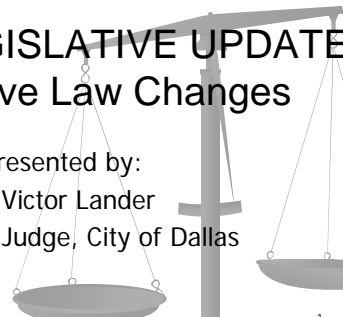


TMCEC LEGISLATIVE UPDATE  
Substantive Law Changes

Presented by:  
C. Victor Lander  
Municipal Judge, City of Dallas



1

---

---

---

---

---

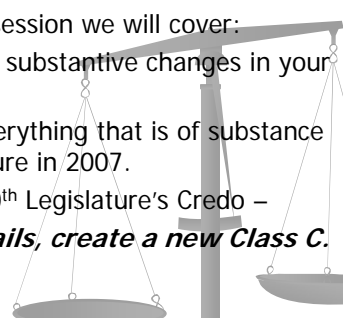
---

---

---

Introduction

- In this half hour session we will cover:
- Maybe half of the substantive changes in your materials; and
- Nowhere near everything that is of substance from the Legislature in 2007.
- Apparently the 80<sup>th</sup> Legislature's Credo – ***When all else fails, create a new Class C.***



2

---

---

---

---

---

---

---

---

New Class C Misdemeanors

- HB 1411 – Restraint of Dogs
- HB 1586 – Laser Light Aimed at Planes
- HB 402 – Ex Parte Contact With Appraiser
- HB 416 – Access to Restrooms
- HB 539 – Age for Fireworks
- SB 91 – Tobacco Health Warnings



3

---

---

---

---

---

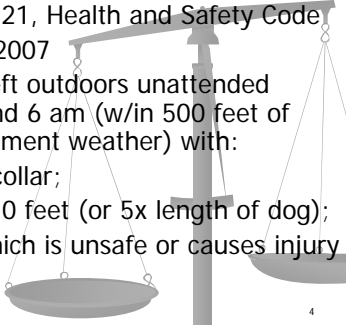
---

---

---

## HB 1411 Unlawful Restraint of Dogs

- Amends Chapter 821, Health and Safety Code
- Effective Sept. 1, 2007
- Dog may not be left outdoors unattended between 10 pm and 6 am (w/in 500 feet of school and in inclement weather) with:
  - Pinch or choke collar;
  - Lead less than 10 feet (or 5x length of dog);
  - Any restraint which is unsafe or causes injury to the dog.



4

---

---

---

---

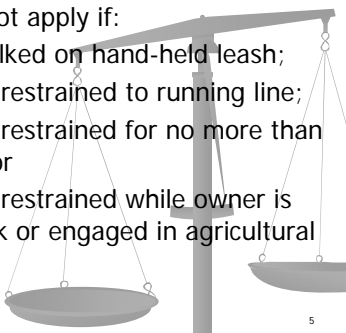
---

---

---

---

- Prohibition does not apply if:
  - Dog is being walked on hand-held leash;
  - Dog reasonably restrained to running line;
  - Dog reasonably restrained for no more than 3 hours a day; or
  - Dog reasonably restrained while owner is herding livestock or engaged in agricultural cultivation.



5

---

---

---

---

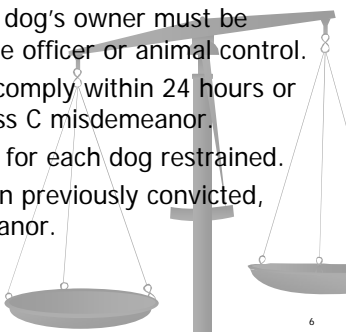
---

---

---

---

- Written notice to dog's owner must be provided by peace officer or animal control.
- If owner fails to comply within 24 hours or receipt, it's a Class C misdemeanor.
- Separate offense for each dog restrained.
- If owner has been previously convicted, Class B misdemeanor.



6

---

---

---

---

---

---

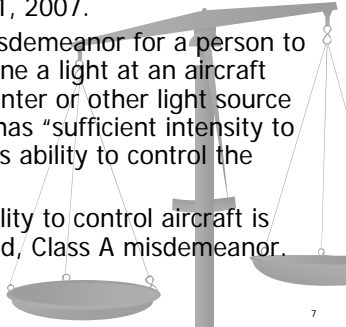
---

---

### HB 1586

#### Illumination of Aircraft by Intense Light

- Effective Sept. 1, 2007.
- New Class C misdemeanor for a person to intentionally shine a light at an aircraft from a laser pointer or other light source when the light has "sufficient intensity to impair the pilot's ability to control the aircraft".
- If the pilot's ability to control aircraft is actually impaired, Class A misdemeanor.



