortgage fraud to take place in the county where the property is located or in any county in which part of the transaction occurred.

- **SB 1308** - *Relating to the standards for attorneys representing indigent defendants in capital cases.*
  - Amends Article 26.052, Code of Criminal Procedure, to authorize a court to reconsider the permanent ban on appointing an attorney to a capital case that has been found ineffective if there is a finding that the conduct underlying the finding no longer accurately reflects the attorney's ability to provide effective representation.
- **SB 1522** - *Relating to the entering of a plea in a criminal case by a defendant confined in a penal institution.*
  - Amends Article 27.19, Code of Criminal Procedure, to authorize a plea in absentia in writing delivered by mail, electronic or facsimile transmission.
- **SB 1681** - *Relating to the appointment of counsel and the rights of an accused and other requirements for the purposes of appellate proceedings or community supervision revocation proceedings.*
  - Amends Article 26.04, Code of Criminal Procedure, to provide that judges must adopt a process for timely and fairly appointing counsel to an indigent defendant on appeal.
    - Provides that the attorney appointed to an indigent defendant at the trial level shall represent the defendant until the appeals are exhausted or the attorney is permitted or ordered by the court to withdraw as counsel after finding good cause and:
      - If defendant not represented by other counsel, before withdrawing, attorney must advise defendant of rights to file motion for new trial and a notice of appeal;
      - If defendant wishes to pursue new trial or appeal, attorney must assist defendant in requesting prompt appointment of replacement counsel; and
      - If replacement counsel is not appointed promptly, attorney must file a timely notice of appeal if defendant so wishes.
  - Amends Section 21, Article 42.12, Code of Criminal Procedure, to provide that a person arrested on a probation violation must be taken in front of the judge ordering arrest or magistrate.
    - Provides that if the arrest is for a new criminal offense, only the judge who ordered the arrest for the probation violation may authorize the person's release on bail.
    - Provides that if the defendant is not released on bail, on motion of the defendant, the judge shall hold a hearing on the alleged violation within 20 days of filing of motion.
    - Provides that the court shall appoint counsel for an indigent defendant in accordance with Article 26.04.
- **SB 1616** - *Relating to the collection, storage, preservation, retrieval, and destruction of biological evidence.*
  - Amends Article 38.43, Code of Criminal Procedure, to require biological evidence to be retained and preserved for not less than 40 years, or until the statute of limitations has expired, if there is an unapprehended actor associated with the offense.



- **SB 1680** - *Relating to certain evidence in a prosecution of fraud or theft involving Medicaid or Medicare benefits.*
  - Adds Article 38.46, Code of Criminal Procedure, to allow for an aggregation of prosecution for fraud or theft of Medicaid or Medicare recipients. Provides that prosecutor is not required to prove by direct evidence that each recipient did not consent or effectively consent to a transaction and that it is sufficient if the lack of consent is proven by direct or circumstantial evidence.
  - Amends Article 39.01, Code of Criminal Procedure, to provide that in an examining trial, a deposition may be taken of a witness who is a Medicaid or Medicare recipient or caregiver or guardian of recipient if person's account was charged for a product or service not rendered.
  - Adds Article 39.026, Code of Criminal Procedure, to authorize a court to order the prosecutor to take the deposition of a recipient or caregiver who is the alleged victim or witness to an offense constituting Medicaid or Medicare fraud or theft.

## New Offenses

- **HB 260** - *Relating to the prosecution and punishment of unlawful transport of a person.*
  - Amends Section 20.05, Penal Code, Kidnapping and Unlawful Restraint, to add smuggling of persons to Unlawful Restraint statute.
  - A person commits an offense of Smuggling of Persons if the person intentionally uses a motor vehicle, aircraft or watercraft to transport an individual with the intent to:
    - Conceal the individual from a peace officer or special investigator; or
    - Flee from a person the actor knows is a peace officer or special investigator attempting to lawfully arrest or detain the person.
  - Provides that offense is punishable as a state jail felony except that it is a third degree felony if the person commits the offense:
    - For pecuniary benefit; or
    - In a manner that creates a substantial likelihood that the transported individual will suffer serious bodily injury or death.
  - Provides that is an affirmative defense that the person is related to the individual within the second degree of consanguinity.
  - Adds Smuggling of Persons to the Engaging in Organized Crime Statute.
- **HB 613** - *Relating to the unauthorized harvesting of standing timber.*
  - Adds Section 151.052, Natural Resources Code, to create a criminal offense of Harvesting Standing Timber and provides that a person commits an offense if the person harvests standing timber without the permission of the owner or if he causes another person to harvest standing timber without the permission of the owner. The penalty range is as follows: State Jail Felony if value of timber is \$500<\$20,000; Third Degree Felony if value of timber is \$20,000<\$100,000; Second Degree Felony if value of timber is \$100,000<\$200,000; First Degree Felony if value of timber at least \$200,000.
- **HB 1043** - *Relating to creating an offense for engaging in certain conduct relating to cockfighting and to the criminal and civil consequences of committing that offense.*
  - Adds Section 42.105, Penal Code, to create a criminal offense of Cockfighting and provides that a person commits an offense if a person:
    - knowingly causes a cock to fight with another cock (State Jail Felony);
    - participates in the earnings of a cockfight (State Jail Felony);
    - uses or permits another to use property for cockfighting (Class A Misdemeanor);
    - owns or trains a cock with the intent that it be used for cockfighting (Class A Misdemeanor);
    - manufactures, buys, sells, barter, exchanges, possesses, advertises or offers any implements designed for attachment to a cock with the intent that it be used for cockfighting (Class A Misdemeanor); or
    - attends as a spectator an exhibition of cockfighting (Class C Misdemeanor unless a prior conviction in which case is a Class A Misdemeanor).

- **HB 1215** - *Relating to the creation of the offense of unauthorized acquisition or transfer of certain financial information.*
  - Adds Section 31.17, Penal Code, to create criminal offense of Unauthorized Acquisition or Transfer of Certain Financial Information which provides that a person commits an offense if the person, knowing that the person is not entitled to obtain or possess that financial information:
  - Obtains the financial sight order or payment card information of another by use of an electronic, photographic, visual imaging, recording, or other device capable of accessing, reading, recording, capturing, copying, imaging, scanning, reproducing, or storing in any manner the information (Class B misdemeanor); or
  - Transfers this information to a third party (Class A misdemeanor);
  - An offense under 31.17 may be prosecuted in any county in which the offense was committed or in the county of residence of the victim.
  
- **HB 1473** - *Relating to creating the offense of altering a disabled parking placard.*
  - Amends Section 681.0111 to provide that a person commits an offense of Manufacture, Sale, Possession, or Use of Counterfeit or Altered Placard if person alters a genuine disabled parking placard.
  
- **HB 218** - *Relating to possessing a glass container within the boundaries of certain riverbeds; providing for criminal penalties.*
  - Adds Section 365.035, Health and Safety Code, Prohibition on Possessing Glass Containers within Boundary of State-Owned Riverbed; Penalties, to provide that a person commits an offense if the person knowingly possesses a glass container within the boundaries of a state-owned riverbed in a county that is located within 85 miles of an international border and in which at least four rivers are located.
  - An offense is a Class C misdemeanor.
  
- **HB 1116** – *Relating to prohibiting the sale and use of certain radar interference devices.*
  - Adds Section 547.616, Transportation Code, Radar Interference Devices, to create a criminal offense which provides that a person, other than a law enforcement officer, may not use, attempt to use, install, operate, or attempt to operate a radar interference device in a motor vehicle.
  - Provides that a person may not purchase, sell, or offer for sale a radar interference device.
  - A “radar interference device” is defined to include a radar jamming device, jammer, scrambler, or diffuser and to exclude a ham radio, band radio, or similar electronic device.
  - An offense is under a Class C misdemeanor.
  
