REPORT ON THE TEXAS LEGISLATURE

84th SESSION: AN URBAN PERSPECTIVE

BY

THE EARL CARL INSTITUTE FOR LEGAL AND SOCIAL POLICY, INC.

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About The Earl Carl Institute Center for Government Law

The Center for Government Law was established to provide integrated academic and practical skills training in government administration and regulation to law students. Preparing students for the practice of law in the public sector is a primary goal of the Center. The Center works with numerous governmental organizations on the local, state, and federal level. The Center also serves as a bridge between government and academia by providing practical experience to students who assist government leaders in advancing research in a multitude of law and public policy arenas.

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

The Center is responsible for a report each biennial Texas Legislative session on the impact of new legislation on TSU and the urban community. It is the goal of the center to become an authority and resource on urban issues for legislators and for policy organizations.

The ECI Center for Government Law operates under the direct supervision of ECI Associate Director Zahra Buck Whitfield. We hope you enjoy this session's report.

CGL Legislative Externs

It has been our pleasure and a great learning experience to work on this Report on the 84th Texas Legislature — An Urban Perspective.

In the beginning of our externship we had high expectations for what a Government Law Externship would entail. Our experience exceeded our expectations and provided us with so much more. We learned about the legislative process, enhanced our writing skills and expanded our legal research expertise to encompass legislative research. We were also able to attend a public hearing at the Texas Capitol in Austin.

It is our hope that you will find this report to be not only helpful, but thought-provoking as to how the legislature has been working to assist the citizens of Texas and the urban community.

EXECUTIVE SUMMARY

Sarah R. Guidry, ECI Executive Director

Welcome to The Earl Carl Institute's Report on the Texas Legislature, 84th Session: An Urban Perspective. The Institute is pleased to once again provide our constituents with highlights from the last legislative session. We have attempted to cover matters that we believe to be of concern to the urban community, however, many of the highlights cover issues of particular concern to traditionally disenfranchised communities. The legislation covered in this report falls under such issues as ***Election, Criminal Justice (Human Trafficking, Criminal Procedure, Wrongful Convictions, Domestic Violence), Juvenile Justice, Family Law, Property, Education, Healthcare, Wills, Estate and Probate, Wealth and Litigation.***

The 84th Texas Legislative session convened at noon on January 13, 2015. The Texas Senate ended the 84th Legislative session on June 1, 2015.

The 84th Texas Legislature introduced 11,356 bills, passed 6,083 bills of which 42 were vetoed, and 163 became law without the Governor's signature. Over 500 bills became effective immediately upon passage and 678 became effective on September 1, 2015. By observation, the 84th legislative session has been described less efficient by filing more bills than the 83rd Legislative Session yet passing fewer bills through both chambers.

It was the first legislative session in 12 years under a new Senate President, Lieutenant Governor Dan Patrick. This was the inaugural term for Governor Greg Abbott after 15 years under Governor Rick Perry. This term saw a total of 32 freshman members. According to an article in the Texas Tribune published January14, 2015, "the makeup of the 84th Legislature is out of whack with the state's overall population. Women make up half of the state's population, for example, but they only hold 20 percent of the seats under the Pink Dome. White Texans are now in the minority, but 65 percent of legislators are white. Only a third of Texans have a college degree, while most state lawmakers do. (In fact, a third of state lawmakers have law degrees.)". See more detailed information in the chart below from the Legislative Reference Library of Texas which can be found at http://www.lrl.state.tx.us/legeLeaders/members/memberStatistics.cfm.

Membership Statistics for the 84th Legislature

Description	House Members	Senate Members	Total
Gender *			
Male	120	23	143
Female	28	8	36
Total	148	31	179
Party affiliation *			
Democrat	51	11	62
Republican	97	20	117
Total	148	31	179
Incumbency **			
Incumbents	123	23	146
Freshmen	24	8	32
Total	147	31	178
Age *			
Under 30	0	0	0
30 - 39	28	0	28
40 - 49	46	3	49
50 - 59	35	12	47
60 - 69	31	14	45
70 and over	8	2	10
Total	148	31	179

This legislative session's theme was dubbed as the "Guns, Oil and Weed" Legislature. This theme highlights the majority of the bills that stood out to many and went on to define this Legislature's priorities such as open carry gun laws, a host of oil and gas laws and authorizing the use of cannabis or THC primarily for Epilepsy patients and for patients with other certain medical conditions. It should be noted that in spite of the approval of cannabis for medical reasons, Texas enacted a law to include as a ***crime use of synthetic cannabinoids.*** These drugs seek to mimic the effects of marijuana and LSD but are substantially more potent with deadly consequences. Teens and young people everywhere are overdosing or dying from ingesting this previously non punishable drug.

A new source of data relevant to the ***Black Lives Matter*** Movement was enacted by HB 1036 which requires law enforcement to report officer-involved injuries or deaths and certain injuries or deaths of peace officers to the Office of the Texas Attorney General. The bill contains deadlines for law enforcement reporting following an incident and deadlines for posting online by the OAG. The list of incidents reported since September 1, 2015 can be found at http://www.utexas.edu/cola/iupra/ag-database.php.

The passage of the bill ***eliminating the statute of limitations for sexual assault*** might well have been instigated by the current Bill Cosby controversies. Previously, the statute of limitations for sexual assault has typically been10 years from the date of the commission of the offense, and only under certain circumstances was there no statute of limitations. There is now no limitation period in cases where probable cause exists to believe that the defendant has committed the same or a similar sexual offense against five or more victims. This additional provision is the reason some may refer to this bill as the ***Cosby Bill***. In many circumstances it takes several years for a victim of sexual assault to overcome the emotional trauma of the assault and come forward to authorities. In other cases, due to technological limitations, the proper processing of certain evidence might not be able to occur until years later when new technology advances are made.

Additionally, both chambers passed a bill that authorizes judges to grant ***DNA testing where there is reasonable likelihood that exculpatory biological evidence exists to prove actual innocence.*** Specifically, this legislation clarifies that a judge in a post-conviction proceeding has the authority to grant testing in situations where the judge believes there is a "reasonable likelihood" that credible exculpatory biological evidence exists and meets the other standards for access to testing under Chapter 64 of the Code of Criminal Procedure. Further, this bill clarifies that a judge is not barred from considering the possibility of a combined DNA index system (CODIS) database match in its determination of whether evidence might be exculpatory, and may consider the possibility of a CODIS database match when determining whether such evidence could provide an "exculpatory result."

The most heated debate ensued over a legislative proposal to permit the ***carry of concealed guns at public colleges and university buildings.*** Opponents of the bill derided that less restrictive gun laws do not lead to safety on campus. Supporters of the bill asserted that the Second Amendment gives the right to bear arms and should not be infringed upon. Governor Abbott signed the bill into law; however, this bill left some discretion to Texas' Public Colleges and University Presidents to determine how to integrate and implement the law into its own campus policy although, public colleges and universities cannot completely ban guns on campus. The legislation does not specify as to where guns can be carried on college campuses. Public colleges and universities are required to establish a review committee consisting of the university's students, faculty and administrators in order to create guidelines as to where guns are permitted on campus and to designate gun free zones. Texas' private colleges and universities are not required to permit guns on campus and can outright ban them. This law will go into effect on August 1, 2016. Ironically, that will be the date of the *50th anniversary of the "Tower Massacre" at the University of Texas at Austin.* In this massacre, Charles Whitman climbed to the top of the clock tower on the UT campus and shot 43 people, killing 13. Historians have referred to this catastrophic event as "the first mass murder in a public space" in Texas.

The House and Senate passed a bill that ***decriminalizes truancy*** in schools. Texas and Wyoming were the only two states who criminalized in-school behaviors and truancy. Over 100,000 children per year were being sent to court for what Representative Harold Dutton called "playing

hooky" where they could be fined up to $500 for skipping class. The end result could be a criminal record and an arrest at the age of 17. The Earl Carl Institute, represented numerous students in these cases and we were proud to collaborate with other organizations on efforts to eliminate the criminalization of status offenses. We also testified at legislative hearings about the horrific results that were possible consequence of this practice.

The Texas Legislature should be praised for making ***access to justice*** easier for low income individuals by passing bills which make the legal process easier to navigate for self-represented individuals. Beginning September 1, 2015, ***Texas allows you to leave real estate with transfer-on-death deeds***. These deeds are sometimes called beneficiary deeds. You sign and record the deed now, but it doesn't take effect until your death. You can revoke the deed or sell the property at any time; the beneficiary you name on the deed has no rights until your death. Further, the legislature directed to ***Texas Supreme Court to promulgate certain forms and instructions for self-represented parties and attorneys in probate and landlord-tenant matters.***

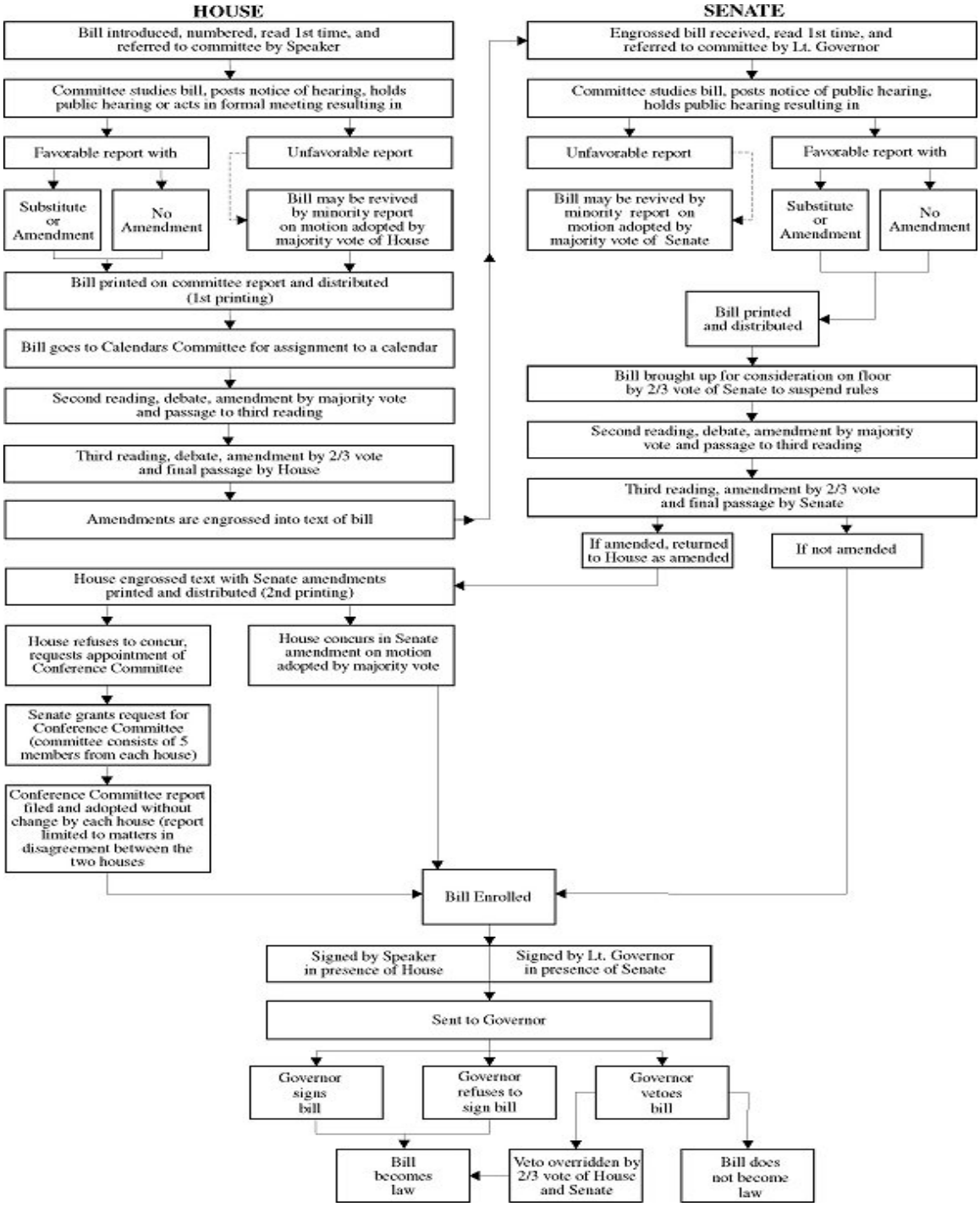
The legislature ***increased funding to the Texas Indigent Defense Commission*** by $7.5 million over the current biennium in part to expand funding for local indigent defense funding and the Regional Public Defender for Capital Cases. In addition, the state increased funding for civil legal aid by $13 million dollars and expanded the types of fines, fees, and other collections that can be allocated to basic civil legal services funding.

The legislature also ***repealed the $200 "professionals' tax" imposed on lawyers***, doctors, engineers and other licensed professions. This tax repeal went into effect on September 1, 2015 and doesn't relieve professionals of taxes owed from the previous tax year.

There is so much information to share that we obviously couldn't include everything in one report. Please excuse us if you come across a new law that you believe should have been included in our report. In such case, please feel free to contact us for an analysis of that law. We put a great deal of time and effort into this compilation and truly hope you enjoy this report. If we can be of service to other organizations and elected officials in policy change research and educational contributions, please do not hesitate to email us at earlcarlinstitute@tmslaw.tsu.edu or call the Institute at 713.313.1139. It is always our pleasure to be of service to the community.

On behalf of Texas Southern University's Thurgood Marshall School of Law, please enjoy!

Diagram of the Legislative Process[1]



[1] Guide to Texas Legislative Information (Revised), Texas Legislative Council for the 84th Legislature, http://www.tlc.state.tx.us/pubslegref/gtli.pdf.

I. Election

1. **H.B. 2027** (Bonnen) *Relating to establishing precincts for elections held on a uniform election date.*
   Summary – Many Texas residents, particularly those in suburban and urban communities, may be qualified voters in more than one political subdivision or district. The large number of entities holding elections at various times and in various polling places may lead to confusion for voters who believe they are familiar with their standard voting location. This bill seeks to reduce this confusion regarding the location of voting precincts for elections held on a uniform election date. Specifically, H.B. 2027 requires that all elections on uniform election dates in both May and November use the regular county precincts as election precincts and the regular county polling places as election polling places. The bill creates an exception for elections held on the May uniform election date by a political subdivision that conducted early voting by personal appearance at each permanent or temporary branch polling place on the same days and during the same hours that voting was conducted at the main early voting polling place. H.B. 2027 seeks to give voters predictability and uniformity in their polling locations. H.B. 2027 amends current law relating to establishing precincts for elections held on a uniform election date by certain political subdivisions.
   Codification: Sections 42.002 (a), 42.062, 43.004(b), Election Code
   Effective Date: September 1, 2015

2. **H.B. 2366** (Goldman) *Relating to the notation on the precinct list of registered voters that a voter voted early)*
   Summary – H.B. 2366 amends the Election Code to require the early voting clerk to enter "early voting voter" beside the name of each person on the precinct list of registered voters whose name appears on the list of early voting voters and, not later than the day before the election, to deliver the precinct list to the presiding judge of the election precinct. This bill is alleged to prevent early voters from voting a second time on Election Day.
   Codification: 87.122, Election Code
   Effective Date: September 1, 2015

3. **H.B. 2721** (Blanco) *Relating to public notice of the time for voting during an early voting period.*
   Summary – This law seeks to make voting information more accessible to the voting public by requiring public notice of the time for voting during an early voting period to also be posted on the website of the authority ordering the election if the authority maintains a website and, for a primary election or general election, by the secretary of state on the secretary's website. The bill requires the authority ordering an election to forward its election notice to the secretary of state in a manner that affords the secretary of state sufficient time to post notice of the time for voting during an early voting period on the secretary of state's website, if applicable.
   Codification: Section 85.007, Election Code
   Effective Date: September 1, 2015

4. **H.B. 2778** (Elkins) *Relating to the elections for which federal postcard applicant voters may be sent ballots by email.*

Summary – The Federal Post Card Application (FPCA) allows eligible U.S. citizens to apply to register to vote, request an absentee ballot and/or update their contact information with their local election office. The information provided on the FPCA is all the local election office has to determine if the voter meets the State voter registration requirements, which election materials to send the voter and where and how to send the ballot. Currently this is available by email in elections involving federal office or issue but not only a local or state election. H.B. 2778 amends the Election Code to authorize balloting materials to be sent by e-mail for any election in which the voter who registers under statutory provisions relating to voting by a resident federal postcard applicant is eligible to vote and removes a provision limiting that authorization to certain elections.
Codification: Section 101.104, Election Code
Effective Date: September 1, 2015

5. **S.B. 795** (Perry) *Relating to establishing an interstate voter registration crosscheck program.*
Summary – S.B. 795 amends the Election Code to require the secretary of state, for purposes of maintaining the statewide voter registration list and preventing duplication of registration in more than one state or jurisdiction, to opt into an interstate crosscheck program for identifying duplications on registrations. The bill requires such a system to comply with the federal National Voter Registration Act.
Codification: Section 18.062, Election Code
Effective Date: September 1, 2015

II. Criminal Justice

6. **H.B. 189** (Thompson, Senfronia) *Relating to the elimination of the statute of limitations for the offenses of sexual assault and aggravated sexual assault.*
Summary – H.B. 189 amends the Code of Criminal Procedure to include all offenses of sexual assault or aggravated sexual assault, rather than only offenses involving a child victim or unidentified biological material, among the offenses for which there is no statute of limitations.
Codification: Article 12.01 of the Code of Criminal Procedure
Effective Date: September 1, 2015

7. **H.B. 207** *(Hinojosa),* r*elating to creating the offense of voyeurism; providing a penalty.*
Summary – H.B. 207 amends the Penal Code to create the Class C misdemeanor offense of voyeurism for a person who, with the intent to arouse or gratify the sexual desire of the actor, observes another person without the other person's consent while the other person is in a dwelling or structure in which the other person has a reasonable expectation of privacy. The bill enhances the penalty to a Class B misdemeanor if it is shown on the trial of the offense that the actor has previously been convicted two or more times of a voyeurism offense and to a state jail felony if the victim was a child younger than 14 years of age at the time of the offense. The bill establishes that if conduct constituting the voyeurism offense also constitutes an offense under any other law, the actor may be prosecuted under either law or both laws.
Codification: Section 21.16, Penal Code
Effective Date: September 1, 2015

8. **H.B. 1293 (**Alvarado | Herrero | Davis, Sarah | Dale | Moody) *Relating to the confidentiality of identifying information of victims of stalking; creating a criminal offense.*

   Summary - Due to the sensitive nature of certain sexual, family violence, or human trafficking offenses, there is a way to protect a victim's identity in order to ensure the victim's safety. Currently, obtaining a pseudonym for use in certain public records is an option for a victim of such offenses who wishes to remain anonymous. Interested parties assert that this protection should also be available to a victim of stalking because a stalking victim's safety may be similarly in jeopardy if the victim's identity is prematurely made public. The bill prohibits a public servant or other person who has access to or obtains the name, address, telephone number, or other identifying information of a victim younger than 17 years of age from releasing or disclosing the identifying information to any person who is not assisting in the investigation, prosecution, or defense of the case, except as required or permitted by other law or by court order. The bill excludes from that prohibition the release or disclosure of a victim's identifying information by the victim or the victim's parent, conservator, or guardian, unless the victim's parent, conservator, or guardian allegedly committed the offense.

   H.B. 1293 makes it a Class C misdemeanor for a public servant with access to the name, address, or telephone number of a victim 17 years of age or older who has chosen a pseudonym to knowingly disclose the name, address, or telephone number of the victim to any person who is not assisting in the investigation or prosecution of the offense or to any person other than the defendant, the defendant's attorney, or the person specified in the order of a court of competent jurisdiction. The bill makes it a Class C misdemeanor for a public servant or other person who has access to or obtains that information with respect to a victim younger than 17 years of age to knowingly make such a disclosure to those persons, unless the disclosure is required or permitted by other law, and establishes an affirmative defense to prosecution for this offense that the actor is the victim or the victim's parent, conservator, or guardian, unless the victim's parent, conservator, or guardian allegedly committed the offense.

   H.B. 1293 amends the Property Code to require a tenant who is seeking to terminate the tenant's lease, vacate the dwelling, and avoid related liability following certain stalking offenses to provide to the landlord or the landlord's agent a copy of a pseudonym form completed and returned under the bill's provisions if the applicable law enforcement incident report identifies the victim of stalking by means of a pseudonym.

   Codification: Chapter 57A of the Code of Criminal Procedure; Section 92.0161 of the Texas Property Code.

   Effective Date: September 1, 2015

9. **H.B. 1546** (Allen) *Relating to the award of diligent participation credit to defendants confined in a state jail felony facility.*

   Summary - Offenders serving a sentence for a state jail felony currently do not earn good conduct time for time served in the facility. However, with the passing of House Bill 2649 in the 82nd Texas legislative session, some state jail offenders may be awarded diligent participation credit by their sentencing judge. Any offender convicted of a state jail felony offense committed on or after September 1, 2011, may be eligible for time credit based on diligent participation in programs such as work, education, and/or treatment. Often times, a defendant has not received the full benefit of the credit by the time the court has received, processed, and approved the credit. H.B. 1546 amends the Code of Criminal Procedure to remove the requirement that the Texas Department of Criminal Justice (TDCJ) report to a court that sentences a defendant to confinement in a state jail felony facility within a specified period the number of days during

which the defendant diligently participated in an educational, vocational, treatment, or work program and to instead require TDCJ to record the number of such days. The bill removes the authority of the judge of the sentencing court to credit against the defendant's sentence additional time based on the recorded number of days and instead requires TDCJ to credit such time against the defendant's sentence.

