

Report on the Texas Legislature 88th Session: An Urban Perspective



Presented by:

**The Earl Carl Institute for Legal & Social Policy, Inc.
& PVAMU Juvenile Crime Prevention Center
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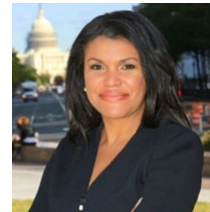
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ABOUT THE ECI CENTER FOR GOVERNMENT LAW

The Earl Carl Institute for Legal & Social Policy, Inc. is a research, advocacy and legal services think tank at Texas Southern University's Thurgood Marshall School of Law. 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 Institute pursues, through academic and grassroots efforts, opportunities to promote policy changes for the betterment of the urban community and to fulfill the missions of the Institute, Thurgood Marshall School of Law, and Texas Southern University.

The Earl Carl Institute (ECI)'s Center for Government Law was established to provide integrated academic and practical skills training in government administration and regulation to Thurgood Marshall School of 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 assist government leaders in advancing research in a multitude of legal and public policy arenas.

The Center is responsible for a report each biennial Texas Legislative Session on the impact of new legislation on traditionally underserved and disenfranchised communities as TSU constituents. 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.



EXECUTIVE SUMMARY

The regular session, the 88th Legislature filed 8046 bills, sent 1246 bills to the Governor of which 76 were vetoed, and 132 bills became law without the Governor's signature.

The 88th Legislature's regular session began Jan. 10 and ran through May 29. A 1st Called Special Session, called by the Governor resulted in 57 bills being introduced and none passed. During the 2nd Called Special Session 81 bills were introduced and 2 bills passed. A subsequent 3rd Special Session resulted in the introduction of 279 bills of which 2 passed. Another, 4th Called Session has resulted in 124 bills being introduced with none passed.



The Executive Director for the Institute is Attorney Sarah R. Guidry. Much of the commentary in this report is the opinion of the Executive Director and does not necessarily represent the position of ECI.

2023 LEGISLATIVE UPDATE

CRIMINAL JUSTICE

A. Criminal Procedure

HB 17 (Cook et al.) *Relating to official misconduct by and removal of prosecuting attorneys.*

Summary: Under HB 17, a prosecuting attorney means a district or county attorney with criminal jurisdiction. HB 17 expands the definition of “official misconduct” to include a prosecuting attorney’s adoption or enforcement of a policy of categorically refusing to prosecute specific criminal offenses under state law. HB 17 amends the provisions relating to the removal of a prosecuting attorney from office. A petition for removal of a prosecuting attorney could be filed by any resident of the state who, at the time of the alleged cause of removal, lived and had lived for at least six months in the county in which the alleged cause of removal occurred and who was not currently charged with a criminal offense other than a class C misdemeanor in that county. Immediately after a petition for the removal of a prosecuting attorney was filed with a district court, the district clerk would be required to deliver a copy of the petition to the presiding judge of the administrative, judicial region where the court sat. On receiving the petition, the judge would be required to assign a district court judge of a judicial district that did not include the county where the petition was filed to conduct the removal proceedings. In a removal proceeding, a prosecuting attorney’s public statement indicating that the attorney adopted, enforced, or intended to adopt or enforce a policy of categorically refusing to prosecute specific criminal offenses under state law would create a rebuttable presumption that the prosecuting attorney had committed official misconduct.

Codification: Chapter 87, Local Government Code

Effective Date: September 1, 2023

HB 393 (Goldman et al.) *Relating to restitution payments for the support of a child whose parent or guardian is a victim of intoxication manslaughter*

Summary: This bill provides that a defendant convicted of the offense under §49.08 of the Penal Code, related to intoxication manslaughter (by intoxication causes the death of another by accident or mistake), shall be ordered by the court to pay restitution for a child under the age of 18 whose parent or guardian was a victim of the same offense. The court shall determine the monthly restitution amount based on the child's financial needs, the financial situation of the surviving parent or guardian, the child's physical or emotional condition, custody arrangements, and work-related child-care expenses. It provides that where the defendant ordered to pay restitution cannot do so due to confinement or imprisonment, the defendant must begin payments a year after their release from correctional facilities. The restitution order may be enforced by a state, a parent or guardian, or by the person named in the order to receive the restitution.

Codification: Code of Criminal Procedure, Art 42. 0375

Effective Date: September 1, 2023

HB 467 (Craddick et al.) *Relating to the limitations period for certain criminal offenses based on assaultive conduct.*

Summary HB 467 increases the statute of limitations period for certain felonies from three years of the date the offense was committed to five years of that date. This extension applies to the following offenses: • continuous violence against the family; • assault against a person with whom the defendant had a dating, family, or household relationship or association; or • aggravated assault. The bill also extends the statute of limitations for misdemeanor assault against a person with whom the defendant had a dating, family, or household relationship or association from within two years to within three years of the date of the commission of the crime.

Codification: Criminal Procedure, Article 12.01-12.02

Effective Date: September 1, 2023

HB 1221 (Metcalf) *Relating to authorizing the comptroller to release a reported owner's unclaimed property to the owner's crime victim in certain circumstances and payment by the Texas Department of Criminal Justice of certain amounts owed by an inmate.*

Summary: HB 1221 amends the Code of Criminal Procedure, Government Code, and Property Code to require the Texas Department of Criminal Justice (TDCJ), after certain notification and confirmation, to file an unclaimed property claim with the comptroller of public accounts on behalf of a crime victim if the reported owner of the property was finally convicted and ordered to pay criminal restitution to the victim and is confined in a TDCJ facility based on that conviction. The bill aims to streamline and improve the process of ensuring that crime victims receive the restitution they are owed from unclaimed property. By involving TDCJ, the comptroller, and the relevant county, the bill enhances coordination and accountability to ensure that the rightful restitution payments are made to victims.

Codification: Government Code, § 493.035

Effective Date: September 1, 2023

HB 1442 (Johnson et al.) *Relating to the prosecution of certain criminal conduct involving a reckless driving exhibition or racing on a highway and to the forfeiture of contraband as a result of a reckless driving exhibition.*

Summary: HB 1442 expands the list of offenses constituting organized criminal activity to include committing highway or passageway obstruction by engaging in a reckless driving exhibition. An individual who committed highway or passageway obstruction by engaging in reckless driving will be prosecuted for that offense or another applicable offense, but not both. The bill subjects property and proceeds associated with the commission of these offenses to contraband forfeiture. The bill legislation aims to address dangerous and disruptive behaviors on highways and passageways by incorporating them into the framework of organized criminal activity offenses.

Codification: Code of Criminal Procedure, Art. 59.01

Effective Date: September 1, 2023

HB 1577 (Hull & Herrero) *Relating to changing the eligibility for mandatory supervision of an inmate serving a sentence for or previously convicted of certain assaults.*

Summary: House Bill 1577 amends the General Code by limiting the eligibility for mandatory supervision of inmates who are currently serving a sentence or have prior convictions for specific criminal offenses. These offenses include first-degree felony, second-degree felony, and capital felony, as well as various other felony offenses like indecency with a child, sexual assault, sexual

performance by a child, sexual abuse of a young child or disabled individual, compelling prostitution of children, trafficking of persons, or involvement of a child in certain offenses under the health and safety code. Limiting eligibility for mandatory supervision could potentially have an impact on correctional resources, which might lead to an overburdening of these resources due to a possible increase in the length of stay of individuals meeting the new criteria.

Codification: Sec. 508.149(a), Government Code

Effective Date: September 1, 2023

HB 1710 (Canales & Hinojosa) *Relating to notice provided to a court regarding a defendant confined in a state jail felony facility.*

Summary: House Bill 1710 amends the Code of Criminal Procedure to require TDCJ, for purposes of provisions authorizing a judge to place a defendant on community supervision at any time after the 75th day after the date the defendant is received into the custody of a state jail felony facility, to provide notice to a judge, not later than the 60th day after the date a defendant is received into that custody, of the date on which the defendant will have served 75 days in the facility, if requested by the judge. The notice must be provided by email or other electronic communication. The bill authorizes a judge to submit a single request to TDCJ with respect to all applicable defendants sentenced in the judge's court.

Codification: Code of Criminal Procedure, Art 42A.558

Effective Date: September 1, 2024

HB 1743 (Leach et al.) *Relating to a memorandum of understanding between the Health and Human Services Commission and the Texas Department of Criminal Justice to assess the eligibility of certain inmates for supplemental nutrition assistance program benefits on discharge or release from confinement.*

Summary: House Bill 1743 amends the Human Resources Code. The amendment mandates the Health and Human Services Commission (HHSC) and the Texas Department of Criminal Justice (TDCJ) to establish a memorandum of understanding (MOU) to facilitate the provision of Supplemental Nutrition Assistance Program (SNAP) benefits to eligible inmates. Specifically, the MOU outlines the process through which inmates confined in a facility operated by TDCJ who qualify for SNAP benefits can apply for and receive these benefits upon their discharge, parole, mandatory supervision, or conditional pardon. The bill aims to improve inmates' access to SNAP benefits upon release and create a well-defined process for applying for and receiving these benefits. This can help support their reintegration into society by addressing their nutritional needs as they transition out of TDCJ-operated facilities.

Codification: Government Code § 501.016

Effective Date: June 12, 2023

HB 2019 (Criado et al.) *Relating to the statute of limitations for certain burglary offenses.*

Summary: HB 2015 amends Code of Criminal Procedure Art. 12.01, explicitly addressing the time limitations for presenting an indictment for burglary under certain circumstances. This bill removes the existing time limit of five years from the date of the offense or 20 years from the victim's 18th birthday. The amendment applies to situations where the defendant entered a habitation with the intent to commit sexual assault or aggravated sexual assault. Furthermore, if the biological matter was collected during the investigation, and this evidence has not yet undergone DNA testing, or if the testing was conducted but did not match the victim or any other

person whose identity remains unknown, these limitations do not apply. The bill acknowledges the importance of DNA evidence and provides flexibility in cases where such evidence remains to be tested or analyzed.

Codification: Code of Criminal Procedure Art. 12.01

Effective Date: September 1, 2023

HB 2708 (Swanson et al.) *Relating to visitation policies for inmates and state jail felony defendants*

Summary: HB 2708 amends Government Code § 501.010 to establish a uniform visitation policy that guarantees eligible inmates the right to in-person visitation, regardless of the availability of alternative visitation methods like video visitation or other electronic means. The bill also includes a provision allowing for the temporary suspension of in-person visitation in cases of health and safety emergencies within correctional facilities.

Codification: Government Code § 501.010 (b-2)

Effective Date: September 1, 2023

HB 4635 (Guillen) *Relating to organized crime, racketeering activities, and collection of unlawful debts; providing a civil penalty; creating criminal offenses.*

Summary: The State of Texas has a variety of laws that address criminal activity, including organized crime statutes. However, law enforcement entities lack statutory authority to target the lifeblood of criminal enterprises, their financial assets. HB 4635 seeks to strengthen the legal tools in the evidence-gathering process, by establishing new penal prohibitions and providing enhanced sanctions and new remedies to deal with the unlawful activities of those engaged in organized crime.

Codification: Chapter 140B, Civil Practice and Remedies Code

Effective Date: September 1, 2023

SB 1146 (West et al.) *Relating to the medical transportation and care for certain inmates in the Texas Department of Criminal Justice.*

Summary: Senate Bill 1146 amends the Government Code to require the Texas Department of Criminal Justice (TDCJ) to establish procedures to be used during the regularly scheduled transportation of female inmates for nonemergency medical care to The University of Texas Medical Branch at Galveston (UTMB) or another medical facility that provides medical services for inmates. The bill sets out requirements relating to performing searches that conform with the federal Prison Rape Elimination Act of 2003; transportation that is equipped with bathrooms, toilet paper, and feminine hygiene products; sufficient food and nutrition; and overnight stays with an adequate number of beds. The bill requires TDCJ, in conjunction with UTMB and the Texas Tech University Health Sciences Center, to establish procedures to increase opportunities and expand access to telemedicine medical services, telehealth services, and on-site medical care for inmates.

Codification: Government Code, §§ 501.0515 and 501.071

Effective Date: September 1, 2023

SB 1516 (King) *Relating to the procedures for an application for a writ of habeas corpus and the issuance of the writ.*

Summary: SB 1516 amends the Code of Criminal Procedure regarding the application of a writ of habeas corpus for certain applicants or petitioners. Article 11.05 grants authority to issue the writ of habeas corpus to the Court of Criminal Appeals, district courts, county courts, or any judge from these courts. Articles 11.06, 11.08, and 11.09 outline the procedure for applicants accused of felony or misdemeanor offenses or convicted of felony offenses. For an applicant accused of a felony or misdemeanor offense without a conviction, the applicant or petitioner can apply to the judge of the court where the indictment or information is pending. If the judge is unavailable or the indictment has not been filed, the applicant can approach other applicable judges:

- For felonies, any judge with felony jurisdiction in the county to which the writ would be returnable. If such a judge is unavailable, any judge with felony jurisdiction in an adjoining county would suffice.
- For misdemeanors, any judge with criminal jurisdiction in the county court to which the writ would be returnable. If such a judge is unavailable, any judge with criminal jurisdiction in an adjoining county would serve the purpose.

The bill clarifies the distinction between an applicant and a petitioner for a writ of habeas corpus. SB 1516 also establishes that a petitioner who is not the applicant's attorney under Article 11.14 cannot engage in actions on behalf of the applicant that would be considered the practice of law. Additionally, the bill requires a petitioner to state in the application, under oath, that the application was presented with the applicant's knowing and voluntary consent.

Codification: Code of Criminal Procedure, Art. 11.05, 11.06, 11.08, 11.09, 11.14.

Effective Date: September 1, 2023

SB 1717 (Zaffirini) *Relating to the prosecution of the offense of stalking.*

Summary: SB 1717 amends the Code of Criminal Procedure pertaining to prosecution for stalking. The bill introduces a concept of assessing fear from the perspective of a reasonable person facing circumstances similar to those of the alleged victim. The bill states that conduct will be classified as stalking if the actor knows or should know that their actions would be perceived as a threat of bodily injury, death, or damage to the other person, a member of their family or household, an individual with whom the victim has a dating relationship, or the other person's property. Furthermore, the conduct could evoke feelings of terror, intimidation, annoyance, alarm, abuse, torment, embarrassment, or offense in the victim. One of the key changes that SB 1717 brings is an expansion of admissible evidence in stalking prosecutions. This expansion involves explicitly the inclusion of the actor's prior conduct related to family violence. This provision applies when the prosecution for stalking is linked to family violence, and the victim is aware of the actor's previous actions constituting family violence. Overall, the bill aims to enhance the legal framework for addressing stalking while accounting for the dynamics of the relationships involved and the potential history of family violence.