- **HB 2118** - *Relating to adding certain synthetic compounds to Penalty Group 2 of the Texas Controlled Substances Act.*
  - Amends Section 481.103, Health and Safety Code, to expand the list of substances in Penalty Group 2 of the Texas Controlled Substances Act to include bath salts.
  
- **HB 2577** - *Relating to the unlawful use of a criminal instrument or mechanical security device.*

- Amends Section 16.01, Penal Code, to add mechanical security device to unlawful use of a criminal instrument statute and provides that a person commits an offense if he possesses a criminal instrument or mechanical security device with the intent to use it in the commission of an offense.
- **HB 3000** - *Relating to creating the offense of continuous trafficking of persons.*
  - Adds Section 20A.03, Continuous Trafficking of Persons, to provide that a person commits an offense if, during a period that is 30 or more days in duration, the person engages two or more times in conduct that constitutes Trafficking of Persons offense.
  - Jury unanimity is not required on which conduct and on exact date. Offense is punishable as a first degree felony 25-99/life.
  - Amends Article 12.03, Code of Criminal Procedure, to provide that there is no statute of limitations.
- **SB 24** - *Relating to the prosecution, punishment, and certain criminal and civil consequences of offenses involving or related to the trafficking of persons and to certain protections for victims of those offenses.*
  - Amends Section 20A.01, Penal Code, Human Trafficking, to create separate definitions for sex trafficking and labor trafficking and provides for an expanded definition of trafficking.
  - Amends Section 43.05, Penal Code, Compelling Prosecution, to provide an enhanced penalty to a first degree felony if person caused a child younger than 18 years of age to commit prostitution.
  - Amends Article 7A.01, Code of Criminal Procedure, to provide that the following persons may file an application for a protective order: a victim of aggravated assault, indecency with a child, sexual assault, aggravated sexual assault, human trafficking, compelling prostitution; a parent or guardian acting on behalf such victim if younger than 18 years of age; or a prosecuting attorney acting on behalf of such victim.
  - Amends Article 12.01, Code of Criminal Procedure, to provide no statute of limitation for human trafficking under Section 20A.02(a)(1), (2), (3), or (4), or compelling prostitution under Section 43.05(a)(1) and a statute of limitation of ten years from the 18<sup>th</sup> birthday of the victim of the offense human trafficking under 20A.02(a)(5) or (6) and compelling prostitution under 43.05(a)(2).
  - Amends Article 38.37, Code of Criminal Procedure, to add human trafficking offenses and compelling prostitution to the list of "3g" offenses, and requires an offender who is convicted of sex trafficking to register in the Sex Offender Registry.
  - Amends Section 3.03, Penal Code, to allow sentences for human trafficking offenses to be stacked at the discretion of a judge.
  - Amends Section 12.42, Penal Code, to add human trafficking offenses to the list of crimes eligible for an automatic life sentence for subsequent convictions and would make an inmate charged with human trafficking ineligible for mandatory supervision or population management diversion programs.
- **SB 158** - *Relating to the fraudulent obtaining of a controlled substance from a practitioner; providing a penalty.*

- Adds Section 481.1285, Health and Safety Code, Diversion of Controlled Substance by Registrants, Dispensers, and Certain Other Persons, to provide that a person who is not required to register commits an offense if the person knowingly:
    - converts to the person's own use or benefit a controlled substance to which the person has access by virtue of the person's profession or employment (state jail felony); or
    - diverts to the unlawful use or benefit of another person a controlled substance to which the person has access by virtue of the person's profession or employment (third degree felony).
  - Amends Section 481.129, Health and Safety Code, Fraud, A person commits an offense if the person, with intent to obtain a controlled substance or combination of controlled substances that is not medically necessary for the person or an amount of a controlled substance or substances that is not medically necessary for the person, obtains or attempts to obtain from a practitioner a controlled substance or a prescription for a controlled substance by misrepresentation, fraud, forgery, deception, subterfuge, or concealment of a material fact. For purposes of this subsection, a material fact includes whether the person has an existing prescription for a controlled substance issued for the same period of time by another practitioner. Offense is punishable as follows:
    - Second degree felony if Schedule I or II controlled substance;
    - Third degree felony if Schedule III or IV controlled substance; and
    - Class A misdemeanor if Schedule V controlled substance.
  - Amends Section 71.02, Penal Code, to add causing the unlawful delivery, dispensation, or distribution of a controlled substance or dangerous drug to Engaging in Organized Crime statute.
- **SB 331 - Relating to adding certain synthetic cannabinoids to Penalty Group 2 of the Texas Controlled Substances Act.**
    - Adds Section Section 481.103, Health and Safety Code, to add synthetic marijuana, commonly known as K2, to the list of controlled substances.
    - Provides punishment as follows:
      - Class B misdemeanor if the amount of the controlled substance possessed is two ounces or less;
      - Class A misdemeanor if the amount of the controlled substance possessed is four ounces or less but more than two ounces;
      - state jail felony if the amount of the controlled substance possessed is five pounds or less but more than four ounces;
      - third degree felony if the amount of the controlled substance possessed is 50 pounds or less but more than five pounds;
      - second degree felony if the amount of the controlled substance possessed is, by aggregate weight, including adulterants or dilutants, 2,000 pounds or less but more than 50 pounds; and
      - punishable by not more than 99 years or less than five years, and a fine not to exceed \$50,000, if the amount of the controlled substance possessed is more than 2,000 pounds.
  - **SB 407 - Relating to the creation of the offense of electronic transmission of certain visual material depicting a minor and to certain educational programs concerning the prevention and awareness of that offense.**

- Amends Section 43.261, Penal Code, Electronic Transmission of Certain Visual Material Depicting a Minor, to create for minors a new offense of “sexting.”
  - Provides that it would be an offense for a minor to intentionally or knowingly:
    - promote by electronic means to another minor visual material depicting a minor, including the actor, engaging in sexual conduct, if the actor produced the visual material or knew that another minor produced it; or
    - possess in electronic format visual material depicting another minor engaging in sexual conduct, if the actor produced the visual material or knew that another minor produced the visual material.
  - An offense is punishable as follows:
    - Class C misdemeanor
    - Class B misdemeanor if:
      - The actor promoted the material with the intent to harass, annoy, alarm, abuse, torment, embarrass, or offend another; or
      - Has one or more prior convictions for an offense under (1)(A); or
      - Has two or more convictions for any offense under this section.
    - Class A misdemeanor if under (b)(2) and has two or more convictions under this section.
  - Provides affirmative defenses as follows:
    - If visual material depicted only actor or another minor who is not more than two years older or younger and with whom the actor had a dating relationship at the time of offense or was the spouse and was promoted or received only to or from the actor and the other minor.
    - If under (b)(2) and the actor did not produce or solicit the visual material; possessed the visual material only after receiving the material from another and destroyed it within a reasonable time.
- **SB 431** - *Relating to the use of fraudulent or fictitious military records.*
- Adds Section 32.54, Penal Code, Fraudulent or Fictitious Military Records, to provide that a person commits an offense if the person:
    - uses or claims to hold a military record that the person knows:
      - is fraudulent;
      - is fictitious or has otherwise not been granted or assigned to the person; or
      - has been revoked; and
    - uses or claims to hold that military record:
      - in a written or oral advertisement or other promotion of a business; or
      - with the intent to:
        - obtain priority in receiving services or resources under Subchapter G, Chapter 302, Labor Code;
        - qualify for a veteran's employment preference under Chapter 657, Government Code;
        - obtain a license or certificate to practice a trade, profession, or occupation;
        - obtain a promotion, compensation, or other benefit, or an increase in compensation or other benefit, in employment or in the practice of a trade, profession, or occupation;
        - obtain a benefit, service, or donation from another person;
        - obtain admission to an educational program in this state; or