Codification: Sections 15(h)(5) and (6), Article 42.12, Code of Criminal Procedure

Effective Date: September 1, 2015

10. **H.B. 1908 (**Naishtat) *Relating to the continuity of care for offenders with mental impairments*

Summary - H.B. 1908 amends the Health and Safety Code to require, subject to available resources and to the extent feasible, that the methods established for the continuity of care system instituted for offenders with mental impairments in the criminal justice system under a memorandum of understanding between certain state and local agencies and authorities ensure that each offender with a mental impairment is identified and qualified for the system and serve adults with severe and persistent mental illness who are experiencing significant functional impairment due to a mental health disorder that is defined by the Diagnostic and Statistical Manual of Mental Disorders, 5th Edition.

Codification: Section 614.013, Health and Safety Code

Effective Date: September 1, 2015

11. **H.B. 634** (Metcalf) *relating to the rights of a guardian of a person in the criminal justice system*

Summary - H.B. 634 amends the Code of Criminal Procedure to authorize the court-appointed guardian of an incapacitated defendant who provides a court with the certificate constituting the letters of guardianship to provide information relevant to the determination of the defendant's indigency and to request that counsel be appointed for the defendant's arraignment. This authorization applies to a defendant for whom indigency is at issue, regardless of whether the defendant is arrested before, on, or after the bill's effective date.

H.B. 634 amends the Government Code to require the visitation policies for facilities operated by the institutional division and the state jail division of the Texas Department of Criminal Justice (TDCJ) to allow visitation by such a court-appointed guardian of an inmate of a facility operated by the institutional division or of a defendant confined in a state jail felony facility, as applicable, to the same extent as the inmate's or defendant's next of kin, including placing the guardian on the inmate's or defendant's approved visitors list on the guardian's request and providing the guardian access to the inmate or defendant during a facility's standard visitation hours if the inmate or defendant is otherwise eligible to receive visitors. The bill requires the visitation policies to require the guardian to provide the warden or director of the facility with a certificate constituting the letters of guardianship before being allowed to visit the inmate or defendant, as applicable. The bill requires TDCJ to revise the visitation policies to reflect these requirements not later than December 1, 2015.

H.B. 634 requires the Commission on Jail Standards to adopt reasonable rules and procedures regarding visitation of a prisoner at a county jail by a guardian that allow visitation by the guardian to the same extent as the prisoner's next of kin, including placing the guardian on the prisoner's approved visitors list on the guardian's request and providing the guardian access to the prisoner during a facility's standard visitation hours if the prisoner is otherwise eligible to receive visitors and that require the guardian to provide the sheriff with the certificate constituting the letters of guardianship before being allowed to visit the prisoner. The bill requires the commission to establish such rules and procedures not later than December 1, 2015.

Codification: Chapter 26 of the Code of Criminal Procedure
Effective Date: September 1, 2015

12. **H.B. 1914 (**Bonnen, Dennis | Fallon) *Relating to the frequency with which the Board of Pardons and Paroles considers the eligibility of certain inmates for release on parole.*
Summary - H.B. 1914 amends the Government Code to create an exception to the requirement that the month during which the Board of Pardons and Paroles is required to reconsider for release certain inmates, as designated by the parole panel that denied release, begin after the first anniversary of the date of the denial and end before the fifth anniversary of the date of the denial for an inmate who is serving a sentence for an aggravated sexual assault offense or a life sentence for a capital felony. The bill requires the designated month for such an inmate to begin after the first anniversary of the date of the denial and end before the 10th anniversary of the date of the denial.
Codification: Section 508.141, Government Code
Effective Date: September 1, 2015

13. **H.B. 2189** (Parker) *relating to a developmentally disabled offender program established by the Texas Department of Criminal Justice.*
Summary - H.B. 2189, cited as the ***Radford Crocker Memorial Act***, amends the Government Code to require the Texas Department of Criminal Justice (TDCJ) to establish and maintain a program for inmates and state jail defendants confined in a correctional facility who are suspected of or identified as having an intellectual disability or borderline intellectual functioning and whose adaptive functioning is significantly impaired. The bill requires the program to provide such an offender with a safe environment while confined and specialized programs, treatments, and activities designed by TDCJ to assist the offender in effectively managing, treating, or accommodating the offender's intellectual disability or borderline intellectual functioning.
Codification: Section 501.068, Government Code
Effective Date: September 1, 2015

14. **H.B. 2246** (Villalba/Harless/Johnson/Koop) *Relating to the restriction of certain intoxication offenders to the operation of a motor vehicle with an ignition interlock device in lieu of a license suspension.*
Summary - H.B. 2246 amends the Code of Criminal Procedure to authorize a defendant whose driver's license is suspended for offense of driving while intoxicated, driving while intoxicated with a child passenger, flying while intoxicated, boating while intoxicated, assembling or operating an amusement ride while intoxicated, intoxication assault, or intoxication manslaughter to operate a motor vehicle during the period of suspension if the defendant obtains and uses an ignition interlock device for the entire period of the suspension and applies for and receives an occupational driver's license with an ignition interlock designation.

H.B. 2246 amends the Transportation Code to entitle a person convicted of such an intoxication offense who is restricted to the operation of a motor vehicle equipped with an ignition interlock device to receive an occupational license without a finding that an essential need exists for that person, provided that the person shows evidence of financial responsibility under the Texas Motor Vehicle Safety Responsibility Act and proof that the person has had an ignition interlock device installed on each motor vehicle owned or operated by the person.

H.B. 2246 prohibits a person who is restricted to the operation of a motor vehicle equipped with an ignition interlock device from being subject to any time of travel, reason for travel, or location of travel restrictions described by statutory provisions relating to requirements specified in an order granting an occupational license. The bill requires the court to revoke a person's occupational license and reinstate the suspension of the person's driver's license if the person fails to maintain an installed ignition interlock device on each motor vehicle owned or operated by the person.

Codification: Section 42.12(o), Code of Criminal Procedure; Section 49.09(h), Penal Code; and Chapter 521 of the Transportation Code

Effective Date: September 1, 2015

15. **H.B. 2583** (Bell) *Relating to access to criminal history record information by a county sheriff.*

Summary - H.B. 2583 amends the Government Code to entitle a county sheriff to obtain from the Department of Public Safety (DPS) criminal history record information maintained by DPS that relates to an applicant for employment or membership with a fire department or an emergency medical services provider for an unincorporated area or to an employee or member of such a department or provider on request of the department chief or chief executive of the fire department or emergency medical services provider. The bill authorizes the county sheriff to disclose such information to the department chief or chief executive but limits the sheriff's disclosure of information obtained by DPS from the Federal Bureau of Investigation to governmental entities or as authorized by federal law, federal executive order, or federal rule.

Codification: Section 411.1237, Government Code

Effective Date: September 1, 2015

16. **H.B. 3387** (Krause/Murphy/White/Fallon) *Relating to sex offender treatment as a condition of parole or mandatory supervision for certain releases.*

Summary - H.B. 3387 amends the Government Code to require a parole panel to require as a condition of release on parole or to mandatory supervision that a releasee participate in a sex offender treatment program developed by the Texas Department of Criminal Justice if the releasee was serving a sentence for a Penal Code sexual offense or is required to register as a sex offender and if immediately before release the releasee is participating in a sex offender treatment program.

Codification: Chapter 508, Government Code

Effective Date: September 1, 2015

17. **S.B. 158** (West) *Relating to a body worn camera program for certain law enforcement agencies within the state.*

Summary - *Grants to create body worn camera programs:* S.B. 158 authorizes the governor's office to provide grants to law enforcement agencies around the state by amending the Occupations Code to authorize a police department of a municipality in Texas, a sheriff of a county in Texas who has received the approval of the commissioners court for the purpose, or the Department of Public Safety (DPS) to apply to the governor's office for a grant to defray the cost of implementing a body worn camera program and to equip peace officers with body worn cameras if that law enforcement agency employs officers who are engaged in traffic or highway patrol, otherwise regularly detain or stop motor vehicles, or are primary responders who respond directly to calls for assistance from the public.

S.B. 158 requires a law enforcement agency that receives a grant to provide body worn cameras to its peace officers or that otherwise operates a body worn camera program to adopt a policy for the use of body worn cameras. The bill requires such a policy to ensure that a body worn camera is activated only for a law enforcement purpose and sets out additional required contents of the policy. The bill prohibits such a policy from requiring a peace officer to keep a body worn camera activated for the entire period of the officer's shift and requires such a policy to be consistent with the Federal Rules of Evidence and the Texas Rules of Evidence.

S.B. 158 requires a law enforcement agency, before the agency is authorized to operate a body worn camera program, to provide training to peace officers who will wear the body worn cameras and to any other personnel who will come into contact with video and audio data obtained from the use of body worn cameras. The bill requires TCOLE, not later than January 1, 2016, to develop or approve a curriculum for such a training program in consultation with DPS, the Bill Blackwood Law Enforcement Management Institute of Texas, the W. W. Caruth Jr. Police Institute at Dallas, and the Texas Police Chiefs Association.

Officer Right Not to Record: S.B. 158 requires a peace officer equipped with a body worn camera to act in a manner that is consistent with the policy of the law enforcement agency that employs the officer with respect to when and under what circumstances a body worn camera must be activated. The bill authorizes a peace officer equipped with a body worn camera to choose not to activate a camera or choose to discontinue a recording currently in progress for any non-confrontational encounter with a person, including an interview of a witness or victim. The bill requires a peace officer who does not activate a body worn camera in response to a call for assistance to include in the officer's incident report or otherwise note in the case file or record the reason for not activating the camera. The bill establishes that any justification for failing to activate the body worn camera because it is unsafe, unrealistic, or impracticable is based on whether a reasonable officer under the same or similar circumstances would have made the same decision.

S.B. 158 makes it a Class A misdemeanor for a peace officer or other employee of a law enforcement agency to release a recording created with a body worn camera under the bill's provisions without permission of the applicable law enforcement agency.

S.B. 158 prohibits a recording created with a body worn camera that documents an incident involving the use of deadly force by a peace officer or a recording that is otherwise related to an administrative or criminal investigation of an officer from being deleted, destroyed, or released to the public until all criminal matters have been finally adjudicated and all related administrative investigations have concluded. The bill authorizes a law enforcement agency to release such a recording to the public if the agency determines that the release furthers a law enforcement purpose. The bill establishes that its provisions relating to body worn camera recordings as evidence do not affect the authority of a law enforcement agency to withhold, under state public information law, information related to a closed criminal investigation that did not result in a conviction or a grant of deferred adjudication community supervision.

Disclosure of Recordings to the Public: S.B. 158 requires a member of the public, when submitting a written request to a law enforcement agency for information recorded by a body worn camera, to provide the date and approximate time of the recording, the specific location where the recording occurred, and the name of one or more persons known to be a subject of the recording. The bill establishes that a failure to provide all of the information required to be part of such a request does not preclude the requestor from making a future request for the same recorded information. The bill exempts information recorded by a body worn camera and held by

a law enforcement agency from the disclosure requirement under state public information law relating to the availability of public information during normal business hours of a governmental body, except information that is or could be used as evidence in a criminal prosecution, which is subject to that requirement. The bill authorizes a law enforcement agency to seek to withhold such information subject to that disclosure requirement in accordance with relevant procedures, to assert any lawful exceptions to disclosure, or to release information requested by a member of the public after the agency redacts any information made confidential by law. The bill prohibits a law enforcement agency from releasing any portion of a recording made in a private space, defined by the bill as a location in which a person has a reasonable expectation of privacy, or of a recording involving the investigation of conduct that constitutes a misdemeanor punishable by fine only and does not result in arrest, without written authorization from the person who is the subject of that portion of the recording or, if the person is deceased, from the person's authorized representative. The bill requires the attorney general to set a proposed fee to be charged to members of the public who seek to obtain a copy of a recording under the bill's provisions, requires the fee amount to be sufficient to cover the cost of reviewing and making the recording, and authorizes a law enforcement agency to provide a copy without charge or at a reduced charge if the agency determines that such a waiver or reduction is in the public interest. S.B. 158 specifies deadlines by which certain requests, responses, and submissions by a governmental body relating to a body worn camera recording are considered timely, notwithstanding certain provisions of the state public information law. The bill establishes that an officer for public information who is employed by a governmental body and who receives a voluminous request for information recorded by a body worn camera is considered to have promptly produced such information for purposes of state public information law if the officer takes the required actions before the 21st business day after the date of receipt of the written request.

Codification- Effective Date: September 1, 2015

Effective Date: September 1, 2015

18. **S.B. 172** (Huffman) *Relating to the addition of certain substances to Penalty Groups 1-A and 2 of the Texas Controlled Substances Act for criminal prosecution and other purposes.*

Summary – A continuing trend in <u>legal synthetic drugs</u> is designer psychedelics which, when ingested, mimic the effects of LSD or ecstasy, commonly referred to as 25-I. 25-I and its chemical cousins are an extremely dangerous class of synthetic drugs being sold in Texas. These drugs seek to mimic the effects of LSD but are substantially more potent with deadly consequences. Teens and young people everywhere are overdosing or dying from ingesting this non punishable drug. In early 2014, the crime laboratory of the Texas Department of Public Safety reported over 54 cases where 25-I was identified. S.B. 172 amends current law relating to the addition of certain substances to Penalty Groups 1-A and 2 of the Texas Controlled Substances Act for criminal prosecution and other purposes.

Codification: Section 481.002 of the Health and Safety Code

Effective Date: September 1, 2015

19. **S.B. 173** (Huffman) *Relating to the designation for criminal prosecution and other purposes of certain chemicals commonly referred to as synthetic cannabinoids as controlled substances and controlled substance analogues under the Texas Controlled Substances Act.*

Summary – S.B. 173 amends the Health and Safety Code to change the substances listed in Penalty Group 2-A of the Texas Controlled Substances Act from any quantity of a synthetic chemical compound that is a cannabinoid receptor agonist and mimics the pharmacological effect of naturally occurring cannabinoids to any material, compound, mixture, or preparation

that contains any quantity of certain natural or synthetic chemical substances listed by name or contained within one of the structural classes defined by the bill. The bill revises the controlled substances listed and defines certain chemical structural classes in Penalty Group 2-A. The bill establishes that Penalty Group 2-A, for the purposes of the prosecution of an offense under the Texas Controlled Substances Act involving the manufacture, delivery, or possession of a controlled substance, includes a controlled substance analogue that has a chemical structure substantially similar to the chemical structure of a controlled substance listed in Penalty Group 2-A or is specifically designed to produce an effect substantially similar to, or greater than, a controlled substance in Penalty Group 2-A.
Codification: Section 481.002, Health and Safety Code
Effective Date: September 1, 2015

20. **S.B. 316** (Hinojosa) *Relating to the prioritization of certain available legal defense services when appointing representation for an indigent defendant in a criminal case.*
Summary – To facilitate the use of public defenders, S.B. 316 amends the Code of Criminal Procedure to change the provision to indicate that a court "shall give priority" to appoint a public defender, with the stated exception that the court is not required to appoint the public defender's officer if the court finds good cause to appoint other counsel, or where counsel is provided by a county managed assigned counsel program.
Codification: Articles 26.04 (f), (h) and (i) of the Code of Criminal Procedures
Effective Date: September 1, 2015

21. **S.B. 578** (Hinojosa | Rodríguez) *Relating to providing inmates of the Texas Department of Criminal Justice with information regarding reentry and reintegration resources.*
Summary – .S.B. 578 amends the Government Code to require the Texas Department of Criminal Justice (TDCJ) to identify organizations that provide reentry and reintegration resource guides and to collaborate with those organizations to prepare a resource guide that is to be made available to all inmates.
Codification: Section 501.0971, Government Code
Effective Date: September 1, 2015

A. Human Trafficking

22. **H.B. 10** (Thompson) *Relating to certain criminal and civil consequences of trafficking persons, compelling prostitution and certain other related criminal offenses; to the prevention, prosecution and punishment of those offenses and to compensation paid to victims of those offenses.*
Summary - H.B. 10 amends the Code of Criminal Procedure to remove the statute of limitations for the felony offense of compelling prostitution of a child younger than 18 years of age. The bill includes in the definition of "trafficking of persons," for purposes of the Crime Victims' Compensation Act, any offense that results in a person engaging in forced labor or services, including sexual conduct. The bill allows compensation to a claimant or victim who seeks compensation under that act for criminally injurious conduct that is in violation of a trafficking of persons offense committed by a person who knowingly traffics a child and by any means causes the trafficked child to engage in, or become the victim of, certain prohibited sexual conduct or for criminally injurious conduct that is trafficking of persons if the conduct or activity

was the result of force, fraud, or coercion. The bill includes in the definition of "reportable conviction or adjudication," for purposes of the requirement to register as a sex offender.

H.B. 10 amends the Education Code to include reports related to the trafficking of a child under certain specified trafficking of persons offenses among the reports of child abuse or neglect for which the Texas Education Agency is required to develop a governing policy and includes the trafficking of a child under certain specified trafficking of persons offenses among the child abuse or neglect each school district and open-enrollment charter school employee is required to report in the manner required by the Family Code.

This bill includes the problems of trafficking of persons among the problems of family violence, sexual assault, and child abuse and neglect for which the Texas Court of Criminal Appeals is required to assure that judicial instruction and training are provided for judges, masters, referees, and magistrates.

H.B. 10 modifies the membership of the human trafficking prevention task force and expands the work of the task force. The bill changes the expiration date of the task force from September 1, 2015, to September 1, 2017.

H.B. 10 requires the governor to establish the Child Sex Trafficking Prevention Unit within the criminal justice division in the governor's office and to appoint a director for the unit to serve at the pleasure of the governor. The bill requires the unit to assist the office of the attorney general, HHSC, DFPS, TJJD, DSHS, TABC, and DPS in leveraging and coordinating state resources directed toward child sex trafficking prevention; to facilitate collaborative efforts among those agencies to prevent child sex trafficking, to recover victims of child sex trafficking, and to place victims of child sex trafficking in suitable short-term and long-term housing; to collect and analyze research and information in all areas related to child sex trafficking and to distribute the research, information, and analyses to the agencies and to relevant nonprofit organizations; to refer victims of child sex trafficking to available rehabilitation programs and other resources; to provide support for child sex trafficking prosecutions; and to develop recommendations for improving state efforts to prevent child sex trafficking that are to be submitted to the legislature as part of the criminal justice division's required biennial report.

H.B. 10 amends the Penal Code to add the specification to the offense of continuous trafficking of persons that a person commits such an offense if the conduct that constitutes the underlying trafficking of persons offense is against one or more victims. The bill establishes that a party to an offense of trafficking of persons or continuous trafficking of persons may be required to provide evidence or testify about the offense. The bill prohibits a party to an offense of trafficking of persons or continuous trafficking of persons from being prosecuted for any offense about which the party is required to provide evidence or testify and prohibits the evidence and testimony from being used against the party in any adjudicatory proceeding except a prosecution for aggravated perjury. The bill establishes that a conviction of an offense of trafficking of persons or continuous trafficking of persons may be had on the uncorroborated testimony of a party to the offense. The bill expands the conduct that constitutes a second degree felony prostitution offense if the person solicited is younger than 18 years of age, regardless of whether the actor knows the age of the person solicited at the time the actor commits the offense, to include the solicitation of a person represented to the actor as being younger than 18 years of age or believed by the actor to be younger than 18 years of age.

Codification: Article 12.01, Code of Criminal Procedure

Effective Date: September 1, 2015

23. **H.B. 188** (Thompson) *Relating to the continuation and duties of the human trafficking prevention task force.*

Summary - H.B. 188 amends the Government Code to continue the Human Trafficking Prevention Task Force until September 1, 2017. The bill requires the task force to develop recommendations for addressing the demand for forced labor or services or sexual conduct involving victims of human trafficking, including recommendations for increased penalties for individuals who engage or attempt to engage in prostitution with victims younger than 18 years of age

Codification: Section 402.035 (d) and (h), Government Code

Effective Date: May 28, 2015

24. **H.B. 416** (Riddle) *Relating to requiring personnel of abortion facilities and certain other facilities performing abortions to complete training on human trafficking.*

Summary - H.B. 416 seeks to equip abortion facility workers with the training to identify human trafficking victims. H.B. 416 amends the Health and Safety Code to require the executive commissioner of the Health and Human Services Commission by rule to develop a one-time basic education and training program on the trafficking of persons that consists of at least four hours of training and includes a review of the substance of the offenses of trafficking of persons and compelling prostitution.

Codification: Chapter 171, Health and Safety Code

Effective Date: September 1, 2015

25. **H.B. 418** (Wu) *Relating to child victims of trafficking who are placed in the managing conservatorship of the Department of Family and Protective Services.*

Summary - Noting that child victims of human trafficking or sex trafficking are frequently conditioned by their handlers to run away from police officers or child protective services workers, if given the opportunity, concerned parties asserted that there is a need for police officers and child protective services workers to have the authority to act quickly in a situation involving a child who is a victim of human trafficking in order to provide the child with a safe refuge and specialized services.

418 amends the Human Resources Code to authorize the commissioner's court of a county or governing body of a municipality to contract with a child-placing agency to verify a secure agency foster home or secure agency foster group home to provide a safe and therapeutic environment tailored to the needs of children who are victims of trafficking.

H.B. 418 amends the Family Code to authorize a court in an emergency, initial, or full adversary hearing conducted in a child protection suit to order that the child who is the subject of the hearing be placed in a verified secure agency foster home or secure agency foster group home if the court finds that the placement is in the best interest of the child and that the child's physical health or safety is in danger because the child has been recruited, harbored, transported, provided, or obtained for forced labor or commercial sexual activity, including any child subjected to an act that constitutes a trafficking or continuous trafficking offense.

