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2019 Legislative Update

86th Texas Legislature Adjourns

The summaries contained in this publication were written during the months of May, June, and July. Thus, when a summary refers to "current law," it is referring to the law prior to the day of the legislative enactment. Most amendments, except where noted, are effective September 1, 2019.

COURTS, COURT COSTS, AND ADMINISTRATION OF JUSTICE

H.B. 435
Subject: Uncollectible Fees
Effective: September 1, 2019

Courts routinely seek to collect unpaid fines, fees, or costs as permitted by law. In many cases, court-ordered fees are collected expediently. Issues arise, however, when the fees become uncollectible, such as when defendants are deceased or serving long prison sentences. In these situations, the costs of maintaining these unpaid fees, or attempting to recover them, often outweigh their value. Accordingly, in 2017, the Legislature amended Section 103.0081 of the Code of Criminal Procedure to allow a trial court in a county with a population of more than 780,000 but less than 790,000 (Collin County) to designate a fee or item of cost imposed in a criminal action or proceeding as uncollectible if the defendant is deceased, serving a life sentence or life without parole, or the fee has been unpaid for at least 15 years. H.B. 435 expands this provision statewide to allow both criminal and civil courts to cease wasteful collection efforts.

TMCEC: The previous version of this bill was big news when it passed last session. Uncollectible judgments remain a problem across the state, and almost every municipal court in Texas has cases that would fall within the definition of "uncollectible." These cases either take up physical space in the court or digital space on the court's servers. Prior to the passage of S.B. 413 in 2017, there was no actual authority to "purge" old cases that contained unsatisfied judgments. To this end, there were many who vowed to expand this authority to include all criminal courts in Texas. H.B. 435 accomplishes this by simply repealing the language of Section 103.0081(c), which effectively limited the authority to declare fees uncollectible to Collin County. The rest of the statute, including the requirements for declaring a fee uncollectible, remains the same. The bill mirrors this change in the Government Code by adding Section 51.609. Now, it is up to all criminal trial courts, including municipal courts, to determine the process for managing these uncollectible fees.

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Fair and Impartial Justice for All

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AROUND THE STATE

REGIONAL ROUNDTABLES

The Regional Roundtables will be held in the cities listed below

Canyon Lewisville Dallas Tyler
Midland Temple Luling
Conroe Baytown McAllen

EDUCATIONAL CREDIT

TMCEC is excited to introduce the Regional Roundtables as a new way for judges to earn flex-time and for clerks to earn clerk certification credit. (Total credits 2.5 hours; judicial education, clerk certification, and CLE)

SPACE IS LIMITED. REGISTER NOW!

October 4, 2019 • 11:00 am to 2:00 pm
Cole Community Center
300 16th Street, Canyon, TX

November 1, 2019 • 11:00 am to 2:00 pm
Hendrick House
1407 Creekview Drive, Lewisville, TX

Beginning in October and continuing through July, a TMCEC board member and staff attorney will travel to each of the ten regions in the state to facilitate a small group discussion. The discussion topics will relate to fines, fees, costs, alternate sentencing and jail commitments.

Regional Roundtable participants will have the opportunity to discuss challenges, share solutions, and learn from others' experiences. Throughout the year, TMCEC will compile feedback from each Regional Roundtable. At the end of the academic year, TMCEC will share the results with participants from all ten regions.

There is no registration fee to attend. Registration is limited to 30 participants. You may register online, by mail or by fax.
Website: www.tmcec.com/programs/clinics/ Fax: 512.435.6118
By Mail: TMCEC, 2210 Hancock Drive, Austin, Texas 78756

If you are eager to participate and want to be among the first to know, send us an email at info@tmcec.com. TMCEC will share dates and locations in each region once they are confirmed.

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H.B. 598
Subject: Access to Continuing Legal Education for Certain Judges and Magistrates
Effective: September 1, 2019

Current law (Section 56.003 of the Government Code) authorizes the Court of Criminal Appeals to use up to one-third of appropriated funds to educate judges and court personnel. However, it is unclear whether those funds could be used for the education of full-time associate judges and part-time masters, magistrates, referees, and associate judges. H.B. 598 clarifies this issue by amending Section 56.003 of the Government Code to make legal education for certain part-time masters, magistrates, referees, and associate judges eligible for Court of Criminal Appeals funding.

TMCEC: Judicial education is fundamental, not just for judges but also for statutory magistrates appointed by judges. These changes only directly affect magistrates appointed by district court and statutory county courts. It is important to note, however, that these funds will come from the same ones used for training municipal judges and court personnel. Following significant changes this session to court costs, that account, the Judicial and Court Personnel Training (JCPT) Fund, is now allocated 3.3224% of the Consolidated Fee (see S.B. 346). It will be interesting to see how the greater division of that amount directed by H.B. 598 affects judicial education in the future. In 2017, courts with civil jurisdiction, for the first time, began collecting a court cost which is deposited in the JCPT fund. This has increased the fund's balance. According to the State, more money in the fund means less percentage is needed to generate the same revenue.

H.B. 685
Subject: Immunity for Court Clerks Disclosing Information in Good Faith
Effective: June 14, 2019

As court records are converted from paper to electronic storage in databases, it has been reported that third-party vendors commonly download or purchase such records from a database and sell them to the public. This creates the risk that there could be inaccurate or wrongfully disclosed information from records that do not represent the entirety of a case or that are subsequently expunged or sealed by court order. Consequently, disclosure creates the risk of suits against court clerks or counties.

H.B. 685 addresses the risk of suit for wrongfully disclosed information by court clerks by adding Section 51.609 to the Government Code, which limits the liability for the wrongful release of court documents from databases approved by the Texas Supreme Court for court document storage. H.B. 685 establishes that court clerks performing their duties in good faith are not liable for the release of legally confidential information from such a database. Under such circumstances, the clerk, the county in which the court was located, and the commissioners court of that county are immune from suit.

Furthermore, H.B. 685 establishes that a court clerk is not liable for the release of a sealed or confidential document in the clerk's custody unless the clerk acted intentionally, or with malice, reckless disregard, or gross negligence in release of the document.

TMCEC: Increasingly, it is difficult in the digital age to balance the public's right to know with the rights of individuals. Hunger for information in the digital age puts court clerks, who are custodians of court records in a precarious position. With the rise of paperless courts and large electronic databases, it is increasingly common to open the morning paper (or click on the website, as the case now may be) to find mugshots of those arrested for a variety of offenses. The question is what happens to that information if the individual is

never convicted? Current law in the United States does not provide for any way to erase one's digital footprint across the internet once there is an acquittal in a case, dismissal, or an expunction order. In many ways, the horse may already be out of the barn. H.B. 685 seeks to address the issue, at least from the perspective of the custodian of records or court clerk that handles the records on the front end. Municipal court clerks in particular should note the addition of Subsection (d) to Section 51.609 of the Government Code, removing liability for the release of a confidential document unless there is one of the listed culpable mental states.

H.B. 1717
Subject: Elected Municipal Judges Holding Multiple Offices
Effective: January 1, 2020, subject to voter approval on November 5, 2019

Under current law, Section 574.001 of the Government Code allows a person to be appointed to the office of municipal judge for more than one municipality at the same time; however, an elected municipal judge may not hold another municipal judge office. This is due to a prohibition in the Texas Constitution that generally prohibits a person from holding more than one paid public office at the same time unless there is a specific exception for the office.

H.B. 1717 allows a person to hold the office of municipal judge for more than municipality at the same time, regardless of whether the person was elected or appointed to each office. The bill takes effect on January 1, 2020, but only if the constitutional amendment proposed by the Legislature is approved by voters. If that amendment is not approved by voters, the bill has no effect.

TMCEC: This bill had a circuitous path to the Governor's desk. As introduced, H.B. 1717 would have had the complete opposite effect of the passed version. The original version would have barred all municipal judges from holding office in more than one municipality at the same time, unless the judge was not paid. Understandably, this caused much consternation among municipal judges and would have created havoc for small towns that typically rely on municipal judges that hold office in multiple cities. Following an outcry across the state from judges and municipalities, the bill was amended to what was purported to be the author's original intent: allowing elected municipal judges to hold more than one office. The question now is what voters will decide in November. It is believed that only about five percent of municipal judges are elected. Will voters understand why allowing these judges to also serve in other cities, most of which are rural and handle fewer cases than their urban counterparts, is in the best interest of the state? It is important to remember that if the constitutional amendment (i.e., H.J.R. 72) fails, H.B. 1717 does not take effect.

H.B. 2384
Subject: Modifying the State Judicial Compensation and Retirement Systems
Effective: September 1, 2019

It has been suggested that adequate judicial compensation is key to attracting qualified candidates and retaining experienced judges. H.B. 2384 does this by increasing the compensation for certain members of the judiciary. H.B. 2384 amends Section 201.105 the Family Code and Chapters 25, 26, 41, 46, 74, 75, 659, 814, 815, 834, 835, 839, and 840 of the Government Code to modify the compensation and retirement structures for certain judges and professional prosecutors. The bill increases the statutory floor for the state salary for a district court judge from $125,000 to $140,000 and clarifies that this amount is the state base salary for this position in addition to continuing the current authority for the salary to be set at an amount established in the General Appropriations Act ($140,000 for the 2018-19 biennium) every two years. The bill also makes conforming changes to maintain statutory linkages of judicial and prosecutor positions that are linked to a district judge's state base salary.

H.B. 2757
Subject: ALI Restatements Are Not Law
Effective: September 1, 2019

The American Law Institute (ALI) is an organization that publishes the Restatements of the Law, which are often considered by courts as dependable descriptions of existing law. ALI was created in 1923 to promote clarification and simplification of the common law in the United States. Members of ALI include judges, attorneys and law professors. Recent concerns have been raised that particular Restatements may go beyond summarizing the state of current legal thinking and may be inaccurate or misleading.

H.B. 2757 clarifies the rule of decision in Texas courts and establishes that the ALI Restatements are not controlling in any action governed by state law. The bill amends the Civil Practice and Remedies Code to revise the provision establishing the rule of decision in the state by specifying that the rule of decision consists of those portions of the common law of England that are not inconsistent with the constitution or laws of Texas, the constitutions of Texas and the United States, the laws of Texas, and case law precedents set by a Texas court. H.B. 2757 also provides that, in any action governed by the laws of Texas concerning rights and obligations under the law, the American Law Institute's Restatements of the Law are not controlling.

TMCEC: Law school graduates are likely familiar with another ALI publication, the Model Penal Code. This bill was a response to the ALI adopting the Restatement of the Law on Liability Insurance. The Restatements of Law are typically summaries of the law, but in this case, many have argued that the restatement actually proposed changes to the existing law. Last year, the governors of Iowa, Maine, Nebraska, South Carolina, Texas, and Utah sent a letter to ALI making known their concerns that this infringed on the power of the states with regard to insurance regulation. H.B. 2757 only amends the Civil Practice and Remedies Code, but it will be interesting to see if future ALI Restatements in other areas of the law will result in a similar pushback.

H.B. 2910
Subject: Confidentiality of Personal Information with Voter Registrar
Effective: September 1, 2019

Some protections relating to the confidentiality of personal information obtained for the purposes of voting fail to adequately protect individuals, including judges. H.B. 2910 amends the Election Code to expand the list of information furnished on a voter registration application that is considered confidential to more clearly include the residence address and telephone number of the person submitting the application. The bill requires documentation submitted by an individual to a voter registrar for the purpose of establishing eligibility for personal information confidentiality to be retained on file with the voter registration application. The bill also makes certain provisions prohibiting the disclosure of a judge's residence address in connection with election administration, applicable to other individuals whose residence address information is confidential.

TMCEC: S.B. 42 (The Judge Julie Kocurek Judicial and Courthouse Security Act of 2017) made sweeping changes to the ability to access the personal information of a judge or that judge's spouse in the state's records. Along with S.B. 489, H.B. 2910 further clarifies issues and closes outstanding loopholes that would allow bad actors access to this information. Interestingly, another issue that has given state judges cause to complain has been confusion among certain state agencies as to whether these confidentiality provisions pertain to municipal judges. H.B. 2910 also amends Section 1.005 of the Election Code by cleaning up the statute and adding the definition of "state judge" to the laundry list of definitions. Section 1.005 (18-a)(E) of the Election Code clearly defines state judge to include a municipal judge.

H.B. 3014
Subject: Management of Lubbock's Municipal Court Employees
Effective: September 1, 2019

Interested parties have indicated a lack of clarity as to whether the clerk and other personnel of the Lubbock Municipal Court are subject to the direction and control of the presiding judge of the court or the city manager's office. H.B. 3014 amends Section 30.00044(l) of the Government Code to specify that the clerk and other court personnel do not perform their duties under the direction of the presiding judge of the Lubbock Municipal Court.

H.B. 3040
Subject: Study on Election of Certain Judges
Effective: June 14, 2019

H.B. 3040 establishes the Texas Commission on Judicial Selection to study and review the method by which certain judges and justices are selected for office. The commission will be required to study statutory county court judges, probate court judges, district judges, justices of the courts of appeals, judges of the Texas Court of Criminal Appeals, and justices of the Texas Supreme Court. The study is further required to consider the fairness, effectiveness, and desirability of selecting the judicial officers specified by the bill through partisan elections, as well as judicial selection methods proposed or adopted by other states, including various types of appointment. The commission's report is due to the Governor by December 31, 2020.

TMCEC: Is it time to end the partisan election of judges in Texas? Currently, municipal judges are the only judges in Texas where state law allows the judge to be either appointed or elected. The decision belongs to the city that hosts the municipal court. The vast majority of Texas cities (roughly 95 percent) opt to appoint judges. While currently, this makes most municipal judges the exception to the general rule that judge in Texas are elected, it will be interesting to see whether changes are in store for other members of the judiciary.

H.B. 3081
Subject: Eligibility Requirements for Temporary Justices of the Peace
Effective: September 1, 2019

A qualified person can be appointed to serve as a special or temporary justice of the peace when a justice of the peace is unavailable. Reports indicate a greater need for these appointments due to the increased caseload of justice courts. H.B. 3081 addresses the increasing need for appointments of special or temporary justices of the peace.

Under current law (Section 27.055 of the Government Code), a person who has served as a justice of the peace for at least four and a half years is considered qualified for appointment as a temporary justice of the peace. If there is no qualified person available for appointment, a county judge may appoint a qualified voter, as defined by Section 11.002 of the Election Code, to serve as a temporary justice of the peace. H.B. 3081 amends Section 27.055 of the Government Code by expanding the list of people qualified to serve as a temporary justice of the peace to include those with past service as either a county judge or judge of a county court at law. It also reduces the length of time this person must have served as a qualifying type of judge from four and a half to four years.

If there are no qualified individuals available, a county judge may still appoint a qualified voter. However, H.B. 3081 specifies that this qualified voter must have experience and knowledge of relevant judicial or justice court processes and must be approved by the county judge and a justice of the peace in the county.

TMCEC: While municipal judges are not added to the expanded list under Section 27.055, a number of municipal judges (i.e., those with at least four years of experience as a justice of the peace, county judge or a judge or judge of a county court at law) meet the definition of a "qualified person" under Subsection (c). Additionally, in locales where a "qualified person" cannot be found, a municipal judge, city attorney, court clerk, or court administrator may be appointed if determined to have experience and knowledge relevant to the judicial or justice court processes and procedures and they are approved by the county judge.

H.B. 3233
Subject: Judicial Campaign Fairness Act Revisions
Effective: June 2, 2019

It has been noted that certain provisions of the Judicial Campaign Fairness Act (Subchapter F of Chapter 253 of the Election Code) are out of date and in need of updating. H.B. 3233 revises and updates those provisions regarding, among other things, certain contribution and expenditure limits for judicial candidates. Additionally, H.B. 3233 requires the Texas Ethics Commission (TEC) to post certifications of population of the contribution limits applicable to various judicial offices on its website. It also specifies that TEC can impose a penalty against a person under the Judicial Campaign Fairness Act only after a formal hearing.

TMCEC: Municipal judges and justice of the peace are not subject to the Judicial Campaign Fairness Act but should study its provision if contemplating election to judicial offices (other than constitutional county judge).

H.R. 1658
Subject: Municipal Courts Weeks
November 4-8, 2019 and November 2-6, 2020

Municipal courts provide citizens with a local forum where questions of law and fact can be resolved in regard to alleged violations of state law and municipal ordinances. Because more citizens come into contact with municipal courts than any other courts, the public impression of the Texas judicial system is largely dependent on their experience there. Municipal judges, clerks, court administrators, prosecutors, juvenile case managers, bailiffs, and warrant officers continually strive to improve the administration of justice through participation in judicial education programs, seminars, workshops, and the annual meetings of their state and local professional organizations. Municipal courts in Texas play a vital role in preserving public safety, protecting the quality of life for area residents, and deterring future criminal behavior, and it is indeed fitting to recognize municipal judges and court support personnel for their exemplary dedication to the communities they serve.

The House of Representatives of the 86th Texas Legislature recognizes each of the weeks of November 4-8, 2019 and November 2-6, 2020, as Municipal Courts Week and take special note of the important work performed by all those associated with the state's municipal courts.

S.B. 40
Subject: State Court Procedures During Natural Disasters
Effective: June 7, 2019

Hurricane Harvey affected the judicial system in numerous ways, including physically damaging courthouses and court buildings; delaying court dockets and jury trials; disrupting communications with county officials, litigants, attorneys, jurors, court personnel, and others; and reducing court security. Due to these difficulties, the Texas Supreme Court issued emergency orders to modify or suspend procedures for cases in courts affected by this natural disaster. Under the then existing law, however, these orders could only last up to 30

days and the Supreme Court had to renew them multiple times. Accordingly, S.B. 40 extends the duration of Supreme Court orders modifying or suspending court procedures during an emergency from the current 30 days to up to 90 days. S.B. 40 also allows the chief justice to renew an emergency order without seeking a full vote of the court. These changes decrease the amount of time devoted to these orders and provide more consistency and reassurance to the courts in areas affected by natural disasters.

What's more, although the law allowed regional presiding judges to designate alternative sites for certain county level courts to conduct proceedings after a natural disaster, the law only allowed the presiding judge to choose an alternative site within the same judicial district for these courts. And statutes did not authorize presiding judges to relocate any court located in a non-coastal county or any municipal or justice of the peace court in the state. For this reason, S.B. 40 also allows presiding judges to designate an alternate location outside the judicial district or county for any court to operate after a disaster if the location is the most proximate place where the court can safely and practicably preside.

TMCEC: Following Hurricane Harvey, a number of courts were forced to take up temporary residence in other locations due to damage or flooding. In some cases, such as with the Harris County Criminal Justice Center, the building was not able to be fully occupied for almost 21 months. In other cases, there was considerable damage both city and county wide, complicating efforts to find alternative court locations. This presented real problems for municipal courts, as the law did not provide specific authorization to continue court operations either inside or outside of the corporate limits of the municipality. S.B. 40 will no doubt be welcomed by courts in a state that is no stranger to large natural disasters.

Municipal courts should take note in particular to the changes that S.B. 40 makes to the Government Code sections governing courts of non-record (Chapter 29) and courts of record (Chapter 30). The bill adds Section 29.015 to the Government Code, allowing the presiding judge of the administrative judicial region, with the approval of the municipal judge, to designate an alternative court location in the event of a natural disaster. New Section 30.000123 to the Government Code does the same thing for courts of record.

Additionally, courts should note that the definition of "natural disaster" referenced in the sections has not changed. The definition in Section 418.004(1) of the Government Code includes more than just hurricanes. It also covers disasters of man-made cause, air contamination, and even the imminent threat of widespread or severe damage.

S.B. 346
Subject: Consolidation of Court Costs
Effective: January 1, 2020

TMCEC: A study by the Office of Court Administration identified that, as of January 1, 2018, 143 distinct criminal court costs in 17 different categories are required to be assessed in Texas. Accordingly, the criminal court cost system in Texas is complex to administer and may be difficult for the State to audit. This leads to significant resources being devoted by both the state and local governments to attempt to ensure compliance with state law. Despite these efforts, however, it often is impossible to adhere to the complex criminal court costs established by current law.

Additionally, in *Salinas v. State*, 523 S.W.3d 103 (Tex. Crim. App. 2017), the Texas Court of Criminal Appeals ruled that revenue generated by court costs could not be used to fund counseling programs for abused children or rehabilitation services to assist persons with traumatic brain or spinal cord injuries. The court held that criminal court costs should only be allocated for "legitimate criminal justice purposes" and that it was

unconstitutional to assess criminal court costs as an alternative means of collecting taxes to finance programs that are more properly attached to the executive branch.

In the wake of the *Salinas* case, appellate courts have ruled that several other courts costs do not serve a legitimate criminal justice purpose. As more court costs were found unconstitutional, local governments questioned whether the loss of revenue would negatively impact vital services. This uncertainty was particularly pressing for those services funded by local government entities with the proceeds from court costs. To address this issue, S.B. 346 attempts to consolidate court costs in a revenue-neutral manner. The new system may be substantially easier to comply with and audit. It also preemptively prevents potential budgetary problems that both the state and local governments could face if additional costs are ruled unconstitutional, especially mid-budget cycle.

S.B. 346 also amends current law relating to the consolidation, allocation, classification, and repeal of certain criminal court costs and other court-related costs, fines, and fees. An amendment made to the bill made in the final weeks of session contained an array of procedural changes pertaining to the administrative, civil, and criminal consequences of fines, fees, and costs. The procedural changes are detailed in a separate summary on page 48.

Without a doubt, S.B. 346 is a significant reorganization of the state's court costs, and is likely the largest such change since the creation of the Consolidated Fee more than 10 years ago. Despite the scale of the overhaul, the changes appear to be palatable to those on the administrative side of processing or collecting court costs. Representatives from the County and District Clerks' Association, the Justice of the Peace and Constables Association, and the Texas State Troopers Association all testified in favor of the bill.

As the bill's "Statement of Intent" indicates, one purpose of the bill was to anticipate and prevent the negative consequences of certain costs or allocations being found unconstitutional by the state's highest criminal court. However, the bill makes a number of changes that will need to be carefully considered and implemented by municipal courts. In addition, some changes that do not seem at first blush to have a direct relation to municipal court processes may nonetheless have far reaching consequences within the court system.

Section by Section Analysis:

Section 1: State Consolidated Fee and New Local Consolidated Fee

S.B. 346 amends Section 133.102.(a)(3) of the Local Government Code to increase the Consolidated Fee from $40 to $62 on conviction for a nonjailable misdemeanor offense. This includes convictions for criminal violations of municipal ordinances, other than a conviction of an offense relating to a pedestrian or the parking of a motor vehicle. Additionally, S.B. 346 amends Section 133.102(e) of the Local Government Code to change the allocation percentage of the Consolidated Fee and adds new funds to the allocation.

S.B. 346 also amends Subtitle C, Title 4, of the Local Government Code by adding Chapter 134 (Criminal Fees Payable to Local Government). This addition includes Section 134.103, which creates a Local Consolidated Fee. Under this section, a person convicted of a nonjailable misdemeanor is assessed a fee of $14. This fee is collected upon criminal conviction and remitted to the municipal treasury. Additionally, S.B. 346 requires that municipal treasuries maintain new accounts for these fees: (1) Municipal Court Building Security Fund; (2) Local Truancy and Prevention Diversion Fund; (3) Municipal Court Technology Fund; and (4) Municipal Jury Fund. The chapter further limits the authorized uses for the monies in these accounts.

Finally, S.B. 346 repeals Article 102.004 of the Code of Criminal Procedure (Jury Fee of $3); Article 102.0174 of the Code of Criminal Procedure (Juvenile Case Manager Fund of up to $5 by ordinance); Section 133.105 of the Local Government Code (Judicial Support Fee of $6); Section 133.107 of the Local Government Code (Indigent Defense Fee of $2); and Section 706.007(b), (c), and (e) of the Transportation Code (disbursement of Omnibase Fee to the Comptroller, DPS and Omnibase).

TMCEC: In a nutshell, Section 1 does two important things: it increases the existing Consolidated Fee to $62 and creates a new Local Consolidated Fee that is $14. To achieve this, however, a number of other amendments and repealers had to happen behind the scenes. These changes significantly change how a number of court costs are collected.

State Consolidated Fee Analysis

Note: It may be easier going forward to refer to this as the State Consolidated Fee in order to differentiate it from the new Local Consolidated Fee.

