

# REPORT ON THE TEXAS LEGISLATURE

## 86<sup>th</sup> SESSION:

### AN URBAN PERSPECTIVE



**TSU**  
**Now.**



BY  
THE EARL CARL INSTITUTE FOR LEGAL AND SOCIAL POLICY, INC.  
PVAMU TEXAS JUVENILE CRIME PREVENTION CENTER  
August 2019

## TABLE OF CONTENTS

ABOUT THE ECI CENTER FOR GOVERNMENT LAW .....	1
EXECUTIVE SUMMARY .....	2
ELECTIONS.....	4
CRIMINAL JUSTICE.....	6
Human Trafficking .....	12
Criminal Procedure.....	16
Wrongful Convictions .....	33
JUVENILE JUSTICE.....	34
FAMILY LAW .....	37
Domestic Violence .....	39
Guardianship & Disabilities .....	42
Child Protective Services .....	49
LITIGATION.....	57
PROPERTY .....	60
EDUCATION .....	67
Primary and Secondary Education .....	67
Higher Education.....	74
WILLS, ESTATE, AND PROBATE .....	80
WEALTH .....	87
ABOUT THE EARL CARL INSTITUTE.....	88

## ABOUT THE ECI CENTER FOR GOVERNMENT LAW



**Zahra Buck Whitfield**  
Associate Director  
ECI Center for Government

The Center for Government Law was established to provide integrated academic and practical skills training in government administration and regulation to law students. Preparing students for the practice of law in the public sector is a primary goal of the Center. The Center serves as a bridge between government and academia by providing practical services to students who assist government leaders in advancing research in a multitude of law and public policy arenas.

The Center also serves as a placement for Legislative Externs in the Thurgood Marshall School of Law Externship program. In the program, Thurgood Marshall Law students have a unique opportunity to connect doctrinal law and theory studied in the classroom with the actual practice of law under the guidance and supervision of experienced lawyers. It is expected that through this Externship program, students will develop professional values, skills and knowledge in accordance with specific educational goals.

The Center is responsible for a report each biennial Texas Legislative Session on the impact of new legislation on TSU and the urban community. It is the goal of the center to become an authority and resource on urban issues for legislators and for policy organizations. The ECI Center for Government Law operates under the direct supervision of ECI's Associate Director, Zahra Buck Whitfield, Esq. We hope you enjoy this Session's report.

### Center for Government Law Legislative Externs

ECI wishes to express our gratitude for the assistance of exceptional law students in monitoring the legislation from the 86<sup>th</sup> Texas Legislature and for helping to compile this report. They share some of their experience here.

“Working with the Earl Carl Institute on the 86th Legislative Update during our rising third year as law students at Thurgood Marshall School



**Mariah Grayson**

of Law has been nothing short of an amazing learning experience for the both of us. Through this experience, we have received the opportunity to gain a more hands on understanding of the legislative process and procedures and further enhance our passion for public service through our involvement as legislative externs. This legislative externship experience is one that we will remember as we continue to grow professionally”.



**Ronieshea Miller**

## EXECUTIVE SUMMARY



Welcome to the Earl Carl Institute’s Report on the Texas Legislature, 86th Session: An Urban Perspective. The Institute is pleased to once again provide our supporters with highlights from the 86th Legislative Session. We appreciate the assistance and support of our partner in this endeavor, Prairie View A&M Texas Juvenile Crime Prevention Center.

We have attempted to cover issues of particular concern to the urban community, however, many of the highlights cover issues that are also of particular concern to other traditionally disenfranchised and underserved communities as well. In this report, bills that we think may be of importance to the communities we serve are highlighted in light pink. Bills that can potentially impact areas in which African Americans are overrepresented or underrepresented can be identified by highlights in light blue.

The legislation covered in this report falls under the following subject matters:

- Criminal Justice & Procedure
- Juvenile Justice
- Family Law
- Guardianship & Disabilities
- Wills, Estate & Probate
- Elections
- Property
- Human Trafficking
- Child Protective Services
- Wealth
- Education
- Wrongful Convictions
- Domestic Violence
- Litigation

The 86th Legislature’s Regular Session introduced 10,877 bills, passed 4,581 bills of which 50 were vetoed, and 144 became law without the Governor’s signature.

### Some Session Highlights

The State Does Not Make a Good Parent: The 86th Legislature, much like the 85<sup>th</sup> Legislature focused heavily on comprehensive Child Welfare and Foster Care reform. HB 3390 requires CPS and the Courts to inquire of the child, parent and family members, to identify any adult who could be a relative or designated caregiver for the child other than foster care. This inquiry is mandated at each stage of the case when removal from the parent is to occur.

Protecting our most Vulnerable Citizens: Much time was also spent on addressing various human issues including human trafficking as well as domestic violence. It should be noted that African American girls comprise 40% of all sex trafficking victims nationally. Also, according to the Houston Health Department, Black girls account for half of the physical violence against high school students in Houston. This number is very high in relation to their counterparts.

School Safety: With the recent increase in school shootings across the nation and in Santa Fe, Texas, there have been calls for a broad range of solutions to enhance and ensure school safety. Several of these bills seek to improve school emergency response and safety protocol by, among other provisions, setting out emergency notification and evacuation procedures and by requiring a regular audit and review of school multi-hazard emergency operations plans. SB 11 is a comprehensive bill that revises the Education Code to add requirements regarding school safety. One progressive step is the establishment of a school safety funding allotment for districts to use in improving security and providing mental health personnel. The bill also established a threat assessment process to determine if a student is an actual danger and should be sent for a mental health evaluation or if the child was just smarting off in frustration. ECI is among a number of organizations encouraging schools to use the allotment to add mental health personnel rather than more law enforcement and utilize a research-based threat assessment.

Life and Death: This Session, several changes were made to the Estates Code.

- Simplifying existing death deed forms and related revocation instruments by repealing the statutory forms and instead requiring the Texas Supreme Court to create such forms, eliminating the need to amend the forms through the legislative process.
- HB 2245 changes several provisions relating to trusts, implementing revisions and updates recommended by the Real Estate, Probate and Trust Law Section of the State Bar of Texas

The “Me Too” Movement: SB 194 creates the criminal offense of indecent assault, forced sexual touching—including grabbing a person's genitals or ejaculating on a person, as a Class A misdemeanor. It would also make victims eligible for civil protective orders.

Criminal Injustice?

- HB 2048 allow 1.5 million Texans with suspended licenses due to surcharges to regain their licenses.
- HB 4236 places strict limitations of the viewing of body cam footage by a person involved in the incident recorded or by the family of an individual who is deceased. The ability to review the footage is at the discretion of the law enforcement agency as the bill states that viewing MAY be permitted “provided that the law enforcement agency determines that the viewing furthers a law enforcement purpose and provided that any authorized representative who is permitted to view the recording was not a witness to the incident”.
- Courts are now required to admonish Defendants, both orally and in writing, before accepting a plea of guilty or nolo contendere, that if the defendant is not a U.S. citizen, such a plea may result in deportation, exclusion from admission to the United States, or denial of naturalization under federal law. The admonishment must be signed by the Defendant and their attorney.

Property:

- Heirs living in heirship property can now qualify for a 100% tax exemption and deferral

regardless of the percentage interest in the property under SB 1943.

- HB 1885 amends the Tax Code to allow a taxing unit to waive penalties and interest on a delinquent property in certain circumstances and there are other provisions related to the sale of property in the case of a tax foreclosure.

One final note. In as much as this report is meant to enlighten the reader about what passed this session, our hope is that it also sheds light you about what did not pass—what still needs to be done—and why it is so important to vote and to be a voice at the table for change. Once again, this session, the Legislature did not look representative of Texas’ population in regard to race, gender and educational attainment.

---

## ELECTIONS

**HB 88** (Swanson) *Relating to an election ballot.*

**Summary:** HB 88 amends the Election Code to change the order of candidate names on a ballot for an election held to resolve a tie vote and on a runoff election ballot from an order determined by a drawing to the relative order of names on the original election ballot. The bill authorizes the secretary of state to prescribe the form and content of a ballot for an election using a voting system that uses ballot marking devices.

**Codification:** Section 2.002 (d), Election Code

**Effective Date:** September 1, 2019

**HB 273** (Swanson) *Relating to the time for providing a ballot to be voted by mail to a voter.*

**Summary:** HB 273 would change from the 45th day before an election to the 37th day before an election the deadline by which mail-in ballot materials would qualify for the mailing-date exception under Election Code sec. 86.004.

**Codification:** Section 86.004 (a), Election Code

**Effective Date:** September 1, 2019

**HB 1067** (Ashby) *Relating to the omission of a deceased candidate from the ballot in certain elections.*

**Summary:** HB 1067 allows election authorities to remove a deceased candidate's name from the ballot in certain elections if the candidate died on or after the second day before the election's filing deadline and before the ballots were prepared. The bill would not apply to general elections for state and county officers.

**Codification:** Section 145.096(a) and 145.098, Election Code

**Effective Date:** May 24, 2019

**HB 1241** (Bucy) *Relating to the content of a polling place location notice.*

**Summary:** HB 1241 requires that notices of polling place locations include the building name of the polling place, if any, and its street address.

**Codification:** Chapter 1, Election Code

**Effective Date:** September 1, 2019

**HB 1850** (Klick|Raymond) *Relating to the availability of certain voter information.*

**Summary:** HB 1850 requires the early voting clerk of an authority to provide a current copy of the daily branch register for publication on the website of the authority ordering the election, if the authority maintained a website, each day that early voting was conducted. At a minimum, the voter registration number of each voter listed in the register would have to be posted.

**Codification:** Section 85.072, Election Code

**Effective Date:** September 1, 2019

**HB 2075** (Neave|Swanson|Bucy) *Relating to the form of a candidate's name on a ballot.*

**Summary:** Widowed or divorced persons who have not yet legally changed their name before running for office could face legal challenges should they choose to run under another surname. This ambiguity in the law has resulted in candidates trying to disqualify their opponents for running under their maiden name. HB 2075 clarifies that a candidate may choose to run for office under any surname acquired by law or marriage. This would ensure that persons seeking elected office are not removed from the ballot for a reason that does not impact their ability to serve the public.

**Codification:** Section 52.031, Election Code

**Effective Date:** September 1, 2019

**HB 2554** (Bucy) *Relating to regulation of the display of signs containing political advertising.*

**Summary:** HB 2554 amends current law relating to regulation of the display of signs containing political advertising. There are various statutory provisions relating to the display of signs containing political advertising. These regulations are spread out across various sections of the Property, Local Government, and Election Codes, which have caused confusion. HB 2554 groups these provisions together in statute in the Election Code. This law provides clearer notice to property owners regarding their rights related to displaying political signs.

**Codification:** Title 15, Chapter 259, & Section 225.001(c), Election Code; Section 571.1211(2), Government Code

**Effective Date:** September 1, 2019

**SB 489** (Zaffirini) *Relating to personal information that may be omitted from certain records, licenses, and reports and to other court security measures.*

**Summary:** SB 489 directs the Texas Election Commission to remove a judge's or judge's spouse's personal information from the judge's campaign reports made available for inspection or posted

online upon a written request from the judge or notification from the Office of Court Administration that a person qualified for judicial office. This closes a loophole in existing law, which specifies personal financial statements must be redacted but not campaign reports, making it harder for bad actors to find judges' personal information online. Moreover, SB 489 requires a county clerk to redact from any documents published online by the county clerk including the social security number, driver's license number, and residence address of a federal judge, state judge, or spouse of the federal or state judge upon receipt of a written redaction request by the judge or the judge's spouse.

**Codification:** Subchapter B, Chapter 254, Election Code

**Effective Date:** September 1, 2019

---

## **CRIMINAL JUSTICE**

**HB 37** (Minjarez | et al.) *Relating to the creation of the criminal offense of mail theft.*

**Summary:** HB 37 amends the Penal Code to create the criminal offense of mail theft. Under the provisions of the bill, mail theft is punishable on varying misdemeanor and felony levels depending on the number of addresses. The offense would be enhanced to the next higher category of offense if the addressee was a disabled or elderly individual or if it was shown at trial the mail was stolen with the intent of using the contents to commit another offense.

**Codification:** Chapter 31, Penal Code

**Effective Date:** September 1, 2019

**HB 98** (González, Mary | Meyer) *Relating to civil and criminal liability for the unlawful disclosure of intimate visual material.*

**Summary:** HB 98 amends the Civil Practice and Remedies Code and Penal Code to revise the conduct constituting unlawful disclosure of intimate visual material. The bill expands the conditions under which a defendant is liable to a person depicted in the material for damages arising from the disclosure.

**Codification:** Section 98B.002(a), Civil Practice and Remedies Code; Section 21.16(b), Penal Code

**Effective Date:** September 1, 2019

**HB 902** (Landgraf | et al.) *Relating to increasing the criminal penalty for assault of a pregnant woman.*

**Summary:** House Bill 902 amends the Penal Code to enhance the penalty for assault in which the actor intentionally, knowingly, or recklessly causes bodily injury to another from a Class A



misdemeanor to a third-degree felony if the offense is committed against a person the actor knows is pregnant at the time of the offense.

**Codification:** Section 22.01(b), Penal Code

**Effective Date:** September 1, 2019

**HB 2613** (Frullo | et al.) *Relating to the offense of operation of a stash house and to funding certain crime victim services through the use of money derived from a civil asset forfeiture of contraband related to that offense, human smuggling and trafficking offenses, and certain prostitution offenses; creating a criminal offense.*

**Summary:** HB 2613 creates a criminal offense for operating a stash house. It makes it an offense for a person to knowingly: use or permit another to use any real estate, building, room, tent, vehicle, boat, or other property owned by the person or under the person's control to commit human smuggling, continuous human smuggling, human trafficking, aggravated promotion of prostitution, or to compel prostitution; or rent or lease property to another, intending it be used for one of the above offenses. These offenses are a class A misdemeanors (up to one year in jail and/or a maximum fine of \$4,000). If conduct that constitutes operating a stash house also constituted an offense under another law, prosecutions could occur under the new offense, the other law, or both. The bill also expands the definition of contraband subject to seizure and forfeiture to apply not only to property used to commit human trafficking but also to property intended to be used to commit human trafficking. Contraband related to these crimes will be used for direct victim services or for a contract with a local nonprofit organization to provide direct services to crime victims.

**Codification:** Chapter 20, Penal Code; Article 59.01(2) and 59.06, Code of Criminal Procedure

**Effective Date:** September 1, 2019

**HB 2625** (Perez | et al.) *Relating to creating the criminal offense of fraudulent use or possession of credit card or debit card information.*

**Summary:** House Bill 2625 amends the Penal Code to create the offense of fraudulent use or possession of credit card or debit card information. Specifically, HB 2625 makes it an offense if a person, with the intent to harm or defraud another, obtained, possessed, transferred, or used: five or more counterfeit credit or debit cards; the numbers and expiration dates of five or more credit or debit cards without the consent of the account holder; or the data stored on the digital imprint of five or more credit or debit cards without the consent of the account holder. The bill would establish a rebuttable presumption that if an individual possessed the numbers and expiration dates of five or more credit or debit cards or the data stored on the digital imprint of five or more credit or debit cards, the individual possessed each item without the consent of the account holder.

An offense would be:

- a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000) if the number of items obtained, possessed, transferred, or used was five or more but less than 10;

- a second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000) if the number of items obtained, possessed, transferred, or used was 10 or more but less than 50;
- or a first-degree felony (life in prison or a sentence of five to 99 years and an optional fine of up to \$10,000) if the number of items obtained, possessed, transferred, or used was 50 or more.

A second- or third-degree felony offense is increased to the next higher category of offense if it was committed against one or more elderly individuals as defined by the Penal Code.

The bill authorizes a court to order restitution to a victim of the offense for lost income or other expenses, other than attorney's fees, incurred as a result of the offense.

If conduct that constituted an offense under this section also constituted an offense under any other law, prosecution could occur under this section, the other law, or both.

**Codification:** Subchapter C, Chapter 32, Penal Code

**Effective Date:** September 1, 2019

**HB 2789** (Meyer | et al.) *Relating to the creation of the criminal offense of unlawful electronic transmission of sexually explicit visual material.*

**Summary:** House Bill 2789 amends the Penal Code to create the Class C misdemeanor offense of unlawful electronic transmission of sexually explicit visual material. Specifically, HB 2789 makes it a crime to electronically transmit sexually explicit material that is not sent at the request of or with the express consent of the recipient. Material which depicts a person engaging in sexual conduct with their intimate parts exposed and material which depicts male genitals which are in a "discernibly turgid state" would be considered sexually explicit material.

**Codification:** Chapter 21, Penal Code.

**Effective Date:** September 1, 2019

**HB 2894** (Collier) *Relating to the prosecution of health care fraud; creating a criminal offense.*

**Summary:** House Bill 2894 amends the Code of Criminal Procedure, Health and Safety Code, and Penal Code to create the offense of health care fraud by expanding the applicability of conduct that constitutes Medicaid fraud to include conduct involving fraud of a health care program funded by the state, the federal government, or both that is designed to provide health care services to health care recipients, including a program that is administered in whole or in part through a managed care delivery model.

**Codification:** Article 12.01, Section 3(a)(3), Articles 37.07, 59.01(2), 59.06(p), Code of Criminal Procedure, Section 250.006(a), Health and Safety Code, Chapter 35A, Penal Code.

**Effective Date:** September 1, 2019

**HB 3106** (Goldman | et al.) *Relating to a requirement that law enforcement agencies enter into a certain database information related to investigations of sexual assault or other sex offenses.*

**Summary:** This law enables law enforcement in a given jurisdiction the ability to know if a person

is under investigation in another jurisdiction if that person has not been arrested.

House Bill 3106, **Molly Jane's Law**, amends the Government Code to require each state law enforcement agency to request access from the FBI to enter information into the national database of the Violent Criminal Apprehension Program. A law enforcement agency that investigates a sexual assault or other sex offense must enter the suspect's name and date of birth, the sex offense being investigated, the law enforcement agency investigating the offense, and the manner in which the offense was committed into that database.

Law enforcement agencies are required to remove the information from the database on the earlier of the following: the date the person being investigated is no longer considered a suspect, the date the suspect was charged with a crime, or upon the 5th anniversary of the information being entered.

**Codification:** Subchapter B, Chapter 420, Government Code

**Effective Date:** September 1, 2019

**HB 3227** (Howard | Johnson, Jarvis | Allen | White) *Relating to the availability of and access to certain programs and services for persons in the custody of the Texas Department of Criminal Justice.*

**Summary:** It has been noted that women incarcerated in the Texas Department of Criminal Justice have access to fewer programs than male inmates and that increasing access to programs could aid in rehabilitative efforts. House Bill 3227 amends the Government Code to require the Texas Department of Criminal Justice (TDCJ) to adopt a policy to increase the availability of formal and informal peer support services to a person confined in a TDCJ facility and to develop and implement policies that increase and promote a female inmate's access to programs offered to inmates in TDCJ custody, including educational, vocational, substance use treatment, rehabilitation, life skills training, and prerelease programs.

**Codification:** Section 16.0045(a), Civil Practice and Remedies Code

**Effective Date:** September 1, 2019

**HB 3809** (Goldman | Meyer) *Relating to the limitations period for personal injury claims that arise from certain offenses involving child sexual abuse.*

**Summary:** House Bill 3809 amends the Civil Practice and Remedies Code to increase the statute of limitations for bringing a suit for personal injury arising from certain offenses involving child sexual abuse from 15 years after the day the cause of action accrues to 30 years after such day. The cause of action accrues on the last day that the conduct violating the Penal Code occurred.

**Codification:** Section 16.0045(a), Civil Practice and Remedies Code

**Effective Date:** September 1, 2019

**HB 4173** (Leach) *Relating to the nonsubstantive revision of certain provisions of the Code of Criminal Procedure, including conforming amendments.*

**Summary:** House Bill 4173 enacts a nonsubstantive revision of provisions of the Code of Criminal Procedure relating to protective orders, grand jury organization, grand jury proceedings, rights of

crime victims, crime victims' compensation, and the confidentiality of certain crime victim information.

**Codification:** Chapter 1, Code of Criminal Procedure; Articles 6.08 and 6.09; and Chapters 7A, 19, 20, 54, 56, 57, 57A, 57B, 57C, and 57D, Code of Criminal Procedure.

**Effective Date:** January 1, 2021

**HB 4345** (Sanford | et al.) *Relating to liability for disclosing certain information regarding sexual misconduct by an employee, volunteer, or independent contractor of a charitable organization.*

**Summary:** HB 4345 amends the Civil Practices & Remedies Code to grant immunity from civil liability to charitable organizations, or their employee or volunteer, or independent contractor of a charitable organization, acting in good faith for any act to disclose to a current or prospective employer, information reasonably believed to be true about allegations that any person, while employed by or serving as a volunteer of the charitable organization engaged in sexual misconduct, sexually abused another person, sexually harassed another person, or committed certain offences of the Penal Code. A charitable organization or an employee or volunteer of the organization would not be immune if they acted in bad faith or with malicious intent in disclosing allegations of sexual misconduct to a potential future employer. A person who reports their own sexual abuse, sexual harassment or who acts in bad faith or with malicious purpose in making a disclosure is not immune from civil or criminal liability.

**Codification:** Chapter 84, Civil Practice and Remedies Code

**Effective Date:** June 10, 2019

**SB 201** (Huffman | et al.) *Relating to increasing the criminal penalties for certain offenses committed in a disaster area or an evacuated area.*

**Summary:** SB 201 amends Sect. 12.50(b) and (c) of the Penal Code to add additional offenses for which the penalty is increased if they are committed in a disaster area or evacuated area. The added offenses are arson, burglary of vehicles, and criminal trespass. The punishment is increased to the punishment prescribed for the next higher category of offense.

**Codification:** Sections 12.50(b) and (c), Penal Code; Section 12.50(d), Penal Code

**Effective Date:** September 1, 2019

**SB 340** (Huffman) *Relating to the creation of a grant program to assist law enforcement agencies with the purchase of opioid antagonists.*

**Summary:** SB 340 requires the Criminal Justice Division to establish and administer a grant program to provide financial assistance to a law enforcement agency that seeks to provide opioid antagonists to peace officers, evidence technicians, and related personnel who, in the course of performing their duties, are likely to come into contact with opioids or encounter persons suffering from an apparent opioid-related drug overdose.

**Codification:** Subchapter A, Chapter 772, Government Code

**Effective Date:** September 1, 2019

**SB 583** (Hinojosa) *Relating to the appointment of a local public defender's office to represent indigent defendants in criminal cases.*

**Summary:** SB 583 requires priority appointment of a public defender for a defendant in criminal proceedings, including capital murder cases. The court is not required to appoint a public defender if the court makes a finding of good cause to appoint other counsel, the appointment would be contrary to the office's written plan, the office is prohibited from accepting the appointment, or a managed counsel program exists in the county and an attorney will be appointed under that program.

**Codification:**

**Effective Date:** September 1, 2019

**SB 586** (Watson | et al.) *Relating to the training of peace officers for family violence and sexual assault assignments.*

**Summary:** Senate Bill 586 amends the Occupations Code to require the Texas Commission on Law Enforcement (TCOLE) to establish minimum requirements for the training, testing, and certification of special officers for responding to allegations of family violence or sexual assault. The bill authorizes TCOLE to certify a peace officer as a special officer for responding to such allegations and requires training on recognition of child abuse and neglect, family violence, and sexual assault cases and use of best practices and trauma-informed response techniques for such cases to be included among the required courses and programs as part of law enforcement officer training schools. Training on investigation of such cases and the use of such best practices and techniques must also be included in the training provided to peace officers holding only a basic proficiency certificate.

**Codification:** Section 1701.352(b), Subchapter I, Chapter 1701, Occupations Code

**Effective Date:** September 1, 2019

**SB 1259** (Huffman) *Relating to the prosecution of the offense of sexual assault.*

**Summary:** SB 1259 would expand the definition of "without consent" for purposes of sexual assault, if the actor is a health care services provider who, in the course of performing an assisted reproduction procedure on the other person, uses human reproductive material from a donor knowing that the other person has not expressly consented to the use of material from that donor. The offense would be a state jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000).

**Codification:** Sections 22.011(b) and (f), 22.011(c), Penal Code

**Effective Date:** September 1, 2019

## Human Trafficking

**HB 111** (González, Mary | et al.) *Relating to public school policy and training for public school employees addressing the prevention of sexual abuse, sex trafficking, and other maltreatment of certain children.*

**Summary:** HB 111 amends the Education Code to require existing training for school district and open-enrollment charter school employees on child maltreatment to include techniques for recognizing and preventing the sexual abuse, sex trafficking, and other maltreatment of children with significant cognitive disabilities. The training would use resources developed by the Texas Education Agency or the commissioner.

**Codification:** Section 6.406, Family Code and adds Subsection (a-1)

**Effective Date:** September 1, 2019

**HB 292** (Thompson, Senfronia | et al.) *Relating to inclusion of instruction on the trafficking of persons in the basic training curriculum for peace officers.*

**Summary:** HB 292 amends current law relating to inclusion of instruction on the trafficking of persons in the basic training curriculum for peace officers. HB 292 requires the Texas Commission on Law Enforcement to incorporate completion of the basic education and training program on the trafficking of persons into the minimum curriculum requirements for law enforcement officers. An officer would have to complete the program by the second anniversary of the date the officer was licensed unless the education and training program was completed as part of the basic training course.

**Codification:** Sections 1701.253 and 1701.258, Occupations Code

**Effective Date:** September 1, 2019

**HB 403** (Thompson, Senfronia) *Relating to training requirements for a member of the board of trustees and the superintendent of an independent school district regarding sexual abuse, human trafficking, and other maltreatment of children.*

**Summary:** House Bill 403 amends the Education Code to include one hour of training on identifying and reporting potential child victims of sexual abuse, human trafficking, and other maltreatment of children in the State Board of Education training required to be completed by an independent school district trustee at least every two years. The bill requires continuing education requirements for a superintendent for purposes of maintaining state certification to include at least 2-1/2 hours of training on those topics every five years.