- gain a position in state government with authority over another person, regardless of whether the actor receives compensation for the position.
  - An offense is punishable as a Class C misdemeanor.
- **SB 688** - *Relating to the investigation, prosecution, and punishment of criminal Medicaid fraud and certain other offenses related to Medicaid fraud.*
  - Amends Article 12.01, Code of Criminal Procedure, to extend statute of limitations for Medicaid fraud to seven years.
  - Amends Article 37.07, Code of Criminal Procedure, to allow evidence during punishment phase of total pecuniary loss to the Medicaid program and authorizes certain employees to testify as to the loss.
  - Adds Article 32.53, Penal Code, to create new offense of Exploitation of Child, Elderly Individual, or Disabled Individual which provides that a person commits the offense if the person intentionally, knowingly, or recklessly causes the exploitation of a child, elderly individual, or disabled individual.
    - Defines “exploitation” to mean the illegal or improper use of a child, elderly individual, or disabled individual or of the resources of a child, elderly individual, or disabled individual for monetary or personal benefit, profit or gain.
    - Provides that offense is a third degree felony.
  - Amends Section 35A.01, Penal Code to provide enhanced punishment for Medicaid fraud as follows:
    - Third degree felony if defendant submitted 25 < 50 fraudulent claims;
    - Second degree felony if defendant submitted > 50 fraudulent claims;
    - Punishment increased to next higher level if actor was a provider or high managerial agent.
- **SB 1043** - *Relating to the criminal penalty for the discarding of certain burning materials.*
  - Amends Section 365.012, Health and Safety Code, Illegal Dumping; Discarding Lighted Materials; Criminal Penalties, to provide that a person commits an offense if the person discards lighted litter, including a match, cigarette, or cigar, onto open-space land, a private road or the right-of-way of a private road, a public highway or other public road or the right-of-way of a public highway or other public road, or a railroad right-of-way; and a fire is ignited as a result of the conduct.
  - An offense is a Class C misdemeanor.

## Enhancements

- **HB3** – *Relating to the imposition of a sentence of life without parole on certain defendants who commit certain sexual offenses.*
  - Amends Section 508.145, Government Code, to require the punishment of life-without-parole for persons convicted of aggravated sexual assault and sexual assault who were previously convicted of sexual assault, aggravated sexual assault, or continuous sexual abuse of a young child or children.
  - Amends Article 42.12, Code of Criminal Procedure, to prohibit deferred adjudication for persons charged with sexual assault or aggravated sexual assault if they had a previous conviction for sexual assault, aggravated sexual assault, or continuous sexual abuse of a young child or children.
- **HB 290** – *Relating to the punishment for the offense of employment harmful to children.*
  - Amends Section 43.251(c), Penal Code, Employment Harmful to Children, to enhance the punishment to a state jail felony if the defendant has one prior conviction and a third degree felony if the defendant has two or more prior convictions.
- **HB 612** - *Relating to the criminal penalty for failure of a trustee to pay the beneficiaries of the trust the purchase price for timber sold by the trustee.*
  - Amends Section 151.105(d) to provide that offense is as follows: State Jail Felony if value of timber is \$500<\$20,000; Third Degree Felony if value of timber is \$20,000<\$100,000; Second Degree Felony if value of timber is \$100,000<\$100,000; First Degree Felony if value of timber at least \$200,000.
- **HB 1199** - *Relating to the penalty for certain intoxication assaults.*
  - Amends Section 49.04, Penal Code, to allow for an enhancement to a Class A Misdemeanor if person's BAC is .15 or more.
  - Amends Section 49.09, Penal Code, to enhance Intoxication Assault to a second degree felony if victim suffered a traumatic brain injury that resulted in a persistent vegetative state.
- **HB 1806** - *Relating to fishing tournament fraud; providing penalties.*
  - Amends 66.023, Parks and Wildlife Code, Fraud in Fishing Tournaments, to provide that a person commits an offense if, with intent to affect the outcome of a fishing tournament, the person alters the length or weight of a fish or the person enters a fish in the tournament that was taken in violation of any provision of this code or a proclamation or regulation of the commission.
  - Provides that the offense is a Class A misdemeanor, except that if the offense occurred during a tournament in which any prize or combination of prizes to be awarded for any one category, whether prize or prizes are to an individual or a team, is worth \$10,000 or more in money or goods, the offense is a third degree felony.



- **HB 253** – *Relating to the protection of children by enforcing compulsory public school attendance requirements, ensuring reports of abuse, protecting children from abuse, ensuring that births are reported, and prosecuting bigamy.*
  - Amends Article 12.01, Code of Criminal Procedure, to provide that the statute of limitations for bigamy is seven years unless the person the defendant marries is younger than 18 which then increases the statute of limitations to ten years from the 18<sup>th</sup> birthday of the victim.
  - Amends Section 195.004, Health and Safety Code, to enhance to a Class A misdemeanor for a failure to perform a duty required by Section 192.003, which regulates the filing of birth certificates.
  - Amends Section 25.01, Penal Code, to make the offense of bigamy a second degree felony if the victim is 17 years of age and first degree felony if the victim is 16 years of age or younger.
  
- **HB 1856** - *Relating to the prosecution of and punishment for the offense of tampering with a witness.*
  - Amends Section 36.05, Penal Code, Tampering with a Witness, to enhance penalty to a third degree felony, except that if the official proceeding is part of the prosecution of a criminal case, an offense is the same category of offense as the most serious offense charged in that case.
  - If the most serious offense charged is a capital felony, an offense is a first degree felony.
  
- **HB 2482** - *Relating to the offense of organized retail theft.*
  - Amends Section 31.03, Penal Code and Section 31.16, Penal Code to provide that theft and organized retail theft punishment be increased to next higher category of offense if during the commission of the offense, the actor activated a fire exit alarm; deactivated or prevented a fire exit alarm from sounding; or used a shielding or deactivation instrument to prevent or attempt to prevent detection by a retail theft detector.
  - Amends Section 31.16, Penal Code, to punish Organized Retail Theft as follows: Class B misdemeanor < \$50; Class A Misdemeanor <\$50<\$500; state jail felony <\$500-\$1500; third degree felony <\$1500<\$20,000; second degree felony <\$20,000<\$100,000; first degree felony \$100,000 or more.
  
- **HB 3384** - *Relating to the penalties for repeat and habitual felony offenders.*
  - Amends Section 12.42, Penal Code, to rename section Penalties for Repeat and Habitual Felony Offenders on Trial for First, Second, or Third Degree Felony, to provide for enhancements as follows:
    - Third degree felony may be enhanced to a second degree felony if the defendant has previously been finally convicted of a felony other than a state jail felony.
    - Second degree felony may be enhanced to a first degree felony if the defendant has previously been finally convicted of a felony other than a state jail felony.
    - First degree felony may be enhanced to 15-99 years if the defendant has previously been finally convicted of a felony other than a state jail felony been finally convicted of two prior felony offenses.
    - First, second, or third degree felony may be enhanced to 25-99 years if the defendant has been finally convicted of two prior felony offenses.
    - Specifies that state jail felonies may not be used for enhancement under this section.