Codification: Section 262.011, Family Code

Effective Date: September 1, 2015

26. **H.B. 968** (Hernandez) *Relating to civil liability of shareholders and members of certain legal entities that engage in the trafficking of persons.*

Summary - H.B. 968 amends the Civil Practice and Remedies Code to establish that if a corporation, limited liability company, or professional entity governed under the Business Organizations Code is liable for trafficking of persons, a shareholder or member of that legal entity is jointly and severally liable with the entity to a person trafficked for damages arising from the trafficking of that person if the person demonstrates that the shareholder or member caused the entity to be used for the purpose of trafficking that person and did traffic that person for the direct personal benefit of the shareholder or member.
Codification: Section 98.0025, Civil Practice and Remedies Code
Effective Date: June 1, 2015

27. **S.B. 630** (Rodríguez) *Relating to protective orders for certain victims of sexual assault or abuse, stalking, or trafficking.*
Summary – S.B. 630 amends the Code of Criminal Procedure to authorize a person who is a victim of a continuous trafficking of persons offense and a prosecuting attorney acting on behalf of a person who is the victim of a continuous trafficking of persons offense, acting on behalf of a parent or guardian acting on behalf of a person younger than 17 years of age who is a victim of certain sexual offenses, certain sexual assaultive offenses, or a stalking offense, or acting on behalf of a parent or guardian acting on behalf of a person younger than 18 years of age who is the victim of certain trafficking offenses or a compelling prostitution offense to file an application for a protective order without regard to the relationship between the applicant and the alleged offender. The bill entitles certain victims of certain sexual offenses, certain sexual assaultive offenses, a stalking offense, certain trafficking offenses, or a compelling prostitution offense and the victim's parent or guardian to the following rights:
    - the right to request that the attorney representing the state, subject to the Texas Disciplinary Rules of Professional Conduct, file a protective order application on behalf of the victim;
    - the right to be informed that the victim or the victim's parent or guardian, as applicable, may file a protective order application; to be informed of the court in which the application may be filed; to be informed that, on request of the victim or of the victim's parent or guardian, as applicable, and subject to the Texas Disciplinary Rules of Professional Conduct, the attorney representing the state may file the application;
    - the right to be given by the court, if the victim or the victim's parent or guardian, as applicable, is present when the defendant is convicted or placed on deferred adjudication community supervision, the information of the court in which the protective order application may be filed and, if the court has jurisdiction over protective order applications, the right to file an application immediately following the defendant's conviction or placement on deferred adjudication community supervision; and
    - the right to be given by the attorney representing the state the information of the court in which a protective order application may be filed, if the victim or the victim's parent or guardian, as applicable, is not present when the defendant is convicted or placed on deferred adjudication community supervision.

Codification: Article 7A.01 (a), Code of Criminal Procedure
Effective Date: September 1, 2015

B. Criminal Procedure

28. H.B. 121 (Fletcher | Canales | Bell | Pickett | Flynn) *Relating to an alternative means of payment of certain criminal fines and court costs.*

Summary – H.B. 121 amends the Code of Criminal Procedure to authorize a court to adopt an alternative procedure for collecting a defendant's past due payment on a judgment for a fine and related court costs if a capias pro fine has been issued in the case. The bill requires, under the alternative procedure, a peace officer who executes a capias pro fine or who is authorized to arrest a defendant on other grounds and who knows that the defendant owes such a past due payment to inform the defendant of the possibility of making an immediate payment of the fine and related court costs by use of a credit or debit card and of the defendant's available alternatives to making an immediate payment. The bill authorizes the peace officer, on behalf of the court, to accept the defendant's immediate payment of the fine and related court costs by use of a credit or debit card, after which the peace officer is authorized to release the defendant as appropriate based on the officer's authority for the arrest. The bill authorizes a peace officer accepting such an immediate payment to also accept payment for fees for the issuance and execution of the capias pro fine.

Codification: Chapter 103 of the Code of Criminal Procedure

Effective Date: June 15, 2015

29. H.B. 324 (Dutton) *Relating to a requirement that a peace officer obtain a search warrant before conducting a body cavity search during a traffic stop.*

SUMMARY - The Fourth Amendment to the United States Constitution establishes the right to be free from unreasonable searches and seizures. A law enforcement officer is generally prohibited from conducting a search without a search warrant, with certain exceptions. Recent incidents in Texas in which law enforcement officers, pursuant to those exceptions, conducted body cavity searches of individuals during traffic stops without a warrant have prompted concerns regarding the lack of policies among law enforcement agencies prohibiting such warrantless searches. H.B. 324 amends the Code of Criminal Procedure to prohibit a peace officer from conducting a body cavity search, defined in the bill as an inspection that is conducted of a person's anal or vaginal cavity in any manner, of a person during a traffic stop unless the officer first obtains a search warrant authorizing the body cavity search.

Codification: Article 18.24 of the Code of Criminal Procedure

Effective Date: September 1, 2015

30. H.B. 326 (Wu | Fletcher | Moody | Riddle | Price) *Relating to information provided by electronic means in support of the issuance of a search warrant.*

SUMMARY - H.B. 326 amends the Code of Criminal Procedure to authorize a magistrate to consider information communicated by telephone or other reliable electronic means in determining whether to issue a search warrant. The bill authorizes the magistrate to examine an applicant for a search warrant and any person on whose testimony the application is based and requires the applicant or other person to be placed under oath before the examination. The bill requires the magistrate, if an applicant for a search warrant attests to the contents of an affidavit submitted by reliable electronic means, to acknowledge the attestation in writing on the affidavit. The bill requires a magistrate who considers additional testimony or exhibits to ensure that the testimony is recorded verbatim by an electronic recording device, by a court reporter, or in writing; to ensure that any recording or reporter's notes are transcribed and that the transcription

is certified as accurate and is preserved; to sign, certify the accuracy of, and preserve any other written record; and to ensure that the exhibits are preserved. H.B. 326 establishes that evidence obtained pursuant to a search warrant for which information was provided in accordance with the bill's provisions is not subject to suppression on the ground that issuing the warrant in compliance with the bill's provisions was unreasonable under the circumstances, absent a finding of bad faith.

Codification: Article 18.01 (b) of the Code of Criminal Procedure

Effective Date: September 1, 2015

31. **H.B. 372** (Riddle | White, James | Murphy | Deshotel) *Relating to the monitoring of the Internet access of certain sex offenders placed on community supervision or released on parole or to mandatory supervision.*

SUMMARY - According to a national organization, local, state, and national law enforcement agencies have seen a dramatic increase in cases of sexual exploitation of children since the 1990s. Studies looking into the use of the Internet in the commission of sexual crimes have shown that the computer age has resulted in more opportunities for the victimization of the innocent, particularly children, and presents complex challenges for law enforcement, victim services, parents, legislators, and the community. H.B. 372 amends the Code of Criminal Procedure to include a sex offender who is assigned a numeric risk level of two based on a sex offender risk assessment among the sex offenders who are subject to certain restrictions on Internet access as a condition of community supervision or parole or mandatory supervision. The bill requires a court that grants community supervision or a parole panel that releases on parole or to mandatory supervision to a sex offender subject to those Internet access restrictions to ensure the defendant's or releasee's compliance with the restrictions by requiring the defendant to submit to regular inspection or monitoring of each electronic device used by the defendant or releasee to access the Internet.

H.B. 372 applies only to a person who is placed on community supervision or released on parole or to mandatory supervision on or after September 1, 2009. The bill requires the applicable court or parole panel to modify the conditions of supervision or parole as appropriate to conform to the bill's provisions for each sex offender with a numeric risk level of two or three who was placed on community supervision or released on parole or to mandatory supervision on or after September 1, 2009, and who has not yet completed the offender's period of supervision or parole.

Codification: Section 13G, Article 42.12 of the Code of Criminal Procedure

Effective Date: September 1, 2015

32. **H.B. 510** (Moody) *Relating to disclosure of certain information about expert witnesses in a criminal case.*

SUMMARY - Interested parties contend that recent legislative efforts to make the discovery process in criminal cases less formal and simpler did not succeed in making efficient changes to the procedures related to the discovery of expert witnesses. The parties contend that the necessity of filing a motion and obtaining an order to compel the sharing of information about prospective expert witnesses does not comport with the more automatic and efficient discovery procedures established by that legislation and is potentially a wasted effort since disclosure is mandated by statute. H.B. 510 amends the Code of Criminal Procedure to change the disclosure requirement for a party receiving a request for discovery by requiring the party receiving the request to disclose to the requesting party the name and address of each person the disclosing party may use as a witness at trial to present evidence relating to expert testimony. The bill applies the

disclosure requirement to a request for discovery made not later than the 30th day before the date that jury selection in the applicable trial is scheduled to begin or, in a trial without a jury, the presentation of evidence is scheduled to begin.
Codification: Article 39.14 of the Code of Criminal Procedure
Effective Date: September 1, 2015

33. **H.B. 518** (Moody) *Relating to certain waivers by a defendant regarding a community supervision revocation hearing.*
SUMMARY - H.B. 518 amends the Code of Criminal Procedure to authorize a judge to revoke the community supervision of a defendant imprisoned for allegedly violating a condition of the supervision without a hearing if the defendant, in addition to other actions, waives in writing the defendant's right to a hearing and to counsel before a notary public in the jurisdiction where imprisoned as an alternative to requiring such a defendant to waive those rights in writing before a court of record in that jurisdiction.
Codification: Section 21 (b-2) and Article 42.12 of the Code of Criminal Procedures
Effective Date: September 1, 2015

34. **H.B. 643** (Harless) *Relating to the procedures for discharging bail in certain criminal proceedings.*
SUMMARY - H.B. 643 amends the Code of Criminal Procedure to authorize a surety to file a motion only for the purpose of discharging a defendant's bail when the defendant has been detained in custody or held to bail to answer any criminal accusation and no indictment or information has been presented against the defendant in the required time frame.
Codification: Article 32.01 of the Code of Criminal Procedure
Effective Date: September 1, 2015

35. **H.B. 644** (Canales) *Relating to the contents of a search warrant and to the offense of tampering with a governmental record consisting of a search warrant.*
SUMMARY - Current law requires a search warrant to include a magistrate's signature but does not require the magistrate's name to be printed on the warrant. There have been reports of local law enforcement agencies illegally seizing money, drugs, jewelry, and other valuable items by signing illegible signatures on search warrants. H.B. 644 amends the Code of Criminal Procedure to require a search warrant to contain the name of the magistrate who issues the warrant in clearly legible handwriting or in typewritten form with the magistrate's signature. H.B. 644 amends the Penal Code to enhance the penalty for tampering with a governmental record from a Class A misdemeanor to a third degree felony if it is shown on the trial of the offense that the governmental record was a search warrant issued by a magistrate.
Codification: Article 18.04 of the Code of Criminal Procedure
Effective Date: September 1, 2015

36. **H.B. 2159** (Moody) *Relating to requiring the payment of restitution as a condition of community supervision for offenses involving family violence committed in the presence of certain children.*
Summary – H.B. 2159 amends the Code of Criminal Procedure to require a court that places a defendant on community supervision after a conviction or a grant of deferred adjudication for an offense involving family violence to make a finding as to whether the offense was committed in the physical presence of, or in the same habitation or vehicle occupied by, a person younger than 15 years of age and whether, at the time of the offense, the defendant had knowledge or reason to know that the person younger than 15 years of age was physically present or occupied the same

habitation or vehicle. The bill requires the court, if the court finds both issues in the affirmative, to order the defendant to pay restitution in an amount equal to the cost of necessary rehabilitation, including medical, psychiatric, and psychological care and treatment, for such a child witness of family violence. The bill authorizes enforcement of such a restitution order by the state, or by a person or a parent or guardian of the person named in the order to receive the restitution, in the same manner as a judgment in a civil action.

Codification: Article 42.0373 of the Code of Criminal Procedure

Effective Date: September 1, 2015

37. **H.B. 2185** (Clardy) *relating to the execution of a search warrant for taking a DNA specimen.*

Summary - H.B. 2185 amends the Code of Criminal Procedure to authorize a search warrant issued to collect a DNA specimen from a person for the purpose of connecting that person to an offense to be executed in any county in Texas, regardless of whether the issuing court's jurisdiction extends outside the county in which that court is located.

Codification: Article 18.065, Code of Criminal Procedure

Effective Date: September 1, 2015

38. **H.B. 2589** (Phelan) *Relating to the prosecution of and punishment for assaulting a disabled individual; increasing a criminal penalty.*

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

Codification: Section 22.021, Penal Code

Effective Date: September 1, 2015

39. **H.B. 3633** (Herrero/Collier) *Relating to reimbursement for the costs of legal services provided to an indigent defendant in a criminal case.*

Summary - A judge is currently required to order a convicted defendant who was represented by appointed counsel to pay costs of attorney's fees if the judge finds that the defendant is able to pay the ordered amount. However, if a defendant is placed on community supervision the judge is not required to make that finding before ordering reimbursement of attorney's fees as a condition of the community supervision. H.B. 3633 amends the Code of Criminal Procedure to replace the requirement that a court order a defendant to pay part or all of the costs of the legal services provided to the defendant by appointed counsel on determining that the defendant has financial resources to offset the costs with the requirement that a judge order that payment on that determination by the judge. The bill prohibits the defendant from being ordered to pay an amount that exceeds the actual costs, including any expenses and costs, paid by the county for the legal services provided by an appointed attorney or, if the defendant was represented by a public defender's office, the actual amount, including any expenses and costs, that would have otherwise been paid to an appointed attorney had the county not had a public defender's office. The bill makes that prohibition applicable to a general condition of community supervision a judge may order requiring a defendant to reimburse a county for legal services and conditions the judge's ordering of that reimbursement as a community supervision condition on the judge's determination that the defendant has financial resources to offset part or all of the costs of the provided legal services, including any expenses and costs. The bill prohibits a judge from imposing a condition of community supervision requiring a defendant to reimburse a county for

the costs of legal services if the defendant has already satisfied the obligation of paying such costs during the pendency of the charges or as conviction costs, as applicable.
Codification: Article 26.05(g) of the Code of Criminal Procedure
Effective Date: September 1, 2015

40. **S.B. 112** (Taylor, Van) *Relating to the authority of a magistrate to prohibit certain communications in order for emergency protection*.
Summary – S.B. 112 expands the authority of a judge, when issuing an order for emergency protection, to prohibit the arrested party from communicating in any way with the protected person, the person's family or household, except through the party's attorney or a person appointed by the court.
Codification: Article 17.292(c) of the Code of Criminal Procedure
Effective Date: September 1, 2015

41. **S.B. 344** (Huffman) *Relating to the prosecution of the offense of online solicitation of a minor*.
Summary – In October 2013, the Texas Criminal Court of Appeals unanimously declared unconstitutional "online solicitation of a minor" in Section 33.021(b) of the Penal Code. *See, Ex Parte Lo*, 424 S.W.3d 10 (Tex. Crim. App. 2013). The Court opined that the statute is "overbroad because it prohibits a wide array of constitutionally protected speech and is not narrowly drawn to achieve only the legitimate objective of protecting children from sexual abuse." Since that time, there has existed no punishable offense for online solicitation of a minor because the ruling occurred during the legislative interim. Though the statute was enacted to impose sanctions upon those who engage in Internet conversations with minors with an intent for physical contact to take place, the statute's sexually explicit communication provision contains no requirement that an actor ever possess the intent to meet the child. The intent of S.B. 344 is to punish a defendant intending to commit an offense under Article 62.001(5)(A), (B), or (K), Code of Criminal Procedure, as opposed to intending to arouse or gratify the sexual desire of any person. S.B. 344 amends the Penal Code to change who is considered a minor for purposes of an online solicitation of a minor offense from an individual who represents himself or herself to be younger than 17 years of age to an individual who is younger than 17 years of age. The bill changes the requisite intent for an online solicitation of a minor offense committed by a person who is 17 years of age or older and who communicates in a sexually explicit manner with a minor or distributes sexually explicit material to a minor <u>from the intent to arouse or gratify the sexual desire of any person to the intent to commit one of the following offenses</u>: continuous sexual abuse of a young child or children, indecency with a child, sexual assault, aggravated sexual assault, prohibited sexual conduct with a family member, compelling prostitution, sexual performance by a child, possession or promotion of child pornography, or a certain human trafficking offense. The bill removes the defenses to prosecution for online solicitation of a minor involving that conduct and removes statutory provisions establishing that it is not a defense to prosecution for online solicitation of a minor that an actor who knowingly solicits a minor to meet another person with the intent that the minor will engage in sexual contact, sexual intercourse, or deviate sexual intercourse with the actor or another person either did not intend for the meeting to occur or was engaged in a fantasy at the time of the commission of the offense.
Codification: Section 33.021 (a) (1), Penal Code
Effective Date: September 1, 2015

42. S.B. 662 (Rodríguez) *Relating to the representation of certain indigent applicants for a writ of habeas corpus.*

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

Codification: Section 501.0971, Government Code

Effective Date: September 1, 2015

C. Wrongful Convictions:

43. S.B. 487 (Ellis) *Relating to post conviction forensic DNA analysis.*

Summary – Chapter 64 of the Code of Criminal Procedure allows for post-conviction DNA testing in criminal cases to ensure a more reliable and accurate justice system. Unfortunately, recent Texas Court of Criminal Appeals decisions have strictly interpreted the language of Chapter 64 to require proof that biological evidence exists before a judge can allow testing to see if exculpatory biological evidence exists. This new interpretation severely restricts a judge's ability to order DNA testing, even when the defendant has shown that the evidence in question is likely to contain biological material, which in turn prevents the discovery of exonerations in cases where exculpatory evidence is often microscopic. S.B. 487 clarifies that a judge has the authority to grant testing in situations where the judge believes there is a "reasonable likelihood" that credible exculpatory biological evidence exists and meets the other standards for access to testing under Chapter 64 of the Code of Criminal Procedure. S.B. 487 also clarifies that a judge is not barred from considering the possibility of a combined DNA index system (CODIS) database match in its determination of whether evidence might be exculpatory, and may consider the possibility of a CODIS database match when determining whether such evidence could provide an "exculpatory result."

Codification: Article 64.01(a-1) & 64.03(a) and (a-1), Code of Criminal Procedure

Effective Date: September 1, 2015

44. H.B. 48 (McClendon | Leach | Herrero | Moody) *Relating to the creation of a commission to review convictions after exoneration and to prevent wrongful convictions.*

Summary – H.B. 48 amends the Code of Criminal Procedure to create the Timothy Cole Exoneration Review Commission, which exists under the Texas Judicial Council but operates independently of the council, and to set out provisions relating to the composition of the commission, the terms of commission members, the commission's presiding officer, the filling of vacancies on the commission, and the hiring of commission personnel.

H.B. 48 requires the commission to thoroughly review and examine all cases in which an innocent defendant was convicted and exonerated, including convictions vacated based on a plea to time served, to identify the causes of wrongful convictions and suggest ways to prevent future wrongful convictions and improve the reliability and fairness of the criminal justice system; to ascertain errors and defects in the laws, evidence, and procedures applied or omitted in the defendant's case; to identify errors and defects in the criminal justice system in Texas generally, using research, expert analysis, and demographic data; to consider suggestions to correct the identified errors and defects through legislation or procedural changes; to identify procedures, programs, and educational or training opportunities designed to eliminate or minimize the identified causes of wrongful convictions, including the identified errors and defects in the criminal justice system that contribute to wrongful convictions; and to collect and evaluate data and information from an actual innocence exoneration reported to the commission by a state-funded innocence project, for inclusion in the commission's reports.

H.B. 48 requires the commission to review and examine each case in which a final ruling was made by the court of criminal appeals on a writ of habeas corpus granted for actual innocence on or after January 1, 1994, and each case in which a commutation of punishment or pardon was granted before January 1, 1994, based on a claim of actual innocence.

Thurgood Marshall School of Law Innocence Project Reporting Requirement: H.B. 48 amends the Government Code to require a legal clinic or program in Texas operated by a law school and receiving financial support from the Texas Indigent Defense Commission, at the same time the clinic or program submits its annual report to that commission, to submit a comprehensive report to the Timothy Cole Exoneration Review Commission containing the information in that annual report and providing a narrative describing the services and work performed by the clinic or program during the previous fiscal year that includes the number of innocence claims the clinic or program handled that year, including a summary of each claim, the legal remedies pursued, and the type of relief granted in the case, if any.
Codification: Chapter 43, Article 43.27, Code of Criminal Procedure
Effective Date: September 1, 2015

45. H.B. 638 (Anchia | Simmons) *Relating to annuity payments to surviving spouses and designated beneficiaries of persons wrongfully imprisoned.*
Summary – H.B. 638 amends the Civil Practice and Remedies Code to authorize a person entitled to compensation for wrongful imprisonment to elect to receive reduced alternative annuity payments, as provided by the bill, instead of standard annuity payments. The bill establishes that alternative annuity payments are payable throughout the life of the claimant and are actuarially reduced from the standard annuity payments to their actuarial equivalent under the option selected by the claimant for providing annuity payments to the claimant's spouse or designated beneficiary after the claimant's death. The bill authorizes the claimant to select one of several specified options providing for the payment of alternative annuity payments to the claimant's spouse or designated beneficiary after the claimant's death.