7

---

---

---

---

---

---

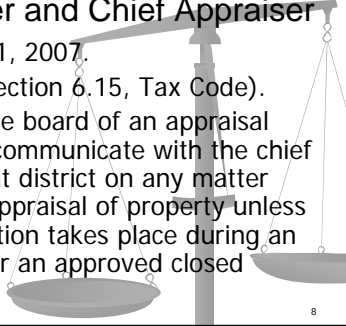
---

---

### HB 402

#### Ex Parte Contact Between Appraisal Board Member and Chief Appraiser

- Effective Sept. 1, 2007.
- New Class C (Section 6.15, Tax Code).
- A member of the board of an appraisal district cannot communicate with the chief appraiser of that district on any matter related to the appraisal of property unless the communication takes place during an open meeting or an approved closed meeting.



8

---

---

---

---

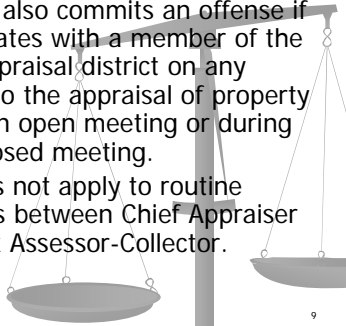
---

---

---

---

- Chief Appraiser also commits an offense if s/he communicates with a member of the board of the appraisal district on any matter related to the appraisal of property unless during an open meeting or during an approved closed meeting.
- Prohibition does not apply to routine communications between Chief Appraiser and County Tax Assessor-Collector.



9

---

---

---

---

---

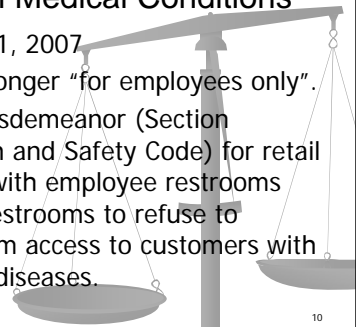
---

---

---

**HB 416**  
**Providing Restroom Access to Persons with Certain Medical Conditions**

- Effective Sept. 1, 2007.
- Restrooms no longer “for employees only”.
- New Class C misdemeanor (Section 341.069, Health and Safety Code) for retail establishment with employee restrooms but no public restrooms to refuse to provide restroom access to customers with “incontinence” diseases.



10

---

---

---

---

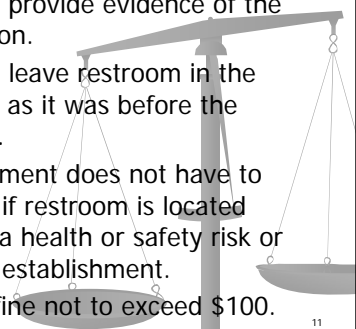
---

---

---

---

- Customer must provide evidence of the medical condition.
- Customer must leave restroom in the same condition as it was before the customer’s use.
- Retail establishment does not have to provide access if restroom is located where there is a health or safety risk or security risk to establishment.
- Punishable by fine not to exceed \$100.



11

---

---

---

---

---

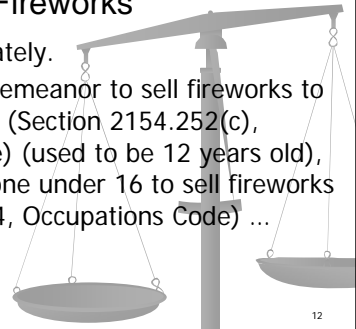
---

---

---

**HB 539**  
**Age Requirements for Selling or Buying Fireworks**

- Effective Immediately.
- New Class C misdemeanor to sell fireworks to children under 16 (Section 2154.252(c), Occupations Code) (used to be 12 years old), or to allow someone under 16 to sell fireworks (Section 2154.254, Occupations Code) ...



12

---

---

---

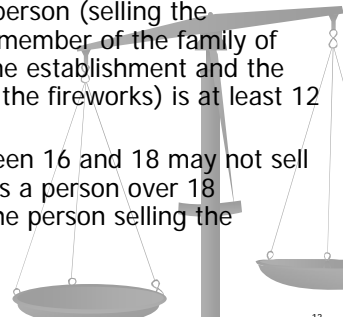
---

---

---

---

---



- ... Unless that person (selling the fireworks) is a member of the family of the owner of the establishment and the person (selling the fireworks) is at least 12 years of age.
- A person between 16 and 18 may not sell fireworks unless a person over 18 accompanies the person selling the fireworks.