Codification: Code of Criminal Procedure Art 38.46(a); Penal Code §§ 42.072 (a) 42.07

Effective Date: September 1, 2023

B. Penal Code

HB 55 (Johnson et al.) *Relating to the punishment for the criminal offense of indecent assault, increasing a criminal penalty*

Summary: HB 55 amends Penal Code 22.012 subsection (b) and adds subsection (d). It includes exceptions for when an offense, a Class A misdemeanor under this section, becomes a felony. The amendment stipulates that the offense is a state jail felony if the defendant has been previously convicted of an offense under this section, the defendant is a health care service provider or a mental health service provider, and the act is committed during the course of providing treatment to the victim. It further states that the offense is a third-degree felony if the defendant has been previously convicted of an offense as a health care or mental health service provider. The bill addresses concerns related to offenses committed by health care and mental health service providers while highlighting the importance of protecting vulnerable individuals and ensuring professional accountability within these fields.

Codification: Penal Code § 22.012

Effective Date: September 1, 2023

HB 165 (Johnson et al.) *Relating to the prosecution of and punishment for an aggravated assault occurring as part of a mass shooting, increasing a criminal penalty.*

Summary: HB 165 addresses punishments for mass shooting crimes where people are hurt or injured but not killed. It defines a "mass shooting" as an event involving the use of a firearm to cause or try to cause serious bodily injury or death, during which four or more people are injured. HB 165 would elevate the penalty for aggravated assault from a second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000) to 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 offense was committed as part of a mass shooting. HB 165 requires that sentences for crimes committed as part of the same event and were each punishable as first-degree felony be served consecutively. HB 165 removes a defendant's right to have the offenses tried separately if the defendant committed two or more offenses as part of a mass shooting. If the court finds that joining offenses would unfairly prejudice the defendant, a judge could order the offenses to be tried separately.

Codification: Penal Code § 22.02

Effective Date: September 1, 2023

HB 611 (Capriglione & Garcia) *Relating to the creation of the criminal offense of unlawful disclosure of residence address or telephone number.*

Summary: HB 611 amends the Penal Code § 42. 074 by making it a Class B felony for unlawful disclosure of residence addresses or telephone numbers on publicly accessible websites with the intent to cause harm or threats to the individual, their family, or household members. However, if such actions result in bodily injury to the individual or their family/household members, the offense becomes a Class A misdemeanor. The bill establishes prima facie evidence of intent to cause harm or injury. This evidence arises if an individual who demanded their information not be disclosed due to safety concerns sees their information remaining on the website after 48 hours or being reposted/made public within four years of their initial demand.

Codification: Penal Code § 42. 074

Effective Date: September 1, 2023

HB 1730 (Schaefer & Cook) *Relating to the punishment for the offense of indecent exposure, increasing the criminal penalty.*

Summary: HB 1730 amends Penal Code § 21.08 to upgrade the offense from Class B misdemeanor to Class A misdemeanor in cases where the defendant has a previous conviction under the same section or a state jail felony and has been convicted two or more times for an offense under this section.

Codification: Penal Code § 21.08

Effective Date: September 1, 2023

SB12 (Hughes) *Relating to the authority to regulate sexually oriented performances and to restricting those performances on the premises of a commercial enterprise, on public property, or in the presence of an individual younger than 18 years of age; authorizing a civil penalty; creating a criminal offense.*

Summary: This bill amends the Penal Code, to define a "sexually oriented performance" as one (1) featuring nudity; (2) or a male performer exhibiting as a female or a female performer exhibiting as a male; and (3) appealing to the prurient interest in sex. It provides:

- A commercial enterprise may not allow a sexually oriented performance to be presented on the premises in the presence of an individual younger than 18 years of age. The attorney general may bring action for both the civil penalty and a permanent injunction. The civil penalty is a fine of up to \$10,000 for each violation and recovery of attorney's fees
- A municipality or county cannot authorize a sexually oriented performance on public property or in the presence of a minor.
- A person commits a Class A misdemeanor if they perform on public property at a time, in a place, and in a manner that could reasonably be expected to be viewed by a child; or in the presence of an individual younger than 18 years of age.
- Defines sexual conduct to include the exhibition of sexual gesticulations using accessories or prosthetics that exaggerate male or female sexual characteristics.

The purpose of this bill is to create a general fear of drag performances in public places. Additionally, performers and businesses are being held to a standard of knowing if anyone under 18 could possibly view a performance broadly defined as sexually oriented.

Codification: Chapter 769, Health and Safety Code and Chapter 43, Penal Code

Effective Date: September 1, 2023

SB 1004 (Huffman) *Relating to creating the criminal offense of tampering with an electronic monitoring device.*

Summary: SB 1004 amends Penal Code Chapter 38 by adding § 38.112 concerning tampering with an electronic monitoring device. It becomes a state felony if a person on community supervision, mandatory supervision, or release on bail knowingly removes or disables an electronic tracking device required for enabling electronic monitoring of the person's location. However, the offense is a third-degree felony if the person is in a super-intensive supervision program, as described in Government Code §508.317. The varying degrees of felony classification reflects the heightened consequences for tampering within a super-intensive supervision program.

Codification: Penal Code § 38.112

Effective Date: September 1, 2023

C. Juvenile Justice

SB 1585 *Relating to certain proceedings in juvenile court for children with mental illness and intellectual disabilities.* This law amends the Family Code to revise certain provisions relating to referral and proceedings concerning children with mental illness or an intellectual disability under the juvenile justice code. It authorizes a court to order a forensic mental examination of a child with mental illness, is unfit to proceed in juvenile court due to mental illness or an intellectual disability or lacks responsibility for the conduct due to mental illness or an intellectual disability. It revises the qualifications of a physician or psychologist to be appointed as an expert, including requiring certain certifications and training. It also authorizes inpatient and outpatient mental health services.

It prohibits a court from ordering a child to receive services at a residential care facility unless the child is a child with an intellectual disability and the following applies:

- evidence is presented showing that because of the child's intellectual disability, the child represents a substantial risk of physical impairment or injury to the child or others or is unable to provide for and is not providing for the child's most basic personal physical needs;
- the child cannot be adequately and appropriately habilitated in an available, less restrictive setting;
- the residential care facility provides habilitative services, care, training, and treatment appropriate to the child's needs; and
- an interdisciplinary team recommends placement in the residential care facility.

Codification: Family Code Chapter 55

Effective Date: September 1, 2023

HB 1819 *Relating to the repeal of the authority of political subdivisions to adopt or enforce juvenile curfews.* This law repeals the authority of political subdivisions to adopt or enforce juvenile curfews.

Codification: Code of Criminal Procedure Articles 45.045, 45.059 45.060, Family Code §51.02(15), Local Government Code §370.007

Effective Date: September 1, 2023

HB 3186 (Texas Youth Diversion and Early Intervention Act) *Relating to youth diversion strategies and procedures for children accused of certain fine-only offenses in municipal and justice courts and related criminal justice matters; authorizing fees.* This law allows local governments to adopt a youth diversion plan consisting of a wide array of youth diversion programs. Previously, municipal and justice courts can only order diversion strategies after a case has been convicted or deferred, whereas H.B. 3186 makes these strategies available at the front end of a case, where they can be more effective. This aligns municipal and justice court practice with that of the juvenile court system.

Codification: Code of Criminal Procedure Chapter 45, Subchapter E

Effective Date: January 1, 2024

HB 5195 *Relating to the services provided to certain children detained in a juvenile detention facility.* This law sets out a minimum standard of care for youth who have been certified for transfer to the adult system by requiring that a child who has been transferred for criminal prosecution and ordered to be detained in a juvenile facility pending criminal proceedings in adult court to receive education, programming, and services consistent with minimum standards already in place for children in a juvenile facility. These services include an initial assessment of the child to evaluate the needs of the child, a written plan towards rehabilitation goals pending trial and a review of programming every 90 days via a status report on the youth's progress.

Codification: Family Code §54.021

Effective Date: September 1, 2023

SB 1727 (TJJJ Sunset Bill) *Relating to the continuation and functions of the Texas Juvenile Justice Department, the functions of the office of independent ombudsman for the Texas Juvenile Justice Department, and the powers and duties of the office of inspector general of the Texas Juvenile Justice Department.* This bill continues the Texas Juvenile Justice Board and the Texas Juvenile Justice Department (TJJJ). Major Provisions in the Sunset Bill:

- Continues TJJJ for two years and requires Sunset staff to conduct a limited-scope review of the agency during the 2024-24 biennium.
- Sweeps TJJJ's board, reduces its size from 13 to nine members, and strengthens its oversight and training requirements.
- Advances legislative regionalization reforms designed to keep youth closer to home.
- Aligns TJJJ's regulation of juvenile facilities and county-level employees with best practices
- Revises various confinement practices for justice-involved youth.
- Updates OIO's statute to align with the office's current practices and ongoing needs

It should be noted that SB 1 funded TJJJ's exceptional item for salary stipends for juvenile probation departments at a rate higher than the agency requested.

D. Sexual Offenses/Human Trafficking

HB 1227 (Metcalf, et al.) *Relating to changing the eligibility for community supervision of a person convicted of possession or promotion of child pornography.*

Summary: HB 1227 amends the Code of Criminal Procedure and Health and Safety Code to make a defendant convicted of possession or promotion of child pornography ineligible for judge-ordered community supervision.

Codification: Code of Criminal Procedure

Effective Date: September 1, 2023

HB 2700 (Guillen, et al.) *Relating to prosecution of certain criminal offenses prohibiting sexually explicit visual material involving children.*

Summary: Concerns have been raised that current law may not address new crimes involving the use of artificial intelligence to create sexually explicit visual material of a minor. House Bill

2700 amends the Penal Code to clarify that for purposes of certain criminal offenses involving sexually explicit visual material of a child or minor, visual material includes a depiction of a child or minor who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic and whose image as a child or minor was used in creating, adapting, or modifying the visual material, including computer-generated visual material that was created, adapted, or modified using an artificial intelligence application or other computer software.

Codification: Penal Code § 43.26

Effective Date: September 1, 2023

HB 3553 (Thierry | Shaheen | Moody | Jetton, Jacey | Cook) *Relating to increasing the criminal penalty for certain offenses if committed at certain locations.*

Summary: In 2019, Texas had the second-highest number of reported cases of human trafficking in the nation, according to the National Human Trafficking Hotline. Human trafficking has infiltrated college campuses across the nation, with numerous cases reported on Texas campuses in the last decade. College students are particularly vulnerable to exploitation and abuse due to the transition to college life and the lack of resources and knowledge at their disposal. Factors such as economic instability, living away from home for the first time, common use of alcohol, and immigration status make college students especially susceptible to exploitation and trafficking. H.B. 3553 seeks to deter human trafficking and exploitation on college campuses and align those offenses with protections of applicable Penal Code provisions established by the 87th Legislature by enhancing the penalty from a second degree felony to a first degree felony for the offense involving trafficking of a person on the premises of or within 1,000 feet of a public, private, or independent institution of higher education.

Codification: Penal Code Subchapter D, Chapter 12

Effective Date: September 1, 2023

SB 806 (Paxton, et al.) *Relating to the duties of peace officers regarding interactions with victims of sexual assault.*

Summary: S.B. 806 amends the Code of Criminal Procedure to require a peace officer who investigates an incident involving sexual assault or who responds to a disturbance call that may involve sexual assault to provide to the victim a written notice containing information about the additional rights afforded under state law to victims of sexual assault, indecent assault, stalking, or trafficking. The bill requires the peace officer, at the initial contact between the officer and the victim or the earliest possible time thereafter, to do the following:

- provide to the victim information about the statewide electronic tracking system for evidence related to sexual assault;
- offer to request a forensic medical examination on the victim's behalf;
- coordinate with the local sexual assault response team to provide continuing care to the victim or to further investigate the offense; and
- provide to the victim a written notice regarding rights for adult victims of sexual assault.

Codification: Repeals Code of Criminal Procedure Article 56A.402

Effective Date: September 1, 2023

SB 1401 (Zaffirini) *Relating to the rights of victims of sexual assault and to certain procedures and reimbursements occurring with respect to a sexual assault or other sex offense.*

Summary: S.B. 1401 repeals Code of Criminal Procedure provisions that provide for a bifurcated approach to handling forensic medical examinations for sexual assault victims who report their assault to law enforcement and for sexual assault victims who do not. It requires a law enforcement agency to refer a victim of a sexual assault for a forensic medical examination if the assault is reported to a law enforcement agency within 120 hours after the assault or, if the victim is a minor, regardless of when the assault is reported. The bill requires a health care provider to conduct a forensic medical examination of a sexual assault victim who is a minor, regardless of when the victim arrives at the provider, if the victim, a person authorized to act on the victim's behalf, or an employee of the Department of Family and Protective Services (DFPS) consents to the examination or if consent is provided by the victim or by the provider under applicable Family Code provisions.

Codification: Code of Criminal Procedure Article 38.435 & Chapter 56A

Effective Date: September 1, 2023

SB 1653 (Huffman, et al.) *Relating to the punishment for the offense of promotion of prostitution.*

Summary: S.B. 1653 amends current law relating to the punishment for the offense of promotion of prostitution. S.B. 1653 amends the Penal Code to remove the condition that a person younger than 18 years of age must engage in prostitution for purposes of the application of the first-degree felony offense of promotion of prostitution in which the actor knowingly receives money or other property under an agreement to participate in the proceeds of prostitution involving the person or solicits another to engage in sexual conduct with the person for compensation. S.B. 1653 applies only to an offense committed on or after the bill's effective date.

Codification: Penal Code § 43.03

Effective Date: September 1, 2023

EDUCATION

A. Primary and Secondary Education

HB 3 (Burrows | King, Tracy O. | Moody | King, Ken | Bonnen) *Relating to measures for ensuring public school safety, including the development and implementation of purchases relating to and funding for public school safety and security requirements and the provision of safety-related resources.*

Summary: set out provisions relating to the development, implementation, and funding of public school safety and security requirements. Among other provisions, the bill requires an armed security officer to be present at each campus of a public school district and open-enrollment charter school and requires each district and charter school to ensure compliance with all school facilities standards adopted by the commissioner of education related to safety and security, with certain exceptions for good cause. The bill also requires mental health training for certain district employees on youth issues that may pose a threat to school safety, includes a child's disciplinary record and any threat assessment among the records required to be provided to the applicable

district on the child's enrollment or transfer, and provides for a district's authority to contract with licensed security contractors for security personnel.