H.B. 638 authorizes a person entitled to compensation for wrongful imprisonment who started receiving annuity payments before the bill's effective date to elect to receive any remaining payments as alternative annuity payments by filing the required form with the comptroller not later than the 45th day after the date the comptroller makes the form available. The bill requires the value of the alternative annuity payments for such a person to be actuarially equivalent to the remaining value of the annuity payments the person would receive absent the election.
Codification: Section 103.053, Civil Practice and Remedies Code

Effective Date: September 1, 2015

D. Domestic Violence

46. H.B. 388 (Raymond) *Relating to the duration of protective orders issued in cases of family violence against persons who are subsequently confined or imprisoned.*

Summary - H.B. 388 extends all protective orders issued against a person who was subsequently imprisoned if the order expired while the person was incarcerated or within a year of his or her release. Specifically, H.B. 388 creates two categories of protective order extensions. If the subject of a protective order is sentenced to serve five years or less, and the order expires while the person is incarcerated or within a year of his or her release, the order is extended to expire on the second anniversary of his or her release. On the other hand, if the subject of a protective order is sentenced to more than five years, and the order expires while the person is incarcerated or within a year of his or her release, the order is extended to expire on the first anniversary of his or her release. This extension of protective orders would provide additional safeguards for family violence victims.

Codification: Section 85.025(c), Family Code

Effective Date: September 1, 2015

47. H.B. 1286 *(Simmons) Relating to the prosecution and punishment of the offense of injury to a child, elderly individual, or disabled individual.*

Summary - H.B. 1286 amends the Penal Code to include in the definition of "disabled individual," for purposes of statutory provisions relating to an offense for injury to a child, elderly individual, or disabled individual, a person with autism spectrum disorder, a developmental disability, an intellectual disability, a severe emotional disturbance, a traumatic brain injury, or any combination thereof. The bill removes a provision limiting the definition of "disabled individual" for those purposes to a person older than 14 years of age. The bill clarifies, for purposes of the affirmative defense to prosecution for such an offense where the actor was not more than three years older than the victim who was a child at the time of the offense, that the child was nondisabled or disabled at the time of the offense.

Codification: Section 22.04 (c) (3), Penal Code

Effective Date: September 1, 2015

48. S.B. 817 (Rodriquez/Thompson) *Relating to the definitions of dating violence and family violence for purposes of issuing a protective order*.

Summary - The current sections of the Texas Family Code dealing with issuance of protective orders in the case of abuse, specifically the definitions sections, refer to the applicant of the protective order as a "victim" instead of an "applicant for a protective order." There are many times when an "applicant for a protective order" is not a victim of abuse (e.g., a prosecutor or a parent or guardian), but is applying for the protective order on behalf of a victim of abuse. In addition, some judges either will not or are reluctant to issue protective orders until the perpetrator has been convicted, believing that a person is not a "victim" until that happens. S.B. 817 changes the language from "victim" to "applicant for a protective order." This bill also seeks to broaden the definition of "abuse" in the same section by incorporating, by reference, additional portions of the Family Code definition of "abuse."

Codification: Sections 71.0021 (a) and 71.004, Family Code

Effective Date: September 1, 2015

E. Civil Rights

49. H.B. 1036 (E. Johnson) *Relating to reporting requirements for certain injuries or deaths caused by peace officers and for certain injuries or deaths of peace officers.*

Summary – "Black Lives Matter"—Under this new law, law enforcement must report officer-involved injuries or deaths and certain injuries or deaths of peace officers. The report must include (2) the date on which the incident occurred; (2) the location where the incident occurred; (3) the age, gender, and race or ethnicity of each peace officer involved in the incident; (4) if known, the age, gender, and race or ethnicity of each injured or deceased person involved in the incident; (5) whether the person was injured or died as a result of the incident; (6) whether each injured or deceased person used, exhibited, or was carrying a deadly weapon during the incident; (7) whether each peace officer involved in the incident was on duty during the incident; (8) whether each peace officer involved in the incident was responding to an emergency call or a request for assistance and, if so, whether the officer responded to that call or request with one or more other peace officers; and (9) whether the incident occurred during or as a result of: (A) the execution of a warrant; or (B) a hostage, barricade, or other emergency situation. There is a 30 day reporting requirement and a five day deadline for the OAG to post the reports on its website. The database can be accessed at http://www.utexas.edu/cola/iupra/ag-database.php.

III. JUVENILE JUSTICE

50. H.B. 263 *(Miles) Relating to the sealing in certain cases of juvenile records of adjudications of delinquent conduct or conduct indicating a need for supervision and access by certain persons to sealed juvenile records*

H.B. 263 requires a court, on a person becoming eligible to have the person's records sealed based on the person's age or the time elapsed since final discharge or the last official action in the person's case, to determine whether the person has subsequently been convicted of an offense involving moral turpitude or found to have engaged in delinquent conduct or conduct indicating a need for supervision and to determine whether a proceeding is pending seeking conviction or adjudication. The bill requires the court, on a negative determination, to provide notice to the prosecuting attorney for the juvenile court in the case that the person's records will be sealed on the expiration of 30 days if no objection is made by the attorney within that time. The bill requires the court, if the prosecuting attorney for the juvenile court in the case objects to sealing the person's records, to hold a hearing to determine if the records should be sealed.

Codification: Section 58.003, Family Code

Effective Date: September 1, 2015

51. H.B. 1491 (McClendon) *Relating to the publication of confidential criminal and juvenile justice records of certain juveniles; providing civil penalties.*

Summary - H.B. 1491 amends the Business & Commerce Code to prohibit a business entity from publishing confidential juvenile record information or confidential criminal record information of a child. The bill defines "confidential criminal record information of a child" as information about a person's involvement in the criminal justice system resulting from conduct that occurred or was alleged to occur when the person was younger than 17 years of age that is confidential under state law other than criminal record information of a person certified to stand trial as an adult for that conduct or information relating to a traffic offense. The bill defines "confidential juvenile record information" as information about a person's involvement in the juvenile justice system that is confidential, sealed, under restricted access, or required to be destroyed under state law.

The bill establishes civil liability and venue for an action involving a violation of the bill's provisions. The bill applies to any publication of criminal record information, confidential juvenile record information, or confidential criminal record information of a child that occurs on or after the bill's effective date, regardless of whether the information relates to events or activities that occurred before, on, or after that date or the information was initially published before that date.

Codification: Chapter 109, Business & Commerce Code

Effective Date: September 1, 2015

52. H.B. 2398: (White) *Relating to the establishment of judicial donation trust funds to assist needy children and families appearing before justice and municipal courts*

Summary - *Decriminalization of Truancy:*

HB 2398 changes the way school districts and courts treat children who have unexcused absences from school. Schools will be required to provide more help to families in order to ensure students attend school before they send students to court. If students are sent to court, they will no longer be charged with a criminal offense, but with a civil offense called "truant conduct."

Changes for schools:

- Schools will have to provide more meaningful help to students before they send them to court
- Schools must employ truancy prevention facilitators to implement truancy prevention measures.
- Schools cannot send a student to court before ten (10) unexcused absences and may choose not to file at that time if the truancy interventions are working
- Students may never be sent to truancy court if their absences are because of pregnancy, homelessness, being in foster care, or being the main income-earners for their families.
- Students must now attend school until they are 19 years old, unless they graduate or otherwise lawfully withdraw. Students who voluntarily attend school after turning 19 may be un-enrolled if they have five (5) unexcused absences
- School districts must adopt the truancy prevention measures created by the Texas Education Agency (TEA)

Changes in Courts:

- Failure to Attend School (FTAS) will no longer be a criminal offense, so students cannot be fined and will not receive criminal records.
- Schools may refer students to court after ten (10) or more unexcused absences in a six-month period. A truancy prosecutor will review the school's referral and decide whether to file a civil case in court for the offense of "truant conduct." This filing is called a "petition for an adjudication of a child for "truant conduct."
- The cases will be heard in truancy courts, which are county, justice, or municipal courts that are specifically designated to hear truancy cases.
- Truancy courts may still order a student to attend school without additional unexcused absences; un-enroll from school and take the GED; attend other counseling, training, or rehabilitation programs; perform community service; or complete academic tutorial programs. Courts may also still order the suspension of a student's driver's license or permit for truant conduct.
- A truancy court must dismiss a truancy petition filed against a student if it does not state: (1) whether the student receives special education services, (2) that the school attempted truancy prevention measures, and (3) that the truancy prevention measures failed.
- Courts may dismiss charges against children who are suffering from mental illness.
- Students may not be fined for truancy. Courts may charge a $50 court fee, but only for families who are financially able to pay.
- Automatic Expunction of Records: H.B. 2398 entitles an individual who has been convicted of a truancy offense, defined as a failure to attend school offense, or has had a complaint for such an offense dismissed to have the conviction or complaint and records relating to the conviction or complaint automatically expunged. The bill requires the court in which the individual was convicted or a complaint for a truancy offense was filed to order the conviction, complaints, verdicts, sentences, and other documents relating to the offense, including any documents in the possession of a school district or law enforcement agency, to be expunged from the individual's record. The bill establishes that, after entry of the order, the individual is released from all disabilities resulting from the conviction or complaint, and the conviction or complaint may not be shown or made known for any purpose. The bill requires the court to inform the individual of the expunction. The bill's provisions relating to the automatic expunction of truancy records apply to the expunction or destruction of a truancy record or file existing on or after the bill's effective date regardless of when the offense or conduct that is the subject of the record or file was committed.
- Starting September 1st, truancy courts may not collect fines or fees or enforce other orders against students that were made before September 1, 2015.

Parents can still be charged with the criminal offense of Parent Contributing to Nonattendance (PCN) but will be fined differently—$100 for a first offense, $200 for a second, $300 for a third, $400 for a fourth, and $500 for a fifth or later offense.

H.B. 2398 amends the Code of Criminal Procedure to authorize a county, justice, or municipal court, at the court's discretion, to dismiss a charge against a defendant alleging the defendant committed a parent contributing to nonattendance offense or a failure to attend school offense if the court finds that a dismissal would be in the interest of justice because there is a low

likelihood of recidivism by the defendant or because sufficient justification exists for the failure to attend school. H.B. 2398 amends the Family Code to authorize a juvenile court, at the court's discretion, to dismiss with prejudice a case involving a child alleged to have been absent from school on 10 or more days or parts of days within a six-month period in the same school year or on three or more days or parts of days within a four-week period if the court finds that a dismissal would be in the interest of justice because there is a low likelihood of recidivism by the defendant or because sufficient justification exists for the failure to attend school.

Codification: Articles 4.14 and 45.0216, 45.0531, 45.0541, 45.056, 102.014, Code of Criminal Procedure; Chapters 25, 29 and 33, Education Code; Sections 26.045(d), 29.003, and 102.021 and Chapter 54, Government Code; Sections in chapters 51, 54, 58, 59, 61 and addition of Title 3A. Truancy Court Proceedings, Chapter 65, Family Code

Effective Date: September 1, 2015

53. S.B. 390 (Garcia/Hinojosa) *Relating to docket preference for trails in which the alleged victim is younger than 14 years of age.*

Summary – When a child is the victim of a crime, it can take many years for the case against the defendant charged with that crime to make it to trial. If the trial is delayed too long, many child victims will refuse to testify. As a result, many defendants who would otherwise have faced trial are allowed to go free, due to the primary witnesses' refusal to testify. Article 32A.01 (Trial Priorities) of the Code of Criminal Procedure outlines that a court's docket shall place criminal cases at a higher priority than civil cases, and cases with incarcerated defendants over other types of defendants. S.B. 390 places the trials of criminal actions involving victims under the age of 14 at the front of the docket, unless extraordinary circumstances require otherwise

Codification: Article 32A.01

Effective Date: September 1, 2015

54. S.B.108 (Whitmire) *Relating to certain criminal procedures for misdemeanor offenses committed by children.*

Summary – S.B. 108 amends the Code of Criminal Procedure to expand the conditions under which the expunction of records of a person under 17 years of age relating to a complaint that was dismissed under any law or that the person was acquitted of the offense. The bill applies this change to arrest records and files created before, on, or after the bill's effective date. The bill prohibits a law enforcement officer or school resource officer from issuing a citation to a child who is alleged to have committed a school offense. The bill authorizes a complaint alleging the commission of a school offense to include a recommendation by a school employee that the child attend a teen court program if the school employee believes attending a teen court program is in the best interest of the child.

Codification: Articles 45.0216, 45.052, 45.058 Code of Criminal Procedure; Section 37.141, 37.143, and 37.146, Education Code

Effective Date: September 1, 2015

55. S.B183 *(*Huffman) *Relating to the offenses of the violation of civil rights of and improper sexual activity with individuals in custody; imposing a criminal penalty*.

Summary – Nearly all officials, employees, volunteers, or peace officers working in juvenile facilities or juvenile placement are not currently held to the same accountability standard as correctional officers in state-owned facilities. This problem leads to an unintentional oversight in the law. Juvenile offenders in custody who are victims of such illegal sexual conduct have no recourse under current law. S.B. 183 makes punishable a state or contracted facility employee's

criminal acts against a juvenile offender detained in a state or contracted facility and sets out to prosecute all offenders on the basis of their acts, no matter the source of primary funding for the correctional facility. S.B. 183 amends the Penal Code to expand the actors to whom the offenses of violation of the civil rights of a person in custody and of improper sexual activity with a person in custody apply to include an official or employee of a juvenile facility, a person other than an employee who works for compensation at a juvenile facility, and a volunteer at a juvenile facility who engages in the conduct constituting the respective offense. The bill enhances the penalty for the offense of improper sexual activity with a person in custody from a state jail felony to a second degree felony if the offense is committed against an individual placed in a juvenile facility.
Codification: Section 39.04(a), (b) and (f), Penal Code
Effective Date: September 1, 2015

56. S.B.409 *(Rodriguez) Relating to the dissemination of confidential information contained in the juvenile justice information system.*
Summary – S.B. 409 amends Section 58.106 of the Family Code to limit the dissemination of confidential information concerning juveniles who received pre-adjudication diversion or deferred prosecution, or whose charges were discharged, dropped, or found to be untrue. The change made by the bill permits this information to be shared only with criminal justice agencies, the Texas Juvenile Justice Department, and the Department of Family and Protective Services.
Codification: Section 58.106 of the Family Code
Effective Date: September 1, 2015

IV. FAMILY LAW

57. H.B. 4086 (Munoz, Jr.) *Relating to the right to a de novo hearing before the referring court regarding a temporary order rendered by an associate judge in certain family law proceedings.*
Summary – H.B. 4086 amends the Family Code to authorize a party to a suit affecting the parent-child relationship to request a de novo hearing concerning a temporary order by an associate judge before the referring court by filing with the clerk of the referring court a written request not later than the third working day after the date the party receives notice of the rendering of the temporary order.
Codification: Section 201.015 of the Family Code
Effective Date: June 16, 2015

A. Guardianship

58. H.B. 39 (Smithee/Naishtat) *Relating to guardianships for incapacitated persons.*

Summary - H.B. 39 amends the Estates Code to include allowing an incapacitated person to make personal decisions regarding the person's residence in the court's design of a guardianship that gives a guardian limited authority over an incapacitated person. The bill expands the matters an attorney ad litem is required to discuss, to the greatest extent possible, with a proposed ward to include whether alternatives to guardianship would meet the needs of the proposed ward and avoid the need for the appointment of a guardian. The bill defines "alternatives to guardianship" as including the execution of a medical power of attorney, appointment of an attorney in fact or agent under a durable power of attorney, execution of a declaration for mental health treatment, appointment of a representative payee to manage public benefits, establishment of a joint bank account, creation of a management trust, creation of a special needs trust, designation of a guardian before the need arises, and establishment of alternate forms of decision-making based on person-centered planning.

Duty to Investigate Alternatives to Guardianship: H.B. 39 requires an attorney ad litem, before a hearing in the proceeding for the appointment of a guardian, to investigate whether a guardianship is necessary for the proposed ward and, if the attorney ad litem determines that a guardianship is necessary, whether specific powers or duties of the guardian should be limited if the proposed ward receives supports and services. The bill defines "supports and services" as available formal and informal resources and assistance that enable an individual to meet the individual's needs for food, clothing, or shelter; care for the individual's physical or mental health; manage the individual's financial affairs; or make personal decisions regarding residence, voting, operating a motor vehicle, and marriage. The bill requires the attorney ad litem, if the attorney determines that a guardianship is necessary, to certify to the court that the guardianship is necessary and reasonable efforts have been made to explore alternatives to guardianship and supports and services available to the proposed ward that would avoid the need for the appointment of a guardian. The bill subjects such information gathered by the guardian ad litem to examination by the court. H.B. 39 requires the court, before appointing a guardian for a proposed ward, to find by clear and convincing evidence, among other such findings, that alternatives to guardianship and supports and services available to the proposed ward that would avoid the need for the appointment of a guardian have been considered and determined not to be feasible. The bill requires the finding that a court makes, before appointing a guardian for a proposed ward, by a preponderance of the evidence, and regarding the proposed ward's lack of capacity to do some, but not all, of the tasks necessary to care for himself or herself or to manage his or her property, to specifically state whether the proposed ward lacks the capacity, with or without supports and services, to make personal decisions regarding residence, voting, operating a motor vehicle, and marriage.

Ad Litem Certification: H.B. 39 requires an attorney for an applicant for guardianship, like a court-appointed attorney or attorney ad litem in a guardianship proceeding, to be certified as having successfully completed a course of study in guardianship law and procedure sponsored by the state bar or the state bar's designee. The bill increases from three hours to four hours the required hours of credit for certification and requires one hour to be on the subject of alternatives to guardianship and supports and services available to proposed wards.

Further, H.B. 39 requires, in writing:

- a letter or certificate presented to the court from a physician licensed in Texas for a determination of incapacity for certain adults to include, within the evaluation of the proposed ward's physical condition and mental functioning, a statement of whether improvement in the proposed ward's physical condition and mental functioning is

possible and, if so, a statement of the period after which the proposed ward should be reevaluated to determine whether a guardianship continues to be necessary.

- a letter or certificate to include a statement of whether a guardianship is necessary for the proposed ward and, if so, whether specific powers or duties of the guardian should be limited if the proposed ward receives supports and services.
- an order appointing a guardian, if the letter or certificate stated that improvement in the ward's physical condition or mental functioning is possible and specified a period of less than a year after which the ward should be reevaluated to determine continued necessity for the guardianship, to include the date by which the guardian must submit to the court an updated letter or certificate containing the required information and statements.
- a letter or certificate, in its statement of how or in what manner the proposed ward's ability to make or communicate responsible decisions concerning himself or herself is affected by the proposed ward's physical or mental health, to include, among other information, the proposed ward's ability to solve problems.
- a letter or certificate presented to a court from a physician licensed in Texas regarding the restoration of a ward's capacity or the modification of a ward's guardianship that, in the physician's opinion, the ward has the capacity to provide food, clothing, and shelter for himself or herself, to care for the ward's own physical health, and to manage the ward's financial affairs to specify that the ward's capacity to do so is a capacity with or without supports and services.

H.B. 39 includes the condition that a proposed ward is totally without capacity to make personal decisions regarding residence among the conditions that must exist before a court may appoint a guardian of the proposed ward's person or estate, or both, with full authority over the incapacitated person and adds that condition to the findings of fact that must be included in an order appointing a guardian with full authority.

H.B. 39 adds the specification, for purposes of the provision authorizing a court to appoint a guardian with limited authority if a proposed ward lacks capacity to do some, but not all, of certain necessary tasks, that such capacity is with or without supports and services. The bill specifies that the court's authority to permit the proposed ward to care for himself or herself includes the authority to permit the proposed ward to make personal decisions regarding residence. The bill requires that an order appointing a guardian with limited authority specify the specific rights and powers retained by the person with the necessity for supports and services and the specific rights and powers retained by the person without the necessity for supports and services. The bill requires, for purposes of the findings of fact and specifications that must be included in an order appointing a guardian with limited authority, that an order specify whether the person retains the right to make personal decisions regarding residence if the person is incapacitated because of a mental condition.

H.B. 39 requires the court to give due consideration to the incapacitated person's preference of the person to be appointed guardian, regardless of whether the incapacitated person has designated by declaration a guardian before the need arises. The bill limits the authority of a guardian of the person of a ward to place the ward in a more restrictive care facility to cases of emergency but authorizes such placement if the guardian files an application with the court, the guardian provides notice to any persons who have requested notice, and the placement is authorized by court order.

H.B. 39 adds the specification to the requirement that a ward be found by the court to have full capacity to care for himself or herself and manage the ward's property as a condition for a guardianship to be settled and closed that such full capacity is with or without supports and services. H.B. 39 revises the provision requiring a court, before ordering the settlement and closing of a guardianship under an application filed with the court for complete restoration of a ward's capacity or for modification of the guardianship, to find by a preponderance of the evidence that the current nature and degree of the ward's incapacity warrants a modification and that some of the ward's rights need to be restored to add to that finding the specification that the ward's incapacity is with or without supports and services and to add to that finding the specification that some of the ward's rights that need to be restored are with or without supports or services. The bill requires a court order that completely restores a ward's capacity or modifies a ward's guardianship to include, among other required statements, a statement of, if applicable, any necessary supports and services for the restoration of the ward's capacity or modification of the guardianship. The bill requires an order modifying a guardianship to specify, in addition to the general requirements for such an order and if the ward's incapacity resulted from a mental condition, whether the ward retains the right to make personal decisions regarding residence.
Codification: Section 1001.001, 1002, 1054, 1101, 1104, 1202, 1357, Estates Code
Effective Date: September 1, 2015

59. **H.B. 3424** (Smithee) *Relating to a study and report on the establishment of a central database containing information about certain individuals under guardianship.*
Summary - House Bill 3424 requires the Office of Court Administration of the Texas Judicial System to conduct a study on the establishment of a central database containing information about incapacitated persons under guardianship. The director of the office is required to report the study's results to the governor, lieutenant governor, speaker of the house, and appropriate legislative committees not later than December 1, 2016. The report will include (1) the feasibility of developing, implementing, and maintaining a computerized central database that contains: (A) the names of incapacitated persons; and (B) for each incapacitated person, the name of the guardian appointed for that person and contact information for the guardian; and (2) best practices for protecting the privacy of incapacitated persons and the confidentiality of information included in the database.
Codification: Subchapter C, Chapter 1053 of Estates Code
Effective Date: September 1, 2015

60. **H.B. 1337** *(Naishtat) Relating to requiring institutions and assisted living facilities to maintain guardianship orders of residents.*
Summary - H.B. 1337 amends the Health and Safety Code to require a convalescent home, nursing facility, or related institution and an assisted living facility to make a reasonable effort to request a copy of any court order appointing a guardian of a resident or a resident's estate from the resident's nearest relative or the person responsible for the resident's support and to require such an institution or facility that receives a copy of a court order appointing a guardian of a resident or a resident's estate to maintain a copy of the order in the resident's medical records. The bill requires an investigator for the Department of Aging and Disability Services, in investigating a report of abuse, neglect, exploitation, or other similar complaint regarding a resident of such an institution or assisted living facility, to inspect any court order appointing a guardian of the resident who was the subject of the alleged abuse, neglect, or exploitation that is maintained in the resident's medical records. The bill establishes that a convalescent home, nursing home, or related institution or an assisted living facility is not required to comply with the bill's provisions before January 1, 2016.