**Codification:** Sections 11.159 & 21.054, Education Code

**Effective Date:** September 1, 2019

**HB 2059** (Blanco) *Relating to required human trafficking prevention training as a condition of registration permit or license renewal for certain health care practitioners.*

**Summary:** Human trafficking is a public health concern that affects individuals, families, and entire communities across generations, and Texas is second in the country in reported cases of human trafficking. Victims of human trafficking are often unable or unwilling to self-identify. Approximately 80 percent of human trafficking victims are women and 40% are African American girls. Health care providers are often the first professionals to have contact with trafficked women and girls. HB 2059 was enacted to equip health care practitioners who provide direct patient care with the training needed to help detect potential victims of human trafficking and provide them with adequate care, including referring them to additional support services. Ensuring that health care providers are knowledgeable and adequately prepared is vital in combatting human trafficking in Texas.

**Codification:** Title 3 and Chapters 156 & 301, Occupations Code

**Effective Date:** September 1, 2019

**HB 2613** (Frunlo | et al.) *Relating to the offense of operation of a stash house and to funding certain crime victim services through the use of money derived from a civil asset forfeiture of contraband related to that offense, human smuggling and trafficking offenses, and certain prostitution offenses; creating a criminal offense.*

**Summary:** House Bill 2613 amends the Code of Criminal Procedure and Penal Code to create the Class A misdemeanor offense of operation of a stash house and to expand the definition of "contraband" for purposes of contraband forfeiture procedures. The bill requires the gross amount credited from the forfeiture of contraband relating to the commission of such an offense or certain smuggling, trafficking, or prostitution-related offenses to be used to provide direct victim services or to cover the costs of a contract with a local nonprofit organization to provide direct services to crime victims.

**Codification:** Chapter 20, Penal Code; Articles 59.01(2) & 59.06, Code of Criminal Procedure

**Effective Date:** September 1, 2019

**HB 3800** (Thompson, Senfronia | Lopez | Collier) *Relating to required reporting of human trafficking cases by certain law enforcement entities and by prosecutors.*

**Summary:** HB 3800 seeks to provide the State with more information and resources to continue the fight against human trafficking. HB 3800 requires law enforcement entities and prosecutors to report cases of human trafficking to the attorney general. The attorney general is to enter into a contract with a university that could assist in the collection and analysis of the collected information.

**Codification:** Chapters 2 & Article 13.12, Code of Criminal Procedure; Chapter 20A & Title 5, Penal Code

**Effective Date:** September 1, 2019

**SB 20** (Huffman | et al.) *Relating to the prevention of, reporting regarding, investigation of, prosecution of, criminal and civil penalties for, and other consequences of prostitution, trafficking of persons, and related criminal offenses, to treatment, services, and compensation available to victims of those offenses, and to orders of nondisclosure for certain persons who are victims of certain of those offenses.*

**Summary:** SB 20 codifies all 14 recommendations from the Texas Human Trafficking Prevention Task Force, a statutorily created group administratively attached to the OAG. The recommendations, which are codified by SB 20, are:

1. Expand Texas Department of Licensing and Regulation (TDLR) authority to conduct more comprehensive background checks under the massage therapy program.
2. Require posting of human trafficking awareness signs in licensed massage establishments and schools.
3. Require additional reporting by massage therapy schools to identify fraudulent schools and students.
4. Remove the five-year "sit out" period for massage therapy licensees.
5. Provide TDLR with authority to act in instances of sexual violations by massage therapy licensees.
6. Provide enforcement provisions in the massage therapy statute similar to other TDLR programs.
7. Provide rape shield law protections for human trafficking and child sexual abuse victims.
8. Include adult sex trafficking and adult sex crimes in the list of offenses where evidence of uncharged crimes is allowable.
9. Provide tools to pursue state charges against online traffickers.
10. Include continuous human trafficking as a stackable offense.
11. Make definition of "coercion" found in Section 20A.02(a-1), Penal Code, applicable to adult and child labor trafficking.
12. Create a new process to protect commercial lessees from operating in the vicinity of human trafficking.
13. Enhance the nondisclosure process under Chapter 411 of the Government Code for victims of human trafficking.
14. Amend prostitution and related statutes to provide increased penalties for buyers and mandatory community supervision provisions for sellers.

SB 20 amends current law relating to the prevention of, reporting regarding, investigating of, criminal and civil penalties for, and other consequences of prostitution, trafficking of persons, and related criminal offenses, to treatment, services, and compensation available to victims of those offenses, and to orders of nondisclosure for certain persons who are victims of certain of those offenses.

**Codification:** Chapter 43 & Sections 3.03(b), 20A.02(a), 43.01, 43.02(c-1), Penal Code; Subchapter K, Chapter 42A, Article 42A.551, 18A.101, 56.32(a)(14), 56.81(7), 56.021, & 62.001(5), Code of Criminal Procedure; Chapter 2155 & Sections 126.004, 402.035, 411.042(b),



411.0728, 499.027(b), and 2155.077(a-1) Government Code; Section 98A.001 & 98A.002(a), Civil Practice and Remedies Code; Subtitle B & Section 169.002(b), Health and Safety Code  
**Effective Date:** September 1, 2019

**SB 1593** (Rodríguez) *Relating to training by the Texas Department of Transportation on the recognition and prevention of smuggling and trafficking of persons.*

**Summary:** SB 1593 amends current law relating to training by the Texas Department of Transportation on the recognition and prevention of smuggling and trafficking of persons. SB 1593 also requires TxDOT to consult with OAG in the development of the content of the training.

**Codification:** Amends Chapter 201, Transportation Code

**Effective Date:** September 1, 2019

**SB 1801** (Huffman) *Relating to orders of nondisclosure for certain victims of trafficking of persons or compelling prostitution.*

**Summary:** SB 1801 revises statutes governing orders of nondisclosure for certain victims of human trafficking. The bill expands provisions that currently apply only to defendants who were placed on community supervision (probation) and instead apply them to all defendants who were convicted or placed on deferred adjudication. It also expands the orders to include victims of compelled prostitution. Victims would have to assist law enforcement in the investigation and/or prosecution of a Penal Code Offense with an exception for a person's age or disability. The bill allows persons seeking multiple orders of nondisclosure to consolidate their petitions requesting the order in one district court, allowing a survivor-friendly process to seek this type of judicial relief. The bill eliminates authorization for those convicted of the promotion of prostitution by soliciting an individual to engage in sex with another person to receive an order of nondisclosure.

**Codification:** Sections 126.004 & 411.0728, Government Code; Article 56.021, Code of Criminal Procedure

**Effective Date:** September 1, 2019

**SB 1802** (Huffman) *Relating to the prosecution of and punishment for certain trafficking and prostitution offenses and certain other consequences of those offenses; increasing criminal penalties.*

**Summary:** Senate Bill 1802 amends the Code of Criminal Procedure and Penal Code to expand the conduct that constitutes the offenses of trafficking of persons and compelling prostitution and to increase the penalties for promotion of prostitution, aggravated promotion of prostitution, and compelling prostitution if the actor knowingly causes another by force, threat, coercion, or fraud to commit prostitution. The bill includes aggravated promotion of prostitution among the offenses of which conviction or an adjudication is considered a reportable conviction or adjudication for purposes of the sex offender registration program. The definition of "coercion" is expanded to include the following:

(1) destroying, concealing, confiscating, or withholding from a person, or threatening to destroy,

conceal, confiscate, or withhold from a person, the person's actual or purported government records or identifying information or documents;

(2) causing a person, without the person's consent, to become intoxicated, as defined by Section 49.01, to a degree that impairs the person's ability to appraise the nature of the person's conduct that constitutes prostitution or to resist engaging in that conduct; or

(3) withholding alcohol or a controlled substance to a degree that impairs the ability of a person with a chemical dependency, as defined by Section 462.001, Health and Safety Code, to appraise the nature of the person's conduct that constitutes prostitution or to resist engaging in that conduct.

**Codification:** Article 62.001(5), Code of Criminal Procedure; Sections 43.03(b), 43.04(b), & 43.05, Penal Code

**Effective Date:** September 1, 2019

---

## Criminal Procedure

**HB 8** (Neave | et al.) *Relating to the criminal statute of limitations for certain sex offenses and the collection, analysis, and preservation of evidence of sexual assault and other sex offenses.*

**Summary:** House Bill 8, the Lavinia Masters Act, amends the Code of Criminal Procedure, Government Code, and Health and Safety Code to extend the statute of limitations for certain sex offenses and require an audit of untested rape kits across Texas. Among other provisions, the bill expands the applicability of provisions of the Sexual Assault Prevention and Crisis Services Act relating to the analysis of sexual assault evidence and the chain of custody of that evidence to include sex offenses other than sexual assault and establishes the statewide telehealth center for sexual assault forensic medical examination to expand access to sexual assault nurse examiners for underserved populations. Implementation of a provision of the bill by the Department of Public Safety or the Department of State Health Services, as applicable, is mandatory only if a specific appropriation is made for that purpose. HB 8 extends the statute of limitations for certain sexual offenses for which evidence is collected in a rape kit, regardless of whether it has been subject to forensic DNA testing, and by requiring an audit of untested rape kits across the state and setting deadlines by which those kits must be analyzed and processed.

**Codification:** Articles 12.01, 38.43, 56.065, Code of Criminal Procedure; Section 420.003 & Chapter 420, Government Code; Section 323.005 & Chapter 323, Health and Safety Code

**Effective Date:** September 1, 2019

**HB 156** (Moody | et al.) *Relating to the supervision by a personal bond office of individuals granted an occupational driver's license; providing for an administrative fee.*

**Summary:** HB 156 amends current law relating to the supervision by a personal bond office of

individuals granted an occupational driver's license and provides for an administrative fee. When an individual's driver's license is suspended or revoked (such as for driving while intoxicated), he or she is able to petition in civil court for an occupational license based upon an assertion of essential need (e.g., to commute to work). HB 156 allows the court to select either the local community supervision and corrections department or a personal bond office to provide supervision, if the court requires the person receiving the license to submit to supervision.

**Codification:** Sections 521.2462 & 521.251(d-1); Section 76.015, Government Code

**Effective Date:** September 1, 2019

**HB 292** (Thompson, Senfronia | et al.) *Relating to inclusion of instruction on the trafficking of persons in the basic training curriculum for peace officers.*

**Summary:** Current law requires all peace officers to undergo a basic education program on human trafficking "within a reasonable time after obtaining the license." This means that human trafficking prevention training cannot be taught during a law enforcement academy—only after a peace officer becomes licensed. HB 292 instead allows peace officers to complete training "not later than the second anniversary of the date the officer is licensed under this chapter," which allows the Texas Commission on Law Enforcement to make human trafficking training part of a peace officer academy training curriculum.

**Codification:** Sections 1701.253 & 1701.258(a), Occupations Code

**Effective Date:** September 1, 2019

**HB 300** (Murr | et al.) *Relating to inquest summary reports and the preservation of evidence collected in the course of an inquest.*

**Summary:** House Bill 300 amends the Code of Criminal Procedure to remove the requirement for a justice of the peace to deliver to the district clerk for safekeeping evidence accumulated in the course of an inquest that tends to show the real cause of death or identify the person who caused the death. The bill repeals a provision requiring the certification and delivery of a copy of an inquest summary report by a justice of the peace and its retention by a district clerk. Further, HB 300 requires each district clerk in possession of evidence delivered to the clerk for safekeeping under Article 49.17 (Evidence), Code of Criminal Procedure, as that article existed immediately before the effective date of this Act, as soon as practicable after the effective date of this Act, to transfer the evidence to the appropriate law enforcement agency for safekeeping as provided by Article 49.17, Code of Criminal Procedure, as amended by this Act.

**Codification:** Article 49.17, Code of Criminal Procedure

**Effective Date:** June 10, 2019

**HB 427** (Shaheen | et al.) *Relating to the punishment for the offense of fraudulent destruction, removal, or concealment of a writing that is attached to tangible property; enhancing a criminal penalty.*

**Summary:** H.B. 427 amends current law relating to the punishment for the offense of fraudulent

destruction, removal, or concealment of a writing that is attached to tangible property and enhances a criminal penalty. A writing for these purposes includes price tags, universal product codes, labels, or other markings on goods. HB 427 creates a schedule of penalties paralleling those for property theft for the offense of tampering with, removing, or substituting a price tag, if the offender did so for the purpose of obtaining property for sale at a lesser price indicated by a separate writing.

**Codification:** Section 32.47, Penal Code

**Effective Date:** September 1, 2019

**HB 435** (Shaheen | et al.) *Relating to the maintenance of information entered into a fee record.*

**Summary:** HB 435 amends current law relating to the maintenance of information entered into a fee record. Counties routinely collect unpaid fees as allowed by rulings in those counties' trial courts. In many cases, court-ordered fees are collected expediently. When defendants are deceased or serving a lifelong prison sentence, for instance, these fees are unlikely to be collected by the county. The costs of maintaining these unpaid fees in the county's collection system for years, or attempting to recover them, outweigh their value. Accordingly, in 2017, SB 413 allowed district and county attorneys, district and county clerks, sheriffs, constables, and justices of the peace in Collin County to request that an unpaid fee be deemed uncollectable if the defendant is deceased, serving a life sentence or life without parole, or the fee has been unpaid for at least 15 years. Generally, HB 435 would expand this provision statewide to allow all counties to cease wasteful efforts.

**Codification:** Chapter 51, Government Code

**Effective Date:** September 1, 2019

**HB 504** (Dutton) *Relating to employment protections for a person serving as a grand juror.*

**Summary:** H.B. 504 amends current law relating to employment protections for a person serving as a grand juror. It has been noted that the employment protections for a person who serves on a jury do not apply to a person who serves on a grand jury. H.B. 504 seeks to address this discrepancy by extending those protections to a person who serves as a grand juror. H.B. 504 amends the Civil Practice and Remedies Code to extend the applicability of statutory provisions relating to a juror's right to reemployment to a person who serves as a grand juror.

**Codification:** Sections 122.001, 122.002(a) and (c), 122.0022, 122.003, Civil Practice and Remedies Code

**Effective Date:** September 1, 2019

**HB 667** (King, Ken | et al.) *Relating to the prosecution of and punishment for the offense of sexual assault; enhancing a criminal penalty.*

**Summary:** House Bill 667, **Melissa's Law**, amends the Penal Code to enhance the penalty for sexual assault from a second-degree felony to a first-degree felony if the victim was a person with whom the actor was prohibited from engaging in sexual intercourse or deviate sexual intercourse

under state law establishing the offense of prohibited sexual conduct. The bill establishes as an affirmative defense to prosecution for sexual assault against a person of 14 years of age or older but younger than 17 years of age that the victim was not a person with whom the actor was prohibited from engaging in sexual intercourse or deviate sexual intercourse under that state law and the actor met certain conditions.

**Codification:** Sections 22.011(e) and (f), Penal Code

**Effective Date:** September 1, 2019

**HB 869** (Hefner | et al.) *Relating to the prosecution of organized criminal activity involving the interception, use, or disclosure of certain communications.*

**Summary:** House Bill 869 amends the Penal Code to expand the conduct that constitutes the offense of engaging in organized criminal activity to include committing or conspiring to commit the offense of unlawful interception, use, or disclosure of wire, oral, or electronic communications with the intent to establish, maintain, or participate in a combination or in the profits of a combination or as a member of a criminal street gang. **Codification:** Section 71.02(a), Penal Code

**Effective Date:** September 1, 2019

**HB 881** (Bell, Cecil | et al.) *Relating to the right of a parent of a deceased person to view the person's body before an autopsy is performed.*

**Summary:** H.B. 881 amends current law relating to the right of a parent of a deceased person to view the person's body before an autopsy is performed. It has been noted that the parental right to view a deceased child before an autopsy is performed does not apply to a parent of a deceased person who is 18 years of age or older. There are concerns that such parents are not always given an opportunity to view their child's body. H.B. 881 entitles a parent of a deceased person to view the person's body before an autopsy is performed, regardless of the person's age. H.B. 881 amends the Code of Criminal Procedure to extend the right of a parent of a deceased person younger than 18 years of age to view the person's body before an autopsy is performed to a parent of a deceased person of any age.

**Codification:** Chapter 49 & Articles 49.52 and 49.52(a-c), Code of Criminal Procedure

**Effective Date:** September 1, 2019

**HB 979** (Hernandez | et al.) *Relating to the creation of DNA records for certain defendants for inclusion in the DNA database system.*

**Summary:** H.B. 979 amends current law relating to the creation of DNA records for certain defendants for inclusion in the DNA database system. It has been noted that the requirement for certain sex offenders and defendants convicted of certain felony offenses to provide a specimen for purposes of creating a DNA record in the DNA database system does not apply to those who commit certain related offenses. It has been suggested that the inclusion of a DNA record of these other offenders could provide critical data in linking crimes, preventing repeat offenses, and helping vindicate innocent suspects. H.B. 979 provides for the inclusion of defendants who have

been convicted of a Class A misdemeanor offense of assault, deadly conduct, or unlawful restraint among those required to provide a specimen for such purposes. H.B. 979 amends the Government Code to require a defendant convicted of a Class A misdemeanor offense of unlawful restraint, assault, or deadly conduct to provide one or more specimens to a law enforcement agency after conviction for the purpose of creating a DNA record.

**Codification:** Section 411.147(a), Government Code

**Effective Date:** September 1, 2019

**HB 1279** (Allen) *Relating to jury instructions regarding parole eligibility.*

**Summary:** House Bill 1279 amends the Code of Criminal Procedure to revise the jury instructions relating to good conduct time given to a jury in the penalty phase of a trial of a felony case in which the defendant has been found guilty of a certain offense or in which the judgment contains an affirmative finding regarding the use or exhibition of a deadly weapon with respect to certain offenses. For cases involving the serious felonies listed in CCP Art. 37.07, sec. 4(a), the bill eliminates references in the jury instructions to possible criteria for awarding and taking away of good conduct time and information about whether good conduct time is considered when determining parole eligibility. Juries in these cases are no longer told not to consider the extent to which good conduct time could be awarded or forfeited by a particular defendant. For other felonies, HB 1279 eliminates references to defendants earning time off of their prison terms through good conduct time and replace them with provisions telling jurors that defendants may earn early parole eligibility through the award of good conduct time.

**Codification:** Sections 4(a-c) & Article 37.07, Code of Criminal Procedure

**Effective Date:** September 1, 2019

**HB 1343** (Leach) *Relating to the prosecution of the criminal offense of improper contact with a victim and to protective orders for victims of certain offenses; enhancing a criminal penalty.*

**Summary:** House Bill 1343 amends the Code of Criminal Procedure to require the attorney representing the state, if an application for a protective order has not yet been filed with regard to a victim of stalking or certain sexual, trafficking, or prostitution-related offenses, to promptly file the application following the offender's conviction of or placement on deferred adjudication community supervision for the offense but prohibits the attorney from doing so if the victim is at least 18 years of age and requests that the attorney not file the application. The bill establishes that an offender's conviction of or placement on deferred adjudication community supervision for such an offense constitutes reasonable grounds for purposes of the issuance of a protective order. The bill provides for the issuance of a protective order effective for the duration of the lives of the offender and the victim if the offender is convicted or placed on deferred adjudication for such an offense and if the offender is required to register for life as a sex offender. House Bill 1343 amends the Penal Code to expand the conduct that constitutes the offense of improper contact with a victim. The bill provides for the enhancement to a state jail felony of an offense of violating certain court orders or conditions of bond in a family violence, child abuse or neglect, sexual

assault or abuse, stalking, or trafficking case if it is shown at the trial of the offense that the defendant violated an order issued as a result of an application filed with respect to stalking or certain sexual, trafficking, or prostitution-related offenses.

**Codification:** Section 38.111(a), Penal Code

**Effective Date:** September 1, 2019

**HB 1374** (Hernandez | Neave | Guillen)

*Relating to grants for the development and operation of pretrial intervention programs for pregnant defendants and defendants who are the primary caretaker of a child.*

**Summary:** H.B. 1374 amends current law relating to grants for the development and operation of pretrial intervention programs for pregnant defendants and defendants who are the primary caretaker of a child. It has been reported that pretrial diversion programs are a successful, cost-effective tool in reducing recidivism and present additional benefits to defendants who are pregnant or the primary caregiver of a minor, as such programs can help minimize disruptions to households that may have otherwise occurred if the defendant were incarcerated. H.B. 1374 seeks to encourage these outcomes by authorizing the community justice assistance division of the Texas Department of Criminal Justice to award grants for pretrial diversion programs tailored specifically for individuals who are pregnant or the primary caregiver of a minor.

**Codification:** Section 509.011, Government Code

**Effective Date:** September 1, 2019

**HB 1399** (Smith | Phelan | Moody | Button) *Relating to the creation and storage of DNA records for a person arrested for certain felony offenses.*

**Summary:** House Bill 1399, the **Krystal Jean Baker Act**, amends the Code of Criminal Procedure and Government Code to require a defendant arrested for certain felony offenses to provide one or more specimens for the purpose of creating a DNA record. Implementation of a provision of the bill by the Department of Public Safety is mandatory only if a specific appropriation is made for that purpose. The relevant offenses are:

require a defendant to provide to a law enforcement agency one or more specimens for creating a DNA record upon arrest for the following felonies:

- murder;  capital murder;  kidnapping  aggravated kidnapping;  human smuggling;
- continuous human smuggling;  human trafficking;  continuous human trafficking;
- continuous sexual abuse of young child or children;  indecency with a child;  assault;
- sexual assault;  aggravated assault;  aggravated sexual assault;  prohibited sexual conduct;  robbery;  aggravated robbery;  burglary;  theft;  promotion of prostitution;
- aggravated promotion of prostitution;  compelling prostitution;  sexual performance by a child; or  possession or promotion of child pornography.

**Codification:** Articles 42A.352 & 102.020(a), Code of Criminal Procedure; Chapter 411 and Sections 411.1471 & 411.1471, Government Code

**Effective Date:** September 1, 2019

**HB 1528** (Rose | et al.) *Relating to certain procedures applicable to certain offenses involving family violence.*

**Summary:** House Bill 1528 amends provisions of the Code of Criminal Procedure relating to certain procedures applicable to certain offenses involving family violence. The bill, among other provisions, does the following:

- requires a judge or justice of a municipal court to take the plea of a defendant charged with an offense involving family violence in open court;
- requires information in the computerized criminal history system relating to sentencing to include for each sentence whether the judgment imposing the sentence reflects an affirmative finding of family violence; and
- includes an offender charged with a misdemeanor punishable by fine only that involves family violence among the offenders for whom an arresting law enforcement agency is required to prepare a uniform incident fingerprint card and initiate the process of reporting applicable offender data.

On disposition of such a misdemeanor case, the bill requires the clerk of the court exercising jurisdiction over the case to report the applicable information regarding the person's citation or arrest and the disposition of the case to the Department of Public Safety using the uniform incident fingerprint card or an approved electronic methodology.

**Codification:** Articles 66.102(f) & 66.252, Code of Criminal Procedure

**Effective Date:** September 1, 2019

**HB 1651** (González, Mary | White | Anderson, Charles "Doc") *Relating to the care of pregnant women confined in county jail.*

**Summary:** H.B. 1651 amends the Government Code to require the Texas Commission on Jail Standards (TCJS) to adopt reasonable rules and procedures regarding the use of any type of restraints to control or restrict the movement of a prisoner, including a limb or other part of the prisoner, who is confirmed to be pregnant or who gave birth in the preceding 12 weeks unless a health care professional responsible for the health and safety of the prisoner determines that the use of restraints is appropriate for the health and safety of the prisoner or supervisory personnel determines the use of restraints is necessary to prevent an immediate and credible risk that the prisoner will attempt to escape or determines the prisoner poses an immediate and serious threat to the health and safety of the prisoner, staff, or any member of the public. This bill requires the rules and procedures to require jail staff who use restraints as permitted under its provisions to use the least restrictive restraints necessary to prevent escape or to ensure health and safety. The bill requires the rules and procedures, notwithstanding such permitted uses of restraints, to require jail staff to refrain from using restraints on the prisoner or to remove the restraints at the request of a healthcare professional responsible for the health and safety of the prisoner. H.B. 1651 requires each county jail, not later than February 1 of each year, to submit to TCJS a report regarding the jail's use, during the preceding calendar year, of any type of restraints to control or restrict the movement of a prisoner, including a limb or other part of the prisoner, who is confirmed to be



pregnant or who gave birth in the preceding 12 weeks. The bill requires the report to include the circumstances of each use of restraints, including certain specified information. The bill requires TCJS to prescribe a form for the report not later than December 1, 2019.

**Codification:** Sections 511.009(a) & Chapter 511, Government Code

**Effective Date:** September 1, 2019

**HB 1661** (Herrero | Longoria | Goldman) *Relating to the prosecution of the criminal offense of continuous violence against the family.*

**Summary:** H.B. 1661 amends current law relating to the prosecution of the criminal offense of continuous violence against the family. Continuous family violence is a serious charge in Texas. Under the Texas Penal Code, a person can be charged with continuous violence against the family if the assault happens two or more times within 12 months. Continuous family violence is a felony of the third degree and is punishable by up to 10 years in prison and fines of up to \$10,000. HB 1661, named **Rachel's Law**, allows district attorneys to file continuous family violence charges against an offender if the act takes place in more than one county. Rachel's Law stems from a case where there were instances of family violence within and outside of a county.

**Codification:** Chapter 13, Code of Criminal Procedure; Section 25.11(b), Penal Code

**Effective Date:** September 1, 2019

**HB 1899** (Bonnen, Greg) *Relating to the revocation or denial of certain health care professional licenses and the reporting of the grounds for revocation or denial.*

**Summary:** H.B. 1899 requires a judge to make a finding of fact if at the time of offense the defendant held a license as a health care professional and committed certain offenses in which the victim was a patient of the defendant and the offense was committed in the course of providing services within the scope of the defendant's license. Not later than the fifth day after the defendant is convicted or granted deferred adjudication, the court is required to provide notice of the conviction to the licensing authority that issued the defendant's license as a health care professional and the Department of Public Safety (DPS). The bill requires a licensing authority to revoke a license or deny a license application to anyone who committed certain offenses in which the victim was a patient and the offense was committed in the course of providing services within the scope of the defendant's license.