S.B. 346 clearly responds to the line of cases challenging the constitutionality of various fees. These cases argue that certain costs have no relation to legitimate criminal justice purposes and so collecting these monies turns courts into tax collectors, a role that should be performed by the executive branch rather than the judiciary. See, *Peraza v. State*, 467 S.W.3d 508 (Tex. Crim. App. 2015). Most recently, in the *Salinas* case, the Court of Criminal Appeals found that two of the funds in the State Consolidated Fee were unconstitutional. In footnote 54 of the opinion, however, the Court noted "[i]f the Legislature redirects the funds to a legitimate criminal justice purpose, the entire consolidated court cost may be collected." Following the *Salinas* opinion, the 85th Legislature passed S.B. 2053, which redistributed the funds within the State Consolidated Fee to remove the two unconstitutional funds. S.B. 346 looks like a "clean-up bill" to further attempt to head-off challenges to the State Consolidated Fee. It does this by adding seven new funds to the Consolidated Fee and redistributing the percentages apportioned to each fund. Courts may rest assured that nothing has changed regarding the collection and reporting of the State Consolidated Fee. Municipal courts will need to collect the increased $62 amount, but the Comptroller will still be the one to apportion the fee to the now 18 different funds. However, courts do need to be aware of certain changes as some of the new funds affect other court costs.

Every percentage of the State Consolidated Fee fund apportionments is decreased except the Fair Defense Account. The Fair Defense Account has been the biggest beneficiary of the post-*Salinas* legislative changes, going from 8.0143 percent in 2015 to 17.8448 percent in 2017 to 17.8857 percent in 2020. Additionally, S.B. 346 provides that if the funds in the new Jury Service Fund ever exceed $10 million, the Comptroller shall transfer the excess to the Fair Defense Account. Interestingly, municipal courts do not receive any of the funds deposited in that account.

The bill repackages the previously existing Truancy Prevention and Diversion *Fund* under 102.015 of the Code of Criminal Procedure. It is now called the Truancy Prevention and Diversion *Account* and is found in Section 133.125 of the Local Government Code as a fund within the State Consolidated Fee. This means that municipal courts will no longer be separately collecting the $2 fee as a court cost. Consequently, courts will also no longer be retaining $1 of that fee. The language regarding retaining 50 percent of the fee if a court "has established or is attempting to establish a juvenile case manager program" is struck in its entirety along with the separate $2 fee. Instead, the Comptroller will apportion 2.5956%, or $1.61, of the State Consolidated Fee to the Truancy Prevention and Diversion Account. As before, a local governmental entity may request some of these funds from the Governor's Office based on availability. Note also that an additional new *Local* Truancy Prevention and Diversion Fund is described below under the Local Consolidated Fee section.

The new Transportation Administrative Fee Account is apportioned to the Department of Public Safety to defray the costs of administering the Omnibase program. The Comptroller will apportion 4.3363% of the $62 State Consolidated Fee, or $2.68, to this fund. This is important to consider alongside the bill's repeal of Section 706.007 (b), (c), and (e) of the Transportation Code (disbursement of Omnibase Fee to the Comptroller, DPS and Omnibase) and other legislative changes to Omnibase. After January 1, 2020, courts will collect only $10 for Omnibase, but will keep the entirety of the fee. The Department of Public Safety will now receive its "share" through the State Consolidated Fee.

Finally, the existing Judicial and Court Personnel Training Account (the fund from which TMCEC and other organizations receive funding) is decreased from 4.8362% to 3.3224%. At first blush, this appears to be a decrease in the dollar amount. But through the magic of mathematics, the dollar amount will actually increase from $1.93 to $2.06 because the overall dollar amount of the State Consolidated Fee from which the percentage is taken also increased.

Local Consolidated Fee Analysis

On its surface, the new $14 Local Consolidated Fee appears to be a smaller version of the $62 State Consolidated Fee. In some ways, this is true. The courts assess a single dollar amount that is then apportioned to various funds by percentages outlined in the new Chapter 134 of the Local Government Code. The difference is that the Comptroller is not the one responsible for the correct division, apportionment, and legal maintenance of the funds. Rather, it is solely the responsibility of the municipality. Because of this (and for the sake of clarity) the funds are summarized in the table below prior to the analysis, along with the statutory percentage and dollar amount:

Local Consolidated Fee ($14)		
Fund	Percent	Dollar
Municipal Court Building Security Fund	35	$4.90
Local Truancy Prevention and Diversion Fund	35.7143	$5.00
Municipal Court Technology Fund	28.5714	$4.00
Municipal Jury Fund	.7143	.10¢

The first takeaway is that all municipal courts will now collect the Municipal Court Building Security Fund and the Municipal Court Technology Fund as part of the Local Consolidated Fee. These two funds are no longer stand alone costs that require the municipality to pass an ordinance in order to assess the amount. Virtually everything else in the respective statutes remains the same, including the permissible uses of the funds collected. It is also important to note that while the Technology Fund remains the same at $4.00, the Security Fund actually *increases* based on the percent apportioned, from $3.00 to $4.90.

The new Local Truancy Prevention and Diversion Fund in Section 134.156 of the Local Government Code is not to be confused with the Truancy Prevention and Diversion Account, which is part of the State Consolidated Fee and, to be more confusing, was formerly named the Truancy Prevention and Diversion Fund as well. The Local Truancy Prevention and Diversion Fund mirrors the former Juvenile Case Manager Fee under Article 102.0174 of the Code of Criminal Procedure, which (as indicated above) is repealed by S.B. 346. The amount that is assessed ($5.00) is the same as the JCM Fee, and the permissible uses of the funds are lifted straight from the other statute: funds may be used to "finance the salary, benefits, training (etc.)…

relating to a juvenile case manager employed under Article 45.056, Code of Criminal Procedure." While familiar in many ways, there are important differences. For example, *every* municipal court will now assess this amount as part of the Local Consolidated Fee. That's because an ordinance establishing the fund is no longer required, and the prohibition on collecting the fee if the municipality does not employ a Juvenile Case Manager was repealed along with the JCM Fee statute. The new statute does not specifically address what the custodian of the money must do with the funds if the municipality does not employ a Juvenile Case Manager, but there is still reference to the funds being directed "subject to the governing body." Additionally, caution should be exercised as the statute still prohibits the funds from being used to supplement the income of an employee whose primary role is not that of a juvenile case manager.

The new Municipal Jury Fund in Section 134.154 of the Local Government Code may be used to fund juror reimbursements or finance jury services. As with other funds within the Local Consolidated Fee, this fund should not be confused with the similarly named fund within the State Consolidated Fee.

Section 2: State Fines and Reimbursement Fees

S.B. 346 renames several court costs to reimbursement fees or fines without changing the application of the existing law. Two court costs are both renamed and decreased. First, the Time Payment Fee is renamed the Time Payment Reimbursement Fee. The amount is reduced from $25 to $15, and the 50% remittance to the State is removed. Second, the bill renames the Failure to Appear and Failure to Pay administrative fee as a "reimbursement fee" and reduces the fee from $30 to $10 to remove the portion of the fee remitted to the State.

TMCEC: As stated above, one of the primary purposes of S.B. 346 appears to be a pre-emptive strike against constitutional challenges to court costs. This would explain the wholesale renaming of certain costs and fees to "reimbursements" or "fines." Changing the nomenclature may indicate that these monies are not taxes or otherwise unconnected to legitimate criminal justice purposes. A table summarizing the costs and fees that only saw a name change to either a "Reimbursement Fee" or a "Fine" is below prior to the analysis:

Renamed as Reimbursement Fees (no other substantive changes)	
Fee	Statute
$30 Expunction	106.12(e), TABC
Cost of Impaneling Jury	45.026(a), CCP
Deferred Disposition reasonable condition to pay costs of testing, assessment, or treatment	45.051(b)(7), CCP
DPS Reexamination	45.051(b-2), CCP
Deferred Disposition reasonable condition to pay costs if assessed of attending alcohol or drug program	45.051(g), CCP
Cost of state electronic internet portal to request driving record	45.0511(c-1), CCP
Cost for Mandatory DSC	45.011(f)(1), CCP
Cost of administering Teen Court Program	45.052(e), CCP
Cost of Teen Court performing its duties	45.052(g), CCP
Cost of court in Texas-Louisiana border region to for Teen Court	45.052(i), CCP

Cost for service of a peace officer	102.001(b), CCP; 102.011, CCP
Cost for processing credit card payments	132.002(b), LGC
Scofflaw fee	702.003(e-1), TC

Renamed as Fines (no other substantive changes)	
Old Name	Statute
Deferred Disposition Special Expense Fee	45.051(a), CCP
Cost of Permissive DSC	45.0511(f)(2), CCP
Child Safety Fund	102.014, CCP
Local Traffic Fee	542.403(a), TC
Parent Contributing to Nonattendance cost	102.014(d), CCP
Expired Registration dismissal fee	502.407(b), TC
Fail Display Registration dismissal fee	502.473(d), TC
Wrong, Altered, or Obscured Registration dismissal fee	502.475(c), TC
Fail to Display Two Plates dismissal fee	504.943(d), TC
Wrong, Altered, or Obscured Plate dismissal fee	504.945(d), TC
Expired Driver's License dismissal fee	521.026(b), TC
Fail to Change Address or Name dismissal fee	521.054(d), TC
Violation of Driver's License Restriction dismissal fee	521.221(d), TC
Operating Unsafe Vehicle dismissal fee	547.004(c), TC
Operating Vehicle Without Complying with Inspection Requirements as Certified dismissal fee	548.605(e), TC
Display Expired Disabled Placard dismissal fee	681.013(b), TC

The Time Payment Fee, now in new Article 102.030 of the Code of Criminal Procedure, is amended by S.B. 346 to, not only add "reimbursement" to its name as with the other above fees, but also to decrease the amount that may be assessed. The fee is reduced from $25 to $15. However, courts will no longer be required to send half of the fee to the state. Further, the limitation that left municipalities retaining only 10% is removed. Now, the *entire amount* is required to be placed into a separate account in the municipality's general revenue fund and only used for improving the collection of outstanding court costs, fines, reimbursement fees or restitution, or improving the efficiency of the administration of justice. This change should not be surprising in light of a recent appellate decision that is currently pending review by the Court of Criminal Appeals, *Johnson v. State*, 14-18-00273-CR (Tex.App-Houston [14th Dist.], pet. filed). In *Johnson*, the appellate court found that the portion of the Time Payment Fee sent to the state was unconstitutional. Only time will tell if this is another *Salinas* moment, where the Legislature quickly amends a court cost found to be unconstitutional before it affects the courts.

In a similar vein, S.B. 346 also amends the Omnibase Fee in Section 706.006 of the Transportation Code to, not only add "reimbursement" to its name, but also to reduce and redirect the fee. The fee is reduced from $30 to $10, and the entire fee now goes to the municipal general revenue fund. The State no longer receives a portion of the fee as assessed. As mentioned above, however, the State Consolidated Fee now includes a fund to reimburse DPS for administration of the program.

Finally, S.B. 346 significantly changes what is commonly known as the "Warrant Special Expense Fee" in Article 45.203(c) of the Code of Criminal Procedure. Previously, this $25 fee could be collected for issuance and service of a warrant for the criminal offenses of FTA or VPTA if a municipality passed an ordinance. S.B. 346 amends the statute to rename the fee as a fine and to remove the requirement that it is assessed on issuance or service of a warrant. An ordinance will still be required to assess the amount, but municipalities may need to update the ordinance language to reflect the removal of "issuance or service of a warrant" language. Additionally, from a practical standpoint, a plain reading of the statute appears to create a confusing situation where a court can assess a "fine not to exceed $25" for an FTA or VPTA offense in addition to the statutory fine that can be assessed for either of these offenses under Section 38.10 of the Penal Code or Section 543.009 of the Transportation Code.

Section 4: Additional Repealers and Amendments

TMCEC: The final section of S.B. 346 repeals a number of costs without replacement. The most surprising of these may be the repeal of Article 102.022 of the Code of Criminal Procedure, otherwise known as the .10¢ "moving violation fee." In addition, S.B. 346 repeals two costs that may be assessed by municipal courts of record. These are the $25 fee for a transcript in Section 30.00014(f) of the Government Code and Section 102.142 of the Government Code, and the $25 appellate docket fee in Sections 30.00147(b) and (g) of the Government Code.

S.B. 370
Subject: Employment Retaliation Protections for Jury Service
Effective: September 1, 2019

Judges report some jurors indicate fear of negative employment consequences if they are selected to serve on a jury. Since the right to a jury trial is a constitutional right, it should not be undermined by employers who retaliate against their employees. Amending Texas law to match the protections of the federal statute helps enforce this concept.

S.B. 370 amends Section 122.001 of the Civil Practice and Remedies Code to bring Texas law in line with federal law in two ways. First, it increases the scope of legal protection to public and private employers. Second, it covers discharge, threats to discharge, intimidation, or coercion instead of just termination.

S.B. 370 does not enhance or alter other existing statutory remedies. The consequences for violating Section 122.001 remain the same; the private employer commits a Class B misdemeanor, the employee is entitled to return to the same position held when summoned for jury service, and the employer may be subject to contempt charges.

TMCEC: Fear of employer retaliation is something that judges across the state routinely hear from those called to jury service. While S.B. 370 doesn't change any municipal court process connected with jury service, it does strengthen protections for those who answer when called to service by expanding those protections beyond termination. Anecdotal evidence suggests that threats of retaliation by employers may more frequently keep jurors from appearing at all, rather than an actual termination after the fact. Judges and court clerks should give thought as to whether this changes any admonishments given to potential jurors.

S.B. 489
Subject: Confidentiality of Personal Information in Campaign Reports and Property Records
Effective: September 1, 2019

In response to the horrific attack against Judge Julie Kocurek, the Legislature passed S.B. 42 in 2017. S.B. 42 contained a section requiring the Texas Ethics Commission to redact the residential address of a federal or state judge or the spouse of a federal or state judge from any financial statement or information derived from a financial statement. Judges have informed the Office of Court Administration that this provision does not include redaction from other campaign reports filed with the Texas Ethics Commission. What's more, under current law a county clerk can only redact a judge's personal information from deeds or deeds of trust. However, there are several other categories of documents that contain this information such as home equity security instruments, releases of lien, special powers of attorney, releases of mortgage, and lost note affidavits.

S.B. 489 directs the Texas Ethics Commission to remove the personal information of a judge or their spouse from the judge's campaign reports, which are made available for inspection or posted online upon either a written request from the judge or upon notification from the Office of Court Administration that a person qualified for judicial office. This closes a loophole in existing law, which specified that personal financial statements must be redacted but not campaign reports. The change makes it harder for bad actors to find judges' personal information online. Additionally, S.B. 489 assigns certain duties to county clerks with regard to documents they publish online. Namely, a county clerk must redact the social security number, driver's license number, and residence address of a federal judge, state judge, or spouse of the federal or state judge upon receipt of a written redaction request by the judge or the judge's spouse. This ensures that a judge's personal information can be removed from all documents posted on a county clerk's website.

TMCEC: S.B. 42 (The Judge Julie Kocurek Judicial and Courthouse Security Act of 2017) made sweeping changes to the ability to access the personal information of a judge or that judge's spouse in the state's records. Along with H.B. 2910, S.B. 489 further clarifies issues and closes outstanding loopholes that would allow bad actors access to this information. Interestingly, another issue that has given state judges cause to complain has been confusion among certain state agencies as to whether these confidentiality provisions pertain to municipal judges. S.B. 489 makes no changes to the definition of "state judge" but continues to reference the definition found in Section 13.0021 of the Election Code, which clearly defines state judge to include a municipal judge. Yes, municipal judges are state court judges.

S.B. 891
Subject: Efficient Operation of Courts
Effective: September 1, 2019

S.B. 891 consolidates a number of administrative changes to the judicial branch of state government into a single omnibus bill.

S.B. 891 amends Sections 51.607(a) and (b) of the Government Code to transfer responsibilities for the identification and creation of a list of each law enacted by the Legislature and signed by the Governor that imposes or changes a court cost or fee collected by a clerk of a court from the Comptroller of Public Accounts to the Office of Court Administration (OCA).

The bill also amends Subchapter C, Chapter 72 of the Government Code, by adding Sections 72.033 and 72.034 to require the OCA to prepare and publish the list of new and amended court costs and fees biennially

and also to establish and maintain a website that would allow for the publication of public or legal notices by June 1, 2020. This website would have to be accessible to the public and easily searchable. The Texas Supreme Court will have to establish procedures for the submission of information to this website by June 1, 2020. Publication of a required citation or notice on this website *and* in a newspaper of general circulation in the applicable county would satisfy the requirements of service by publication in many circumstances under the Business Organizations Code, Estates Code, Family Code, and Health and Safety Code. Posting on the website *alone* would satisfy publication requirements if: (1) the person filed a statement of inability to afford the payment of court costs; (2) the total cost of the required publication exceeded the greater of $200 each week or an amount adjusted for inflation by the Supreme Court; or (3) the county in which the publication of citation or notice was required did not have a newspaper of general circulation.

S.B. 891 also amends the Government Code to enumerate new requirements for the Judicial Branch Certification Commission (JBCC). First, the JBCC must develop and periodically update a list of states that have substantially equivalent requirements for the court reporting profession. It must certify those reporters who hold a license in one of those states and meet certain other criteria. Second, it must set out the requirements for reciprocity agreements. Third, the JBCC must require shorthand-reporting firms to pay only a registration or renewal fee in lieu of a separate fee for a certified court reporter if the court reporter owns more than 50% of the firm and maintains actual control of the firm. The bill also instructs the JBCC to require each court reporter and at least one person who has management responsibility for a shorthand reporting firm to complete continuing education. Additionally, the bill amends the list of reasons a court reporter or firm may be disciplined: removing "other sufficient cause" and adding repeatedly failing to appear for scheduled court reporting services. Further, S.B. 891 creates a Class A misdemeanor offense for providing unlicensed court reporting services.

S.B. 891 amends Section 121.002 of the Government Code to transfer notification requirements for the reporting of specialty courts from the Criminal Justice Division within the Office of the Governor to the OCA. It also requires these courts to report certain information to the Texas Judicial Council in addition to the Criminal Justice Division. The bill further requires the OCA to provide certain services to specialty courts and to notify the Criminal Justice Division if a specialty court fails to comply with programmatic best practices.

Finally, the bill repeals Article 103.0033 of the Code of Criminal Procedure and provisions relating to the Collection Improvement Program.

TMCEC: S.B. 891 is noteworthy for the increased responsibilities that it gives to the Office of Court Administration, including the not insignificant task of creating a new public website for the publication of legal notices by June 1, 2020. Additionally, the OCA will be taking over certain programs from both the Comptroller and the Criminal Justice Division within the Office of the Governor. It will be interesting to see what the future holds for the agency.

But wait there more! What is even more noteworthy is the repealer tacked on to the end of the bill. Without comment anywhere else in the bill, S.B. 891 repeals Article 103.003 of the Code of Criminal Procedure, otherwise known as the Collection Improvement Program (CIP). The CIP had been under fire in recent years for practices that some judges argued effectively removed judicial discretion and did not provide for the indigent. It was just two years ago that the 85th Legislature raised the threshold for mandatory participation in the CIP from 50,000 to 100,000 population. Now, in one fell swoop, the entire program is gone and it appears that the OCA is taking a step back from collections. Going forward after September 1, courts in large cities will need to comprehensively review their collections processes. It is likely, though, that few tears will be shed statewide for the CIP.

S.B. 1978
Subject: Protections Against a Government Entity's Adverse Actions in Response to Religion
Effective: September 1, 2019

S.B. 1978 prohibits a governmental entity from taking any adverse action against any "person" based wholly or partly on the person's membership in, affiliation with, or contribution, donation, or other support provided to a religious organization. The bill amends Title 10 of the Government Code by adding Subtitle H (Prohibited Adverse Actions by Government), which is comprised of six subsections:

Section 2400.001 contains definitions for the terms "adverse action," "benefit program," "governmental entity," and "person."

Section 2400.0015 (Applicability) provides that the bill does not apply to an investment prohibited under Chapter 808 (Prohibition on Investment in Companies That Boycott Israel) or a contract prohibited under Chapter 2270 (Prohibition on Investing Public Money in Certain Investments).

Section 2400.002 (Adverse Action Prohibited) prohibits a governmental entity from taking any adverse action against any person based wholly or partly on the person's membership in, affiliation with, or contribution, donation, or other support provided to a religious organization. Furthermore, a person does not need to exhaust administrative remedies before commencing an action.

Section 2400.003 (Relief Available) authorizes a person to assert an actual or threatened violation in a judicial or administrative proceeding and obtain injunctive relief, declaratory relief, court costs and reasonable attorney's fees.

Section 2400.004 (Immunity Waived) authorizes a person alleging a violation of prohibited adverse action to sue the governmental entity for relief and further provides that sovereign or governmental immunity is waived and abolished to the extent of liability for that relief.

Section 2400.005 (Interpretation) directs that the bill's language should be read to provide the broadest possible protections under either state or federal law and further commands that the language should not be read to prevent a government entity from providing any benefit or service authorized under state law.

TMCEC: The real meat of the "save Chick-Fil-A" bill is hidden in the definitions section. The bill lays out an extensive definition of the term "adverse action." Opponents of the bill argue that this creates a wide-ranging list of prohibitions, which could interfere with the contracting decisions of city councils or otherwise force government entities to do business with organizations that do not reflect the values of their citizens.

Additionally, the bill adopts the expansive definition of the term "person" found in Section 311.005 of the Government Code, which provides that a "person" includes a corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity. So, despite its emphasis on individual religious freedoms, a large number of entities could also commence actions under this chapter.

H.B. 1528
Subject: Reporting Requirements for Fine-Only Misdemeanors Involving Family Violence
Effective: September 1, 2019

Currently, there is no requirement that law enforcement enter convictions involving Class C misdemeanor assault with affirmative findings of family violence into the computerized criminal history system (CCHS). H.B. 1528 closes this gap by creating reporting requirements and additional procedural backstops for family violence offenses.

H.B. 1528 adds Article 45.0211 to the Code of Criminal Procedure, which directs that, if a defendant is charged with an offense involving family violence, the judge or justice must take the defendant's plea in open court. Additionally, the bill clarifies that Article 27.14(b)—allowing certain defendants to dispose of their cases without appearing in court—does not apply to a defendant charged with a misdemeanor involving family violence. Further, H.B. 1528 deletes the language in Article 27.14(e)(2) that allowed the statement printed on a citation to serve as the court admonishment.

Furthermore, H.B. 1528 amends Article 66.102(f) of the Code of Criminal Procedure, which specifies requirements for entries into the CCHS. Going forward, each CCHS entry relating to a sentence must include whether the judgment imposing the sentence reflects an affirmative finding of Family Violence under Article 42.013.

The bill also amends Article 66.252 of the Code of Criminal Procedure in two significant ways. First, it requires arresting law enforcement agencies to prepare uniform incident fingerprint cards and initiate reporting processes for offenders charged with fine-only misdemeanors that involved family violence. Second, H.B. 1528 adds reporting requirements for clerks. Upon an offender's conviction for misdemeanor family violence, court clerks are required to report the person's citation or arrest and the disposition of the case to DPS using a uniform incident fingerprint card or an electronic methodology approved by DPS.

TMCEC: In 2015, the 84th Legislature passed H.B. 2455 mandating that the Office of Court Administration (OCA) create a task force to promote uniformity in the collection and reporting of information relating to family violence, dating violence, sexual assault, stalking, and human trafficking. One of the recommendations of the task force was to use fingerprinting to assist in reporting. This posed a problem for some courts as task force members representing municipal and justice courts noted that fingerprinting would be difficult, if not impossible, as long as those charged with Class C assault were able to avoid a court appearance and appear through the mail. The seeds of H.B. 1528 can be traced back to those meetings, and recommendations for required personal appearance for Class C domestic violence cases were a part of the final H.B. 2455 task force report completed in September 2016.

See S.B. 325 for another bill codifying recommendations of the task force dealing with the new protective order registry.

H.B. 1661
Subject: Prosecution of Continuous Violence Against the Family
Effective: September 1, 2019

Currently, prosecutors are unable to pursue charges against a person for an offense of continuous violence against the family if the assaults occur in more than one county. H.B. 1661 addresses this issue by adding

Article 13.072 to the Code of Criminal Procedure to authorize an offense of continuous violence against the family to be prosecuted in any county in which the defendant assaulted the victim. H.B. 1661 also amends Section 25.11 of the Penal Code to establish that members of a jury are not required to agree unanimously on the county in which each instance of conduct constituting the offense occurred.