Codification: Subchapter, Chapter 242.019 of the Health and Safety Code
Effective Date: September 1, 2015

61. **H.B. 1438** *(Thompson) Relating to guardianships and other matters related to incapacitated persons.*
Summary - H.B. 1438 amends the Estates Code to require a court on hearing an application for transfer of guardianship to another county, if certain prerequisites are met, to enter an order requiring any existing bond of the guardian to remain in effect until a new bond has been given or a rider has been filed in accordance with statutory provisions and bill provisions regarding the review of a transfer of guardianship. The bill requires the court to which a guardianship was transferred, after holding a hearing to consider modifying provisions of the transferred guardianship, to enter an order requiring the guardian to give a new bond payable to the judge of the court to which the guardianship was transferred or file a rider to an existing bond noting the court to which the guardianship was transferred.
Codification: Section 1023.005 of Estates Code
Effective Date: September 1, 2015

62. **H.B. 1560** *(Hernandez) Relating to investment options for property recovered in a suit by a next friend or guardian ad litem on behalf of minor or incapacitated person.*
Summary - H.B. 1560 amends the Property Code to authorize any money recovered by the plaintiff in a suit in which a minor or incapacitated person who has no legal guardian is represented by a next friend or an appointed guardian ad litem, if not otherwise managed per court judgment or decree, to be invested by the next friend or guardian ad litem or by the clerk of the court, on written order of the court of proper jurisdiction, in a higher education savings plan administered by the Prepaid Higher Education Tuition Board or the Texas tomorrow fund II prepaid tuition unit undergraduate education program, rather than the Texas tomorrow fund prepaid higher education tuition program.
Codification: Section 142.004 (a) of the Property Code
Effective Date: September 1, 2015

63. **H.B. 2665** (Moody) *Relating to access to and receipt of certain information regarding a ward by certain relatives of the ward.*
Summary –This bill was passed to address the situation in which the child of a ward can be unjustly denied visitation to the parent and not provided with timely notification of serious changes in the parent's health or even of the parent's death. H.B. 2665 amends the Estates Code to authorize the child of a ward to file an application with a court requesting access to the ward, including the opportunity to establish visitation or communication with the ward. The bill requires the court to schedule a hearing on the application not later than the 60th day after the date such an application is filed, unless the application states that the ward's health is in significant decline or that the ward's death may be imminent, in which case the court is required to conduct an emergency hearing as soon as practicable but not later than the 10th day after the date the application is filed. The bill authorizes a court to grant a continuance of a hearing under the bill's provisions for good cause. The bill requires the guardian of a ward with respect to whom such an application is filed to be personally served with a copy of the application and cited to appear at least 21 days before the date of the hearing in the case of a standard hearing and as soon as practicable in the case of an emergency hearing.

H.B. 2665 requires the court to issue an order after notice and a hearing under the bill's provisions. The bill authorizes such an order to prohibit the guardian of a ward from preventing

the applicant access to the ward if the applicant shows by a preponderance of the evidence that the guardian's past act or acts prevented access to the ward and the ward desires contact with the applicant and to specify the frequency, time, place, location, and any other terms of access. H.B. 2655 requires the guardian of an adult ward to inform as soon as practicable the ward's spouse, the ward's parents, the ward's siblings, and the ward's children if the ward dies, if the ward is admitted to a medical facility for acute care for a period of three days or more, if the ward's residence has changed, or if the ward is staying at a location other than the ward's residence for a period that exceeds one calendar week. The bill requires the guardian, in the case of the ward's death, to inform such relatives of any funeral arrangements and the location of the ward's final resting place.

Codification: Chapter 1151.055, Estates Code

Effective Date: June 19, 2015

64. H.B. 2665 (Moody) *Relating to access to and receipt of certain information regarding a ward by certain relatives of the ward.*

Summary – This bill was passed to address the situation in which the child of a ward can be unjustly denied visitation to the parent and not provided with timely notification of serious changes in the parent's health or even of the parent's death. H.B. 2665 amends the Estates Code to authorize the child of a ward to file an application with a court requesting access to the ward, including the opportunity to establish visitation or communication with the ward. The bill requires the court to schedule a hearing on the application not later than the 60th day after the date such an application is filed, unless the application states that the ward's health is in significant decline or that the ward's death may be imminent, in which case the court is required to conduct an emergency hearing as soon as practicable but not later than the 10th day after the date the application is filed. The bill authorizes a court to grant a continuance of a hearing under the bill's provisions for good cause. The bill requires the guardian of a ward with respect to whom such an application is filed to be personally served with a copy of the application and cited to appear at least 21 days before the date of the hearing in the case of a standard hearing and as soon as practicable in the case of an emergency hearing.

H.B. 2665 requires the court to issue an order after notice and a hearing under the bill's provisions. The bill authorizes such an order to prohibit the guardian of a ward from preventing the applicant access to the ward if the applicant shows by a preponderance of the evidence that the guardian's past act or acts prevented access to the ward and the ward desires contact with the applicant and to specify the frequency, time, place, location, and any other terms of access. H.B. 2655 requires the guardian of an adult ward to inform as soon as practicable the ward's spouse, the ward's parents, the ward's siblings, and the ward's children if the ward dies, if the ward is admitted to a medical facility for acute care for a period of three days or more, if the ward's residence has changed, or if the ward is staying at a location other than the ward's residence for a period that exceeds one calendar week. The bill requires the guardian, in the case of the ward's death, to inform such relatives of any funeral arrangements and the location of the ward's final resting place.

Codification: Chapter 1151.055, Estates Code

Effective Date: June 19, 2015

65. S.B. 1882 *(Zaffirrini) Relating to a bill of rights for wards under guardianship.*

Summary – S.B. 1882 amends the Estates Code to grant a ward, meaning a person for whom a guardian is appointed, all the rights, benefits, responsibilities, and privileges granted by the constitution and laws of Texas and the United States, except where specifically limited by a

court-ordered guardianship or where otherwise lawfully restricted. The bill's provisions do not supersede or abrogate other remedies existing in law. The bill establishes that a ward has the following rights, unless limited by a court or otherwise restricted by law:

- to have a copy of the guardianship order and letters of guardianship and contact information for the probate court that issued the order and letters;
- to have a guardianship that encourages the development or maintenance of maximum self-reliance and independence in the ward with the eventual goal, if possible, of self-sufficiency;
- to be treated with respect, consideration, and recognition of the ward's dignity and individuality;
- to reside and receive support services in the most integrated setting, including home-based or other community-based settings, as required by Title II of the federal Americans with Disabilities Act;
- to consideration of the ward's current and previously stated personal preferences, desires, medical and psychiatric treatment preferences, religious beliefs, living arrangements, and other preferences and opinions;
- to financial self-determination for all public benefits after essential living expenses and health needs are met and to have access to a monthly personal allowance;
- to receive timely and appropriate health care and medical treatment that does not violate the ward's rights granted by the constitution and laws of Texas and the United States;
- to exercise full control of all aspects of life not specifically granted by the court to the guardian;
- to control the ward's personal environment based on the ward's preferences;
- to complain or raise concerns regarding the guardian or guardianship to the court, including living arrangements, retaliation by the guardian, conflicts of interest between the guardian and service providers, or a violation of any rights under the bill;
- to receive notice in the ward's native language, or preferred mode of communication, and in a manner accessible to the ward, of a court proceeding to continue, modify, or terminate the guardianship and the opportunity to appear before the court to express the ward's preferences and concerns regarding whether the guardianship should be continued, modified, or terminated;
- to have a court investigator, guardian ad litem, or attorney ad litem appointed by the court to investigate a complaint received by the court from the ward or any person about the guardianship;
- to participate in social, religious, and recreational activities, training, employment, education, habilitation, and rehabilitation of the ward's choice in the most integrated setting;
- to self-determination in the substantial maintenance, disposition, and management of real and personal property after essential living expenses and health needs are met, including the right to receive notice and object about the substantial maintenance, disposition, or management of clothing, furniture, vehicles, and other personal effects;

- to personal privacy and confidentiality in personal matters, subject to state and federal law;
- to unimpeded, private, and uncensored communication and visitation with persons of the ward's choice, except that if the guardian determines that certain communication or visitation causes substantial harm to the ward the guardian may limit, supervise, or restrict communication or visitation, but only to the extent necessary to protect the ward from substantial harm, and the ward may request a hearing to remove any such restrictions on communication or visitation imposed by the guardian;
- to petition the court and retain certified counsel of the ward's choice to represent the ward's interest for capacity restoration, modification of the guardianship, the appointment of a different guardian, or for other appropriate relief, including a transition to a supported decision-making agreement, except as otherwise limited;
- to vote in a public election, marry, and retain a license to operate a motor vehicle, unless restricted by the court;
- to personal visits from the guardian or the guardian's designee at least once every three months, but more often, if necessary, unless the court orders otherwise;
- to be informed of the name, address, phone number, and purpose of Disability Rights Texas and to communicate and meet with representatives of that organization;
- to be informed of the name, address, phone number, and purpose of an independent living center, an area agency on aging, an aging and disability resource center, and the local mental health and intellectual and developmental disability center, and to communicate and meet with representatives from these agencies and organizations;
- to be informed of the name, address, phone number, and purpose of the Judicial Branch Certification Commission and the procedure for filing a complaint against a certified guardian;
- to contact the Department of Family and Protective Services to report abuse, neglect, exploitation, or violation of personal rights without fear of punishment, interference, coercion, or retaliation; and
- to have the guardian, on appointment and on annual renewal of the guardianship, explain these rights in the ward's native language, or preferred mode of communication, and in a manner accessible to the ward.

Codification: Section 1151.351, Estates Code
Effective Date: June 19, 2015

B. Child Protective Services

66. S.B. 206 (Schwertner/Birdwell/Campbell/Hinojosa/Nelson) *relating to the continuation and functions of the Department of Family and Protective Services and procedures applicable to suits affecting the parent-child relationship, investigations of child abuse and neglect, and conservatorship of a child; affecting fee amounts and authorizing an administrative penalty.*

Summary - S.B. 206 amends current law relating to the functions of the Department of Family and Protective Services and procedures applicable to suits affecting the parent-child relationship,

investigations of child abuse and neglect, and conservatorship of a child; affects fee amounts and authorizes an administrative penalty. Some of the key aspects of the law are:

- Foster child is entitled to continue to attend the school where s/he was enrolled before entering the conservatorship of DFPS
- School must excuse absence if for an activity required under a child's service plan
- On request by the Department of Family and Protective Services, a juvenile probation officer shall disclose to the department the terms of probation of a child in the department's conservatorship
- A suit in which adoption is requested may be filed in the county where the child resides or in the county where the petitioners reside, regardless of whether another court has continuing exclusive jurisdiction under Chapter 155. A court that has continuing exclusive jurisdiction is not required to transfer the suit affecting the parent-child relationship to the court in which the adoption suit is filed.
- Modifies the ground for termination based on Family Code §161.001(b)(1)(L), being criminally responsible for the death or serious injury of a child under various sections of the Texas Penal Code, to add "or under a law of another jurisdiction that contains elements that are substantially similar to the elements of an offense" under one of the enumerated Penal Code sections
- Mandatory Recording of Child Interviews: An interview with a child in which the allegations of the current investigation are discussed and that is conducted by the department during the investigation stage shall be audiotaped or videotaped unless: (1) the recording equipment malfunctions and the malfunction is not the result of a failure to maintain the equipment or bring adequate supplies for the equipment; (2) the child is unwilling to allow the interview to be recorded after the department makes a reasonable effort consistent with the child 's age and development and the circumstances of the case to convince the child to allow the recording; or (3) due to circumstances that could not have been reasonably foreseen or prevented by the department, the department does not have the necessary recording equipment because the department employee conducting the interview does not ordinarily conduct interviews
- The department must complete the background and criminal history check and conduct a preliminary evaluation of the relative or other designated caregiver's home before the child is placed with the relative or other designated caregiver. Not later than 48 hours after the time that the child is placed with the relative or other designated caregiver, the department shall begin the home study of the relative or other designated caregiver. The department shall complete the home study as soon as possible unless otherwise ordered by a court
- Education In Home Setting For Foster Children: On request of a person providing substitute care for a child who is in the managing conservatorship of the department, the department shall allow the person to provide the child with an education in a home setting unless: (1) the right of the department to allow the education of the child in a home setting has been specifically limited by court order; (2) a court at a hearing conducted under this chapter finds, on good cause shown through evidence presented by the department in accordance with the applicable provisions in the department 's child protective services handbook (CPS August 2013), that education in the home setting is not in the best interest of the child; or (3) the department determines that federal law requires another school setting
- The requirements for the permanency report have been reduced and simplified.

- Enumerates required findings at each permanency hearing
- If, after commencement of the initial trial on the merits within the time required, the court grants a motion for a new trial or mistrial, or the case is remanded to the court by an appellate court following an appeal of the court ’s final order, the court shall retain the suit on the court ’s docket and render an order in which the court: (1) schedules a new date on which the suit will be dismissed if the new trial has not commenced, which must be a date not later than the 180th day after the date on which: (A) the motion for a new trial or mistrial is granted; or (B) the appellate court remanded the case; (2) makes further temporary orders for the safety and welfare of the child as necessary to avoid further delay in resolving the suit; and (3) sets the new trial on the merits for a date not later than the date specified above. (c) If the court grants an extension but does not commence the trial on the merits before the dismissal date, the court shall dismiss the suit. The court may not grant an additional extension that extends the suit beyond the required date for dismissal in the Family Code
- In determining whether the department should be appointed as managing conservator of the child without terminating the rights of a parent of the child, the court shall take into account that a child who is 12 years of age or older and has expressed a strong desire against termination or has continuously expressed a strong desire against being adopted
- Creates standards for Permanency Hearings following entry of the final order.
- A number of Texas Family Code provisions related to the activities of DFPS were repealed.

Codification: Multiple sections of the Texas Family Code
Effective Date: September 1, 2015

V. HOUSING & ENVIRONMENT

67. H.B. 1334 (Clardy/Moody) *Relating to the appeal of a residential eviction suit.*

Summary - H.B. 1334 amends the Property Code to require the justice court, in a residential eviction suit for nonpayment of rent, to state the amount of the appeal bond and to ensure the procurement of the surety's contact information. The bill establishes procedures for contesting such an appeal bond, except for a bond issued by a corporate surety appropriately authorized by the Texas Department of Insurance. A contest of an appeal bond for an eviction for nonpayment of rent does not preclude a party from contesting the bond in the county court after the county court has jurisdiction over the eviction suit.

House Bill 1334 requires a tenant who files an appeal bond for an eviction for nonpayment of rent to pay into the justice court registry the amount of rent to be paid in one rental pay period as determined by the court and, if the tenant fails to timely pay that amount, the plaintiff is authorized to request a writ of possession. The court is required to issue the writ immediately and without a hearing on request and payment of fees. The plaintiff in the eviction suit for nonpayment of rent, on sworn motion and hearing, is authorized to withdraw money deposited in the court registry before the final determination in the case, dismissal of the appeal, or court order following the final hearing.

Codification: Chapter 24, Property Code

Effective Date: January 1, 2016

68. HB 1454 *(Raney) Relating to notice, reporting, and records requirements for holders of certain personal property that is or may be presumed abandoned.*

Summary - House Bill 1454 amends escheat provisions of the Property Code to authorize the owner of shares of a mutual fund, the depositor of an account, or the owner of the contents of a safe deposit box to designate a representative for the purpose of receiving notice from the property holder in the event that the property is presumed abandoned. The bill requires the comptroller of public accounts to prescribe a form for designating such a representative and establishes that the running of the applicable period of abandonment ceases immediately if a designated representative informs the property holder that the representative knows the owner's location and that the owner exists and has not abandoned the property.

Codification: Section 72.1021, Property Code

Effective Date: September 1, 2015

69. H.B. 1853 (Button) *Relating to the removal of a tenant's personal property after a writ of possession has been issued in an eviction suit.*

Summary - House Bill 1853 amends the Property Code to authorize a municipality to provide a portable, closed container for personal property removed from a rental unit by an officer or other authorized person under a writ of possession issued in an eviction suit. The bill provides for the disposal of the contents by the municipality if the owner does not recover the property within a reasonable time.

Codification: Section 24. 0061, Property Code

Effective Date: September 1, 2015

70. H.B. 3364 *(Schofield) Relating to the appeal of a judgment in an eviction suit.*

Summary - Previous law authorized an appeal from a final judgment in an eviction suit for both commercial and residential property. House Bill 3364 amends the Property Code to prohibit a final judgment of a county court in an eviction suit from being appealed on the issue of possession unless the premises in question are being used solely for residential purposes.
Codification: Section 24.007, Property Code
Effective Date: September 1, 2015

71. **S.B. 1168** (West) *Relating to the operation of certain property owners' associations, condominium unit owners' associations, and councils of owners.*
Summary - Senate Bill 1168 amends the Property Code to make changes and provide clarity regarding the operation of certain property owners' associations, condominium unit owners' associations, and councils of owners, including with regard to board meetings, voting procedures, notice and curing of property owner violations, the foreclosure process, and payment plans. The bill also provides for the modification or termination of restrictions on the use of an amenity property in certain real estate developments by petition.
Codification: Section 82.157, Chapter 209 and 213, Property Code
Effective Date: September 1, 2015

72. **S.B. 1316** *(Watson) Relating to the system by which an application for a low income housing tax credit is scored.*
Summary - Current law sets out, in descending order, certain prioritized criteria that the Texas Department of Housing and Community Affairs (TDHCA) must use in evaluating an application for a low income housing tax credit that has satisfied threshold criteria required by the governing board of the TDHCA. Senate Bill 1316 amends the Government Code to remove from the prioritized criteria the commitment of development funding by local political subdivisions. The bill includes criteria addressing the ability of a proposed project to demonstrate support from local political subdivisions based on the subdivisions' commitment of development funding and to rehabilitate or perform an adaptive reuse of a certified historic structure as part of the development among the criteria that are the basis for the point system the TDHCA uses to score each low income housing tax credit application for the purpose of allocating those credits. The bill additionally provides for a reduction in the required amount of funding for a proposed project to receive the applicable number of points for the criterion related to the commitment of development funding by local political subdivisions.
Codification: Section 2306.6710, Government Code
Effective Date: September 1, 2015

73. **S.B. 1812** *(Kolkhorst) Relating to transparency in the reporting and public availability of information regarding eminent domain authority; providing a civil penalty.*
Summary - Senate Bill 1812 amends the Government Code to require the comptroller of public accounts to create and make accessible on a website an eminent domain database containing information regarding public and private entities, including common carriers, authorized by the state by a general or special law to exercise the power of eminent domain. The bill requires each applicable entity to report to the comptroller certain information as prescribed by the bill, provides for civil penalties for an entity's noncompliance with that reporting requirement, and authorizes the attorney general to sue to collect a civil penalty.
Codification: Chapter 2206, Government Code
Effective Date: September 1, 2015

74. **S.B. 1989***(Menendez) Relating to underwriting standards for evaluating applications for low income housing tax credits.*
Summary - Senate Bill 1989 amends the Government Code to grant to the governing board of the Texas Department of Housing and Community Affairs (TDHCA) the duty and power to adopt underwriting standards for housing tax credits allocated by the TDHCA. The bill also provides for the criteria to be used in determining the feasibility of a multifamily rental housing development receiving certain forms of assistance from the TDHCA at the time of cost certification.
Codification: Section 2306.148, Government Code
Effective Date: September 1, 2015

75. **H.B. 2489** (Leach) *Relating to the ability of a property owners' association to enforce certain provisions on the lease or rental of real property.*
Summary – H.B. 2489 amends the Property Code to prohibit a property owners' association from adopting or enforcing a provision in a dedicatory instrument that, in connection with the leasing or renting of a property owner's property, imposes a fee, charge, assessment, or fine or requires dues or any other contribution or payment to the property owners' association; that requires a lease or rental applicant or a tenant to be reviewed or approved by the property owners' association; or that requires a property owner, a lease or rental applicant, a tenant, or that person's agent to provide a copy of a document related to leasing or renting the property owner's property. The bill specifies that a provision in a dedicatory instrument that violates the prohibition is void.
Codification: Section 202.019, Property Code
Effective Date: June 19, 2015

76. **S.B. 864** (Birdwell) *Relating to secret ballots in a property owners' association election or vote.*
Summary - S.B. 864 amends the Property Code to authorize a property owners' association subject to the Texas Residential Property Owners Protection Act to adopt rules to allow voting by secret ballot by members of the association. The bill requires the association to take measures to reasonably ensure that a member cannot cast more votes than the member is eligible to cast in an election or vote and that the association counts every vote cast by a member that is eligible to cast a vote.
Codification: Section 209.0058, Property Code
Effective Date: May 29, 2015

A. Property

77. **H.B. 3316** (Miller) *Relating to the time for recording a durable power of attorney for certain real property transactions.*
Summary - H.B. 3316 amends the Estates Code to make a real property transaction requiring the execution and delivery of instruments to be recorded voidable by any person if the required durable power of attorney for such a real property transaction is not filed for recording as required on or before the 10th day after the date the instrument to be recorded in connection with the transaction is filed for recording.
Codification: Subchapter D, Subtitle P, Chapter 751, Section 751.151 of the Estates Code
Effective Date: September 1, 2015

78. H.B. 2067 (Oliveira) *Relating to the rescission or waiver of an acceleration of the maturity date of certain debt secured by a lien on real property.*

Summary – H.B. 2067 amends the Civil Practice and Remedies Code to establish that if the maturity date of a series of notes or obligations or a note or obligation payable in installments and secured by a real property lien is accelerated and the accelerated maturity date is rescinded or waived before the limitations period expires, the acceleration is deemed rescinded and waived and the note, obligation, or series of notes or obligations is to be governed by statutory provisions relating to real property liens as if no acceleration had occurred.

