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Town of Trophy Club

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TMCEC

**Juvenile Justice  
and Issues  
Relating to  
Children**

**TMCEC Legislative Update 2011**

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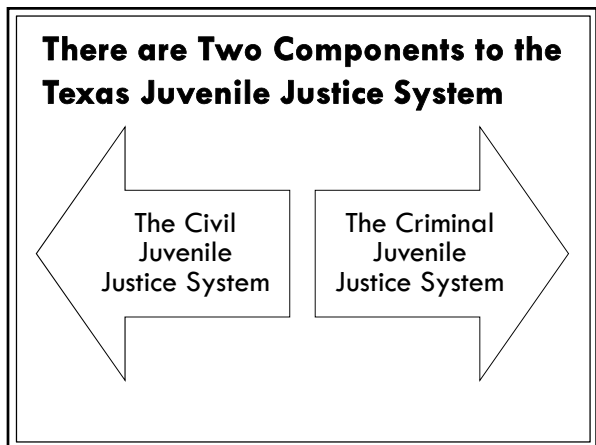
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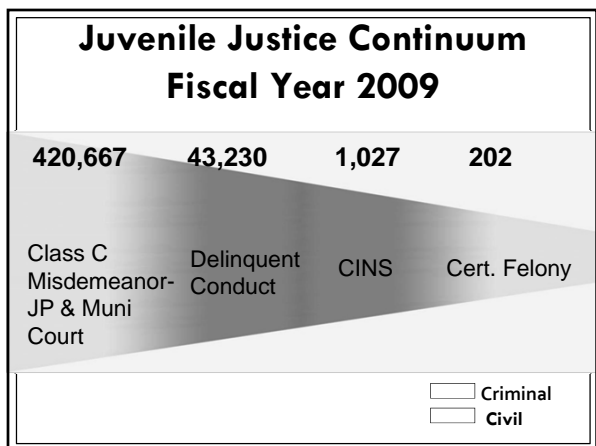
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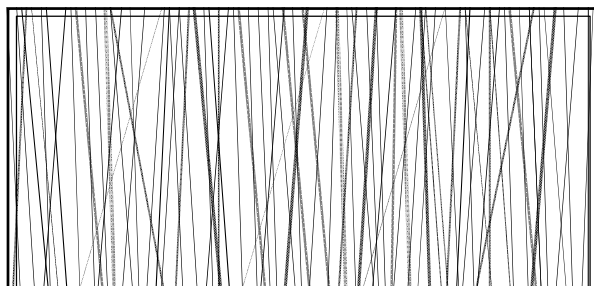
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## School-Related Changes

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## The Passing of the Paddle



HB 359 (p. 9)

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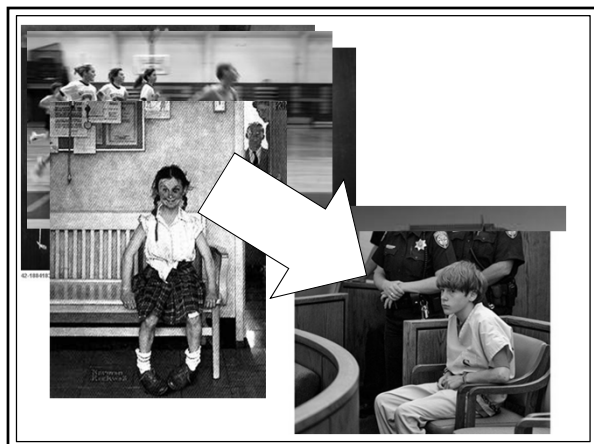
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### Is It Time to Pass the Paddle Back?



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### HB 359 (p. 9)



- **Corporal Punishment**
  - Permitted if board of trustees adopts a policy
  - District maintains original documents

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### HB 359- Harder to Pass the Paddle?

- Disruption of Classes  
37.124, Education Code
- (d) It is an exception to the application of Subsection (a) that, at the time the person engaged in conduct prohibited under that subsection, the person was a student in the sixth grade or a lower grade level.
- Same change for:
  - Disruption of Transportation  
37.126, EC
  - Disorderly Conduct  
42.01(a)(1,2,3,5,6), PC
    - Language
    - Gesture
    - Odor
    - Noise
    - Fights
    - Note absence of 4 and 7
      - Abuse or threat
      - Discharge of firearm

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**SB 1489- Failure to Attend School (p. 17)**



- New Age Requirement
  - Section 25.094, EC
  - Must be 12-17
  - Under 12 → not handled criminally
  - 18 or over → may not be criminally prosecuted
- Truancy Prevention Measures (25.091, EC)
  - Districts must adopt
  - Statement required with complaint
    - Measures applied
    - Special Education Services

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**SB 1489- Failure to Attend School (p. 17)**

- 45.054, CCP
- Courts must dismiss complaints upon
  - successful completion of conditions
  - Presentation of High School diploma or equivalency certificate
- Waive or reduce fees and costs for hardship
- 45.055, CCP
- Expunction Changes
- Courts shall expunge
  - Successful completion of conditions
  - Presentation of High School diploma or equivalency certificate