13

---

---

---

---

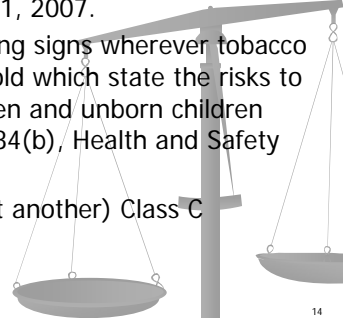
---

---

---

---

### SB 91 Health Warning for Tobacco



- Effective Sept. 1, 2007.
- Requires warning signs wherever tobacco products are sold which state the risks to pregnant women and unborn children (Section 161.084(b), Health and Safety Code).
- Violation is (yet another) Class C misdemeanor.

14

---

---

---

---

---

---

---

---

### Other New Laws of Interest



- HB 916 – Punishment for Dog Fighting
- HB 1889 – Attorneys/Bailiffs with Guns
- HB 2300 – Judges with Guns
- HB 2703 – Public Health Professionals
- HB 3584 – Organized Retail Theft
- HB 1093 – Funeral Service Disruption
- HB 1168 – State Licenses and Permits

15

---

---

---

---

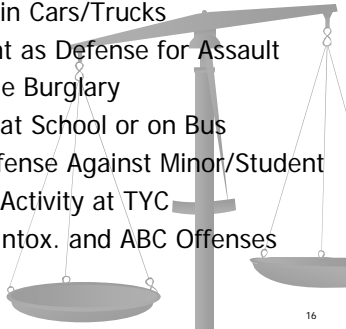
---

---

---

---

- HB 1815 – Guns in Cars/Trucks
- HB 184 – Consent as Defense for Assault
- HB 1887 – Vehicle Burglary
- HB 2112 – Guns at School or on Bus
- HB 401 – Sex Offense Against Minor/Student
- SB 103 – Sexual Activity at TYC
- SB 904 – Public Intox. and ABC Offenses



16

---

---

---

---

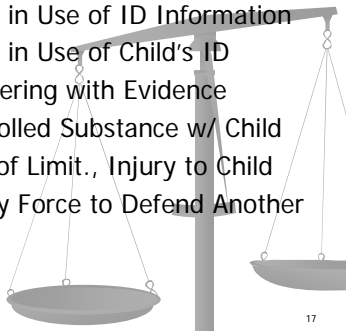
---

---

---

---

- HB 460 – Fraud in Use of ID Information
- HB 649 – Fraud in Use of Child's ID
- HB 872 – Tampering with Evidence
- HB 946 – Controlled Substance w/ Child
- HB 959 – Stat. of Limit., Injury to Child
- SB 378 – Deadly Force to Defend Another



17

---

---

---

---

---

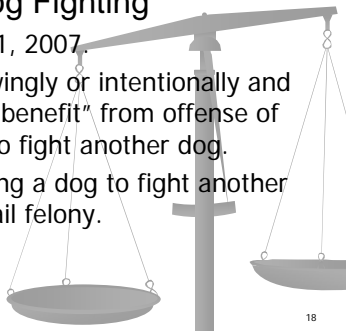
---

---

---

### HB 916 Prosecution and Punishment of Dog Fighting

- Effective Sept. 1, 2007.
- Removes "knowingly or intentionally and for a pecuniary benefit" from offense of causing a dog to fight another dog.
- Now, just causing a dog to fight another dog is a state jail felony.



18

---

---

---

---

---

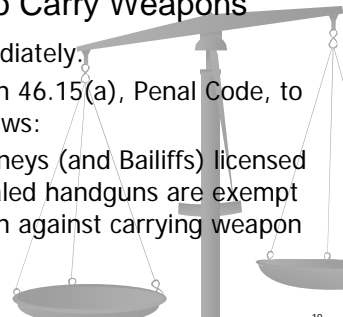
---

---

---

**HB 1889**  
**Allowing Active Judicial Officers and Bailiffs to Carry Weapons**

- Effective Immediately.
- Amends Section 46.15(a), Penal Code, to provide as follows:
- Municipal attorneys (and Bailiffs) licensed to carry concealed handguns are exempt from prohibition against carrying weapon in Courthouse.