- Adds Section 12.425, Penal Code, Penalties for Repeat and Habitual Felony Offenders on Trial for State Jail Felony to provide for enhancement as follows:
  - State jail felony may be enhanced to a third degree felony if the defendant has been finally convicted of two state jail felonies.
  - State jail felony may be enhanced to second degree felony if the defendant has been finally convicted of two felonies other than state jail felonies.
  - State jail felony punishable as a third degree felony under Section 12.35(c) may be enhanced to second degree felony if the defendant has been finally convicted of one felony other than state jail felonies.
- **HB 3396** - *Relating to the prosecution of and punishment for the offense of breach of computer security.*
  - Amends 33.02, Penal Code, Breach of Computer Security, to provide enhancement as follows:
    - State jail felony if the defendant has been previously convicted two or more times, or the computer/network/system is owned by the government or a critical infrastructure facility.
    - If the person commits an offense with the intent to defraud, which is defined as having the intent to defraud or harm another, or alter, damage, or delete property, the person knowingly accesses a computer/network/system without the effective consent of owner:
      - State jail felony if aggregate amount is <\$20,000;
      - Third degree felony if <\$20,000<\$100,000;
        - <\$200,000 and computer/network/system is owned by the government or a critical infrastructure facility; or
        - actor obtains identifying information of another by accessing only one computer/network/system; or
      - First degree felony if:
        - >\$200,000; or
        - actor obtains identifying information of another by accessing more than one computer/network/system.

## Current Offenses Amended

- **HB 25** - *Relating to the carrying of certain weapons in a watercraft.*
  - Amends Section 46.02, Penal Code to allow a person to legally carry a weapon on “watercrafts.” Also allows the legal carrying of weapons while hunting, fishing or engaging in other sporting activities while on or traveling to the immediate premises of activity.
- **HB 718** - *Relating to the period in which a person commits the offense of funeral service disruption.*
  - Amends Section 42.055(b), Penal Code, to extend the period during which a person engaged in picketing within 1,000 feet of a funeral from one hour before the service begins or ends to three hours before the service begins or ends.
- **HB 596** - *Relating to offenses involving operating a motorboat in a circular course.*
  - Amends Section 31.099, Parks and Wildlife Code, to prohibit a person from operating a motorboat in a circular course around any other boat or personal watercraft which is engaged in fishing, waterskiing, or a similar activity or any person swimming. This does not apply if boat is trying to retrieve a downed or fallen water-skier.
- **HB 1344** - *Relating to certain defenses to prosecution for the offense of sale, distribution, or display of harmful material to a minor.*
  - Amends Section 43.24, Penal Code, to remove the affirmative defense of a parent being able to provide harmful materials to a minor. Provides an affirmative defense if actor was the spouse of the minor at the time of the offense.
- **HB 1529** - *Relating to the offense of fraudulent use or possession of identifying information.*
  - Amends Section 32.51(a)(1), Penal Code to provide that identifying information includes a social security number or other government-issued identification number.
- **HB 1666** - *Relating to the prosecution of the offense of online harassment.*
  - Amends Section 33.07, Penal Code, to change the name of the criminal offense from Online Harassment to Online Impersonation and provides that a person commits an offense if the person, without obtaining the other person’s consent and with the intent to harm, defraud, intimidate, or threaten any person, uses the name or persona of another person to:
    - Create a web page on a commercial social networking site or other internet website; or
    - Post or send one or more messages on or through a commercial social networking site or other internet website, other than on or through e-mail or message board.
    - Offense is a third degree felony.
- **SB 844** - *Relating to the offense of escape from custody by a person lawfully detained.*
  - Amends Section 38.06, Penal Code, Escape, to add that a person commits an offense of escape from custody if he is lawfully detained. Offense is a Class A misdemeanor except is a third degree felony if he escapes while he is confined or lawfully detained in a secure

correctional facility or law enforcement facility or is committed to or lawfully detained in a secure correctional facility.

- **HB 2342** - *Relating to certain violations of and offenses under The Securities Act.*
  - Amends Section 29, The Securities Act (Article 581-29, Vernon's Texas Civil Statutes) to increase criminal penalties for violations of the Securities Act.
  - Provides that engaging in any act, practice or course of business which operates or will operate as a fraud or deceit upon any person is punishable as a third degree felony if the amount involved is <\$10,000; a second degree felony if the amount involved is \$10,000<\$100,000; a first degree felony if > \$100,000.
  - Enhances the penalty for knowingly violating a commissioner's cease-and-desist order from less than a state jail felony to a third degree felony. Other provisions would convert penalties into third-degree felonies or state-jail felonies by requiring the previously optional imprisonment sentence to be served, doubling the maximum fine available, and, in the case of state-jail felonies, raising the minimum incarceration sentence.
- **HB 2449** - *Relating to the illegal possession of another person's ballot to be voted by mail.*
  - Amends Section 86.006, Election Code, to provide that when official ballots or carrier envelopes are obtained in violation of law pursuant to one scheme or continuing course of conduct, whether from the same or several sources, the conduct could be considered as one offense and the number of ballots or carrier envelopes aggregated in determining the grade of offense.
- **HB 2662** - *Relating to child abduction.*
  - Amends Article 63.001(3), Code of Criminal Procedure, to provide that the definition of "missing child" for a child abduction offense includes when a child was taken or retained without the permission of the custodian and with the effect of depriving the custodian of possession or access to the child unless the taking or retention of the child was prompted by the commission or attempted commission of family violence against the actor or child.
- **HB 3423** - *Relating to certain criminal offenses committed in relation to a federal special investigator.*
  - Amends Section 37.08, Penal Code, False Report to Peace Officer, Federal Special Investigator, or Law Enforcement Employee to add "federal special investigator" to statute.
  - Amends 38.04, Penal Code, Evading Arrest or Lawful Detention, to add "federal special investigator" to statute. Amends Section 38.14, Taking or Attempting to Take Weapon from Peace Officer, Federal Special Investigator, Employee or Official of Correctional Facility, Parole Officer, Community Supervision and Corrections Department Officer, or Commissioned Security Officer to add "federal special investigator" to statute.
- **SB 377** - *Relating to the murder of a child as a capital offense.*
  - Amends Section 19.03, Penal Code, to increase the age of capital murder of a child from 6 to 10.
- **SB 496** - *Relating to the punishment for the offense of evading arrest or detention.*
  - Amends Section 38.04, Penal Code, Evading Arrest or Detention, to expand statute to prohibit a person from evading arrest or detention in a watercraft.

- **SB 1024** - *Relating to the prosecution of the offense of theft of service.*
  - Amends Section 31.04, Penal Code, to provide that if the compensation is or was to be paid on a periodic basis, the intent to avoid payment for a service may be formed at any time during or before a pay period; and the partial payment of wages alone is not sufficient evidence to negate the actor's intent to avoid payment for a service.
- **SB 1416** - *Relating to the creation of the offense of possession, manufacture, transportation, repair, or sale of a tire deflation device.*
  - Amends Section 46.50, Penal Code, to add “tire deflation device” to prohibited weapons statute.
    - Provides a definition of “tire deflation device” that excludes a traffic control device that is designed to puncture tires if driven over in a specific direction and that is clearly marked.
    - Provides that possession of a tire deflation device is punishable as a state jail felony.
  - Amends Section 38.04, Penal Code, to provide that Evading Arrest or Detention is enhanced to a third degree felony if actor used a tire deflation device while in flight and a second degree felony if another suffered serious bodily injury.