H.B. 2067 establishes that a rescission or waiver of acceleration is effective if made by a written notice served by the lienholder, the servicer of the debt, or an attorney representing the lienholder on each debtor who, according to the records of the lienholder or the servicer of the debt, is obligated to pay the debt. The bill requires service of the written notice to be by first-class or certified mail and establishes that service is complete when the notice is deposited in the United States mail, postage prepaid and addressed to the debtor at the debtor's last known address. The bill specifies that the affidavit of a person knowledgeable of the facts to the effect that service was completed is prima facie evidence of service. The bill specifies that a written notice served under the bill's provisions does not affect a lienholder's right to accelerate the maturity date of the debt in the future nor does it waive past defaults.

H.B. 2067 expressly does not create an exclusive method for waiver and rescission of acceleration or affect the accrual of a cause of action and the running of the related limitations period on any subsequent maturity date, accelerated or otherwise, of the note, or obligation, or series of notes or obligations. The bill applies with respect to a maturity date accelerated before, on, or after the bill's effective date and any notice of a rescission or waiver of an accelerated maturity date served before, on, or after the bill's effective date.

Codification: Section 16.038, Civil Practice and Remedies Code

Effective Date: June 17, 2015

112. H.B. 2066 (Oliveira) *Relating to the rescission of nonjudicial foreclosure sales.*

Summary - House Bill 2066 amends the Property Code to establish a process for the rescission of a nonjudicial foreclosure sale of residential real property. This bill authorizes a mortgagee, trustee, or substitute trustee, not later than the 15th day after the date of a nonjudicial foreclosure sale conducted under statutory provisions governing the sale of real property under a contract lien, to rescind the sale if the statutory requirements for the sale were not satisfied; the default leading to the sale was cured before the sale; a receivership or dependent probate administration involving the property was pending at the time of sale; a condition specified in the conditions of sale prescribed by the trustee or substitute trustee before the sale and made available in writing to prospective bidders at the sale was not met; the mortgagee or mortgage servicer and the debtor agreed before the sale to cancel the sale based on an enforceable written agreement by the debtor to cure the default; or at the time of the sale a court-ordered or automatic stay of the sale imposed in a bankruptcy case filed by a person with an interest in the property was in effect.

Codification: Section 51.016, Property Code

Effective Date: September 1, 2015

H.B. 2083 (Darby) *Relating to the determination of the appraised value of property for purposes of an ad valorem tax protest or appeal.*

Summary - House Bill 2083 amends the Tax Code to require the selection of comparable properties and the application of appropriate adjustments for the determination of an appraised

value of property in a protest or appeal on the ground of unequal appraisal to be based on the application of generally accepted appraisal methods and techniques, with adjustments made based on recognized methods and techniques that are necessary to produce a credible opinion. The bill also entitles property owners representing themselves to offer an opinion of and present argument and evidence related to the market and appraised value or the inequality of appraisal of the owner's property.
Codification: Section 23.01, Tax Code
Effective Date: September 1, 2015

H.B. 2207 (Keffer) *Relating to the foreclosure sale of property subject to an oil or gas lease.*
Summary - House Bill 2207 amends the Property Code to set out provisions relating to the foreclosure sale of real property that covers the mineral interest in hydrocarbons and is subject to an oil or gas lease. Among other things, the bill establishes that an oil or gas lease covering real property subject to a security instrument that has been foreclosed remains in effect after the foreclosure sale if the oil or gas lease has not terminated or expired on its own terms and was executed and recorded in the real property records of the county before the foreclosure sale.
Codification: Chapter 66, Property Code
Effective Date: September 1, 2015

H.B. 2590 (Johnson) *Relating to providing a remedy for fraud committed in certain real estate transactions.*
Summary - House Bill 2590 amends the Business & Commerce Code to establish that certain fraud committed in a transaction involving the transfer of title to real estate is a false, misleading, or deceptive act or practice under the Deceptive Trade Practices-Consumer Protection Act and to extend the authority to prosecute such fraud to a city attorney.
Codification: Section 27.015, Business & Commerce Code
Effective Date: September 1, 2015

H.B. 3316 (Miller/Doug) *Relating to the time for recording a durable power of attorney for certain real property transactions.*
Summary - House Bill 3316 amends the Estates Code to require a durable power of attorney for a real property transaction to be recorded in the office of the county clerk not later than the 30th day after the date the instrument is filed for recording.
Codification: Section 751.151, Estates Code
Effective Date: September 1, 2015

VI. EDUCATION

A. Primary & Secondary Education

79. H.B. 4 (Huberty/Deshotel/King, Ken/ Giddings/Ashby) *Relating to prekindergarten, including a high quality prekindergarten grant program provided by public school districts.*

Summary – H.B. 4 amends the Education Code to require the commissioner of education by rule to establish a funding program, from funds appropriated for the purpose, under which funds are awarded to school districts and open-enrollment charter schools to implement a high-quality prekindergarten program provided free of tuition or fees. The bill authorizes a school district to participate in and receive funding under the program if the district meets all program standards.

H.B. 4 makes a school district eligible for half-day funding under the Foundation School Program (FSP) for students enrolled in a high-quality prekindergarten program class and entitles a school district to receive additional funding in an amount determined by the commissioner for each student in average daily attendance in a program class, provided the student is four years of age on September 1 of the year the student begins the program. The bill authorizes a school district that receives program funding to use the funding only to improve the quality of the district's prekindergarten programs. The bill requires a school district to select and implement a curriculum for a high-quality prekindergarten program that includes the prekindergarten guidelines established by the Texas Education Agency and measures the progress of students in meeting the recommended learning outcomes. The bill requires each teacher for a prekindergarten program class to be certified as an educator and have been awarded a Child Development Associate (CDA) credential.

H.B. 4 requires a school district to develop and implement a parent engagement plan to assist the district in achieving and maintaining high levels of parental involvement and positive parental attitudes toward education.

H.B. 4 subjects an open-enrollment charter school to a prohibition, restriction, or requirement, as applicable, relating to the high-quality prekindergarten program and entitles a person enrolled in a prekindergarten class under the program to the benefits of the available school fund and the FSP. The bill's provisions apply beginning with the 2015–2016 school year, except for the requirement that a prekindergarten program teacher have been awarded a CDA credential, which applies beginning with the 2016–2017 school year.

Codification: Section 12.104 B, Education Code

Effective Date: September 1, 2015

80. H.B. 440 (Gonzales/Marquez/Simmons/Villalba) *relating to adapting the public school physical education curriculum to accommodate the needs of students with mental disabilities.*

Summary – H.B. 440 amends the Education Code to require the State Board of Education, in identifying the essential knowledge and skills of physical education, to ensure that the physical education curriculum required in each school district that offers kindergarten through grade 12 meets the needs of students who are eligible to participate in a school district's special education program as provided by law or who meet the eligibility criteria developed by the Texas

Education Agency for a special education program. The bill applies beginning with the 2015–2016 school year.
Codification: Section 28.002 (d) of the Education Code
Effective Date: May 23, 2015

B. Higher Education

81. H.B. 910 (Phillips | Flynn | White, James | Riddle | Guillen) Relating *to the authority of a person who is licensed to carry a handgun to openly carry a holstered handgun; creating criminal offenses.*
Summary – This bill makes open carry of weapons legal by giving those licensed to have a concealed weapon the option of carrying it openly in a holster, although open carry will not be allowed on a college campus. However, it allows for carrying a concealed weapon on public college campuses subject to certain exceptions allowing colleges and universities to designate gun-free zones.
Codification: House Bill 910 amends the Alcoholic Beverage Code, Code of Criminal Procedure, Education Code, Election Code, Family Code, Government Code, Health and Safety Code, Labor Code, Local Government Code, Occupations Code, Parks and Wildlife Code, and Penal Code
Effective Date: This Act takes effect January 1, 2016, except Section 31 takes effect September 1, 2015, and Section 32 takes effect September 1, 2019.

82. H.B. 100 (Zerwas/Ashby/Otto/Turner/Clardy) *Relating to authorizing the issuance of revenue bonds to fund capital projects at public institutions of higher education*
Summary – Texas Southern University**:** H.B. 100 amends the Education Code to provide the board of regents of Texas Southern University with up to $60 million in additional bond authority to acquire, purchase, construct, improve, renovate, enlarge, or equip property and facilities, including roads and related infrastructure, for the Robert J. Terry Library at Texas Southern University; authorizes the board to back these bonds by pledging revenue funds of the university; and prohibits the reduction or abrogation of a pledge while a bond backed by the pledge or a subsequent refunding bond is outstanding.
Codification: Subchapter B, Chapter 55, Education Code
Effective Date: September 1, 2015

83. H.B. 197 (Prince) *Relating to requiring certain public institutions of higher education to post information regarding mental health resources on the institution's Internet website.*
Summary – H.B. 197 amends the Education Code to require each public institution of higher education to create a web page on the institution's website dedicated solely to information regarding the mental health resources available to students at the institution. The bill requires the web page to include the address of the nearest local mental health authority and requires each institution to post the required information on its website as soon as practicable after the bill's effective date.
Codification: Chapter 51, Education Code
Effective Date: September 1, 2015

84. H.B. 699 (Nevarez/Alvarado/Villalba) *Relating to requiring public institutions of higher education to establish a policy on campus sexual assault.*

Summary – H.B. 699 amends the Education Code to require each institution of higher education to adopt a policy on campus sexual assault. The bill requires the policy to include definitions of prohibited behavior, sanctions for violations, and the protocol for reporting and responding to reports of campus sexual assault and to be approved by the institution's governing board before final adoption by the institution. The bill requires each institution to make the institution's policy available to students, faculty, and staff members by including the policy in the institution's student handbook and personnel handbook and creating and maintaining a web page on the institution's website dedicated solely to the policy. The bill requires each institution to require each entering freshman student to attend an orientation on the institution's campus sexual assault policy before or during the first semester or term in which the student is enrolled at the institution and to establish the format and content of the orientation. The bill requires each institution, each biennium, to review the institution's campus sexual assault policy and, with approval of the institution's governing board, revise the policy as necessary. The bill's provisions apply beginning with the 2015 fall semester.
Codification: Section 51.9363, Education Code
Effective Date: September 1, 2015

85. H.B. 1054 *(Clardy) Relating to developmental education programs under the Texas Success Initiative for public institutions of higher education.*
Summary – H.B. 1054 amends the Education Code to require the Texas Higher Education Coordinating Board, for each test designated by the coordinating board for use under the Texas Success Initiative, to prescribe a score below which a student is eligible for basic academic skills education, defined by the bill as non-course competency-based developmental education programs and interventions designed for students whose performance falls significantly below college readiness standards. The bill includes basic academic skills education among the developmental coursework provided under the success initiative and expands the coordinating board's rulemaking authority with regard to encouraging institutions of higher education to offer various types of developmental coursework for which course credit may be earned to encompass the implementation of other provisions concerning the success initiative. The bill's provisions apply beginning with the 2016–2017 academic year.
Codification: Section 51.3062 of the Education Code
Effective Date: September 1, 2015

VII. HEALTHCARE

86. S.B. 1881 (Zaffirini) *Relating to authorizing supported decision making agreements for certain adults with disabilities.*

Summary - Senate Bill 1881 amends the Estates Code to establish the Supported Decision-Making Agreement Act under which an adult with a disability may voluntarily, without undue influence or coercion, enter into a supported decision-making agreement with a supporter. The bill, among other provisions, specifies the type of assistance a supporter is authorized to give under the agreement and the conditions under which a supporter is authorized to access certain personal information of an adult with a disability. The bill provides for the reporting of suspected abuse, neglect, or exploitation of an adult with a disability who has entered into an agreement.

S.B. 1881 requires a supported decision-making agreement to be signed voluntarily, without coercion or undue influence, by the adult with a disability and the supporter in the presence of two or more subscribing witnesses, who must be at least 14 years of age, or a notary public. The bill makes an agreement valid only if it is substantially in the form set out in the bill. The bill requires a person who receives the original or a copy of an agreement to rely on it. The bill establishes that a person is not subject to criminal or civil liability and has not engaged in professional misconduct for an act or omission if the act or omission is done in good faith and in reliance on an agreement. The bill requires a person who receives a copy of or is aware of the existence of an agreement and has cause to believe that the adult with a disability is being abused, neglected, or exploited by the supporter to report the alleged abuse, neglect, or exploitation to DFPS.

Codification: Subtitle I, Title 3 of the Estates Code

Effective Date: September 1, 2015

87. H.B. 3074 (Springer) *Relating to the provision of artificially administered nutrition and hydration and life-sustaining treatment.*

Summary - The bill establishes that the statutory requirement that a patient who is requesting, or for whom a person responsible for the health care decisions of the patient is requesting, life-sustaining treatment that the attending physician and an ethics or medical committee have determined to be medically inappropriate be given available life-sustaining treatment pending the patient's transfer to a physician willing to comply with the patient's directive does not authorize withholding or withdrawing pain management medication, medical procedures necessary to provide comfort, or any other health care provided to alleviate a patient's pain. The bill specifies that, along with the attending physician and the health care facility, any other physician responsible for the patient's care also is not obligated to provide life-sustaining treatment after a specified period has elapsed but establishes an exception to require the provision of artificially administered nutrition and hydration unless, based on reasonable medical judgment, providing artificially administered nutrition and hydration would hasten the patient's death, be medically contraindicated such that the provision of the treatment seriously exacerbates life-threatening medical problems not outweighed by the benefit of the provision of the treatment, result in substantial irremediable physical pain not outweighed by the benefit of the provision of the treatment, be medically ineffective in prolonging life, or be contrary to the patient's or surrogate's clearly documented desire not to receive artificially administered nutrition or hydration.

H.B. 3074 entitles a patient or the person responsible for the health care decisions of the individual who has made the decision regarding the directive or treatment decision that a physician refuses to honor to receive a copy of the portion of the patient's medical record related to the treatment received by the patient in the facility for the lesser of the period of the patient's current admission to the facility or the preceding 30 calendar days and to receive a copy of all of the patient's reasonably available diagnostic results and reports related to that portion of the medical record. The bill specifies that the time after which a physician or the health care facility is not obligated to provide life-sustaining treatment is after the 10th day after both the written decision reached during the review process and the patient's medical record are provided to the patient or the person responsible for the health care decisions of the patient. The bill updates the language required to be included in a written directive to physicians and family or surrogates and in the statement explaining the patient's right to transfer when the attending physician refuses to honor an advance directive or health care or treatment decision requesting the provision of life-sustaining treatment.

Codification: Sections 166.002 (2) and (10), Health and Safety Code

Effective Date: September 1, 2015

88. HB 574 *(Bonnen), relating to the operation of certain managed care plans with respect to health care providers.*

Summary – H.B. 574 amends the Insurance Code to prohibit a health maintenance organization (HMO) from terminating participation of a physician or provider solely because the physician or provider informs an individual who is enrolled in a health care plan, including covered dependents, of the full range of physicians and providers available to the enrollee, including out-of-network providers. The bill prohibits an HMO, as a condition of a contract with a physician, dentist, or provider, or in any other manner, from prohibiting, attempting to prohibit, or discouraging such health care providers from discussing with or communicating in good faith with a current, prospective, or former patient, or a person designated by a patient, with respect to information regarding the availability of facilities, both in-network and out-of-network, for the treatment of the patient's medical condition. The bill exempts from these provisions coverage under the child health plan program, the health benefits plan for certain alien children, or a Medicaid program, including a Medicaid managed care program.

H.B. 574 prohibits an insurer from terminating, or threatening to terminate, an insured's participation in a preferred provider benefit plan solely because the insured uses an out-of-network provider. This prohibition applies only to an insurance policy, insurance or HMO contract, or evidence of coverage delivered, issued for delivery, or renewed on or after January 1, 2016.

The bill authorizes an insurer's contract with a preferred provider to require that, except in a case of a medical emergency as determined by the preferred provider, before the provider may make an out-of-network referral for an insured, the preferred provider inform the insured whether the preferred provider has a financial interest in the out-of-network provider, that the insured may choose a preferred provider or an out-of-network provider, and that if the insured chooses the out-of-network provider the insured may incur higher out-of-pocket expenses. H.B. 574 requires an insurer, on request, to provide to a practitioner whose participation in a preferred provider benefit plan is being terminated, in addition to the expedited review required by law, all information on which the insurer wholly or partly based the termination.

Codification: Section 843.306, Insurance Code

Effective Date: September 1, 2015

89. S.B. 169 (Uresti) *Relating to ensuring that certain military members and their spouses and dependents maintain their positions on interest lists or other waiting lists for certain health and human service assistance programs.*

Summary – S.B. 169 amends the Government Code to require the executive commissioner of the Health and Human Services Commission, by rule, to require the Health and Human Services Commission (HHSC) or another health and human services agency to maintain the position of an applicable military member in the queue of an interest list or other waiting list for any assistance program, including a federal Section 1915(c) waiver program, provided by HHSC or another health and human services agency, if the person cannot receive benefits under the assistance program because the person temporarily resides out of state as a result of military service, and to offer benefits to the person according to the person's position on the interest list or other waiting list that was attained while the person resided out of state if the person returns to reside in Texas. The bill requires HHSC or the agency providing the benefits, if the person reaches a position on an interest list or other waiting list that would allow the person to receive benefits under an assistance program but the person cannot receive the benefits because the person temporarily resides out of state as the result of military service, to maintain the person's position on the list relative to other persons on the list but continue to offer benefits to other persons on the interest list or other waiting list in accordance with those persons' respective positions on the list. These requirements apply with respect to an applicable military member who has declared and maintains Texas as the member's state of legal residence in the manner provided by the applicable military branch, and to a spouse or dependent child of that member, and also to the spouse or dependent child of a former military member who had declared and maintained Texas as the member's state of legal residence in the manner provided by the applicable military branch and who was killed in action or died while in service.

Codification: Section 531.0931, Government Code

Effective Date: June 15, 2015

90. H.B. 3729 (*Farias/Guillen) Relating to the inclusion of family members of veterans court program participants in the treatment and services provided to the participants under the program.*

Summary – H.B. 3729 amends the Government Code to add the inclusion of a participant's family members who agree to be involved in the treatment and services provided to the participant under the program to the essential characteristics that constitute a veterans court program.

Codification: Section 124.001, Government Code

Effective Date: June 16, 2015

91. S.B. 339 *(Eltife) Relating to the medical use of low-THC cannabis and the regulation of related organizations and individuals; requiring a dispensing organization to obtain a license to dispense low-THC cannabis and any employee of a dispensing organization to obtain a registration; authorizing fees.*

Summary - <u>*Medical Marijuana:*</u> S.B. 339 amends the Occupations Code to authorize a qualified physician to prescribe low-THC cannabis to a patient with intractable epilepsy, defined by the bill as a seizure disorder in which the patient's seizures have been treated by two or more appropriately chosen and maximally titrated antiepileptic drugs that have failed to control the seizures. The bill establishes that a physician is qualified to prescribe low-THC cannabis to such a patient if the physician is licensed under the Medical Practice Act, dedicates a significant

portion of clinical practice to the evaluation and treatment of epilepsy, and is certified by the appropriate certification board.

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

S.B. 339 requires a dispensing organization to obtain a license issued by DPS; sets out eligibility and application requirements for such a license; provides for the issuance, renewal, or denial of a license; and establishes provisions relating to the suspension or revocation of a license. The bill specifies that an original or renewal license to operate a dispensing organization expires on the second anniversary of the date of issuance or renewal as applicable and provides for a criminal history background check conducted by DPS of the applicant and all directors, managers, and employees of an applicant for a license to operate a dispensing organization. The bill requires the public safety director of DPS by rule to determine the manner by which an individual is required to submit a complete set of fingerprints to DPS for purposes of the background check and to establish criteria for determining whether an individual passes the background check.

S.B. 339 prohibits a municipality, county, or other political subdivision from enacting, adopting, or enforcing a rule, ordinance, order, resolution, or other regulation that prohibits the cultivation, production, dispensing, or possession of low-THC cannabis as authorized by the bill's provisions. The bill exempts a licensed dispensing organization that possesses low-THC cannabis from registration under the Texas Controlled Substances Act, authorizes such a dispensing organization to possess a controlled substance under the act, and exempts, under certain conditions, a person who engages in the acquisition, possession, production, cultivation, delivery, or disposal of a raw material used in or by-product created by the production or cultivation of low-THC cannabis from offenses relating to the delivery or possession of marihuana, the delivery of a controlled substance or marihuana to a child, or the possession or delivery of drug paraphernalia.