19

---

---

---

---

---

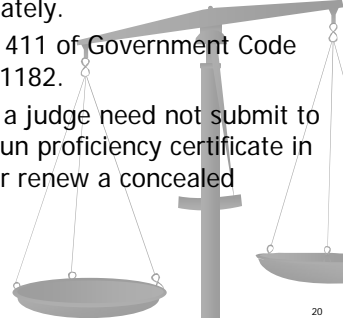
---

---

---

**HB 2300**  
**Carrying of Weapons by Judge**

- Effective Immediately.
- Amends Chapter 411 of Government Code and creates 411.1182.
- Person sitting as a judge need not submit to the DPS a handgun proficiency certificate in order to obtain or renew a concealed handgun license.



20

---

---

---

---

---

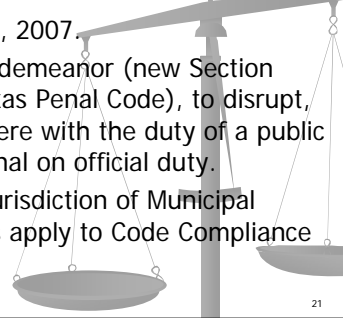
---

---

---

**HB 2703**  
**Interfering With A Public Health Professional**

- Effective Sept. 1, 2007.
- New Class B Misdemeanor (new Section 38.15(a)(7), Texas Penal Code), to disrupt, impede or interfere with the duty of a public health professional on official duty.
- Not within the jurisdiction of Municipal Courts, but does apply to Code Compliance Officers.



21

---

---

---

---

---

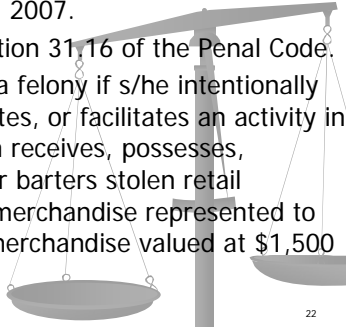
---

---

---

### HB 3584 Organized Retail Theft

- Effective Sept. 1, 2007.
- Creates new Section 31.16 of the Penal Code.
- Person commits a felony if s/he intentionally conducts, promotes, or facilitates an activity in which the person receives, possesses, conceals, sells, or barterers stolen retail merchandise or merchandise represented to be stolen retail merchandise valued at \$1,500 or more.



---

---

---

---

---

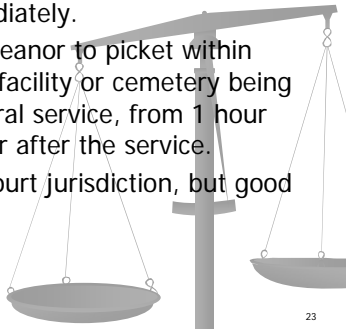
---

---

---

### HB 1093 Funeral Service Disruption

- Effective Immediately.
- Class B misdemeanor to picket within 1,000 feet of a facility or cemetery being used for a funeral service, from 1 hour before to 1 hour after the service.
- No Municipal Court jurisdiction, but good to know about.



---

---

---

---

---

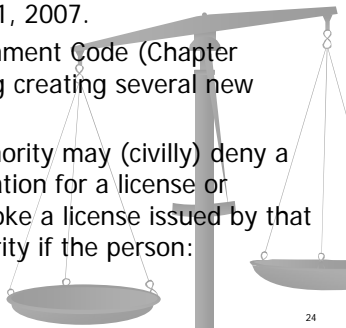
---

---

---

### HB 1168 State Licenses and Permits

- Effective Sept. 1, 2007.
- Amends Government Code (Chapter 2005), including creating several new subchapters.
- A licensing authority may (civilly) deny a person's application for a license or suspend or revoke a license issued by that licensing authority if the person:



---

---

---

---

---

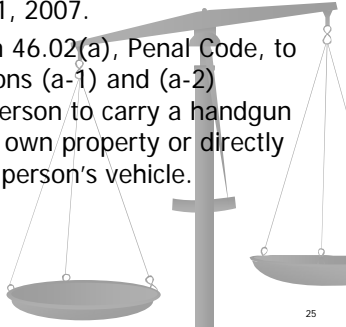
---

---

---

**HB 1815**  
**Handguns in Motor Vehicles**

- Effective Sept. 1, 2007.
- Amends Section 46.02(a), Penal Code, to create subsections (a-1) and (a-2) allowing for a person to carry a handgun on the person's own property or directly en route to the person's vehicle.



