

HIGHLIGHTS FROM THE 81ST TEXAS LEGISLATIVE SESSION: PROCEDURAL LAW UPDATE

State Representative Robert Miklos

Eleven new laws that affect Municipal and Justice Courts and local governments.

1) Laws affecting the Statute of Limitations

SB 410 Amended Code of Criminal Procedure Art. 12.02 to add a two year statute of limitations for Class C misdemeanors.

SB 413 Amended Code of Criminal Procedure Art. 27.14 to require that a complaint be filed if the defendant fails to appear based upon the written notice.

2) Family Violence

SB 1236 Amends Code of Criminal Procedure Art. 14.06 to require a certain admonition be placed on all citations that are issued for family violence.

The Magic Language:

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.

SB 1236 Amends Code of Criminal Procedure Art. 27.14 to require a Judge to admonish a Defendant in a misdemeanor family violence case prior to the Judge accepting a plea of guilty or no contest with the same language as is now required to be placed on the citation.

HB 2066 Amends Section 22.01 of the Penal Code to enhance a Class A Family violence assault to a Third Degree felony if the manner and means involved strangulation.

3) Municipal Judges Additional Powers

SB 935 Amends Family Code, Section 2.2202 to allow Municipal Court judges to perform marriage ceremonies.

4) Class C Trespass

HB 2609 Amends Penal Code Section 30.05 to add two new Class C Misdemeanors for trespassing:

- 1) Trespassing on Residential land within 100 feet of a protected freshwater area; or
- 2) Trespassing on Agricultural land within 100 feet of the boundary.

5) Anti Gang

HB 2086 Amends numerous sections of the Penal Code, Local Government Code, and other codes to fight street gang activity with criminal, and civil enforcement abilities. It also authorizes local governments to enact certain ordinances, within certain bounds.

- 1) Civil damages of up to \$20,000 for each violation of injunctive orders; and
May have property seized in execution of the monetary judgment.

Money held by the City in a separate account, and can only be used to benefit the community.

- 2) If a Defendant convicted of a felony and is granted community supervision, and has been convicted or given deferred twice previously can be placed on EM, and times and locations can be restricted.

- 3) Graffiti Removal. A city or county may order the removal of graffiti. The government has to first offer to pay for the removal as part of the order. If the property owner refuses, the graffiti may be removed, and the owner charged with the costs of removal.

6) New and Changed Traffic Laws

HB 55 Amends Transportation Code Section 545.425 to make it a violation to use a wireless communication device in a school crossing zone.

Municipalities must post a sign informing drivers that:

- 1) The use of a wireless communication device is prohibited in the school crossing zone; and
- 2) the operator is subject to a fine if the operator uses a wireless communication device in the school crossing zone.

HB 2012 Erik's Law. Amends Transportation Code Section 521.457 to make it a Class A Misdemeanor if a person operates a car without a valid driver's license, no insurance, and causes an accident that results in serious bodily injury or death of another person.

SB 61 Amends Transportation Code Section 545.412 to increase the age that a child is required to be in a safety seat to eight years old. The law also lowered the fine to a maximum \$25 on the first offense. This law becomes active on June 1, 2010.

7) Procedural Changes

HB 1544 Amends Code of Criminal Procedure Art. 27.14 to allow a Defendant, who has failed to appear, to dispose of the case without being required to personally appear, if the Court receives a plea and waiver at least five business days before a scheduled trial date.

HB 1544 Amends Code of Criminal Procedure Art. 45.051 to allow a Judge to collect a special expense fee prior to the end of the deferral period.