## Transportation Code

- **HB 90** – Relating to the minimum age and education requirements necessary to obtain a hardship license.
  - Amends Section 521.223(f), Transportation Code, to require DPS to suspend a hardship driver's license if holder is convicted of two or more moving violations within a 12-month period.
- **HB 109** - *Relating to the temporary lowering of prima facie speed limits at a vehicular accident reconstruction site.*
  - Amends Section 544.002(c), Transportation Code, to authorize municipalities or counties to temporarily lower the speed limit at an accident reconstruction site.
- **HB 588** - *Relating to the advance payment of surcharges under the Driver Responsibility Program.*
  - Adds Section 708.159, Transportation Code, to require DPS to offer an option for a single up-front payment to a person who is assessed an annual surcharge.
- **HB 1523** - *Relating to the offense of transporting household goods without registration.*
  - Amends Section 643.253, Transportation Code, to provide that a person commits an offense of Transporting Household Goods Without Registration if the person engages in or solicits the transportation of household goods for compensation and is not registered.
  - Offense is a Class C misdemeanor, except that offense is a Class B misdemeanor if one prior conviction or a Class A misdemeanor if two or more prior convictions.
- **SB 953** - *Relating to the conditions for granting an occupational license to certain persons, the monitoring of those persons by a local community supervision and corrections department, and the fees associated with department services.*
  - Adds Section 521.2461, Transportation Code, Testing for Alcohol or Controlled Substances, to authorize the court granting an occupational license under this subchapter to require as a condition of the license that the person submit to periodic testing for alcohol or controlled substances.
  - Amends Section 521.248, Transportation Code, to require that an order granting an occupational license specify certain restrictions, including that the person is restricted to the operation of a motor vehicle equipped with an ignition interlock device, if applicable, and that the person must submit to the periodic testing for alcohol or controlled substances, if applicable.
- **SB 1608** - *Relating to operating a motor vehicle without a driver's license.*
  - Amends Section 521.025, Transportation Code, to provide that if it is shown on the trial of the offense that at the time of the offense the person was operating the motor vehicle without insurance and caused or was at fault in a motor vehicle accident that resulted in serious bodily injury to or the death of another person, an offense under this section is a Class A misdemeanor.

- **SB 1787** - *Relating to the information provided by a peace officer before requesting a specimen to determine intoxication.*
  - Amends Section 724.015, Transportation Code, to require an officer to inform the person orally or in writing prior to requesting a breath specimen, in addition to all other information contained in the DIC-24, that if the person refuses to submit to the taking of a specimen, the officer may apply for a warrant authorizing a specimen to be taken from the person.
- **SB 1330** - *Relating to the driver safety courses for individuals under the age of 25 and to the driving course requirements for those individuals when receiving deferred adjudication of certain traffic offenses.*
  - Amends Article 45.051, Code of Criminal Procedure, to allow a judge to require a driver younger than 25 years of age to complete an additional driving safety course designed for young drivers.

## Parole/Diligent Participation Credit

- **HB 200** - *Relating to the notification of the release of certain inmates given to certain courts and law enforcement agencies.*
  - Amends Section 493.025, Government Code, to require TDCJ to electronically notify the Social Security Administration of the release or discharge of a prisoner who was receiving SSI or SSDI prior to the confinement. Also requires TDCJ to provide other required notifications by e-mail or other electronic communication.
- **HB 2649** - *Relating to the award of diligent participation credit to defendants confined in a state jail felony facility.*
  - Amends Section 15(h), Article 42.12, Code of Criminal Procedure, to allow a defendant confined in state jail facility to be awarded diligent participation credit.
  - Diligent participation credit is defined as:
    - Successful completion of an educational, vocational, or treatment program;
    - Progress toward successful completion of an educational, vocational or treatment program that was interrupted by illness, injury, or another circumstance outside of the control of the defendant; and
    - Active involvement in a work program.
  - If diligent participation credit is earned, TDCJ shall report to the sentencing court not later than the 30<sup>th</sup> day before the date on which the defendant will have served 80% of the sentence. Based on such report, a judge may give the defendant a time credit not to exceed 1/5 of the amount of time the defendant was originally sentenced.
- **HB 2734** - *Relating to certain mandatory conditions of parole or mandatory supervision for illegal criminal aliens and the revocation of parole or mandatory supervision as a result of violating those conditions.*
  - Adds Section 508.192, Government Code, Reentry Into the United States Prohibited, to require a parole panel to require as a condition of parole or mandatory supervision that an illegal criminal alien released to the custody of United States Immigration and Customs Enforcement, regardless of whether a final order of deportation is issued with reference to the illegal criminal alien, leave the United States as soon as possible after release and not unlawfully return to or unlawfully reenter the United States.
  - Amends 508.281, Government Code, to provide that if the parole panel confirms a violation with a law enforcement officer who is authorized to verify a person's immigration status, the determination is considered to be a sufficient hearing to revoke parole without further hearing or determination, except that the parole panel shall conduct a hearing to consider mitigating circumstances if requested by releasee.
- **HB 2735** - *Relating to procedures for certain persons charged with certain new offenses or an administrative violation of a condition of release from the Texas Department of Criminal Justice on parole or to mandatory supervision.*
  - Amends 508.251, Government Code, to provide that instead of issuing a warrant for a parole violation, the parole division shall issue a summons if the person:
    - is charged only with an administrative violation alleged to have been committed after the third anniversary of the date the person was released on parole;



- is not serving a sentence for, and has not been previously convicted of an offense requiring sex offender registration;
- is not :
  - on intensive or superintensive supervision;
  - an absconder; or
  - determined by the division to be a threat to public safety.

## Probation and Deferred Adjudication

- **HB 371** – *Relating to prohibiting deferred adjudication community supervision for certain defendants convicted of murder.*
  - Amends 42.12, Section 5, Code of Criminal Procedure, to add murder to the list of offenses that are not eligible to receive deferred adjudication. The only exception to this prohibition is to allow deferred adjudication for murder if the person did not cause the death, did not intend to kill the victim or another person, and did not anticipate that human life would be taken.
- **HB 1106** - *Relating to providing certain information to criminal defendants before a plea is entered and at the time of the dismissal of certain proceedings against the defendant.*
  - Amends Article 42.12, Code of Criminal Procedure, to require a court, prior to placing a defendant on deferred adjudication and on dismissing and discharging defendant from deferred adjudication, to inform defendant of his right to petition the court for an order of nondisclosure if eligible.
- **HB 1205** - *Relating to the establishment of certain time credits through which a defendant's period of community supervision is reduced.*
  - Amends Section 42.12, Code of Criminal Procedure, Section 20(a) to require a judge to notify the state, defendant, and/or defendant's attorney prior to reducing or early terminating community supervision or conducting a review.
  - Provides that a qualifying defendant is entitled to receive any combination of time credits towards completion of community supervision to:
    - earn a certificate, diploma, or degree,
      - high school diploma or GED = 90 days
      - associate's degree = 120 days
    - make fully payment of court costs, fines, attorney's fees, and restitution,
      - court costs = 15 days
      - fines = 30 days
      - attorney's fees = 30 days
      - restitution = 60 days
    - complete treatment or rehabilitation programs,
      - alcohol or substances abuse counseling or treatment = 90 days
      - vocational, technical, or career education or training program = 60 days
      - parenting class or parental responsibility = 30 days
      - anger management = 30 days
      - lifeskills training program = 30 days.
- **HB 1226** - *Relating to the eligibility of certain persons who have received deferred adjudication to vote.*
  - Amends Section 11.002, Election Code, to clarify that a person is not considered to be finally convicted if given deferred adjudication for voting eligibility purposes.
- **SB 144** - *Relating to allowing a person who successfully completes a term of deferred adjudication community supervision to be eligible for a pardon.*

- Amends Article 48.01, Code of Criminal Procedure, to allow the Governor to pardon a person who has successfully completed a term of deferred adjudication.