H.B. 2613
Subject: Creation of Stash House Offense
Effective: September 1, 2019

A stash house is a place used in the commission of illegal activities, such as human trafficking and smuggling. Texas law lacks a specific act criminalizing such use. H.B. 2613 creates the criminal offense of operation of a stash house and provides for the use of contraband seized in relation to that offense to fund certain crime victim services

H.B. 2613 adds Section 20.07, making it a Class A misdemeanor for a person to knowingly use or permit another to use (including through renting or leasing) any real estate, building, room, tent, vehicle, boat, or other property owned by the person or under the person's control to commit an offense or to facilitate the commission of an offense under Section 20.05 (Smuggling of Persons), 20.06 (Continuous Smuggling of Persons), 20A.02 (Trafficking of Persons), 20A.03 (Continuous Trafficking of Persons), 43.04 (Aggravated Promotion of Prostitution), or 43.05 (Compelling Prostitution).

The bill also amends Article 59.06 of the Code of Criminal Procedure to require that the gross amount credited from the forfeiture of contraband be used to provide direct victim services or to cover the costs of a contract with a local nonprofit organization to provide direct services to crime victims.

H.B. 3091
Subject: Prohibiting the Disclosure of Family Violence and Trafficking Shelter Centers
Effective: September 1, 2019

It has been suggested that there is no adequate deterrence or penalty for the malicious disclosure of the location or physical layout of a family violence shelter or of a trafficking shelter center. H.B. 3091 addresses this issue by providing for the confidentiality of the location and physical layout of these shelters.

The bill adds Section 42.075 to the Penal Code which makes it a Class A misdemeanor to disclose or publicize the location or physical layout of the shelter, with the intent to threaten the safety of any inhabitant of an applicable shelter.

H.B. 3091 also amends Section 552.138 of the Government Code to make information relating to the location or physical layout of these centers confidential under state public information law.

H.B. 3529
Subject: Domestic Violence Diversion Pilot Program
Effective: June 10, 2019

H.B. 3529 adds Section 509.018 to the Government Code, which requires the Community Justice Assistance Division to collaborate with judges in Bexar County to establish a family violence pretrial diversion pilot program. The program would be for individuals who are charged with an offense involving family violence and who suffer from a substance abuse disorder or chemical dependency. The program will include: (1) assessment instruments to accurately analyze the needs of pilot program participants; (2) a comprehensive

substance abuse disorder and chemical dependency treatment program that includes case managers, clinicians, peer mentors, or recovery coaches; (3) a procedure—developed in collaboration with law enforcement—to rapidly respond to participants who failed to comply with the program's requirements; and (4) a video teleconferencing system in court to facilitate the cooperation of witnesses in the criminal justice system and to reduce costs associated with transporting defendants.

TMCEC: Bexar County has a high rate of family violence related deaths. In the last two years, the number of women killed by a domestic partner more than doubled within the county, and the District Attorney has called for reform to address the growing problem. The county recently developed a new Family Violence Unit to handle domestic violence, child abuse, and sexual abuse crimes. H.B. 3529 provides a new approach for combating family violence by allowing for the creation of a domestic violence drug court. Although there are hundreds of domestic violence drug courts throughout the country, Bexar County will be the first county to implement this type of court in Texas.

H.B. 3800
Subject: Required Reporting of Cases Involving Human Trafficking
Effective: September 1, 2019

H.B. 3800 amends Chapter 2 of the Code of Criminal Procedure by adding Article 2.305, which requires law enforcement agencies and prosecutors to report information regarding human trafficking cases to the Office of the Attorney General. An attorney that prosecutes or an entity that investigates the alleged commission of an offense involving human trafficking shall submit to the attorney general information regarding: (1) the offense being investigated or prosecuted and a brief description of the alleged prohibited conduct; (2) the age, gender, and race or ethnicity of each suspect and the case number associated with that suspect; (3) the date, time, and location of the alleged offense; (4) the type of human trafficking involved; (5) any type of victim's service organization to which the victim was referred to; and (6) the disposition of the investigation or prosecution, regardless of the manner of disposition. An attorney prosecuting these offenses must also provide information regarding any other charged offense that was part of the same criminal episode.

DPS and law enforcement entities located in a county with a population of more than 500,000 must comply with this bill by August 1, 2020, and law enforcement entities in a county with a population of less than 500,000 do not have to comply until August 1, 2021.

S.B. 20
Subject: Revising Statutes Dealing with Human Trafficking, Prostitution, and Related Offenses
Effective: September 1, 2019

S.B. 20 codifies recommendations from the Texas Human Trafficking Prevention Task Force, a statutorily created group administratively attached to the Office of the Attorney General. The task force includes the representatives or designees from 27 state or local agencies including the Office of the Governor, Office of the Attorney General, the state's health and human services agencies, the Texas Department of Public Safety, the Texas Workforce Commission, the Texas Department of Criminal Justice, the Texas Juvenile Justice Department, the Texas Education Agency, the Texas Alcoholic Beverage Commission, and nongovernmental associations and agencies affected by or combatting human trafficking.

In six substantive articles, S.B. 20 amends current law relating to the prevention of, reporting regarding, investigating of, criminal and civil penalties for, and other consequences of prostitution, trafficking of persons, and related criminal offenses, to treatment, services, and compensation available to victims of those offenses, and to orders of nondisclosure for certain persons who are victims of certain of those offenses.

Article 1. Trafficking of Persons and Continuous Trafficking of Persons

Under Section 3.03(b) of the Penal Code, sentences may run concurrently or consecutively if the accused is found guilty of more than one enumerated offense arising out of the same criminal episode. S.B. 20 adds Continuous Trafficking of Persons to the applicable list of offenses. Now, if a person is convicted of multiple offenses under Section 20A.02 (Trafficking of Persons), 20A.03 (Continuous Trafficking of Persons), or 43.05 (Compelling Prostitution), they may receive concurrent or consecutive sentences. This is true regardless of whether the accused is convicted of violations of the same section more than once, is convicted of violations of more than one section, or reaches a plea agreement on some of the charged offenses.

Article 2. Penalties for Prostitution

S.B. 20 adds Article 42A.515 to the Penal Code. The article requires that, upon a defendant's conviction of a Class B misdemeanor or state jail felony under Section 43.02(a) (Prostitution), a judge shall suspend imposition of the sentence and place the defendant on community supervision, unless the defendant has previously been convicted of any other state jail felony for prostitution or the jury gives a contrary recommendation. A judge who places a defendant on community supervision must require as a condition of community supervision that the defendant participate in a commercially sexually exploited persons court program established under Chapter 126 (Commercially Sexually Exploited Persons Court Program) of the Government Code, if a program has been established for the county or municipality where the defendant resides.

The bill amends Section 402.035 of the Government Code authorizing the Texas attorney general to enter into a contract with an institution of higher education for the institution's assistance in the collection and analysis of information received under this section (Human Trafficking Prevention Task Force).

S.B. 20 amends Section 43.02(b) of the Penal Code to alter the criminal penalties for Prostitution. An offense relating to a person that knowingly offers or agrees to pay a fee to another to engage in sexual conduct was a Class B misdemeanor. It is now a Class A misdemeanor. Further, the offense is a state jail felony if the actor has previously been convicted of the same offense. Previously, a defendant had to be convicted of the offense three or more times to amount to a state jail felony.

TMCEC: Prostitution is only a state jail felony under Section 43.02(a) of the Penal Code if the defendant has previously been convicted of prostitution three or more times.

Article 3. Online Promotion of Prostitution

S.B. 20 adds Section 43.031 to the Penal Code to create the third-degree felony offense of online promotion of prostitution. Under the section, it is an offense for a person to own, manage, operate an interactive computer service or information content provider, or operate as an information content provider, with the intent to promote the prostitution of another person or facilitate another person to engage in prostitution. The bill enhances the penalty for the offense to a second-degree felony if the actor: (1) has been previously convicted of the offense; or (2) engages in such conduct involving a person younger than 18 years of age who is engaging in prostitution, regardless of whether the actor knows the age of the person at the time of the offense. The bill also adds definitions to Section 43.01 for "access software provider," "deviate sexual intercourse," "information content provider," "interactive computer service," and "Internet."

S.B. 20 adds Section 43.041 to the Penal Code creating the second-degree felony offense of aggravated online promotion of prostitution. The aggravated offense applies if a person owns, manages, operates an

interactive computer service or information content provider, or operates as an information content provider, with the intent to promote the prostitution of five or more persons or facilitate five or more persons to engage in prostitution. The bill enhances the penalty for the offense to a first-degree felony if the actor: (1) has been previously convicted of the offense; or (2) engages in such conduct involving two or more persons younger than 18 years of age who are engaging in prostitution, regardless of whether the actor knows the age of the persons at the time of the offense.

The bill amends Article 18A.101 of the Code of Criminal Procedure to include aggravated online promotion of prostitution among the offenses for which a judge of competent jurisdiction may issue an interception order if the prosecutor applying for the order shows probable cause to believe that the interception will provide evidence of the commission of the offense.

S.B. 20 amends Section 411.042(b) of the Government Code, which directs the Bureau of Identification and Records within the administrative division of the Department of Public Safety (DPS) to collect certain information useful in studying crime and the administration of justice. Specifically, the Bureau must collect statistical information on several enumerated offense. S.B. 20 adds Online Promotion of Prostitution, Aggravated Promotion of Prostitution, and Aggravated Online Promotion of Prostitution to this list of offenses.

Additionally, the bill amends Section 169.002(b) of the Health and Safety Code, which determines a defendant's eligibility to participate in a first offender prostitution prevention program. If a defendant has previously been convicted of certain offenses, they will be ineligible to participate in these programs. S.B. 20 adds Online Promotion of Prostitution and Aggravated Online Promotion of Prostitution to the list of disqualifying offenses.

Finally, an amendment to Section 20A.02(a) of the Penal Code expands the conduct that constitutes an offense of Trafficking of Persons. Under Subsection (3), a person commits an offense if they knowingly traffic another person and, through force, fraud, or coercion, causes the trafficked person to engage in conduct prohibited by certain enumerated criminal offenses. Similarly, under Subsection (7), a person commits an offense if they knowingly traffic a child and by any means causes the trafficked child to engage in, or become the victim of, conduct prohibited by certain enumerated criminal offenses. S.B. 20 adds Online Promotion of Prostitution and Aggravated Online Promotion of Prostitution to the respective lists of applicable criminal offenses.

Article 4. Orders of Nondisclosure for Trafficking and Prostitution Victims

S.B. 20 amends Section 411.0728 of the Government Code to revise provisions regarding the nondisclosure procedures for certain victims of Trafficking or Compelling Prostitution who were convicted of or placed on community supervision for certain marihuana offenses, certain theft offenses, or prostitution. Generally, these victims may petition an applicable court for an order of nondisclosure of criminal history record information on the grounds that the person committed the offense solely as a victim of an offense of trafficking of persons.

The bill changes the applicability provisions of the section in numerous ways. First, the section is no longer applicable to persons convicted of placed on community supervision for Class A misdemeanor Promotion of Prostitution. Second, the section is now applicable to persons convicted of or placed on deferred adjudication community supervision for marihuana offenses, theft offenses, or prostitution. Third, in order to be eligible for the order of nondisclosure, the person must, if requested by the applicable law enforcement agency or prosecuting attorney, provide assistance in the investigation or prosecution of an trafficking, continuous trafficking, or compelling prostitution offense under Section 20A.02, 20A.03, or 43.05 of the Penal Code, or a similar federal offense. Assistance with the prosecution is not a prerequisite if it is not given due to the person's

age or physical or mental disability resulting from being a victim of a trafficking, continuous trafficking, or compelling prostitution offense.

S.B. 20 also lists new procedural requirements for nondisclosure petitions. A petition under Section 411.0728 must be in writing and establish that the petitioner committed the offense solely as a victim. Additionally, if the person has previously submitted a petition for an order of nondisclosure under this section, the petition must assert that they have not committed the same offense on or after the submission date of the first petition. Further, a person may request consolidation of multiple petitions. Upon receipt of a request for consolidation, the district court must consolidate and exercise jurisdiction over the petitions. The bill also amends Article 56.021 of the Code of Criminal Procedure providing that a victim of a trafficking, continuous trafficking, or compelling prostitution offense may be entitled to be informed that they are authorized to petition for an order of nondisclosure of criminal history record information under Section 411.0728 of the Government Code.

TMCEC: It should be noted that nondisclosure orders under Section 411.0728 of the Government Code cover Class C misdemeanor theft, and therefore could involve municipal courts and municipal court clerks. However, the bill does not allow consolidation petitions to be filed in municipal court.

Article 5. Sex Trafficking Prevention and Victim Treatment Programs

S.B. 20 adds Chapter 50 to the Health and Safety Code requiring the Health and Human Services Commission (HHSC), in collaboration with a designated institution, to establish a program to improve the quality and accessibility of care for victims of child sex trafficking. Section 50.0051 requires HHSC to establish a matching grant program to award to a municipality a grant in an amount equal to the amount committed by the municipality for the development of a sex trafficking prevention needs assessment. A municipality that is awarded a grant must develop the needs assessment in collaboration with a local institution of higher education and, on completion, submit a copy of the needs assessment to HHSC. To qualify for a grant, a municipality must develop a media campaign and appoint a municipal employee to oversee the program and provide proof that the applicant is able to obtain or secure municipal money in an amount at least equal to the amount of the awarded grant.

Section 50.0101 requires another grant program to train local law enforcement officers to recognize signs of sex trafficking.

Article 6. Prohibition of Bids and Contracts related to Human Trafficking

S.B. 20 adds Section 2155.0061 to the Government Code prohibiting a state agency from accepting a bid or awarding a contract, including a contract for which purchasing authority is delegated to a state agency, that includes proposed financial participation by a person who, during the five-year period preceding the date of the bid or award, has been convicted of any offense related to the direct support or promotion of human trafficking.

S.B. 234
Subject: Vacating Premises Following Family Violence
Effective: September 1, 2019

In family violence cases, it is common for the victim to live with the offender. Under current law, a victim of family violence could break their lease without penalty if proof of family violence could be shown using

a temporary injunction, a temporary ex parte protective order, or a final protective order. While helpful, this process is cumbersome for victims.

To address this problem, S.B. 234 expands the list of allowable documentation under Section 92.016 of the Property Code to include a certification letter provided by a family violence center advocate, a licensed health care provider who examined the victim, or a mental health services provider who examined the victim.

S.B. 1801
Subject: Orders of Nondisclosure for Victims of Trafficking or Compelling Prostitution
Effective: September 1, 2019

S.B. 1801 enhances opportunities for trafficking survivors to obtain orders of nondisclosure for certain crimes that they were forced to commit by their traffickers. The bill creates a survivor-friends process, allowing persons seeking multiple orders of nondisclosure to consolidate their petitions in one district court.

S.B. 1801 amends Section 411.0728 of the Government Code to allow a victim of an offense of trafficking of persons or compelling prostitution who is convicted of or placed on deferred adjudication community supervision for marihuana offenses, theft offenses, or for prostitution to petition for an order of nondisclosure on the grounds that the person committed the offense solely as such a victim. As an additional condition, that victim must have also provided assistance in the investigation or prosecution of certain trafficking and prostitution offenses or otherwise be excused from providing assistance due to their age or a physical or mental disability resulting from being a victim of those offenses. Further, the bill amends Article 56.02 of the Code of Criminal Procedure to entitle an applicable victim to be informed that they may petition for this order of nondisclosure.

S.B. 1801 also requires the clerk of the court, on the filing of a petition for such an order, to promptly serve a copy of the petition and any supporting document on the appropriate office of the attorney representing the State. Any response to the petition must be filed not later than the 20th business day after the date of service.

TMCEC: While perhaps not likely, S.B. 1801 does apply to municipal courts in that those convicted of Class C theft could petition the convicting court for a nondisclosure order under Chapter 411 of the Government Code.

S.B. 1802
Subject: Additional Prosecution and Punishment of Traffickers
Effective: September 1, 2019

S.B. 1802 increases the felony classification for specific trafficking-related offenses by one degree and expands the definition of "coercion" for purposes of trafficking-related crimes. Specifically, the bill amends Section 20A.02 (Trafficking of Persons) and 43.05 (Compelling Prostitution) of the Penal Code by expanding conduct that constitutes "coercion" for trafficking-related crimes to include: (1) destroying, concealing, confiscating, or withholding from a person, or threatening to destroy, conceal, confiscate, or withhold from a person, the person's actual or purported government records or identifying information or documents; (2) causing a person, without the person's consent, to become intoxicated to a degree that impairs the person's ability to appraise the nature of the person's conduct that constitutes prostitution or to resist engaging in that conduct; and (3) withholding alcohol or a controlled substance to a degree that impairs the ability of a person with a chemical dependency to appraise the nature of the person's conduct that constitutes prostitution or to resist engaging in that conduct.

TMCEC: A trafficker exerts control over a victim often by exploiting specific vulnerabilities. With this expansion, the Legislature attempts to keep up with all of the ways traffickers coerce victims and break down their personal autonomy. See also S.B. 20 which codifies over a dozen recommendations of the Texas Human Trafficking Prevention Task Force.

S.B. 2136
Subject: Admissibility of Evidence in Family Violence Cases
Effective: September 1, 2019

Under Article 38.371 of the Code of Criminal Procedure (Evidence in Prosecution of Certain Offenses Involving Family Violence), a party may offer testimony or other evidence of all relevant facts and circumstances (including testimony or evidence regarding the nature of the relationship between the actor and the alleged victim) that assists the trier of fact in determining whether the actor committed assault or aggravated assault, or violated various types of restraining orders, when the alleged victim was in a dating relationship with the accused, or a member of the same family or household. This includes testimony or evidence regarding the nature of the relationship between the actor and alleged victim.

S.B. 2136 amends Article 38.371 by extending the admissibility of such evidence to *all* crimes that possibly involve family violence, such as sexual assault, burglary of a habitation, and even criminal mischief. The bill also adds Article 38.471 to the Code of Criminal Procedure, which allows for the admission of evidence that the defendant has engaged in other conduct that is similar to the alleged criminal conduct in certain cases. This evidence may only be admitted for the purpose of showing the defendant's knowledge or intent regarding an element of the offense. S.B 2136 explicitly provides that the section is bound by the Rules of Evidence.

GUN LAWS

H.B. 302
Subject: Criminal Penalties Related to Possession of a Firearm and Ammunition on Commercial Residential Property
Effective: September 1, 2019

H.B. 302 amends Chapter 30 of the Penal Code and Chapters 82, 92, and 94 of the Property Code to allow owners, tenants, and guests of residential units to lawfully possess firearms and ammunition in those locations. The bill also allows for the transport of firearms and ammunition between their residential units and their vehicles.

H.B. 302 provides additional defenses to prosecution for certain offenses relating to the carrying, storage, or possession of a firearm or firearm ammunition on property governed by Chapters 82, 92, and 94 of the Property Code. Under the amended Sections 30.05 and 30.06 of the Penal Code, it is now a defense to prosecution for an actor to: (1) carry or store a firearm or ammunition within the residential property; (2) carry a firearm or firearm ammunition directly en route to or from the property; (3) carry a firearm or firearm ammunition directly en route to or from the actor's vehicle located in a parking area of the property; or (4) carry or store a firearm or firearm ammunition in the actor's vehicle located in a parking area of the property. Sections 30.05 and 30.06 both contain Class C misdemeanors.

The bill's amendments to the Property Code mirror the protections afforded in the Penal Code. Specifically, H.B. 320 prohibits the owners of properties governed by Chapters 82, 92, and 94 of the Property Code from prohibiting the lawful possession, transportation, or storage of a firearm, any part of a firearm, or firearm

ammunition. Amendments to the Property Code make exceptions for properties where the possession of a firearm or firearm ammunition is otherwise prohibited by state or federal law.

H.B. 1177
Subject: Licensed and Unlicensed Carry of Handguns During a State of Disaster
Effective: September 1, 2019

H.B. 1177 amends Section 46.15 of the Penal Code by adding provisions regarding the carrying of handguns during a "state of disaster." The bill expands the legalized carry of handguns to non-license holders for the duration of a state of disaster declared under Government Code, Sections 418.014 and 418.108. But this allowance is restricted. First, unlicensed carry is limited to the activities of "evacuation" and "re-entry." Further, the allowance is time-limited to 168 hours (seven days), unless the Governor extends the emergency. Moreover, the person carrying must not be otherwise prohibited from carrying a handgun.

The bill also addresses carrying of handguns at emergency shelters operating during a state of disaster. As a preliminary matter, the bill creates exceptions for licensed and unlicensed carry of handguns at common premises used for emergency shelters: schools, polling places, courts, and racetracks. The bill also creates four requirements that must be met for carry at emergency shelters. To carry at an emergency shelter: (1) a state of disaster must have been declared; (2) the actual or apparent owners, controllers, or operators of the premises must authorize the carry; (3) the person carrying must comply with the premise's rule regarding carry; and (4) the person carrying is not otherwise prohibited from possessing a firearm.

TMCEC: The statute does not define the terms "evacuation" or "reentry," nor are the terms independently defined elsewhere within the Government Code or the Penal Code. So, while the bill ostensibly limits unlicensed carry, the exact parameters are unclear.

H.B. 1791
Subject: Carry of Handguns by License Holders on Government Property
Effective: September 1, 2019

The bill amends Section 411.209 of the Government Code by clarifying that a state agency or a political subdivision may not take any action (including posting notice) that would state or imply that a licensed gun owner who is carrying a handgun is prohibited from entering or remaining on the premises of the governmental entity unless carrying a handgun on the premises is prohibited pursuant to preexisting law. Further, the bill extends the definition of "premises" as provided in Section 46.035 (f)(3) of the Penal Code to Section 411.209 of the Government Code.

TMCEC: According to the National Rifle Association, H.B. 1791 closes loopholes in the "wrongful exclusion" law that cities, counties, and state agencies use to restrict license to carry holders in government buildings.

H.B. 2164
Subject: Civil Penalties for Violation of CCP Article 2.1305
Effective: September 1, 2019

Article 2.1305 of the Code of Criminal Procedure forbids an establishment serving the public from prohibiting a peace officer or special investigator from carrying a weapon on the establishment's premises, regardless of whether the officer or investigator is engaged in his or her officer or investigative duties. H.B.

2164 establishes civil penalties for violations under Article 2.1305, which gives the State a "stick" to enforce Article 2.1305.

TMCEC: The original version of the bill introduced in the House proposed making violation of Article 2.1305 a Class C misdemeanor. Subsequently, criminal penalties were replaced in favor of civil penalties.

H.B. 3231
Subject: Limiting the Power of Counties and Municipalities to Regulate Weapons and Gun Ranges
Effective: September 1, 2019

State law expressly preempts municipal and county regulation of firearms. While similar, city and county preemption statutes are not identical. H.B. 3231 addresses this discrepancy by creating uniform language for these statutes. The bill amends Section 229.001, Section 236.001, and Section 236.002 of the Local Government Code to prohibit municipalities and counties from adopting certain regulations related to firearms, air guns, knives, or ammunition. Under H.B. 3231, a municipality may not adopt regulations relating to the transfer, possession, wearing, carrying, ownership, storage, transportation, licensing, registration, or commerce of these weapons. Additionally, municipalities may not regulate the discharge of a firearm or air gun at a sport shooting range.

H.B. 3231 clarifies current exceptions to the general prohibition of firearm regulation. Specifically, a municipality has the authority to adopt or enforce a generally applicable zoning ordinance, land use regulation, fire code, or business ordinance. Such actions may not, however, restrict or prohibit the manufacture, sale, purchase, transfer, or display of firearms, firearm accessories, or ammunition that is otherwise lawful. A municipality has the authority to regulate the carrying of a firearm by a person licensed to carry a handgun, however, the regulation cannot prohibit the exclusion of handgun license holders from premises owned or leased by a governmental entity. A municipality also has the power to regulate or prohibit an employee's carrying or possession of a firearm, firearm accessory, or ammunition in the course of the employee's official duties as long it does not violate Labor Code restrictions on prohibiting employee transportation or storage of certain firearms or ammunition.

TMCEC: This bill exemplifies the legislative trend toward strengthening and clarifying the State's status as the sole source of firearm regulation. This trend ostensibly seeks uniformity in gun laws: eschewing a patchwork approach county to county, city to city, government building to government building, or residential property to residential property. However, this comes at the expense of the city and county.