25

---

---

---

---

---

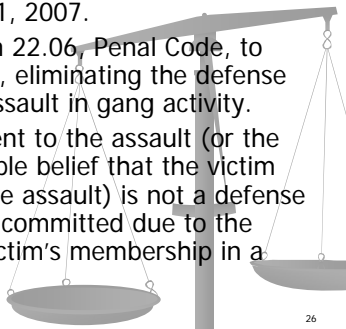
---

---

---

**HB 184**  
**Consent as a Defense for Assault**

- Effective Sept. 1, 2007.
- Amends Section 22.06, Penal Code, to create 22.06(b), eliminating the defense of consent to assault in gang activity.
- A victim's consent to the assault (or the actor's reasonable belief that the victim consented to the assault) is not a defense if the assault is committed due to the defendant or victim's membership in a street gang.



26

---

---

---

---

---

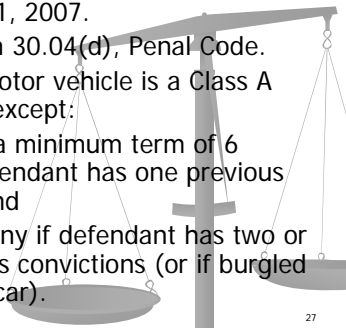
---

---

---

**HB 1887**  
**Punishment for Vehicle Burglary**

- Effective Sept. 1, 2007.
- Amends Section 30.04(d), Penal Code.
- Burglary of a motor vehicle is a Class A misdemeanor, except:
  - Class A with a minimum term of 6 months if defendant has one previous conviction, and
  - State Jail felony if defendant has two or more previous convictions (or if burgled vehicle is railcar).



27

---

---

---

---

---

---

---

---

**HB 2112**  
**Firearms on School Property or School Bus**

- Effective Sept. 1, 2007.
- Amends Section 37.125(a), Education Code – 3<sup>rd</sup> degree felony offense if, with intent to cause injury to another or damage school property, a person intentionally exhibits, uses, or threatens to exhibit or use a firearm on school property (including parking lots controlled by school) or on school bus.

28

---

---

---

---

---

---

---

---

**HB 401**  
**Sexual Offenses Against Minors and/or Students**

- Effective Sept. 1, 2007.
- Amends Section 21.12(a), Penal Code, no employee of a public or private primary or secondary school can engage in sexual contact with a student who is not that person's spouse.
- Subsection (a-2) includes "conduct described by Section 33.021 ... regardless of the age of that person" – thus including online solicitation and text messaging.

29

---

---

---

---

---

---

---

---

**SB 103**  
**Improper Sexual Activity Pertaining to the Texas Youth Commission**

- Effective Immediately.
- Amends Section 39.04, Penal Code, 2<sup>nd</sup> degree felony for person to have sexual contact with an individual in custody of the Texas Youth Commission through:
  - (1) employing the individual,
  - (2) authorizing the contact, or
  - (3) inducing the individual to engage in sexual conduct or performance.

30

---

---

---

---

---

---

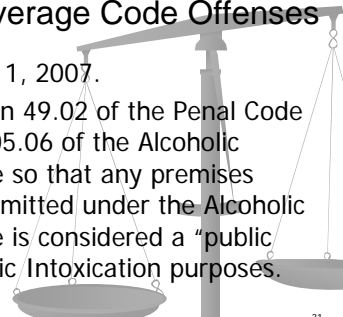
---

---

**SB 904**

**Public Intoxication and Other  
Alcoholic Beverage Code Offenses**

- Effective Sept. 1, 2007.
- Amends Section 49.02 of the Penal Code and Section 105.06 of the Alcoholic Beverage Code so that any premises licensed or permitted under the Alcoholic Beverage Code is considered a “public place” for Public Intoxication purposes.



31

---

---

---

---

---

---

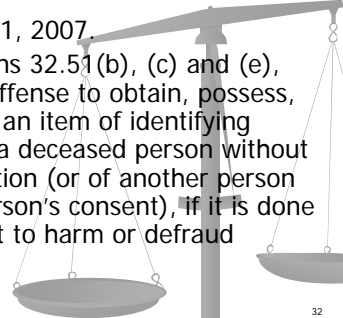
---

---

**HB 460**

**Fraudulent Use or Possession of  
Identifying Information**

- Effective Sept. 1, 2007.
- Amends Sections 32.51(b), (c) and (e), Penal Code – offense to obtain, possess, transfer or use an item of identifying information of a deceased person without legal authorization (or of another person without the person’s consent), if it is done “with the intent to harm or defraud another”.