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**More Truancy Changes!!**

- HB 734 (p.19)
- Jurisdiction
  - Changes threshold
  - 2 million → 1.75 million in order to file truancy cases in constitutional county court
  - Can still be filed in MC
- See Also HB 2132 (p. 20)
  - Allows appointment of magistrate to hear truancy
    - In county of at least 585,000
    - Neighboring a county of at least 4 million
    - JP for 4 years
    - attorney

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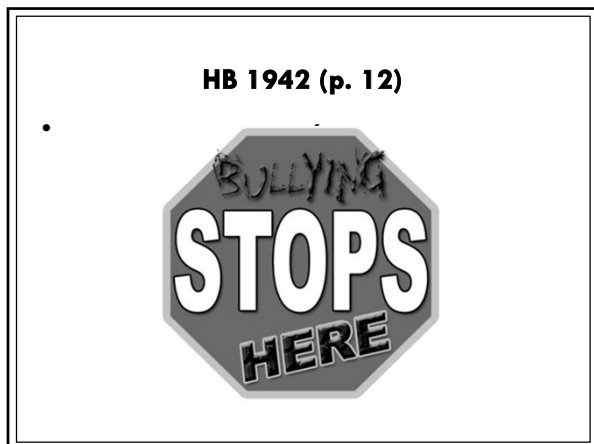
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- HB 1942 (p. 12)**
- Section 37.0823, EC
  - Bullying Definition
  - Disciplinary Policies
  - Section 25.0342, EC
  - Bully Transfer
  - Section 21.451(d), EC
  - Staff Development
  - Preventing, Identifying, Responding to, and Reporting incidents of Bullying

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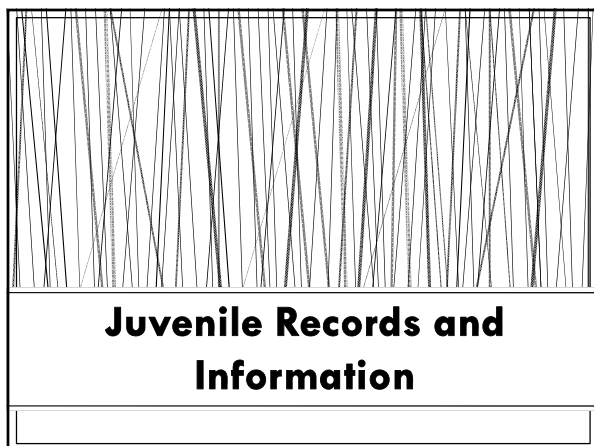
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**The Two Systems**

- Civil Juvenile Justice System



- Criminal Justice Systems

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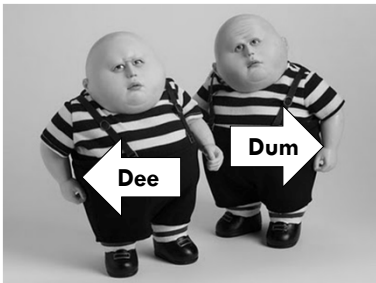
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**Consider the Following**



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**Two Systems in Action**

<b>Tweedle Dee - Civil</b>	<b>Tweedle Dum - Criminal</b>
<ul style="list-style-type: none"><li>• Right to Appointed Counsel</li><li>• Statutory Diversion</li><li>• No fines</li><li>• Records are confidential</li></ul>	<ul style="list-style-type: none"><li>• No appointed counsel</li><li>• Child must appear in open court</li><li>• Fines and Court Costs</li><li>• Criminal Records</li></ul>

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**Juvenile Justice Code Purposes**

- (§ 51.01 Family Code)
  - to promote the concept of punishment for criminal acts
  - To provide treatment, training, and rehabilitation
  - To provide for the care, protection, and the wholesome, moral, mental, and physical development of children coming within its provisions
  - to remove, where appropriate, *the taint of criminality* from children committing certain unlawful acts

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**Controlling the Taint of Criminality**

- Pre-2009
- Juvenile Records → no different than other criminal records

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**Controlling the Taint: SB 1056  
Orders of Nondisclosure**

- Criminal courts must immediately issue nondisclosure order on the conviction of a child for fine-only misdemeanors
- Effective Date: June 19, 2009

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**DPS MUST DISSEMINATE ORDERS**



Has SB 1056 Proven Effective?

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**The Sad Truth**



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**HB 961 (Page 10)**

**Non disclosure under  
411.021 (f-1) and (j),  
Government Code**

**REPEALED**

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### HB 961(p. 10)

- Adds Art. 44.2811
  - Class C Convictions, other than traffic, Confidential (if satisfied)
  - Contemplates appeals as well
- Adds Art. 45.0217
  - Access
    - Courts
    - Crim J Agencies
    - DPS
    - Child Defendant
    - Parent/Guardian
- Applies to all satisfied judgments past, present, and future



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### HB 1907(p. 20)

- Notification requirements
- Offenses committed by students
- No longer just on the shoulders of head of law enforcement agency, can be designee
- Superintendent or designee must immediately notify personnel with supervisory responsibility over the student.