JUVENILE JUSTICE AND THE INTERESTS OF CHILDREN

H.B. 452
Subject: Truancy Masters for Bell County
Effective: September 1, 2019

H.B. 452 adds Subchapter B to Chapter 54 of the Government Code, which allows the Commissioners Court of Bell County to select and appoint truancy masters to serve the justice courts of Bell County. The bill also establishes the jurisdiction, powers, duties, and other characteristics of the position.

TMCEC: Legally speaking, Texas repealed the status offense of truancy in 2015 (at which time the criminal offense of Failure to Attend School was also repealed). H.B. 452 is the first bill pertaining to the replacement: "truant conduct."

H.B. 1760
Subject: Confidentiality, Sharing, Sealing, and Destruction of Juvenile Records
Effective: September 1, 2019

H.B. 1760 amends Sections 58.005 and 58.007 of the Family Code to clarify who can receive certain juvenile records. H.B. 1760 allows disclosure of juvenile records to: (1) an individual or entity to whom a child is referred for treatment or services, including assistance in transitioning the child to the community after the child's release or discharge from a juvenile facility; (2) a prosecuting attorney; (3) a parent, guardian, or custodian with whom a child will reside after the child's release or discharge from a juvenile facility; or (4) a governmental agency or court if the record is necessary for an administrative or legal proceeding and the personally identifiable information about the child is redacted before the record is disclosed. Additionally, H.B. 1760 prohibits an individual or entity that receives such confidential information from disclosing it unless otherwise authorized by law.

H.B. 1760 also adds Section 58.2551 to the Family Code, which requires a juvenile court, on the court's own motion and without a hearing, to immediately order the sealing of all records related to the alleged conduct if the court enters a finding that the allegations are not true.

H.B. 1760 also lowers the minimum age at which a juvenile court may order the sealing of records related to the person's juvenile probation matters from 17 to 18 years of age. Furthermore, it decreases the time for a juvenile court to order the sealing of records from two years to one year after the date a person younger than 17 years of age was referred to the juvenile probation department. Additionally, H.B. 1760 specifies that a court clerk can send copies of an order sealing records "by any reasonable method," including certified mail, regular mail, or e-mail.

H.B. 2737
Subject: Judicial Guidance Related to Child Protective Service (CPS) and Juvenile Cases
Effective: September 1, 2019

H.B. 2737 amends the Government Code by adding Section 22.0135 which requires the Texas Supreme Court to annually provide guidance to judges who preside over CPS cases or juvenile cases to establish greater uniformity across the state for issues related to the following, as appropriate: (1) placement of children with severe mental health issues; (2) changes in placement; (3) final termination of parental rights; (4) the release of children detained in juvenile detention facilities; (5) certification of juveniles to stand trial as adults; and (6) commitment of children to the Texas Juvenile Justice Department. Section 22.0135(b) requires the Texas Supreme Court to adopt the rules necessary to accomplish the bill's purposes.

TMCEC: The bill analysis for H.B. 2737 states that judges are not required to have previous training on certain sensitive issues such as child abuse or trauma or training relating to contributing environmental factors in cases involving children. The bill analysis also states that there are disparities in how judges handle CPS and juvenile justice cases. Requiring the Texas Supreme Court to provide guidance and recommended best practices to judges who preside over such cases is laudable. The bill, however, overlooks that the vast majority of children who come into contact with judges do so in municipal and justice courts.

S.B. 1306
Subject: Providing a School's Campus Behavior Coordinator's Information Online
Effective: May 28, 2019

Section 37.0012 of the Education Code requires an individual at each school campus to be designated to

serve as the "campus behavior coordinator." The campus behavior coordinator serves as the primary point of contact for a student's parent or guardian when the student is facing disciplinary actions. S.B. 1306 amends Chapter 26 of the Education Code by adding Section 26.015, which requires school districts to post the e-mail address and telephone number of all campus behavior coordinators on the district's website.

S.B. 1707
Subject: Establishing Duties for Law Enforcement and Security Personnel in Schools
Effective: June 2, 2019

Interested parties have expressed concern of the presence of school police on campuses and their involvement with ordinary student discipline or monitoring matters. S.B. 1707 clarifies the duties of on-campus law enforcement. The bill amends Section 37.081 of the Education Code to require school districts to develop policies outlining the duties and expectations of district peace officers, student resource officers, and other security personnel. These policies must be developed with input from the campus behavior coordinator and any other relevant district employees who deal with student behavioral issues. In determining these policies, school districts may not assign security duties relating to routine student discipline, school administrative tasks, or contact with students unrelated to the law enforcement duties of the peace officer.

S.B. 1746
Subject: Increasing Education Resources for Students at Risk of Dropping Out
Effective: June 2, 2019

Under current law, a school district may use private or community-based dropout-recovery education programs to provide alternative education for students at risk of dropping out of school. Section 29.081 of the Education Code lists circumstances in which students are considered to be at risk of dropping out of school. These circumstances include, but are not limited to, when the student is homeless, the student is pregnant or is a parent, the student is on parole or other conditional release, or the student is limited in English proficiency.

S.B. 1746 expands the list to include students who have been incarcerated or have a parent or guardian who has been incarcerated. This bill allows these students to be eligible for alternative education programs.

LOCAL GOVERNMENT

H.B. 36
Subject: Expedited Court Proceedings of Substandard Structures
Effective: June 14, 2019

Interested parties have expressed that damaged or deteriorated structures are one of the major problems facing cities. Such structures are typically unoccupied, can be used by vagrants and criminals, and are harmful to the economic development of communities. Court proceedings to address these problems typically result in the buildings' demolition. However, such proceedings can take several years to be resolved, during which time these buildings can become even more unsafe. H.B. 36 addresses these issues by prioritizing the speedy resolution of cases involving dangerously substandard buildings.

H.B. 36 amends Section 54.0155 and Section 214.001 of the Local Government Code to require expedited court proceedings in the enforcement of an ordinance relating to dangerous buildings adopted by a municipality with a population of 500,000 or more. Additionally, appeals of these proceedings would be governed by the procedures for accelerated appeals in civil cases. Furthermore, H.B. 36 amends Section 51.014 of the Civil Practice and Remedies Code by allowing for an appeal of an interlocutory order from

a district court, county court at law, statutory probate court, or county court that denied a motion filed by a governmental unit in such a proceeding.

H.B. 234
Subject: Local Regulation of the Sale of Lemonade or Other Beverages by Children
Effective: September 1, 2019

Chapter 250 of the Local Government Code (Miscellaneous Regulatory Authority) is amended by adding Section 250.009 (Certain Sales of Beverages by Children). Section 250.009 states that—notwithstanding any other law—a city, county, or other local public health authority may neither adopt nor enforce an ordinance, order, or rule that prohibits or regulates the occasional sale of lemonade or other nonalcoholic beverages from a stand on private property or public park by an individual under the age of 18.

Parallel changes are also made to Chapter 202 of the Property Code. Section 202.020 of the Property Code is similar to Section 250.009 of the Local Government Code but pertains to property associations and residential subdivisions. Further, Section 202.020 concerns the adoption or enforcement of restrictive covenants or permit requirements aimed at prohibiting or regulating the occasional sale of lemonade or other nonalcoholic beverages from a stand on private property. Notably, however, a property owners' association owes no duty of care and is not liable for injury stemming from such beverage sales.

TMCEC: H.B. 234 became a high-profile piece of legislation during the 86th Legislature and received national media coverage. While what constitutes "occasional sale" is undefined, will it really matter? While the media reports that law enforcement in one Texas municipality was "cracking down" on the unpermitted sales of lemonade by children, there is no evidence that it is a statewide practice. Not to imply this is much ado about nothing, rather H.B. 234 is significant in a number of other ways. H.B. 234 is a tacit acknowledgement that there are limits to perceived governmental overreach. Members of the Texas Legislature and the public at large may not agree whether law enforcement should or should not be able to make arrests for certain Class C misdemeanors. However, there appears to be popular consensus that law enforcement should not be able to shut down kids peddling Dixie cups of Country Time Lemonade. The two issues may have more in common than you think.

H.B. 1789
Subject: Local Authority to Create a Mutual Aid Law Enforcement Task Force
Effective: June 2, 2019

H.B. 1789 clarifies state law governing mutual aid agreements for counties and cities to cooperate with one another in the form of law enforcement task forces. Concerned observers have suggested this lack of clarity resulted in counties and cities refusing to make agreements with non-contiguous counties and non-neighboring cities. H.B. 1789 addresses this issue by amending Section 362.002 of the Local Government Code to allow a county, city, or joint airport to enter into a mutual aid law enforcement task force agreement to cooperate in criminal investigations and law enforcement operations with any city or county, regardless of whether the city is a neighboring city or the county is contiguous.

H.B. 2439
Subject: Limiting Local Government Authority to Regulate Building Products, Materials, or Methods Used in the Construction or Renovation of Residential or Commercial Buildings
Effective: September 1, 2019

H.B. 2439 amends Title 10 of the Government Code relating to certain regulations adopted by governmental

entities for the building products, materials, or methods used in the construction or renovation of residential or commercial buildings. Title 10 is amended by adding Subtitle Z (Miscellaneous Provision Prohibiting Certain Government Actions). The crux of Subtitle Z is Chapter 3000 (Governmental Action Affecting Residential and Commercial Construction), which consists of four substantive sections.

Section 3000.002 is titled, "Certain Regulations Regarding Building Products, Materials, or Methods Prohibited." It contains five subsections.

Subsection (a) generally prohibits a governmental entity, from adopting or enforcing a rule, charter provision, ordinance, order, building code, or other regulation that (1) prohibits or limits, directly or indirectly, the use or installation of a building product or material in the construction, renovation, maintenance, or other alteration of a residential or commercial building if the building product or material is approved for use by a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building; or (2) establishes a standard for a building product, material, or aesthetic method in construction, renovation, maintenance, or other alteration of a residential or commercial building if the standard is more stringent than a standard for the product, material, or aesthetic method under a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building.

Subsection (b) authorizes a governmental entity that adopts a building code governing the construction, renovation, maintenance, or other alteration of a residential or commercial building to amend a provision of the building code to conform to local concerns if the amendment does not conflict with Subsection (a).

Subsection (c) provides 12 exceptions to Subsection (a). Exceptions include: (1) state or federal housing programs; (2) compliance with the Texas Windstorm Insurance Association Act; (3) outdoor lighting ordinances and regulations of a governmental entity that is a certified Dark Sky Community by the International Dark-Sky Association or that are within five miles of the boundary of a military base where active training is conducted; (4) an ordinance or regulation that regulates outdoor lighting and is adopted under either Chapter 229 or Chapter 240 of the Government Code; (5) a building located in an area designated for its historical, cultural, or architectural importance and significance where the municipality may regulate the construction, reconstruction, alteration, or razing under specified statutory provisions (the municipality must be a certified local government under the federal National Historic Preservation Act or have an applicable landmark ordinance that meets the requirements under the certified local government program as determined by the Texas Historical Commission); (6) a building located in a place or area designated for its historical, cultural, or architectural importance and significance by a governmental entity, if designated before April 1, 2019; (7) a building located in an area designated as a historic district on the National Register of Historic Places; (8) a building designated as a Recorded Texas Historic Landmark; (9) a building designated as a State Archeological Landmark or State Antiquities Landmark; (10) a building listed on the National Register of Historic Places or designated as a landmark by a governmental entity; (11) a building located in a World Heritage Buffer Zone; and (12) a building located in an area designated for development, restoration, or preservation in a Main Street city under Section 442.014 (Main Street Program).

Subsection (d) authorizes a municipality that regulates outdoor lighting for the purpose of reducing light pollution (but is not a certified Dark Sky Community) to adopt or enforce a regulation governed by Subsection (a) if the building is located in a place or area designated on or after April 1, 2019, by the municipality for its historical, cultural, or architectural importance and significance and, if the municipality has the voluntary consent from the building owner.

Subsection (e) provides that a rule, charter provision, ordinance, order, building code, or other regulation adopted by a governmental entity that conflicts with Section 3000.002 is void.

Section 3000.003 (Injunction) authorizes the attorney general or an aggrieved party to file an action in district court to enjoin a violation or threatened violation of Section 3000.002. It authorizes the court to grant appropriate relief and the attorney general to recover reasonable attorney's fees and costs incurred in seeking an injunction. It also provides that sovereign and governmental immunity to suit is waived and abolished only to the extent necessary to enforce Chapter 3000.

Section 3000.004 clarifies that the chapter does not affect provisions regarding the installation of a fire-sprinkler protection system.

Section 3000.005 (Severability) provides that, if any provision of a rule, charter provision, ordinance, order, building code, or other regulation described by Section 3000.002(a) is held invalid Chapter 3000, the invalidity does not affect other provisions or applications of the rule, charter provision, ordinance, order, building code, or other regulation that can be given effect without the invalid provision or application, and the provisions of the rule, charter provision, ordinance, order, building code, or other regulation are severable.

TMCEC: Supporters claim that barring municipalities from imposing construction regulations which exceed basic national standards will reduce costs and that the standards used in some cities benefit vendors at the cost of homeowners. Critics claim that removing the authority of local governments to regulate building materials and construction methods will not only make cities less safe and sustainable, but will dramatically undermine the aesthetic and structural integrity of neighborhoods and communities.

H.B. 2496
Subject: Municipal Designation of Property as a Historic Landmark
Effective: May 25, 2019

While there is already a detailed uniform process for designating a structure as a state historic landmark, the processes for designating a local historic landmark can vary dramatically by municipality. H.B. 2496 addresses this issue by establishing a uniform statewide process for municipalities to designate places as historical landmarks.

H.B. 2496, amends Chapter 211 of the Local Government Code by adding Section 211.0165, which prohibits municipalities from establishing a designated place as a historical landmark unless the owner of the property consents to the designation, or the designation is approved by a three-fourths vote of the governing body of the municipality and zoning, planning, or historical commission of the municipality, if any exist. Additionally, the municipality must allow an owner to withdraw consent at any time during the designation process.

Before a vote can occur or the owner consents to the designation, the municipality must provide a statement to the property owner that describes the impact that a historic designation may have on the owner and the property. The historic designation impact statement must list (1) the regulations that may be applied to any structure on the property after the designation; (2) the procedures for the designation; (3) the tax benefits that may be applied to the property after the designation; and (4) the rehabilitation or repair programs that the municipality offers for a property designated as historic.

H.B. 2584
Subject: Authority of a Code Enforcement Officer to Possess an Instrument Used for Deterring an Animal Bite
Effective: September 1, 2019

Certified code enforcement officers routinely encounter hostile and dangerous animals while performing official duties but lack the tools to address this danger sufficiently. H.B. 2584 seeks to address these concerns by authorizing code enforcement officers to possess or carry an instrument used specifically for deterring an animal bite.

Chapter 46 of the Penal Code governs weapons. H.B. 2584 amends Section 46.15 of the Penal Code (Nonapplicability) to create an exception from the statutory provisions prohibiting the possession or carrying of a club. The exception applies to code enforcement officers who (1) hold a certificate of registration; and (2) possess or carry an instrument used specifically for deterring an animal bite while officers are performing official duties or traveling to or from a place of duty.

Section 1952.051 of the Occupations Code is amended to require the education of certified code enforcement officers to include the principles and procedures to be followed when possessing or carrying an instrument used for deterring an animal bite. The bill further requires the approved curriculum for the continuing education of such officers and officers-in-training to include material regarding those same principles and procedures.

H.B. 2828
Subject: Privacy Protections for Those Adopting an Animal
Effective: June 10, 2019

Concerned observers called for the implementation of privacy protections for those who adopt animals from an animal shelter to prevent harassment or unwanted contact by someone attempting to reclaim a pet. H.B. 2828 addresses this issue by amending Chapter 552 of the Government Code to make an adopter's identifying information confidential and excepted from state public information law.

The bill also authorizes a governmental body to disclose that information to a governmental entity, or to a person who under a contract with a governmental entity provides animal control services, animal registration services, or related services to the governmental entity, for purposes related to the protection of public health and safety.

H.B. 2858
Subject: Adoption of a Uniform Swimming Pool and Spa Code for Use in Municipalities
Effective: September 1, 2020

According to proponents, variances in municipal codes regulating pool and spa construction, alteration, remodeling, enlargement, and repair have resulted in a patchwork of regulations across Texas that makes it difficult for companies to maintain common business protocols and supplies. H.B. 2858 seeks to remedy this situation by adopting a common code standard for use in municipalities throughout Texas.

H.B. 2858 amends the Local Government Code by adding Section 214.103. Section 214.103 adopts the International Swimming Pool and Spa Code, promulgated by the International Code Council (ICC), as it existed on May 1, 2019.

Section 214.103 applies to all construction, alteration, remodeling, enlargement, and repair of swimming pools and spas in a municipality that elects to regulate pools or spas. It authorizes a municipality to establish procedures for the adoption of local amendments to the code and for the administration and enforcement of the code. A municipality may review and adopt amendments made by the ICC to the code after May 1, 2019.

H.B. 3163
Subject: Parking for Persons with Disabilities
Effective: September 1, 2019

A recent report on laws, standards, and policies regarding parking for persons with disabilities noted a need for more accessible parking spaces, concerns with placard abuse, and gaps in accessible parking education. H.B. 3163 implements some of the study's recommendations by establishing new requirements relating to parking for persons with disabilities.

H.B. 3163 amends Section 469.052 of the Government Code, which contains to the standards and specifications adopted by the Texas Department of Licensing and Regulation (TDLR) relating to the limitation of architectural barriers. The bill adds subsection (b-1), which consists of two substantive changes. First, it requires that, if an accessible parking space provided in accordance with a requirement of the standards and specifications is paved, then the international symbol of access must be painted on the parking space and the words "NO PARKING" must be painted on any access aisle adjacent to the parking space. Second, it directs that a sign identifying an accessible parking space provided in accordance with a requirement of the standards and specifications must include a statement regarding the potential consequences of illegally parking a vehicle in the space, including the towing of the vehicle or the assessment of a fine or other penalty against the vehicle owner or operator.

The bill also amends the Transportation Code by adding Section 504.205, which requires the Texas Department of Motor Vehicles to include with each set of license plates issued for a vehicle used by a person with a disability a document that provides: (1) information on laws governing parking for persons with disabilities, and (2) instructions for reporting alleged privileged parking violations. Amendments to Section 681.004 of the Transportation Code mirror this change for the issuance of disabled parking placards.

Finally, H.B. 3163 cleans up some internal references. Under current law, Section 681.009(b) of the Transportation Code requires political subdivisions to designate parking spaces or areas by conforming to the standards and specifications adopted by TDLR under Section 5(i), Article 9102 of the Revised Statutes. The bill amends this section to require political subdivisions to designate parking spaces or areas by conforming to the standards and specifications adopted under the newly revised Section 469.052 of the Government Code.

TMCEC: The bill's fiscal analysis assumes that the duties and responsibilities associated with implementation can be accomplished by utilizing existing resources. However, changing all signage relating to designated parking zones could pose a substantial cost to individual political subdivisions.

H.B. 3371
Subject: Regulation of Certain Battery-Charged Fences by Local Governments
Effective: September 1, 2019

Proponents claim a patchwork of local security regulations and permitting processes related to certain battery-charged fences has undermined the ability of businesses to protect their assets and property. H.B. 3371 seeks to create a consistent regulatory framework for businesses to secure their assets safely and effectively by prohibiting the adoption or enforcement of certain local regulations pertaining to these fences.

H.B. 3371 amends the Local Government Code by adding Section 250.009. Section 250.009 prohibits a municipality or county from adopting or enforcing an ordinance, order, or regulation that: (1) requires a permit for the installation or use of a battery-charged fence located on property not designated for residential use and meeting certain other prescribed standards that are in addition to an alarm system permit issued by the municipality or county; (2) imposes installation or operational requirements for the fence that are inconsistent with those prescribed standards; or (3) prohibits the installation or use of such a fence.

TMCEC: The impetus of this bill is not entirely clear. Ostensibly, it has as much to do with alarm systems connected to battery-charged fences as it does to battery-charged fences.

H.B. 3834
Subject: Cybersecurity Training Requirements for Government Employees
Effective: June 14, 2019

H.B. 3834 amends Section 2054 of the Government Code by adding Section 2054.519, which requires the Department of Information Resources (DIR) to certify at least five cybersecurity training programs for state and local government employees. It also updates the standards for maintaining cybersecurity training certification.

H.B. 3834 also adds Sections 2054.5191 and 2054.5192 to the Government Code, which provide that state employees who complete at least 25 percent of their required duties on a computer, and local government employees and elected officials with access to a local government computer system or database, must complete a certified cybersecurity training program once a year. These training requirements extend to contractors hired by state agencies.

H.B. 4544
Subject: Relating to Municipal Control of Coyotes
Effective: June 14, 2019

There are concerns about increased coyote activity in urban and suburban areas. H.B. 4544 seeks to address these concerns by authorizing municipalities with a certain population density to capture, relocate, or euthanize coyotes.

H.B. 4544 amends the Health and Safety Code by adding Subchapter D (Control of Predatory Animals). Subchapter D consists of one section. Section 825.051 authorizes a municipality with a population density of more than 2,500 persons per square mile to capture, relocate, or euthanize a coyote located within the municipality or the municipality's extraterritorial jurisdiction. The bill authorizes the municipality to request assistance from Texas Wildlife Services to capture, relocate, or euthanize a coyote.

TMCEC: Which municipalities have a population density of more than 2,500 persons per square mile? The answer is elusive. Typically, when it comes to legislation, a partial answer lies in the witness list of who testified "on," "for," or "against" a bill. Oddly, there is no record of anyone testifying on H.B. 2544.

S.B. 476
Subject: Municipal Regulation of Dogs in an Outdoor Dining Area of a Food Service Establishment
Effective: September 1, 2019

Texas law generally prohibits dogs inside restaurants to help prevent food contamination. While a number

of food service establishments with outdoor dining areas, such as patios or sidewalk seating, choose to allow patrons to be accompanied by their dogs, some municipalities are accused of enacting onerous restrictions in the form of dog variance applications, periodic fees, extra inspections, and other "over-the-top regulations." S.B. 476 preempts such municipal restrictions.

S.B. 476 amends Chapter 437 of the Health and Safety Code, by adding Section 437.025 (Requirements for Dogs in Outside Dining Areas; Municipal Preemption). Section 437.025(a) authorize a food service establishment to permit a customer to be accompanied by a dog in an outdoor dining area subject to six requisite conditions: (1) the establishment posts a sign in a conspicuous location in the area stating that dogs are permitted; (2) the customer and dog access the area directly from the exterior of the establishment; (3) the dog does not enter the interior of the establishment; (4) the customer keeps the dog on a leash and controls the dog; (5) the customer does not allow the dog on a seat, table, countertop, or similar surface; and (6) in the area, the establishment does not prepare food, or permit open food other than food that is being served to a customer. Section 437.025(c) states that the six requisite conditions do not apply to a service animal as defined in Section 437.023(c).

Section 437.025(b) prohibits a municipality from adopting or enforcing an ordinance, rule, or similar measure that imposes a requirement on a food service establishment for a dog in an outdoor dining area that is more stringent than the bill's requirements. The bill exempts a service animal from the application of these requirements.

TMCEC: To be clear, this change in law does not allow a dog (other than a service animal) to enter the interior of the establishment at any point. It does not mandate that restaurants permit dogs in outdoor dining areas. It remains the choice of the food service establishment to decide whether to allow dogs on their premises.

S.B. 944
Subject: Government Employees' Duties Regarding Public Information
Effective: September 1, 2019

S.B. 944 amends Section 552 of the Government Code by providing provisions for "temporary custodians" of public information. Temporary custodians are current or former officers or employees of a governmental body who, in the transaction of official business, created or received public information that they have not provided to the officer for public information of the respective governmental body.

S.B. 944 clarifies that temporary custodians of public information do not have a personal or property right to public information that they created or received while acting in an official capacity. Thus, when a public information officer requests public information from a temporary custodian, a temporary custodian must surrender the requested information. Furthermore, government officers or employees that have public information on a privately owned device must either (1) transfer the public information to the governmental body of which they are employed by for preservation, or (2) secure the information on the privately owned device for a time prescribed by the governmental body.

This bill also creates a duty for public information officers to request information from temporary custodians if (1) the information has been requested from the governmental body, (2) the officer for public information has a reasonable belief that the temporary custodian has possession, custody, or control of the information, (3) the officer for public information is unable to comply with his/her legal duties without obtaining the

information from the temporary custodian, and (4) the temporary custodian has not provided the information to the officer for public information.