**Codification:** Articles 42.01, 62.005(e), & Chapter 42, Code of Criminal Procedure; Chapter 508, Government Code; Chapter 108 & Section 108.001, Occupations Code

**Effective Date:** September 1, 2019

**HB 1996** (Leman) *Relating to admonitions given by a court to a defendant before accepting a plea of guilty or nolo contendere.*

**Summary:** House Bill 1996 amends the Code of Criminal Procedure to require a court to make both orally and in writing the admonition required to be given to a defendant before accepting a plea of guilty or nolo contendere that, if the defendant is not a U.S. citizen, such a plea may result

in deportation, exclusion from admission to the United States, or denial of naturalization under federal law. The bill requires the court to receive a signed statement by the defendant and the defendant's attorney that the defendant understands the admonition and is aware of the plea's consequences and to make a record if the defendant is unable or refuses to sign the statement.

**Codification:** Article 26.13, Code of Criminal Procedure

**Effective Date:** September 1, 2019

**HB 2048** (Zerwas | Darby | Krause | Davis, Sarah | Howard) *Relating to the repeal of the driver responsibility program and the amount and allocation of state traffic fine funds; eliminating program surcharges; authorizing and increasing criminal fines; increasing a fee.*

**Summary:** House Bill 2048, amends the Code of Criminal Procedure, Education Code, Government Code, Health and Safety Code, Revised Statutes, and Transportation Code to provide for the elimination of the driver responsibility program and to increase certain traffic fines and fees to help support uncompensated trauma care costs. The bill requires the Department of Public Safety to reinstate any driver's license that was suspended under the program if the only reason for the suspension was a failure to pay an applicable surcharge. This law will allow 1.5 million Texans with suspended licenses due to surcharges to regain their licenses.

**Codification:** Article 102.022(a), Code of Criminal Procedure, Section 411.110(f), Government Code, Section 780.002-.004, Health and Safety Code, Sections 10(b) and (e), Article 4413(37), Revised Statutes, Section 502.357(b), 542.304, 542.4031, 601.233 and Chapter 709, Transportation Code

**Effective Date:** September 1, 2019

**HB 2079** (Coleman | et al.) *Relating to compensation under the Crime Victims' Compensation Act for certain expenses.*

**Summary:** H.B. 2079 makes child victims of attempted murders that occur within their own homes eligible for relocation cost reimbursement under the Crime Victims' Compensation Program. Reimbursement under the program provides a maximum of \$2,000 in one-time assistance to pay for rental deposits, mover hiring costs, or other upfront relocation.

**Codification:** Article 56.42(d), Code of Criminal Procedure

**Effective Date:** September 1, 2019

**HB 2169** (Allen | Rosenthal | Wu | Ramos | Neave) *Relating to reporting concerning female prisoners who are confined in county jails and to the provision of feminine hygiene products to female prisoners.*

**Summary:** HB 2169 would require the Texas Commission on Jail Standards to adopt rules and procedures establishing minimum standards for the quantity and quality of feminine hygiene products, including tampons in regular and large sizes with a plastic applicator and menstrual pads with wings in regular and large sizes, provided to a female prisoner. The bill would require

counties to include the number of female prisoners in county jails in their monthly reporting to the commission.

**Codification:** Sections 511.009(a) & 511.0101(a), Government Code

**Effective Date:** September 1, 2019

**HB 2502** (Moody | et al.) *Relating to a mandatory term of confinement for defendants placed on community supervision for the criminal offense of leaving the scene of a motor vehicle accident resulting in the death of a person.*

**Summary:** H.B. 2502 amends current law relating to a mandatory term of confinement for defendants placed on community supervision for the criminal offense of leaving the scene of a motor vehicle accident resulting in the death of a person. S.B. 275, 83rd Legislature, made the penalty for a deadly hit-and-run offense equal to the penalty for intoxicated manslaughter (second degree felony). The purpose of the bill was to dissuade those driving under the influence from fleeing the scene of an accident where they might have caused a fatality, making the penalties for both offenses the same. S.B. 275 passed unanimously in the Senate and without a single opposing vote in the House (2 PNV). Although S.B. 275 was able to successfully create equal penalties in statute between fatal hit-and-runs and intoxicated manslaughter offenses, it failed to match the mandatory community supervision (probation) standards set for intoxicated manslaughter to the probationary standards set for deadly hit-and-run offenses. Individuals granted probation for the offense of intoxicated manslaughter must spend at least 120 days in jail. However, current statute does not set forth the same requirements for individuals granted probation for deadly hit-and-runs. H.B. 2502 assures the original intent of S.B. 275 is met by removing the inequality and matching the mandatory community supervision requirements of intoxicated manslaughter to fatal hit-and-run offenses, creating parity between the two offenses that already have the same penalties. Specifically, H.B. 2502 requires that an individual granted probation for a deadly hit-and-run offense serve the same 120 days in jail that one would serve for intoxicated manslaughter—an important piece that was missing from S.B. 275.

**Codification:** Subchapter K, Chapter 42A, Code of Criminal Procedure

**Effective Date:** September 1, 2019

**HB 2524** (Anderson, Charles "Doc" | Collier) *Relating to the prosecution of the criminal offense of theft of service.*

**Summary:** House Bill 2524 amends the Penal Code to expand the conduct for which intent to avoid payment is presumed for the application of the offense of theft of service and to create an exception by which such a presumption may be refuted with regard to a defendant that intended but was unable to return the applicable property. HB 2524 creates a presumption of intent to avoid payment with respect to the offense of theft of service if a person failed to return property held under a rental agreement within two days of receiving a notice demanding return if the property was valued at \$10,000 or more. The bill authorizes the delivery of a notice demanding payment or return of property to be made by commercial delivery service as an alternative to registered or

certified mail and changes the date on which it is presumed that written notice was delivered from five days after the notice was sent to two days after the notice was sent.

**Codification:** Sections 31.04, Penal Code

**Effective Date:** September 1, 2019

**HB 2623** (White) *Relating to the requirements for a change of name for a person with a final felony conviction or a person required to register as a sex offender.*

**Summary:** HB 2623 would allow courts to order a change of name for an individual with a final felony conviction or who was required to register as sex offender if the individual requested to change the individual's name to the primary name used in their criminal history record information. An individual required to register as a sex offender also would be required to provide proof to the court that the individual had notified the appropriate local law enforcement authorities of the proposed change.

**Codification:** Section 45.103, Family Code

**Effective Date:** September 1, 2019

**HB 2624** (Perez | et al.) *Relating to the prosecution of certain criminal offenses involving fraud.*

**Summary:** HB 2624 amends the Code of Criminal Procedure to authorize the prosecution of a credit or debit card abuse offense in any county in which the offense was committed or in the county of residence for any person whose credit or debit card was unlawfully possessed or used by the defendant. The bill includes such offenses and offenses involving the fraudulent use or possession of identifying information among the offenses for which intent to defraud any particular person does not need to be proved in the trial of the offense.

**Codification:** Chapter 13 & Article 38.19, Code of Criminal Procedure

**Effective Date:** September 1, 2019

**HB 2697** (Meyer | et al.) *Relating to the prosecution of the offense of fraudulent use or possession of identifying information.*

**Summary:** HB 2697 expands the conduct that constituted an offense under Penal Code sec. 32.51 to include obtaining, possessing, transferring, or using an item of identifying information of another person without that person's effective consent. A sign displayed by a restaurant or bar stating the above offense would have to include the expansion of the offense for using identifying information without a person's effective consent.

**Codification:** Section 502.001(c), Business & Commerce Code; Section 32.51(b), Penal Code

**Effective Date:** September 1, 2019

**HB 2758** (Hernandez) *Relating to changing the eligibility of persons charged with certain offenses to receive community supervision, including deferred adjudication community supervision.*

**Summary:** H.B. 2758 now prohibits probation for defendants convicted of continuous human trafficking, promotion of prostitution, and aggravated promotion of prostitution. It also prohibits

judges from granting deferred adjudication to defendants charged with second offenses for human trafficking, continuous human trafficking, promotion of prostitution, aggravated promotion of prostitution, and compelling prostitution, as well as to those who previously had been on placed on probation for these or certain other offenses.

**Codification:** Articles 42A.054, 42A.056 & 42A.102, Code of Criminal Procedure; Sections 773.0614(c) & 773.06141(a), Health and Safety Code

**Effective Date:** September 1, 2019

**HB 3091** (Deshotel | Noble | Beckley | Raymond | Shaheen) *Relating to the confidentiality of and prohibiting disclosure of the location or physical layout of a family violence shelter center or victims of trafficking shelter center; creating a criminal offense.*

**Summary:** HB 3091 makes it a criminal offense for a person, with the intent to threaten the safety of any inhabitant of a family violence shelter center or victims of trafficking shelter center, disclosed or publicized the location or physical layout of the center. The offense is a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000). If a person's conduct constituted an offense under both this law and Government Code sec. 552.352, the person could be prosecuted under either section.

**Codification:** Section 552.138, Government Code; Chapter 42, Penal Code

**Effective Date:** September 1, 2019

**HB 3540** (Burns | et al.) *Relating to the authority of a peace officer to release in lieu of arrest certain persons with an intellectual or developmental disability.*

**Summary:** HB 3540 allows a peace officer, in lieu of arresting certain persons with an intellectual or developmental disability, to release the person at the person's residence if the officer: believed confinement of the person in a correctional facility would be unnecessary to protect the person and other individuals at the residence; and made reasonable efforts to consult with staff at the residence and with the person regarding the decision. These provisions would apply only to a person with an intellectual or developmental disability who resided at a group home or an intermediate care facility for persons with an intellectual or developmental disability. A peace officer and the agency or political subdivision that employed the peace officer could not be held liable for damage to persons or property that resulted from the actions of an individual released under the bill's provisions.

**Codification:** Chapter 14, Code of Criminal Procedure

**Effective Date:** September 1, 2019

**HB 4236** (Anderson, Charles "Doc") *Relating to permitting the viewing of certain body worn camera recordings.*

**Summary:** HB 4236 allows families of a person who is deceased only to view body worn camera recordings and then only if “the law enforcement agency determines that the viewing furthers a law enforcement purpose.” Further, HB 4236 prohibits a person who views the body camera

recording from either duplicating the recording or capturing video or audio from the recording. Not only does HB 4236 provide very limited access to body camera video but it also provides no access at all to the range of other information about the death of a person in custody that would be available under the Moody Amendment, including any “information, records or notations.” Further, HB 4236 may provide less access to body camera video than existing statutes.

**Codification:** Section 1701.660, Occupations Code

**Effective Date:** September 1, 2019

**SB 194** (Perry) *Relating to the creation of the criminal offense of indecent assault, to judicial protection for victims of that offense, and to certain criminal acts committed in relation to that offense.*

**Summary:** S.B. 194 amends current law relating to the creation of the criminal offense of indecent assault, to judicial protection for victims of that offense, and to certain criminal acts committed in relation to that offense. Under current law, a \$500 fine is the maximum criminal penalty for intentionally groping or doing unspeakable sexual actions without consent. In Texas, groping is legally equivalent to most traffic tickets and public intoxication. A Class C misdemeanor is an insufficient deterrent and punishment for these sexual assaults and attempted rapes. The effects of forcible groping and attempted rape are often as severe as rape. This bill seeks to classify these sexual assaults as Class A misdemeanors and allow victims to seek civil protective orders against the offender. This bill would make forced sexual touching—including grabbing a person's genitals or ejaculating on a person—punishable as a Class A misdemeanor. It would also make victims eligible for civil protective orders.

**Codification:** Chapter 22 & Sections 25.07(a), 25.07(b), 25.072, Penal Code; Chapter 7A & Articles 7A.01(a), 7A.02, 7A.03(a), 7A.035, 17.292(a) and (g), 56.021, and 56.021(d), Code of Criminal Procedure; Sections 411.042(b) and (g), Government Code

**Effective Date:** September 1, 2019

**SB 201** (Huffman | et al.) *Relating to increasing the criminal penalties for certain offenses committed in a disaster area or an evacuated area.*

**Summary:** S.B. 201 amends current law relating to increasing the criminal penalties for certain offenses committed in a disaster area or an evacuated area. Interested parties contend that the current penalty for looting crimes is not applied to all relevant criminal offenses that occur in declared disaster areas, leaving only certain offenses open to enhanced criminal charges. S.B. 201 seeks to address this issue by increasing criminal penalties for other commonly occurring looting crimes: arson, burglary of vehicles, and criminal trespass. S.B. 201 also removes the superfluous and nonstandard "necessity defense" for criminal charges occurring in declared disaster areas.

**Codification:** Sections 12.50 (b) and (c)

**Effective Date:** September 1, 2019

**SB 341** (Huffman) *Relating to the appointment of an attorney pro tem for certain criminal proceedings.*

**Summary:** S.B. 341 amends current law relating to the appointment of an attorney pro tem for certain criminal proceedings. The Code of Criminal Procedure and the Texas Government Code specify who may serve as an attorney pro tem. That is, who may stand in as an attorney for the state when such an attorney is disqualified to act in a case or proceeding, is absent from the county or district, or is otherwise unable to perform the duties of their office. S.B. 341 provides that only prosecutors (county attorneys with criminal jurisdiction, district attorneys, or criminal district attorneys or their assistants) and assistant attorneys general may serve as attorneys pro tem.

**Codification:** Articles 2.07(a), (b), (b-1), and (d), 52.09(c), Code of Criminal Procedure; Section 574.004, Government Code

**Effective Date:** September 1, 2019

**SB 405** (Birdwell) *Relating to the criminal offense of making a false report to a peace officer, federal special investigator, law enforcement employee, corrections officer, or jailer.*

**Summary:** S.B. 405 amends current law relating to the criminal offense of making a false report to a peace officer, federal special investigator, law enforcement employee, corrections officer, or jailer. Under current law, an individual can be charged with a Class B Misdemeanor if he or she knowingly makes a false report to a peace officer, federal special agent, or law enforcement agent. This bill amends Section 37.08 of the Penal Code to include corrections officers and jailers on the list of persons an individual may not knowingly make a false claim to without facing penalty.

**Codification:** Section 37.08 & 37.08(a), Penal Code

**Effective Date:** September 1, 2019

**SB 719** (Fallon) *Relating to increasing the punishment for certain conduct constituting the offense of murder and providing for the prosecution of that conduct as capital murder.*

**Summary:** Thirteen-year-old Lauren Landavazo was shot and killed walking home from McNiel Middle School in Wichita Falls on September 2, 2016. Found guilty of her murder by a Fort Worth jury two years later, 22-year-old Kody Lott was sentenced to life in prison for murder, plus an additional 20-year sentence for aggravated assault with a deadly weapon of Makayla Smith in the same shooting. S.B. 719, known as "**Lauren's Law**" in her memory. Under current law, perpetrators of crimes against victims aged 11–14 are charged with first-degree felony murder. S.B. 719 moves the age of victim for which a suspect can be prosecuted for a capital felony from under age 10 to under the age of 15. The difference between first-degree murder and a capital offense is the range of punishment. People convicted of first-degree felonies in Texas face a punishment range of five to 99 years, or life, in prison; they are eligible for parole after serving half their sentence or 30 years, whichever is less. Adults found guilty of a capital felony in Texas face one of two punishments: the death penalty or life without parole. The terrible murder of 13-year-old Lauren Landavazo in 2016 was obviously an unspeakable tragedy for her family, friends, and the Wichita Falls community. The author opined that this terrible act should be treated as the

egregious crime that it is—capital murder—and thus eligible only for life without parole or the death penalty. S.B. 719 amends current law relating to increasing the punishment for certain conduct constituting the offense of murder and providing for the prosecution of that conduct as capital murder.

**Codification:** Section 19.03(a), Penal Code; Article 37.071, Code of Criminal Code

**Effective Date:** September 1, 2019

**SB 1125** (Hinojosa) *Relating to the use of video teleconferencing for testimony of a forensic analyst in a criminal proceeding.*

**Summary:** Texas law does not explicitly permit forensic analysts to testify in criminal cases using video technology. Over the last three years, the Department of Public Safety of the State of Texas (DPS) crime laboratory has spent significant time and resources responding to requests to appear in court, many of which do not even result in testimony. S.B. 1125 allows for testimony via current real-time video capability under three conditions: (1) the court approves of the video testimony after notice to all parties; (2) the video conferencing is coordinated to ensure equipment reliability; and (3) a method of electronic submission of documents is available at the witness' location and the court's location. The video conferencing system is required to also comply with certain technical specifications as set forth in S.B. 1125.

**Codification:** Chapter 38, Code of Criminal Procedure

**Effective Date:** September 1, 2019

**SB 1259** (Huffman) *Relating to the prosecution of the offense of sexual assault.*

**Summary:** SB 1259 expands the conduct that constitutes sexual assault without the consent of another person to include if the actor was a health care services provider who, in the course of performing an assisted reproduction procedure on another person, used human reproductive material from a donor knowing that the other person had not expressly consented to the use of material from that donor. The offense would be a state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000). The bill defines human reproductive material as human spermatozoa or ova or human organisms at any stage of development from fertilized ova to embryos. The bill sets the statute of limitations for the offense at two years from the date the offense was discovered.

**Codification:** Article 12.01, Code of Criminal Procedure; Sections 22.011(b), (c) and (f), Penal Code

**Effective Date:** September 1, 2019

**SB 1268** (Watson) *Relating to a statement presented in a criminal case by a victim, close relative of a deceased victim, or guardian of a victim.*

**Summary:** Current law gives a victim, or his/her close relative or guardian, the right to appear in court and give a statement after the sentence is pronounced in a criminal case. However, some judges have interpreted this provision so narrowly that they are limiting prosecutors to only one



victim impact statement per case. This can be problematic when multiple victims or multiple family members of a victim wish to testify. S.B. 1268 fixes this issue by clarifying that a court may not impose a limit on the number of victim impact statements unless the court finds that additional statements would unreasonably delay the proceedings. In this way, S.B. 1268 balances judicial efficiency with a victim's right to address the court.

**Codification:** Article 42.03, Code of Criminal Procedure

**Effective Date:** September 1, 2019

**SB 1531** (Hancock) *Relating to the eligibility for certain occupational licenses and the use of a person's criminal history as grounds for certain actions related to the license.*

**Summary:** Senate Bill 1531 amends the Occupations Code to revise provisions governing the requirements for an electrician license and auctioneer license and governing the grounds on which the Texas Commission of Licensing and Regulation (TCLR) or the Texas Department of Licensing and Regulation (TDLR) may take certain actions related to a license to practice podiatry, midwifery, or dog or cat breeding. Among other provisions, the bill removes a person's conviction of a felony or a crime that involves moral turpitude from the grounds on which TCLR or TDLR may refuse to admit a person to an examination and to issue a license to practice podiatry and removes a person's conviction of a misdemeanor involving moral turpitude or a felony from the grounds on which TCLR or the executive director of TDLR may discipline a licensed midwife, refuse to renew a midwife's license, or refuse to issue a license to an applicant.

**Codification:** Sections 202.253(a-1), 203.404(a), 802.107, 1305.152(a), & 1802.052(a), Occupations Code

**Effective Date:** September 1, 2019

**SB 1570** (Flores | et al.) *Relating to the effect of certain felony convictions of certain corrections employees.*

**Summary:** Under current law, corrections employees who commit certain felonies can still collect their retirement annuity. S.B. 1570 seeks to prevent corrections officers who participate in criminal activities involving prison gangs from continuing to profit from their employment after they are convicted of a qualifying crime. Under the terms of this bill, corrections officers would become ineligible to collect their service retirement annuity for a conviction of bribery, embezzlement, perjury, tampering with government records, engaging in organized criminal activity, misuse of information, abuse of official capacity, or conspiracy to commit one of those offenses. This bill also provides a safe harbor provision for an innocent spouse who may still be entitled to a portion of the annuity

**Codification:** Chapter 810, Government Code; Chapter 42 & Article 42.01, Code of Criminal Procedure

**Effective Date:** September 1, 2019

**SB 1754** (Huffman) *Relating to the prosecution of the offense of taking or attempting to take a weapon from certain officers, investigators, employees, or officials.*

**Summary:** Under current law, a person taking or attempting to take a weapon from certain officers, investigators, employees, or officials can be charged with a state jail felony or a third-degree felony. However, in order to convict, a prosecutor must prove that the taking or attempted taking was done "with the intention of harming the officer, investigator, employee, or official or third person." This current language leaves out any other reason for taking the weapon, including self-harm to the person attempting to take or taking the weapon. Therefore, if the prosecutor is unable to prove this specific intent, the crime did not occur. S.B. 1754 eliminates the requirement for specific intent. Specifically, the bill eliminates the phrase "with the intention of harming the officer, investigator, employee, or official or a third person." Under this bill, a person commits the offense of taking or attempting to take a weapon from an officer if they intentionally or knowingly and with force take or attempt to take an officer's weapon for any reason, other than to protect against the use of excessive force. Therefore, prosecution of the crime would be contingent upon the action itself, regardless of intent

**Codification:** Section 38.14(b), Penal Code

**Effective Date:** September 1, 2019

**SB 2136** (Powell) *Relating to the admissibility of evidence in the prosecution of an offense against a family member or certain other individuals or involving exploitation of certain vulnerable individuals.*

**Summary:** S.B. 2136 amends Section 38.371, Code of Criminal Procedure, relating to the admissibility of certain evidence in the prosecution of offenses involving family violence. This would allow the introduction of testimony and related evidence of all relevant facts and circumstances that would assist in establishing the nature of the relationship between the victim and the defendant. S.B. 2136 broadens Article 38.371, by allowing a jury to consider evidence from all prior acts of family violence such as sexual assault, burglary of a habitation, criminal mischief, and other crimes listed in the Penal Code, so long as it assists in determining whether an actor committed the crime.

Currently, Article 38.371 (Evidence in Prosecutions of Certain Offenses Involving Family Violence), Code of Criminal Procedure, allows the introduction of testimony or other evidence of all relevant facts and circumstances that would assist the trier of fact in determining whether the actor committed assault or aggravated assault, or violated various types of restraining orders, when the alleged victim was in a dating relationship with the accused, or a member of the same family or household. This includes testimony or evidence regarding the nature of the relationship between the actor and the alleged victim.

Acts of family violence occur in more than just the five types of cases currently listed under Article 38.371. Family violence happens in cases of sexual assault, burglary of a habitation, criminal mischief, and many other crimes in the Penal Code. Evidence provided through crimes that are within the Penal Code are a critical tool when determining the nature of the relationship between

the victim and defendant. In order to establish the nature of the relationship between the victim and the defendant, S.B. 2136 applies this provision to any offense where family violence is found.

**Codification:** Article 38.371, 38.371(a), & Chapter 38, Code of Criminal Procedure

**Effective Date:** September 1, 2019

**SB 2390** (Powell) *Relating to the confidentiality of certain personal information of a person protected by a magistrate's order for emergency protection.*

**Summary:** S.B. 2390 creates consistency for law enforcement officers regarding their ability to enforce protective orders issued under Chapter 85, Family Code, and emergency protective orders issued under Article 17.292, Code of Criminal Procedure. Last session, S.B. 1242 amended the Family Code for protective orders. The changes made by S.B. 1242 allow for the addresses of the victim and the designated person to remain confidential with the exception of law enforcement and the court. The designated address is forwarded to a law enforcement agency for the purposes of entering the information into the statewide law enforcement information system, Texas Criminal Information Center (TCIC). The protective address entered into the law enforcement information system allows immediate enforcement of the protective order. S.B. 2390 allows for the designated address for emergency protective orders to be entered into the statewide law enforcement information system. This gives law enforcement officials the ability to act in cases in which the respondent is in violation of the protective orders. This aids in ensuring the protection of the victim and the resident of the designated address.

**Codification:** Chapter 17, Code of Criminal Procedure; Section 411.042(b), Government Code

**Effective Date:** September 1, 2019

---

## **Wrongful Convictions**

**SB 1151** (Huffman) *Relating to the comptroller's access to criminal history record information of wrongfully imprisoned persons and certain annuity payments payable to surviving spouses and designated beneficiaries of those persons.*

**Summary:** Senate Bill 1151 amends the Civil Practice and Remedies Code to give a person entitled to compensation from the state for wrongful imprisonment the option to elect to receive reduced alternative annuity payments as compensation not later than the 45th day after the date on which the claimant experiences a qualifying life-changing event.

Senate Bill 1151 amends the Government Code to entitle the comptroller of public accounts to obtain from the Department of Public Safety criminal history record information that the comptroller believes is necessary for the enforcement or administration of statutory provisions governing state compensation for wrongful imprisonment.

**Codification:** Section 411.109(a), Government Code.

**Effective Date:** Immediately

---

## JUVENILE JUSTICE

**HB 1760** (White | et al.) *Relating to the confidentiality, sharing, sealing, and destruction of juvenile records and certain records of at-risk youth.*

**Summary:** H.B. 1760 amends the Family Code to authorize the disclosure of certain juvenile records to an individual or entity to whom a child is referred for treatment or services, including assistance in transitioning the child to the community after the child's release or discharge from a juvenile facility; a prosecuting attorney; a parent, guardian, or custodian with whom a child will reside after the child's release or discharge from a juvenile facility; and a governmental agency or court if the record is necessary for an administrative or legal proceeding and the personally identifiable information about the child is redacted before the record is disclosed. The bill prohibits an individual or entity that receives such confidential information from disclosing the information unless otherwise authorized by law.