Concerns about this bill are similarly multifaceted. While the armed security officers do not have to be commissioned peace officers, if the individual is a commissioned peace officer, this could result in increased student arrests.

Codification: Education Code §7.028, §22.904, Chapter 25 and Chapter 37

Effective Date: September 1, 2023

HB 114 *Relating to the possession, use, or delivery of marijuana or e-cigarettes on or near public school property or at certain school events.*

Summary: Makes optional the removal of a student from class and placement within a DAEP for a student who possesses, uses, or is under the influence of marijuana, Delta 8 THC, or e-cigarettes on or within 300 feet of school property or while attending a school activity. Requires school district personnel to notify law enforcement if a student is found with an e-cigarette (vape). Includes increasing the penalty for possessing 5 or more e-cigarettes to a Class B misdemeanor. Concerns are that this will increase the criminalization of children in Texas schools.

Codification: Education Code §§37.006-37.009

Effective Date: September 1, 2023

HB 1883 (Bhojani) *Relating to the administration of assessment instruments to public school students on religious holy days.*

Summary: Provides that STAAR test and end-of-course exams are not scheduled on dates of holy days or periods of observation, observed by a religion whose places of worship are exempt from property taxation as a religious organization, including All Saints' Day, Christmas Day, Diwali, Eid al-Adha, Eid al-Fitr, Good Friday, Immaculate Conception, Passover, Rosh Hashanah, Vaisakhi, Vesak, and Yom Kippur.

Codification: Education Code §39.023(c-3)

Effective Date: June 18, 2023

HB 3803 (Cunningham, et. al.) *Relating to allowing parents and guardians to elect for a student to repeat or retake a course or grade.*

Summary: Authorizes a parent or guardian to elect for a student to repeat any course taken for high school credit, unless the public school district or open-enrollment charter school determines the student has met all of the requirements for graduation. The bill changes from grade three to grade eight the maximum grade that a parent or guardian may elect for a student to repeat. A parent or guardian may make an election for grades one through eight or for courses taken for high school credit, or both.

Codification: Education Code §28.02124

Effective Date: June 13, 2023

HB 3908 “Tucker’s Law” (Wilson) *Relating to fentanyl abuse prevention and drug poisoning awareness education in public schools.*

Summary: Require each public school district to annually provide research-based instruction related to fentanyl abuse prevention and drug poisoning awareness to students in grades six (6) through twelve (12).

Codification: Education Code §28.004(c), §29.9074 and Chapter 38

Effective Date: June 17, 2023

SB 763 (Middleton) *Relating to allowing public schools to employ or accept as volunteer chaplains.*

Summary: Provides for a public school district or open-enrollment charter school to employ or accept as a volunteer a chaplain to provide support, services, and programs for students as assigned by the board of trustees of the district or the governing body of the charter school. Such a chaplain is not required to be certified by the State Board for Educator Certification. The bill sets out conditions for employing or accepting as a volunteer a chaplain and requires each board of trustees and each governing body to take a record vote on whether to adopt a policy authorizing such employment or acceptance as a volunteer not later than six months after the bill's effective date. The bill authorizes the use of funds from the school safety allotment for costs associated with certain support, services, and programs provided by chaplains.

Codification: Education Code Chapter 23

Effective Date: September 1, 2023

B. Higher Education

HB 2920 (Paul | Tepper) *Relating to the distribution, posting, or provision of information regarding postsecondary education and career opportunities and to the confidentiality of certain information relating to persons provided assistance in accessing postsecondary education.*

Summary: This bill seeks to address the student loan crisis by requiring the Texas Education Coordinating Board (THECB) to provide comparative gainful employment data regarding institutions of higher education, including total cost of attendance (tuition, fees, room and board); median student loan debt; typical debt to-income ratio for alumni; and graduation rates, transfer rates, and withdrawal rates, and the median wage earned by students who graduated with the certificate, degree, or other credential from the institution.

Codification: Education Code, § 7.040, 51.762-763, Chapter 61

Effective Date: June 18, 2023

HB 4005 (Raney) *Relating to the establishment of the Texas Competency-Based Education Grant Program for certain students enrolled in competency-based baccalaureate degree programs and to formula funding and dropped and repeated course restrictions for students enrolled in those degree programs at public institutions of higher education.*

Summary: Establishes the Texas Competency-Based Education Grant. This grant will be available to eligible students who attend a private or public institution of higher learning that offers competency-based degree programs which reorients programs to focus on mastery of competencies rather than time in the classroom as a potential solution to concerns about effectiveness and cost of traditional post-graduate degrees. The hope being that the reduction of the financial burden will embolden eligible Texans to graduate from their institutions and join

the workforce. It defines eligibility for the grant for both students and institutions, and creates guidelines for application, disbursement, and funding.

Codification: Education Code Chapter 56

Effective Date: June 12, 2023

SB 68 (Zaffirini) *Relating to excused absences from public school for certain students to visit a professional's workplace for a career investigation day.*

Summary: Authorizes a school district to excuse a student from attending a school for a maximum of two career investigation days to visit a professional at the professional's workplace during the student's junior and senior years of high school for the purpose of determining the student's interest in pursuing a career in the professional's field. It also provides that a student whose absence is excused cannot be penalized for that absence and is required to be counted as if the student attended school for the purposes of calculating the average daily attendance of students in the school district.

Codification: Education Code §25.087

Effective Date: May 24, 2023

SB 133 (West) *Relating to prohibiting the physical restraint of or use of chemical irritants or Tasers on certain public school students by peace officers and school security personnel under certain circumstances.*

Summary: Prohibit a peace officer performing law enforcement duties or school security personnel performing security-related duties on the property of a public school or at a school-sponsored or school-related activity from restraining or using a chemical irritant spray or Taser on a student enrolled in the fifth grade or below unless the student poses a serious risk of harm to the student or another person.

Codification: Education Code §37.0021

Effective Date: June 18, 2023

SB 532 (West) *Relating to providing mental health services information to certain higher education students and to the repayment of certain higher education loans.*

Summary: Texas is currently in severe mental health professional shortage. As a stark example of the state's mental health professional shortage, Texas' ratio of public school students to counselors is 390-to-1, while the American School Counselor Association recommends a ratio of 250-to-1. To try to meet the State's mental health services need, Senate Bill 532 amends the Education Code to lower from five to three years the cap on the number of years a mental health professional may receive student loan repayment assistance and to raise the authorized annual amount of repayment assistance accordingly. The bill extends eligibility for such assistance to mental health professionals providing services to patients in a state hospital or to individuals receiving community-based mental health services from a local mental health authority. Senate Bill 532 extends eligibility for the math and science scholars loan repayment program to teachers at any public school, rather than only schools that receive certain federal funding as provided under current law. Senate Bill 532 revises the requirement for a general academic teaching institution to provide specified information regarding mental health and suicide prevention services to each entering full-time student by making that requirement applicable to all public institutions of higher education and all entering students and by requiring the provision of a campus map identifying any location at which mental health services are provided to students on

campus and information regarding how to access the services. The bill requires a tour provided during an on-campus orientation for entering students to identify at least one such location that is available for use by all students of the institution.

Codification: Education Code §37.0021

Effective Date: June 18, 2023

SB 2032 (Creighton) *Relating to adult high school charter school programs.*

Summary: Authorizes school districts, higher education institutions, and local governments to contract with a nonprofit to establish an adult public high school to serve students from ages 18 to 50 and who have not earned a high school diploma by offering a high school education program, not a GED, with different testing and accountability standards that are more appropriate for adult learners. These schools will be eligible for Foundation School Program funding for participating students and the schools would be subject to the existing program requirements and accountability metrics that apply to adult public high schools.

Codification: Education Code Chapter 12

Effective Date: May 29, 2023

SB 17 (Creighton | Campbell | King | Kolkhorst | Middleton | Parker | Paxton | Schwertner | Springer) *Relating to diversity, equity, and inclusion initiatives at public institutions of higher education.*

Summary: Prohibits a public institution of higher education doing the following:

- establishing or maintaining a diversity, equity, and inclusion (DEI) office;
- hiring or assigning an employee or contracting with a third party to perform the duties of a DEI office;
- compelling, requiring, inducing, or soliciting any person to provide a DEI statement or giving preferential consideration to any person based on the provision of such a statement;
- giving preference on the basis of race, sex, color, ethnicity, or national origin to an applicant for employment, an employee, or a participant in any function of the institution; or
- requiring any person to participate in DEI training as a condition of enrolling at the institution or performing any institution function.

Codification: Education Code Chapter 51

Effective Date: June 17, 2023

ELECTIONS

Editorial: *Many of the bills are clearly attempts to undermine the 2020 presidential election results as well as our democracy in general.*

HB 246 (Swanson, et al.) *Relating to establishing a pilot program for recording ballot counting activity.*

Summary: Require the secretary of state to establish a six county pilot program requiring a county to use a video recording device to, under certain conditions and with certain exceptions,

record all areas containing voted ballots in each central counting station and ballot counting activity performed by the early voting ballot board after the polls closed on election day.

Codification: Election Code, §65.017

Effective Date: September 1, 2023

HB 1243 (Hefner et al.) *Relating to the penalty for the offense of illegal voting; increasing a criminal penalty.*

Summary: Amends the Election Code to increase the penalty for the offense of illegal voting from a Class A misdemeanor to a second degree felony but establishes that an attempt is a state jail felony.

Codification: Election Code, §64.012(b)

Effective Date: September 1, 2023

HB 1631 (Paul) *Relating to hours of service by an election watcher.*

Summary: Authorize all election watchers to choose the hours they serve at the polling place by removing language restricting that choice to watchers who serve for more than five continuous hours.

Codification: Election Code, §33.052

Effective Date: September 1, 2023

HB 1632 (Paul, et al.) *Relating to standardized training for election officers.*

Summary: Require the secretary of state to make the standardized election judge training program available entirely via the Internet and at any time, without a requirement for prior registration, and to make associated materials, including a handbook, available on the secretary's website. The secretary of state must require the passage of an examination at the end of the program and provide a certificate of completion.

Codification: Election Code, §32.1111

Effective Date: September 1, 2023

HB 5180 (Wilson et al.) *Relating to the public inspection of election records.*

Summary: Amends the Election Code to require the general custodian of election records to make the following records available for public inspection beginning on the first day after the final canvass of an election is completed, election records that are images of voted ballots, if a county maintains such images, or cast vote records; and beginning on the 61st day after election day, election records that are original voted ballots. It requires the custodian to adopt procedures to ensure the redaction of any personally identifiable voter information before making a voted ballot available for public inspection.

Codification: Election Code §1.012

Effective Date: September 1, 2023

SB 1070 (Hughes, et al.) *Relating to the interstate voter registration crosscheck program.*

Summary:

Codification: Known as the Alan Vera Memorial Act (an influential Republican voter-fraud activist), this amends the Election Code to expand the scope of the interstate voter registration crosscheck program to include the identification of voters who are disqualified from voting on the basis of a felony conviction or who are registered to vote in more than one state. The bill also

gives the secretary of state the option to identify and contract with the provider of a private sector data system to identify certain voters as an alternative to developing systems with other states and jurisdictions, such as the electronic registration information center (ERIC).

Codification: Election Code, §18.062

Effective Date: September 1, 2023

SB 1599 (Hughes) *Relating to ballots voted by mail.*

Summary: This bill contains multiple components and would make voting by mail harder without it being necessary. It provides a process for rejecting ballots based on signature verifications for example. “During the Senate public hearing for SB 1599, only 18 testified in favor of it. 84 testified against it. Those opposing the bill outnumbered those supporting it by almost 5 times.”

We note that House Bill 1299 amends the Election Code to require a signature on a mail-in ballot carrier envelope to be made using ink on paper and to prohibit the use of an electronic signature or photocopied signature on the envelope.

Codification: Election Code §66.026, §§86.008, 86.015, 86.0222 and §87.0271

Effective Date: September 1, 2023

SB 1750 (Bettencourt, et al.) *Relating to abolishing the county elections administrator position in certain counties.*

Summary: Abolishes the position of county elections administrator in Harris County and transfers all applicable powers, duties, employees, property, and records to the county tax assessor-collector and county clerk. The bill restricts the authority of a county commissioners court to create the position of county elections administrator by written order to a county with a population of 3.5 million or less.

Codification: Election Code, §31.050

Effective Date: September 1, 2023

SB 1933 (Bettencourt) *Relating to certain oversight procedures of the state over county elections.*

Summary: Also known as the Alan Vera Election Accountability Act of 2023, this bill amends the Election Code to establish procedures for the secretary of state to have administrative oversight of a Harris County office administering elections or voter registration in the county if all of the following conditions are met:

- an administrative election complaint is filed with the secretary of state by a person who participated in the relevant election as a candidate, a county chair or state chair of a political party, a presiding judge, an alternate presiding judge, or the head of a specific purpose political committee that supports or opposes a measure;
- the secretary of state has notified the relevant county election official of the complaint as provided by the bill; and
- the secretary of state, after conducting an investigation, has good cause to believe that a recurring pattern of problems with election administration or voter registration exists in the county.

Among other provisions, the bill sets out procedures for the secretary of state's investigation of the complaint and requires the secretary of state to notify the applicable county election official and the county judge if the secretary makes a determination to implement administrative oversight. The bill specifies that the authority of administrative oversight granted to the secretary

of state must include requiring the secretary's approval and review of any county election administration policies or procedures and authorizing all appropriate personnel in the secretary's office to conduct in person observations of the county election office's activities.

Codification: Election Code Chapter 31

Effective Date: September 1, 2023

FAMILY LAW

HB 891 (Spiller | Garcia) *Relating to the use of expert testimony in certain suits affecting the parent-child relationship.*

Summary: There is a need to clarify that a rebuttal expert can testify and challenge the qualifications and methodology of a child custody evaluation expert without conducting their own child custody evaluation. HB 891 clarifies the grounds on which a testifying expert offered to critique the foundation of the custody expert's opinion can testify concerning another expert's opinion. The challenge to the foundation of the custody expert's opinion is based upon a critical review of their qualifications and reliance on research and methodology, and the reviewing expert must be qualified as an expert in child custody evaluations.

Codification: Chapter 104, Family Code

Effective Date: September 1, 2023

HB 969 (Cook | Raymond | Lujan) *Relating to local regulation to enforce child custody orders; authorizing a civil penalty.*

Summary: Given an increasing case backlog in Texas courts, HB 969 aims to empower municipalities or counties in the state to create a civil penalty, up to \$500, to be levied against individuals violating court-ordered custody orders. This penalty, enacted as an optional ordinance or order, will serve to deter violations of child custody orders by improperly possessing a child.