Lastly, S.B. 944 sets out the authorized methods for making public information requests, provides guidelines for when a governmental body creates alternative methods for requests, and creates an exception to the public availability requirement for "protected health information."

TMCEC: At one point, S.B. 944 was the bill that would create a public information right to information regarding those that are deceased or incapacitated, including information regarding those that are deceased or incapacitated if the information was found within document relating to a police officer's alleged misconduct. Furthermore, it would subject any information regarding a police officer's alleged misconduct in the police officer's personnel file to public disclosure. However, these proposed amendments to S.B. 944 did not make it into the enrolled version of the bill.

S.B. 1303
Subject: Availability of Municipal Maps and Home-Rule City Rules for Annexation
Effective: September 1, 2019

S.B. 1303 amends Section 41.001 of the Local Government Code by requiring a municipality to maintain a map of its municipal boundaries and extraterritorial jurisdiction at a location easily accessible to the public. The bill also requires a home-rule municipality to create a digital map. The digital map must be in an easily accessible format, available on the municipality's website, and publicly available by January 1, 2020.

Regarding annexation, S.B. 1303 amends Section 43 of the Local Government Code to require a home-rule municipality to give written notice to each property owner that would be included in the municipality's new jurisdiction as a result of the proposed annexation, and to publish notice of annexation hearings in newspapers in areas that would be included in the municipality's new jurisdiction. Home-rule municipalities must also create a publicly available, and free-to-access, digital map that identifies the area proposed for annexation and any area that would be included in the municipality's new jurisdiction.

S.B. 2100
Subject: Transferring Law Enforcement Animals
Effective: May 14, 2019

S.B. 2100 amends Chapter 614 of the Government Code by adding Subchapter L, which includes provisions related to the retirement of law enforcement animals. Texas law enforcement agencies use dogs, horses, and other animals in the line of duty. Interested parties contend that few people are qualified to humanely care for and properly supervise a law enforcement animal.

S.B. 2100 authorizes a state agency or political subdivision to determine an animal's suitability for transfer and to contract for the transfer of a law enforcement animal. Furthermore, the bill establishes the order of priority for persons eligible to receive the animal, and requires that the recipient is capable of humanely caring for the animal. The bill also sets out the required contents of the transfer contract, authorizes the contract to provide for the transfer without charge to the transferee, and provides liability protections for the transferring agency or subdivision. The bill does not require an animal to be transferred, nor does it affect a state agency's or political subdivision's authority to care for retired law enforcement animals. Furthermore, it exempts the transfer of a law enforcement animal from statutory provisions governing the disposition of state or county surplus and salvage property.

H.B. 601
Subject: Mental Illness and Intellectual Disability Reporting
Effective: September 1, 2019

H.B. 601 reenacts and amends Article 16.22(a) of Code of Criminal Procedure to conform to changes made by S.B. 1326 and S.B. 1849 of the 85th Legislature relating to the early identification of a defendant suspected of having mental illness or intellectual disability.

H.B. 601 requires the magistrate to order a mental health authority, intellectual and developmental disability authority, or mental health or intellectual disability expert to interview certain criminal defendants with regard to whether the defendant has a mental illness or is a person with an intellectual disability and to collect information regarding any previously recommended service for the defendant, if applicable. A magistrate is not required to order such an interview if the defendant in the year preceding the defendant's applicable date of arrest has been determined to have a mental illness or to be a person with an intellectual disability by such applicable authority or expert. A defendant's failure or refusal to submit to an interview triggers the magistrate's authority to submit the defendant to an examination in a jail or another place determined to be appropriate by the applicable authority for a reasonable period not to exceed 72 hours.

H.B. 601 amends Section 614.0032 of the Health and Safety Code to require the Texas Correctional Office on Offenders with Medical or Mental Impairments to approve and make generally available in an electronic format a standard form for providing a written report under Article 16.22 of the Code of Criminal Procedure regarding whether a defendant has a mental illness or is a person with an intellectual disability. A written report submitted to a magistrate under Article 16.22 is confidential and not subject to disclosure under Chapter 552, Government Code, but may be used or disclosed if delivered to a designated officer upon transfer a defendant to the Texas Department of Criminal Justice for the commencement of the defendant's sentence.

H.B. 601 amends Article 16.22 of Code of Criminal Procedure, requiring the commissioners court for the county in which the magistrate is located, if a magistrate orders a local mental health authority or local intellectual and developmental disability authority to conduct an interview and collect information, to reimburse the local mental health authority or local intellectual and developmental disability authority for the cost of performing those duties.

Under the new Article 16.22(e), the Texas Judicial Council must adopt rules to require the reporting of the number of written reports provided to a court, rather than requiring the magistrate to submit to the Office of Court Administration (OCA) on a monthly basis the number of written assessments provided to the court. The new rules must still require submission of the reports to OCA on a monthly basis.

TMCEC: Article 16.22 saw a number of revisions this session. Another bill, S.B. 362, makes additional changes to Article 16.22 pertinent only to trial courts handling offenses charged as a Class B misdemeanor or higher.

S.B. 325
Subject: Protective Order Registry
Effective: September 1, 2019

There is not a process by which law enforcement agencies, courts, governmental entities, or the general public

can easily access information regarding individuals who are subject to protective orders relating to family violence. Access to such information could reduce the recurrence of such violence and save lives. S.B. 325 addresses this issue by requiring the Office of Court Administration of the Texas Judicial System to establish a protective order registry.

S.B. 325 amends the Government Code, adding Subchapter F in Chapter 72 requiring the Office of Court Administration (OCA), in consultation with the Department of Public Safety and the courts of the state, to establish and maintain a centralized Internet-based registry for the following: protective orders issued by a court in Texas to prevent family violence; magistrate's orders for emergency protection issued by a magistrate in Texas with respect to a person who is arrested for an offense involving family violence; applications for such protective orders filed in Texas; and, temporary ex parte protective orders issued under the Family Code by a court in Texas.

S.B. 325 requires OCA to establish and maintain the registry in a manner that allows municipal and county case management systems to easily interface with the registry and that allows a member of the public, free of charge, to electronically search for and receive publicly accessible information contained in the registry regarding applicable protective orders issued in Texas. The registry must be searchable by the county of issuance and by the name and birth year of a person who is the subject of the protective order. OCA must establish the registry not later than June 1, 2020, but authorizes OCA to delay establishing the registry for a period not to exceed 90 days if the delay is authorized by resolution of the Texas Judicial Council.

Under Section 72.156 of the Government Code, the clerk of a court, not later than 24 hours after an application for a protective order is filed, an original or modified protective order is issued, or the duration of a protective order is extended, must enter into the registry, a copy of the application, a copy of the order, and, if applicable, a notation regarding any modification or extension of the order and the information prescribed by the bill that must be publicly accessible. The clerk may delay entering applicable information into the registry only to the extent that the clerk lacks the specific required information. A clerk must also modify the record's status if it is vacated or if it has expired.

The public may access information through the registry only if a protected person requests that OCA grant the public the ability to access the information described by the bill for the order protecting the person and OCA approves the request. A person whose request was approved may later request that OCA remove the ability of the public to access the information that was the subject of the person's earlier approved request and OCA, not later than the third business day after receiving such a request, must remove the ability of the public to access the information. The Supreme Court of Texas must prescribe a form for use by a person requesting a grant or removal of such public access and authorizes the Supreme Court to prescribe by rule procedures for requesting such a grant or removal.

Not later than June 1, 2020, OCA must establish and supervise a training program for magistrates, court personnel, and peace officers on the use of the registry. The training program must make all materials for use in the training program available to magistrates, court personnel, and peace officers.

TMCEC: A protective order registry was one of the recommendations in the September 2016 final report of the H.B. 2455 task force created by the 84th Legislature in 2015. This registry, once implemented, will provide courts and magistrates greater access to information, part of a larger trend in the criminal justice system to provide courts with the information they need to make informed decisions. Additionally, municipal courts should take note that S.B. 325 specifically requires OCA to create a database that can easily interface with case management software. It will be interesting to see how this will be implemented with the numerous case management providers used by the state's courts.

S.B. 362
Subject: Court-Ordered Mental Health Services
Effective: September 1, 2019

Individuals with mental health issues encounter delays in treatment through entanglement with the criminal justice system. This often results in individuals with mental illness waiting in jail for long periods until limited space in an inpatient treatment facility becomes available. S.B. 362 seeks to address these issues by implementing stakeholder recommendations, in part by clarifying the standards for court-ordered mental health services and by separating the standards for inpatient and outpatient commitment and making distinct sections for extended and temporary court-ordered treatment, and by expanding the ways through which nonviolent individuals with mental health issues can be diverted from the criminal justice system and inpatient facilities and into the community to receive mental health services at outpatient facilities and including a mental health judicial education component.

S.B. 362 amends Article 16.22 of the Code of Criminal Procedure to authorize a trial court, based on applicable information relating to a determination that the defendant has a mental illness or is a person with an intellectual disability, if the offense charged does not involve an act, attempt, or threat of serious bodily injury to another person, to release the defendant on bail for an offense punishable as a Class B misdemeanor or any higher category of offense while the charges are pending and enter an order transferring the defendant to the appropriate court for court-ordered outpatient mental health services. If the court determines the defendant has complied with appropriate court-ordered outpatient treatment, the court, on the motion of the attorney representing the State, may dismiss the charges pending against the defendant and discharge the defendant. If the court determines that the defendant has failed to comply with appropriate courtordered outpatient treatment, the court must proceed with the trial of the offense or with commitment proceedings.

S.B. 362 adds Section 22.1106 of the Government Code to require the Court of Criminal Appeals to ensure that judicial training related to court-ordered outpatient mental health services is provided at least annually and authorizes the instruction to be provided at the annual Judicial Education Conference.

TMCEC: While 2017 saw multiple changes to Article 16.22 applicable to municipal judges, as magistrates, it is important to note that this change to Article 16.22 is pertinent only to trial courts handling an offense punishable as a Class B misdemeanor of higher. This limitation excludes municipal courts.

The bulk of S.B. 362 pertains to changes to Chapter 574 of the Health and Safety Code, pertaining to court-ordered mental health services which is generally not related to municipal courts.

S.B. 2390
Subject: Confidentiality of Addresses in a Magistrate's Order for Emergency Protection
Effective: September 1, 2019

The confidentiality of mailing address information relating to certain protective orders makes it difficult for law enforcement to access details necessary for the enforcement of these protective orders. S.B. 2390 addresses this issue by providing for the access to this information by law enforcement.

S.B. 2390 creates consistency for law enforcement officers in enforcing protective orders issued under Chapter 85, Family Code, and a magistrate's order for emergency protective under Article 17.292, Code of Criminal Procedure.

S.B. 2390 adds Article 17.294 to Code of Criminal Procedure authorizing a court issuing an order for

emergency protection, on request by a person protected by the order or if determined necessary by the magistrate, to protect the person's mailing address by rendering an order requiring the person protected under the order to disclose the person's mailing address to the court and to designate another person to receive on behalf of the person any notice or documents filed with the court related to the order. The order will require the county clerk to strike the mailing address of the person protected by the order from the public records of the court, if applicable and maintain a confidential record of the mailing address for use only by the court or a law enforcement agency for purposes of entering the information into the statewide law enforcement information system maintained by the Department of Public Safety. Further, Article 17.294 prohibits the release of the information to the defendant.

TMCEC: In 2017, the same changes were made for protective orders under Chapter 82 of the Family Code, but the changes were not made to Chapter 17 of the Code of Criminal Procedure. S.B. 2390 largely mirrors the language and creates consistency.

PROCEDURAL LAW

H.B. 1399
Subject: Storage of DNA Evidence: Destruction After Acquittal or Habeas Relief for Innocence
Effective: September 1, 2019

Some believe that expanding the felony offenses for which a defendant must provide a DNA sample at the time of arrest will make state DNA records more comprehensive and will increase the likelihood of solving crimes. H.B. 1399 amends Section 411.1471 of the Government Code, which lists the offenses triggering compulsory DNA surrender/collection. The bill expands the list to add an additional 16 felony offenses. In total, the list is comprised of 24 offenses: murder, capital murder, kidnapping, aggravated kidnapping, human smuggling, continuous human smuggling, human trafficking, continuous human trafficking, continuous sexual abuse of young child or children, indecency with a child, assault, sexual assault, aggravated assault, aggravated sexual assault, prohibited sexual conduct, robbery, aggravated robbery, burglary, theft, promotion of prostitution, aggravated promotion of prostitution, compelling prostitution, sexual performance by a child, or possession or promotion of child pornography.

Additionally, H.B. 1399 requires the law enforcement agency taking the specimen to immediately destroy the record of the collection and the Department of Public Safety to destroy the specimen and record of its receipt, if: (1) the defendant is acquitted, (2) the case is dismissed, or (3) the individual is granted with a writ of habeas corpus based on a court finding that the person is actually innocent of a crime for which the person was sentenced.

H.B. 1996
Subject: Admonitions Given by a Court Prior to Accepting a Plea of Guilty or Nolo Contendere
Effective: September 1, 2019

H.B. 1996 amends Article 26.13 of the Code of Criminal Procedure, which requires a court to give certain admonishments before accepting a plea of guilty or nolo contendere. The bill requires these admonishments to be given both orally and in writing if the defendant is not a U.S. citizen and such a plea may result in deportation, the exclusion from admission to this country, or the denial of naturalization under federal law. The amendment to Article 26.13 tracks the section's current rules for written admonishments, whereby the court must receive a statement, signed by the defendant and the defendant's attorney, attesting that the defendant understands the admonition and is aware of the plea's consequences. If the defendant is unable or refuses to sign the statement, the court is required to make a record of that fact.

TMCEC: The fundamental question unanswered in H.B. 1996 is which courts are governed by Article 26.13? Most of the requirements relating to the acceptance of a plea of guilty or nolo contendere are contained in Article 26.13. However, the Court of Criminal Appeals has held such statutory requirements inapplicable to misdemeanor cases. *Empy v. State,* 571 S.W.2d 526, 529 (Tex. Crim App. 1978). Despite the direct and indirect consequences of being convicted of certain Class C misdemeanors, federal due process only requires a plea of guilty in misdemeanors be made knowing and intelligently after being admonished as to the range of punishment. *Tatum v. State*, 861 S.W.2d 27 (Tex. App. – Houston [14th Dist.] 1993, pet ref'd).

Although it has been subsequently questioned by intermediate appellate courts, the Court of Criminal Appeals held in *State v. Jiminez*, 987 S.W. 2d 886 (Tex. Crim. App. 1999) that a guilty plea is not rendered involuntary by lack of knowledge of collateral consequences (e.g., deportation) and defendants have no constitutional right to be admonished of such consequences. Discussions surrounding H.B. 1996 are likely to provide further questions and fuel debate.

While H.B. 1996 changes Article 26.13 it does not change what remains widely understood about it. Namely, that Article 26.13 is generally inapplicable to proceedings in municipal and justice courts.

H.B. 3540
Subject: Release in Lieu of Arrest for Persons with Intellectual or Developmental Disability
Effective: September 1, 2019

Individuals with intellectual and developmental disabilities are overrepresented in the criminal justice system and are more likely than their similarly situated non-disabled peers to be arrested, convicted, and incarcerated. H.B. 3540 seeks to address these disparities by authorizing a peace officer to release certain persons with an intellectual or developmental disability in lieu of arrest.

H.B. 3540 amends the Code of Criminal Procedure by adding Article 14.035 which authorizes a peace officer to release a person with an intellectual or developmental disability who resides at a group home or an intermediate care facility for persons with an intellectual or developmental disability operated under the home and community-based services Medicaid waiver program. The officer may release the person at the person's residence in lieu of arresting the person if the officer: (1) believes confinement of the person in a correctional facility is unnecessary to protect the person and the other persons who reside at the residence; and (2) made reasonable efforts to consult with the staff at the person's residence and with the person regarding that decision.

Further, Article 14.035 exempts from liability a peace officer and the agency or political subdivision that employs the officer for damage resulting from the actions of a person the officer released in lieu of arresting.

TMCEC: Alternatives to full custodial arrest were a hot button issue during the 86th Legislature. Most of the focus centered on legislation that would have limited the authority of peace officers to make arrests for most Class C misdemeanors. By the end of session, the Legislature found itself in the epicenter of a highly publicized dispute between criminal justice reformers (who want to see arrests eliminated for most Class C misdemeanors) and law enforcement (who want to preserve their discretion to make arrests for most Class C misdemeanors). Acrimony and tension ran so high that it seemingly squelched the possibility of finding a compromise. However, H.B. 3540 is a reminder that criminal justice reformers and law enforcement can find mutual ground when it comes to procedures in lieu of arrest.

Article 14.035 does not curtail the authority of peace officers to arrest. Rather, similar to the issuance of a citation, it provides peace officers additional options in lieu of arrest. Notably, the provisions of Article 14.035 are not limited to Class C misdemeanors.

S.B. 306
Subject: Release by a Peace Officer of Certain Individuals Suspected of Public Intoxication
Effective: April 25, 2019

S.B. 306 amends current law relating to a police officer's release of certain individuals suspected of the offense of public intoxication (PI). Under current law, peace officers and other emergency responders have limited options for dealing with publicly intoxicated people. Individuals suspected of public intoxication can be arrested or they can be released into the care of a responsible adult or to a treatment facility for chemical dependency. However, these options are limited by practical realities. Frequently there is no responsible adult to allow the release of a PI suspect and treatment centers are inaccessible. As a result, most PI suspects end up being arrested and booked into jail or admitted to an emergency room. But, in certain parts of the state, jail space is limited. Furthermore, jail can be expensive and generates administrative duties for jail staff and law enforcement. S.B. 306 addresses these concerns by amending Article 14.031 of the Code of Criminal Procedure (Public Intoxication).

Article 14.031(a), as amended, authorizes a peace officer to release an adult PI-suspect under certain conditions if the officer believes detention in a penal facility is unnecessary for the protection of the individual or others. To satisfy these conditions, the individual must either: (1) be released to the care of an adult who agrees to assume responsibility for the individual; (2) verbally consent to voluntary treatment for substance use in a treatment facility licensed and approved by the Health and Human Services Commission; or (3) verbally consent to voluntary admission to a facility that provides a place for individuals to become sober under supervision (a.k.a., a sobering center). Article 14.031(c) contains conforming changes.

TMCEC: Similar to H.B. 3540, S.B. 306 does not curtail the authority of peace officers to make arrests or charge individuals with public intoxication. Rather, it provides peace officers an additional option in lieu of transporting people suspected of public intoxication to a jail or an emergency room. Sobering centers are still currently considered a novelty. They are known to exist in Houston, Austin, and San Antonio. While proponents tout sobering centers as a better alternative to jail that have already saved Texas tax payers millions of dollars, it remains to be seen whether they are just a metropolitan trend or a concept that will be widely adopted throughout Texas. By providing statutory authority in state law, S.B. 306 makes it more likely that other cities and counties will explore the possibility of a sobering center. At the same time, sobering centers have the potential to raise new legal questions for all courts with criminal jurisdiction.

S.B. 341
Subject: Appointment of an Attorney Pro Tem for Certain Criminal Proceedings
Effective: September 1, 2019

S.B. 341 amends the Code of Criminal Procedure and the Government Code to limit who may be appointed to serve as an attorney pro tem. The changes are prospective in application.

Article 2.07 of the Code of Criminal Procedure and Section 574.004 of the Government Code specify who may serve as an attorney pro tem (i.e., who may stand in as an attorney for the state when the prosecutor is disqualified to act in a case or proceeding, is absent, or is otherwise unable to perform their duties).

The bill amends Article 2.07 (d) to change the definition of "attorney for the state" to include only a county attorney with criminal jurisdiction. As amended, Article 2.07(a) of the Code of Criminal Procedure provides that only prosecutors (county attorneys with criminal jurisdiction, district attorneys, or criminal district attorney, or their assistants) and assistant attorneys general may serve as attorneys pro tem.

Conforming changes are made to Chapter 52 of the Code of Criminal Procedure, which governs courts of inquiry. Nonsubstantive changes are made to Section 574.004 of the Government Code.

TMCEC: S.B. 341 is ostensibly in response to the high profile controversy surrounding three attorneys pro tem in Collin County who were appointed by district court after the district attorney recused himself because of his friendship with Attorney General Ken Paxton and his family. The appointment came under fire after it was learned that the attorneys pro tem were each billing the county at the rate of $300 per hour. Collin County claimed that the rate was exorbitant and violated county rules about capping fees for court appointed attorneys. This resulted in two appeals to the Texas Court of Criminal Appeals. The Court sided with Collin County both times, striking down the attorneys pro tem rate and voiding their six-figure invoice.

S.B. 341 may be one of the best examples of municipal courts being inadvertently impacted by legislation intended to affect county and district courts. The bill was aimed at limiting which attorneys can be appointed as an attorney pro tem in county and district courts. However, the bill also repeals the authority of a municipal judge to make an attorney pro tem appointment.

Examine the repealers in Section 4. The bill does away with Article 2.07(c), relating to provisions if the appointed attorney is not an attorney; Article 2.07(e), relating to the definition of attorney for the state; and Article 2.07(f), relating to the definition of "competent attorney." All of these repealers set the stage for the repeal of Article 2.07(g), which the Senate Research Center describes simply as "relating to payment for appointed attorneys." However, it is not that simple (at least, not in municipal courts). Article 2.07(g) states, "An attorney appointed under Subsection (a) of this article to perform the duties of the office of an attorney for the state in a justice or municipal court may be paid a reasonable fee for performing those duties."

It is important to stress that Article 2.07 has no bearing on the appointment of a special prosecutor. Unlike an attorney pro tem, a special prosecutor is not appointed by a trial court but rather is appointed by the prosecuting attorney. Additionally, it is rare that Article 2.07 comes into play in any criminal trial court, let alone a municipal court. Nevertheless, as a consequence of S.B. 341 municipal courts will no longer have express statutory authority to appoint an attorney pro tem. Ostensibly, the Legislature was unaware that Article 2.07(g) was of import to municipal courts and equally unaware of Article 45.031 of the Code of Criminal Procedure, which states that a judge may "appoint an attorney pro tem as provide by this code to represent the state if the state is not represented by counsel." Article 45.201 of the Code of Criminal Procedure, which is unaffected by S.B. 341, provides that "[a]ll prosecutions in a municipal court shall be conducted by a city attorney or a deputy city attorney" and that these attorneys "also represent the state."

S.B. 341 begs a question with no singular or simple answer: what are municipal judges to do if a prosecutor in a municipal court is disqualified, is absent, or is otherwise unable to perform their duties? In a home rule municipality, some guidance may exist in the city charter. In general law cities, depending on a city's municipal government type, some guidance may be provided by the Local Government Code. While there may be some stopgap provisions in other laws, municipal courts are part of the state judicial system and criminal procedure is the bailiwick of state law. Ideally, the Legislature would resolve any problems inadvertently created by S.B. 341 next session.

S.B. 346
Subject: Administrative, Civil, and Criminal Consequences of Fines, Fees, and Costs
Effective: January 1, 2020

TMCEC: In terms of legislation affecting courts with criminal jurisdiction, S.B. 346 (totaling nearly 150 pages) is a big deal. Superficially, S.B. 346 appears to be a sea change in the realm of court administration and how it reimagines court costs and fines. These changes are detailed in a separate summary on page 7.

The caption of the bill is broad. It states that S.B. 346 pertains to the consolidation, allocation, classification, and repeal of certain criminal court costs and other court-related costs, fines, and fees; imposing certain court costs and fees and increasing and decreasing the amounts of certain other court costs and fees. However, there is much more to the bill. The caption also belies that, in the final weeks of session, S.B. 346 became the vessel for the stalled S.B. 1637, which proposed changes in procedural law pertaining to fines, fees, and costs in criminal cases. Specifically, S.B 1637 aimed to build upon changes made in the 2017 session via H.B. 351 and S.B. 1913. These 2017 bills both gave judges greater discretion to waive state court costs and fines and expanded the meaning of community service.

The Office of Court Administration reports that, as a result of these changes, the number of arrest warrants for Class C misdemeanors has decreased, fewer people are being committed to jail for non-payment, and more defendants are discharging their fines through community service. To the surprise of some, local revenue has reportedly increased. This has been attributed to the fact that judges now have greater latitude post-judgment to provide defendants payment plans that are within their financial means.