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### Information

- SB 1106 (p. 15): Exchange of Confidential Information
- SB 1241(p. 16): Court Access to Juvenile Justice Information System



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## Discharging Juvenile Fines

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### Methods of Discharging Fines

- Payment
- Community Service
  - Formerly only for the indigent
- Waiver upon indigence and hardship
- **HB 350 (p. 9)**
  - Adds 45.0492
  - Adds a new method
  - Allows discharging of fines through tutoring
- **HB 1964 (p. 12)**
  - Community Service
  - Adds 45.0492, CCP



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### Community Service Comes in ~~THREE~~ FOUR Flavors

1. As a Mandatory Remedial Measure (status offenses involving juveniles: MIP, DUI, MIC, Tobacco, etc.)
2. As a reasonable condition of Deferred Disposition (Art. 45.051(b)(10) CCP)
3. As a Means for an Indigent Person to Discharge fine and Costs (Note: Must be Indigent. Community Service is as good as \$\$\$)
4. As A Means for a Defendants under the age of 17 to discharge assessed fines and costs (45.0492)

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**45.0492**

- Works just like 45.049 except no requirement to have insufficient resources to or income to pay
- **No clause about a minimum of \$50 per 8 hours worked!!! (for the new community service)**
- - "discharge all or part of fine and costs"
- - "must specify the number of hours the defendant is required to work"
- "only for a governmental entity or nonprofit org. that provides services to the general public that enhances social welfare and the general well being of the community"
  - agreement to supervise and report work
  - generally not more than 16 hours per week

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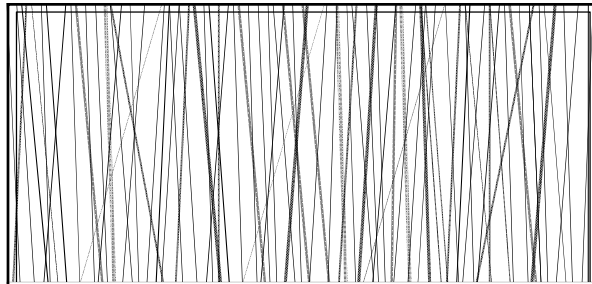
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**Juvenile Case Managers**

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**Juvenile Case Managers:  
Training and Education SB 61 (p. 13)**

- Requires cities with JCMs to adopt rules
- Code of ethics
- Minimum training and educations standards
  - Case planning and management
  - Juvenile law
  - Courtroom proceedings and presentation
  - Local programs and services
  - Detecting and preventing abuse, exploitation, and neglect of children

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**Communications:  
S.B. 209 (p. 14)**

- Art. 45.056, CCP
- JCMs must report to the judge who signed the order or judgment relating to the case
- If requested, report to the presiding judge or the judge assigned to the case
- Judges assigned to juvenile cases must consult with the juvenile case manager
- Requirements do not apply to a part-time judge.
  - What is a part-time judge?
- Full time language and "primarily" language is gone!
- A case manager **shall give priority** to cases alleging Failure to Attend School and Parent Contributing to Non-Attendance.

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**Juvenile Case Manager Fund  
SB 1489 (p. 17)**

- Amends Article 102.0174, CCP
- Prohibits collecting the Juvenile Case Manager Fee if no Juvenile Case Manager is employed.



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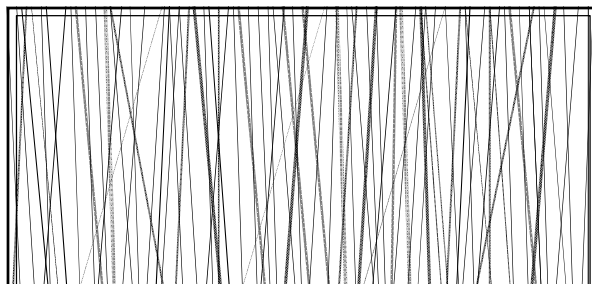
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**The Best of the Rest**

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### Testimony of Children – SB 578 (p. 15)

- Court shall
  - Admin oath allowing full understanding
  - Questions use appropriate language
  - Child has right to notify court if unable to understand a question
  - Allow testimony at appropriate time for understanding
  - Normal school hours
  - Recess for energy, comfort, or attention
  - Prevent intimidation
  - Allow toy or blanket, comforting item
    - Support person



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### HB 3474 & SB 1331 (p. 16) Minors and Alcohol



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### HB 3474 & SB 1331 (p. 16) Minors and Alcohol



- Amends Sections 106.04 (Consumption) and 106.05 (Possession)
- Immunity if minor:
  - Requests emergency medical assistance
  - Was the first to make the request
  - Remained on scene until assistance arrives and cooperates

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**SB 653 (p. 21)**



**Creates the new Texas Juvenile Justice Department**

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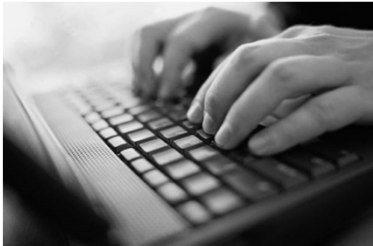
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**SB 1094 (p. 21)**

- Availability of online testing for High School Equivalency Exams



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***Thank You!***

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