**Codification:** Section 58.005, Family Code

**Effective Date:** September 1, 2019

**HB 2184** (Allen | et al.) *Relating to a public school student's transition from an alternative education program to a regular classroom.*

**Summary:** H.B. 2184 amends the Education Code to require the administrator of an alternative education program, as soon as practicable after the program determines the date of a student's release from the program, to provide written notice of that date to the student's parent or a person standing in parental relation to the student and to provide to the administrator of the campus to which the student intends to transition that notice, an assessment of the student's academic growth while attending the program, and the results of any tests administered to the student. The bill establishes that an alternative education program includes the following:

- a disciplinary alternative education program operated by a public school district or open-enrollment charter school;
- a juvenile justice alternative education program; and
- a residential program or facility operated by or under contract with the Texas Juvenile Justice Department, a juvenile board, or any other governmental entity.

HB 2184 requires the campus administrator, not later than five instructional days after a student's release date, to coordinate the student's transition to a regular classroom. The bill requires the coordination to include assistance and recommendations from specified persons and requires such assistance to include a personalized transition plan developed by the campus administrator. The bill requires the transition plan to include recommendations for the best educational placement of the student and sets out authorized additional components of the plan. The bill requires the campus

administrator or the administrator's designee, if practicable, to meet with the student's parent or a person standing in parental relation to the student to coordinate plans for the student's transition. The bill's provisions apply only to a student subject to compulsory attendance requirements. The bill applies beginning with the 2019-2020 school year.

**Codification:** Subchapter A, Chapter 37, Education Code

**Effective Date:** June 10, 2019

**HB 2229** (Johnson, Jarvis) *Relating to a report of information concerning juvenile offenders committed to the Texas Juvenile Justice Department who have been in foster care.*

**Summary:** HB 2229 amends the Human Resources Code to require data in the report by the Texas Juvenile Justice Department (TJJD) summarizing statistical information concerning the total number and percentage of children in TJJD custody during the preceding two years who have at any time been in foster care to be disaggregated by age, sex, race or ethnicity, the conduct for which children were committed to TJJD, and children entering the juvenile justice system for the first time. The bill expands those to whom the report must be submitted to include each member of the legislature. The bill requires TJJD to make the report available to the public on its website.

**Codification:** Section 243.008 (e), Human Resources Code

**Effective Date:** June 10, 2019

**SB 1702** (Whitmire) *Relating to the powers and duties of the office of independent ombudsman for the Texas Juvenile Justice Department.*

**Summary:** SB 1702 amends the Human Resources Code to clarify that the powers of the office of independent ombudsman of the Texas Juvenile Justice Department include the inspection of certain facilities and the investigation of complaints alleging a violation of the rights of the children committed to or placed in such a facility.

**Codification:** Section 261.101, Human Resources Code

**Effective Date:** September 1, 2019

**SB 1746** (Miles | et al.) *Relating to the inclusion of certain students as students at risk of dropping out of school.*

**Summary:** SB 1746 includes students who had been incarcerated or had a parent or guardian who had been incarcerated in a penal institution during the student's lifetime in the list of students considered at risk of dropping out of school.

**Codification:** Section 29.801 (d), Education Code

**Effective Date:** June 2, 2019

**SB 1887** (Huffman | et al.) *Relating to jurisdiction over certain child protection and juvenile matters involving juvenile offenders.*

**Summary:** SB 1887 amends the Family Code to authorize a juvenile court judge to refer any aspect of a child protection suit to an associate judge who serves in the county with the associate

judge's consent. The bill subjects the scope of an associate judge's authority over such a suit to any limitations placed by the juvenile court judge in the order of referral. The bill authorizes an associate judge to hear and render an order in a referred suit, subject to applicable limitations.

SB 1887 authorizes a juvenile court to transfer a child's case, including transcripts of records and documents for the case, to a court located in a county that is exercising jurisdiction over the child under statutory provisions relating to the review of the placement of a child under the care of the Department of Family and Protective Services or to child welfare services for adjudication or disposition of the case. The bill expressly does not require consent of the court to which the case is transferred.

**Codification:** Section 51.04, Family Code

**Effective Date:** September 1, 2019

**SB 2135** (Powell) *Relating to information a law enforcement agency is required to share with a school district about a person who may be a student.*

**Summary:** SB 2135 amends the Code of Criminal Procedure to require a law enforcement agency that arrests any person or appropriately refers a child believed to be enrolled as a student in a public primary or secondary school for certain offenses to provide to a school district superintendent or the superintendent's designee information relating to the student that is requested for the purpose of conducting a threat assessment or preparing a safety plan relating to that student. The bill authorizes a school board to enter into a memorandum of understanding with a law enforcement agency regarding the exchange of information relevant to conducting a threat assessment or preparing a safety plan and establishes that, absent a memorandum of understanding, the information requested by the superintendent or designee is considered relevant.

SB 2135 amends the Education Code to exclude such requested information from the information the superintendent or the superintendent's designee may consider in determining whether there is a reasonable belief that a student has engaged in conduct defined as a felony offense by the Penal Code for purposes of a student's removal from class and placement in a disciplinary alternative education program.

SB 2135 amends the Family Code to authorize the chief executive officer or the officer's designee of a primary or secondary school where a child is enrolled to inspect or copy certain law enforcement records concerning the child only for the purpose of conducting a threat assessment or preparing a safety plan related to the child.

**Codification:** Article 15.27, Code of Criminal Procedure

**Effective Date:** September 1, 2019

## FAMILY LAW

**HB 369** (Cain | et al.) *Relating to jurisdiction in a suit for adoption of a child and the mandatory transfer of certain suits affecting the parent-child relationship to the court in which a suit for adoption is pending.*

**Summary:** H.B. 369 amends the Family Code to require a petition filed in a suit affecting the parent-child relationship in which adoption of a child is requested to include a statement that the court in which the petition is filed has jurisdiction of the suit. The bill requires a court having continuing, exclusive jurisdiction of a suit affecting a parent-child relationship, on the filing of a motion showing that a suit in which adoption of the child is requested has been filed in another court located in the county in which the child resides and requesting a transfer to that court, to transfer the proceedings to the court in which the suit for adoption is pending within the time prescribed by law. The bill authorizes such a motion to be filed at any time and requires the motion to contain a certification that all other parties, including the attorney general, if applicable, have been informed of the filing of the motion.

**Codification:** Sections 102.008(b), 103.001 (b), 155.201 & 155.204, Family Code

**Effective Date:** September 1, 2019

**HB 553** (Thompson, Senfronia) *Relating to notice regarding summer weekend possession of a child under a standard possession order in a suit affecting the parent-child relationship.*

**Summary:** Under current law, the possessory conservator may designate a 30-day period during the summer when he/she will have "extended summer visitation" with the child(ren). The managing conservator may designate one weekend when the managing conservator can have visitation time with the child(ren) during the possessory conservator's previously-designated 30-day period of "extended summer visitation." For the managing conservator to exercise this weekend with the child(ren), the managing conservator must pick up from and return the child to the possessory conservator in the location where the possessory conservator/children will be during the selected weekend. H.B. 553 amends the Family Code to require the possessory conservator to give 15 days prior written notice to the managing conservator of the location at which the managing conservator will need to pick up and return the child(ren) for this weekend period of possession. H.B. 553 is intended to provide clarity on the actual location where the managing conservator is to pick up and return the child(ren), reduce "emergency" litigation to determine the proper location for pick-up and drop off during this weekend, and avoid unnecessary conflict between the conservators. H.B. 553 amends current law relating to notice regarding summer weekend possession of a child under a standard possession order in a suit affecting the parent-child relationship.

**Codification:** Section 153.312, Family Code

**Effective Date:** September 1, 2019

**HB 558** (Thompson, Senfronia) *Relating to court-ordered support for a child with a disability.*

**Summary:** It has been noted that child support payments for children with disabilities are often made to a special needs trust to prevent the child's income from exceeding the eligibility levels for certain benefit programs, including SSI, which would put the child in a worse position than if the child had never received those payments. However, concerns have been raised over some courts declining to approve child support orders that designate a special needs trust as the recipient of a child support payment because such a trust is not expressly included in state law as an entity to whom those payments may be made on the child's behalf. H.B. 558 seeks to address these concerns by providing for the express authorization to designate a special needs trust to receive support payments directly for the benefit of an adult child with a disability. H.B. 558 amends current law relating to court-ordered support for a child with a disability.

**Codification:** Section 154.302, Family Code

**Effective Date:** September 1, 2019

**HB 559** (Thompson, Senfronia) *Relating to written agreements incident to divorce or annulment.*

**Summary:** There are concerns that personal financial information contained in an agreement incident to divorce or annulment that is otherwise confidential can be disclosed if the agreement is required to be filed with the court along with the final decree. It has been suggested that these agreements, which are sometimes used intentionally to shield financial information from public disclosure, should expressly not be required to be filed with a court if the agreement is incorporated only by reference in the final decree of divorce or annulment. H.B. 559 provides that such an agreement is not required to be filed with a court under these circumstances.

**Codification:** Section 7.006(b), Family Code

**Effective Date:** May 24, 2019

**HB 1689** (Deshotel) *Relating to disclosure regarding the existence of a gestational agreement in a suit for the dissolution of a marriage and standing of an intended parent under a gestational agreement to file a suit affecting the parent child relationship.*

**Summary:** Currently, non-biological parents have no legal claim to their child under a gestational agreement, even if they were the intended parent in the agreement. There is also no requirement for gestational agreements to be made known in a divorce suit. H.B. 1689 requires parties to a suit for divorce to disclose that they have entered a gestational agreement, whether the gestational mother is pregnant, and whether the agreement has been verified by a court hearing. It also gives the intended parents standing to file a suit affecting the parent-child relationship. H.B. 1689 amends current law relating to disclosure regarding the existence of a gestational agreement in a suit for the dissolution of a marriage and standing of an intended parent under a gestational agreement to file a suit affecting the parent-child relationship.

**Codification:** Sections 6.406 & 102.003, Family Code

**Effective Date:** September 1, 2019



**HB 3145** (Toth) *Relating to the right of a parent appointed as a conservator of a child to attend school activities.*

**Summary:** House Bill 3145 amends the Family Code to specify that a parent appointed as a conservator of a child has at all times the right to attend school lunches, performances, and field trips. There have been reports that some Texas schools restrict the access of a parent appointed as a conservator of a child to attend lunch and certain other activities with the child because of a lack of specificity in current law regarding what constitutes a school activity. H.B. 3145 seeks to ensure that a person appointed as a conservator of a child may participate in the child's school activities. H.B. 3145 amends current law relating to the right of a parent appointed as a conservator of a child to attend school activities.

**Codification:** Section 153.073(a), Family Code.

**Effective Date:** June 14, 2019

---

## **Domestic Violence**

**HB 553** (Thompson, Senfronia) *Relating to notice regarding summer weekend possession of a child under a standard possession order in a suit affecting the parent-child relationship.*

**Summary:** It has been suggested that the law could provide more clarity regarding summer weekend possession of a child under a standard possession order in a suit affecting the parent-child relationship. H.B. 553 seeks to provide this clarity by requiring the possessory conservator of the child to give the managing conservator written notice of the location at which the managing conservator is to pick up and return the child. H.B. 553 amends the Family Code to require the possessory conservator of a child under a standard possession order for parents who reside 100 miles or less apart, after receiving notice from the managing conservator designating the summer weekend during which the managing conservator is to have possession of the child, to give the managing conservator, not later than the 15th day before the Friday that begins the designated weekend, written notice of the location at which the managing conservator is to pick up and return the child.

**Codification:** Section 153.312, Family Code

**Effective Date:** September 1, 2019

**HB 554** (Thompson, Senfronia) *Relating to temporary orders during the pendency of an appeal in a suit affecting the parent-child relationship.*

**Summary:** H.B. 554 amends the Family Code, for purposes of temporary orders issued during the pendency of an appeal in a suit affecting the parent-child relationship enjoining a party from molesting or disturbing the peace of the child or another party, to clarify that such an order may be rendered without the issuance of a bond between the applicable parties by removing the specification that such an order may be rendered without the issuance of a bond between the

spouses. The bill applies to a temporary order rendered by a court of competent jurisdiction on or after September 1, 2017, but before the bill's effective date and establishes that the legislature ratifies such an order.

**Codification:** Section 109.001(b), Family Code

**Effective Date:** September 1, 2019

**HB 555** (Thompson, Senfronia) *Relating to certain rights of the sole managing conservator of a child in relation to the child's passport.*

**Summary:** It has been suggested that, in light of the many responsibilities of a person appointed sole managing conservator of a child in caring for the child, the right to apply for a passport for the child, renew the child's passport, and maintain possession of the child's passport should be included among the person's rights and duties. H.B. 555 seeks to address this issue by granting those rights to such a person in relation to a child's passport.

H.B. 555 amends the Family Code to include among the rights and duties of a parent or a nonparent appointed as sole managing conservator of a child, as applicable, the right to apply for a passport for a child, renew the child's passport, and maintain possession of the child's passport.

**Codification:** Sections 153.132 & 153.371, Family Code

**Effective Date:** September 1, 2019

**SB 586** (Watson | et al.) *Relating to the training of peace officers for family violence and sexual assault assignments.*

**Summary:** Reports indicate that law enforcement officers are often the first to encounter survivors of sexual assault and rape. There have been calls for officers to understand how trauma can affect a rape victim's behavior and the victim's capacity to participate in an investigation. S.B. 586 seeks to strengthen the ability of law enforcement to provide an effective, trained response to victims of sexual assault and rape by including trauma-informed response techniques as a required component of law enforcement officer training and providing for a special certification for certain assignments. S.B. 586 improves the training Texas peace officers are already required to receive regarding sexual assault, child abuse, and family violence by ensuring it is up-to-date and trauma-informed. S.B. 586 requires TCOLE to ensure that the existing peace officer training on child abuse, family violence, and sexual assault includes the use of best practices and trauma-informed techniques to effectively recognize, document, and investigate these cases. S.B. 586 also codifies an existing certification for officers who specialize in family violence and sexual assault cases that TCOLE has adopted via rule.

**Codification:** Sections 1701.4045 & 1701.352(b), Occupation Code

**Effective Date:** September 1, 2019

**HB 881** (Bell, Cecil | et al.) *Relating to the right of a parent of a deceased person to view the person's body before an autopsy is performed.*

**Summary:** H.B. 881 amends the Code of Criminal Procedure to extend the right of a parent of a

deceased person younger than 18 years of age to view the person's body before an autopsy is performed to a parent of a deceased person of any age.

**Codification:** Chapter 49, Code of Criminal Procedure

**Effective Date:** September 1, 2019

**HB 1528** (Rose | et al.) *Relating to certain procedures applicable to certain offenses involving family violence.*

**Summary:** H.B. 1528 amends current law to require information in the computerized criminal history system relating to sentencing to include for each sentence whether the judgment imposing the sentence reflects an affirmative finding of family violence. The bill includes an offender charged with a misdemeanor punishable by fine only that involves family violence among the offenders for whom an arresting law enforcement agency is required to prepare a uniform incident fingerprint card and to initiate the reporting process of applicable offender data. The bill requires the clerk of the court exercising jurisdiction over a case in which an offender is charged with such a misdemeanor, on disposition of the case, to report the applicable information regarding the person's citation or arrest and the disposition of the case to the Department of Public Safety (DPS) using a uniform incident fingerprint card or an electronic methodology approved by DPS.

**Codification:** Articles 66.102 (f) & 66.252, Code of Criminal Procedure

**Effective Date:** September 1, 2019

**HB 1854** (Dutton) *Relating to loss of continuing, exclusive jurisdiction of a court in certain suits affecting the parent-child relationship.*

**Summary:** H.B. 1854 amends the Family Code to change one of the conditions that cause a court to lose continuing, exclusive jurisdiction to modify its order in a suit affecting the parent-child relationship by specifying that the loss of jurisdiction is triggered by an order being rendered by another court in an original suit in which adoption is requested filed in the county where the child resides or in the county where the petitioners reside. The bill establishes that an order of adoption rendered in an applicable suit on or after September 1, 2015, but before the bill's effective date by a court that had jurisdiction to render the order regardless of whether another court had continuing, exclusive jurisdiction is a final order and is not subject to an appeal on the basis that the court rendering the order of adoption did not have continuing, exclusive jurisdiction at the time the adoption order was rendered.

**Codification:** Section 155.004(a), Family Code.

**Effective Date:** September 1, 2019

## Guardianship & Disabilities

**HB 19** (Price | Huberty | Thompson, Senfronia | Coleman | Bonnen, Greg) *Relating to mental health and substance use resources for certain school districts.*

**Summary:** HB 19 requires local mental health authorities to provide each of the regional education service centers with a non-physician mental health professional to serve as a mental health and substance use resource for school districts. These professionals will serve as a mental health and substance use resources for school districts located in the region served by a regional education service center and in which the local mental health authority provides services, provide training regarding the effects of grief and trauma, provide support to children with intellectual and developmental disabilities, and facilitate training and intervention programs to help students avoid drug, alcohol and cigarette use. School districts will not be required to participate in training provided by a non-physician mental professional or otherwise use the professional as a resource.

**Codification:** Chapter 8, Education Code.

**Effective Date:** September 1, 2019

**HB 601** (Price | Collier | Murr | Moody | White) *Relating to criminal or juvenile procedures and reporting requirements regarding persons who are or may be persons with a mental illness or an intellectual disability.*

**Summary:** House Bill 601 amends the Code of Criminal Procedure, Government Code, and Health and Safety Code to provide for the interview of a defendant in custody who is suspected of having a mental illness or intellectual disability for purposes of identifying whether the defendant has such an illness or disability. The bill provides for the written report of such an interview and requires the Texas Correctional Office on Offenders with Medical or Mental Impairments to approve a standard form for purposes of providing such a report. The bill requires a county that transfers a defendant to the Texas Department of Criminal Justice to deliver a copy of any information regarding the mental health of the defendant and any such report. The bill requires the Texas Judicial Council to adopt rules requiring the reporting of the number of such reports and the submission of the written reports to the Office of Court Administration of the Texas Judicial System.

**Codification:** Articles 16.22(a), 16.22, 17.032(b) and (c), Code of Criminal Procedure, Section 511.0085(a), Government Code, Sections 614.0032 and 614.0032, Health and Safety Code

**Effective Date:** September 1, 2019

**HB 1070** (Price | et al.) *Relating to the mental health first aid training program reporting requirements.*

**Summary:** HB 1070 amends the Health and Safety Code to include among the information a local mental health authority is required to report annually to the Department of State Health Services (DSHS) and among the information DSHS is required to report annually to the legislature the number of mental health first aid trainers who left the program provided to train those trainers for

any reason during the preceding fiscal year and the number of active trainers.

HB 1070 requires the number of university employees, school district employees, and school resource officers who completed a mental health first aid training program offered by the local mental health authority during the preceding fiscal year that the authority is required to report annually to DSHS and DSHS is required to report annually to the legislature to be categorized by local mental health authority region, school district, and category of personnel. The bill includes among the information DSHS is required to report annually to the legislature a detailed accounting of expenditures of money appropriated for the purpose of implementing statutory provisions relating to mental health first aid training.

**Codification:** Section 1001.205, Health and Safety Code

**Effective Date:** December 1, 2019

**HB 1386** (Thompson, Senfronia) *Relating to training and development activities for persons who may interact with an individual with autism or other pervasive developmental disorder.*

**Summary:** HB 1386 amends the Human Resources Code to include Department of Family and Protective Services personnel among those for whom the Health and Human Services Commission (HHSC) is required to conduct training and development activities for persons who may interact with an individual with autism or another pervasive developmental disorder in the course of their employment. The bill clarifies that the training and development activities are to be conducted for school, medical, and law enforcement personnel. The bill requires HHSC to ensure that such training and development activities are evidenced-based, applicable to the professional role of each type of personnel to be trained, and instructive regarding means of effectively communicating and engaging with individuals with limited social or verbal abilities. The bill requires HHSC, not later than September 1, 2024, and at least once every five years thereafter, in consultation with an institution of higher education, to revise the materials and methods for the training and development activities.

**Codification:** Section 114.013

**Effective Date:** September 1, 2019

**HB 2894** (Collier) *Relating to the prosecution of health care fraud; creating a criminal offense.*

**Summary:** House Bill 2894 amends the Code of Criminal Procedure, Health and Safety Code, and Penal Code to create the offense of health care fraud by expanding the applicability of conduct that constitutes Medicaid fraud to include conduct involving fraud of a health care program funded by the state, the federal government, or both that is designed to provide health care services to health care recipients, including a program that is administered in whole or in part through a managed care delivery model.

**Codification:** Article 12.01, Section 3(a)(3), Articles 37.07, 59.01(2), 59.06(p), Code of Criminal Procedure, Section 250.006(a), Health and Safety Code, Chapter 35A, Penal Code.

**Effective Date:** September 1, 2019

**HB 3540** (Burns | et al.) *Relating to the authority of a peace officer to release in lieu of arrest certain persons with an intellectual or developmental disability.*

**Summary:** HB 3540 amends the Code of Criminal Procedure to authorize a peace officer, with respect to a person with an intellectual or developmental disability who resides at a group home or an intermediate care facility for persons with an intellectual or developmental disability operated under the home and community-based services Medicaid waiver program, to release the person at the person's residence in lieu of arresting the person if the officer:

- believes confinement of the person in a correctional facility is unnecessary to protect the person and the other persons who reside at the residence; and
- made reasonable efforts to consult with the staff at the person's residence and with the person regarding that decision.

The bill exempts a peace officer and the agency or political subdivision that employs the peace officer from liability for damage to persons or property that results from the actions of a person released at the person's residence under the bill's provisions.

**Codification:** Chapter 14.035, Code of Criminal Procedure

**Effective Date:** September 1, 2019

**SB 306** (Watson | et al.) *Relating to the release by a peace officer of certain individuals suspected of the offense of public intoxication.*

**Summary:** S.B. 306 amends the Code of Criminal Procedure to include among the conditions under which a peace officer, in lieu of arresting an individual who is not a child and who commits a public intoxication offense, may release that individual the conditions that the individual verbally consents to voluntary admission to a facility that provides a place for individuals to become sober under supervision and that the facility admits the individual for supervision. These conditions apply provided the officer believes detention in a penal facility is unnecessary for the protection of the individual or others.

**Codification:** Articles 14.031(a) and (c), Code of Criminal Procedure.

**Effective Date:** April 25, 2019

**SB 362** (Huffman | et al.) *Relating to court-ordered mental health services.*

**Summary:** S.B. 362 repeals Health and Safety Code provisions relating to court-ordered temporary and extended outpatient mental health services and amends the Health and Safety Code to clarify that the judge has authority to order a proposed patient to receive court-ordered temporary or extended outpatient mental health services if:

- the judge finds that appropriate mental health services are available to the proposed patient;
- the judge or jury finds, from clear and convincing evidence, that:
  - the proposed patient is a person with severe and persistent mental illness;
  - as a result of the mental illness, the proposed patient will, if not treated, experience deterioration of the ability to function independently to the extent that the proposed patient will be unable to live safely in the community without court-ordered

outpatient mental health services;

- outpatient mental health services are needed to prevent a relapse that would likely result in serious harm to the proposed patient or others; and
- the proposed patient has an inability to participate in outpatient treatment services effectively and voluntarily, demonstrated by specified criteria; and
- for a proposed patient to receive court-ordered extended outpatient mental health services, in addition to such findings, the judge or jury also find from clear and convincing evidence that:
  - the proposed patient's condition is expected to continue for more than 90 days; and

the proposed patient has received court-ordered inpatient or outpatient mental health services for specified lengths of time.

S.B. 362 establishes that, for purposes of being clear and convincing, the evidence must include expert testimony and evidence of a recent overt act or a continuing pattern of behavior that tends to confirm the requisite findings. The bill requires an order for temporary outpatient mental health services to state that treatment is authorized for not longer than 45 days, except that the order may specify a period not to exceed 90 days if the judge finds that the longer period is necessary. The bill establishes that an order for extended outpatient mental health services must provide for a period of treatment not to exceed 12 months. The bill prohibits a judge from issuing an order for temporary or extended outpatient mental health services for a proposed patient who is charged with a criminal offense that involves an act, attempt, or threat of serious bodily injury to another person.

S.B. 362 authorizes, in a hearing for court-ordered temporary inpatient or outpatient mental health services, the proposed patient or the proposed patient's attorney, by a written document filed with the court, to waive the right to cross-examine witnesses and, if that right is waived, authorizes the court to admit, as evidence, the certificates of medical examination for mental illness. The bill establishes that the certificates constitute competent medical or psychiatric testimony and authorizes the court to make its findings solely from the certificates. If the right to cross-examine witnesses is not waived, the court is required to proceed to hear testimony, which must include competent medical or psychiatric testimony.

S.B. 362 prohibits the court in a hearing for court-ordered extended inpatient or outpatient mental health services from making its findings solely from the certificates of medical examination for mental illness and requires the court to hear testimony. The bill prohibits the court from entering an order for extended mental health services unless appropriate findings are made and are supported by testimony taken at the hearing and requires such testimony to include competent medical or psychiatric testimony.

S.B. 362 sets a deadline by which a facility administrator of a facility to which a patient is committed for inpatient mental health services must assess the appropriateness of transferring the patient to outpatient mental health services after which the facility administrator may recommend a court order modification. The bill requires the court to consult with the local mental health authority before issuing a decision. The bill replaces the prohibition on the extension of a modified

order for inpatient treatment beyond the term of the original order with an authorization for the extension of such an order for no more than 60 days beyond the term of the original order.

S.B. 362 establishes that, subject to available resources, provisions relating to the requirement for the treating physician to prepare a continuing care plan for a patient scheduled to be furloughed or discharged apply to a patient scheduled to be furloughed or discharged from a state hospital or any psychiatric inpatient bed funded under a contract with the Health and Human Services Commission (HHSC) or operated by or funded under a contract with a local mental health authority or a behavioral mental health authority. The bill changes how a local mental health authority participates in the planned discharge of patient from an applicable facility from the authority not being required to participate in planning the discharge to the authority being required to participate. The bill establishes that the authority must be informed of the discharge of the patient.

S.B. 362 revises the matters a continuing care plan must address, if appropriate, to include the need for:

- outpatient mental health services following furlough or discharge; and
- sufficient psychoactive medication on furlough or discharge to last until the patient can see a physician.