## Sex Offenses and Registration

- **HB 530** - *Relating to the definition of local law enforcement authority for purposes of the sex offender registration program.*
  - Amends Article 62.001(2), Code of Criminal Procedure, to clarify that "local law enforcement authority," for purposes of provisions relating to the sex offender registration program, means the office of the chief of police of a municipality or the office of the sheriff of a county in Texas, rather than only that chief of police or sheriff, respectively.
- **SB 166** - *Relating to the sex offender civil commitment program and to the creation of a state agency to perform the functions relating to the sex offender civil commitment program.*
- **SB 198** - *Relating to exempting persons who are convicted of certain sexual offenses from registering as a sex offender in this state.*
  - Amends Article 42.017, to require the judge to make an affirmative finding in the trial of indecency with a child or sexual assault, that at the time of the offense the defendant was not more than four years older than the victim and the victim was at least 15 years of age.
  - Amends Article 62.301, to provide a framework for a hearing on an exemption from registration for certain young adult sex offenders.

## Protective Orders

- **HB 649** - *Relating to the issuance and duration of certain protective orders for victims of sexual assault.*
  - Amends Article 7A.03, Code of Criminal Procedure, to allow for an issuance of a protective order if the court finds reasonable grounds to believe that the applicant is the victim of a sexual assault (deletes provisions requiring victim to be younger than 10 or requiring victim to be in fear of further harm).
  - Amends Article 7A.03, Code of Criminal Procedure, to allow the court to grant a lifetime protective order without finding reasonable cause to believe the victim is the subject of a threat that reasonably places the victim in fear of further harm.
- **HB 905** - *Relating to the admissibility of certain hearsay statements of a child in hearings on an application for a protective order.*
  - Amends Section 84.006, Family Code, to allow a hearsay statement of child victim of family violence under twelve years of age to be admissible on an application for a protective order.
- **HB 1721** - *Relating to protective orders for certain victims of stalking or sexual assault.*
  - Adds Article 6.09, Code of Criminal Procedure, to provide that a person may request at any proceeding related to a stalking offense, in which the defendant appears before the court, for the court to render a protective order under the Family Code.
  - Provides that the court shall render a protective order if, in lieu of the finding that family violence occurred and is likely to occur in the future, the court finds that probable cause exists to believe that the offense of stalking occurred and that the nature of the scheme or course of conduct engaged in by the defendant in the commission of the offense indicates that the defendant is likely to engage in the future conduct prohibited by stalking.
  - Adds Article 7A.035, Code of Criminal Procedure, to provide that in a hearing on an application for a protective order, a hearsay statement made by a child younger than 14 who is the victim of a sex crime, and that describes the offense committed is admissible as evidence.
- **HB 2329** - *Relating to the confidentiality of certain information regarding victims of trafficking of persons and to the issuance and enforcement of protective orders to protect victims of trafficking of persons.*
  - Adds Chapter 7B, Code of Criminal Procedure, to allow for issuance of a protective order for victims of trafficking.
  - Provides that the duration of a protective order for a victim of trafficking may be lifetime if court finds reasonable cause to believe that the victim is the subject of a threat that reasonably places the victim in fear of further harm from the alleged offender. If a time is not specified, the duration of a protective order for a victim of trafficking is two years.
- **SB 116** - *Relating to protective orders against dating violence.*
  - Amends Section 71.0021, Family Code, to expand the definition of dating violence to include a person who because of the victim's marriage to or dating relationship with whom the actor is or has been in a dating relationship or marriage.

- Amends Section 82.002, Family Code, to expand the definition of dating violence to include an adult member of the marriage of the victim because of the victim's marriage to or dating relationship with whom the actor is or has been in a dating relationship or marriage.
- **SB 250** - *Relating to protective orders for stalking victims.*
  - Amends Chapter 7A, Code of Criminal Procedure, to allow for stalking victims to petition the court for a protective order.
  - Amends Article 7A.03, Code of Criminal Procedure, to provide that a court shall issue a protective order if the court finds reasonable grounds to believe the applicant is the victim of stalking.
- **SB 279** - *Relating to inclusion of pets and other companion animals in protective orders; providing a penalty.*
  - Amends Section 85.021, 85.022, Family Code, to expand protective orders to allow a court to prohibit a party from removing a pet, companion animal, or assistance animal and to prohibit a party from harming, threatening, or interfering with the care, custody or control of a pet, companion animal, or assistance animal.
- **SB 789** - *Relating to the duration of a protective order against family violence.*
  - Amends Section 85.025, Family Code, to allow a court to render a protective order for a period that exceeds two years if the court finds that the person who is the subject of the protective order:
    - caused serious bodily injury to the applicant or a member of the applicant's family or household; or
    - was the subject of two or more previous protective orders rendered:
      - to protect the person on whose behalf the current protective order is sought; and
      - after a finding by the court that the subject of the protective order:
        - has committed family violence; and
        - is likely to commit family violence in the future.
  - A person who is the subject of a protective order that is effective for a period that exceeds two years may file a subsequent motion requesting that the court review the protective order and determine whether there is a continuing need for the order not earlier than the first anniversary of the date on which the court rendered an order on a previous motion by the person under this subsection.
- **SB 819** - *Relating to family violence and protective orders.*
  - Adds Section 81.010, Family Code, Court Enforcement, to provide that a court of this state with jurisdiction may enforce a protective order rendered by another court regardless of whether the order is transferred.

## Expunction & Sealing

- **HB 351** - *Relating to the expunction of records and files relating to a person's arrest* and **SB 462** - *Relating to the right to an expunction of records and files relating to a person's arrest*.
  - For dismissed cases, eliminates statute of limitations requirement before expunction eligibility
  - For uncharged cases:
    - No waiting period if prosecutor certifies arrest records and files not needed for use in any criminal investigation or prosecution
    - Class C: 180 day waiting period
    - Class A&B: 1 year waiting period
    - Felonies: 3 year waiting period
  - Clarifies that “arising out of transaction” language only applies to felonies
- **HB 961** - *Relating to the sealing of and restricting access to juvenile records of adjudications of delinquent conduct or conduct indicating a need for supervision*.
  - Requires that all records and files for juvenile Class C misdemeanors, including those held by law enforcement, are automatically confidential and may not be disclosed to the public.
- **SJR 9** - *Proposing a constitutional amendment authorizing the governor to grant a pardon to a person who successfully completes a term of deferred adjudication community supervision*.
  - Amends Section 11, Article IV, Texas Constitution, to authorize Governor to pardon a person who successfully completes a term of deferred adjudication community supervision.