Codification: Chapter 157, Family Code

Effective Date: September 1, 2023

HB 1547 (Cook) *Relating to claims for reimbursement between marital estates.*

Summary: House Bill 1547 amends the Family Code to revise the law governing claims for reimbursement between marital estates. The bill broadens the circumstances under which such a claim may be pursued by replacing a specific list of authorized claims with a provision establishing that a claim for reimbursement exists when one or both spouses use property of one marital estate to confer on the property of another marital estate a benefit which, if not repaid, would result in unjust enrichment to the benefited estate. Among other provisions, the bill specifies the conditions under which a benefit is considered to be conferred, provides a method for determining the value of a conferred benefit, and authorizes a claim by one spouse to be offset by the value of any related benefit that the other spouse proves that the conferring estate received from the benefited estate.

Codification: Family Code Chapter 3

Effective Date: September 1, 2023

HB 2671 (Cook) *Relating to the postponement of a hearing for a temporary order in certain family law cases referred to mediation.*

Summary: HB 2671 prohibits a court from postponing a hearing later than the 30th day after the date for a hearing is set with respect to certain motions for a temporary order.

Codification: Chapter 6 & 105, Family Code

Effective Date: September 1, 2023

HB 4062 (Harris, Cody) *Relating to creating an audiovisual recording of an interview of a child by a child custody evaluator in certain suits affecting the parent-child relationship.*

Summary: There is a lack of transparency during the interview conducted between a child custody evaluator and a child who is the subject of a suit seeking conservatorship of, possession of, or access to the child. Often times, a child may answer an interview question differently than they would in front of a family judge due to pressure from the evaluator or interested parties. This can hinder a family court's ability to reach a fair decision that is not influenced by other actors. HB 4062 seeks to resolve this issue by requiring a child custody evaluator to create an audiovisual recording of each interview the evaluator conducts with a child who is the subject of a suit seeking conservatorship of, possession of, or access to the child.

Codification: Chapter 107, Family Code

Effective Date: September 1, 2023

HB 4765 (Dutton) *Relating to inheritance rights of adoptive parents.*

Summary: Under adoption by estoppel, the natural parent or parents of the adopted child and the kindred of the natural parent or parents may not inherit from or through the adopted child, but the adopted child inherits from and through the child's natural parent or parents. H.B. 4765 allows adoptive parents, through adoption by estoppel, to inherit from and through the adopted child as if the child were their natural child.

Codification: Chapter 201, Estates Code

Effective Date: September 1, 2023

SB 222 (Nichols) *Relating to paid leave by certain state employees for the birth or adoption of a child.*

Summary: SB 222 establishes, for the first time, a paid parental leave benefit for State of Texas employees. Specifically, SB 222 provides that employees are entitled to 30 days (six weeks) of paid leave following the birth of a child, and 10 days (two weeks) of paid leave following the adoption of a child, birth of a child via gestational surrogate, or birth of a child by the employee's spouse. Under current law, state employees are granted no paid leave following the birth of a child and must exhaust any and all available sick or vacation time or utilize unpaid leave available under the Federal Family and Medical Leave Act.

Codification: Chapter 661, Government Code

Effective Date: September 1, 2023

SB 718 (Paxton) *Relating to additional periods of possession of or access to a child to compensate for denial of court-ordered possession or access.*

Summary: SB 718 seeks to remedy and prevent injustice against parents who face unfounded allegations during a child custody battle. If a parent is found to have been falsely accused of neglect, judges would be required to grant the parent the custody time they missed out on because of the false allegations.

Codification: Chapter 157, Family Code

Effective Date: September 1, 2023

SB 869 (West) *Relating to suits affecting the parent-child relationship, including the payment and enforcement of support ordered in a suit affecting the parent-child relationship.*

Summary: Senate Bill 869 amends the Estates Code and Family Code to make revisions to provisions relating to suits affecting the parent-child relationship and the enforcement of child support obligations. The bill does the following:

- establishes that an assignment to a third party of inherited property or an interest in such property by a child support obligor does not take effect to the extent that the property or interest could be applied to satisfy a support obligation;
- authorizes a party to a suit affecting the parent-child relationship to use a digitized signature when executing a waiver of citation;
- requires a final order in a suit affecting the parent-child relationship to include each party's email address and requires a party to the order to provide notice of any change in their email address;
- provides clarification with respect to the application of Social Security Disability lump-sum payments paid directly to a child due to a child support obligor's disability;
- makes the prohibition against a court retroactively reducing child support, medical support, or dental support arrears applicable to all actions involving arrearages, rather than only enforcement actions as under current law;
- prohibits a court from delaying an adjudication of parentage solely because the court does have jurisdiction over all parties to the proceeding; and
- repeals a provision requiring that child support liens be renewed every 10 years to remain effective with respect to real property.

Codification: Chapter 102, 105, 154, & 157, Family Code

Effective Date: September 1, 2023

SB 870 (West) *Relating to certain Title IV-D cases and other cases with respect to child support or Title IV-D agency services and to practices and procedures for the operation of the Title IV-D agency.*

Summary: Amends Estates Code to clarify that a certified child support payment record produced by the IV-D agency is sufficient evidence of the amount of child support arrears that have been "administratively determined by the Title IV-D agency" as it relates to Class 4 claims in an estate proceeding.

Amends Family Code to:

- clarify that both medical support and dental support payments shall also be paid through the State Disbursement Unit (SDU)
- specifically allow courts when establishing or modifying child support obligations to order an unemployed or underemployed child support obligor to enroll and participate in services offered by local employment assistance programs. Courts would further be authorized to enforce such orders by contempt.
- include exceptions to existing child support modification grounds that reference the new administrative modification process for incarcerated obligors contained in Family Code 231.1015, 231.1016, and 231.1017 which are created in Section 12 of this bill.
- remove the verification requirement for child support lien releases filed by the IV-D agency.

- require notice to the IV-D agency when there has been a reinstatement of an individual's parental rights to a child following a prior termination.
- authorize the continued use of virtual dockets and court hearings by IV-D associate judges in child support matters. Allows IV-D associate judges to conduct remote hearings from any location in the state using remote communication unless a party files a written objection. Establishes that a respondent in a child support contempt or revocation of community supervision case is entitled to an in-person court hearing unless the respondent waives that right.

Codification: Chapter 355, Estates Code and Chapters 154, 156-7, 161 & 231, Family Code

Effective Date: September 1, 2023

SB 1098 (Paxton) *Relating to the rights of a parent or guardian with a child in certain child-care facilities.*

Summary: Parents deserve to have transparency regarding the care of their child, and this proposed legislation ensures that child-care facilities recognize parents' rights to any information pertaining to the care of their child, while protecting the privacy of other children's information.

This law, also known as the Kairo and the Kids' Law, amends the Human Resources Code to grant certain rights to a parent or guardian of a child in an applicable child-care facility, including the right to enter and examine the facility during its hours of operation without advance notice, rights regarding record access and review, and, subject to certain conditions, the right to inspect a video recording of an alleged incident of abuse or neglect involving the parent's or guardian's child. The bill requires a child-care facility to provide the parent or guardian of each child enrolled at the facility with a written copy of their rights.

Codification: Chapter 42, Human Resources Code

Effective Date: September 1, 2023

A. Child Protective Services

HB 63 (Swanson | Noble | Hull | Oliverson | Klick) *Relating to reports of child abuse or neglect and certain preliminary investigations of those reports.*

Summary: House Bill 63 amends the Family Code to bar an individual from making an anonymous report of child abuse or neglect to the Department of Family and Protective Services (DFPS) by requiring an individual making such a report to provide their name and telephone number and either their home address or their profession and business address, as applicable. The bill also requires the individual to identify the facts that caused them to believe the child has been abused or neglected and the source of that information. If an individual making a report through the DFPS hotline is unwilling to provide their name and telephone number, the representative receiving the report must provide certain information about confidentiality and notify the individual that DFPS is not authorized to accept anonymous reports and that the individual may make a report to any local or state law enforcement agency. It also requires that an audio recording be made and to notify the reporter that the report is being recorded and the criminal penalty for making a false report.

Codification: Family Code Chapter 261

Effective Date: September 1, 2023

HB 461 (Smith) *Relating to a waiver of the requirement for the performance of an adoption evaluation in certain suits for adoption.*

Summary: Constituents and judges have noted that requirements for persons conducting adoption evaluations have increased over the years and that as a result there are not as many people qualified to conduct the evaluations. Some counties do not have many eligible evaluators, which can drive up the costs of these evaluations and the time needed to complete them. This bill allows a court to waive an adoption evaluation in cases where the prospective adoptive parent is a stepparent, and the court has reviewed investigative records of the DFPS and any criminal history record information maintained by the DPS.

Codification: Family Code Chapters 107 and 162

Effective Date: September 1, 2023

HB 474 (Hull) *Relating to certain requirements regarding court-appointed volunteer advocate programs.*

Summary: Court-appointed volunteer advocate programs (CASA) are an important part of the Texas child welfare system. However, an evaluation of CASA published in 2019, "The Effect of CASA on Child Welfare Permanency Outcomes," showed negative outcomes for children working with these special advocates. HB 474 seeks to improve and strengthen these localized programs by requiring accountability and transparency so that the programs can be the best possible quality for the families they serve. Additionally, HB 474 adds defined terms to differentiate between active and inactive trained volunteers and requires each program to provide a grievance process for the individuals being served, which will allow for more standardization across programs.

Codification: Chapter 264, Family Code

Effective Date: September 1, 2023

HB 730 (Frank | Wu | Noble | Garcia) *Relating to policies and procedures regarding certain suits affecting the parent-child relationship, investigations by the Department of Family and Protective Services, and parental child safety placements.*

Summary: Over the years, it has become evident that there is a lack of knowledge surrounding the rights of a parent or caregiver under DFPS investigation. There is also a lack of accountability that prevents DFPS from conducting investigations with greater diligence. HB 730 revises some of the practices that occur in the time between DFPS's initial encounter with a family and the removal of a child by adding required notifications of parent or caretaker rights, fixing investigation standards, revising ex parte hearing stipulations, and putting in place accountability measures to ensure the greatest level of transparency and diligence is afforded to families under investigation. This legislation places limits on parental child safety placement agreements.

Codification: Chapter 261 & 264, Family Code

Effective Date: September 1, 2023

HB 793 (Noble | Hull | Campos | Manuel | Klick) *Relating to the selection and reimbursement of certain persons providing services required under a service plan filed by the Department of Family and Protective Services.*

Summary: Currently, the Department of Family and Protective Services (DFPS) requires parents to use state-contracted service providers to complete court-ordered services before they

can reunite with their children. HB 793 provides parents required to complete a service plan for a child under DFPS care with increased choice by allowing parents to obtain services from any qualified or licensed provider the parent selects, and by requiring DFPS to reimburse the selected provider at the same rate as DFPS contractors.

Codification: Chapter 263, Family Code

Effective Date: September 1, 2023

HB 968 (Gates | Rose | Frank | Capriglione | González, Mary) *Relating to procedures in certain suits affecting the parent-child relationship filed by the Department of Family and Protective Services.*

Summary: HB 968 provides a parent or caregiver who is accused of abuse or neglect the option to voluntarily remove themselves from the home in lieu of the child's removal. This legislation would allow such an alleged perpetrator to agree in writing to an order requiring the alleged perpetrator to leave the child's residence. The agreed order could not be used against the perpetrator as an admission of child abuse or neglect. House Bill 968 also sets out findings that a court is required to make before issuing certain orders authorizing DFPS to take possession of a child without prior notice and a hearing or to maintain possession of a child taken in an emergency without a court order. The bill requires an affidavit filed by DFPS when seeking such an order to include facts supporting those findings and to describe all reasonable efforts that were made to prevent or eliminate the need for the removal of the child.

Codification: Chapter 262, Family Code

Effective Date: September 1, 2023

HB 1087 (Hull) *Relating to the requirements for certain petitions and orders in suits affecting the parent-child relationship filed by the Department of Family and Protective Services and the contents of a petition in certain suits affecting the parent-child relationship.*

Summary: Currently, when DFPS decides to remove a child from the child's home, they are required to make what is called "reasonable efforts" to prevent that removal. States cannot receive Title IV-E foster care entitlement money if they do not make this effort first before removing a child. HB 1087 amends the Texas Family Code to add a provision that requires affidavits in DFPS petitions to contain a description of each reasonable effort that was made before removing a child.

Codification: Chapter 262, Family Code

Effective Date: September 1, 2023

HB 1506 (Meyer) *Relating to the statute of limitations for the offense of abandoning or endangering a child.*

Summary: Currently, the statute of limitations for the offense of abandoning or endangering a child is five years from the date of the commission of the offense. This means a victim of child abandonment or endangerment must come forward against a perpetrator within five years after the commission of the offense. Interested parties believe that statute of limitations offers too short a time for victims of child abandonment or endangerment to come forward. HB 1506 increases the statute of limitations to 10 years after the commission of the offense.

Codification: Code of Criminal Procedure Art. 12

Effective Date: September 1, 2023

HB 1525 (Blanco) *Relating to the confidentiality of certain home address information in property tax appraisal records.*

Summary: Senate Bill 1525 amends the Tax Code to extend confidentiality protections for certain home address information in local property tax appraisal records to a current or former attorney for the Department of Family and Protective Services.

Codification: Tax Code §25.025(a)

Effective Date: June 18, 2023

HB 2658 (Leach) *Relating to grounds for the involuntary termination of the parent-child relationship.*

Summary: A court may terminate parental rights if they find, by clear and convincing evidence, a parent has committed certain offenses relating to the child, but also if they have been convicted of certain crimes. Examples of these crimes include capital murder, sexual assault, indecency with a child, sexual abuse of a child, trafficking, among many others, including criminal solicitation. However, both criminal solicitation of a minor and online solicitation of a minor were left out of the statute. HB 2658 adds criminal solicitation of a minor and online solicitation of a minor to the list of convictions for which parental rights may be involuntarily terminated.

Codification: Chapter 161, Family Code

Effective Date: September 1, 2023

HB 2969 (Cook | Frank | Noble | Capriglione | Slawson) *Relating to prohibiting a maximum age or age differential for prospective adoptive parents.*

Summary: HB 2969 prohibits the Department of Family and Protective Services, a single source continuum contractor, or a licensed child-placing agency from setting a maximum age for prospective adoptive parents or a maximum age differential between a child and any prospective adoptive parent.