S.B. 362 establishes that, subject to available funding provided to HHSC and paid to a private mental health facility for such purposes, a private mental health facility that is contracting with a local mental health authority is responsible for providing or paying for psychoactive medication and any other medication prescribed to the patient to counteract adverse side effects of psychoactive medication on furlough or discharge sufficient to last until the patient can see a physician. The bill requires HHSC to adopt rules to determine the quantity and manner of providing psychoactive medication on furlough or discharge but prohibits the executive commissioner of HHSC from adopting rules requiring a mental health facility to provide or pay for psychoactive medication for more than seven days after such release.

S.B. 362, with regard to a patient who is directed to participate in outpatient mental health services, includes a person who is the facility administrator of a Department of State Health Services facility or of a community center that provides mental health services in a county where the patient has previously received mental health services among the persons who may be designated to be responsible for the patient's outpatient mental health services without the patient's consent.

S.B. 362 requires the Supreme Court of Texas to take the following actions:

- adopt rules to streamline and promote the efficiency of court processes under statutory provisions relating to emergency detention; and
- adopt rules or implement other measures to create consistency and increase access to the judicial branch for mental health issues.

S.B. 362 amends the Code of Criminal Procedure to authorize a trial court, based on applicable information relating to a determination that the defendant has a mental illness or is a person with an intellectual disability and if the offense charged does not involve an act, attempt, or threat of serious bodily injury to another person, to release the defendant on bail for an offense punishable as a Class B misdemeanor or any higher category of offense while the charges are pending and



enter an order transferring the defendant to the appropriate court for court-ordered outpatient mental health services.

S.B. 362 requires an attorney representing the state to file the application for court-ordered outpatient services if such a transfer order is entered. The bill, on motion of the attorney representing the state:

- if the court determines the defendant has complied with appropriate court-ordered outpatient treatment, authorizes the court to dismiss the charges pending against the defendant and discharge the defendant; and
- if the court determines that the defendant has failed to comply with appropriate court-ordered outpatient treatment, requires the court to proceed with the trial of the offense or with commitment proceedings.

S.B. 362 amends the Government Code to require the court of criminal appeals to ensure that judicial training related to court-ordered outpatient mental health services is provided at least annually and authorizes the instruction to be provided at the annual Judicial Education Conference.

S.B. 362 amends the Civil Practice and Remedies Code, the Family Code, and the Human Resources Code to make conforming and nonsubstantive changes.

S.B. 362 establishes that HHSC is required to implement a provision of the bill only if the legislature appropriates money specifically for that purpose, and if the legislature does not make such an appropriation, HHSC is authorized but not required to implement the provision using other appropriations available for that purpose.

**Codification:** Chapter 46B, Code of Criminal Procedure, Section 574.001, 574.034(b) and (e), 574.037(c-2), 574.061(a), (b), (c), (d), (e), and (h), Subchapter E, Chapter 574, Section 574.081, Health and Safety Code, Subchapter B, Chapter 22, Government Code; Sections 574.065(e) and 574.081(h), Health and Safety Code, are repealed.

**Effective Date:** September 1, 2019

**SB 436** (Nelson | et al.) *Relating to statewide initiatives to improve maternal and newborn health for women with opioid use disorder.*

**Summary:** S.B. 436 amends the Health and Safety Code to require the Department of State Health Services (DSHS), in collaboration with the Maternal Mortality and Morbidity Task Force, to develop and implement initiatives to:

- improve screening procedures to better identify and care for women with opioid use disorder;
- improve continuity of care for women with the disorder by ensuring that health care providers refer the women to appropriate treatment and verify the women receive the treatment;
- optimize health care provided to pregnant women with the disorder;
- optimize health care provided to newborns with neonatal abstinence syndrome by encouraging maternal engagement;
- increase access to medication-assisted treatment for women with the disorder during

- pregnancy and the postpartum period; and
- prevent the disorder by reducing the number of opioid drugs prescribed before, during, and following a delivery.

**Codification:** Chapter 34, Health and Safety Code

**Effective Date:** June 7, 2019

**SB 1184** (Perry | et al.) *Relating to eligible participants in the Texas Achieving a Better Life Experience (ABLE) Program.*

**Summary:** The federal Achieving a Better Life Experience (ABLE) Act was signed into law in 2014 and provided for the establishment of the Texas ABLE Program, which allows people with disabilities to have a tax-advantaged savings account to fund and manage their disability expenses, thus leading to greater independence and healthier living. There are concerns that state law is too ambiguous with regard to who may participate in the program on a beneficiary's behalf and the circumstances under which that participation may occur, potentially preventing a court-appointed guardian or a legal guardian or agent operating under power of attorney from participating in the program and operating the account on an adult beneficiary's behalf. S.B. 1184 amends the Education Code to revise provisions relating to the eligibility of certain persons to participate in the Texas ABLE Program to authorize the parent, legal guardian, or other fiduciary of a designated ABLE account beneficiary who is permitted by applicable provisions of the federal Internal Revenue Code to serve as the program participant if the designated beneficiary of the account is not able to exercise signature authority over the account or chooses to establish an account but not exercise signature authority.

**Codification:** Section 54.910(b), Education Code.

**Effective Date:** June 2, 2019

**SB 1784** (Zaffirini) *Relating to the deduction from applied income of compensation paid to guardians of certain Medicaid recipients.*

**Summary:** Although state law provides a cap on the amount that may be paid to guardians of certain Medicaid recipients, it has been reported that the cost of providing guardianship services has increased since that cap was set. S.B. 1784 amends the Estates Code to increase from \$175 per month to \$250 per month the cap on the amount of compensation that may be ordered by a court that appoints a guardian of a Medicaid recipient who has applied income to be deducted as an additional personal needs allowance in the computation of the recipient's applied income. This increase applies to a guardianship created before, on, or after the bill's effective date.

**Codification:** Section 1155.202(a), Estate Code.

**Effective Date:** Immediately

**HB 3703** (Klick | Zerwas | Oliverson | Sheffield | Coleman) *Relating to the prescription of low-THC cannabis for medical use by certain qualified physicians to patients with certain medical conditions.*

**Summary:** House Bill 3703 amends the Medical Practice Act, Occupations Code, to expand the medical conditions for which a patient may be prescribed low-THC cannabis for compassionate use to include all forms of epilepsy as well as the following: a seizure disorder, multiple sclerosis, spasticity, amyotrophic lateral sclerosis, autism, terminal cancer, or an incurable neurodegenerative disease. The bill revises what constitutes low-THC for purposes of such a prescription by removing the condition that cannabis containing not more than 0.5 percent by weight of THC also contain not less than 10 percent by weight of cannabidiol. The bill removes the requirement that a second licensed physician qualified to prescribe low-THC cannabis concur with a determination that 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 the concurrence be recorded in the patient's medical record.

**Codification:** Section 169.001, Occupations Code

**Effective Date:** June 14, 2019

---

## **Child Protective Services**

**HB 53** ( Minjarez | et al.) *Relating to the transitional living services program for certain youth in foster care.*

**Summary:** It is particularly important that young people in foster care receive supports that help prepare them for the transition to adulthood. Family Code sec. 264.121 requires foster care providers to provide financial literacy education to foster youth ages 14 or older as part of a program to improve their transition to independent living. H.B. 53 expands the list of requirements for a person who contracted on behalf of DFPS to provide transitional living services to foster youth. In addition to other services listed in statute, that person would be required to provide or assist youth in obtaining mental health services and the financial literacy education and civic engagement lessons required by this bill. The bill applies only to persons who enter into a contract with DFPS on or after the effective date.

**Codification:** Section 264.121 (a-2) and (f), Family Code

**Effective Date:** September 1, 2019

**HB 72** (White | Howard | Wu | Meza) *Relating to the provision of Medicaid benefits to certain children formerly in the conservatorship of the Department of Family and Protective Services.*

**Summary:** House Bill 72 amends the Family Code and Government Code to require the Health

and Human Services Commission (HHSC) to ensure that each child residing in Texas who is eligible for certain assistance or services for children formerly in foster care is enrolled or remains enrolled in the STAR Health program unless or until the child is enrolled in another Medicaid managed care program. The bill provides for the establishment of a program to allow certain of those children who received or were receiving federal supplemental security income before becoming eligible for the applicable assistance or services to receive or continue receiving Medicaid benefits under the STAR Health program or STAR Kids managed care program. Implementation of a provision of this bill by HHSC is mandatory only if a specific appropriation is made for that purpose.

Codification: Section 162.304 (b-1) and (f), Family Code; Section 533.00531, Government Code.

**Effective Date:** September 1, 2019

**HB 123** (White | Klick | Miller | Minjarez | Rose) *Relating to personal identification documents for foster children or youth or homeless children or youth.*

**Summary:** Birth certificates and Texas ID documents are critical for young adults in their transition to independence. Foster children and homeless children or youth often find it difficult to obtain forms of identification. HB123 makes it easier for foster youth and homeless youth, to obtain a certified copy of their birth certificate and a Texas ID card without the involvement of a parent/conservator, proof residency address or government issued photo identification. This bill provides that “on request of a child or youth described by this section, the state registrar, a local registrar, or a county clerk shall issue, without fee or parental consent, a certified copy of the child's or youth's birth record to” homeless youth or youth between the ages of 18 and 21 who reside in foster care placement. For homeless youth, it will be important that they be certified as a homeless youth by the school district to have documentation that they are homeless. **Alternative address.** Homeless children or youth, unaccompanied youth, and foster children can use a Department of Family and Protective Services (DFPS) regional office address in lieu of a home address when applying for a personal identification certificate if the child or youth had a caseworker based at that address. Alternatively, an applicant could provide a letter certifying that the applicant was homeless issued by a school district, emergency shelter, center for runaways, or transitional living program. **Birth record.** The bill also requires the state registrar, a local registrar, or a county clerk to issue at the child or youth's request, without fee or parental consent, a certified copy of a child's or youth's birth record. The bill allows these children or youth to provide a copy of their birth certificate as proof of identity and citizenship when applying for an identification certificate. **Fee waivers.** The bill expands the existing driver's license fee waiver for foster children and youth to include homeless children and youth and unaccompanied youth. The bill also exempts all these categories of children and youth from the payment of any fee for the issuance of a personal identification certificate.

**Codification:** Section 264.121, Family Code

**Effective Date:** September 1, 2019

**HB 475** (Howard | Wu) *Relating to information for foster children who are pregnant or minor parents.*

**Summary:** Concerns have been raised over various challenges faced by children in the managing conservatorship of the Department of Family and Protective Services (DFPS) who are pregnant or who are minor parents. House Bill 475 amends the Family Code to require the Department of Family and Protective Services (DFPS) at developmentally appropriate stages to ensure that children in DFPS managing conservatorship who are pregnant or who are minor parents receive certain information on and support in providing safe environments for children.

**Codification:** Subchapter B, Chapter 264, Family Code

**Effective Date:** September 1, 2019

**HB 621** (Neave) *Relating to prohibited adverse employment action against an employee who in good faith reports child abuse or neglect.*

**Summary:** H.B. 621 amends the Family Code to expand the actions that an employer is prohibited from taking against an employee who, in good faith, reports child abuse or neglect to include any adverse employment action that affects an employee's compensation, promotion, transfer, work assignment, or performance evaluation, or any other employment action that would dissuade a reasonable employee from making or supporting a report of abuse or neglect as required by state law. H.B. 621 also authorizes a person who suffers any such adverse employment action in violation of the bill's provisions to sue for injunctive relief, damages, or both.

**Codification:** Sections 261.110(a), (b), and (c), Family Code

**Effective Date:** September 1, 2019

**HB 1709** (González, Mary | et al.) *Relating to the appointment of a surrogate parent for certain children in the conservatorship of the Department of Family and Protective Services.*

**Summary:** The 85th Legislature passed legislation clarifying when a surrogate parent is needed for special education decision-making for children under the Department of Family and Protective Services (DFPS) conservatorship who do not have a foster parent or other caregiver willing or able to make decisions regarding special education. However, gaps still remain in the processes for appointing surrogates and ensuring accountability of surrogates. H.B. 1709 addresses these gaps by clarifying that state employees are only prohibited from acting as surrogates if they are employed by agencies involved in the education or care of the child. It also requires school districts to notify DFPS when surrogates are appointed. Finally, it clarifies that if a court appoints a surrogate who the school district finds is not performing their duties, the district must consult with DFPS to request that the court remove the surrogate from their appointment. This is a technical fix to H.B. 1556 (85th Session) that describes when a surrogate parent can be appointed to make decisions regarding special education for children under DFPS conservatorship. H.B. 1709 resolves the gaps that remain in the processes for appointing surrogates and ensuring accountability of surrogates. This is a simple bill that had no opposition when it heard in committee. Further, there was no opposition during its second reading, with 147 votes for (2 members were absent at

the time of the vote). H.B. 1709 amends current law relating to the appointment of a surrogate parent for certain children in the conservatorship of the Department of Family and Protective Services.

**Codification:** Sections 25.007(b) & 29.0151, Education Code

**Effective Date:** June 10, 2019

**HB 1780** (Miller | et al.) *Relating to the mandatory dismissal date of certain suits affecting the parent-child relationship involving the Department of Family and Protective Services.*

**Summary:** H.B. 1780 seeks to remedy the wide discretion practiced by courts around the State in determining whether to grant a six month extension after the mandatory dismissal date by amending Section 263.401 of the Family Code to require that, when determining whether to grant a six month extension under extraordinary circumstances, the court consider whether the parent made a good faith effort to successfully complete the substance abuse treatment plan. The intent of the legislation is that by amending this section of code, it will give good parents a chance to break the cycle of drug addiction and lead to fewer parents having their rights terminated.

**Codification:** Section 263.401, Family Code

**Effective Date:** September 1, 2019

**HB 1884** (Minjarez | et al.) *Relating to the information provided to relative and other designated caregivers of children in the conservatorship of the Department of Family and Protective Services.*

**Summary:** Concerns have been raised regarding the adequacy of information about the permanency care assistance program provided to certain relatives or other caregivers of a child in the conservatorship of the Department of Family and Protective Services (DFPS) who is placed in the person's care. It has been suggested that better informing these caregivers of the benefits that may accrue if the relative or caregiver is verified by a licensed child-placing agency to operate an agency foster home could lead to a more positive and stable environment for an affected child. H.B. 1884 seeks to better inform those relatives and caregivers. The bill amends Chapters 261 through 264 of the Family Code to require that for a child placed with a relative or other designated caregiver, the caregiver is informed of the option to become verified by a licensed child-placing agency and of the permanency care assistance program by and the courts at various stages during the managing conservatorship process

**Codification:** Sections 261.301(c), 262.201, 263.202, 263.306(c), 263.5031, 264.7541, & 264.755, Family Code.

**Effective Date:** September 1, 2019

**HB 2229** (Johnson, Jarvis) *Relating to a report of information concerning juvenile offenders committed to the Texas Juvenile Justice Department who have been in foster care.*

**Summary:** HB 2229 amends the Human Resources Code to require data in the report by the Texas Juvenile Justice Department (TJJD) summarizing statistical information concerning the total number and percentage of children in TJJD custody during the preceding two years who have at

any time been in foster care to be disaggregated by age, sex, race or ethnicity, the conduct for which children were committed to TJJD, and children entering the juvenile justice system for the first time. The bill expands those to whom the report must be submitted to include each member of the legislature. The bill requires TJJD to make the report available to the public on its website.

**Codification:** Section 243.008 (e), Human Resources Code

**Effective Date:** June 10, 2019

**HB 2764** (Frank | Minjarez | Klick | Swanson) *Relating to minimum standards and caregiver training for substitute care providers for children in the conservatorship of the Department of Family and Protective Services.*

**Summary:** House Bill 2764 amends the Human Resources Code to provide for a cap on the hours of caregiver training required before the Department of Family and Protective Services or a child-placing agency verifies or approves the caregiver as a foster or adoptive home. The bill requires the Health and Human Services Commission to create and implement a process to simplify, streamline, and provide for greater flexibility in the application of certain minimum standards relating to licensed child-placing agencies, agency foster homes, and adoptive homes with the goal of increasing the number of foster and adoptive homes in Texas. Child Placing Agencies and Single Source Continuum Contractors shall have the authority to waive certain minimum standards not directly related to caring for the child.

**Codification:** Section 42.042 and 42.0537, Human Resources Code.

**Effective Date:** September 1, 2019

**HB 3390** (Sanford | Noble | Wray) *Relating to caregivers for certain children, including the identification of caregivers for children in the conservatorship of the Department of Family and Protective Services and an exception from licensing requirements for certain caretakers.*

**Summary:** House Bill 3390 amends the Family Code to provide for a child in the conservatorship of the Department of Family and Protective Services to be asked in a developmentally appropriate manner to identify any adult who could be a relative or designated caregiver for the child. Any names provided by the child would have to be immediately given to DPFS, and DPFS would be authorized to place a child with any adult the child had identified if it was determined that it was in the child's best interest. The question would be posed to the child by the guardian ad litem, attorney ad litem or amicus attorney, the parent or other person with legal custody, and DPFS at several points throughout the placement process. The bill also would expand the definition of a designated caregiver to include a person who had a longstanding and significant relationship with the family of the child.

If DPFS determined that a removal of a child was warranted, the parent or person with legal custody would have to identify at least three individuals who could be relatives or designated caregivers as well as asking the child to identify any such adults and providing their names.

The court would have to include in its findings when reviewing the placement of a child whether the child had been asked to identify an adult that could be a relative or designated caregiver. The

court also would have to ask all parties who were present at the full adversary hearing and at the status hearing whether the child had had the opportunity to identify such an adult, and whether each individual identified had been listed on the proposed child placement resources form.

At the permanency hearing before a final order was rendered, the court would have to review the efforts of DFPS or another agency in obtaining the assistance of a parent in providing information necessary to locate any adult identified by the child as a potential relative or designated caregiver. At permanency hearings after the final order was rendered the court would have to review the permanency progress report to determine whether the child had been provided the opportunity to identify any adult who could be a relative or designated caregiver.

**Codification:** Sections 107.002(b), 107.003(a), 261.307(a), 262.0022, 262.114(a), (a-2), and (b), 262.201, 263.002(b), 263.202(h), 263.306(a-1), 263.5031, & 264.751(1), Family Code.

**Effective Date:** June 14, 2019

**SB 560** (Kolkhorst) *Relating to a plan and report on court-ordered representation for certain suits affecting the parent-child relationship.*

**Summary:** S.B. 560 amends the Government Code to require the Texas Judicial Council (TJC) to develop a statewide plan requiring counties and courts in Texas to report information on court-ordered representation for appointments made in suits filed by a governmental entity affecting the parent-child relationship under the Family Code. The bill requires the TJC, in developing the plan, to consider the costs to counties of implementing the plan and design the plan to reduce redundant reporting. The bill requires each local administrative district judge for a court subject to the plan, or the person designated by the judge, to prepare and provide the following to TJC not later than November 1 of each odd-numbered year and in the form and manner prescribed in the plan:

- a copy of all formal and informal rules and forms the court uses to appoint representation in applicable suits affecting the parent-child relationship; and
- any fee schedule the court uses for court-ordered representation.

S.B. 560 requires each county auditor, or other individual designated by a county commissioners court, to prepare and send to the TJC, in the form and manner prescribed in the plan, information on the money spent by the county during the preceding state fiscal year to provide court-ordered representation in applicable suits affecting the parent-child relationship and sets out the required components of that information. The bill requires each local administrative district judge for a court subject to the plan, or the person designated by the judge, and each county auditor, or other individual designated by a county commissioners court, to provide to the TJC the information required under the plan and the bill's provisions. The bill requires the TJC to do the following annually:

- compile in a report the information submitted to the TJC under the plan and the bill's provisions;
- submit the report to the governor, lieutenant governor, and speaker of the house of representatives; and electronically publish the report

S.B. 560 requires the TJC to develop the plan as soon as practicable after the bill's effective date



but does not require a county or court in Texas to comply with the bill's provisions until September 1, 2020, or a later date provided in the plan. The bill establishes that the TJC is required to implement a provision of the bill only if the legislature appropriates money specifically for that purpose and if not, that the TJC may, but is not required to, implement such a provision using other appropriations available for that purpose.

**Codification:** Subchapter C, Chapter 71, Government Code

**Effective Date:** September 1, 2019

**SB 569** (Huffman) *Relating to the regulation of listed family homes.*

**Summary:** SB 569 amends the Human Resources Code to transfer regulatory authority concerning certain child-care facilities from the Department of Family and Protective Services to the Health and Human Services Commission (HHSC). The bill requires the executive commissioner of HHSC by rule to adopt minimum standards for listed family homes that do the following:

- promote the health, safety, and welfare of children attending a listed family home;
- promote safe, comfortable, and healthy listed family homes for children;
- ensure adequate supervision of children by capable, qualified, and healthy personnel; and
- ensure medication is administered in accordance with applicable statutory provisions.

The bill authorizes the executive commissioner to recognize and treat differently the types of services provided by listed family homes as distinct from certain other types of child-care facilities with regard to promulgating minimum standards for those facilities.

S.B. 569 includes listed family homes among the facilities that an authorized HHSC representative may visit during operating hours for the purposes of investigation, inspection, and evaluation and that HHSC is required to investigate when a complaint is received by HHSC and repeals provisions relating to the investigation of listed family homes specifically. The bill requires HHSC to provide a minimum of five years of investigative data for listed family homes as part of the inspection data authorized to be provided to the public on a determination that the data enhances consumer choice with respect to those homes. The bill sets out provisions relating to the removal of certain investigation information from the HHSC website relating to an anonymous complaint that is determined to be false or to lack factual foundation. The bill requires an applicant for a listing to operate a family home to submit with the application proof of the applicant's successful completion of safe sleep training in accordance with HHSC rules. The bill revises provisions relating to the required listing for a listed family home and to requirements for the public advertising of a family home that is not a listed family home.

S.B. 569 sets out requirements for a listed family home to maintain liability insurance coverage in the amount of \$300,000 for each occurrence of negligence and notice requirements for a listed family home that is unable to secure a policy or contract. The bill prohibits HHSC from assessing an administrative penalty or suspending or revoking a family home's listing for violating the requirement to maintain liability insurance if the family home complies with those notice requirements. The bill establishes that this prohibition may not be construed to indemnify a family

home for damages due to negligence.

S.B. 569 exempts a family home listed under statutory provisions relating to the listing of relative child-care providers from the following requirements:

- the rules and standards adopted under statutory provisions regulating certain facilities, homes, and agencies that provide child-care services; and
- the liability insurance requirements under the bill's provisions.

S.B. 569 requires the executive commissioner of HHSC to adopt rules necessary to implement the bill's provisions. The bill establishes that HHSC is required to implement a provision of the bill only if the legislature appropriates money specifically for that purpose and, if not, that HHSC may, but is not required to, implement such a provision using other appropriations available for that purpose.

**Codification:** Repeals Sections 42.044 (c-1) & (c-2), Human

**Effective Date:** September 1, 2019

**SB 781** (Kolkhorst) *Relating to the regulation of child-care facilities.*

**Summary:** This bill strengthens the requirements necessary to obtain a license to open a new RTC facility and allows for a public hearing process for license renewals. It also clarifies the enforcement provisions of the Human Resources Code to specify what types of violations will lead to a facility's license suspension or revocation. Furthermore, it increases participation with the surrounding community by requiring new RTC applicants to thoughtfully compile a community engagement plan. This plan must include both an operational plan and an educational plan that take into consideration local community review and feedback. S.B. 781 also requires collaboration between the Texas Education Agency (TEA) and HHSC to create and implement best practices for educating students living in RTCs.

**Codification:** Subchapter B & C, Chapter 40, Human Resources Code

**Effective Date:** September 1, 2019

**SB 1494** (Paxton | et al.) *Relating to the confidentiality of personal information of certain employees and contractors of the Department of Family and Protective Services and of certain elected officials.*

**Summary:** SB 1494 amends the Government Code to except from the public availability requirement of state public information law information that relates to the home address, home telephone number, emergency contact information, or social security number of a current or former child protective services caseworker or investigator for the Department of Family and Protective Services (DFPS) or a current or former employee of a DFPS contractor performing child protective services caseworker or investigator functions for the contractor on behalf of DFPS and information that reveals whether such a person has family members, with a certain exception. The bill makes statutory provisions relating to the confidentiality of certain personal identifying information of peace officers and other officials performing sensitive governmental functions applicable to such a person. SB 1494 amends the Tax Code to make statutory provisions relating to the confidentiality

of certain home address information in appraisal records applicable to such a caseworker, investigator, or employee.

**Codification:** Section 552.117(a), Government Code

**Effective Date:** September 1, 2019

---

## LITIGATION

**HB 685** (Clardy | White | Ashby | Lambert) *Relating to immunity from liability of a court clerk and county for the disclosure or release of certain court documents and information contained in the court documents*

**Summary:** House Bill 685 amends the Government Code to exempt a court clerk from liability for the release of certain court documents and to grant immunity from suit and from liability to a court clerk, the county in which the court is located, and the commissioners court of that county for the release or disclosure of information that is confidential or otherwise prohibited from disclosure and that is accessed from a state court document database if the clerk performs the duties as clerk in good faith.

**Codification:** Chapter 51, Government Code

**Effective Date:** June 14, 2019

**HB 2730** (Leach | et al.) *Relating to civil actions involving the exercise of certain constitutional rights.*

**Summary:** Civil Practice and Remedies Code Chapter. 27, the Texas Citizens Participation Act (TCPA), requires dismissal of certain legal actions if the moving party shows by a preponderance of the evidence that the legal action is based on, relates to, or is in response to the party's exercise of the right of free speech, petition, or association. HB 2730 adds to those provisions by defines (1) the “exercise of the constitutional right to petition, speak freely, or associate freely” to mean the exercise of the right to petition, speak freely, or associate freely as those rights are provided by the constitutions of this state and the United States; (2) “legal action” to exclude a motion or act related to discovery, a motion for summary judgment, a motion to dismiss a legal action under 27.003, a procedure that relates to enforcement of a final court order, or a motion for sanctions or award of attorney’s fees; (3) provides that a motion to dismiss must be set not earlier than 21 days after service of the motion, and that each party must have at least 14 days of notice of a hearing on a motion to dismiss; (4) prohibits a court from ruling on a motion to dismiss if the responding party files a nonsuit of the challenged legal act on or before the third day before the date of the hearing on the motion; (5) prohibits a court from awarding any costs, fees, expenses, or sanctions for a motion to dismiss if the responding party timely nonsuits the challenged legal action; and (6)

provides that the chapter does not apply to: (a) a compulsory counterclaim under the Texas Rules of Civil Procedure, (b) certain legal actions filed under the Family Code, or applications for certain protective orders; or (c) a legal action to enforce a noncompete, nondisclosure, or non-disparagement agreement.