## Juvenile Legislation

- **HB 350** - *Relating to discharging fines and costs assessed against certain juvenile defendants through community service or tutoring.*
  - Adds Article 45.0492, Code of Criminal Procedure, to allow a judge to require a defendant younger than 17 who is assessed a fine or costs for a Class C misdemeanor occurring in a school building or on the grounds to discharge such fine or costs by performing community service or attending a tutoring program.
- **HB 1224** - *Relating to expulsion of a public school student who commits certain criminal acts involving a computer, computer network, or computer system owned by or operated on behalf of a school district.*
  - Amends Section 37.007(b), Education Code, to allow a student to be expelled if the student engages in conduct that contains the elements of the offense of breach of computer security under Section 33.02, Penal Code, if:
    - the conduct involves accessing a computer, network, or system owned by or operated on behalf of the school district; and
    - the student knowingly:
      - alters, damages, or deletes school district property or information; or
      - commits a breach of any other computer, computer network or computer system.
- **HB 1964** - *Relating to discharging fines and costs assessed against certain juvenile defendants through community service.*
  - Adds adding Article 45.0492, Code of Criminal Procedure, Community Service in Satisfaction of Fine or Costs for Certain Juvenile Defendants, and provides that a judge may require a defendant younger than 17 who is assessed a fine or costs for a Class C misdemeanor, to discharge all or part of the fine or costs by performing community service.
- **HB 2015** - *Relating to the definition of conduct indicating a need for supervision.*
  - Amends Section 51.03, Family Code, to add the offense of prostitution to the definition of conduct indicating a need for supervision (CINS).
  - Amends Section 58.003, Family Code, to provide that a court shall seal the records of a juvenile who found to have engaged in CINS prostitution.
- **HB 2496** - *Relating to creating a teen dating violence court program.*
  - Adds Section 54.0325, Family Code, Deferral of Adjudication and Dismissal of Certain Cases on Completion of Teen Dating Violence Court Program, to provide that a prosecutor can recommend a court defer adjudication for up to 180 days of a child who is a first offender and who is charged with dating violence if child completes 12-week dating violence program.
- **SB 1208** - *Relating to the age until which juveniles placed on determinate sentence probation may be on probation.*
  - Amends Section 51.0412, Family Code, to increase the age from 18 to 19 from which juveniles placed on determinate sentence probation are to be transferred.



- **SB 653** - *Relating to abolishing the Texas Youth Commission and the Texas Juvenile Probation Commission and transferring the powers and duties of those agencies to the newly created Texas Juvenile Justice Department*
  - Creates a new Texas Juvenile Justice Department (TJJD) and merges the Texas Youth Commission and the Texas Juvenile Probation Commission into the one agency.
  
- **SB 1209** - *Relating to the detention of certain juvenile offenders.*
  - Amends Section 51.12, Family Code, to provide that a juvenile certified as an adult is considered a child for purposes of separation from adults during detention. Provides that this does not apply if person is at least 17.
  - Adds Section 152.0015, Human Resources Code, to provide that a juvenile board may establish a policy to detain juveniles certified as adults to be detained in a juvenile facility pending trial.
  - Adds Article 4.19, Code of Criminal Procedure, to authorize judge to transfer a juvenile certified as an adult to another facility and to treat juvenile as an adult for detention purposes.
  
- **SB 1241** - *Relating to authorizing certain courts to access information in the juvenile justice information system.*
  - Amends Section 58.106, Family Code, to add a county, justice or municipal court exercising jurisdiction over a juvenile to the list of agencies that have access to juvenile justice information.
  
- **HB 3474** - *Relating to the offense of public intoxication* and **SB 1331** - *Relating to criminal offenses regarding the possession or consumption of alcoholic beverages by a minor and providing alcoholic beverages to a minor.*
  - Amends Section 106.04, Alcoholic Beverage Code, Consumption of Alcohol to a Minor, Section 106.05, Possession of Alcohol by a Minor, to provide that offense does not apply to a minor who:
    - Requested emergency medical assistance in response to the possible alcohol overdose of the minor or another person;
    - Was the first person to make a request for medical assistance; and
    - If the minor requested emergency medical assistance:
      - Remained on the scene until the medical assistance arrived; and
      - Cooperated with medical assistance and law enforcement.
  
- **SB 1617** - *Relating to the discretionary transfer from a juvenile court to a criminal court of certain alleged offenses arising out of a single criminal transaction.*
  - Amends Section 54.02, Family Code, to revise the law on transferring a juvenile to adult court to allow a juvenile to be tried in adult court for certain offenses if:
    - The offense came out of a criminal transaction for which the juvenile court retained jurisdiction over other offenses related to the transaction; and
    - On or before the date the juvenile court retained its jurisdiction, one or more of the elements of the offense had not occurred.
  - Provides this option if the prosecution was for murder, capital murder, manslaughter, criminally negligent homicide, or intoxication manslaughter.

## Bail/Bond Legislation

- **HB 1070** - *Relating to the taking of a defendant's bail bond by county jailers.*
  - Adds Article 17.025, Code of Criminal Procedure, to specify that a jailer may take a bail bond of a defendant.
- **HB 1173** - *Relating to the release on bond of certain persons arrested for a misdemeanor without a warrant in certain counties.*
  - Amends Article 17.033, Code of Criminal Procedure, to extend the deadline after which a person arrested for a misdemeanor must be released, if a magistrate has not determined whether probable cause existed, from 24 hours to 36 hours after arrest if in a county with a population of three million or more.
- **HB 1658** - *Relating to the refund of a cash bond to a defendant in a criminal case.*
  - Amends Article 17.02, Code of Criminal Procedure, to require that the refund of a cash bond be given to any person listed on the receipt or to the defendant if no other person is able to produce a receipt for the funds.
- **HB 1822** - *Relating to the withdrawal of security by a bail bond surety.*
  - Amends 1704.210, Occupations Code, to specifically authorize a partial release of security when the amount of security remaining would meet certain requirements.
- **HB 1823** - *Relating to the authority of certain persons to execute bail bonds and act as sureties.*
  - Article 17.07, Code of Criminal Procedure to allow a corporation that can act as a surety to limit the authority of an agent by specifying the limitation in the power of attorney that is filed with the county clerk.
  - Amends Article 17.10, Code of Criminal Procedure, to provide that a person, for compensation, may not act as a surety on a bail bond if the person has been finally convicted of a misdemeanor involving moral turpitude or a felony.

## Mental Health

- **HB 748** - *Relating to a criminal defendant's incompetency to stand trial, to certain related time credits, and to the maximum period allowed for restoration of the defendant to competency.*
  - Amends Article 42.03 and 46B.009, Code of Criminal Procedure, to require a court to give credit towards a defendant's sentence any time spent in confinement in a mental health facility, residential care facility or jail pending a determination of competency.
  - Amends Article 46B.0095, Code of Criminal Procedure, to provide that in calculating the maximum period allowed in a treatment facility, the court is allowed to credit any time the defendant was confined in a correctional facility after arrest but before commitment. Provides that on expiration of maximum restoration period, the treatment provider is required to assess the defendant to determine if civil proceedings are appropriate.
  - Amends Article 46B.010, Code of Criminal Procedure, to provide that if a defendant makes a motion for mandatory dismissal of misdemeanor charges if defendant is not tried before the maximum restoration period, the court must set a hearing no more than 10 days after motion is filed and must dismiss the charge.
- **HB 2096** - *Relating to the filing of writs of habeas corpus in mental health cases.*
  - Amends 576.003, Health and Safety Code, relating to a patient's rights under the Texas Mental Health Code, to provide that a petition for a writ of habeas corpus be filed in the court of appeals for the county in which the order is entered and to remove a provision specifying that the Texas Mental Health Code does not limit a person's right to obtain a writ of habeas corpus.
- **HB 2725** - *Relating to the determination of incompetency in criminal cases.*
  - Amends Article 46B.004, Code of Criminal Procedure, to provide that only a suggestion of incompetency from any credible source is required for a competency evaluation.
  - Amends Article 46B.009, Code of Criminal Procedure to require a court to give credit towards a defendant's sentence any time spent in confinement in a mental health facility, residential care facility or jail pending a determination of competency.
  - Amends Article 46B.0095, Code of Criminal Procedure, to provide that on expiration of maximum restoration period, the defendant may only be confined pursuant to a civil commitment proceeding.
  - Amends Article 46B.071, Code of Criminal Procedure, to provide that if a defendant is incompetent to stand trial and is unlikely to be restored to competency, the court shall:
    - Proceed under Subchapter E or F (civil commitment proceedings); or
    - Release the defendant on bail.
  - Amends Article 46B.073, Code of Criminal Procedure, to provide that if an incompetent defendant is ordered to undergo further examination and treatment to attain competency, the maximum commitment to a mental health facility is as follows:
    - Not more than 60 days if misdemeanor; or
    - Not more than 120 days if felony.
  - Adds Article 46B.0755, Code of Criminal Procedure, to provide that if a court receives credible evidence that a person has been restored to competency prior to transfer to a mental health facility, the court may appoint another expert to reexamine the defendant

and if that expert determines the defendant is competent, the court shall find that defendant has been restored to competency if both parties agree and the court concurs.