The procedural amendments in S.B. 346 pertain to more than just municipal and justice court proceedings involving Class C misdemeanors. Changes also affect procedures pertaining to fines and costs assessed in county and district court proceedings involving Class A and B misdemeanors and felonies.

Section by Section Analysis:

Section 3.01: Present Ability to Pay

Chapter 1 of the Code of Criminal Procedure is amended by adding Article 1.053 which requires a court to consider only the defendant's present ability to pay when determining a defendant's ability to pay for any purpose. Article 1.053 applies to a proceeding that commences before, on, or after the effective date S.B. 346.

Note: Since the enactment of the Code of Criminal Procedure in 1965, Chapter 1 has been reserved for general provisions. Most of the introductory provisions in Chapter 1 are statutory codifications of a defendant's constitutional rights. That is why the addition of Article 1.053 is remarkable. There is no constitutional requirement that a court only consider a defendant's current ability to pay. Yet, it is now statutorily required.

To what type of payments does Article 1.053 apply? The statute is silent. Presumably, Article 1.053 only applies in instances where courts clearly have an obligation to consider a defendant's ability to pay (e.g., when imposing fines and costs). It is possible that the statute could be construed to have broader implications and it will be interesting to see how trial and appellate courts interpret Article 1.053.

Section 3.08: General Definition of "Cost"

S.B. 346 amends Chapter 45 of the Code of Criminal Procedure by adding Article 45.004, which defines "cost" to include any fee imposed on a defendant by the justice of the peace or municipal judge at the time the judgment is entered. Parallel procedural changes affecting county and district courts are made to Article 43.015(3) to the Code of Criminal Procedure.

Note: Do these amendments solve or create a problem? Regardless of the answer, these amendments raise important questions. Under current law, "fee" and "cost" are generally used interchangeably. However, Article 45.004 may create is a false distinction between them. For example, there are many fees that are imposed after a judgment is entered. Are they excluded from the scope of Article 45.004? If so, why?

Section 3.09: Appearance by Telephone or Videoconference/Reconsideration of Fine or Costs

Chapter 45 of the Code of Criminal Procedure is amended by adding Article 45.0201 (Appearance by Telephone or Videoconference). This article gives municipal judges and justices of the peace the discretion to allow a defendant to appear by telephone or videoconference if requiring a defendant to make a personal appearance would impose an undue hardship on the defendant.

Note: Article 45.0201 is limited in scope. It only applies to two types of hearings: (1) show cause hearings required prior to the issuance of a capias pro fine under Article 45.045, and (2) a new type of hearing authorized by Article 45.0445 (described below).

Because court proceedings in criminal cases are required to be accessible to the public, and courts are not generally authorized to conduct court via telephone or videoconference, courts should exercise care in utilizing Article 45.0201. For example, if a defendant is allowed to appear per Article 45.0201, the appearance should still be done in a manner that ensures the right of the public to witness the criminal proceeding. Curiously, no similar statutory authority was provided to county or district courts.

Article 45.0201 applies to a proceeding that commences before, on, or after the effective date of S.B. 346.

As mentioned above, S.B. 346 authorizes a new type of hearing under Article 45.0445 (Reconsideration of Fine or Costs). Article 45.0445(a) requires a justice or judge to hold a hearing to determine whether a judgment imposes an undue hardship on the defendant if the defendant notifies the justice or judge that the defendant has difficulty paying the fine and costs in compliance with the judgment.

Article 45.0445(b) authorizes a defendant to request a hearing by (1) voluntarily appearing and informing the court in the manner established by the justice or judge, (2) filing a motion with the justice or judge, (3) mailing a letter to the justice or judge, or (4) any other method established by the justice or judge.

If it is determined at the hearing that the judgment imposes an undue hardship on the defendant, Article 45.0445(c) requires the justice or judge to consider whether to allow the defendant to satisfy the fine and costs via Article 45.041(a-1) (i.e., paying at later date or in specified portion at designated intervals; discharging via community service; waiving in full or part; or through a combination of these methods).

Article 45.0445(c)-(d) authorizes a justice or judge to decline to hold a hearing if they: (1) previously held a subsection (a) hearing and are able to determine without holding another hearing that the judgment does not impose an undue hardship on the defendant; or (2) are able to determine without holding a hearing that the judgment does impose an undue hardship on the defendant and that the fine and costs should be satisfied through one or more methods listed under Article 45.041(a-1).

Article 45.0445(e) provides that the justice or judge retains jurisdiction for the purpose of making a determination as authorized by the article.

Note: In 2017, Texas law was amended to require judges to make an inquiry into a defendant's ability to pay at the time of sentencing. The requirement, however, only applies to defendants that enter pleas in open court. No similar procedural safeguard exists for the vast majority of defendants accused of Class C misdemeanors who enter a plea via mail and who are not sentenced in open court. Article 45.0445 ensures that such defendants are guaranteed an avenue to court and an audience with a judge if the defendant desires the opportunity to have the court consider their ability to pay. This new hearing is akin to a show cause hearing but, instead of being ordered by a court, it can be requested by a defendant. The statutory authorization for a defendant to call for such a hearing is not limited to cases in municipal and justice courts. S.B. 346 also provides defendants in county and district courts the ability to request such a hearing (See, Article 43.035, Code of Criminal Procedure). Both provisions are effective January 1, 2020.

Section 3.10: Hearing Prior to Capias Pro Fine

S.B. 346 also amends Article 45.045(a-2) of the Code of Criminal Procedure, which was added by Chapter 1127 (S.B. 1913), Acts of the 85th Legislature, Regular Session, 2017. Article 45.045(a-2) prohibits a court from issuing a capias pro fine for the defendant's failure to satisfy the judgment according to its terms unless the court holds a hearing to determine whether the judgment imposes an undue hardship on the defendant and the defendant fails to: (1) appear at the hearing; or (2) comply with an order issued under Subsection (a-4) (see below).

Section 3.11: Judicial Determination at Capias Pro Fine Hearing

S.B. 346 amends Article 45.045(a-3) of the Code of Criminal Procedure to clarify judicial duties in light of amended Subsection (a-2). The bill also adds Subsections (a-4) and (a-5).

If a justice or judge determines at the (a-2) hearing that the judgment imposes an undue hardship on the defendant, Article 45.045(a-3) requires the justice or judge to determine whether the fine and costs should be satisfied through one or more methods listed under Article 45.041(a-1). A justice or judge retains jurisdiction for the purpose of making a determination under Article 45.045(a-3).

But if a justice or judge determines at the (a-2) hearing that the judgment does not impose an undue hardship on the defendant, Article 45.045(a-4) requires the justice or judge to order the defendant to comply with the judgment not later than the 30th day after the determination is made.

Article 45.045(a-5) requires a court to recall a capias pro fine if, before the capias pro fine is executed, (1) the defendant provides notice to the justice or judge under Article 45.0445 and a hearing is set under that article, or (2) the defendant voluntarily appears and makes a good faith effort to resolve the capias pro fine. Identical changes are made to the procedure applicable in county and district court. (See, amendments to Article 43.05). Article 45.045 and Article 43.05 are effective January 1, 2020.

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Note: The language in Article 45.045(a-5) supplants current language stating that a capias pro fine must be recalled if before the capias pro fine is executed, the defendant voluntarily appears to resolve the amount owed, and the amount owed is resolved.

Section 3.12: Discretionary Criteria for Undue Hardship Waiver for Fines/Waiver of Court Costs for Indigent Defendants and for Children

Article 45.0491 of the Code of Criminal Procedure (Waiver of Payment of Fines and Costs for Certain Defendants and for Children) is amended as follows:

Article 45.0491(a) now contains conforming changes by articulating the authority of a court to waive all or part of a fine.

Note: While the bill deletes language relating to "costs," the authority of a court to waive costs is not repealed. Rather it is relocated to Subsection (d).

The bill also adds Subsections (c) and (d). Under 45.0491(c), a determination of undue hardship made under Subsection (a)(2) is solely at the court's discretion. In determining undue hardship, a court is authorized to consider: (1) significant physical or mental impairment or disability; (2) pregnancy and childbirth; (3) substantial family commitments or responsibilities, including child or dependent care; (4) work responsibilities and hours; (5) transportation limitations; (6) homelessness or housing insecurity; and (7) any other factor the court determines relevant. Additionally, Article 45.0491(d) authorizes a municipal court or a justice court to waive payment of all or part of costs imposed on a defendant if the court determines that the defendant: (1) is indigent or does not have sufficient resources or income to pay all or part of the costs; or (2) was, at the time the offense was committed, a child as defined by Article 45.058(h).

Note: Amendments to Article 45.0491 are likely to be welcomed by municipal and justice courts. On the one hand, judges are provided examples of what may constitute undue hardship, but judicial discretion is preserved. On the other hand, the bill allows court costs to be waived without a showing of undue hardship in cases involving indigent defendants and defendants who are children. Further, the bill is consistent with the Court of Criminal Appeals holding in *Weir v. State*, 278 S.W.3d 364 (2009), in that Article 45.0491 seems to acknowledge that court costs (in contrast to fines) are not intended to be punitive. Finally, identical changes are made to provisions governing waiver in in county and district court. (See, amendments to Article 43.091). Both provisions apply to sentencing proceedings that commence before, on, or after January 1, 2020.

S.B. 1164
Subject: Disposition of a Seized Item Bearing a Counterfeit Trademark
Effective: September 1, 2019

S.B. 1164 amends the Code of Criminal Procedure by adding Article 18.182 (Disposition of Item Bearing Counterfeit Mark). Under Article 18.182, if a defendant is convicted under Penal Code Section 32.23 in a municipal or justice court, the seized item bearing or identified by a counterfeit mark must be either (1) destroyed, or (2) forfeited (i.e., turned over) to the owner of the mark request the return of the item prior to an order disposing of property.

TMCEC: Section 32.23 of the Penal Code (Trademark Counterfeiting) became an offense in 1997. Notably, the offense is a Class C misdemeanor if the retail value of the item or service subject of a counterfeiting violation is less than $100. S.B. 1164 was passed in response to concerns that state law does not adequately provide for the disposition of counterfeit property seized in connection with a criminal case. It addresses the issue by providing for the forfeiture or destruction of an item bearing or identified by a counterfeit mark seized in connection with a criminal offense.

The procedure articulated in Article 18.182 applies in county and district court if a defendant is placed on deferred adjudication community supervision. However, no parallel provision exists in municipal and justice courts for defendants placed on deferred disposition (Article 45.051, Code of Criminal Procedure).

S.B. 2143
Subject: Allowing the Kickapoo Traditional Tribe of Texas to Commission Peace Officers
Effective: September 1, 2019

Allowing a tribal organization to enforce state laws drastically reduces the strain on county law enforcement and enhances public safety on the reservation and around the county. Currently, the Kickapoo Tribe has 10 patrol officers, a supervisor, and 19 peace officers dedicated to policing the reservation, but they lack the authority to enforce state law. If commissioned as Texas peace officers, these officers could reduce the burden on Maverick County by addressing crimes on the Kickapoo Tribe reservation.

Under Article 2.126 of the Texas Code of Criminal Procedure, the Alabama-Coushatta Tribe was the only tribe allowed to commission peace officers. S.B. 2143 amends Article 2.126 to allow the Kickapoo Traditional Tribe of Texas to commission peace officers and subsequently enforce criminal laws on its reservation.

TMCEC: There are currently three federally recognized tribes within the State of Texas; the Alabama-Coushatta Tribe of Texas, the Kickapoo Traditional Tribe of Texas, and Ysleta Del Sur Pueblo. Federal recognition allows these tribes to self-govern, which includes having civil jurisdiction over tribal members and non-members who reside or do business on reservations. However, tribal courts only have criminal jurisdiction over violations of tribal laws committed by tribal members residing or doing business on the reservation.

Federal recognition does not preclude the tribe from having a government-to-government relationship with the individual state in which it resides. S.B. 2143 establishes this tribal-state relationship between the Kickapoo Traditional Tribe of Texas and the State of Texas. The Alabama-Coushatta Tribe established this same relationship back in 2011. Certain benefits flow from this relationship. The tribe gains: (1) the ability to create a state-recognized law enforcement agency; and (2) the power to enforce criminal laws against all persons on the reservation, regardless of membership status.

SUBSTANTIVE CRIMINAL LAW

H.B. 37
Subject: Creating a Criminal Offense for Mail Theft and Related Identity Theft
Effective: September 1, 2019

Due to the lack of state law on mail theft, law enforcement officers can only forward mail theft incidents to federal authorities. This has allowed some professional mail thieves to escape prosecution due to the ambiguity of federal statutes and the high standard for federal prosecution. H.B. 37 addresses this issue by amending Chapter 31 of the Penal Code to add Section 31.20, creating the offense of mail theft. The bill also delineates penalties ranging from a Class A misdemeanor to a third-degree felony based on the number of addressees involved in the theft. Additionally, the bill enhances the penalty for the offense if the victim is disabled or elderly, or if the mail contains certain identifying information used to facilitate identity theft.

H.B. 98
Subject: Amendment of the "Revenge Porn" Statute
Effective: September 1, 2019

In 2015, the Texas Legislature passed S.B. 1135, which created Section 98B.002 of the Civil Practice and Remedies Code and Section 21.16 of the Penal Code. These new provisions created civil liability and a Class

A misdemeanor criminal offense for unlawful disclosure or promotion of intimate visual material, otherwise known as "revenge porn." Recent lawsuits have challenged the constitutionality of the revenge porn statute, and it has recently been struck down by the 12th Court of Appeals in Tyler. The intermediate appellate court reasoned that the statute's lack of consideration of intent, and a lack of knowledge and context for third party participants who may be found liable under the law, creates too vague of a law, thus, is unconstitutional.

H.B. 98 preserves the Texas revenge porn law by clarifying the required intent of a defendant to be held liable. Specifically, Section 98B.002 of the Civil Practice and Remedies Code and Section 21.16 of the Penal Code are amended to require the actor have the intent to harm the person depicted in the visual material and, that at the time of the disclosure, the defendant knew or had reason to believe the intimate visual material was obtained by the defendant or created under circumstances in which the depicted person had a reasonable expectation that the material would remain private.

TMCEC: Although H.B. 98 addresses some of the ambiguity issues in the current revenge porn law, the law has also been challenged as a violation of the freedom of speech protected by the First Amendment. In striking down the current revenge porn law, the 12th Court of Appeals reasoned that photographs and visual recordings are inherently expressive. Therefore, a person's purposeful creation of photographs and visual recordings is entitled to First Amendment protection, thus, barring the creation and distribution of intimate visual material is a First Amendment violation. The court recognized that there are categories of speech that are unprotected, such as obscenity, but it refused to include visual material covered by the revenge porn law as an unprotected category despite the State's argument that it is "contextually obscene."

H.B. 98 does not address the First Amendment issue presented by the 12th Court of Appeals. However, the State, with strong support from Attorney General Ken Paxton, has appealed the intermediate appellate decision, and the case is pending before the Court of Criminal Appeals.

H.B. 121
Subject: Verbal Warning Requirement for Licensed Handgun Holders on Business Property
Effective: September 1, 2019

Under current law (Sections 30.06 and 30.07 of the Penal Code), it is a Class C misdemeanor for a handgun license holder to either conceal or openly carry a handgun on another's property, without the effective consent of the owner, if the person received oral or written notice that entry on the property with a handgun was forbidden. However, a licensed holder could enter a business and inadvertently walk by or simply not see a sign stating that entry with a handgun was prohibited. Signs could be posted on a door that was propped open, or someone could be standing in front of the sign. Consequently, a license holder could be unintentionally violating the law and prosecuted for the mistake.

H.B. 121 recognizes that, in these situations, license holders should not be prosecuted for unintentionally violating the law. The bill adds Subsection 30.06(g) and 30.07(g) to the Penal Code, making it a defense to prosecution if the license holder promptly leaves the premises after receiving oral notice that entry on the premises with a handgun is forbidden.

H.B. 337
Subject: Requiring Certain Motorboat Operators to Use Emergency Engine Cutoff Switches
Effective: September 1, 2019

H.B. 337 adds Section 31.1071 to the Parks and Wildlife Code. The Section defines "engine cutoff switch" and requires the operator of a motorboat less than 26 feet in length and equipped with an emergency cutoff

switch to verify that the switch is in working order before operating the motorboat. The bill further requires the operator to properly attach the engine cutoff switch to the operator's body or clothing. It is a Class C misdemeanor for a person to operate an applicable motorboat in violation of Section 31.1071.

TMCEC: In response to the 2012 boating accident that caused the death of their teenage daughter, Kali Gorzell, the Gorzell family has advocated for mandating emergency engine cutoff switches to help prevent future boating accidents. Typically, these systems have a physical or electronic system attached to the boat driver and are designed to kill the engine if the boat driver is thrown from the helm of the boat. This safety mechanism ensures that the engine and propeller shut off if the boat operator is unable to control the direction and speed of the boat.

H.B. 427
Subject: Fraudulent Destruction, Removal, or Concealment of a Writing that is Attached to Tangible Property
Effective: September 1, 2019

Under current law, Section 32.47 of the Penal Code, it is Class A misdemeanor (up to one year in jail and/or a maximum fine of $4,000) to tamper with, remove, or substitute certain writings with the intent to defraud another. Typically, writing for these purposes includes price tags, universal product codes, labels, or other markings on goods. In comparison, property theft is an offense under Penal Code Section 31.03, with penalties ranging from a Class C misdemeanor (maximum fine of $500) to a first-degree felony (life in prison or a sentence of five to 99 years and an optional fine of up to $10,000) depending on the value of the property.

When it comes to low-value goods, the penalty for price tag alteration is much higher than the penalty for theft of the same property. H.B. 427 addresses this discrepancy by establishing a range of penalties for fraudulent destruction, removal, or concealment of a writing attached to tangible property that is similar to the penalty range established for property theft.

To do this, the bill amends Section 32.47 of the Penal Code by adding subsection (e), which creates a range of penalties for the fraudulent destruction, removal, or concealment of a writing that is attached to tangible property by an actor with intent to defraud or harm another. However, the offense may be enhanced as the price difference increases. For example, it is a Class C misdemeanor if the difference between the impaired writing and the lesser price indicated by the other writing is less than $100. But it is a first-degree felony (life in prison or a sentence of five to 99 years and an optional fine of up to $10,000) if the difference between prices was $300,000 or more.

TMCEC: Candidly, "impaired writing" and "other writing" is awkward phrasing. Simply stated, "impaired writing" reflects the *true* price that was altered and the "other writing" reflects the *false* price the person attempted to indicate. For example, if a person erases a zero from a $100 price tag to have the price tag appear as a $10 price tag, the impaired writing is the altered $100 price tag and the other writing is the purported $10 price tag.

H.B. 446
Subject: Eliminating the Ban on Clubs and Knuckles
Effective: September 1, 2019

H.B. 446 amends Section 46.02 of the Penal Code to eliminate the ban on clubs. However, clubs will still be banned in certain places in accordance with Section 46.03 of the Penal Code.

The bill also addresses the ban on brass knuckles. Under current law (Section 46.05 of the Penal Code), intentional or knowing possession, manufacturing, transporting, repairing, or selling of knuckles is punishable as a Class A misdemeanor. Critics of this ban on knuckles argued that many devices commercially sold and marketed for self-defense may be categorized as knuckles, even if they do not present any danger to the public. H.B. 446 addresses this issue by eliminating the ban on knuckles altogether.

H.B. 902
Subject: Assault of a Pregnant Individual
Effective: September 1, 2019

Under current law (Section 22.01 of the Penal Code), assault of a pregnant individual to force the individual to have an abortion is either a Class A misdemeanor or a third-degree felony depending on whether the assault was in the form of physical injury, threats, or offensive contact. H.B. 902 amends the Penal Code as it relates to the punishment for assault of a pregnant victim.

An offense under 22.01(a)(1) of the Penal Code is a Class A misdemeanor unless the offense falls within a class of offenses enumerated in Section 22.01(b), in which case it is a third-degree felony. H.B. 902 adds another class of offenses enhanceable under Section 22.01(b) – assault of a person the actor knows is pregnant at the time of the offense. This enhancement is the same used for the offenses of assault against a public servant, EMT, security guard, contracted corrections officer, an assault by strangulation, and assault of a pregnant individual to force the individual to have an abortion.

H.B. 1325
Subject: Hemp Farming Bill
Effective: June 10, 2019

H.B. 1325 incorporates several changes in federal law and allows Texas farmers to benefit from a state-regulated hemp industry. These regulations are found within the Agriculture Code for non-consumable hemp products and the Health and Safety Code for consumable hemp products.

Prior to this bill, hemp farming was not permitted in Texas, which was argued to negatively impact the farming economy. H.B. 1325 amends Title 5 of the Agriculture Code by adding Subtitle F, which outlines regulations and requirements for the cultivation, manufacturing, and retail of non-consumable hemp products. These products include cloth, fuel, paint, paper, and other products derived from hemp. The main areas of regulation for production of non-consumable hemp products include: licensing of those that cultivate or farm the hemp plants, testing of the harvests by accredited laboratories, utilization of specialized certificates for transportation of hemp approved by the Department of Agriculture, and limiting hemp growth to plants that contain no more than .3 percent concentration of tetrahydrocannabinol (THC) on a dry weight basis. A person who transports hemp plant material that is not produced in compliance with the law or is not accompanied by an adequate shipping label or documentation of where the hemp was cultivated if it originated in another state may face up to $1,000 fine.

H.B. 1325 also amends the Health and Safety Code by adding Sections 431.011, 431.2211(a-3), and Chapter 443. The added provisions outline regulations and requirements for the cultivation, manufacturing, and retail of consumable hemp products. Consumable hemp products include any type of food, drug, device, or cosmetic that contains hemp or one or more hemp-derived cannabinoids, including cannabidiol (CBD) oil. Consumable hemp product regulation is similar to non-consumable hemp product regulation, however, in addition to cultivators, retailers of consumable hemp products must register each location owned, operated, or controlled at which those products are sold. Additionally, consumable hemp products must be labeled with

the related batch identification number, batch date, product name, URL that provides a link to a certificate of analysis for the product or each hemp-derived ingredient of the product, name of the product's manufacturer, and a certification that it contains less than .3 percent THC concentration.

TMCEC: CBD oil is not new to Texas; it can be found in nearly any health foods store, on the menu as an additive to coffee, and has even been put in queso on special occasions at a restaurant in Houston. CBD oil, particularly when manufactured with THC, has remained in a gray area under Texas law for some time. Even if one could argue that it was illegal, it would be hard to find a prosecutor aggressively pursuing charges for it.

What is CBD oil? CBD, scientifically known as cannabidiol, is not psychoactive. However, it is extracted from the cannabis plant, the same plant that marijuana comes from. Up until now, there were no laws on the books outlawing CBD, but there are laws prohibiting the use and possession of THC. H.B. 1325 clarifies and bridges these gaps to allow Texans to use CBD oil, which is alleged to provide pain relief, suppress anxiety, and treat insomnia. This is potentially historic as it is the first time in modern history that some amount (however small) of THC has been allowed in Texas. This could complicate marijuana cases as the State will now likely face the burden of proving that the marijuana used, possessed, or sold in a case contained .3 percent THC or more.

H.B. 1894
Subject: Removing Penalties for the Unregistered Practice of Interior Design
Effective: September 1, 2019

In 1991, the Texas Board of Architectural Examiners (TBAE) was given the additional responsibility to regulate the use of the title "interior designer," which the Legislature changed in 2009 to the title "registered interior designer." Under current law, any individual may practice interior design, but only those who voluntarily register with TBAE can use the title "registered interior designer." Under Subchapter H of Chapter 1053 of the Occupations Code, it is a Class C misdemeanor for a person to knowingly act as a registered interior designer without proof of the voluntary registration or to knowingly violate a standard of conduct adopted under statutory provisions relating to interior designers. H.B. 1894 repeals Subchapter H and so removes these criminal penalties.

H.B. 2321
Subject: Enhancing Penalties for Certain Oyster Harvesting Violations
Effective: September 1, 2019

Interested parties assert that criminal penalties for unauthorized harvesting of oysters are too lenient because many illegal harvesters treat any resulting fines as simply a minimal cost of doing business. H.B. 2321 seeks to address this issue by enhancing criminal penalties for harvesting undersized oysters or harvesting oysters from an area closed by the Texas Parks and Wildlife Commission (TPWC).

The bill amends Section 76.118 of the Parks and Wildlife Code increasing an offense to a Class B misdemeanor from a Class C misdemeanor for any person who either (1) has a cargo of oysters in which 30 percent or more of the oysters are undersized; or (2) harvested oysters from a closed off area; and (3) has previously been convicted of either violation. A person who commits the offense that has previously been convicted twice commits a Class A misdemeanor.

