

Highlights from the 81st Legislative Session

Regional Clerks Seminar 2010

Procedural Law Highlights

No one's life, liberty or property
are safe while the legislature is
in session.

-- Benjamin Franklin

Legislative Process

- Texas Legislature meets every two years
- Session lasts 140 days
- All bills must pass both chambers
 - House of Representatives
 - Senate
- Must be approved by the Governor

81st Texas Legislature: By the Numbers

Lawmakers filed 7,609 bills and proposed Constitutional amendments.

- 19 Percent Increase from the 80th Legislature in 2007
- 29 Percent Increase from the 76th Legislature in 1999

The Number of Bills Passed Declined

- In 2007, 23.5 Percent of Bills filed became Law
- In 2009, only 19.3 Percent became Law

SIGNIFICANT CHANGES IN THE CODE OF CRIMINAL PROCECURE:

**NEW PEACE OFFICER:
Art. 2.12 Who are Peace Officers**

- County Fire Marshals now designated as Peace Officers
- Adds one more Person who Can Write Citations under State Law
- List is up to 36



PROCEDURAL CHANGE BIGGIES

- CLARIFICATION ON STATUTE OF LIMITATION ISSUE
- DOMESTIC VIOLENCE ADMONISHMENT

Statute of Limitations in Class C Misdemeanors

A complaint for any Class C misdemeanor may be presented within two years from the date of the commission of the offense, and not afterward.

- Article 12.02 C.C.P.

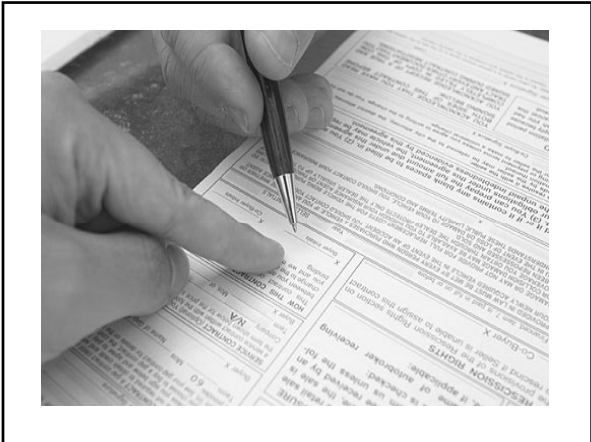


S.B. 413: Mandatory Filing of Complaints upon Non Appearance

- Amends Art. 27.14 CCP
 - What Triggers Mandatory Filing of a Complaint?
 1. A Plea of Not Guilty (Already Law) **OR**
 2. Failure to Appear on the “Written Notice” (i.e. Citation) (New Law)
- How many of you already do this?

What Are These Three Trying to Do?





Domestic Violence Admonishment on Citations for Class C Assault

- Amends Art. 14.06 C.C.P.:
 - Peace officer charging a person, including a child, **with Class C misdemeanor, other than PI, may, instead of taking before a magistrate, issue a citation with the following admonishment:**

- In **boldfaced**, underlined, or CAPITALIZED letters:
 - "If you are convicted of a misdemeanor offense involving violence where you are or were a spouse, intimate partner, parent, or guardian of the victim or are or were involved in another, similar relationship with the victim, it may be unlawful for you to possess or purchase a firearm, including a handgun or long gun, or ammunition, pursuant to federal law under 18 U.S.C. Section 922(g)(9) or Section 46.04(b), Texas Penal Code. If you have any questions whether these laws make it illegal for you to possess or purchase a firearm, you should consult an attorney."

Arts. 15.08, 15.09 Transmittal of Complaints and Warrants

- Article 15.08 and 15.09, CCP
- No Longer have to use Telegraph
- "Complaint" as P.C. Affidavit, Not Charging Instrument in Ch. 45

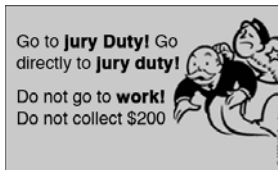


Art. 19.16 Absent Juror Fined

- Contempt for Jurors
 - Old Range: \$10-\$100
 - New Range: \$100-\$500
 - ATTENTION - Did NOT Amend Art. 45.027, CCP (Still Capped at \$100).
 - But DID Amend Sec. 62.111, GC (Filing False Juror Exemption Claim)
 - Also affects Art. 38.02

Art. 35.01 Jurors Called

- Contempt for Jurors
- Jurors not present when called for trial may be fined not less than \$100 nor more than \$500
- New law: may be fined not exceeding \$50



Juvenile Law Update

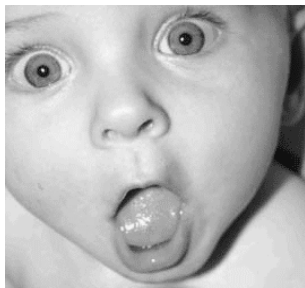


Public Intoxication of Children

- Old Law: No jurisdiction over the Public Intoxication of Children!
- September 1, 2009, it all changed...
- Family Code amended-now jurisdiction of all
- Officers can release in field to parent, guardian, custodian or other responsible adult

Nondisclosure Orders in Cases Involving Children

Say
What???



Nondisclosure Orders in Cases Involving Children

- Adds Subsection 411.081(f-1) G.C.:
- courts immediately issue a nondisclosure order on the conviction of a child for a misdemeanor offense punishable by fine only
- Only pertains to conviction of “child” under §51.02, FC
- NOTE: DPS interpretation of law

Art. 42.01 Judgment/Art.42.037 Restitution

- Ⓞ Confidential Victim Information in Restitution Provision of a Judgment
- Ⓞ Provides an Alternative to Redaction before Public Inspection
- Ⓞ Intended to Reduce Workload of the Clerks



Appeal of Animal Cruelty Determinations Sec. 821.05, H.S.C.



1. Allows a Determination of Animal Cruelty and Divestment of Ownership by a Municipal or Justice Court to be Appealed to a County Court;
2. Requires that the Municipal or Justice Court Provide a Transcript of the Court's Proceeding regarding the Divestment of Ownership to the County Court within 5 Days of Notice of an Appeal; and
3. Requires the County Court to Dispose of the Appeal within 10 Days of Receiving the Transcript