- **SB 118** - *Relating to a court's authority to order a proposed patient to receive extended outpatient mental health services.*
  - Amends Section 547.035, Health and Safety Code, to to change from at least 60 consecutive days during the preceding 12 months to a total of at least 60 days during the preceding 12 months the minimum amount of time a proposed patient has received certain court-ordered inpatient mental health services before a judge is authorized to order the proposed patient to receive court-ordered extended outpatient mental health services.

## Miscellaneous

- **HB 417** - *Relating to provision of notice regarding and limitation of attorney's fees for services provided in connection with the making of a wrongful imprisonment claim.*
  - Adds Section 103.002, Civil Practice and Remedies Code, to require TDCJ to provide each wrongfully imprisoned person with written and oral guidance on how to obtain compensation.
  - Adds Section 103.101, Civil Practice and Remedies Code, to limit the rate a person can charge for preparing an application to a reasonable hourly rate and requires that person to file a fee report with the comptroller.
- **HB 1381** – *Relating to the service of civil process on an inmate of the Texas Department of Criminal Justice.*
  - Adds Section 17.029, Civil Practice and Remedies Code, to allow civil process to be served on the warden in a civil action against an inmate.
- **HB 1402** - *Relating to the applicability of the law on the consequences of a criminal conviction to law enforcement officer license holders and applicants.*
  - Amends Section 53.002, Occupations Code, to exempt from provisions of law relating to the consequences of a criminal conviction on a person's eligibility for certain occupational licenses a person licensed or an applicant for a license as a peace officer, reserve law enforcement officer, county jailer, or public security officer, rather than a peace officer or an applicant for a license as a peace officer.
- **HB 1638** - *Relating to the disqualification of a district or county attorney who is the subject of a criminal investigation.*
  - Amends Article 2.08, Code of Criminal Procedure, to require a judge to disqualify a prosecutor who is under criminal investigation, from being involved in the prosecution.
- **HB 1754** - *Relating to the reorganization of powers and duties among entities in this state that provide representation to indigent defendants in criminal cases and to the reorganization of funding sources for indigent defense.*
  - Amends Section 78.056(b), Government Code, to change the name from Task Force on Indigent Defense to Texas Indigent Defense Commission.
  - Amends Article 26.044, Code of Criminal Procedure, to simplify local option to establish public defender by streamlining the process.
  - Amends Article 26.04, Code of Criminal Procedure, to provide new local option and guidance on how to establish and manage assigned counsel program.
- **HB 3003** - *Relating to the issuance of an identification card to certain individuals to permit entrance into certain county buildings without passing through security services.*
  - Amends 291.010, Local Government Code, to authorize the commissioners court to issue an identification card to individuals permitting entrance into a county building that houses a justice court, county court, county court at law, or district court without passing through the security services.

- **HB 3475** - *Relating to the recusal and disqualification of municipal judges pursuant to the Code of Criminal Procedure.*
  - Amends Chapter 29, Government Code, to provide for procedures to seek disqualification of a municipal judge.
- **SB 315** - *Relating to the agencies and entities responsible for compiling and maintaining information pertaining to criminal combinations and criminal street gangs.*
  - Amends Article 61.01, Code of Criminal Procedure, to include “juvenile justice agency” under the agencies required to maintain criminal street gang database.
- **SB 480** - *Relating to certain appeals from judgments of municipal courts of record.*
  - Amends Chapter 29, Government Code, to authorize a party in municipal court to file a motion for recusal or disqualification of the judge.
- **SB 488** - *Relating to criminal background checks on users of online dating services and to disclosures of online dating safety measures.*
  - Amends Chapter 106, Business & Commerce Code to require an online dating service provider that offers services to Texas residents and does not conduct a criminal background check on each member to clearly and conspicuously disclose to all Texas members, in a specified format on the online dating service provider's Internet website, that the provider does not conduct criminal background checks.
- **SB 544** - *Relating to unlawful acts against and criminal offenses involving the Medicaid program.*
  - Amends Section 36.001, Human Resource Code, to include among the persons who are considered to have committed an unlawful act relating to Medicaid fraud a person who knowingly causes a claim to be made under the Medicaid program for a service or product that has not been approved or acquiesced in by a treating physician or health care practitioner, a service or product that is substantially inadequate or inappropriate when compared to generally recognized standards within the particular discipline or within the health care industry, or a product that has been adulterated, debased, or mislabeled, or that is otherwise inappropriate.
- **SB 1200** - *Relating to trials for misdemeanor cases.*
  - Amends Article 4.12, Code of Criminal Procedure, to allow prosecution of a municipal case to take place in any precinct in the county that is adjacent to the precinct in which the offense was committed if the county has a population of 3.3 million or more in an effort to equalize justice courts' dockets.
- **SB 1636** - *Relating to the collection, analysis, and preservation of sexual assault or DNA evidence.*
  - Amends Section 411.151, Government Code, to provide that a failure to expunge a DNA record may not serve as the sole grounds for a court in a criminal proceeding to exclude evidence based on or derived from the contents of that record.
  - Adds Subchapter B-1 to Chapter 420, Government Code, to provide regulations for analysis of physical evidence of a sexual assault.

- **SB 1649** - *Relating to a grant program to support the prosecution of certain crimes.*
  - Adds Section 772.0071, Government Code, to require the Governor's office to establish and administer a grant program to prosecute border crime.
- **SB 1716** - *Relating to voidability of contracts procured through barratry and liability arising from conduct constituting barratry.*
  - Amends Section 82.065, Government Code, to provide that any contract for legal services is voidable if it was procured by barratry by attorneys or other persons.
  - Adds Section 82.0651, Government Code, to provide a civil cause of action for barratry.
- **HB 1137** - *Relating to the transmission of records regarding over-the-counter sales of ephedrine, pseudoephedrine, and norpseudoephedrine and a person's civil liability for certain acts arising from the sale of those products.*
  - Adds Section 486.0141, 486.0142, 486.0143, 486.0144, 486.0145, 496.0146, Health and Safety Code, to require businesses to log all over-the-counter sales of products containing ephedrine, pseudoephedrine, or norpseudoephedrine to a real-time electronic logging system.
  - Amends Section 486.014, Health and Safety Code, to prohibit a business from selling within any calendar day more than 3.6 grams of ephedrine, pseudoephedrine, and norpseudoephedrine; and within any 30-day period, more than nine grams of ephedrine, pseudoephedrine, and norpseudoephedrine.
  - Allows an override exception to the real-time electronic logging system if an employee has a reasonable fear of imminent bodily injury or death from person trying to obtain medication.