Codification: Chapter 162, Family Code

Effective Date: September 1, 2023

SB 135 (West) *Relating to recording the status of certain home studies performed by the Department of Family and Protective Services.*

Summary: SB 135 directs DFPS to maintain an electronic record of the status of home studies conducted related to potential relative or designated caregiver placements.

Codification: Chapter 262, Family Code

Effective Date: September 1, 2023

SB 614 (Perry) *Relating to certain procedures relating to children placed under a parental child safety placement.*

Summary: Parental child safety placement agreements were originally designed to balance the safety needs of a child during abuse or neglect investigations while minimizing the child's trauma if they were to be temporarily removed. Parents who are being investigated by Child Protective Services (CPS) may be asked to place their child with another trusted individual known by the child if there is a possible safety risk or if the investigation is unable to quickly determine the level of risk. However, that balance has shifted toward an unintended mechanism of threat and compliance in some cases when families are coerced into temporarily giving up their child during the investigation to avoid facing state action. Furthermore, the agreements

typically provide little oversight concerning the duration and terms of the agreement, leaving those involved unsure when and how to end them.

SB 614 seeks to address these issues by providing legal counsel for certain parents whose children are in parental child safety placements, limiting the amount of time that a placement agreement may seek to keep a child out of their own home, and requiring certain data related to these placements to be reported. SB 614 requires DFPS to include the children who are placed with a caregiver under a child safety placement agreement in any report where appropriate in which DFPS is required to report the number of children in the CPS system who are removed from the children's homes.

Codification: Chapter 264, Family Code

Effective Date: September 1, 2023

SB 1379 (Parker) *Relating to a pilot program to increase the financial independence of foster youth who are transitioning to independent living.*

Summary: SB 1379 directs DFPS to establish a pilot program to assist foster children in achieving financial security and independence as they transition to independent living. The program would involve DFPS entering into agreements with banks or other financial institutions to establish savings and checking accounts for participating foster children. The program should provide ways to encourage the children to continue using these accounts after they are no longer eligible for the pilot program and transfer ownership and control of the accounts to the children when necessary. The program should also safeguard against overdraft or other fees and provide financial coaching or mentoring. The accounts should also remain in the full ownership of the child after reunification, not the parents, to protect from fraud and coercion.

Codification: Chapter 264, Family Code

Effective Date: September 1, 2023

SB 1447 (Miles) *Relating to a training program for persons investigating suspected child abuse or neglect.*

Summary: SB 1447 aims to improve the accuracy of CPS investigative findings by developing a training program for each person who investigates any instance of suspected child abuse, standardizing training and encouraging implementation of already existing due process laws and policies within our state child welfare system. The bill requires advanced training for department investigators on forensic investigative techniques and protocols. This includes techniques for conducting advanced interviews, searching for, and identifying witnesses, protocols for accurately scaling abuse or neglect markings and injuries, and procedures for collecting and packaging evidence. The Department of Family and Protective Services is required to administer an examination to test the investigator's knowledge and competency after the training program.

Codification: Chapter 261, Family Code

Effective Date: September 1, 2023

SB 1930 (Kolkhorst) *Relating to policies and procedures regarding children placed by the Department of Family and Protective Services in a residential treatment center or qualified residential treatment program.*

Summary: SB 1930 ensures children in foster care spend more time with families rather than in facilities. Additionally, it provides greater protections while children are in foster care facilities. Foster care facilities, such as residential treatment facilities (RTC), may hamper healthy child

development, make it harder for children to find permanent homes, and can cost up to 10 times more than placement with a foster family. DFPS data shows only five percent of children in Texas foster care are placed in RTCs. However, one-third of all abuse, neglect, or exploitation occurs in the foster care system in an RTC. This bill outlines new duties for attorneys ad litem or volunteers representing children placed in RTCs. It strengthens current laws to ensure parents are able to participate in meetings about their child's treatment in an RTC. This bill enables judges to proactively monitor the child's progress, and successful return to their families. Finally, this bill ensures children are only placed in an RTC when it is in the "best interest for the child." In this capacity, the court must observe the child's progress and plan to return the child to the family as quickly and successfully as possible.

Codification: Chapter 107 & 263, Family Code

Effective Date: September 1, 2023

SB 2120 (Zaffirini | Sparks) *Relating to the establishment of a family protection representation program within the Texas Indigent Defense Commission.*

Summary: Amends various sections of the Government Code to allow the Texas Indigent Defense Commission to provide services for the funding, oversight, and improvement of court-appointed legal counsel for children and indigent parents in child protection cases filed by the Department of Family and Protective Services. Amends the Family Code to require reporting from attorney ad litem and increased the legal experience requirement for chief counsels of an office of child or parent representation.

Codification: Government Code §79.001 and Family Code §107

Effective Date: September 1, 2023

B. Domestic Violence

HB 1423 (Campos, et al.) *Relating to the expiration of a protective order when the subject of the protective order is confined or imprisoned.*

Summary: State law provides for the extension of a protective order if the person who is the subject of the order is incarcerated on the date of expiration or if the order is set to expire within a year from the date the person is released from incarceration. This bill amends the Family Code to require the Department of Public Safety, as soon as practicable after the release of a person who is the subject of a protective order from confinement or imprisonment, to update the statewide law enforcement information system to reflect the date that the order will expire following the person's release. The bill requires each protective order issued under the Family Code to specify when the order expires and provide notice of any applicable extensions resulting from any confinement or imprisonment.

Codification:

Effective Date: September 1, 2023

HB 1432 (Meza | Garcia | Wu | Lujan) *Relating to required findings for the issuance of a protective order.*

Summary: To obtain a family violence protective order, one must prove that family violence has occurred and that it is likely to occur again. This is a higher standard compared to what is required to obtain a protective order for stalking, sexual assault, or human trafficking, where one

simply has to prove that there are reasonable grounds to believe that the applicant is a victim of such a crime. The "likely to occur again" provision gives judges a high degree of individual discretion in deciding to grant a protective order for family violence. HB 1432 removes the condition that the court find family violence is "likely to occur in the future" before issuance of a family violence protective order. This will harmonize the process to obtain a protective order to be the same standard as protective orders for victims of stalking, sexual assault, and human trafficking.

Codification: Chapters 81 & 85, Family Code and Article 7B, Code of Criminal Procedure
Effective Date: September 1, 2023

HB 2715 (Hull | Leach | Moody | Talarico | Lujan) *Relating to a prohibition on following an individual and tracking or monitoring the individual's personal property or motor vehicle and to the criminal prosecution of that conduct.*

Summary: HB 2715 adds prohibitions on tracking protective orders, conditions of bond, and the offense of harassment. More specifically, the bill:

- clarifies that tracking or monitoring someone through a vehicle in their possession,
- through a tracking application or tracking device, or by physically following the person without effective consent constitutes harassment;
- adds a provision prohibiting tracking or monitoring to be added to the conditions of a protective order, a family violence protective order, an emergency protective order, as a condition of bond for family violence offense, and as a temporary restraining provision in place upon filing a suit for dissolution of marriage; and
- presumes that a person does not consent if they have filed a protective order against the actor, filed for divorce, or dissolved a marriage with the actor.

Codification: Code of Criminal Procedure Article 7B and 17, Family Code Chapter 6 and 85, and Penal Code Chapter 25 and 45

Effective Date: September 1, 2023

HB 3698 (Landgraf) *Relating to expanding access to the protective order registry and the inclusion of certain information regarding a person who is the subject of a protective order in that registry.*

Summary: The protective order registry's current lack of accessibility and effectiveness is due to the absence of aliases, nicknames, or misspellings. HB 3698 aims to address this issue by requiring the inclusion of aliases, nicknames, and misspellings in the registry and granting magistrates equal access to the information. This bill enhances the system's effectiveness and promotes safety and protection for those in need by making it easier to find a person's protective order information.

Codification: Government Code Chapter 72

Effective Date: September 1, 2023

SB 48 (Zaffirini) *Relating to the issuance and effectiveness of protective orders, magistrate's orders for emergency protection, and temporary ex parte orders.*

Summary: SB 48 would require persons applying for protective orders (PO) and courts and magistrates issuing POs to use standardized forms, allowing DPS to discern immediately if a protective order prohibits a person from possessing a firearm. Failure, however, to use the required form would not affect the order's validity. This bill would allow DPS to transfer the

information regarding these orders quickly and efficiently to the FBI's database and help better protect the lives of crime victims.

Codification: Code of Criminal Procedure Article 7B and 17, Family Code Chapters 82, 83 and 85, and Government Code Chapter 72

Effective Date: June 18, 2023

SB 578 (Zaffirini) *Relating to the confidentiality of certain personal information of an applicant for or a person protected by a protective order.*

Summary: Currently, an applicant for or person protected by a protective order may request that their mailing address be kept confidential. These persons, however, are not authorized to request that their county of residence be kept confidential, which causes safety concerns and results in hesitancy or avoidance of the process by some survivors. SB 578 authorizes applicants and protected persons to request that their county of residence be kept confidential during the protective order process.

Codification: Family Code Chapters 82 and 85

Effective Date: September 1, 2023

SB855 (Alvarado | LaMantia) *Relating to judicial training requirements regarding family violence.*

Summary: SB855 amends the Texas Government Code to require judges to complete an additional hour of training dedicated to the dynamics of and effects on victims of family violence within the five already mandated hours of continuous training during each additional term in office. The bill requires judges who primarily handle family law and family violence cases to complete an additional two hours of training every two years. Additionally, the bill directs the Court of Criminal Appeals to rely on specialized nonprofit organizations to provide the training. It mandates that judges and magistrates in office on the effective date of this act complete the judicial training by December 1, 2025.

Codification: Chapter 22, Government Code

Effective Date: September 1, 2023

C. Guardianship & Disabilities

HB 568 (Bowers | Howard | Lalani | Goodwin | Meza) *Relating to education and training for peace officers on interacting with persons with Alzheimer's disease and other dementias.*

Summary: By requiring peace officers to receive specialized training on communication with persons with Alzheimer's disease and other forms of dementia, HB 568 seeks to improve interactions between law enforcement and this population by equipping officers with techniques for recognizing symptoms, communicating effectively, utilizing alternatives to physical restraints, and identifying signs of abuse, neglect, or exploitation.

Codification: Occupations Code Chapter 1701

Effective Date: September 1, 2023

HB 785 (Swanson) *Relating to the delivery of certain notices or other communications in connection with guardianship proceedings.*

Summary: Under current law, these communications can be sent only via registered or certified mail with the United States Postal Service. HB 785 would allow notices and communications

during guardianship proceedings to be sent by any "qualified delivery method," including notices by either certified/registered mail or by any private delivery service that is designated as such by the United States Secretary of the Treasury.

Codification: Estates Code Chapter 1023 & 1051

Effective Date: September 1, 2023

HB 1009 (Turner) *Relating to imposing requirements on the employment of or contracts for certain individuals providing services to individuals with an intellectual or developmental disability, including requiring certain facilities and Medicaid providers to conduct criminal history record information and employee misconduct registry reviews and to suspend the employment or contracts of individuals who engage in reportable conduct; providing administrative penalties.*

Summary: Currently, caregivers for individuals with intellectual or developmental disabilities are only subject to a DPS background check, which only identifies convictions in Texas courts. These background checks do not flag crimes committed in other states, meaning a caregiver who committed a crime in a different state could pass a background check and be approved to care for this vulnerable population. HB 1009 seeks to address this issue by requiring Medicaid providers to review both state and federal criminal history records for certain caregivers who provide services to individuals with intellectual or developmental disabilities through a group home or other residential facility licensed by or operated under the authority of the Health and Human Services Commission.

Codification: Government Code Chapters 411 and 531

Effective Date: September 1, 2023

HB 3009 (VanDeaver) *Relating to the health care providers authorized to examine a person to determine whether the person is incapacitated for purposes of certain guardianship proceedings.*

Summary: Under current law, only a licensed physician can complete the required letter or certificate setting forth the health and mental condition of the person proposed for guardianship. An increasing number of persons, however, rely on advanced practice registered nurses (APRNs) or nurse practitioners as health care providers. H.B. 3009 permits judges to consider a letter or certificate from an APRN or nurse practitioner regarding the proposed person's health and mental condition. This would give the judge better information on which to base a guardianship decision, and ensure judges continue to make timely and well-informed determinations in guardianship proceedings.

Codification: Estates Code Chapters 1101, 1102, and 1202

Effective Date: September 1, 2023

SB 656 (Zaffirini) *Relating to an optional health condition or disability designation on a driver's license or personal identification certificate.*

Summary: During law enforcement encounters, persons with invisible disabilities, which are disabilities that are not immediately apparent, such as intellectual and developmental disabilities or mental health conditions, may exhibit nonverbal or aggressive behavior due to stress that can lead to unfavorable outcomes. Current law requires the Department of Public Safety (DPS) to include on a driver's license health conditions documented by a licensed physician that may impede communication, but only if space permits. SB 656 ensures that DPS includes a designation on the license or identification certificate indicating a person's physical or mental

health condition that may impede effective communication with a peace officer if the person requests it and provides sufficient evidence to qualify. This change would help reduce communication barriers between eligible persons and peace officers.

Codification: Transportation Code Chapter 521

Effective Date: September 1, 2023

SB 728 (Huffman) *Relating to the reporting of mental health and intellectual disability information with respect to certain children for purposes of a federal firearm background check.*

Summary: SB 728 proposes modifications that would require clerks of court to report the to the DPS, which maintains the responsibility of reporting to National Instant Criminal Background Check System (NICS) the following disqualifying mental health records: juveniles aged 16 or older found unfit to proceed, found not responsible, receiving court-ordered mental health services, or admitted to a residential care facility due to intellectual disability or mental illness in a delinquency proceeding.

Codification: Family Code Chapter 411, Government Code and Chapter 58

Effective Date: September 1, 2023

SB 1180 (Perry) *Relating to civil actions by a civilly committed individual.*

Summary: SB 1180 creates an initial step before a formal hearing that would allow judges to determine whether a claim or a portion of the claim that was filed by a Texas Civil Commitment Office (TCCO) client should be dismissed. It gives courts the ability to dismiss a claim if it is false, frivolous, or malicious. Additionally, courts would be able to dismiss cases if the current claim is one that was previously litigated or dismissed. SB1180 further reiterates that the client must have already exhausted their administrative remedies within the TCCO grievance system before filing a claim in court. However, once the case reaches court, the bill establishes that court fees will be paid by the TCCO client through their trust account.