**Codification:** Sections 27.001(2) and (6), 27.002, 27.003(a), 27.004, 27.005, 27.008, 27.009, 27.010 Civil Practice and Remedies Code. Sections 27.001(1), (3), (4), (5), (7), (8), and (9), Civil Practice and Remedies Code, are repealed.

**Effective Date:** September 1, 2019

**HB 3081** (Noble) *Relating to a person qualified to serve as a temporary justice of the peace.*

**Summary:** HB 3081 amends current law relating to a person qualified to serve as a temporary justice of the peace. It has been noted that a qualified person can be appointed to serve as a special or temporary justice of the peace when a justice of the peace is unavailable. However, reports indicate that there exists a greater need for the appointment for special and temporary justices due to an increase in the caseload of justice courts in Texas. HB 3081 helps meet this need by expanding the group of persons qualified to serve as a special or temporary justice of the peace.

**Codification:** Sections 27.055(c) and (e), Government Code

**Effective Date:** September 1, 2019

**HB 3365** (Paul | et al.) *Relating to the civil liability of certain persons providing disaster assistance.*

**Summary:** HB 3365 clarifies that (1) notwithstanding the provisions of the Texas Tort Claims Act, an entity and the authorized representative of the entity are not liable for the act or omission of a person providing care, assistance, or advice on request of an authorized representative of a local, state, or federal agency, including a fire department, a police department, an emergency management agency, and a disaster response agency; and (2) such immunity from liability is in addition to any other immunity or limitations of liability provided by law.

**Codification:** Section 79.003, Civil Practice and Remedies Code

**Effective Date:** September 1, 2019

**SB 41** (Zaffirini) *Relating to exemptions to reporting and list requirements for certain attorneys ad litem, guardians ad litem, amicus attorneys, mediators, and guardians.*

**Summary:** SB 41 exempts an attorney ad litem, guardian ad litem, amicus attorney, or mediator from having to be appointed using a rotation system or from being included in the required monthly report on court appointments if such person provided services without expectation or receipt of compensation or as a volunteer of a nonprofit organization providing pro bono legal services to the indigent. The bill also allows a court to appoint as an attorney ad litem, guardian ad litem, amicus attorney, or mediator any person who was on the applicable list or, if not on such a list, met statutory or other requirements to serve if an initial declaration of a state of disaster had been made for the area served by the court within 30 days before appointment.

**Codification:** Section 36.003, 37.002, & 37.004, Government Code

**Effective Date:** September 1, 2019

**SB 988** (Watson) *Relating to the assessment of litigation costs and attorney's fees in certain actions under the public information law.*

**Summary:** SB 988 would prohibit a court from awarding costs of litigation or reasonable attorney's fees incurred by a plaintiff or defendant who substantially prevails unless the court finds the action or the defense of the action was groundless in fact or law.

**Codification:** Section 552.323(b), Government Code.

**Effective Date:** September 1, 2019

**SB 2342** (Creighton) *Relating to the jurisdiction of, and practices and procedures in civil cases before, justice courts, county courts, statutory county courts, and district courts.*

**Summary:** SB 2342 increases the amount in controversy in cases to which these rules apply from \$100,000 to \$250,000, and would remove the specification that the amount is inclusive of all claims for damages of any kind. SB 2342 also increases from \$200,000 to \$250,000 the maximum amount in controversy in civil cases over which most statutory county courts have concurrent jurisdiction with the district court. Additionally, SB 2342 requires a jury in a civil case pending in a statutory county court in which the matter in controversy is \$250,000 or more to be composed of 12 members unless all parties agree to a lesser number. Finally, SB 2342 increases from \$10,000 to \$20,000 the maximum amount in controversy in civil cases over which a county court has concurrent jurisdiction with the justice courts and in civil matters over which a justice court has original jurisdiction if exclusive jurisdiction is not in the district or county courts. The bill increases from \$100,000 to \$250,000 the amount in controversy for cases that qualified for expedited proceedings under the Supreme Court's rules.

**Codification:** Section 22.004(h), Subchapter A, Chapter 22, Sections 25.0003(c), 25.0007, 25.0052(a), 25.0102(h), 25.0202(a), 25.0222(m), 25.0362(f), 25.0722(i), 25.0812(k), Section 25.0862(n), 25.0942(l), 25.1042(h), 25.1132(c) and (o), 25.1252(j) and (m), 25.1272(b) and (h), 25.1412(a) and (p), 25.1722(f), 25.1732(l), 25.1802(o), 25.1862(k), 25.2142(v), 25.2232(a), 25.2292(d), 25.2362(i), 25.2412(j), 25.2462(k), 25.2482(l), 25.2512(a), 26.042(a), 27.031(a), and 62.301, Government Code. Sections 25.0007(a), 25.1092(p), 25.2292(a) and (m), and 25.2392, Government Code are repealed.

**Effective Date:** September 1, 2020

## PROPERTY

**HB 1002** (Collier) *Relating to the term of a parking permit issued to a residential tenant by a landlord.*

**Summary:** H.B. 1002 amends the Property Code to require a landlord who issues a parking permit to a residential tenant to issue the permit for a term that is the same period with the tenant's lease term and to prohibit such a landlord from terminating or suspending the permit until the date the tenant's right of possession ends.

**Codification:** Chapter 92, Property Code

**Effective Date:** January 1, 2020

**HB 1025** (Bohac) *Relating to membership on and the eligibility of certain persons to serve on the board of certain property owners' associations.*

**Summary:** H.B. 1025 amends the Property Code to authorize a property owners' association that governs a subdivision composed of multiple sections to designate in an association governing instrument a specified number of positions on the association board, each of which must be elected from a designated section of the subdivision. The bill prohibits a person who cohabits at the same primary residence with another board member from serving on an association board and provides the following does not apply to this section:

1. An association with fewer than 10 residences; or
2. During a subdivision's development period to affect the eligibility to serve on the board of:
  - a. A person who cohabits with a developer of the subdivision regulated by the association; or
  - b. The developer.

**Codification:** Section 209.00591, Property Code

**Effective Date:** September 1, 2019

**HB 1885** (Bonnen, Greg | et al.) *Relating to the waiver of penalties and interest if an error by a mortgagee results in failure to pay an ad valorem tax.*

**Summary:** H.B. 1885 amends the Tax Code to allow a taxing unit to waive penalties and interest on a delinquent property tax if:

- the property was subject to a mortgage that did not require the property owner to fund an escrow account for payment of property taxes;
- the tax bill was delivered by electronic means to the mortgagee, but the mortgagee failed to mail a copy to the property owner as required by law;
- and the taxpayer paid the tax within 21 days of the date the taxpayer knew or should have known of the delinquency.

The bill would take effect January 1, 2020 and would apply only to penalties and interest on a property tax that became delinquent on or after that date.

**Codification:** Section 33.011, Tax Code

**Effective Date:** January 1, 2020

**HB 2529** (Leach | et al.) *Relating to the governance of public housing authorities.*

**Summary:** H.B. 2529 helps ensure the public voice on local housing authorities is preserved. This bill does so by expanding the pool of who may serve as the public member on a local housing authority to ensure these authorities can comply with the public member requirement in law. Under current law, one or two members of a housing authority commission (depending on the size of the commission) are required to be tenants of public housing. Given Housing and Urban Development's expanded use of rental assistance programs in projects that are rehabilitated, rather than simply building new housing, the pool of eligible individuals who can serve on housing authority commissions has narrowed, causing difficulty for these commissions to meet the requirements of the statute. H.B. 2529 addresses this issue by amending the Local Government Code to give certain municipal, county, or regional housing authorities the option of appointing a recipient of housing assistance administered through the authority's housing choice voucher program or project-based rental assistance program to serve as a commissioner of the authority as an alternative to appointing a tenant of a public housing project over which the authority has jurisdiction.

**Codification:** Sections 392.032(b), 392.033(a), 392.0331, & 392.0331(b), (b-1), (c), and (d), Local Government Code

**Effective Date:** September 1, 2019

**HB 2564** (White | et al.) *Relating to addressing the needs of homeless youth.*

**Summary:** H.B. 2564 amends current law relating to addressing the needs of homeless youth who are between the ages of 18 and 25. Concerned stakeholders report that, unfortunately, homeless youth are not adequately considered in the Texas Department of Housing and Community Affairs' low-income housing plan. As a consequence, policymakers lack the guidance and critical information that is needed to prevent this vulnerable youth population from remaining homeless into their adulthood. H.B. 2564 amends the Government Code to require the Texas Department of Housing and Community Affairs low income housing plan to include an estimate and analysis of the size and different housing needs of homeless youth and young adults in each uniform state service region. The bill expands the types of organizations from whom the Texas Interagency Council for the Homeless may seek program or policy assistance in accomplishing its duties.

**Codification:** Sections 2306.0721(c) & 2306.905(b), Government Code

**Effective Date:** September 1, 2019

**HB 2569** (Darby) *Relating to requirements for condominium plats or plans.*

**Summary:** H.B. 2569 amends the Property Code to exclude horizontal unit boundaries described in a condominium declaration from the horizontal unit boundaries whose location with reference to established data must be shown on the condominium plats or plans.

**Codification:** Sections 82.059(b) & (d), Property Code

**Effective Date:** September 1, 2019

**HB 2650** (Goodwin | et al.) *Relating to the procedure for the sale by auction of real property pursuant to foreclosure of a tax lien.*

**Summary:** H.B. 2650 amends the Tax Code relating to the procedure for the sale by auction of real property pursuant to foreclosure of a tax lien. Current law allows counties to perform online auctions to sell foreclosed properties in addition to in-person auctions. Counties have had difficulty performing online auctions because they are statutorily unable to include the commission and fees for auctioneers who execute the online auction within the costs of a sale. This prevents counties from contracting with online vendors to perform the auction. H.B. 2650 amends the Tax Code to add an auctioneer's commission and fees to the costs of a sale of real property seized under a tax warrant or ordered to be sold pursuant to the foreclosure of a tax lien. The bill also would specify that property seized by a municipality or county could not be sold for an amount less than the lesser of the market value of the property or the total amount of taxes, penalties, interest, costs, auctioneer's commission and fees, and other claims for which a warrant was issued.

The bill would apply to the sale of real property seized under a tax warrant or ordered to be sold pursuant to the foreclosure of a tax lien for which notice was given on or after the effective date of the bill.

**Codification:** Sections 34.01(b) and (p), Tax Code

**Effective Date:** May 29, 2019

**SB 234** (Nelson) *Relating to the right to vacate and avoid residential lease liability following the occurrence of family violence.*

**Summary:** S.B. 234 amends the Property Code to include a magistrate's order for emergency protection among the court orders that a residential tenant who exercises the right to terminate the tenant's lease, vacate the dwelling, and avoid liability for future rent following family violence may provide to a landlord or landlord's agent to fulfill the documentation requirements for such a lease termination. The bill authorizes as alternate documentation for that purpose a copy of documentation of the family violence against the tenant or an occupant from a licensed health care services provider who examined the victim, a licensed mental health services provider who examined or evaluated the victim, or a family violence center employee or volunteer who has at least 20 hours of training in assisting family violence victims and who assisted the victim.

**Codification:** Section 92.016, Property Code

**Effective Date:** September 1, 2019

**SB 493** (Alvarado) *Relating to the allocation of housing tax credits to developments within proximate geographical areas.*

**Summary:** S.B. 493 amends the Government Code to authorize the allocation of tax credits for affordable housing developments within two linear miles or less of other affordable housing



developments in disaster affected areas. Under current law a board may allocate nine percent housing tax credits to more than one affordable housing development in a single community, as defined by the Texas Department of Housing and Community Affairs (TDHCA), in the same calendar year only if the developments are or will be located more than two linear miles apart. After Hurricane Harvey, the City of Houston was part of the disaster declared area by Federal Emergency Management Agency (FEMA) and received \$1.13 billion from the federal government for housing disaster recovery (Harvey funds) to be invested by August 2024. The funds are administered via local action plans adopted by the City of Houston (Houston) and Harris County, and are approved by the United States Department of Housing and Urban Development (HUD) and the Texas General Land Office (GLO). S.B. 493 amends the Government Code to add Subsection (f-1) authorizing the allocation of tax credits for affordable housing developments within two linear miles or less of other affordable housing developments in an area that:

- (1) is a federally declared disaster area,
- (2) the area is within a county with a population of four million or more, and
- (3) the governing body has by a vote specifically authorized the allocation of housing tax credits for the development and is authorized to administer disaster recovery funds as a subgrant recipient.

**Codification:** Section 2306.6711(f), Government Code

**Effective Date:** September 1, 2019

**SB 646** (Birdwell | et al.) *Relating to approval for purchases of property or construction projects by a state agency with self-directed semi-independent status.*

**Summary:** S.B. 646 amends the Government Code relating to approval for purchases of property or construction projects by a state agency with self-directed semi-independent status. During the Sunset Advisory Commission's 2018–2019 review cycle, it was identified that certain self-directed semi-independent (SDSI) agencies lack a clear policy to develop their building reserve funds. Given their relative autonomy, it is critical that SDSI agencies responsibly set aside building reserve funds, without compromising funding for other core services. Conflating the issue further is a lack of uniformity related to property acquisition, construction project procedures, and statutory authorizations for all SDSI agencies.

The bill will not limit the authority of the Legislature under other law to authorize construction projects or the purchase of real property. To apply for authorization under the bill, an SDSI agency first would be required to submit to the Texas Facilities Commission a detailed description of the proposed property purchase or construction project, an explanation why the agency needed the purchase or project, and a request for an analysis by the commission of any available state property or building that would satisfy the agency's need. The agency would submit the analysis to the governor.

The agency also will submit to the governor a request for written authorization for the property purchase or construction project that included a detailed description of the purchase or project, the total amount of money required to complete the purchase or project, and the agency's justification

for the project.

The bill will require an SDSI agency that received written authorization from the governor to collaborate with the Texas Facilities Commission on the purchase or project and to notify the commission and the General Land Office on completion of the purchase or project.

The bill will authorize the governor to adopt rules to implement the bill, including initial rules in the manner provided by law for emergency rules. If an SDSI agency already had allocated money for a property purchase or construction project before the effective date of the bill but had not completed the purchase or begun the construction, the agency would be required by January 1, 2020, to make a report to the governor on the purchase or project and to obtain written authorization before allocating additional money for it.

**Codification:** Chapter 2165, Government Code

**Effective Date:** September 1, 2019

**SB 812** (Lucio | et al.). *Relating to the application of the limit on appraised value of a residence homestead for ad valorem tax purposes to an improvement that is a replacement structure for a structure that was rendered uninhabitable or unusable by a casualty or by wind or water damage.*

**Summary:** S.B. 812 amends the Tax Code relating to the application of the limit on appraised value of a residence homestead for ad valorem tax purposes to an improvement that is a replacement structure for a structure that was rendered uninhabitable or unusable by a casualty or by wind or water damage. In 2013, the 83rd Legislature established Section 23.23(g) of the Texas Tax Code to protect certain disaster victims from exorbitant property taxes when rebuilding or fixing their homes through the state's disaster reconstruction program. Prior to this 2013 tax provision, Texans who were forced to rebuild or fix their severely damaged homesteads faced the possibility that any improvement or replacement of homes could be appraised as a "new improvement." Consequently, by not taking into account the unique circumstances of disaster victims, the Tax Code allowed disaster survivors the possibility of facing exorbitant tax jumps in their property taxes. In effect, disaster victims (e.g., those whose homesteads were damaged by Hurricanes Dolly and Ike, and the Bastrop wildfires) could have been taxed out of their rebuilt, fixed homes. To prevent this, Section 23.23(g) provided that a replacement home or improvement made to a disaster-damaged home was not considered a "new improvement" under the Tax Code if the "improvement" or replacement home was made to satisfy requirements of the Texas General Land Office (GLO) Disaster Reconstruction Program. S.B. 812 amends the Tax Code to revise the definition of "disaster recovery program" as that definition relates to federal funding for such recovery and the limitation on the appraised value of a residence homestead for property tax purposes provided for an improvement to the homestead that is a replacement structure for a structure that was rendered uninhabitable or unusable by a casualty or by wind or water damage. The bill provides for the correction or supplementation, as appropriate, of the appraisal records to correct the appraised value of each replacement structure that has been constructed since January 1, 2018, under such a disaster recovery program administered by a political subdivision for the current tax year, if necessary, and for the refunding of any taxes paid in excess of the corrected

amount due. The bill applies only to the appraisal of a residence homestead for property tax purposes for a tax year that begins on or after January 1, 2019.

**Codification:** Section 23.23(g), Tax Code

**Effective Date:** May 7, 2019

**SB 1414** (Hancock) *Relating to fees regarding a residential tenant's failure to timely pay rent.*

**Summary:** S.B. 1414 provides criteria for determining whether a late fee collected from a tenant for failure to pay rent on time was reasonable and make other changes to Property Code sec. 92.019. The law prohibits a landlord from collecting, rather than charging, a late fee from a tenant for failure to pay any portion of the tenant's rent unless the fee was reasonable and any portion of the tenant's rent had remained unpaid two full days after the date the rent was originally due.

A late fee would be considered reasonable if it was less than:

- 12 percent of the amount of rent due for the rental period under the lease for a dwelling located in a structure with no more than four dwelling units; or
- 10 percent of the amount of rent due for the rental period under the lease for a dwelling in structure with more than four units.

A late fee also will be considered reasonable if it was more than the applicable amount described above but not more than uncertain damages to the landlord related to the late payment of rent, including direct or indirect expenses, direct or indirect costs, or overhead associated with the collection of the late payment. A landlord who violated the bill's provisions will be liable to the tenant for an amount equal to the sum of \$100, three times the amount of the late fee collected, rather than charged, and the tenant's reasonable attorney's fees. A tenant can request that the landlord provide a written statement of whether the tenant owed a late fee and, if so, the amount of the fee. The landlord could provide the statement by any established means regularly used for written communication with the tenant. The landlord's failure to respond would not affect the tenant's liability for any late fee owed to the landlord. The bill applies only to a late fee under a lease entered into or renewed on or after its effective date.

**Codification:** Section 92.019, Property Code

**Effective Date:** September 1, 2019

**SB 1943:** *Relating to the ad valorem taxation of heir property*

**Summary:** SB 1943 expands low-income families' access to Texas' numerous homestead tax exemption benefits if they have inherited their home. The legislation creates a simple affidavit in the homestead exemption application that heirs property homeowners (i.e., persons who have inherited their home) can sign to prove their ownership—they can no longer be required to go and get an attorney to file a formal affidavit of heirship in the deed records. The legislation also allows an heirs property homeowner living in the home to access 100% of the tax deferral (if senior/disabled), 100% of the school tax freeze (if senior/disabled) and 100% of the myriad other tax benefits available for homesteads. This change is especially important in tax foreclosure procedures, when seniors and persons with disabilities are seeking to utilize the tax deferral to save

their home.

**SB 2083** (Hinojosa) *Relating to the calculation of the ad valorem taxes imposed on property for the year in which the property is acquired by a governmental entity.*

**Summary:** S.B. 2083 amends the Tax Code relating to the calculation of the ad valorem taxes imposed on property for the year in which the property is acquired by a governmental entity. Section 26.11(a), Tax Code, presents an impediment to obtaining a possession and use agreement (PUA) from owners of real property needed for public use, where a PUA is sought from a landowner before a governmental entity acquires title to a parcel by deed or condemnation judgment, or a right of possession is obtained under a court order issued in a condemnation proceeding. Under current law, the two tax proration events cited above (acquisition of title or right of possession) are restrictive and exclude parcels that are acquired by a PUA prior to the full acquisition of the parcel by deed or judgment or by court order. This creates hesitancy on the part of landowners to execute a PUA because the landowner will continue to be liable for property taxes until one of the later proration events occurs, even though the owner has forgone the right to use or possess the property because of the PUA. S.B. 2083 amends Section 26.11(a), Tax Code, to change the date used to calculate the prorated amount of tax due by a landowner on a property acquired for public use under a PUA entered into under threat of condemnation, to be the effective date of the PUA. S.B. 2083 also seeks to clarify that proration of current taxes occurs when possession of the property is obtained through condemnation proceedings, whether by an order of the court or by operation of law through the condemnor's deposit into the registry of the court of the amount awarded by the special commissioners after the special commissioner's hearing.

**Codification:** Section 26.11(a), Tax Code

**Effective Date:** June 10, 2019

**SB 2128** (Creighton) *Relating to the recording by a county clerk of certain documents concerning real or personal property.*

**Summary:** S.B. 2128 amends the Government Code and the Property Code relating to the recording by a county clerk of certain documents concerning real or personal property. Texas continues to create the legal infrastructure necessary to support the execution, acknowledgement, and recording of electronic real estate documents. Today approximately 60 counties have the capacity to record electronic documents, and transactions relating to real property in those counties may be fully transacted by electronic means. S.B. 2128 seeks to provide a process for the recording of a tangible copy of an electronic document so that citizens transacting business in the 190 counties that do not record electronically may take advantage of the convenience and security of electronic real property transactions. The bill declares that a paper copy of an electronic record that meets the requirements of this bill is eligible to be recorded in the public records, and the recording of the document has the same effect as the recording of a traditional paper document. To be eligible for recording, a paper copy of the electronic document must have affixed to it a "Declaration of Authenticity," executed by a notary public or other public officer authorized to

take acknowledgements or administer oaths, certifying that the paper document meets the requirements of this new statutory provision. The bill also contains a template for the Declaration of Authenticity that meets the requirements of the certification. S.B. 2128 has been developed with the input of the Texas Mortgage Bankers Association, the Texas Land Title Association, and representatives of the county clerks.

**Codification:** Section 193.003(b), Local Government Code; Section 12.0011(b) & Chapter 12; Property Code

**Effective Date:** September 1, 2019

---

## EDUCATION

### Primary and Secondary Education

**HB 18** (Price | et al.) *Relating to consideration of the mental health of public school students in training requirements for certain school employees, curriculum requirements, counseling programs, educational programs, state and regional programs and services, and health care services for students and to mental health first aid program training and reporting regarding local mental health authority and school district personnel*

**Summary:** HB 18 amends multiple sections of the Education code which concern the mental health of public school students and the corresponding training, services, and programs. Some of the major provisions of the bill include: redefining mental health terms, implementation of a comprehensive school counseling program, continuing educational requirements for educators, teaching training toward certain students, and several other additions. HB 18 requires the Texas Education Agency to publish the corresponding information regarding resources to mental health treatment on school districts' websites. Additionally, HB 18 allows for a school district to employ or contract with one or more nonphysician mental health professionals.

**Codification:** Section 5.001, 11.252(a), 21.054(d), (d-2), (e), (e-2), (f), and (g), 21.451(d) and (d-1), 21.462, 28.002(a) and (r), 28.004(c), (d), and (k), 30.0015(b), 30.002(b), 33.004(b), Subchapter A, Chapter 38, 38.013(a), 38.016(a) and (c), 38.051(b), 38.054, Education Code

**Effective Date:** December 1, 2019

**HB 65** (Johnson, Eric) *Relating to reporting information regarding public school disciplinary actions.*

**Summary:** HB 65 amends the Education Code by adding out-of-school suspensions to reports regarding disciplinary actions. The district shall report the student's identification information, including their race, sex, date of birth; the basis for the suspension; the number of full or partial days the student was suspended; and the number of out-of-school suspensions that were

inconsistent with the guidelines included in the student code of conduct.

**Codification:** Section 37.020, Education Code.

**Effective Date:** September 1, 2019

**HB 111** (González, Mary | et al.) *Relating to public school policy and training for public school employees addressing the prevention of sexual abuse, sex trafficking, and other maltreatment of certain children.*

**Summary:** HB 111 would amend current law, requiring that training of certain school employees to recognize and prevent sexual abuse, sex trafficking and maltreatment of children also specifically include recognition and prevention of sexual abuse, sex trafficking, and maltreatment of children with significant cognitive disabilities.

**Codification:** Section 38.0041(c), Education Code.

**Effective Date:** September 1, 2019

**HB 165** (Bernal) *Relating to providing for endorsements for public high school students enrolled in special education programs.*

**Summary:** HB 165 would authorize a student who is enrolled in special education programs to earn an endorsement on the student's transcript by successful completion, with or without modification, of the curriculum requirements for that endorsement adopted by the State Board of Education.

**Codification:** Section 28.025, Education Code.

**Effective Date:** September 1, 2019

**HB 638** (Capriglione | et al.) *Relating to the issuance of posthumous high school diplomas to certain students.*

**Summary:** HB 638 requires school districts, on request of the student's parent, to issue a high school diploma posthumously to each student who died while enrolled in the district if the parent resides in the district at the end of the school year in which the student was expected to graduate under the regular schedule of school attendance. HB 638 also prohibits the diploma from being given to the parents before the expected graduation date.

**Codification:** Section 28.0254(a) and 28.0254(a), Education Code.

**Effective Date:** September 1, 2019

**HB 692** (White | et al.) *Relating to the suspension of a student who is homeless from public school.*

**Summary:** HB 692 would prohibit a school from placing a student who is homeless in out-of-school suspension. Schools would be allowed to work with the school district's homeless education liaison to come up with alternative punishments for these students.