Codification: Chapter 487, Health and Safety Code

Effective Date: September 1, 2015

92. SB 481 (Hancock)*, Relating to notice and availability of mediation for balance billing by a facility-based physician.*

Summary –.S.B. 481 amends the Health and Safety Code and Insurance Code to add an assistant surgeon to the definition of "facility-based physician" for purposes of statutory provisions relating to consumer access to health care information, disclosure of provider status, and out-of-network claim dispute resolution.

S.B. 481 amends the Insurance Code to revise the content of the billing statement that a facility-based physician who bills a patient covered by a preferred provider benefit plan or a health benefit plan under the Texas Employees Group Benefits Act that does not have a contract with the facility-based physician is required to send to the patient to specify that the statement contain a conspicuous, plain-language explanation of the mandatory mediation process available under statutory provisions relating to out-of-network claim dispute resolution under certain conditions, instead of contain information sufficient to notify the patient of such mediation process under

certain conditions. The bill revises the monetary condition triggering the requirement that the statement be sent from the amount for which the enrollee is responsible to the physician, after copayments, deductibles, and coinsurance, including the amount unpaid by the administrator or insurer, being greater than $1,000 to such an amount being greater than $500. S.B. 481 lowers from $1,000 to $500 the threshold amount for which the enrollee is responsible to a facility-based physician, after copayments, deductibles, and coinsurance, including the amount unpaid by the administrator or insurer above which an enrollee is authorized to request mediation of a settlement of an out-of-network health benefit claim.

Codification: Section 324.001 of the Health and Safety Code

Effective Date: September 1, 2015

93. SB 425 (Schwertner), *Relating to health care information provided by and notice of facility fees charged by certain freestanding emergency medical care facilities and the availability of mediation.*

Summary – S.B. 425 amends the Health and Safety Code to require a freestanding emergency medical care facility, including a facility exempt from the licensing requirements for such facilities because the facility is owned or operated by a licensed hospital or a hospital owned and operated by the state and is surveyed as a service of the hospital by an organization that has been granted deeming authority as a national accreditation program for hospitals by the Centers for Medicare and Medicaid Services or is granted provider-based status by the Centers for Medicare and Medicaid Services, to post notice that states that the facility is a freestanding emergency medical care facility, that the facility charges rates comparable to a hospital emergency room and may charge a facility fee, that a facility or a physician providing medical care at the facility may not be a participating provider in the patient's health benefit plan provider network, and that a physician providing medical care at the facility may bill separately from the facility for the medical care provided to a patient.

Codification: Chapter 241, Health and Safety Code

Effective Date: Effective September 1, 2015.

94. SB 200 (Nelson), *Relating to the continuation and functions of the Health and Human Services Commission and the provision of health and human services in this state.*

Summary – SB 200 continues the Health and Human Services Commission until September 1, 2027. The Department of Family and Protective Services (DFPS) and the Department of State Health Services (DSHS) are continued with a Sunset date of September 1, 2023. The functions of the state's health and human services agencies will be consolidated in two phases to be completed in 2017. The functions of the Department of Assistive and Rehabilitative Services (DARS) and the Department of Aging and Disability Services (DADS) are transferred to HHSC and abolished, while DFPS and the DSHS would be maintained as separate agencies to perform certain functions. This bill also sets guidelines for Medicaid managed care organizations. The bill transfers to HHSC all functions, including any remaining administrative support services, of: DARS; the Health and Human Services Council; the Aging and Disability Services Council; the Assistive and Rehabilitative Services Council; the Family and Protective Services Council; the State Health Services Council; the Office for the Prevention of Developmental Disabilities; and the Texas Council on Autism and Pervasive Developmental Disorders. These entities would be abolished after all their functions had transferred in this phase.

Codification: Chapter 531-536, Government Code

Effective Date: June 17, 2015 (This Act takes effect September 1, 2015, except Article 3 takes effect January 1, 2016, excluding Sections 3.02(b) and 3.42, which take effect September 1,

2015; Sections 1.23(a), (b), and (c) take effect September 1, 2016; and Sections 1.16 through 1.19 and 1.23(d) and (e) take effect September 1, 2017).

95. HB 1403 (*Sheets) Relating to the definition of health care liability claim for the purposes of certain laws governing those claims.*

Summary – H.B. 1403 amends the Civil Practice and Remedies Code to specify that the term "health care liability claim," as defined in statutory provisions governing medical liability, does not include certain causes of action under the Texas Workers' Compensation Act against an employer by an employee or the employee's surviving spouse or heir to recover damages for personal injuries or death sustained by an employee in the course and scope of the employment or to recover exemplary damages for death caused by an intentional act or omission of the employer or by the employer's gross negligence. H.B. 1403 requires an expert report served by a claimant in a health care liability claim on each defendant or the defendant's attorney to address at least one theory of direct liability asserted against each physician or health care provider against whom a theory of direct liability is asserted.

Codification: Section 74.001 (a) (13), Civil Practice and Remedies Code

Effective Date: September 1, 2015

96. HB 1446 *(Dale), Relating to reimbursement of certain medical costs for victims of certain sex offenses.*

Summary – This bill seeks to encourage victims of sexual assault to undergo exams to preserve evidence by making sure the victim is not held responsible for paying the cost of a medical examination and evidence collection after an assault. H.B. 1446 amends the Code of Criminal Procedure to authorize the attorney general to make a payment to or on behalf of a victim of an alleged sexual assault, regardless of whether the victim has reported the assault to a law enforcement agency, for the reasonable costs incurred for emergency medical care provided to the victim. The bill expands the authorized uses of the compensation to victims of crime fund to include making such payments and reimbursing the Department of Public Safety for the reasonable cost of a forensic medical examination of a victim of an alleged sexual assault who has not reported the assault to a law enforcement agency. The bill specifies that the type of medical examination that a law enforcement agency is required to request for a victim of an alleged sexual assault who reports the assault is a forensic medical examination.

Codification: Section 56.46 of the Code of Criminal Procedure

Effective Date: September 1, 2015

97. HB 1514 *(Sheffield), Relating to health insurance identification cards issues by qualified health plan issuers.*

Summary – The new brand of food stamps? Texas requires that participants in the Affordable Health Care Act Exchanges be identified on their insurance card. H.B. 1514 amends the Insurance Code to provide that an identification card or other similar document issued by a qualified health plan issuer to an enrollee of a qualified health plan purchased through an exchange must, in addition to any requirement under other law, including Sections 843.209, 1301.162, and 1369.153, display on the card or document in a location of the issuer's choice the acronym "QHP."

Codification: Title 8 of the Insurance Code

Effective Date: September 1, 2015

A. Mental Health

98. S.B. 1129 *(Zaffirini) Relating to the transportation of a person with a mental illness.*
Summary- S.B. 1129 amends the Health and Safety Code to specify that a patient committed to a mental health facility for emergency detention or detained and taken into custody for transport to a suitable mental health facility under a protective custody order who is being transported to a designated mental health facility may be physically restrained, when necessary to protect the health and safety of the patient or of a person traveling with the patient, only during the apprehension, detention, or transportation of the patient. The bill requires the method of restraint to permit the patient to sit in an upright position without undue difficulty unless the patient is being transported by ambulance.
Codification- Section 574.045, Health and Safety Code
Effective Date- September 1, 2015

99. H.B. 2216 (Coleman) *Relating to information required of an applicant for a driver's license.*
Summary – One of the questions asked of driver's license applicants is about a person's psychiatric history without reference to its effect on the applicant's ability to drive. H.B. 2216 amends the Transportation Code to prohibit an application for an original driver's license from including an inquiry regarding the mental health of the applicant, including an inquiry as to whether the applicant has been diagnosed with, treated for, or hospitalized for a psychiatric disorder. The bill excludes from the prohibition a general inquiry as to whether the applicant has a mental condition that may affect the applicant's ability to safely operate a motor vehicle.
Codification – Section 521.142 of the Transportation Code
Effective Date – September 1, 2015

100. SB 359 (West), *Relating to the authority of a peace officer to apprehend a person for emergency detention and the authority of certain facilities to temporarily detain a person with mental illness.*
Summary – S.B. 359 amends the Health and Safety Code to authorize the governing body of a licensed hospital, the emergency department of a licensed hospital, a licensed freestanding emergency medical care facility, or certain applicable facilities providing mental health services to adopt and implement a written policy that provides for the facility or a physician at the facility to detain a person who voluntarily requested treatment from the facility or who lacks the capacity to consent to treatment if the person expresses a desire to leave the facility or attempts to leave the facility before the examination or treatment is completed and if a physician at the facility has reason to believe and does believe that the person has a mental illness and, because of that mental illness, there is a substantial risk of serious harm to the person or to others unless the person is immediately restrained and the physician believes that there is not sufficient time to file an application for emergency detention or for an order of protective custody.

S.B. 359 prohibits such a policy from allowing the facility or a physician at the facility to detain a person who has been transported to the facility for emergency detention. The bill requires such a policy to require the facility staff or the physician who intends to detain the person under the policy to notify the person of that intention, to require a physician to document a decision by the facility or the physician to detain a person under the policy and to place a notice of detention in the person's medical record that contains the same information required in a peace officer's

notification of detention, to require the period of a person's detention under the policy to be less than four hours following the time the person first expressed a desire to leave or attempted to leave the facility, and to require the facility or physician to release the person not later than the end of the four-hour period unless the facility staff or physician arranges for a peace officer to take the person into custody or unless an order of protective custody is issued. The bill authorizes a peace officer to take a person who has been admitted to a facility into custody under Texas Mental Health Code provisions authorizing apprehension of a person without warrant.

S.B. 359 establishes that the detention of a person under a policy adopted and implemented by a facility under the bill's provisions is not considered involuntary psychiatric hospitalization for purposes of determining eligibility for a concealed handgun license. The bill exempts a physician, person, or facility that detains or does not detain a person under such a policy and that acts in good faith and without malice from civil or criminal liability for that action. The bill exempts a facility from civil or criminal liability for its governing body's decision to adopt or not to adopt a policy under the bill's provisions.

Codification – Subchapter A, Chapter 573, Health and Safety Code

Effective Date – September 1, 2015

VIII. Wills, Estate and Probate

101. H.B. 705 *(Farrar) Relating to access to financial institution account of a person who dies intestate.*

Summary - H.B. 705 amends the Estates Code to authorize a court, on application of an interested person or on the court's own motion, to issue an order requiring a financial institution to release to the person named in the order information concerning the balance of each account that is maintained at the financial institution of a decedent who dies intestate if 90 days have elapsed since the date of the decedent's death, no petition for the appointment of a personal representative for the decedent's estate is pending, and no letters testamentary or of administration have been granted with respect to the estate. The bill defines "interested person" as an heir, spouse, creditor, or any other having a property right in or claim against the decedent's estate. H.B. 705 does not apply to an account with a beneficiary designation, a P.O.D. account, a trust account, or an account that provides for a right of survivorship.

Codification: Chapter 153, Estates Code

Effective Date: September 1, 2015

102. H.B. 831 *(Giddings) Relating to disclosure of home mortgage information to a surviving spouse.*

Summary - H.B. 831 amends the Finance Code to require a mortgage servicer of a home loan, not later than the 30th day after the mortgage servicer receives a request for information from the surviving spouse of a mortgagor of the home loan that includes a required disclosure notice and is accompanied by required proof of the surviving spouse's status, to provide the surviving spouse with information that the mortgagor would have received in a standard monthly statement, including the current balance information, whether the loan is current and any amounts that are delinquent, any loan number, and the amount of any escrow deposit for taxes and insurance purposes. The bill sets out the information required to be submitted as proof of the surviving spouse's status and grants a mortgage servicer that provides the required information to the surviving spouse immunity from liability to the estate of the mortgagor or any heir or beneficiary of the mortgagor.

Codification: Chapter 343, Finance Code

Effective Date: September 1, 2015

103. H.B. 2419 (Wray) *Relating to the relationship between the Estates Code and the former Texas Probate Code.*

Summary - H.B. 2419 amends the Estates Code to establish that the Estates Code and the Texas Probate Code, as amended, are to be considered one continuous statute, and for the purposes of any instrument that refers to the Texas Probate Code, requires the Estates Code to be considered an amendment to the Texas Probate Code.

Codification: Section 21.002, Estates Code

Effective Date: September 1, 2015

104. H.B. 2428 (Wray) *Relating to the adoption of the Texas Uniform Disclaimer of Property Interests Act.*

Summary - H.B. 2428 repeals Estates Code provisions relating to a disclaimer of property interests and amends the Property Code to set out provisions relating to a disclaimer of property interests.

H.B. 2428 amends the Property Code to authorize a person other than a fiduciary to disclaim, in whole or in part, any interest in or power over property even if the creator of the interest or power imposed a spendthrift provision or similar restriction on transfer or a restriction or limitation on the right to disclaim. The bill authorizes a person designated to serve or serving as a fiduciary, except to the extent the person's right to disclaim is expressly restricted or limited by state law or by the instrument creating the fiduciary relationship, to disclaim, in whole or in part, any power over property held in a fiduciary capacity even if the creator of the power imposed a spendthrift provision or similar restriction on transfer or a restriction or limitation on the right to disclaim or an instrument other than the instrument that created the fiduciary relationship imposed a restriction or limitation on the right to disclaim.

H.B. 2428 authorizes a fiduciary acting in a fiduciary capacity, except to the extent the fiduciary's right to disclaim is expressly restricted or limited by state law or by the instrument creating the fiduciary relationship, to disclaim, in whole or in part, any interest in or power over property that would have passed to the ward, estate, trust, or principal with respect to which the fiduciary was acting had the disclaimer not been made. The bill authorizes a fiduciary acting in a fiduciary capacity to disclaim such an interest or power even if the creator of the power or duty imposed a spendthrift provision or similar restriction on transfer or a restriction or limitation on the right to disclaim or an instrument other than the instrument that created the fiduciary relationship imposed a restriction or limitation on the right to disclaim. The bill does not require such a disclaimer by a fiduciary acting in a fiduciary capacity, except for a disclaimer by a personal representative subject to court supervision or a disclaimer by the trustee of a management trust, to have court approval to be effective unless the instrument that created the fiduciary relationship requires court approval. The bill authorizes a natural guardian, in the absence of a court-appointed guardian, without court approval, to disclaim on behalf of a minor child of the natural guardian, in whole or in part, any interest in or power over property that the minor child is to receive solely as a result of another disclaimer, but only if the disclaimed interest or power does not pass to or for the benefit of the natural guardian as a result of the disclaimer. The bill requires a disclaimer by a fiduciary acting in a fiduciary capacity to be compatible with the fiduciary's fiduciary obligations unless a court of proper jurisdiction orders otherwise.

H.B. 2428 requires a disclaimer, in order to be effective, to be in writing, declare the disclaimer, describe the interest or power disclaimed, be signed by the person making the disclaimer, and be delivered or filed in the manner provided by the bill's provisions. The bill authorizes a partial disclaimer to be expressed as a fraction, percentage, monetary amount, term of years, limitation of a power, or any other interest or estate in the property. The bill establishes that a disclaimer is irrevocable on the later of the date the disclaimer is delivered or filed or takes effect. The bill specifies that a disclaimer made under the bill's provisions is not a transfer, assignment, or release.

H.B. 2428 establishes that a disclaimer by a child support obligor is barred as to disclaimed property that could be applied to satisfy the disclaimant's child support obligations if those obligations have been administratively determined by the office of the attorney general in a Title IV-D case or confirmed and reduced to one cumulative money judgment. The bill authorizes the child support obligee to whom child support arrearages are owed to enforce the child support

obligation against the disclaimant as to disclaimed property by a lien or by any other remedy provided by law.

H.B. 2428 applies to disclaimers of any interest in or power over property, whenever created. The bill specifies that, unless displaced by a bill provision, the principles of law and equity supplement the bill's provisions. The bill does not limit any right of a person to waive, release, disclaim, or renounce an interest in or power over property under a law other than the bill's provisions.

Codification: Title 13, Property Code

Effective Date: September 1, 2015

105. H.B. 3070 *(Thompson) Relating to the disposition of remains.*

Summary - H.B. 3070 amends the Health and Safety Code to include any one or more of the duly qualified executors or administrators of a decedent's estate among the persons listed by priority who have the right to control the disposition of the remains of a decedent who did not leave directions in writing for the disposition of the decedent's remains and to establish the order or priority for such an executor or administrator. The bill makes a person exercising the right to control the disposition of such a decedent's remains, other than a duly qualified executor or administrator of the decedent's estate, liable for the reasonable cost of interment and authorizes the person to seek reimbursement for that cost from the decedent's estate. The bill establishes that when an executor or administrator exercises that right, the decedent's estate is liable for the reasonable cost of interment and the executor or administrator is not individually liable for that cost.

H.B. 3070 authorizes, rather than requires, a written instrument signed by a decedent designating a person to control the disposition of the decedent's remains be substantially in the form specified and changes the specified contents. The bill establishes that, unless the instrument provides otherwise, the designation of the decedent's spouse as an agent or successor agent in the instrument is revoked on the divorce of the decedent and the spouse so appointed. The bill applies to an instrument created before, on, or after the bill's effective date and to a judicial proceeding concerning an instrument that commences on or after the bill's effective date or is pending on that date. H.B. 3070 makes a party to a prepaid funeral contract or a written contract providing for all or some of a decedent's funeral arrangements who fails to honor the contract liable for additional expenses incurred in the disposition of a decedent's remains as a result of the breach of contract.

Codification: Section 711.002, Health and Safety Code

Effective Date: September 1, 2015

106. H.B. 3136 (Naishat) *Relating to the use of a small estate affidavit to distribute certain intestate estates.*

Summary - H.B. 3136 amends the Estates Code to require a list of all known estate assets and liabilities in an application for a small estate affidavit to entitle the distributee of the estate of a decedent who dies intestate to the decedent's estate without waiting for the appointment of a personal representative of the estate to indicate which assets the applicant claims are exempt. The bill establishes, for the purpose of a small estate affidavit, that a reference to "homestead" or "exempt property" means only a homestead or other exempt property that would be eligible to be set aside as exempt property if the decedent's estate was being administered.

Codification: Section 205.002, Estates Code

Effective Date: September 1, 2015

107. H.B. 3160 (Alonzo) *Relating to an exception to the period of filing an application for the grant of letters testamentary or of administration of a decedent's estate.*

Summary - H.B. 3160 amends the Estates Code to establish that the period for filing an application for the grant of letters testamentary or of administration of an estate does not apply if administration is necessary to prevent real property in a decedent's estate from becoming a danger to the health, safety, or welfare of the general public and the applicant for the issuance of letters testamentary or of administration is a home-rule municipality that is a creditor of the estate. The bill specifies that a necessity for a grant of letters of administration is considered to exist if the administration is necessary to prevent real property in a decedent's estate from becoming a danger to the health, safety, or welfare of the general public.

Codification: Section 301.002 (b), Estates Code

Effective Date: September 1, 2015

108. S.B. 462 *(Huffman) Relating to authorizing a revocable deed that transfers real property at the transferor's death.*

Summary - Senate Bill 462 amends the Estates Code to establish the *Texas Real Property Transfer on Death Act* authorizing an individual to transfer the individual's interest in real property to one or more beneficiaries effective at the transferor's death by a transfer on death deed. The bill sets out provisions relating to the authorization, execution, and revocation of a transfer on death deed; the effect of a transfer on death deed both during the transferor's life and at the transferor's death; the effect on a transfer on death deed of a subsequent conveyance of real property by the transferor during the transferor's lifetime; and the liability for transferred property for creditors' claims.

S.B. 462 amends the Estates Code to authorize an individual to transfer the individual's interest in real property to one or more beneficiaries effective at the transferor's death by a transfer on death (TOD) deed, applicable to a TOD deed executed and acknowledged on or after September 1, 2015, by a transferor who dies on or after September 1, 2015. The bill makes a TOD deed revocable regardless of whether the deed or another instrument contains a contrary provision. The bill establishes that a TOD deed is a non-testamentary instrument and that the capacity required to make or revoke a TOD deed is the same as that required to make a contract. The bill prohibits a TOD deed from being created through use of a power of attorney. The bill requires a TOD deed, to be effective, to contain the essential elements and formalities of a recordable deed, state that the transfer of an interest in real property to the designated beneficiary is to occur at the transferor's death, and be recorded before the transferor's death in the deed records in the county clerk's office of the county where the real property is located. The bill establishes that a TOD deed is effective without notice or delivery to or acceptance by the designated beneficiary during the transferor's life or without consideration.

S.B. 462 sets out the conditions under which an instrument is effective in revoking a recorded TOD deed, or any part of it, and prohibits a will from revoking or superseding a TOD deed. The bill establishes that a final judgment of a court dissolving a marriage between the transferor and a designated beneficiary after a TOD deed is recorded operates to revoke the TOD deed as to that designated beneficiary if notice of the judgment is recorded before the transferor's death in the deed records in the county clerk's office of the county where the deed is recorded. The bill establishes that revocation by a transferor of a TOD deed made by more than one transferor does not affect the deed as to the interest of another transferor who does not make that revocation, that a TOD deed made by joint owners with right of survivorship is revoked only if it is revoked by all of the living joint owners, and that the bill's provisions relating to revocation by certain

instruments and to the effect of a will or marriage dissolution do not limit the effect of an inter vivos transfer of the real property.

S.B. 462 sets out the effects of a TOD deed during a transferor's life and voids an otherwise valid TOD deed as to any interest in real property that is conveyed by the transferor during the transferor's lifetime after the TOD deed is executed and recorded if a valid instrument conveying the interest is recorded in the deed records in the county clerk's office of the same county in which the TOD deed is recorded and if the recording of the instrument occurs before the transferor's death. The bill sets out provisions that are applicable on the death of the transferor to an interest in real property that is the subject of a TOD deed and owned by the transferor at death and sets out provisions relating to a TOD deed if a transferor is a joint owner. The bill establishes that a TOD deed transfers real property without covenant of warranty of title even if the deed contains a contrary provision.