Codification: Civil Practices and Remedies Code Chapter 14A

Effective Date: May 24, 2023

SB 1457 (Zaffirini) *Relating to guardianships and the delivery of certain notices or other communications in connection with guardianship proceedings.*

Summary: SB 1457 would clarify that an attorney ad litem may accept service on behalf of a person proposed to be under guardianship for pleadings filed after their appointment and provide alternative methods to meet notice requirements under the Estates Code. This bill allows a surviving parent who is appointed only as guardian of the estate to appoint a successor guardian and permit a guardian of the person to manage and expend funds up to \$20,000 belonging to the person with a guardian to avoid the need for a guardian of the estate for minimal fund access. The bill also enables the court to order third-party entities to deliver assets to the guardian of the estate of a person with an incapacity and allows for the deposit of sale proceeds for nonresident creditors without a guardian in their resident state.

Codification: Estates Code Chapter 1051

Effective Date: September 1, 2023

SB 1585 (Sparks | Perry) *Relating to certain proceedings in juvenile court for children with mental illness and intellectual disabilities.*

Summary: SB 1585 clarifies how to identify minors with mental illness/intellectual disabilities, because the identification/forensic evaluation process is different for minors than it is for adults. It also lets the courts know what options they have for minors in this situation, such as whether they should order inpatient or outpatient services. There is a need for these minors to have better access to mental health facilities/services, rather than just being in detention or incarceration. SB 1585 Judges will receive much-needed clarification as to what they should do in juvenile court proceedings involving minors with mental illness and intellectual disabilities. Forensic evaluators will also receive clear direction on how to conduct evaluations of these minors and what to include in their reports to the court. Juvenile probation departments will be given the latitude to work with treatment and service providers to provide competency restoration to juveniles, and local mental health authorities will be directed to file recommendations to the court for juveniles' treatment. *See more details in the Juvenile Justice section.*

Codification: Family Code Chapter 55

Effective Date: September 1, 2023

SB 1606 (Zaffirini) *Relating to evidence and orders regarding intellectual disability or mental condition in certain guardianship proceedings.*

Summary: A guardianship should be only as restrictive as indicated by the person's actual mental or physical limitations and as necessary to promote and protect their well-being. It is important that all of the parties involved in the guardianship process be trained to help families select the best option for their family member with a disability. What's more, it is difficult to modify guardianship and even more challenging for persons to get their rights completely restored. SB 1606 requires physicians to provide information regarding their specific specialty to assure the court they have the relevant knowledge and experience to conduct the capacity evaluation that would be used in the guardianship proceeding. It allows a licensed psychologist to offer evidence in restoration and/or modification hearings for persons with intellectual and developmental disabilities as well as increase the number of mental health professionals that can help persons seeking to have their rights restored. SB 1606 also allows persons who continue to be diagnosed with a mental condition, but have sufficient capacity with supports and services, to be eligible for the restorations of their rights.

Codification: Estate Code Chapters 1101 and 1202

Effective Date: September 1, 2023

SB 1624 (Zaffirini) *Relating to guardianships and services for incapacitated persons and to the emergency detention of certain persons with mental illness.*

Summary: Despite current law's requirement to appoint attorneys ad litem for restoration of rights proceedings, persons may not receive adequate representation, rendering the right to representation meaningless. Senate Bill 1624 amends the Estates Code, Government Code, and Health and Safety Code to revise provisions relating to guardianship proceedings. Among other provisions, the bill does the following:

- requires an applicable attorney appointed or retained for a ward or proposed to represent the ward's or proposed ward's interests, including the ward's or proposed ward's expressed wishes;
- provides for any ward or proposed ward to retain an attorney to represent the person's interests in a guardianship proceeding instead of having those interests represented by an

attorney ad litem and provides for such an attorney to be provided current records in the guardianship case and access to all of the proposed ward's relevant records;

- prohibits a guardian ad litem from being a person having a property right in or claim against an estate or an attorney ad litem appointed for the guardianship proceeding, except under specified circumstances;
- provides for a ward to have private communications with the ward's physicians or other medical professionals; and
- authorizes a court in which a guardianship proceeding is pending to conduct a hearing to determine whether a guardianship should be continued, modified, or terminated.
- With respect to the mandatory annual review of a guardianship, the bill does the following:
 - replaces the authorization for a statutory probate court to review certain reports prepared by a court investigator, guardian ad litem, or court visitor as well as the annual account of the estate or the annual report regarding the ward with a requirement for the statutory probate court to do so;
 - removes the authorization for a statutory probate court in its annual review of a guardianship to conduct a related hearing;
 - requires a court investigator to take additional steps in evaluating a guardianship and provides for additional reports relating to the support and maintenance of a ward; and
 - requires a ward's statement of guardianship to include whether the ward desires a full restoration of the ward's capacity or modification of the ward's guardianship and any other information the ward wishes to share with the court.

Senate Bill 1624 also replaces requirements relating to presenting a physician's letter or certificate for purposes of a court order for the complete restoration of a ward's capacity or modification of guardianship with the following provisions:

- a requirement for an applicant for a court order for complete restoration of a ward's capacity or modification of guardianship, or applicant for the creation of a guardianship for an incapacitated person, to present to the court a letter or certificate from an appropriate physician or psychologist as evidence of capacity, or sufficient capacity with supports and services;
- a requirement for the physician or psychologist to have experience examining individuals with the physical or mental condition resulting in the ward's incapacity or have an established patient-provider relationship with the ward;
- an authorization for a court to consider certain evidence of capacity, or sufficient capacity with supports and services, at the hearing;
- a requirement for the court to appoint a physician or psychologist to complete an examination of the ward if the court determines necessary; and
- a requirement for a court investigator and a court visitor to complete certain additional training on alternatives to guardianship and supports and services available to a proposed ward.

Senate Bill 1624 requires the Texas Supreme Court to ensure that at least one hour of training related to alternatives and supports and services is provided to each judge with jurisdiction to hear a guardianship proceeding, each court investigator appointed in such a proceeding, and each court visitor appointed in the proceeding, at least once every two years.

Senate Bill 1624 specifies that the requirement to transport a person who is apprehended in relation to exhibiting mental illness and an imminent, substantial risk of serious harm to the person or others for a preliminary examination applies to a person who is not physically located in a mental health facility at the time the requisite warrant is issued. The bill replaces the authorization for a judge or magistrate to permit an applicant who is a physician for emergency detention to present an application by email or other secure electronic means with a requirement to do so.

Codification: Estates Code Chapter, Government Code, and Health and Safety Code

Effective Date: September 1, 2023

SB 2479 (Zaffirini) *Relating to procedures regarding certain persons who are or may be persons with a mental illness or intellectual disability.*

Summary: SB 2479 amends the Code of Criminal Procedure to expand the applicability of provisions relating to the early identification of defendants suspected of having a mental illness or an intellectual disability to include defendants charged with a Class C misdemeanor. Those provisions require a sheriff or municipal jailer to notify a magistrate regarding a defendant in custody who is suspected of having a mental illness or an intellectual disability and provide for the magistrate to order an interview of the defendant by a qualified expert, the collection of information regarding whether the defendant has a mental illness or is a person with an intellectual disability, and a written report of the interview and information collected. SB 2479 amends the Health and Safety Code to establish that a peace officer who transports an apprehended person to a facility for emergency detention under the authority of a warrant issued by a judge or magistrate is not required to remain at the facility while the person is medically screened or treated or while the person's insurance coverage is verified and may leave the facility immediately after the person is taken into custody by appropriate facility staff and the peace officer provides to the facility the required documentation.

Codification: Code of Criminal Procedure Art. 16 & 17, Health and Safety Code Chapter 573 & 574

Effective Date: September 1, 2023

HEALTHCARE

HB 12 (Rose | Thompson, Senfronia | Walle | Thierry | Howard) *Relating to the duration of services provided under Medicaid to women following a pregnancy.*

Summary: Texas Maternal Mortality and Morbidity Review Committee and the Department of State Health Services jointly submitted a report in 2022 that found that 44 percent of maternal death cases occur within one year of pregnancy. It was found that 90 percent of the deaths could have been prevented. Congress enacted legislation in 2021 giving states the option to provide 12 months of coverage through a state Medicaid plan amendment. To address maternal mortality and morbidity rates, H.B. 12 requires the Health and Human Services Commission (HHSC) to continue to provide medical assistance to a woman who is eligible for medical assistance for pregnant women for a period of not less than 12 months that begins on the last day of the woman's pregnancy and ends on the last day of the month in which the 12-month period ends in accordance with Section 1902(e)(16), Social Security Act (42 U.S.C. Section 1396a(e)(16)).

Codification: Human Resources Code §32.024(1-1)

Effective Date: September 1, 2023

HB 852 (Thierry | Oliverson | Shaw | Morales) *Relating to the composition of the Texas Maternal Mortality and Morbidity Review Committee.*

Summary: The Texas Maternal Mortality and Morbidity Review Committee studies and reviews cases of pregnancy-related deaths and severe maternal morbidity to identify trends, rates, and disparities. In the recommendations from the committee and the DSHS Joint Biennial Report from 2022, the committee specifically highlighted a need for new expertise on the committee that is not currently represented in support of data analysis and review. In response to those recommendations, H.B. 852 expands the membership of the committee to include an additional community advocate, a managed care organization representative, and physicians specializing in emergency care, cardiology, anesthesiology, and oncology.

Codification: Health and Safety Code §34.002(b)

Effective Date: September 1, 2023

HB 999 (Price | Guillen | Allison | Oliverson) *Relating to the effect of certain reductions in a health benefit plan enrollee's out-of-pocket expenses for certain prescription drugs on enrollee cost-sharing requirements.*

Summary: House Bill 999 amends the Insurance Code to require a pharmacy benefit manager or an issuer of a health benefit plan that covers prescription drugs to apply any form of reduction in out-of-pocket expenses made by or on behalf of an enrollee for a prescription drug to the enrollee's deductible, copayment, cost-sharing responsibility, or out-of-pocket maximum applicable to health benefits under the enrollee's plan. This applies only to a reduction for a prescription drug covered by the enrollee's plan for which a generic equivalent or interchangeable biological product does not exist or exists but the enrollee has obtained access to the prescription drug under their plan using a prior authorization process, a step therapy protocol, or the plan issuer's exceptions and appeals process.

Codification: Insurance Code Subchapter B, Chapter 1369

Effective Date: September 1, 2023

HB 1575 (Hull | Harless | Slawson | Rose | Frank) *Relating to improving health outcomes for pregnant women under Medicaid and certain other public benefits programs.*

Summary: Reports show that when women have access to nonmedical support, they have shown improved health outcomes. These are nonmedical health-related needs include services available to low-income pregnant women and families, such as food banks, pregnancy support, housing assistance, and transportation. However, these services are provided by multiple organizations that may be fragmented and uncoordinated. This can lead to a duplication of efforts and often results in women and families served by the Medicaid program not even knowing the support services that may be available to improve pregnancy outcomes. H.B. 1575 seeks to address these issues by enhancing the screening process for pregnant women eligible for public benefits programs offered by Texas' health and human services agencies. The enhanced screening process will help to better identify nonmedical health-related needs that could impact birth and maternal health outcomes by providing reported data to policymakers on the needs of these women.

Codification: Government Code Chapter 531

Effective Date: September 1, 2023

HB 3286 (Klick | Morales) *Relating to prescription drug benefits under Medicaid and the child health plan program.*

Summary: Texans on Medicaid who need prescription medications are subject to the state's Medicaid preferred drug list. This restricts their access to necessary medications and can lead to serious health consequences. Recent managed care contract changes have further limited a managed care organization's (MCO) ability to allow exceptions to the state's preferred drug list. In contrast, health plans in the private market must grant an exception to their step therapy protocol for a patient who is stable on a drug if the change is expected to be ineffective or cause harm to the patient. This lack of exception protections for Texas Medicaid patients creates barriers to accessing necessary medications. People are often forced off of medications that are working for them, which can lead to serious health consequences. H.B. 3286 will ensure Medicaid patients have access to necessary medications by adding exception protections to the Texas Medicaid program, which will give Medicaid patients similar mandatory exception processes as patients in the commercial market.

Codification: Government Code Chapter 531 and 533

Effective Date: September 1, 2023

A. Mental Health

HB 1337 (Hull | Oliverson | Harless | González, Jessica | Johnson, Ann) *Relating to step therapy protocols required by health benefit plans for coverage of prescription drugs for serious mental illnesses.*

Summary: House Bill 1337 amends the Insurance Code to prohibit a health benefit plan that provides coverage for prescription drugs to treat a serious mental illness from requiring, before the plan provides coverage of an FDA-approved drug prescribed to an enrollee who is 18 years of age or older to treat the enrollee's diagnosis of a serious mental illness, that the enrollee fail to successfully respond to more than one different drug for each drug prescribed or prove a history of failure of more than one different drug for each drug prescribed, excluding the generic or pharmaceutical equivalent of the prescribed drug. The bill also limits an issuer's authority to implement a step therapy protocol for these drugs.

Codification: Insurance Code Chapter 1369

Effective Date: September 1, 2023

HB 1457 (Rosenthal | Wilson | Garcia | Morales, Eddie | Cortez) *Relating to required military informed care or military cultural competency training for certain personnel of entities that provide mental health services to veterans or veterans' families before award of a state agency grant.*

Summary: amends the Government Code and Health and Safety Code to require an entity eligible for a grant from a state agency for the provision of mental health services to veterans or veterans' families to demonstrate that the entity has either successfully executed such a grant or that the entity provides or requires personnel training on military informed care or military cultural competency.

Codification: Government Code §434.352, Health & Safety Code §1001.225

Effective Date: September 1, 2023

HB 2059 (Price | Thompson, Senfronia | Guillen | Lujan | Jetton, Jacey) *Relating to mental health first aid training provided by local mental health authorities and local behavioral health authorities.*

Summary: Mental health first aid (MHFA) is an interactive, skills-based training course that helps persons identify, understand, and respond to signs of mental illnesses and substance use disorders. Local mental health authorities (LMHAs) and local behavioral health authorities (LBHAs) provide this training. This training was originally authorized to train school district educators. Through subsequent legislation, the program was expanded to include other school district employees, school resource officers, and university employees. H.B. 2059 allows for funding to a wider range of persons, including youth, first responders, and military service members and veterans who want to participate in a MHFA program.

Codification: Health and Safety Code §1001

Effective Date: September 1, 2023

HB 2100 (Howard | Morales, Eddie) *Relating to eligibility requirements for student loan repayment assistance for certain mental health professionals.*

Summary: House Bill 2100 amends the Education Code to extend eligibility for student loan repayment assistance from the Texas Higher Education Coordinating Board to certain mental health professionals providing mental health services to patients in a state hospital or to individuals receiving community-based mental health services from a local mental health authority.