TMCEC: In 2017, Hurricane Harvey struck the Texas coast and caused massive damage to the oyster population in the region. TPWC is tasked with implementing oyster harvesting rules and regulations. It closed multiple bays in an effort to help restore the oyster population. However, the resulting increase in competition

for the remaining oysters has increased violations of the rules and regulations. It will be interesting to see whether enhanced criminal penalties for violating the rules and regulations will significantly deter illegal oyster harvesting.

H.B. 2524
Subject: Revising Notice Rules for Presumption of Intent to Commit Theft of Service
Effective: September 1, 2019

Interested parties assert that Texas's theft of service statute is cumbersome for industry and potentially abusive for consumers. H.B. 2524 addresses these concerns by amending Section 31.04 of the Penal Code with regard to the intent to avoid payment. The bill specifies that intent is presumed when a person receives a notice demanding return of the rental property and fails to return the property within five days if valued under $2,500, within three days if valued from $2,500 to $10,000, and within two days if valued over $10,000. For rental agreements that permit the individual to become the owner of the property, the requisite intent for theft of service is presumed when a person has made fewer than three complete payments, receives a notice demanding return of the rental property, and fails to return the property within five days. These presumptions of intent to avoid payment are refutable if the alleged offender intended to return the property, and was unable to return the property. Additionally, H.B. 2524 authorizes the delivery of notice via commercial delivery services such as Federal Express and United Parcel Service.

TMCEC: The seeds for H.B. 2524 were planted shortly the last session and cultivated by media exposure during the interim. In October 2017, The Texas Tribune featured a story titled "How Renting Furniture in Texas Can Land You in Jail." The thrust of the story was that while other businesses generally have to use civil remedies when customers do not pay their consumer debts, the rent-to-own industry was able to invoke Section 31.04. While H.B. 2524 does not preclude the rent-to-own industry from filing a complaint with law enforcement, Section 31.04 addresses some concerns by giving alleged offenders the opportunity to refute the presumption of their intent to avoid payment in certain circumstances.

H.B. 2625
Subject: Credit and Debit Card Fraud: Mass Fraudulent Use and Possession of Card Information
Effective: September 1, 2019

Credit and debit card skimmers are electronic devices that are attached to regular card readers, and allow thieves to steal card information to create fake bank cards or make fraudulent online transactions. Skimmers are typically found attached to gas pumps but can be attached to other types of card readers.

As reports of credit and debit card skimmers continue to escalate, particularly at gas stations, so has the need to adequately prosecute and punish offenders. Under current law, if prosecutors want to bring more severe punishment for an offense involving card skimming, they pursue the offense of fraudulent use or possession of identifying information (Section 32.51 of the Penal Code). Unfortunately, this may require the prosecutor to contact each cardholder that they expect to have been defrauded. H.B. 2625 addresses the limitations on prosecuting these fraudulent acts by creating the offense of fraudulent use or possession of credit card or debit card information.

Fraudulent use or possession of credit card or debit card information (Section 32.315 of the Penal Code) creates an offense if the person, with the intent to harm or defraud another, obtains, possesses, transfers, or uses (1) a counterfeit credit or debit card, (2) the number and expiration date of a credit card or debit card without consent, or (3) the data stored on the digital imprint of a credit or debit card without consent. Section 32.315 also provides for a rebuttable presumption that the actor possesses the items without the consent of

the account holders if the actor possesses five or more credit or debit cards' information not belonging to the actor; this presumption does not apply to commercial or governmental entities. The punishment for offenses under Section 32.315 varies from a state jail felony to a first-degree felony depending on the number of items obtained, possessed, transferred, or used.

H.B. 2789
Subject: Creating an Offense for Electronic Transmission of Sexually Explicit Material
Effective: September 1, 2019

As communication technology changes, it is important to make sure the law keeps up with the rapidly shifting landscape. Current law addresses the physical act of indecent exposure, but is silent with regard to the increasingly prevalent occurrence of individuals sending sexually explicit digital images and videos to others without their consent. To address this problem, H.B. 2789 mirrors laws relating to similar non-digital lewd offenses.

The bill adds Section 21.19 to the Penal Code, making the electronic transmission of sexually-explicit visual material without the consent of the recipient a Class C misdemeanor. Sending lewd images or videos containing either (1) sexual conduct, (2) a person's "intimate parts" exposed, or (3) the covered genitals of a male person in a "discernibly turgid state" will be punishable by a fine of up to $500.

TMCEC: Contrary to what is suggested in its legislative history, H.B. 2789 is not the Legislature's first foray into the electronic transmission of sexual material. In 2011, S.B 407 created Section 43.261 of the Penal Code. Section 43.261 is intended to deter minors from, what at the time was euphemistically referred to as, "sexting." It is interesting to note that H.B. 2789 makes no reference to Section 43.261. This poses unanswered questions about the applicability of Section 21.19 to minors and its relationship to Section 43.261.

H.B. 2790
Subject: Repeal of Prima Facie Evidence of Intent to Sell Alcohol in Dry Counties
Effective: September 1, 2019

Under current law (Section 101.32 of the Alcoholic Beverage Code), possession of more than one quart (32 ounces) of liquor, 24 twelve-ounce bottles of beer, or the equivalent is prima facie evidence of possession with intent to sell in a dry area. Intent to sell alcohol in a dry area is currently a Class B misdemeanor. H.B. 2790 repeals Section 101.32. Consequently, a person who lives in one of the state's five "dry" counties may possess any amount of alcohol for his or her personal use without automatically establishing the intent to sell in a dry area.

TMCEC: The five "dry" counties in Texas are Borden, Hemphill, Kent, Roberts, and Throckmorton.

H.B. 2945
Subject: Enforcing Prohibition on Payment Card Skimmers at Gas Stations
Effective: September 1, 2019

There are growing concerns about the use of card skimmers at gas pumps throughout Texas. H.B. 2945 seeks to address these concerns by adding Chapter 607 of the Business & Commerce Code. The bill adds Section 607.051, which requires gas station merchants to implement procedures prescribed by the attorney general in an effort to (1) prevent the installation of skimmers on payment terminals, (2) find and remove skimmers placed on payment terminal, and (3) report the discovery of skimmers to the Department of Agriculture.

Upon the report of a discovered skimmer, the Texas Department of Agriculture must be allowed access to inspect the motor-fuel dispenser. H.B. 2945 establishes civil and criminal penalties relating to this process. Notably, it is a Class C misdemeanor if a person refuses to allow an inspection of a fuel pump at the merchant's place of business. It is a Class B misdemeanor if a person negligently or recklessly disposes of a skimmer installed on the unattended payment terminal of a motor fuel dispenser by another person. It is a third-degree felony for a person, knowing that an investigation is ongoing, to dispose of a skimmer that was installed on a payment terminal by another person.

TMCEC: Unfortunately, Texas leads the nation in thefts arising from credit card skimmers at gas pumps. Legislators are hoping that these new duties and penalties can help reverse this trend and make paying at the pump safer for all Texans.

H.B. 3557
Subject: Protection of Critical Infrastructure Facilities
Effective: September 1, 2019

Critical infrastructure facilities are used, among other things, for electrical power generation, water treatment, oil and natural gas production, and telecommunication service. H.B. 3557 creates criminal and civil liability by adding Sections 424.051, 424.052, 424.053, and 424.054 to the Government Code and makes it a felony for a person to damage, destroy, vandalize, deface, or tamper with a critical infrastructure facility or to impede, inhibit, or otherwise interfere with its operation.

TMCEC: Don't mess with Texas oil. Multiple oil, gas, and fracking construction projects and operations in Texas have been interrupted by protest in the past decade. The Critical Infrastructure Protection Act severely criminalizes acts of civil disobedience by environmental activists to stop or delay construction projects and operations of Texas oil and gas pipelines. The penalty can be a third-degree felony, which carries up to a ten-year jail sentence and a fine not to exceed $10,000.

H.B. 3703
Subject: Expanding Eligibility for Patients' Medical Use of Low-THC Cannabis
Effective: September 1, 2019

In 2015, the Legislature enacted the Texas Compassionate-Use Act authorizing physicians to prescribe low-tetrahydrocannabinol (THC) cannabis products, such as cannabidiol (CBD) oil, to patients with intractable epilepsy. Interested parties have expressed concerns that Texans with other severe medical conditions should have similar access. H.B. 3703 addresses these concerns by adding more conditions eligible for treatment using low-THC cannabis and eliminating the requirement of dual physician approval.

H.B. 3703 amends Section 169.001 of the Occupations Code by changing the definition of "Low-THC cannabis." It eliminates the ten percent by weight minimum cannabinoid requirement but maintains the 0.5 percent maximum THC by weight requirement. Thus, cannabis used for medical purposes no longer must contain non-psychoactive cannabinoids (such as CBD) but is capped at 0.5 percent of psychoactive THC.

H.B. 3703 expands the conditions that qualify under the Act by amending Section 169.003 of the Occupations Code. The Act now applies to patients with a seizure disorder, multiple sclerosis, spasticity, amyotrophic lateral sclerosis, autism, terminal cancer, or incurable neurodegenerative disease. It also removes the requirement that epilepsy be intractable and instead applies simply to "epilepsy." Additionally, the bill eliminates Section 169.003(C) of the Occupations Code that required patients to receive a second physician concurrence of the low-THC cannabis prescription.

TMCEC: Allowing more medical conditions to be treated with cannabis products could help Texans suffering from these conditions. Moreover, the passage of H.B. 1325 allows all Texans to purchase similar products for personal use with a lower percentage of THC. The maximum percentage of THC for medicinal use is 0.5 percent compared to 0.3 percent for personal use.

S.B. 21
Subject: 21+ for Cigarettes/E-Cigarettes/Tobacco Purchases
Effective: September 1, 2019

The current minimum age to purchase tobacco related products is 18, which means that high school students are able to purchase cigarettes, e-cigarettes, and tobacco products legally. Students that are 18 years of age or older are pressured to purchase these products for younger peers. S.B. 21 amends Chapter 161 of the Health and Safety Code in an attempt to limit the availability of tobacco to school-aged children by raising the age to purchase, attempt to purchase, or possess tobacco products to 21.

Under current law (Chapter 161 of the Health and Safety Code), a person commits a Class C misdemeanor if they sell or intend to provide cigarettes, e-cigarettes, or tobacco products to a person under the age of 18. S.B. 21 raises the age requirement by defining a "minor" as a person who is under 21 years of age. Additionally, the bill provides that a person may not sell or give these products without requesting valid proof of identification of persons that appear 30 years of age or younger.

S.B. 21 extends its definition of a minor to tobacco-related statutes of purchasing, attempting to purchase, and possessing cigarettes, e-cigarettes, or tobacco products. Thus, a fine may be assessed for anyone under the age of 21 that purchases, attempts to purchase, or possesses these products. However, S.B. 21 amends Section 161.252 of the Health and Safety Code to reduce the maximum fine from $250 to $100. The bill includes exceptions to this age requirement if (1) the individual is active military and at least 18 years old, or (2) turned 18 before September 1, 2019. Individuals convicted of an offense under this Section may apply for expunction once they reach 21 years of age.

S.B. 21 does not amend the requirement of retailers and employers of those who sell cigarettes, e-cigarettes, or tobacco products to give notice to their employees of the age requirements for purchase. It does not amend the requirement for retailers to display signs regarding the minimum age for purchase of these products. It does, however, require that these signs be updated to reflect the change in age requirements.

S.B. 194
Subject: Indecent Assault
Effective: September 1, 2019

S.B. 194 amends Chapter 22 of the Penal Code by adding Section 22.012, which creates the offense of indecent assault. A person commits the offense of indecent assault if, without the other person's consent and with the intent to arouse or gratify the sexual desire of any person, the actor: (1) touches the anus, breast, or any part of the genitals of another person; (2) touches another person with the anus, breast, or any part of the genitals of another person; (3) exposes or attempts to expose another person's genitals, pubic area, anus, buttocks, or female areola; or (4) causes another person to contact the blood, seminal fluid, vaginal fluid, saliva, urine, or feces of any person. Indecent assault is a Class A misdemeanor.

The bill also amends Chapter 7A of the Code of Criminal Procedure to extend provisions regarding protective orders. Victims of indecent assault will now be eligible to apply for protective orders without regard to the

relationship between the applicant and the alleged offender. Furthermore, if the protective order application contains evidence of a clear and present danger of indecent assault to the applicant, a court may enter a temporary ex parte order for the protection of the applicant or any other member of the applicant's family or household.

In addition to extending protective order provisions, S.B. 194 makes corresponding changes in the Penal Code and the Code of Criminal Procedure. Section 25.07 of the Penal Code is amended to account for the enforcement of certain court orders and protective orders related to cases of indecent assault.

The bill also amends Article 56.021 of the Code of Criminal Procedure by extending victims' rights to victims of indecent assault. This means that victims of indecent assault have the same rights as victims of sexual assault or abuse, stalking, and human trafficking.

S.B. 751
Subject: "Deep Fake Videos" with Intent to Influence Election
Effective: September 1, 2019

Under Section 255.004 of the Election Code, it is a Class A misdemeanor to distribute political advertising, or represent a campaign communication, that purports to emanate from a source, other than its true source, with the intent to injure a candidate or influence the result of an election. However, new developments in artificial-intelligence technology have raised concerns over election security. There are specific questions regarding "deep fake videos" whereby publicly-available technology is used to generate computer representations of a person saying or doing something that they never did.

S.B. 751 addresses concerns related to this emerging technology. The bill defines a "deep fake video" as a video created with the intent to deceive, that appears to depict a real person performing an act, or making a statement, that did not occur in reality. Additionally, the bill makes it a Class A misdemeanor for a person to create and publish or distribute a deep fake video within 30 days of an election, with the intent to injure a candidate or influence the result of an election.

TMCEC: Texas is not the only state that has made efforts to mitigate the effects of this new technology. Across the country, deep fake videos have been used to pantomime politicians and other public figures. Left unchecked, these videos could weaken public trust in information and undermine the integrity of elections.

S.B. 1259
Subject: Expanding Definition of Sexual Assaults Committed by Fertility Doctors
Effective: September 1, 2019

S.B. 1259 amends Section 22.011 of the Penal Code by expanding conduct that constitutes sexual assault. The amended conduct includes a health care service provider who, in the course of performing an assisted reproduction procedure on another person, uses human reproductive material from a donor knowing that the other person had not expressly consented to the use of material from that donor. The bill sets the statute of limitations for the offense at two years from the date the offense was discovered.

TMCEC: This bill is in response to the alarming number of "daddy doctor" cases in which fertility doctors used their own sperm instead of the donor sperm selected by the patient. This garnered national attention when ABC's 20/20 featured Texan Eve Wiley's story. Wiley, now 31, discovered that her mother was

artificially inseminated by her fertility doctor's sperm instead of the donor her mother selected. Wiley testified in support of this bill and pushed to make such conduct sexual assault.

S.B. 1640
Subject: Circumventing Open Meetings Law; "Walking Quorums"
Effective: June 10, 2019

The Court of Criminal Appeals recently held in *State v. Doyal*, No. PD-0254-18 (Tex. Crim. App., 2019) that Section 551.143 of the Government Code, in the Texas Open Meetings Act (TOMA), is unconstitutionally vague on its face. Specifically, the Court took exception to the language making it an offense to "conspire to circumvent [TOMA] by meeting in numbers less than a quorum for the purpose of secret deliberations." S.B. 1640 addresses this vagueness issue by removing the offending language and replacing it with a clearer prohibition. Specifically, the bill makes it an offense for a member of a governmental body to knowingly engage in a series of communications concerning an issue within the governmental body's jurisdiction, where the series of communications occurs outside of a meeting authorized by TOMA, and the members engaging in the communications constitutes fewer than a quorum, but the members engaging in the series of communications does constitute a quorum. S.B. 1640 also requires that the actor knew that the series of communications would involve a quorum and it would constitute a deliberation once a quorum of members engaged in the series of communications.

TMCEC: The State's legislative and executive arms have argued that Section 551.143 clearly targets "walking quorums," where members of a governmental body gather in numbers that do not physically constitute a quorum at any one time but who, through successive gatherings, secretly discuss a public matter with a quorum of that body. The legislative history for S.B. 1640 mirrors this assumption and labels Section 551.143 as the "walking quorum" provision. While this may be a handy referential colloquialism, it is not entirely accurate.

As part of its extensive constitutional vagueness analysis in *State v. Doyal*, the Court of Criminal Appeals examined several interpretations of Section 551.143. First, the Court found that the section could reasonably refer to conduct other than "walking quorums." Second, it determined that—even if the section did refer to "walking quorums"—there were a number of different ways to define the concept, and there remains disagreement on whether certain situations qualify as "walking quorum" conduct. Each of these ambiguities causes vagueness problems. S.B. 1640 attempts to resolve these vagueness issues by clearly singling out walking-quorum-type behavior as the prohibited conduct and clearly defining what that conduct entails.

S.B. 1754
Subject: Taking or Attempting to Take a Weapon from a Peace Officer
Effective: September 1, 2019

Section 38.14(b) of the Penal Code pertains to the taking or attempted taking of a weapon from certain peace officers, investigators, employees, or designated officials. The section includes a culpable mental state with respect to formulating intent to harm. Specifically, the State is required to prove that the conduct was done "with the intention of harming the officer, investigator, employee, official, or third person." S.B. 1754 eliminates this requirement by removing this specific intent language. Accordingly, a person now commits an offense under Section 38.14(b) if they intentionally or knowingly, with force, take or attempt to take an officer's weapon for any reason.

H.B. 61
Subject: Authorizing Escort Flag Vehicles to Use Flashing Blue and Amber Lights and New Vehicles Added to Improper Passing List
Effective: September 1, 2019

There are a number of restrictions regarding the type of lights permitted on vehicles. H.B. 61 amends Section 547.305 of the Transportation Code to allow an escort flag vehicle to use alternating or flashing blue and amber lights. The bill defines "escort flag vehicle" as a vehicle that precedes or follows an oversize or overweight vehicle described by Subtitle E of the Transportation Code (Vehicle Size and Weight) for the purpose of facilitating the safe movement of an oversize or overweight vehicle over roads.

Under current law, Section 545.157 of the Transportation Code (Passing Certain Vehicles), it is a Class C misdemeanor to improperly pass a stationary authorized emergency vehicle, a stationary tow truck, or a Texas Department of Transportation vehicle. H.B. 61 amends this section to include: (1) highway maintenance or construction vehicles operated pursuant to a contract awarded under Subchapter A, Chapter 223 of the Transportation Code (Competitive Bids); (2) certain service vehicles used by a utility; and (3) certain stationary vehicles used exclusively to transport municipal solid waste or recyclable material.

H.B. 87
Subject: Mandatory Information on Distracted Driving for Minor License-Holders
Effective: September 1, 2019

H.B. 87 amends Section 521.145 of the Transportation Code to require the Department of Public Safety (DPS) to provide information concerning state laws relating to distracted driving to persons under 18 years of age applying for a driver's license as well as to the applicant's cosigner. Prior to this bill, DPS was only required to provide information about driving while intoxicated, driving under the influence, and implied consent.

H.B. 123
Subject: Revising ID Application Requirements for Foster and Homeless Children
Effective: September 1, 2019

Under Section 521.101 of the Transportation Code, the Department of Public Safety's requirements to issue a personal identification certificate include proof of (1) an established domicile in the state, (2) U.S. citizenship or lawful presence, and (3) identity. An original or certified copy of a birth certificate alone is not adequate to establish identity. H.B. 123 amends Section 521.101 of the Transportation Code to provide a widened avenue for foster and homeless children to obtain personal identification certificates. The bill allows the individual to provide a birth certificate as proof of U.S. citizenship and identity. If the individual does not have a residence or domicile, a letter from the individual's school or shelter/housing program can be provided to establish domicile. In these cases, the address of the regional office where the Department of Family and Protective Services caseworker for the child is based is used as the child's address on the identification certificate. Individuals may apply for a certificate without the signature, presence, or permission of a parent or guardian.

H.B. 156
Subject: Allowing Personal Bond Offices to Supervise Occupational License Holders
Effective: September 1, 2019

Interested parties have raised concerns regarding the monitoring of occupational driver's license compliance by local community supervision and corrections departments. It has been suggested that a more appropriate entity to conduct such monitoring could be a local personal bond office. H.B. 156 addresses this issue and amends Section 521.2462 of the Transportation Code to give courts the option of ordering either the local community supervision and corrections departments or a personal bond office to monitor occupational driver's license compliance. The bill also authorizes a selected personal bond office to collect a reasonable administrative fee of not less than $25 and not more than $60 per month.

H.B. 162
Subject: Period of Driver's License Suspensions
Effective: September 1, 2019

Under Section 521.293(b) of the Transportation Code, the Department of Public Safety (DPS) has the authority to *extend* the period of a license suspension by the lesser of one year or the term of the original suspension if they determine that, during the term of the original suspension, the individual drove without a valid license. In some cases, drivers with multiple violations face the prospect of a virtually never-ending suspension period. As a consequence, many continue to drive without a valid license and accrue further suspension extensions. To address this issue, H.B. 162 removes DPS's extension authority. After September 1, DPS will only have the authority to impose administrative license suspensions of 90 days for the offenses listed in Section 521.292.

This bill only applies to license suspensions for conduct occurring on or after September 1, 2019. Thus, DPS is legally still able to extend license suspensions indefinitely until this date, and those extended suspensions would still apply after September 1, 2019.

TMCEC: H.B. 162 is best explained through an example. Say a driver negligently operates a vehicle when he or she is 45 days into a 90-day license suspension. Previously, DPS could extend the suspension by 90 days, meaning that the driver would now have 135 days remaining on his or her suspension. After September 1, 2019, under the same facts, DPS can only *restart* the license suspension, meaning that the driver would now have 90 days remaining on his or her suspension. This bill, much like the repeal of the Driver Responsibility Program, represents the State's efforts to stop the snowball effect of fines and license suspensions stemming for a single offense.

H.B. 259
Subject: Named Driver Insurance Exclusions and Policies
Effective: September 1, 2019

There is concern that coverage restrictions in "named driver" insurance policies are misunderstood by those insured and may leave injured third parties with limited recourse to recover damages. A "named driver" insurance policy is defined as "an automobile insurance policy that provides any type of coverage for individuals named on the policy but does not provide coverage for every individual who has permission to use a covered vehicle and resides in a named insured's household." H.B. 259 addresses concerns by adding Subchapter H to the Insurance Code, prohibiting an insurer from delivering, issuing for delivery, or renewing

a named driver policy unless the named driver policy is an operator's policy starting on January 1, 2020. An operator's policy is defined as an "automobile insurance policy that…provides coverage for the named insured when operating an automobile the insured does not own."

TMCEC: Simply stated, named driver insurance policies only cover drivers specifically named in the policy. Operator's policies cover drivers who are given permission to use a vehicle, such as family members. H.B. 259 bans named driver policies. This is intended to stop insurance companies from denying coverage when a driver in the policyholder's family is not specifically listed in a policy.

H.B. 339
Subject: Requiring Speed Limit Signs at the End of Work Zones
Effective: September 1, 2019

Interested parties have expressed concerns that drivers, unaware of the posted speed limit after a work zone, maintain dangerously low speeds after exiting a work zone. A posted speed limit at the end of the zone might mitigate this problem, but municipalities are not required to provide any signage indicating the speed limit after the end of the work zone. H.B. 339 addresses this issue by adding Section 545.364 to the Transportation Code (Speed Limit Signs After Construction or Maintenance Work Zone), which requires an entity that sets a lower speed limit for a construction or maintenance work zone to place a sign at the end of the zone that indicates the speed limit after the work zone ends.

H.B. 695
Subject: Allowing Certain City Police Forces to Enforce Commercial Motor Vehicle (CMV) Standards
Effective: September 1, 2019

Interested parties contend that CMVs exceeding vehicle weight and size restrictions pose a threat to smaller cities in Texas because those cities' police officers often are unauthorized to enforce CMV safety standards. H.B. 695 addresses this issue by reenacting and amending Section 644.101 of the Transportation Code to allow police officers of certain municipalities to apply for a certification to enforce commercial motor vehicle safety standards. The original statute contained an enumerated list of applicable municipalities. The bill reenacts that list and adds municipalities with a population between 14,000 and 17,000 provided that it (1) contains three or more numbered United States highways, and (2) is located in a county adjacent to a county with a population of more than 200,000.