S.B. 462 authorizes an optional form to be used to create a TOD deed and an optional form to be used to create an instrument of revocation and sets out the contents of both forms.
Codification: Chapter 114, Estates Code
Effective Date: September 1, 2015

109. S.B. 995 (Rodriguez) *Relating to decedent's estates.*
Summary - S.B. 995 amends the Estates Code to clarify that the term "P.O.D. account," defined under statutory provisions governing multiple-party accounts, includes an account designated as a transfer on death or T.O.D. account. The bill authorizes the guardian of an estate or an attorney in fact or agent of an original payee, on the death of the party, to sign on behalf of the original payee a written agreement relating to the ownership of a P.O.D. account held by a financial institution on or after the bill's effective date, regardless of the date on which the account was opened.

S.B. 995 adds to the conditions under which a will must be read, if after a testator makes a will the testator's marriage is dissolved by divorce, annulment, or a declaration that the marriage is void, unless the will expressly provides otherwise, that all provisions in the will disposing of property to an irrevocable trust in which a former spouse or a relative of a former spouse who is not a relative of the testator is a beneficiary or is nominated to serve as trustee or in another fiduciary capacity or that confers a general or special power of appointment on a former spouse or a relative of a former spouse who is not a relative of the testator be read to instead dispose of the property to a trust the provisions of which are identical to the irrevocable trust.

S.B. 995 specifies that certain provisions conferring a general or special power of appointment or nominating an individual in a fiduciary or representative capacity in a trust instrument that was executed by a divorced individual before the divorced individual's marriage was dissolved that are revoked by the dissolution of the marriage are those provisions that revocably make such conferrals or nominations. The bill establishes that a provision designating a spouse or relative of a spouse who is not a relative of the decedent as a P.O.D. payee or beneficiary, including an alternative P.O.D. payee or beneficiary, on a P.O.D. account or other multiple-party account is not effective as to the former spouse or the former spouse's relative if after the decedent makes such designation the decedent's marriage is dissolved by divorce, annulment, or a declaration that the marriage is void, unless certain circumstances apply. The bill establishes that if such a designation is not effective under the bill's provisions, a multiple-party account is payable to the named alternative P.O.D. payee or beneficiary, or to the estate of the decedent if such an alternative payee or beneficiary is not named. The bill makes a financial institution or other

person obligated to pay a multiple-party account that pays the account to the former spouse or the former spouse's relative as P.O.D. payee or beneficiary under a designation that is not effective under the bill's provisions liable for payment of the account to the named alternative P.O.D. payee or beneficiary or decedent's estate only if certain conditions apply.

S.B. 995 establishes that statutory provisions relating to maternal and paternal inheritance do not permit inheritance by a child for whom no right of inheritance accrues under statutory provisions governing the inheritance of persons not in being, or by such a child's issue. The bill clarifies that no right of inheritance accrues to any person unless the person is born before, or is in gestation at, the time of the intestate's death and survives for at least 120 hours. The bill establishes that a person is considered to be in gestation at the time of the intestate's death if insemination or implantation occurs at or before the time of the intestate's death and is presumed to be in gestation at the time of the intestate's death if the person is born before the 301st day after the date of the intestate's death.

The bill replaces requirements that an application made by an authorized person to commence a proceeding to declare heirship state the decedent's time of death and the residences of the decedent's heirs with requirements that such an application state the decedent's date of death and the physical addresses where service can be had on the decedent's heirs, respectively. The bill also requires the application to state whether each heir is an adult or minor. The bill authorizes, subject to certain exceptions relating to a minor distributee, a distributee to waive citation otherwise required by statutory provisions governing notice of a proceeding to declare heirship to be served on the distributee.

S.B. 995 makes statutory provisions requiring a will to be written, signed, and attested inapplicable to a written will executed in compliance with the law of the state or foreign country where the will was executed or where the testator was domiciled or had a place of residence, as that law existed at the time of the will's execution or at the time of the testator's death. The bill clarifies that a constitutional county court, district court, or statutory county court, including a statutory probate court, may not prohibit a person from revoking an existing will or codicil in whole or in part. The bill clarifies that statutory provisions governing the validity of forfeiture clauses in wills are not intended to and do not repeal any law recognizing that forfeiture clauses generally will not be construed to prevent a beneficiary from seeking to compel a fiduciary to perform the fiduciary's duties, from seeking redress against a fiduciary for a breach of the fiduciary's duties, or from seeking a judicial construction of a will or trust. The bill clarifies that statutory provisions governing the exoneration of debts secured by specific devises are applicable only to wills executed on or after September 1, 2005.

S.B. 995 establishes that a right to take as a member under a class gift does not accrue to any person unless the person is born before, or is in gestation at, the time of the testator's death and survives for at least 120 hours but establishes that a provision in the testator's will to the contrary prevails.

S.B. 995 includes an independent administrator designated by all of the distributees of the decedent among the individuals authorized to file an application with a court for an order admitting The bill removes a requirement that a personal representative, not later than the 90th day after the date of an order admitting a will to probate, file with the clerk of the court in which the decedent's estate is pending a sworn affidavit or certificate stating the addresses of certain beneficiaries and certain notice recipients.

S.B. 995 establishes that, absent a written request by a beneficiary, an independent executor is not required to provide a verified, full, and detailed inventory and appraisement to a beneficiary who is entitled to receive aggregate devises under the will with an estimated value of $2,000 or less, to a beneficiary who has received all devises to which the beneficiary is entitled under the will on or before the date an affidavit in lieu of an inventory, appraisement, and list of claims is filed, or to a beneficiary who has waived in writing the beneficiary's right to receive a verified, full, and detailed inventory and appraisement. The bill excludes a person designated as an administrator with a will or alleged will annexed from those individuals who are allowed out of the estate the person's necessary expenses and disbursements in certain proceedings for the purpose of having the will or alleged will admitted to probate. The bill clarifies that the exempt property to which statutory provisions relating to setting aside exempt property, delivery of exempt property, and payment of family allowance in lieu of exempt property refer is exempt property described as personal property under the Property Code. The bill clarifies that distributees are entitled to distribution of any remaining exempt property of an insolvent estate held by the executor or administrator, after the surviving spouse or children have had exempt property and family allowances set aside or paid to them, in the same manner as other estate property.

S.B. 995 authorizes all of the distributees of a decedent whose will names an executor but does not provide for independent administration, or in certain situations where a decedent's will names no executor or where named executors are deceased, disqualified, or unwilling, or when a decedent dies intestate, to alternatively designate an independent executor or administrator by collectively making such designation in one or more separate documents consenting to the application for probate of the decedent's will or to the application for administration of the decedent's estate, as applicable. The bill clarifies that the circumstances under which a court may appoint a temporary administrator, with powers limited as the circumstances of the case require, include a pending contest relating to granting letters testamentary.

S.B. 995 authorizes a personal representative, when administering the estate of a deceased lawyer who established certain trust or escrow accounts for client funds or the funds of third persons that are in the lawyer's possession in connection with representation, to hire through written agreement a lawyer authorized to practice in Texas to be the authorized signer on the trust or escrow account, to determine who is entitled to receive the funds in the account, to disburse the funds to the appropriate persons or to the decedent's estate, and to close the account. The bill authorizes a personal representative who is a lawyer authorized to practice in Texas to state that fact and disburse such trust or escrow account funds. The bill requires such an agreement or statement to be made in writing and requires a copy of the agreement or statement to be delivered to each eligible institution, defined by the bill to mean a financial institution or investment company in which a lawyer has established an escrow or trust account for purposes of holding client funds or the funds of third persons that are in the lawyer's possession in connection with representation, in which the trust or escrow accounts were established. The bill requires an eligible institution, within a reasonable time after receiving such a copy and accompanying instructions, if applicable, to disburse the funds and close the account. The bill grants an eligible institution immunity from liability for any act respecting an account taken in compliance with the bill's provisions governing disbursement and closing of lawyer trust or escrow accounts. The bill authorizes the Supreme Court of Texas to adopt rules regarding the administration of funds in a trust or escrow account subject to such provisions.

S.B. 995 clarifies that the written will of a testator who was not domiciled in Texas at the time of the testator's death may be admitted to probate at any time if certain conditions apply. The bill

specifies that, on application, an executor named in a foreign will admitted to ancillary probate in Texas is entitled to receive ancillary letters testamentary on proof made to the court that, among other conditions, the executor, if the will is admitted to ancillary probate in Texas after the fourth anniversary of the testator's death, continues to serve in that capacity in the jurisdiction in which the will was previously admitted to probate or otherwise established.

Codification: Section 255.304, Estates Code, Sections 113.004(4), 251.1045(a), 253.001(b) and (c), 254.005, 256.003(a), 353.051(a) and (b), 353.052, 353.053(a), 353.153, 353.154, 452.051(a), 456, and 501.001, Estates Code,

Effective Date: September 1, 2015

110. **S.B. 1791** (Ellis) *Relating to disclosures on selection or modification of an account by a customer of the financial institution.*

Summary - Senate Bill 1791 amends provisions of the Estates Code governing multiple-party accounts with payable-on-death (P.O.D.) designations by establishing requirements for disclosure by a financial institution to a customer on selecting or modifying such an account. Among other provisions, the bill requires a customer of a financial institution other than a credit union to initial each page of the uniform account form. This bill improves account disclosures associated with payable-on-death (POD) accounts to increase account holders' awareness of the availability of this type of account. POD accounts are an alternative to probate administration that enables an account holder to designate one or more beneficiaries to receive the account funds upon the account holder's death. POD accounts are especially beneficial for low-income Texans because the cost of obtaining the account funds through probate is often more than the amount in the account. Current Texas law allows banks to create POD accounts and sets forth a uniform form that financial institutions may use for account selection. S.B. 1791 modifies the existing statute by requiring banks to explicitly provide information on POD and other account types to people who are opening or modifying an account.

Codification-Section Chapter 37, Sections 25.0022, 74.092 and 74.093, Government Code

Effective Date- September 1, 2015

111. **S.B. 1876** (Zaffirini) *Relating to disclosures on selection or modification of an account by a customer of a financial institution.*

Summary- Previous law required a local administrative judge to maintain a list of all attorneys qualified to serve as an attorney ad litem for the courts for which the judge serves as local administrative judge. Senate Bill 1876 amends the Government Code to instead require a court located in a county with a population of 25,000 or more to establish and maintain the following: a list of all attorneys who are qualified to serve as an attorney ad litem and are registered with the court; a list of all attorneys and other persons who are qualified to serve as a guardian ad litem and are registered with the court; a list of all persons who are registered with the court to serve as a mediator; and a list of all attorneys and private professional guardians who are qualified to serve as a guardian and are registered with the court. On request, a local administrative judge may establish and maintain the required lists for a court or courts. The bill establishes the manner in which and the conditions under which an attorney ad litem, guardian ad litem, mediator, or guardian must be appointed from the list and requires the lists to be posted by a court.

Codification: Section 113.053 of the Estates Code

Effective Date: September 1, 2015

IX. WEALTH

112. H.B. 2706 (*Wray) Relating to the value of personal property exempt from seizure by creditors.*

Summary - H.B. 2706 amends the Property Code to change the conditions under which certain personal property is exempt from garnishment, attachment, execution, or other seizure by a creditor by increasing from $60,000 to $100,000 the maximum aggregate fair market value of such property provided for a family, exclusive of the amount of any liens, security interests, or other charges encumbering the property, and increasing from $30,000 to $50,000 the maximum aggregate fair market value of such property owned by a single adult who is not a member of a family, exclusive of the amount of any liens, security interests, or other charges encumbering the property.

Codification: Section 42.001 of the Property Code

Effective Date: September 1, 2015

113. S.B. 752 (Bettencourt) *Relating to the repeal of the inheritance tax and the tax on combative sports.*

Summary - S.B. 752 repeals Chapter 211, Tax Code, relating to the inheritance tax, and amends the Estates Code to make a conforming change. Inheritance tax has not been collected by the state for over 10 years.

Codification: Chapter 211 of the Tax Code and Section 124.001 (3) of the Estates Code.

Effective Date: September 1, 2015

X. LITIGATION

114. H.B. 1681 *(Bohac) Relating to the authority of county clerk to require an individual to present photo identification to file certain documents.*

Summary - H.B. 1681 amends the Local Government Code to authorize a county clerk to require a person presenting a document in person for filing in the real property records of the county to present to the clerk a photo identification verifying the person's identity. The bill authorizes the clerk to determine the forms of photo identification that may be presented to verify the person's identity. The bill authorizes the clerk to copy the photo identification or record information from the photo identification. The bill prohibits the clerk from charging a person a fee to copy or record the information from photo identification. The bill makes information copied or recorded from the photo identification confidential and establishes that a document filed with a county clerk is not invalid solely because the clerk did not copy photo identification or record the information from the photo identification.

Codification: Chapter 191, Local Government Code

Effective Date: September 1, 2015

115. S.B. 1369 (Zaffirini) *Relating to reports on attorney ad litem appointments by courts in this state.*

Summary - S.B. 1369 amends the Government Code to require the clerk of each court in Texas created by the Texas Constitution, by statute, or as authorized by statute to prepare a report on court appointments for an attorney ad litem, guardian ad litem, guardian, mediator, or competency evaluator for a case before the court in the preceding month. The bill requires the clerk of a court that does not make an appointment in the preceding month to file a report indicating that no appointment was made by the court in that month. The bill requires the report on court appointments to include the name of each person appointed by the court for a case in that month; the name of the judge and the date of the order approving compensation to be paid to a person appointed for a case in that month; the number and style of each case in which a person was appointed for that month; the number of cases for which each person was appointed by the court in that month; the total amount of compensation paid to each person appointed by the court in that month and the source of the compensation; and, if the total amount of compensation paid to a person appointed to serve for one appointed case in that month exceeds $1,000, any information related to the case that is available to the court on the number of hours billed to the court for the work performed by the person or the person's employees, including paralegals, and the billed expenses.

C.S.S.B. 1369 makes the reporting requirements inapplicable to a mediation conducted by an alternative dispute resolution system established by a county; an appointment made in a case involving a minor seeking an abortion without notification of a parent, managing conservator, or guardian; a guardian ad litem or other person appointed under a program authorized by Family Code provisions regarding the appointment of volunteer advocates; or an attorney ad litem, guardian ad litem, amicus attorney, or mediator appointed under a county domestic relations office that serves families, county departments, and courts in matters relating to the parent-child relationship.

C.S.S.B. 1369 requires the clerk of a court, not later than the 15th day of each month, to submit a copy of the report to the Office of Court Administration of the Texas Judicial System and to post

the report at the courthouse of the county in which the court is located and on any website of the court. The bill requires the Office of Court Administration to prescribe the format that courts and the clerks of the courts must use to report the required information and requires the office to post the collected information on the office's website. The bill makes a court that fails to provide to the clerk of the court the information required for the submitted report ineligible for any grant money awarded by the state or a state agency for the next state fiscal biennium.

C.S.S.B. 1369 requires the Office of Court Administration to conduct a study on the feasibility of establishing a statewide uniform attorney ad litem billing system that would allow attorneys appointed by courts in Texas to serve as attorneys ad litem in cases before the courts to enter on a standardized form information regarding the appointment type and duration, case information and activities, numbers of hours served under the appointment, and hourly rate or flat fee paid for the appointment. The bill requires the study to examine the possible benefits to Texas and to Texas counties of establishing a statewide uniform attorney ad litem billing system; the number of attorneys in Texas providing legal representation in court-appointed matters; the number of hours spent in client representation activities by attorneys serving as attorneys ad litem; the qualifications of attorneys serving as attorneys ad litem; whether using a standardized billing voucher would provide uniformity in the types of vouchers attorneys are currently required to submit to courts for payment; and the amount of money spent on court-appointed legal representation by year, court, county, and person served, such as parent, child, or other. The bill requires the Office of Court Administration, not later than December 31, 2016, to submit an electronic copy of the study to the governor, lieutenant governor, and speaker of the House of Representatives. The bill's provisions relating to the study expire September 1, 2017.

Codification- Chapter 36, Government Code

Effective Date- September 1, 2015

116. **S.B. 512** (Zaffirini) *Relating to the promulgation of certain forms for use in probate matters.*

Summary - Senate Bill 512 amends the Government Code to require the Supreme Court of Texas to promulgate forms for use by individuals representing themselves in certain probate matters, including forms for use in a small estate affidavit proceeding and the probate of a will as a muniment of title; to promulgate certain simple will forms based on an individual's marital status and whether the individual has adult or minor children; and to promulgate instructions for the proper use of each form or set of forms. The bill requires a probate court to accept such a form unless the form has been completed in a manner that causes a substantive defect that cannot be cured. The forms and instructions must meet certain content and language requirements and include a statement explaining that a Spanish language translated form is to be used only for assisting a person in understanding the form and may not be submitted to the court.

Codification: Section 22.020, Government Code

Effective Date: September 1, 2015

117. **S.B. 478** (Zaffirini) *Relating to the promulgation of certain forms for use in landlord-tenant matters.*

Summary - Senate Bill 478 amends the Government Code to require the Texas Supreme Court to promulgate forms for use by individuals representing themselves in residential landlord-tenant matters and instructions for the proper use of each form or set of forms. The bill requires a court to accept such a form unless the form has been completed in a manner that causes a substantive defect that cannot be cured. The forms and instructions must meet certain content and language requirements and include a statement explaining that a Spanish language translated form is to be used only for assisting a person in understanding the form and may not be submitted to the court.

Codification: Section 22.019, Government Code
Effective Date: September 1, 2015

ABOUT THE EARL CARL INSTITUTE

1. Background.

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

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

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

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

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

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

1.1. *The Mission of the Earl Carl Institute*

The mission of the Institute is to identify, address, and offer solutions to legal and social problems that affect traditionally urban and disenfranchised communities. The Institute, through interdisciplinary scholarship and advocacy, aims to develop the leadership, research, and advocacy skills of law students to encourage public service and to enable the students to effectively address problems of underserved communities.

1.2. *The Vision of the Earl Carl Institute*

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

1.3. *The Core Beliefs of the Earl Carl Institute*

The core beliefs of the Institute are --

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

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

2. Structure of the Earl Carl Institute

2.1. Institute Projects and Outcomes. The Institute generally undertakes projects that are interdisciplinary in nature and have a disproportionate impact on minorities as well as one of three outcomes. These outcomes are (1) student development, (2) public policy initiatives, and (3) community education. In addition, each project is consistent with the purposes of one of the Institute's priority research areas: (1) Criminal Justice, (2) Education, (3) Family, and (4) Housing. By working in specific priority areas, the Institute seeks to create a high level of expertise in areas that significantly impact the urban community. In addition, all Institute projects support Law School strategic goals.

2.2. Institute Centers

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

The Center for Civil Advocacy

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

The CCA currently sponsors two advocacy projects: the Opal Mitchell Lee Property Preservation Project (OMLPPP) and the ECI Juvenile Justice Project.

(1) The *Opal Mitchell Lee Property Preservation Program (OMLPPP)* was established in September of 2007, through a grant from Texas Access to Justice Foundation (TAJF). TAJF has continued to fund the project annually. The OMLPPP addresses the legal challenges lower income residents face in maintaining their real property and enhancing their wealth. The project's focus is to help economically disadvantaged communities retain and grow wealth through assistance with maintaining or obtaining real property. Studies have shown that 95% of the wealth of African Americans is in the value of their homes. The Project staffed by three full-time attorneys. On average, the Institute hires two students per semester to serve as student attorneys for the project. Services include actions involving probate, adverse possession, clearing title to property, partitions, mortgage, homeowner association and tax foreclosure defense, bankruptcy assistance, property tax exemptions, formation of nonprofit corporations to assist with community development, and consumer debt issues.

(2) The *Earl Carl Institute Juvenile Justice Project (JJP)* has operated since 2009 with financial support from the Thurgood Marshall School of Law and grants from the Litigation Section of the State Bar of Texas, Texas Bar Foundation and the Houston Endowment. The project is currently staffed by a full-time attorney who is an Equal Justice Works Fellow sponsored by the Texas Access to Justice Foundation and Greenberg Traurig Law Firm. The Earl Carl Institute's Juvenile Justice Project addresses the issue of disproportionate minority contact (DMC), through a holistic approach, by providing legal representation to children who are in multiple systems including the criminal justice system, disparate educational systems, the mental health system and foster care system. Our services include representation in school disciplinary/special education hearings, sealing of criminal records, direct legal representation in Class C Misdemeanor school ticket cases and truancy cases, direct representation in the juvenile delinquency, foster care, and mental health care systems.

The Center for Criminal Justice

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

The Thurgood Marshall School of Law Innocence Project (TMSLIP) is operated under the auspices of the CCJ. The Innocence Project at Thurgood Marshall School of Law (TMSLIP) was created in June of 2007. In March of 2009, the Innocence Project began operating under the Earl Carl Institute for Legal and Social Policy, Inc. TMSLIP came to Institute with only 24 open services requests while other state funded law school innocence projects averaged over 1000 requests. By July 2015, the TMSLIP had over 3000 open requests for assistance. Further, the TMSLIP is poised to begin litigation in three cases by the end of this academic year.

The Project promotes student development by employing a full time supervising attorney as well as numerous law student investigators who review claims of actual innocence. Statistics show that, like most problems with our criminal justice system, the problem of wrongful conviction impacts the African American community more than any other community. The disparate impact of wrongful conviction on the African American community is shown in Texas' DNA

exonerations. Of the first 45 persons whose convictions were found to be wrongful as the result of post-conviction DNA tests, more than 80% are African American.

The Center for Government Law

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

VISIT US ON THE WEB AT www.earlcarlinstitute.org for more information.

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