Codification: Education Code §61.603

Effective Date: September 1, 2023

SB 63 (Zaffirini) *Relating to an instruction guide for family members and caregivers of veterans who have mental health disorders.*

Summary: Senate Bill 63 amends the Government Code to require the Health and Human Services Commission (HHSC) and the Texas Veterans Commission (TVC) to jointly produce and make publicly available an instruction guide for family members and caregivers of veterans who have mental health disorders. The instruction guide must include specified information regarding different mental health disorders, techniques for coping with related stress and handling crisis situations, and services available for such family members and caregivers. The bill requires HHSC and TVC each to publish the instruction guide on the respective agency's website.

Codification: Government Code Chapter 531

Effective Date: May 23, 2023

REAL PROPERTY, HOUSING & LANDLORD-TENANT

HB 219 (Price | Guillen | Allison | Oliverson) *Relating to the release of a deed of trust or other contract lien securing a home loan after payoff by mortgagor.*

Summary: Currently, no requirement exists in Texas statute for a lender to release a lien on a paid-off mortgage. As a result, some homeowners discover while attempting to sell their home that the lien on the property was never released despite the loan having been paid in full. Consequences of this unresolved issue include a stall of the sale of a home or property and delay or cancellation of the closing while the property owner attempts to obtain proof of their pay-off. The lack of requirements regarding release of liens costs Texans time, money, and often the sale of their property. H.B. 219 requires mortgage holders to release a lien within 60 days of the loan being paid off in full by the mortgagor. It also requires mortgage servicers to release a lien within 30 days of receiving a written request from the mortgagor if the written request was delivered to the mortgage servicer within 20 days of the payoff of the home loan. Other key provisions:

- amends the Texas Finance Code by adding Section 343.108, which does the following:
- Defines "mortgage servicer," "mortgagee," "mortgagor," and "release of lien."
- Requires that the mortgage servicer or mortgagee delivers to the mortgagor a release of lien for a home loan within 60 days of the mortgagor's payoff of a home loan. This release of lien must be filed with the appropriate county clerk's office for the real property records of the county.
- Requires that the mortgage servicer or mortgagee deliver to the mortgagor a release of lien for a home loan within 30 days of receiving a written request from the mortgagor if the mortgagor delivers a written request for the release of lien within 20 days of the full payoff of the home loan.
- Adds that mortgage servicers are required to comply with this section only if they have the authority to deliver or file a release of lien for the home loan.

Codification: Finance Code Chapter 343

Effective Date: September 1, 2023

HB 614 (Shaheen) *Relating to property owners' association fines.*

Summary: House Bill 614 amends the Property Code to require the board of a property owners' association that is authorized by the association's dedicatory instrument to levy a fine to adopt an enforcement policy regarding the levying of fines. The adopted policy must include general categories of restrictive covenants for which the association may assess fines, a schedule of the fine for each category of violation, and information regarding hearings before the board to discuss and verify facts and resolve a violation. However, the policy may reserve the board's authority to levy a fine from the schedule of fines that varies on a case-by-case basis.

Codification: Property Code, §209.061

Effective Date: September 1, 2023

HB 886 (Shaheen) *Relating to requirements to file a property owners' association assessment lien.*

Summary: This bill amends the Property Code to require a property owners' association (POA) to provide delinquency notices before filing an assessment lien and prohibits a POA from filing the lien before the 90th day after the date the second notice was sent to the owner. These provisions do not apply to a property owners' association providing a property owner covered by the federal Servicemembers Civil Relief Act the protections to which the owner is entitled under that act.

Codification: Property Code §209.0094

Effective Date: September 1, 2023

HB 1193 (Turner | Jones, Venton | Collier) *Relating to prohibiting housing discrimination by a property owners' association against a residential tenant based on the tenant's method of payment.*

Summary: Recently, a homeowner's association (HOA) in Texas passed a rule prohibiting tenants who participate in the Housing Choice Voucher Program, also known as Section 8, from renting homes that are governed by a homeowners' association. This rule disproportionately affected residents who were Black and female. Further, it goes directly against the work that this legislature has done in creating processes for neighborhoods to remove discriminatory deed restrictions. House Bill 1193 amends the Property Code to prohibit a property owners' association from including or enforcing a provision in a dedicatory instrument that prohibits or restricts a property owner from renting a dwelling to a person based on the person's method of payment, including payments made in whole or in part by a federal Section 8 housing choice voucher or any other federal, state, or local housing assistance provided to a person or to a property owner on behalf of a person, such as rental vouchers, rental assistance, or rental subsidies from a nongovernmental organization.

Codification: Property Code Chapter 202

Effective Date: September 1, 2023

HB1382 (Hernandez) *Relating to the public sale of real property taken in execution of a judgment.*

Summary: Amends the Civil Practice and Remedies Code to give a county commissioners court the option to conduct a public auction of real property taken in execution of a judgment using online bidding and sale as an alternative to conducting an in-person sale.

Codification: Civil Practice and Remedies Code Section 34

Effective Date: September 1, 2023

HB 1472 (Walle, et al.) *Relating to eligibility requirements under the owner-builder loan program.*

Summary: The Bootstrap Program is a self-help housing construction program that assists low-income households (Owner-Builders) to purchase or refinance real property on which to build or repair housing by contributing the labor themselves. This bill changes the qualification from 60 percent to 80 percent of AMI in order for TDHCA to be able to achieve greater success with the program and in turn qualify more participants.

Codification: Government Code, §2306.753(b)

Effective Date: September 1, 2023

HB 1558 (Johnson, Ann) *Relating to the extension or amendment of deed restrictions in certain older subdivisions.*

Summary: House Bill 1558 amends the Property Code to provide for the extension or amendment of deed restrictions in certain older subdivisions that are described by a recorded map or plat filed before 1947 in the real property records of the county in which the subdivision is located and that are wholly or partly located in a municipality with a population of two million or more. This applies to the Houston area.

Codification: Property Code Chapter 216

Effective Date: June 12, 2023

SB 2091 (West) *Relating to the authority of a taxing unit to sell certain seized or foreclosed property to an owner of an abutting property without conducting a public sale.*

Summary: Amends the Tax Code in the State of Texas, allowing the taxing unit to sell seized or foreclosed property to an abutting property owner, without the need for a public sale. The Amendment applies to real property that is landlocked or is a narrow strip of land or other parcel of land that cannot be used independently under its current zoning classification or development ordinances. The property may also be located in a floodway or an area designated as having an annual chance of flooding. The purchaser of the property must meet the requirements of Section 34.015. The bill does not require the taxing unit to offer the property for sale to the public, and the unit may sell the property at a price lower than required under Section 34.01(p). The bill also allows the sale of the property without the consent of any taxing unit entitled to receive proceeds from the sale.

Codification: Tax Code §§33.43, 34.0101 and 34.02

Effective Date: September 1, 2023

SB 1768 (Creighton) *Relating to the correction or removal of certain obsolete provisions of the Property Code.*

Summary: Senate Bill 1768 amends the Property Code to make nonsubstantive corrections and remove obsolete references to the Texas Residential Construction Commission Act, Vernon's Texas Insurance Code, the Texas Non-Profit Corporation Act, the Cooperative Association Act, and the Community Homes for Disabled Persons Location Act. The bill also repeals Property Code provisions requiring a seller of residential real property that is exempt from the former Texas Residential Construction Commission Act to give to the purchaser of the property a notice regarding the non applicability of certain warranties.

Codification: Property Code

Effective Date: September 1, 2023

SB 1259 (Creighton) *Relating to the maximum judgment amount awarded by a justice court in certain civil cases regarding the repair of residential rental property.*

Summary: Amends the Property Code to increase the maximum judgment amount that may be awarded by a justice court in a case involving the repair or remedy of conditions of a residential rental property from \$10,000 to \$20,000, excluding interest and costs of court.

Codification: Property Code §92.0563(e)

Effective Date: September 1, 2023

SB 1381 (Eckhardt) *Relating to the eligibility of the surviving spouse of an elderly person who qualified for a local option exemption from ad valorem taxation by a taxing unit of a portion of the appraised value of the deceased person's residence homestead to continue to receive an exemption for the same property from the same taxing unit in an amount equal to that of the exemption for which the deceased person qualified without applying for the exemption.*

Summary: Oftentimes, when an individual who is receiving an over 65 or disabled exemption passes away, the surviving spouse is not fully aware of the need to submit a new exemption application with the appraisal district to continue to receive the exemption. This comes as a shock when they receive their tax bill the following year to learn that their property taxes have

increased significantly because the exemption has been removed. This bill amends the Tax Code to entitle the surviving spouse of a person receiving a residence homestead property tax exemption for an individual 65 years of age or older who dies in a tax year to receive that exemption in the next tax year on the same property without applying for the exemption, provided the appraisal district has the information necessary to determine that the surviving spouse qualifies for the exemption. The entitlement does not apply if the chief appraiser determines that the surviving spouse is no longer entitled to any applicable exemption on the property.

Codification: Tax Code §11.43

Effective Date: January 1, 2024

SB 2 (Legis. Session: 88(2)) (Bettencourt) *Relating to providing property tax relief through the public school finance system, exemptions, limitations on appraisals and taxes, and property tax administration; authorizing the imposition of a fee.*

Summary: Senate Bill 2, the Property Tax Relief Act, amends the Education Code, Government Code, and Tax Code to provide for a \$0.107 reduction in a public school district's maximum compressed tax rate for the 2023-2024 school year, increase the amount of the general school district residence homestead property tax exemption from \$40,000 to \$100,000, and provide for a temporary circuit breaker limitation of 20 percent on the annual appraised-value increase for non-homestead property valued at not more than \$5 million. Among other provisions, the bill also does the following:

- prohibits the governing body of a school district, municipality, or county that adopted a local option general residence homestead exemption for the 2022 tax year from reducing the amount of or repealing the exemption;
- revises certain calculations for the ceiling on the school district taxes that may be imposed on the residence homestead of an elderly or disabled individual;
- revises the information required to be posted online by the Texas Education Agency for purposes of calculating the amount of the elderly and disabled tax ceiling;
- provides additional state aid for school districts beginning with the 2023-2024 school year to account for funding reductions attributable to property tax changes made by the bill;
- makes temporary adjustments to the recapture process for school districts with local revenue in excess of entitlement to account for the election that will be held on the bill's corresponding constitutional amendment and its effects on local revenue levels for the 2023-2024 school year if approved, including by providing for the delay of an election held by certain districts to approve an option to reduce local revenue levels;
- for counties with a population of 75,000 or more, increases the membership of the appraisal district's board of directors by three members, to be elected in nonpartisan elections, and provides for the appointment of members of the appraisal review board by the appraisal district's board of directors; and
- sets out transitional tax year provisions.

Codification: Education Code Chapter 48-49 and §46.071 Tax Code §§11.13, 11.26

Effective Date: July 22, 2023 (*See remarks in bill for effective date*).

IMMIGRATION

HB 4422 (Canales | Burrows | Moody | Geren | King, Tracy O.) *Relating to a study on enhancing border security outcomes through public safety, technological, and transportation infrastructure improvements near Texas-Mexico border crossings.*

Summary: House Bill 4422 requires the Texas Department of Transportation (TxDOT) to conduct a study on public safety, border security, and transportation infrastructure from Texas-Mexico border crossings onto the state highway system to ensure safe, efficient, and streamlined commercial motor vehicle connectivity that amplify Operation Lone Star efforts. The bill sets out the parameters of the study and requires TxDOT to report the study's findings to the governor, lieutenant governor, and legislature.

Codification: <https://capitol.texas.gov/tlodocs/88R/billtext/pdf/HB04422F.pdf#navpanes=0>

Effective Date: May 27, 2023

SB 602 (Birdwell) *Relating to the law enforcement authority of federal border patrol agents.*

Summary: Senate Bill 602 amends the Code of Criminal Procedure and Government Code to require the Department of Public Safety to develop a training program for federal border patrol agents on Texas' criminal laws and provide the program to an agent on request. The bill grants a border patrol agent who completes the training the powers of arrest and search and seizure as to any Texas felony offense if the arrest, search, or seizure is incident to a detainment under federal law and occurs on the premises of a designated port of entry or at a border patrol traffic checkpoint.

Codification: Code of Criminal Procedure Article 2.122 and Government Code Subchapter A, Chapter 411

Effective Date: September 1, 2023

SB 1403 (Birdwell) *Relating to the law enforcement authority of federal border patrol agents.*

Summary: Senate Bill 1403 amends the Government Code to authorize the governor to develop and execute an interstate compact for border security among interested states to provide for joint action among such states on the following matters:

- sharing law enforcement intelligence on illegal activity occurring at the border with Mexico;
- sharing state resources in order to build a physical barrier, a comprehensive technological surveillance system, or both, on state land to deter or detect illegal activity occurring at the border with Mexico; and
- sharing other law enforcement resources to ensure the protection of personnel and property.

The bill prohibits the compact from increasing the political power of the compacting states in relation to the federal government.

Codification: Government Code Chapter 794

Effective Date: September 1, 2023

SB 1484 (Creighton) *Relating to a border operations training program for peace officers employed by local law enforcement agencies.*

Summary: Senate Bill 1484 amends the Government Code and Occupations Code to require the Department of Public Safety (DPS) to establish and administer a border operations training program to prepare peace officers for collaboration and cooperation with law enforcement agencies, district and county attorneys, the border prosecution unit, and other prosecutors on investigations and prosecutions related to criminal activity in the Texas-Mexico border region. Among other provisions, the bill requires DPS to identify opportunities for these officers to assist in its border operations-related duties and authorizes the Texas Commission on Law Enforcement to recognize, administer, or assist in administering the training program as a continuing education program for officers.

Codification: Government Code §411.02093 and Occupations Code §1701.359

Effective Date: September 1, 2023

LITIGATION

HB 527 (Wu | Schofield | Longoria) *Relating to exemption of certain civil actions from being subject to a motion to dismiss on the basis of involving the exercise of certain constitutional rights.*

Summary: The Citizens Participation Act was originally intended to protect the exercise of constitutional rights like free speech, freedom to petition, and the right to association by providing expedited dismissal procedures. The Texas Supreme Court case *Youngkin v. Hines* (2018), however, held that the Citizens Participation Act protects an attorney's statements in court on behalf of a client during a judicial proceeding. In essence, this ruling could imply that even if a lawyer engages in malpractice, the client may not be able to seek legal recourse because the law protects the lawyer's right to petition. HB 527 clarifies that the Citizens Participation Act does not apply to legal malpractice claims by adding such claims to the list of exceptions to the expedited dismissal procedures.