**Codification:** Section 37.005, Education Code.

**Effective Date:** September 1, 2019

**HB 811** (White | et al.) *Relating to determining appropriate disciplinary action to be taken against a public school student who is in foster care or who is homeless.*

**Summary:** House Bill 811 amends the Education Code to require a student code of conduct adopted by an independent school district to specify that a student's status in the conservatorship of the Department of Family and Protective Services or as a student who is homeless will be considered as a factor in each decision concerning suspension, removal to a disciplinary alternative education program, expulsion, or placement in a juvenile justice alternative education program.

**Codification:** Section 37.001(a) and (b), Education Code.

**Effective Date:** September 1, 2019

**HB 906** (Thompson, Senfronia | Phelan | Moody | Bonnen, Greg | Coleman) *Relating to the establishment of a collaborative task force to study certain public school mental health services.*

**Summary:** HB 906 establishes the Collaborative Task Force on Public School Mental Health Services to study and evaluate: (1) mental health services that are funded by the state and provided at a school district or open-enrollment charter school; (2) training provided to an educator employed by those schools; and (3) the impact of these mental health services.

**Codification:** Chapter 38, Education Code

**Effective Date:** September 1, 2019

**HB 1143** (Hefner | et al.) *Relating to the transportation or storage of a handgun or other firearm or ammunition by a handgun license holder in a school parking area.*

**Summary:** HB 1143 would amend the current statute by prohibiting a school district or open enrollment charter school from regulating "the manner in which the handgun, firearm, or ammunition is stored in the vehicle in a parking area.

**Codification:** Section 37.0815(a), Education Code.

**Effective Date:** September 1, 2019

**HB 1597** (Lambert | et al.) *Relating to establishing residency for purposes of admission into public schools.*

**Summary:** HB 1597 allows a parent that is in active military service to submit a copy of their orders or transfer to a military base as proof of residency to admit their children to a public school, provided that the proof of residence is provided within ten days after the arrival date on their orders.

**Codification:** Sections 25.001 and 12.104(b), Education Code.

**Effective Date:** September 1, 2019

**HB 1702** (Howard | et al.) *Relating to services provided for students at public institutions of higher education who are or were in foster care.*

**Summary:** HB 1702 requires that each institution of higher education's liaison officer shall obtain

at least annually the names and information regarding current and incoming students at the institution of higher education who were formerly in the conservatorship of the department. The institution of higher education would be required to post the name and contact information of the liaison on their website, on social media, through email or other means of communication. The institution would be required to post information regarding support services and other resources available at the institution to students who were formerly in the conservatorship.

**Codification:** Section 51.9356, Education Code

**Effective Date:** September 1, 2019

**HB 2184** (Allen | et al.) *Relating to a public school student's transition from an alternative education program to a regular classroom.*

**Summary:** HB 2184 would require school districts to create a transition plan for students transferring from an alternative education program, such as a disciplinary alternative education program operated by a school district or a juvenile justice alternative education program. The alternative education administrator would be required to give notice of a student's release to the student's parent and provide the campus administrator with notice, an assessment of the student's academic growth, and the results of any tests administered to the student. The school administrator would be responsible for coordinating with campus counselors, safety officers, teachers, social workers, and all other relevant personnel to create a transition plan within five days after the student's release from an alternative program.

**Codification:** Subchapter A, Chapter 37

**Effective Date:** September 1, 2019

**HB 3630** (Meyer | et al.) *Relating to prohibiting the use of certain aversive techniques on students enrolled in public schools.*

**Summary:** HB 3630 prohibits a public school district or a district employee, volunteer, or an independent contractor from authorizing, ordering, consenting to, or paying for a behavioral intervention: (1) designed or likely to cause physical pain; (2) that involves the directed release of a noxious, toxic, or otherwise unpleasant spray near a student's face; (3) that denies adequate sleep, air, food, water, shelter, bedding, physical comfort, or access to a restroom facility; (4) that involves subjecting a student to verbal abuse, ridicule, or humiliation; (5) that employs a device that simultaneously immobilizes all four extremities; (6) that impairs breathing; (7) that restricts circulation; (8) that secures a student to a stationary object; (9) that inhibits, reduces, or hinders a student's ability to communicate; (10) that involves the use of a chemical restraint; (11) that prevents observation by a direct line of sight; and (12) that deprives a student of the use of one or more of the student's senses to a student with a disability that receives special education services.

**Codification:** Section 37.0021, Education Code

**Effective Date:** September 1, 2019



**HB 3650** (Turner, Chris | et al.) *Relating to an agreement between a school district and public institution of higher education to provide a dual credit program to high school students enrolled in the district.*

**Summary:** House Bill 3650 amends the Education Code to require any agreement between a public school district and a public institution of higher education to provide a dual credit program to require the district and the institution to consider the use of free or low-cost open educational resources in program courses.

**Codification:** Section 28.009(b-2), Education Code

**Effective Date:** September 1, 2019

SB 11 (Taylor | et al.) *Relating to policies, procedures, and measures for school safety and mental health promotion in public schools and the creation of the Texas Child Mental Health Care Consortium.*

**Summary:** SB 11 is this session's omnibus school safety bill and attempts to accomplish two tasks in regard to school safety: (1) promoting school safety and (2) promoting student mental health. This bill requires the Texas Education Agency (TEA) to create rules to ensure building standards for school facilities promote a safe and secure environment. This would need to include design and construction for new facilities as well as improvement, renovation, and retrofitting of existing facilities. School districts would be required to develop their own campus safety plans to be submitted to the Texas School Safety Center. If the plan is not up to the center's standards or if the district fails to deliver a plan, the TEA would be able to force the district to have a public hearing on their plan. The commissioner could eventually appoint a conservator or replace the board if the district continues to not comply with the Center's standards.

This bill also requires local mental health authorities to employ a mental health professional to be a resource for school districts. Their job would be to help school personnel gain a better understanding of mental health, assist to implement initiatives related to mental health or substance abuse, and to provide training. A school district would not be required to participate in training. Local mental health authorities would be required to compile a report to the Health and Human Services Commission regarding outcomes of the program. The commission would be required to submit their own report to the Governor, the Lieutenant Governor, and the Speaker of the House of Representatives.

Additionally, SB 11 expands emergency response training for district employees, including substitute teachers, and establish threat assessment teams to determine the best ways to intervene before they become violent. Funds for retrofitting vehicles and buses could be raised in bond elections. SB 11 also reforms the make up of the School Safety and Security Committees for each district, requiring members be of certain professions or backgrounds. Committees would be required to meet once every semester and once during the summer, or three times a year in total. The committees would also be required to provide recommendations to the district's board and administrators. In addition, school districts would be required to create threat assessment teams at each campus to identify individuals who make threats of violence or exhibit threatening behavior.

Each district would also be required to create a committee to oversee the threat assessment teams at each campus.

School districts would be able to opt out of training provided by the mental health professional. School boards would be required to develop and determine the content of a curriculum for healthy relationship education to promote relationship, communication, and decision making skills. School district peace officers would be required to undergo a training and education program, removing the requirement that they had to be employed by a school district of 30,000 or more students.

SB 11 also requires that the commissioner of the TEA to provide a school safety allotment to school districts that is appropriated for that purpose. These funds could only be used to improve current structures and technology, employ school district peace officers, and provide resources for drills.

This bill also requires the threat assessment and safe and supportive school team established at each school, after determining that a student or other individual poses a serious risk of violence to self or others, to immediately report to the superintendent. The superintendent would immediately attempt to inform the parent or person standing in parental relation to the individual if the individual is a student.

Codification: Subchapter C, Chapter 7, Sections 11.252(a), 21.054(d) and (d-2), 37.108, Subchapter D, Chapter 37, Subchapter A, Chapter 38, Subchapter C, Chapter 42, Section 37.109, 37.2091(d), 45.001(a), Chapter 61, Education Code.

Effective Date: June 6, 2019

**SB 435** (Nelson) *Relating to recommendations by local school health advisory councils regarding opioid addiction and abuse education in public schools.*

**Summary:** S.B. 435 directs each local school health advisory council to recommend appropriate opioid addiction and abuse curriculum for the district including methods of administering an opioid antagonist.

**Codification:** Section 28.004(c), Education Code.

**Effective Date:** May 31, 2019

**SB 1055** (Zaffirini) *Relating to the administration by the Texas Workforce Commission of a workforce diploma pilot program.*

**Summary:** SB 1055 would develop a workforce diploma pilot program through the Texas Workforce Commission (TWC) that would reimburse diploma-granting entities for successfully assisting adult students in attaining a diploma or industry-recognized workforce certifications. The TWC would reimburse approved program providers in the order in which invoices are received until all funds available for the program are exhausted.

**Codification:** Subtitle B, Title 4, Labor Code.

**Effective Date:** September 1, 2019

**SB 1276** (Powell) *Relating to an agreement between a school district and public institution of higher education to provide a dual credit program to high school students enrolled in the district.*

**Summary:** Senate Bill 1055 amends the Labor Code to require the Texas Workforce Commission (TWC), in consultation with the Texas Education Agency, to establish and administer a workforce diploma pilot program under which eligible high school diploma-granting entities participating in the program may be reimbursed for successfully assisting adult students to obtain a high school diploma and develop technical career readiness skills and employability. The bill sets out provider eligibility criteria, requires the TWC to publish an annual list of approved providers, and provides for the reimbursement of each participating provider by the TWC according to a specified scale for the achievement of certain milestones by students receiving services from that provider. The bill establishes certain reporting requirements and requires the TWC to prescribe minimum performance standards and to review provider performance annually. Implementation of a provision of this bill is mandatory only if a specific appropriation is made for that purpose.

**Codification:** Section 28.009(b-2), Education Code

**Effective Date:** September 1, 2019

**SB 2432** (Taylor) *Relating to the removal of a public school student from the classroom following certain conduct.*

**Summary:** SB 2432 adds harassment against an employee of the school district, as a reason a teacher must remove a student from a classroom, and for which the student must be placed in disciplinary alternative education program (DAEP). The harassment that would trigger this removal from the classroom and mandatory placement into a DAEP would include (1) making an obscene comment, request, suggestion or proposal; (2) threatening, in a manner reasonably likely to alarm the person receiving the threat, to inflict bodily injury or to commit a felony against the person, person's family, or person's property; (3) conveying, in a manner reasonably likely to alarm the person receiving the report, a false report that another person has suffered death or serious bodily injury; or (4) sending repeated electronic communications in a manner reasonably likely to harass, annoy, alarm, abuse, torment, embarrass, or offend another.

**Codification:** Section 37.006(a), Education Code.

**Effective Date:** September 1, 2019

**HB 3011** (Turner, Chris | et al.): *Relating to requiring the Texas Higher Education Coordinating Board to provide to a school district certain information used in determining academic accountability ratings for the district.*

**Summary:** House Bill 3011 amends the Education Code to require the Texas Higher Education Coordinating Board, before the initial release of academic accountability ratings for a school year, to provide to each public school district a copy of certain data that the coordinating board provides to the Texas Education Agency to consider in determining the district's accreditation status or assigning performance ratings for the district or its campuses.

**Codification:** Subchapter C, Chapter 39, Education Code

**Effective Date:** September 1, 2019

---

## Higher Education

**HB 277** (Oliverson | et al.) *Relating to a requirement that online admission application forms for public institutions of higher education include a link to certain comparative gainful employment data.*

**Summary:** HB 277 requires the common online application for post-secondary institutions to include a link to comparative gainful employment data. This would include data regarding the benefits of different types of degrees, career opportunities, and comparative data between different universities. This data would be compiled by a board in coordination with the Texas Workforce Commission.

**Codification:** Section 51.762 and 51.763(b), Education Code

**Effective Date:** September 1, 2019

**HB 449** (Turner, Chris | et al.) *Relating to a requirement that a public or private institution of higher education include a notation on a student's transcript under certain circumstances.*

**Summary:** HB 449 requires public and private institutions of higher education to make a notation on the transcripts of students who were unable to re-enroll in the institution for reasons other than financial or academic. The notation could be removed at the request of the student if the suspension had been fulfilled or a good cause exists to remove it.

**Codification:** Subchapter Z, Chapter 51, Education Code.

**Effective Date:** September 1, 2019

**HB 539** (Leman | et al.) *Relating to the automatic admission to general academic teaching institutions and eligibility for certain scholarships of a student who is the valedictorian of the student's high school graduating class.*

**Summary:** HB 539 specifies that a student who graduates as valedictorian in their school is entitled to automatic admission to a public university in Texas. This bill also emphasizes a valedictorian's eligibility for a scholarship. Current law already states that if any student graduates in the top 10 percent of their high school class, they are eligible for automatic admission and scholarship.

**Codification:** Sections 51.803 and 56.484, Education Code

**Effective Date:** September 1, 2019

**HB 1516** (Coleman) *Relating to the intercollegiate athletics fee at Texas Southern University; authorizing the continued imposition of a fee.*

**Summary:** Like almost all public institutions of higher education, Texas Southern University charges students an intercollegiate athletics fee. However, Texas Southern University is one of two public universities whose ability to charge students this fee requires legislative reauthorization every five years. H.B. 1516 brings Texas Southern University on par with Texas' other public institutions of higher education and authorizes the continuation of the fee. H.B. 1516 amends current law relating to the intercollegiate athletics fee at Texas Southern University, and authorizes the continued imposition of a fee.

**Codification:** Sections 54.5223(g) and (h), Education Code is repealed.

**Effective Date:** September 1, 2019

**HB 1702** (Howard | et al.) *Relating to services provided for students at public institutions of higher education who are or were in foster care.*

**Summary:** HB 1702 requires that each institution of higher education's liaison officer shall obtain at least annually the names and information regarding current and incoming students at the institution of higher education who were formerly in the conservatorship of the department. The institution of higher education would be required to post the name and contact information of the liaison on their website, on social media, through email or other means of communication. The institution would be required to post information regarding support services and other resources available at the institution to students who were formerly in the conservatorship.

**Codification:** Section 51.9356, Education Code

**Effective Date:** September 1, 2019

**HB 1735** (Howard | et al.) *Relating to sexual harassment, sexual assault, dating violence, and stalking at public and private postsecondary educational institutions; providing an administrative penalty.*

**Summary:** H.B. 1735 ensures all of Texas' public and private institutions of higher education have safe and equitable policies in place to address campus sexual assault. Education Code sec. 51.9363 requires public and private institutions of higher education to adopt a policy on sexual assault applicable to students and employees. The statute requires the policies be made available in the institutions' handbooks and on a dedicated web page, be covered during student orientation, and be the subject of a public awareness campaign. Title IX of the federal Education Amendments of 1972 prohibits discrimination on the basis of sex in education programs receiving federal financial assistance.

HB 1735 repeals Education Code sec. 51.9363 and add a new subchapter under Chapter. 51 with revised requirements for higher education institution policies on reporting and responding to campus sexual harassment, sexual assault, dating violence, and stalking at the state's higher education institutions. The bill defines "dating violence," "sexual assault," and "stalking" as those terms are defined in the federal Clery Act, a 1990 law requiring the disclosure of information about campus crime.

HB 1735 requires public and private higher education institutions to establish a policy on sexual harassment, sexual assault, dating violence, and stalking applicable to students and employees.

The policy has to include: definitions of prohibited behavior and sanctions for violations; a protocol for reporting and responding to reports; measures to protect victims from retaliation during the disciplinary process; a statement emphasizing the importance of victims going to a hospital for treatment and preservation of evidence as soon as practicable; the victim's right to report the incident to the institution and to receive a prompt and equitable resolution; and the victim's right to choose whether to report a crime to law enforcement, to be assisted by the institution in reporting a crime, or to decline to report a crime to law enforcement. The policy has to be approved by the institution's governing board and reviewed every biennium and revised if necessary. It is to be made available in student and personnel handbooks and on a web page dedicated solely to the policy. Institutions are required entering freshmen and undergraduate transfer students to attend an orientation on the policy before or during the student's first semester. The orientation could be provided online and would emphasize the importance of a victim going to a hospital for treatment and preservation of evidence and the victim's rights to report the incident to the institution and law enforcement.

**Prevention and outreach.** HB 1735 requires institutions to develop and implement a comprehensive prevention and outreach program, which would address prevention strategies, including victim empowerment, public awareness, bystander intervention, and risk reduction. The program would have to provide students information about reporting protocols, including the name, office location, and contact information of the institution's Title IX coordinator by emailing the information to students at the beginning of each semester and including it in the required orientation.

To the greatest extent practicable based on an institution's number of counselors, institutions would have to ensure that each alleged victim or alleged perpetrator of an incident and any other person who reported an incident were offered counseling provided by a counselor who did not provide counseling to any other person involved in the incident. Institutions also would have to allow an alleged victim or alleged perpetrator of an incident to drop a course in which both were enrolled without any academic penalty.

**Reporting.** The bill retains existing Education Code requirements that institutions provide an electronic reporting option. It also would retain a prohibition on an institution taking any disciplinary action against a student enrolled at the institution who in good faith reports being the victim of, or a witness to, an incident.

**Requests not to investigate.** If an alleged victim of an incident requested the institution not to investigate it, the bill would allow institutions to investigate in a way that complied with confidentiality requirements. When determining whether to investigate, the institution would have to consider: the seriousness of the alleged incident; whether the institution had received other reports of incidents committed by the alleged perpetrator or perpetrators; whether the alleged incident posed a risk of harm to others; and any other factors the institution deemed relevant. If the institution, based on the victim's request, decided not to investigate the alleged incident, it would have to inform the victim and take any steps it deemed necessary to protect the health and safety of its community.

**Disciplinary process for certain violations.** An institution that initiated a disciplinary process against an enrolled student who allegedly violated the institution's code of conduct by committing sexual harassment, sexual assault, dating violence, or stalking would be required to take certain steps. It would have to provide the student and the alleged victim a prompt and equitable opportunity to present witnesses and other relevant evidence during the disciplinary process. It also would have to ensure that both had reasonable and equitable access to all relevant evidence in the institution's possession, redacted as necessary to comply with federal or state confidentiality laws. This would include any statements by the victim or other persons, information stored electronically, written or electronic communications, social media posts, or physical evidence. The institution also would have to take reasonable steps to protect the student and the alleged victim from retaliation and harassment during the disciplinary process.

**Student withdrawal or graduation pending disciplinary charges.** If a student with a pending disciplinary charge alleging the violation of an institution's code of conduct regarding an incident withdrew or graduated, HB 1735 would prohibit the institution from ending the disciplinary process or issuing a transcript to the student until it made a final determination of responsibility. The institution also would have to expedite its disciplinary process to accommodate both the student's and the alleged victim's interest in a speedy resolution. The bill would require an institution to provide information to another institution, upon request, relating to a determination that a student violated the code of conduct by committing sexual harassment, sexual assault, dating violence, or stalking.

**Trauma-informed training.** Peace officers employed by a higher education institutions would have to complete training on traumainformed investigation into allegations of sexual harassment, sexual assault, dating violence, and stalking.

**Memoranda of understanding.** Institutions would have to enter into a memorandum of understanding with one or more local law enforcement agencies, advocacy groups, and hospitals or other medical resource providers to facilitate effective communication and coordination on allegations.

**Designated employees.** HB 1737 would require an institution to designate one or more employees to be responsible for Title IX. An institution would have to designate one or more employees as persons to whom students could speak confidentially concerning sexual harassment, sexual assault, dating violence, and stalking. Each enrolled student would have to be informed of the responsible and confidential employees. An institution could designate one or more students as student advocates to whom other students could speak confidentially. An institution that designated student advocates would have to notify each enrolled student of the advocates.

**Confidentiality.** The bill would provide protections of confidentiality to an alleged victim, a person who reported an incident, and a person alleged to have committed or assisted in an incident determined by an institution to be unsubstantiated or without merit. Certain identity disclosures could be made to the institution, or a law enforcement officer as necessary to conduct an investigation. Disclosure also could be made to a health care provider in an emergency situation. A medical provider employed by an institution could share information only with the victim's

consent.

**Compliance.** If the Texas Higher Education Coordinating Board determined an institution was not in substantial compliance with the bill, it would have to report the institution to the Legislature for consideration of whether to reduce state funding for the following academic year. If the determination of substantial noncompliance involved a private or independent institution, the coordinating board could assess an administrative penalty not to exceed the institution's funding from tuition equalization grants for the preceding academic year or \$2 million, whichever was greater. In determining the penalty amount, the coordinating board would have to consider the nature of the violation and the number of students enrolled at the institution. The coordinating board would have to provide an institution with written notice of its reasons for taking action and the institution could appeal. A private or independent institution could not pay an administrative penalty using state or federal money. Administrative penalties would be deposited to the credit of the state's sexual assault program fund. The commissioner of higher education would be required to establish an advisory committee to recommend rules to implement the bill and to develop recommended training. The commissioner would appoint nine members to the advisory committee, each of whom would have to be a chief executive officer of an institution or a representative designated by that officer.

**Equal access.** In implementing the requirements of HB 1735, an institution would be required, to the greatest extent practicable, to ensure equal access for students or employees who were persons with disabilities. An institution would have to make reasonable efforts to consult with a disability services office of the institution, advocacy groups, and other relevant stakeholders to assist with compliance.

**Codification:** Chapter 51, Education Code; Sections 51.9365(b), (c), and (d), Education Code, are transferred to Subchapter E-3, Chapter 51, Education Code, as added by this Act, redesignated as Section 51.283, Education Code.

**Effective Date:** September 1, 2019

**HB 2140** (Neave | et al.) *Relating to creating an electronic application system for state student financial assistance.*

**Summary:** HB 2140 amends current law relating to creating an electronic application system for state student financial assistance. HB2140 requires the Texas Higher Education Coordinating Board (THECB) to adopt procedures to allow a person to complete and submit the Texas Application for State Financial Aid (TASFA) or a similar application for state student financial assistance through the same website through which THECB provides common admission application forms. THECB must appoint an advisory committee composed of financial aid personnel at higher education institutions and relevant stakeholders who represented students' needs to assist THECB in adopting procedures to implement the bill. THECB must report the advisory committee's recommendations to the committee of each house of the Legislature with jurisdiction over higher education by January 1, 2021. This provision would expire January 1, 2023. The bill would require THECB to maintain an online database of institutions of higher



education to which state financial assistance may be applied. Personal information maintained by THECB for the online application system would be confidential. The bill would apply beginning with financial aid applications submitted for the 2022-2023 academic year.

**Codification:** Amends Subchapter C, Chapter 61 of the Education Code by adding Section 61.07762

**Effective Date:** June 10, 2019

**HB 3655** (Turner, Chris) *Relating to the administration and operation of the state's programs for paying, prepaying, or saving toward the costs of attending an institution of higher education, including the powers and duties of the Prepaid Higher Education Tuition Board.*

**Summary:** HB 3655 makes several administrative changes to the Texas Prepaid Higher Education Tuition Board. The bills add certain requirements to the board in regards to the Higher Education Savings Fund, Prepaid Tuition Unit Undergraduate Education Program Texas Tomorrow Fund II, Save and Match Program, and the Texas Achieving a Better Life Experience program. In addition, this bill also changes the definition of "qualified higher education expenses" to match the federal definition in U.S. Code.

**Codification:** Sections 54.602, 54.641(a), 54.701(8), 54.702(a), 54.708(b), 54.751(2), (6), and (7), 54.752(b), 54.753(a), (b), (c), (d), and (e), 54.754(a), (b), (c), and (d), 54.765(c) and (f), 54.767, 54.769(b) and (c), 54.774(a), 54.775(b), 54.776, Education Code, Sections 54.708(c), (d), (e), and (f), Education Code, are repealed.

**Effective Date:** September 1, 2019

**SB 18** (Huffman | et al.) *Relating to the protection of expressive activities at public institutions of higher education.*

**Summary:** SB 18 requires public higher education institutions to ensure that common outdoor areas are deemed to be traditional public forums and permit any individual to engage in expressive activities in those areas freely. Also, public institutions must adopt a policy detailing students' rights and responsibilities regarding expressive activities. Higher education institutions would still be able to adopt reasonable restrictions on the time, place, and manner of expressive activities. Notably, in determining whether to approve a campus speaker, a higher education institution would only be able to consider content-neutral and viewpoint-neutral criteria related to the needs of the event. The institution could not consider any anticipated controversy related to the event

**Codification:** Subchapter Z, Chapter 51, Education Code.

**Effective Date:** September 1, 2019

**SB 212** (Huffman) *Relating to a reporting requirement for certain incidents of sexual harassment, sexual assault, dating violence, or stalking at certain public and private institutions of higher education; creating a criminal offense; authorizing administrative penalties.*

**Summary:** SB 212 requires employees to report allegations of certain crimes to the Title IX office of a public or private institution of higher education, creating a crime if they fail to do so. If

employees become aware of alleged incidences of sexual harassment, sexual assault, family violence, or stalking committed by or against a student, they would be required to report these allegations. Failure to report promptly results in termination of employment. If the employee fails to report without good cause, SB 212 creates a Class B misdemeanor, or a Class A misdemeanor if it is shown that the actor intended to conceal the unreported incident. Additionally, SB 212 imposes certain reporting requirements for the chief executive officer and the Title IX coordinator of a post-secondary educational institution. Failure to comply with this subchapter may result in an administrative penalty up to \$2 million.

**Codification:** Chapter 51, Section 61.0331, Education Code, Section 420.008(b), Government Code, Sections 51.251-51.259, Education Code, and Section 61.0331, Education Code.

**Effective Date:** September 1, 2019, except Section 51.260, Education Code, as added by this Act, takes effect June 14, 2019 and Section 51.255(a), Education Code, as added by this Act, takes effect January 1, 2020.

**SB 1324** (Taylor | et al.) *Relating to the filing of a degree plan by students at public institutions of higher education.*

**Summary:** SB 1324 requires students who earn 15 credit hours of dual credit to file a degree plan with the institution of higher education granting the dual credit. It also requires students to undergo advising after having accrued 15 semester credit hours.