32

---

---

---

---

---

---

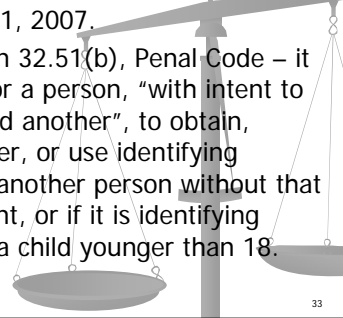
---

---

**HB 649**

**Fraudulent Use of Child’s  
Identifying Information**

- Effective Sept. 1, 2007.
- Amends Section 32.51(b), Penal Code – it is an offense for a person, “with intent to harm or defraud another”, to obtain, possess, transfer, or use identifying information of another person without that person’s consent, or if it is identifying information of a child younger than 18.



33

---

---

---

---

---

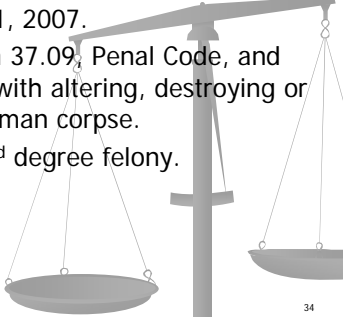
---

---

---

**HB 872**  
**Tampering with or Fabricating  
Physical Evidence**

- Effective Sept. 1, 2007.
- Amends Section 37.09, Penal Code, and deals primarily with altering, destroying or concealing a human corpse.
- Violation is a 2<sup>nd</sup> degree felony.



34

---

---

---

---

---

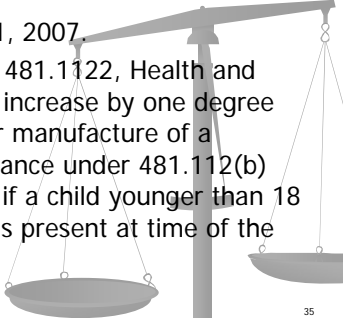
---

---

---

**HB 946**  
**Controlled Substances that  
Endanger a Child**

- Effective Sept. 1, 2007.
- Creates Section 481.1122, Health and Safety Code, to increase by one degree punishments for manufacture of a controlled substance under 481.112(b) and 481.112(c) if a child younger than 18 years of age was present at time of the offense.



35

---

---

---

---

---

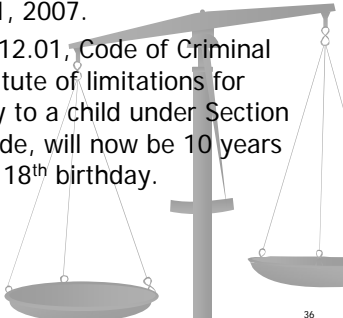
---

---

---

**HB 959**  
**Statute of Limitations for Injury to Child**

- Effective Sept. 1, 2007.
- Amends Article 12.01, Code of Criminal Procedure, - statute of limitations for offense of injury to a child under Section 22.04, Penal Code, will now be 10 years from the child's 18<sup>th</sup> birthday.



36

---

---

---

---

---

---

---

---

## SB 378

### Deadly Force to Defend a Person

- Effective Sept. 1, 2007.
- Amends Section 9.32, Penal Code – actor no longer has duty to retreat before using force or deadly force (authorized by 9.31 or 9.32) if:
  - Actor has the right to be present at location where the force takes place;
  - Actor has not provoked the person against whom the force is used;
  - Actor is not engaged in criminal activity at the time the force is used.

37

---

---

---

---

---

---

---

---

## Conclusion

- Refer to 2007 Legislative Update Appendix and handouts for actual Bills referred to herein.
- Be cautious when considering cases in which new law exists.
- As a judge or magistrate, there are no excuses for being wrong on the law, no matter how new the law may be.

38

---

---

---

---

---

---

---

---

## THANK YOU

- Thank you for your attention.
- Feel free to contact me:
  - C. Victor Lander
  - Municipal Judge, City of Dallas
  - Office: 214/670-5573
  - Cellular: 214/929-9039
  - Email: [vlander@mail.ci.dallas.tx.us](mailto:vlander@mail.ci.dallas.tx.us)

39

---

---

---

---

---

---

---

---