Codification: Civil Practice and Remedies Code Chapter 27

Effective Date: September 1, 2023

HB 2015 (Leach) *Relating to the exemption from jury service for persons over a certain age.*

Summary: Raises the age at which a person qualifies for a permanent jury service exemption from age 70 to age 75.

Codification: Government Code §§ 62.106, 62.107, 62.108

Effective Date: September 1, 2023

HB 2384 (Leach | Murr | Johnson, Julie | Cain | Moody) *Relating to court administration, including the knowledge, efficiency, training, and transparency requirements for candidates for or holders of judicial offices.*

Summary: This bill sets out provisions requiring the disclosure and inclusion of certain information, including certain disciplinary and criminal history, on the application for a place on the ballot for the following judicial offices:

- chief justice or justice of the Texas Supreme Court;
- presiding judge or judge of the court of criminal appeals;

- chief justice or justice of a court of appeals;
- district judge, including a criminal district judge; and
- judge of a statutory county court.

The bill sets out additional application requirements for a candidate for an appellate court office who does not hold or has not previously held such an office. The bill requires each officially prescribed form for an application to a judicial office to include a statement informing candidates that knowingly providing false information on the application constitutes professional misconduct subject to public sanctions or censure by the State Commission on Judicial Conduct or the state bar, in addition to other legally prescribed penalties. The bill provides sanctions for a false declaration on a ballot application.

House Bill 2384 sets out judicial education requirements applicable to all such judicial offices, including instruction requirements, and provides for a judge's suspension and removal from office if the judge fails to meet the bill's education requirements. The bill provides for specialty certification for attorneys in judicial administration and sets out certain recommendation requirements for the Texas Board of Legal Specialization. The bill also sets out provisions relating to courts that need additional administrative assistance.

Codification: Election Code, §141.0311

Effective Date: September 1, 2023

HB 2837 (Schaefer | Capriglione | Noble) *Relating to prohibiting a person or entity from surveilling, reporting, or tracking the purchase of firearms, ammunition, and accessories through the use of certain merchant category codes; imposing a civil penalty.*

Summary: HB 2837 amends current law relating to prohibiting a person or entity from surveilling, reporting, or tracking the purchase of firearms, ammunition, and accessories through the use of certain merchant category codes and imposes a civil penalty.

Codification: Chapter 610, Business and Commerce Code

Effective Date: September 1, 2023

HB 3474 (Leach) *Relating to the operation and administration of and practices and procedures regarding proceedings in the judicial branch of state government, including the service of process and delivery of documents related to the proceedings, the administration of oaths, and the management of the Texas Indigent Defense Commission, and the composition of certain juvenile boards; establishing a civil penalty; increasing certain court costs; authorizing fees.*

Summary: Creates new judicial districts and a new probate court in Harris County.

Amends and repeals various provisions of code as it relates to the operation of the judiciary, including the docket preferences, terms of court, jurisdiction, where courts may sit, docket sharing, judge assignment, case diversion, case referral, case transfer, filing of oaths, service of process, document delivery, the operation of various proceedings, and juror qualification, summons, and exemptions. Requires the Office of Court Administration to conduct a district court caseload analysis and report from time to time. Adjusts juror reimbursement rates.

Codification: various

Effective Date: September 1, 2023

SB 380 (Zaffirini) *Relating to payment of certain court costs associated with interpreters.*

Summary: Provides that a party to a proceeding in a court who files a statement of inability to afford payment of court costs is not required to provide an interpreter at the party's expense or

pay certain associated costs unless the statement has been contested and the court has ordered the party to pay costs.

Codification: various

Effective Date: May 23, 2023

SB 1045 (Zaffirini) *Relating to payment of certain court costs associated with interpreters.*

Summary: Creates the Fifteenth Court of Appeals District composed of all counties in the state, consisting of a chief justice and four justices. Grants exclusive intermediate appellate jurisdiction over certain matters brought by or against the State or a board, commission, department, office, or other agency in the executive branch (including certain university or higher education institutions), or by or against an office or employee of the State or a board, commission, department, office or other agency in the executive branch arising out of that officer's or employee's official conduct; matters in which a party to the proceeding files a petition, motion, or other pleading challenging the constitutionality or validity of a State statute or rule and the attorney general is a party to the case; and any other matter as provided by law. Outlines various court operational matters. Transfers authority for judicial review of proceedings related to a final order, rule, decision, or other final action of the board of the Texas Department of Motor Vehicles from the Third Court of Appeals District to the Fifteenth Court of Appeals District, along with judicial review of rules of competition developed by the Public Utility Commission of Texas. Gives the Texas Supreme Court exclusive and original jurisdiction over a challenge to the constitutionality of the bill or any part of the bill.

Codification: Government Code Chapter 22, §§73.001, 659.012(a), 2001.038(f), 2001.176(c), 2301.751(a); Utility Code 39.01(e); Code of Criminal Procedure Arts. 4.01, 4.03, 44.25, 31.001.

Effective Date: September 1, 2023

SB 1603 (Hughes) *Relating to the decision of a court of appeals not to accept certain interlocutory appeals.*

Summary: Provides that, where a court of appeals does not accept an interlocutory appeal of an order that involves certain controlling questions of law on which there is substantial ground for difference of opinion where the appeal from the order may materially advance the ultimate termination of the litigation, the appeals court must state in its decision the specific reason for finding the appeal is not warranted. Authorizes the Texas Supreme Court to review an appeals court decision not to accept an interlocutory appeal under an abuse of discretion standard.

Codification: Civil Practices & Remedies Code §51.014

Effective Date: September 1, 2023

SB 1612 (Zaffirini) *Relating to court administration and costs; increasing certain court costs; authorizing fees.*

Summary: Senate Bill 1612 amends the Estates Code, Family Code, Government Code, and Local Government Code to do the following, effective September 1, 2023:

- set out standard procedures for court clerks transferring or receiving probate and guardianship cases between courts, including sending or marking specified documents in each transferred case and using the standardized forms created by the Office of Court Administration of the Texas Judicial System; and
- provide for the application of certain statewide electronic filing system requirements and documentation requirements for cases transferred from a district court or a county court

to a case that is transferred to a constitutional or statutory county court or another district court.

The bill also does the following with respect to court fees:

- sets fees for certain services performed by a district court clerk and non-court fees for services relating to certified and noncertified papers performed by a county clerk;
- clarifies that the services for which the commissioners court of a county may set reasonable fees are for service of process, including service of writs, by the offices of the sheriff and constables;
- revises certain provisions relating to the state consolidated civil fee on filing a civil case;
- changes the entity authorized to use money collected from certain criminal and civil fees allocated to the records management and preservation fund from the applicable county to the clerk of the court who collects the fee, upon commissioners court approval; and
- increase court fees for suits affecting the parent-child relationship.

Effective September 1, 2023, Senate Bill 1612 does the following:

- makes the sending county in a transfer between counties of a child's probation supervision financially responsible for any special treatment program or placement that the juvenile court of the sending county requires as a condition of probation, regardless of whether the child's family is financially unable to pay for the program or placement; and
- removes from the applicability of statutory provisions regarding the rights and responsibilities of parents and other eligible persons, among other proceedings, a proceeding to enter a juvenile court order requiring the parent or other eligible person to reimburse the county for payments the county has made to an attorney appointed to represent the child in a juvenile proceeding.

Codification: Various

Effective Date: Except as otherwise provided, the bill takes effect January 1, 2024.

WILLS, TRUSTS, ESTATE, AND PROBATE

SB 1373 (Hughes) *Relating to decedents' estates and the delivery of certain notices or other communications in connection with those estates or multiple-party accounts.*

Summary: There are certain notice procedures relating to the disposition of decedents' or multiple-party estates that are outdated or require clarification, in addition to other issues. SB 1373, among other changes, provides for the following: alternatives to registered or certified mail to meet statutory notice requirements; clarification regarding the liability of community property assets of a married couple to creditors' claims when a spouse dies; use of affidavits of heirship in proceedings to declare heirship; removing certain personal identification information from court documents; and the waiving of citation by certain persons on behalf of a minor under the age of 16.

The bill also amends current law relating to decedents' estates and the delivery of certain notices or other communications in connection with those estates or multiple-party accounts; when a felon may serve as an executor or estate administrator; and when a creditor may serve as a witness in probate proceedings.

Codification: Chapters 51, 202, & 453, Estates Code

Effective Date: September 1, 2023

HB 2196 (Smithee) *Relating to trusts.*

Summary: House Bill 2196 amends the Property Code to align the definition of "qualifying trust" in provisions governing which property qualifies as the homestead of an express trust's settlor or beneficiary for purposes of certain protections available under state law and the Texas Constitution with the definition of "qualifying trust" used with respect to resident homestead property tax exemptions available under the Tax Code. The bill also revises the definition to clarify the rights of a settlor or beneficiary of a qualifying trust.

House Bill 2196 authorizes a second trust created by distribution of principal from an existing irrevocable inter vivos or testamentary trust to retain the name used by the first trust and, subject to applicable federal law, also retain the same tax identification number. With respect to the rule against perpetuities, the bill does the following:

- specifies that the effective date of an interest in one trust that is distributed to a second trust with a different effective date is the earlier of the effective dates of the two trusts; and
- requires an interest in a trust that has an effective date on or after September 1, 2021, to vest not later than the later of 300 years after the effective date or 21 years after some life in being at the time of the effective date, plus a period of gestation.

House Bill 2196 prohibits a beneficiary of a spendthrift trust or the beneficiary's estate from being considered a settlor merely because the beneficiary held or exercised certain testamentary powers of appointment. The bill establishes that, if a beneficiary exercised a testamentary general power of appointment in favor of or for the benefit of any applicable appointee, the appointive assets are subject to the claims of the beneficiary's creditors, but only to the extent the beneficiary's own property is insufficient to meet their debts. Unless the assets are appointed to the beneficiary's estate, the assets are not subject to administration as a part of the beneficiary's estate, to recovery by the personal representative of the beneficiary's estate, except as provided by federal law, or to payment of taxes or administration expenses of the beneficiary's estate. The bill also conditions a court's authority to appoint an attorney ad litem to represent any interest that the court considers necessary in a proceeding concerning a trust on the court first determining that representation of the interest otherwise would be inadequate.

Codification: Property Code §41.0021, §§112.035, 112.036, 112.0715 and 115.014

Effective Date: June 9, 2023

HB 2333

Summary: While trust beneficiaries should have more control over their personal or commercial trusts, additional enforcement for noncharitable trusts without an ascertainable beneficiary is also needed. H.B. 2333 seeks to ensure that noncharitable trusts without a definite or definitely ascertainable beneficiary are properly enforced and administered by providing for the appointment of one or more trust enforcers to ensure that the trust's purpose and terms are being carried out appropriately. Overall, this legislation seeks to provide a framework for the proper enforcement and administration of noncharitable trusts without a definite or definitely ascertainable beneficiary.

Codification: Property Code §111.004 and Chapter 112

Effective Date: June 18, 2023

ABOUT THE PVAMU TEXAS JUVENILE CRIME PREVENTION CENTER

The Texas Juvenile Crime Prevention Center is committed to the reduction of juvenile delinquency and crime in the State of Texas.



Camille Gibson, Ph.D.
Executive Director

Through the creation of the Center and the College, Prairie View A&M University supports this mission as it strives to attain national recognition in the areas of education, research, and service in doing the following:

- ✓ conducting, coordinating, collecting, and evaluating research in all areas relating to juvenile crime and delinquency;
- ✓ providing a setting for educational programs relating to juvenile delinquency and crime, including degree programs at Prairie View A & M University and other educational programs such as continuing education and in-service training for criminal justice and social service professionals;
- ✓ serving as a state and national resource for information on juvenile delinquency and crime; and in connection with its research and educational programs;
- ✓ develop programs, policies, and strategies to address juvenile delinquency and crime and related social problems; and
- ✓ create partnerships, collaborative efforts, or outreach, public service, or technical assistance programs to assist communities, governmental agencies, or private entities to implement programs, policies, and strategies that address juvenile delinquency and crime and related social problems.



Susan Frazier-Kouassi, Ph.D.
Director

The goal of the center is to assist in the understanding of human behavior and the reduction of juvenile delinquency and crime in the State of Texas.



Grady Paris, J.D.
Associate Director

The Earl Carl Institute would like to give special recognition to and extend a special thank you to Associate Director Grady Paris for partnering with us on the legislative updates over the years. Ms. Paris is a Texas Southern University Alumnus receiving her undergraduate degree in Government, her juris doctorate from the University of Houston and is licensed to practice law in the state of Texas. Grady Paris has been with Prairie View A&M University's Juvenile Crime Prevention Center since 2005.



ABOUT THE EARL CARL INSTITUTE & ECI's 2023 PROGRAMMING



The Earl Carl Institute for Legal and Social Policy at Texas Southern University's Thurgood Marshall School of Law was established in 1992 as an independent 501(c)3 organization. **The Institute seeks to empower underserved and disenfranchised populations by addressing systemic social issues through legal representation, research, education, and advocacy.**

The Earl Carl Institute for Legal and Social Policy, Inc. was established in 1992 as research and writing think tank at the law school to assist law students with their research and writing skills.

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. He is a human symbol that people can accomplish whatever they are willing to despite all odds.

The Institute has grown significantly from its humble beginnings as a skills enhancement program for law students to an advocacy organization that trains students in research, writing, advocacy skills, leadership, office management, and public policy organization. The Institute, which began with one Director, Professor Marcia Johnson the Institute's Founder, has now grown to 20 staff members.

The Institute's current programming includes free legal services provided by the Opal Mitchell Lee Property Preservation Project, the Thurgood Marshall School of Law Innocence Project, the ECI Juvenile Justice Project, ECI Clean Slate Cooperative, Community Legal Advocate Program and the ECI Citizenship by Naturalization Clinic. Other policy related projects include the Black Girls Initiative and Safe & Supportive Schools Collaborative. Research and Writing Initiatives include student research papers on topics where African Americans are disproportionately or disparately impacted, the LAPPA model law project, a national recommendation for states to adopt that remove judicial involvement in drug related incidents at school, and review of articles submitted for publication in the ECI Journal.

We would love to hear from you about issues impacting your life and your communities. Please visit us at our offices on the TSU. Consider supporting our work through your tax deductible donation or by volunteering with our organization. Send your check to the Earl Carl Institute, 3100 Cleburne St, Houston, TX 77004 or donate via Zelle to earlcarlinstitute@tmslaw.tsu.edu.

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Black Girls Matter: Time for a Change

LEGENDS AND LEADERS



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