**Codification:** Section 51.9685, 130.0104(c), Education Code

**Effective Date:** September 1, 2019

---

## **WILLS, ESTATE, AND PROBATE**

**HB 2245** (Wray | Raymond) *Relating to trusts.*

**Summary:** H.B. 2245 provides additional rules for the management and termination of certain court-created trusts whose beneficiaries were minors, incapacitated, or disabled. The bill requires that provisions in certain trusts that were intended to take effect or become irrevocable upon the settlor's death be interpreted according to rules applicable to the construction and interpretation of wills when the settlor died. H.B. 2245 also provides rules relating to the distribution of trust principal to a second trust, a court's power to override the terms of a trust, and the effect of a court-ordered reformation of a trust.

**Court-created trusts.** H.B. 2245 will provide that a trust created by a court for the benefit of a minor who was considered disabled for certain purposes of the federal Social Security Act (SSA) would terminate on the beneficiary's death.

**Pooled trust subaccounts.** The bill defines a management trust as a trust created by a court upon a determination that the trust would be in the best interest of a beneficiary that is a minor or incapacitated. Certain persons will be permitted to apply to the court with continuing jurisdiction

over a management trust for the establishment of a subaccount in a pooled trust that complied with provisions of the SSA that would be solely for the benefit of the proposed beneficiary for whom a management trust had or could be established. The persons who could submit such applications would be:

- the trustee of a management trust established for the proposed beneficiary;
- a person who had filed an application for the appointment of a guardian of the person or estate of the proposed beneficiary;
- an attorney ad litem or guardian ad litem appointed to represent the proposed beneficiary;
- a proposed beneficiary who was not a minor or incapacitated person.

The court will be required to appoint an attorney ad litem for a proposed beneficiary who is a minor or an incapacitated person and the subject of an application. A court also could appoint an attorney ad litem or guardian ad litem to represent the interests of a beneficiary with a physical disability who was not incapacitated. The attorney ad litem or the guardian ad litem would be entitled to a reasonable fee and reimbursement of expenses to be paid from the proposed beneficiary's property.

If the court found it in the best interest of the proposed beneficiary, the court could order the establishment of a pooled trust subaccount and the transfer to the subaccount of any of the beneficiary's property. The transfer of property from the management trust to the pooled trust subaccount would be treated as a continuation of the management trust.

The court could not terminate a management trust until all property had been transferred to the pooled trust subaccount. The terms of the subaccount would provide that the subaccount would terminate on:

- the beneficiary's 18th birthday if the beneficiary was not considered disabled for certain purposes under the Social Security Act and was a minor at the time the subaccount was established;
- the beneficiary's death; or
- a court order terminating the subaccount.

Any property remaining in the subaccount upon termination and after making any required payments to satisfy medical assistance reimbursement claims would be distributed to:

- the beneficiary, if the beneficiary was living and not a minor or incapacitated person;
- the beneficiary's guardian of the estate, if the beneficiary was living and a minor or incapacitated person; or
- the personal representative of the beneficiary's estate, if the beneficiary was deceased.

The manager or trustee of a pooled trust could assess fees against and pay fees from a subaccount of the pooled trust in accordance with a standard fee structure. If required by the court, a copy of the annual report of the account would have to be filed with the clerk of the court.

A court that ordered the establishment of subaccount for a beneficiary would have exclusive jurisdiction over any subsequent proceeding or action that related to both the beneficiary and the subaccount.

**At-death transfers.** H.B. 2245 will require that a trust amendable or revocable by the settlor

containing a transfer intended to take effect or become irrevocable upon the settlor's death be subject to the provisions of the Estates Code dealing with the construction and interpretation of wills when the settlor died. In applying these provisions, the settlor would be treated as the testator, the beneficiaries of the transfer would be treated as devisees, and the transfer would be treated as a devise. A transfer of specifically identifiable trust property would be a specific bequest, a transfer from the general assets of the trust would be a general bequest, and a transfer of trust property remains after all specific and general transfers had been satisfied would be the residuary estate. Rules related to the abatement of bequests in connection with payments of debts and expenses of administration would apply.

**Distribution to second trust.** The bill specifies that a second trust could be created by a distribution of principal to a trust created either under the same trust instrument as the trust from which the principal was distributed or under a different trust instrument. If a second trust was created under the same trust instrument, the property would not have to be retitled. It would be the Legislature's intent that this provision be a codification of the common law of this state in effect immediately before September 1, 2019.

**Disgorgement.** H.B. 2245 will specify that the terms of a trust could not limit the power of a court to order disgorgement of a trustee's compensation if the trustee committed a breach of trust or make an award of costs or attorney's fees for a proceeding under the Property Code.

**Reformation.** The bill causes the court-ordered reformation of a trust to be effective as of the creation of the trust without the need for a court order directing that it have retroactive effect.

H.B. 2245 adds the provisions in Estates Code Chapter 123, Subchapter B, relating to the effect of dissolution of marriage on trusts, to the Property Code.

The bill takes effect September 1, 2019, and will apply to a trust existing on or created on or after that date, unless otherwise expressly provided by trust, a will creating a trust, or this bill. For a trust existing prior to the above date, the bill would apply only to an act or omission relating to the trust that occurred on or after that date. Provisions in this bill relating to the construction of a trust containing an at-death transfer would apply only if the settlor's death occurred on or after that date. Provisions relating to the effects that dissolution of marriage has on certain trusts would apply to a trust only with respect to a marriage that was dissolved on or after September 1, 2019.

**Codification:** Chapter 112, 142 & 143, Sections 111.0035(b), 112.054(c), & 142.005(b), Property Code

**Effective Date:** September 1, 2019

**HB 2780 (Wray)** *Relating to obsolete references to the Texas Probate Code.*

**Summary:** HB 2780 amends current law relating to obsolete references to the Texas Probate Code. In the process of updating outdated references to the Texas Probate Code, the Texas Legislative Council (TLC) identified certain provisions that TLC was not able to update because its mandate under Chapter 323, Government Code, only allows it to make non-substantive changes, and updating these provisions in an appropriate manner could potentially result in making substantive changes. These provisions were identified and forwarded to the Real Property, Probate & Trust

Law Section of the State Bar of Texas (REPTL) for potential inclusion in a substantive code update bill. For example, Section 71.012, Civil Practice and Remedies Code, relating to survival actions, contains a reference to former Section 95, Texas Probate Code. Language from that section ultimately found its way into ten different Estates Code sections spread across four different Estates Code chapters. The portion of former Section 95 to which Section 71.012 refers found its way into Chapter 503, Estates Code, alone. However, referencing that chapter alone would have violated TLC's mandate to make only non-substantive changes. Therefore, in order to update the reference to Section 95 in a manner that would not lead to confusion, a substantive, albeit minor, change is necessary. The “substantive” change made by Section 1 of the proposed legislation designed to provide a clear update is to change the reference in Section 71.012 from former Section 92 of the Texas Probate Code to current Chapter 503 of the Estates Code.

**Codification:** Sections 71.012 & 71.022 Civil Practice and Remedies Code; Section 54.241(d), Education Code; Sections 358.060(a), 358.201, & 1160.060(a), Estate Code; Section 81.1011(a), Government Code; 313.004(b), 552.018(e), 593.081(f), & 594.036(b), Health and Safety Code; Section 258.104(b), Occupations Code; Sections 41.002(e) & 112.034(a), Property Code

**Effective Date:** September 1, 2019

**HB 2782** (Wray) *Relating to decedents' estates, transfer on death deeds, and matters involving probate courts.*

**Summary:** HB 2782 would make various changes to the rules and procedures relating to probate and heirship proceedings.

**Designation of administrator.** The bill allows a testator's will to grant a person the authority to designate certain persons to serve as an administrator of the testator's estate. This designation would have to be in writing and acknowledged by an officer authorized to take acknowledgements and administer oaths. A person so designated and not disqualified from serving as an administrator could not receive letters of administration unless each executor named in the testator's will:

- was deceased;
- was disqualified from serving as executor; or
- had indicated an inability or unwillingness to serve by an filing an affidavit with the court.

An administrator designated under this section would have the same rights, powers, and duties as an executor named in the testator's will, unless the will or designation provided otherwise.

The bill set would set procedures for the appointment of an administrator in circumstances in which there was not an executor and either:

- the person who had been designated as administrator under the provisions of this bill was disqualified, had died, refused to serve, or resigned; or
- the person authorized to designate an administrator had not done so and did not intend to do so.

**Muniment of title.** HB 2782 allows a court that had admitted a will to probate as a muniment of title to appoint a personal representative and open an administration for the testator's estate if:

- an application for letters testamentary or of administration was filed within four years of

the testator's death; or

- administration of the estate was necessary to recover the estate's property or, in some circumstances, to prevent real property in the estate from becoming a danger to the general public.

Certain deadlines for an estate for which a personal representative appointed after the will had been admitted to probate as a muniment of title will be calculated based on the date of the qualification of the personal representative rather than the date the will was admitted to probate.

**Will modifications and reformations.** This bill expands the definition of a probate proceeding to include judicial modifications or reformations of wills. HB 2782 also provides rules and procedures for the assignment or transfer of will modification or reformation proceedings before a county court in counties lacking a county court at law or statutory probate court. In certain circumstances, the county court could or would be required to request that a statutory probate court judge be assigned to hear the proceeding or to transfer the proceeding to the district court or the county court at law, as applicable. The county court would retain jurisdiction over the management of the estate until the modification or reformation proceeding was resolved. Upon resolution, the proceeding would be returned to the county court for further proceedings consistent with the orders of the statutory probate court, district court, or county court at law.

**Removal of will.** CSHB 2782 specifies that a will submitted for probate could be removed from the county clerk's custody only by a court order requiring its removal to another place for inspection or transferring the probate proceeding to another court. If the proceeding was transferred, the clerk would be required to deliver the will directly to the clerk of the court to which the proceeding was transferred. A will removed for inspection would be required to be delivered back to the county clerk once the inspection was completed.

**Failed devises to charitable trusts.** The bill provides that current rules for determining the consequences of a failure of a devise in a will would not apply to devises to charitable trusts, unless a will otherwise provided.

**Digital assets.** Under certain circumstances, HB 2782 allows a personal representative to apply for a court order directing the disclosure of the decedent's electronic communications or assets. The personal representative could make this application at any time between being appointed and before the administration of the estate was closed.

**Nontestamentary transfers.** HB 2782 requires that certain parties to accounts, agreements, or contracts containing possible nontestamentary transfers provide a personal representative with all information that the party would have provided to the decedent if the decedent had requested the information as of the date of the decedent's death, except to the extent prohibited by federal or state law.

**Multiple-party accounts.** This law requires that a personal representative receive a written demand from a decedent's surviving spouse, creditor, or a person acting on behalf of the decedent's minor child before initiating any proceeding to recover certain payments from the decedent's multiple-party account.

**Claims against the estate.** The bill specifies that up to \$15,000 in funeral expenses and up to

\$15,000 in expenses relating to the decedent's last illness would be classified as Class 1 claims and have the highest priority for payment from the estate. Court costs and commissions to which a public probate administrator was entitled would be included in Class 2 claims. Procedures governing creditor claims in supervised administrations would apply to a claim of the Medicaid estate recovery program in an independent administration.

**Public auctions.** HB 2782 requires that public auctions of the real property of an estate be held at the county courthouse of a county in which the real property was located or another place in such a county at which auctions of real property were authorized to be held as designated by the county commissioners court. The court could also hold that the auction be held in the county in which proceedings are pending, but notice would have to be published in both that county and the county in which the real estate was located. Public auctions would be required to be held on the first Tuesday of the month after the publication of notice, except that if the first Tuesday occurred on January 1 or July 4, the auction would have to be held between 10 a.m. and 4 p.m. on the first Wednesday of the month.

**Affidavit in lieu of inventory.** The bill also provides that a court ordered extension of the period for filing an inventory, appraisal, and list of claims would be considered an extension of the filing period for an affidavit in lieu of inventory, appraisal, and list of claims.

**Contingent legal fees.** HB 2782 allows a personal representative to convey for attorney services up to a one-third contingent interest in any property sought to be recovered without court approval.

**Awards for contested probate.** The bill also allows an interested person other than a person having a claim against the estate who in good faith and with just cause successfully contested the validity of a will offered for or admitted to probate would be allowed to receive from the estate the person's necessary expenses in that proceeding, including reasonable attorney's fees.

**Bond.** HB 2782 allows a court under certain circumstances to waive the requirement of a bond for an executor, even if the will did not so provide, if all the distributees to the decedent agreed to the waiver.

**Public probate administrators.** The bill revises the requirements for public probate administrators to act without issuance of letters testamentary and would set the deadline for such administrators to file a small estate affidavit. The bill specifies that all funds coming into the custody of an administrator be deposited in the court registry rather than the county treasury, except for commissions to the administrator. These amounts are to be disbursed as ordered by the statutory probate judge who appointed the administrator instead of according to the guidelines of the county treasurer or auditor.

**Heirship proceedings.** The bill generally requires that testimony regarding a decedent's heirs and family history be provided by two disinterested and credible witnesses in an heirship proceeding. However, if after a diligent search, only one disinterested and credible witness could be found, the testimony of that witness would have to be provided.

**Transfer on death deeds.** HB 2782 repeals the statutory forms for transfer on death deeds. The validity of transfer on death deeds executed before, on, or after the effective date set out below would not be affected. The bill also specifies that a recorded transfer on death deed would be void

with respect to any real property interest if a memorandum sufficient to give notice of conveyance of the interest later was recorded with the county clerk's office in the county in which the deed was recorded.

**Exception for limitations.** The bill specifies that an exception existed to the requirement that an applicant for letters testamentary or of administration prove that four years had not passed since the decedent's death in situations in which an administration was necessary to recover the estate's property or, in some circumstances, to prevent real property in the estate from becoming a danger to the public.

**Codification:** Chapter 111, 254, 255, 257, 351, 356 & 402, Sections 31.001, 113.252(c), 114.102, 201.003(c), 202.151, 255.152, 256.051(a), 256.052(a), 256.053(b), 256.202, 257.051(a), 301.051, 301.052(a), 301.151, 304.001(a), 309.056, 351.152(a) and (b), 352.052, 355.102(b) and (c), 355.103, 355.1551(a) and (b), 356.105(a) and (b), 356.502, 356.551, 356.552, 356.553, 356.554(a-c), 356.556, 356.557, 356.558(a), 401.005, 455.008(a), 455.009, & 455.012, Estate Code; Sections 25.002201(b), & 25.00255(a), Government Code

**Effective Date:** September 1, 2019

**SB 874** (Huffman) *Relating to forms for creating or revoking a transfer on death deed.*

**Summary:** S.B. 874 amends the Government Code to require the Texas Supreme Court, as the court considers appropriate, to promulgate a form for use to create a transfer on death deed and a form for use to create an instrument of revocation of a transfer on death deed. The bill repeals Estates Code provisions that prescribe optional forms for creating such a deed or revocation instrument. The bill is a revision to the already-enacted Transfer on Death Deed (TODD), which was passed by the 84th Legislature. TODD allows an individual to transfer real property to someone else upon their death without having to go through probate. After receiving feedback about revisions that could be made to TODD forms, it was deemed prudent to simply remove the forms from the Estates Code and instead have the Texas Supreme Court promulgate them. In this way, each time the forms need to be revised, the legislature will not have to pass a bill. The forms and instructions will be made readily available to the general public on the Supreme Court's judicial branch and self-help websites,

**Codification:** Sections 22.020(a) & (b), Government Code

**Effective Date:** September 1, 2019

**SB 1420** (Zaffirini) *Relating to recovery of the funds of an estate delivered to the comptroller.*

**Summary:** S.B. 1420 amends current law relating to recovery of the funds of an estate delivered to the comptroller. Currently, unclaimed property under the Estates Code is sent to the comptroller of public accounts of the State of Texas (comptroller) and goes through a different process for recovery than other unclaimed properties under the Property Code. Under the Estates Code, persons or groups must sue the comptroller in order to recover their property. This is costly for the claimants, often leading them not to file a suit because the expenses exceed the value of the property. This process also places a burden on the comptroller's office when their resources could



be better used elsewhere. A recommendation of the comptroller, SB 1420 would allow heirs to obtain unclaimed property by filing a report and following the same process that claimants under the Property Code follow. SB 1420 also would remove the four-year deadline to file a claim, allowing more claims to be received by the agency. These changes would reduce costs for claimants and ease the administrative burden on the comptroller.

**Codification:** Sections 551.003(b) & 551.051, Estate Code; Section 74.501(e), Property Code

**Effective Date:** September 1, 2019

---

## WEALTH

**SB 1943:** *Relating to the ad valorem taxation of heir property*

**Summary:** SB 1943 expands low-income families' access to Texas' numerous homestead tax exemption benefits if they have inherited their home. The legislation creates a simple affidavit in the homestead exemption application that heirs property homeowners (i.e., persons who have inherited their home) can sign to prove their ownership—they can no longer be required to go and get an attorney to file a formal affidavit of heirship in the deed records. The legislation also allows an heirs property homeowner living in the home to access 100% of the tax deferral (if senior/disabled), 100% of the school tax freeze (if senior/disabled) and 100% of the myriad other tax benefits available for homesteads. This change is especially important in tax foreclosure procedures, when seniors and persons with disabilities are seeking to utilize the tax deferral to save their home.

## ABOUT THE EARL CARL INSTITUTE

### Background

The Earl Carl Institute for Legal and Social Policy, Inc. at the Thurgood Marshall School of Law seeks to identify, address, and offer solutions to issues that affect traditionally urban and disenfranchised communities. The Institute was established in 1992 by Professor Marcia Johnson and is a nonprofit corporation exempt from taxation under §501(c) (3) of the Internal Revenue Code.



The Institute was named in honor of Professor Earl Carl, a founding faculty member of the Law School. Professor Carl, blind from an early age, graduated from Fisk University before going on to earn his law degree from Yale University Law School. A symbol of personal triumph over misfortune, Professor Carl is a reminder that we are limited by only the barriers we choose not to overcome.

The Institute was initially designed to serve as a provider of resources for Thurgood Marshall students to enhance their research and writing skills. Over the past 20 years the Institute's programs have grown significantly and now also include training in legal advocacy, leadership, office management, and problem solving. The Institute promotes civil and human rights through the students' research, position papers, and other publications. A high percentage of Institute students pass the bar exam on their first attempt.

Through the production of papers, community education programs and media presentations, the Institute continues to make advances toward becoming a prominent research resource and authority with respect to its Core and Signature Project Initiatives.

From its beginning, the purpose of the Earl Carl Institute has been to meet, through an interdisciplinary approach, the legal and social needs of traditionally under-represented populations. The Institute is committed to the belief that social change can occur through a variety of educational and advocacy activities, client education, publications, and direct representation. The Institute believes problems that are intricately intertwined with the loss or impairment of individual rights can be addressed through activities that help eliminate poverty in the urban community.

### Mission, Vision, and Core Beliefs of the Earl Carl Institute

The **Mission** of the Institute is to empower underserved and disenfranchised communities by addressing systemic social issues through legal representation, research, education and advocacy.

The **Vision** of the Institute is to serve as one of the nation's preeminent think tanks for research and advocacy on legal and social issues affecting underserved communities. We will serve as a leading voice in promoting social justice and be recognized for excellence in our programs and the quality of our community engagement.

## **The Core Beliefs of the Earl Carl Institute**

The core beliefs of the Institute are --

- to promote excellence in education using an interdisciplinary approach to create excellent future leaders who will advance social justice;
- to provide an effective service delivery component to address the needs of individual citizens and advance community representation;
- to contribute to public discourse by producing high quality significant research that enhances public policy discussions;
- to provide accessibility to the Institute and its programs in order to foster an environment that promotes equality for traditionally underserved populations; and
- to have a significant role in facilitating awareness that contributes to the advancement of civil rights and social justice.

As the Institute evolves, it continues to work towards identifying potential implementable solutions to legal and social issues disproportionately impacting the minority community. The Institute will continue to pursue, through both academic and grassroots efforts, opportunities to promote policy changes for the betterment of the urban community and to fulfill the missions of the Institute, TMSL, and TSU.

## **Structure of the Earl Carl Institute**

***Institute Projects and Outcomes.*** The Institute generally undertakes projects that are interdisciplinary in nature and have a disproportionate impact on minorities as well as one of three outcomes. These outcomes are (1) student development, (2) public policy initiatives, and (3) community education.

### **Institute Centers**

The Institute maintains three centers: The Center for Government Law, the Center for Civil Advocacy, and the Center for Criminal Justice.

### **The Center for Civil Advocacy**

Formerly known as the Institute for Trial Advocacy, The Center for Civil Advocacy (CCA) was established in November 2001 and provides Thurgood Marshall Law students an opportunity to gain practical experience by working with clients, witnesses, lawyers and courts. Sources for cases include the Houston Volunteer Lawyers Program, Lone Star Legal Aid, Texas Appleseed, Disability Rights Texas, other legal services organizations, community-based organizations and churches. The clients represented through CCA are commonly low-income individuals and families.

The CCA currently operates the Opal Mitchell Lee Property Preservation Project (OMLPPP)



**The Opal Mitchell Lee Property Preservation Program (OMLPPP)** was established in September of 2007, through a grant from Texas Access to Justice Foundation (TAJF). TAJF has continued to fund the project annually. The OMLPPP addresses the legal challenges lower income residents face in maintaining their real property and enhancing their wealth. The project's focus is to help economically disadvantaged communities retain and grow wealth through assistance with maintaining or obtaining real property. Approximately 75% of African Americans do not have wills. Studies have shown that 95% of the wealth of African Americans is in the value of their homes. The Project staffed by three full-time attorneys. On average, the Institute hires two students per semester to serve as student attorneys for the project. Services include actions involving probate, adverse possession, clearing title to property, partitions, mortgage, homeowner association and tax foreclosure defense, bankruptcy assistance, property tax exemptions, formation of nonprofit corporations to assist with community development, and consumer debt issues.



EARL CARL INSTITUTE  
JUVENILE JUSTICE PROJECT

**The Earl Carl Institute Juvenile Justice Project (JJP)** has operated since 2009 with financial support from the Thurgood Marshall School of Law and grants from the Litigation Section of the State Bar of Texas, Texas Bar Foundation and the Houston Endowment. The project is currently staffed by a full-time attorney who is an Equal Justice Works Fellow sponsored by the Texas Access to Justice Foundation and Greenberg Traurig Law Firm. The Earl Carl Institute's Juvenile Justice Project addresses the issue of disproportionate minority contact (DMC), through a holistic approach, by

providing legal representation to children who are in multiple systems including the criminal justice system, disparate educational systems, the mental health system and foster care system. Our services include representation in school disciplinary/special education hearings, sealing of criminal records, direct legal representation in Class C Misdemeanor school cases and truancy cases, direct representation in the juvenile delinquency, foster care, and mental health care systems.

### **The Center for Criminal Justice**

The Center for Criminal Justice (CCJ) engages in research, analysis, collaboration, and actual innocence litigation to foster a fairer and more accountable justice system. The Center uses an interdisciplinary approach to address problems in the criminal justice system that disproportionately impacts the urban community. The goals of the Center are (1) to research criminal justice reform issues and recommend more effective policies, and (2) to provide students with an opportunity to hone their advocacy skills.



***The Thurgood Marshall School of Law Innocence Project (TMSLIP)*** is operated under the auspices of the CCJ. The Innocence Project at Thurgood Marshall School of Law (TMSLIP) was created in June of 2007. In March of 2009, the Innocence Project began operating under the Earl Carl Institute for Legal and Social Policy, Inc. TMSLIP came to the Institute with only 24 open services requests. By July 2015, the TMSLIP had received over 3000 requests for assistance.

The Project promotes student development by employing a full-time supervising attorney as well as numerous law student investigators who review claims of actual innocence. Statistics show that, like most problems with our criminal justice system, the problem of wrongful conviction impacts the African American community more than any other community. The disparate impact of wrongful conviction on the African American community is shown in Texas' DNA exonerations. Of the first 45 persons whose convictions were found to be wrongful as the result of post-conviction DNA tests, more than 80% are African American.

### **The Center for Government Law**

The Center for Government Law was established to provide integrated academic and practical skills training in government administration and regulation to law students. Preparing students for the practice of law in the public sector is a primary goal of the Center. The Center works with numerous governmental organizations on the local, state, and federal level. In addition, the Center is responsible for a report each biennial Texas Legislative session on the impact of new legislation on TSU and the urban community. It is the goal of the center to become an authority and resource on urban issues for legislators and for policy organizations.

**VISIT US ON THE WEB AT [www.earlcarlinstitute.org](http://www.earlcarlinstitute.org) for more information.**

---

## ECI GOVERNING BOARD AND STAFF

### Officers

James Douglas, President  
Judge Bill Littlejohn, Vice President  
Robert Ford, Secretary  
Carlton Perkins, Treasurer

### Directors

Marguerite Butler  
McKen V. Carrington  
Okezie Chukwumerije  
Fernando Colon-Navarro  
Jay Cummings  
Constance Fain  
Robert L. Ford  
Warrington Goudeau  
Theo Harrington  
Jeanette Harris  
Dannye Holley  
Anna T. James  
Samuel Louis  
Ann McCoy  
Sherea McKenzie  
Carlton Perkins  
Laurie Vignaud

### Staff

**Sarah R. Guidry**, Executive Director  
**Lucinda R. Daniels**, Associate Director  
Student Development & Publications  
**Zahra Buck Whitfield**, Associate Director  
Center for Government Law  
**Kelley Austin**, Supervising Attorney  
Opal Mitchell Lee Property Preservation Project  
**Jasline Hardiman**, Staff Attorney  
Opal Mitchell Lee Property Preservation Project  
Opal Mitchell Lee Property Preservation Project  
**Antonio Sanguenza**, Assistant Director of Youth Initiatives  
**Alisa Harris**, Community Engagement Specialist  
**Jeanetta T. Washington**, Sr. Administrative Assistant  
**Aileen Fonsworth**, Black Girls Initiative Coordinator  
& Executive Assistant



Email: [earlcarlinstitute@tmslaw.tsu.edu](mailto:earlcarlinstitute@tmslaw.tsu.edu)

Telephone: 713.313.1139