TMCEC: The House Research Organization's bill analysis specifically lists the city of Jacksonville, Texas as the subject of the proposed legislation. However, other municipalities could qualify or meet the requirements at a later date.

H.B. 771
Subject: Warning Signs Where Use of a Wireless Communication Device is Prohibited
Effective: September 1, 2019

There is concern that the signage requirements in Section 545.425 of the Transportation Code make it too expensive for some local governments to enforce the ban on texting and driving in school zones. Enforcement requires local governments to purchase and install warning signs at the entry of every school zone within their jurisdiction. H.B. 771 amends Section 545.425 to allow "local authorities," which includes schools and school districts, to purchase and install the required warning signs. The term "local authority" is inserted throughout Section 545.425 where it previously said political subdivision, municipality, or county.

H.B. 771 also adds Section 545.425(e-1) to the Transportation Code, which is a new exception to the prohibition on phone use while driving in a school zone: bus operators that use a wireless communication device in the performance of their duties as a bus driver and in a manner similar to using a two-way radio.

H.B. 799
Subject: Creating a Criminal Offense for Vehicles Exceeding Maximum Height Limitations
Effective: September 1, 2019

H.B. 799 amends Section 621.207 of the Transportation Code to make the owner of a vehicle strictly liable for any damage to a bridge, underpass, or similar structure that is caused by the height of the vehicle. The bill includes exceptions to liability if: the vehicle was stolen; the vertical clearance of the structure was less than that posted on the structure; the vehicle was being operated under the immediate direction of a law enforcement agency; or the vehicle was being operated in compliance with a permit authorizing the movement of the vehicle issued by the Department of Transportation or a political subdivision of this state.

Additionally, the bill amends Section 621.504 to create a Class C Misdemeanor offense for a person who operates or attempts to operate a vehicle over, on, or through a bridge, underpass, or similar structure unless the height of the vehicle and load is less than the vertical clearance of the structure.

H.B. 917
Subject: Expanding Commercial Vehicle Safety Enforcement in Certain Towns
Effective: September 1, 2019

There is concern regarding the enforcement of commercial motor vehicle safety standards in certain areas of the Permian Basin. Specifically, it is alleged that the number of peace officers eligible to enforce these standards is insufficient to maximize the safety of motorists and truck drivers. H.B. 917 addresses these concerns by amending Section 644.101 of the Transportation Code to expand the list of officers eligible to apply for DPS certification to enforce commercial motor vehicle safety standards. Starting in September, the list will include officers in a municipality with less than 50,000 people and located in a county that: (1) generated $20 million or more in tax revenue from oil and gas production during the preceding state fiscal year, or (2) is adjacent to two or more counties that generated $20 million or more in tax revenue from oil and gas production during the preceding state fiscal year.

H.B. 1262
Subject: Extended Registration for Vehicles Not Subject to Inspection
Effective: June 5, 2019

H.B. 1262 amends Chapter 502 of the Transportation Code by adding Section 502.0024, which allows an extended registration period for certain vehicles that are not subject to a required state vehicle inspection. Vehicles not subject to inspection are found in Section 548.052 of the Transportation Code. Examples include trailers, farm machinery, and former military vehicles.

The bill requires the Texas Department of Motor Vehicles to develop and implement a registration system that allows owners of certain types of inspection-exempt vehicles to register their vehicles for an extended registration period of not more than five years. The owners may choose how many years they want to register their vehicle for, but all applicable fees are due at the time of registration.

H.B. 1505
Subject: DPS Reporting of Unregistered Household Goods Transport Vehicles
Effective: September 1, 2019

Under Section 643.253(b) of the Transportation Code, it is a Class C misdemeanor to engage in or solicit the transportation of household goods for compensation without being registered as required by Chapter 543, Subchapter B of the Transportation Code. The offense can be enhanced if a person has been previously convicted of an offense under Subsection (b). It has been asserted that this law contains a potential loophole: often, law enforcement cannot determine whether an offender is a repeat violator and thus cannot utilize the enhancement provisions.

H.B. 1505 seeks to rectify this issue by amending Section 643.253 to add Subsections (g) and (h). Subsection (g) will require convicting courts to report violations of Section 643.253(b) to the Department of Public Safety (DPS) as soon as is practicable after the conviction. The notice must be in the form required by DPS and must include the defendant's driver's license number. Subsection (h) will require a conviction under Section 643.253(b) to be recorded in the person's DPS driving record.

TMCEC: In December 2015, *The Texas Tribune* reported that "Uber-styled" moving apps had drawn the attention of the State. Last session, the Legislature passed H.B. 3524, which amended Chapter 643 of the Transportation Code. Ostensibly, H.B. 1505 is a follow up on state efforts to crack down on what *The Tribune* described as a new breed of app-based moving companies.

H.B. 1548
Subject: Regulating Certain Off-Highway and Neighborhood Vehicles
Effective: May 2, 2019

It has been asserted that that recent efforts to clarify state law governing the operation of off-highway vehicles have not been adequate and have inadvertently taken away local governmental entities' authority to allow ATVs and golf carts on their local roads. H.B. 1548 addresses these issues by amending certain statutory provisions regarding the registration, titling, and operation of off-highway vehicles, golf carts, and neighborhood electric vehicles.

H.B. 1548 transfers Section 663.001 of the Transportation Code (Definitions) to Chapter 551A of the Transportation Code.

Sections 551.402 and 551A.052 of the Transportation Code are amended to restrict the authorized operation of an unregistered off-highway vehicle, neighborhood electric vehicle, or golf cart to a vehicle that displays a license plate issued by the Texas Department of Motor Vehicles. Such a license plate does not expire, but its use does not transfer to a subsequent vehicle owner. Additionally, the Texas Department of Motor Vehicles may not register an off-highway vehicle for operation on a highway regardless of whether any alteration has been made to the vehicle.

Chapter 501 of the Transportation Code is amended to specify that an off-highway vehicle, including an all-terrain, utility, or recreational off-highway vehicle, is subject to titling requirements under the Certificate of Title Act.

Sections 551A.057 and 551A.058 of the Transportation Code are amended to specify that an unregistered

off-highway vehicle operated for certain agricultural, utility, or law enforcement purposes does not have to display a license plate and the driver does not have to hold a driver's license.

Section 547.002 of the Transportation Code is amended to exempt golf carts, neighborhood electric vehicles, and off-highway vehicles from the applicability of vehicle equipment requirements and rules adopted by the Department of Public Safety of the State of Texas relating to those requirements. But it requires those vehicles to display a slow-moving-vehicle emblem when operated on a highway at a speed of not more than 25 miles per hour.

Section 551A.002 of the Transportation Code is created and replaces Section 663.002 of the Transportation Code to prohibit a person from operating an off-highway vehicle on land owned or leased by the state or a political subdivision of the state that is not open to vehicular traffic unless the land is "public off-highway vehicle land."

Section 551.403 of the Transportation Code is amended to authorize the operation of an unregistered off-highway vehicle in certain master planned communities or on a highway for which the posted speed limit is not more than 35 miles per hour if the off-highway vehicle is operated: (1) during the daytime, (2) not more than two miles from the location where the off-highway vehicle is usually parked, and (3) for transportation to or from a golf course.

Section 551A.054 of the Transportation Code is amended to authorize a county, municipality, or the Texas Department of Transportation to prohibit such operation on a highway if the governing body determines that the prohibition is necessary in the interest of safety. H.B. 1548 authorizes the additional operation of an unregistered off-highway vehicle on all or part of a highway that has a posted speed limit of not more than 35 miles per hour under the following circumstances: (1) if the governing body of a municipality authorizes such operation in the corporate boundaries of the municipality, or (2) if the commissioners court of a county authorizes such operation in the unincorporated area of the county.

Section 551.405 of the Transportation Code is amended to authorize a golf cart to cross a highway at an intersection, including an intersection with a highway that has a posted speed limit of more than 35 miles per hour. Further, it authorizes an off-highway vehicle to cross a highway at a point other than an intersection.

Section 663.034 of the Transportation Code is amended and transferred to Section 551A.072 of the Transportation Code to require that a person may not operate, ride, or be carried on an off-highway vehicle on public off-highway vehicle lands, beaches, or highways unless the person wears a helmet, eye protection, and a seat belt (if the vehicle is equipped with one). However, this requirement does not apply to a motor vehicle that has four wheels, is equipped with bench or bucket seats and seat belts, and includes a roll bar or roll cage construction. This requirement also does not apply to a motor vehicle that is in the process of being loaded into or unloaded from a trailer or another vehicle used to transport the vehicle.

Section 663.038 of the Transportation Code is transferred to Section 551A.091 of the Transportation Code, which makes violations that occur on public off-highway vehicle land (land on which off-highway recreation is authorized under Chapter 29 of the Parks and Wildlife Code) or a beach a Class C misdemeanor.

H.B. 1548 clarifies that Section 601.051 of the Transportation Code (Requirement of Financial Responsibility) does not apply to a neighborhood electric vehicle, golf cart, or off-highway vehicle that is operated as authorized by the Transportation Code.

H.B. 1554
Subject: Allowing Insurance Policies or Endorsements in Non-English Languages
Effective: May 2, 2019

H.B. 1554 amends Chapter 2031 of the Insurance Code by adding Section 2301.058, which allows insurers to provide a customer a version of a personal automobile or residential property insurance policy, endorsement, or related explanatory or advertising material in a language other than English. The foreign language version of the document is required to state that the English version of the insurance policy document controls in the case of a dispute or complaint.

H.B. 1631
Subject: Red Light Camera Ban
Effective: June 2, 2019

H.B. 1631 adds the word "prohibited" to the end of the title of Chapter 707 of the Transportation Code, which now reads "Photographic Traffic Signal Enforcement System Prohibited." The bill then overhauls the entire chapter, which previously authorized the use of red light cameras, to ban them. The bill adds Section 707.021, which provides that "…a local authority may not issue a civil or criminal charge or citation for an offense or violation based on a recorded image produced by a photographic traffic signal enforcement system."

One notable exception exists: If, prior to May 7, 2019, a local authority enacted an ordinance to operate red light cameras *and* entered into a contract to administer the system, the city may continue to operate the cameras under the old law until the contract's deadline as long as that deadline was part of the contract prior to May 7, 2019. However, if the contract authorizes its own termination due to adverse legislation, it must be terminated.

TMCEC: While red light camera supporters believe the cameras increase traffic safety, opponents believe they are unconstitutional and violate due process. H.B. 1631 makes Texas the eighth state to ban red light cameras. Red light camera traffic enforcement began in New York City in 1992. According to the Insurance Institute for Highway Safety, approximately 400 cities in the U.S. utilized red light cameras in 2018. Texas cities currently utilizing red light cameras will be losing some revenue once their cameras are turned off. Dallas, for example, collected almost $6 million in red light camera revenue in 2018 at roughly $75 per violation. The monies collected are not criminal fines but rather civil penalties. According to KXAN, red light cameras have generated more than $500 million in Texas since 2007. Some of this revenue has gone directly to cities while some has gone to fund trauma centers. When HB 1631 was signed, 57 of the 61 Texas cities utilizing red light cameras immediately ended their red light camera programs. On May 3, 2019, the Texas Supreme Court dismissed a highly anticipated case (on procedural grounds) that would have ruled on the legality of red light cameras (*Garcia v. City of Willis*, No. 17-0713, 2018 Tex. LEXIS 1028).

While most Texas cities never adopted red light camera systems as part of their traffic enforcement regiment, cameras increasingly play a role in our everyday lives. H.B. 1631 may well be the end of red light cameras in Texas, but it is doubtful to be the end of controversies stemming from the recent emergence of camera technology.

In recent sessions there have been an increasing number of proposals calling for civil penalties to replace certain Class C misdemeanors. While H.B. 1631 is definitely a defeat for red light camera vendors, it is less clear whether H.B. 1631 provides insight into the Legislature's collective take on civil penalties in lieu of Class C misdemeanors.

H.B. 1755
Subject: Assembled Vehicle and Former Military Vehicle Titling and Registration Rules
Effective: September 1, 2019

Interested parties have noted that a statutory framework is needed to allow the operation of certain assembled vehicles on Texas roadways. H.B. 1755 addresses this issue by providing for the titling, registration, and inspection of these vehicles. The bill adds Chapter 731 to the Transportation Code, which requires owners of assembled vehicles to title and register those vehicles and allows the Texas Department of Motor Vehicles to adopt rules for such titling and registration.

H.B. 1755 makes two important additions to Chapter 731. Section 731.001 of the Transportation Code defines "assembled vehicle" to include: assembled motor vehicles, assembled motorcycles, assembled trailers, custom vehicles, street rods, replicas, and glider kits. However, golf carts and off-highway vehicles are not included. Furthermore, the bill amends Section 663.001 of the Transportation Code, which expands the definition of "off-highway vehicle" to include a sand rail.

Section 731.101 of the Transportation Code requires that an assembled vehicle must pass an inspection conducted by a master technician for the type of assembled vehicle being inspected in addition to passing any compulsory vehicle inspection or re-inspection required by state law.

H.B. 1755 also adds Section 502.141 to the Transportation Code, which prohibits a person from registering a former military vehicle designated for off-highway use, with or without design alterations, for operation on a public highway; however, such a vehicle may be registered for operation on a public highway if it is a high mobility multipurpose wheeled vehicle with a gross vehicle weight rating of less than 10,000 pounds or the vehicle is issued specialty license plates for exhibition vehicles.

H.B. 2048
Subject: Repealing the Driver Responsibility Program (DRP)
Effective: September 1, 2019

After nearly two decades in existence, the Driver Responsibility Program (DRP) will be eliminated on September 1, 2019. The DRP is the program that authorizes the Department of Public Safety (DPS) to collect "surcharges" for traffic offenses occurring on or after September 1, 2003. These surcharges, which are separate from any court-imposed fines and fees, have drawn the ire of many Texans who continue to pay for their traffic offenses years after they occur. "Points" are applied to drivers' licenses which, along with the type of conviction, determine the surcharge amount. Unpaid surcharges frequently result in license suspensions.

H.B. 2048 repeals Chapter 708 of the Transportation Code completely, which codified the DRP. This repeal is applicable to any surcharge pending on the effective date. Thus, any outstanding surcharges on September 1, 2019 will be waived. Furthermore, DPS will be required to reinstate any license that had been suspended solely due to nonpayment of surcharges (but past DRP-related license suspensions will remain on a driver's record). Significantly, the bill repeals Section 708.105, which required citations to contain conspicuous information about surcharges and the DRP. After September 1, 2019, this language will no longer be required on citations. No refunds will be given for surcharges previously paid.

The bill also makes conforming changes to various other areas of the law to remove phrases such as "points" and "surcharges."

Despite the controversy surrounding DRP, surcharges have been a significant source of revenue for state government. In order to offset lost revenue, the Legislature voted for new revenue-producing mechanisms. The bill amends Section 542.4031(a) of the Transportation Code to increase the state traffic fine from $30 to $50. It also amends Section 542.4031(f) to decrease the percentage of state traffic fines that a municipality or county may retain from 5% to 4%. It amends Section 542.4031(g) to change the percentage of state traffic fines that goes to the general revenue fund from 67% to 70% and the percentage that goes to trauma centers from 33% to 30%. Additionally, the bill amends Section 10(b) of the Revised Statutes to increase the fee that automobile insurers must pay the Automobile Burglary and Theft Prevention Authority from $2 to $4 per policy. This cost will likely be passed on to individual policyholders. Finally, H.B. 2048 creates Section 709.001 of the Transportation Code, which states that, in addition to any fines prescribed in the Penal Code, drivers convicted of DWI must also pay: (1) $3,000 for a first DWI in a three year period; (2) $4,500 for a second DWI in a three year period; and (3) $6,000 for any DWI where the driver's blood alcohol content was 0.15 or greater at the time of the offense. If the court, however, finds the defendant to be indigent, these additional DWI fines must be waived.

TMCEC: The DRP was enacted in 2003. As of January 2018, an estimated 1.4 million Texas driver's licenses were actively suspended for the nonpayment of DRP surcharges. This means that almost 10% of Texas driver's license holders currently have suspended licenses. In 2016, the DRP was projected to deliver $331 million in revenues, but in actuality brought in less than half of that. After 16 years, the 86th Legislature officially ended the DRP era in Texas.

It should be noted that requirements for DPS to designate which offenses are to be classified as moving violations currently reside in Chapter 708. Moving violation designations are still necessary—such as the granting of driving safety courses under Article 45.0511 of the Code of Criminal Procedure—therefore, the new moving violation language is now located in Section 542.304 of the Transportation Code.

Indigence has been a topic of frequent conversation, legislation, and litigation over the last several years. In many instances, judges are not given concrete guidelines for the determination of indigence, but in other situations, there are specific qualifiers and definitions. In the new Section 709.001 of the Transportation Code regarding the waiver of DWI fines, the law specifies that a defendant must provide information establishing indigence by either providing proof through a tax return or statement of wages showing an income does not exceed 125% of the federal poverty guidelines or documentation showing that the person receives state or federal assistance such as food stamps, supplemental nutrition program, or a free or reduced-price lunch program.

Finally, note the change to the State Traffic Fine in H.B. 2048. The bill increases the State Traffic Fine to $50 and reduces the percent that cities keep to 4%. Generally, court costs go into effect in January of the year following a legislative change, and despite a bill's effective date, existing Section 51.607 of the Government Code would still push any *court cost or fee* changes to January by law. In this case, however, the State Traffic Fine is clearly labeled as a fine rather than court cost or fee. Additionally, while the Comptroller has even referred to the State Traffic Fine as a court cost over the years, it was left off of the most current list of changes to court costs and fees in the *Texas Register*. What does all this mean to municipal courts? While the bulk of the court costs changes from this session don't go into effect until January 2020, it would appear that the State Traffic Fine change is effective September 1, 2019. Courts will need to carefully review their bill of costs and case management software after September. What does all this mean for future costs changes in light of the wholesale renaming of administrative fees to "fines" in S.B. 346? Stay tuned.

H.B. 2092
Subject: Automatic Issuance of Personal Identification Certificate
Effective: September 1, 2019

The process required to receive a personal identification certificate upon surrendering a driver's license is burdensome on not only the individual seeking an ID card, but also for the Department of Public Safety (DPS). H.B. 2092 streamlines this process by requiring that DPS adopt procedures for the issuance of a personal identification certificate to a person who surrenders their driver's license at the time of applying for the certificate. The procedures may require the person issued a personal identification certificate to update information previously provided to DPS, but they may not require a person to provide additional identification documents. These new procedures must comply with federal law**.**

TMCEC: The bill provides a directive for DPS. However, the driver-licensing program is in the process of a conditional transfer to the Department of Motor Vehicles. H.B. 2092 does not illuminate whether this conditional transfer will affect the issuance of personal identification certificates.

H.B. 2188
Subject: Electric Bike Regulation
Effective: September 1, 2019

H.B. 2188 regulates the use of electric bicycles ("e-bikes") by amending Chapter 551 of the Transportation Code and adding Chapter 664 to the Transportation Code. The bill creates three different classes of e-bikes: *class one* e-bikes include those that are equipped with a motor that assists the rider only when the rider is pedaling and has a top assisted speed of 20 miles per hour or less; *class two* e-bikes include those that are equipped with a motor that may be used to propel the bicycle without the pedaling of the rider and has a top assisted speed of 20 miles per hour or less; *class three* e-bikes include those that are equipped with a motor that assists the rider only when the rider is pedaling and has a top assisted speed of 20-28 miles per hour. Class three e-bikes must be equipped with speedometers and may not be operated by persons under the age of 15.

H.B. 2188 requires manufacturers or sellers to apply permanent labels to e-bikes that specify the e-bike's class, top-assisted speed, and motor wattage. If the owner of the e-bike changes the speed power of the bike, they must replace the label to indicate the changes.

The bill also limits the regulation of e-bikes by the Department of Transportation and local authorities. They cannot prohibit the operation of e-bikes on highways used by motor vehicles, or in certain areas where non-electric bicycles are permitted. However, they can prohibit the use of bicycles, electric or non-electric, on sidewalks, and may establish speed limits.

H.B. 2551
Subject: Cosigning a Driver's License Application with a Power of Attorney
Effective: September 1, 2019

Under current law, minors (under 18) applying for a driver's license that have a parent or legal guardian must have that parent or guardian cosign their application. This requirement is impossible for minors whose parents are not able to sign, such as due to incapacitation. H.B. 2551 amends Subsection 521.145(a) of the Transportation Code to allow an agent, under a power of attorney for the parent who has custody of the applicant, to cosign a driver's license application for the minor applicant.

H.B. 2620
Subject: Escort Flagger Authority; Unauthorized Use of Oversized/Overweight Vehicles
Effective: September 1, 2019

Interested parties have expressed concern about the use of police resources to direct and control traffic during certain road construction projects. Under Section 542.501 of the Transportation Code, it is a Class C misdemeanor to willfully fail or refuse to comply with a lawful order or direction of a police officer or school crossing guard. However, drivers were not required to obey the orders or directions of escort flaggers. H.B. 2620 amends Section 542.501 by requiring drivers to obey an escort flagger who is directing or controlling the flow of traffic in accordance with a permit issued by the Texas Department of Motor Vehicles for the movement of an oversize or overweight vehicle.

H.B. 2620 also creates a new Class C misdemeanor by adding Section 621.511 to the Transportation Code (Name on Permit; Offense). The bill makes it an offense for a person to operate or move a vehicle permitted under Chapter 621 (oversized and overweight vehicles) on a public highway when they are neither the person named on the permit nor an employee of that person. However, the bill carves out an exception for when an applicable vehicle is operated or moved for the purposes of towing, and the tow truck is taking the vehicle directly to the nearest terminal, vehicle storage facility, or authorized place of repair.

H.B. 2775
Subject: Restricting Pedestrians Movement Around Trains
Effective: September 1, 2019

H.B. 2775 amends the Transportation Code by adding Section 552.011, which states, "a pedestrian may not move in front of, under, between, or through the cars of a moving or stationary train occupying any part of a railroad grade crossing." The bill does not explicitly create an offense.

TMCEC: This new law was created to increase pedestrian safety as well as safety for railway operators. The bill imposes broad prohibitions on pedestrian conduct near trains: pedestrians may not cannot come into contact with, move in front of, or move through/under any moving or stationary train (interestingly, the bill does not expressly prohibit moving *behind* a train). However, the bill limits its scope to railroad grade crossings.

H.B. 2810
Subject: Emergency Brake Requirements for Trailers
Effective: September 1, 2019

H.B. 2810 amends Section 547.405(d) of the Transportation Code by excluding certain trailers from the requirement of being equipped with emergency brakes. The only change is the minimum weight requirement. Section 547.405(d) is amended to change the minimum weight from more than 3,000 to more than 4,500 pounds. This exempts trailers, semitrailers, and pole trailers weighing between 3,000 and 4,500 pounds from the emergency brake requirement that they are subject to until September 1, 2019.

H.B. 2835
Subject: Defense to Expired Vehicle Registration
Effective: September 1, 2019

H.B. 2835 amends Section 502.407 of the Transportation Code to create a new defense to the offense of operating a vehicle with an expired vehicle registration. It is a defense if the office of the county assessor-collector in the county that the defendant resides was closed for a protracted period of time and the registration had been expired for 30 days or less. This new defense only applies to offenses occurring on or after the effective date.

TMCEC: It is unclear exactly what qualifies as a "protracted period of time," but the bill analysis uses the example of when the office is closed due to a natural disaster. There is nothing objectionable about this new defense; if the defendant did not have an office in which to renew his or her registration, he or she should not be penalized for driving with an expired registration. However, it may not cover all situations it was designed to address. For example, what happens if the office is closed for more than 30 days? It is possible that a registration could be more than 30 days expired with no office to renew it? Would the new defense apply in such a case?

H.B. 2837
Subject: Changing Regulations for Certain Slow-Moving or Heavy Vehicles /License Plate Flippers
Effective: September 1, 2019

Section 522.004 if the Transportation Code contains a list of vehicles that are exempt from requiring their operator to have a commercial driver's license. H.B. 2837 expands that list to include vehicles that are operated intrastate and are driven by an individual not for compensation and not in the furtherance of a commercial enterprise. The bill also exempts covered farm vehicles, as defined in 49 C.F.R. Section 390.5.

H.B. 2837 also amends Section 545.156 of the Transportation Code, which relates to the requirement that vehicle operators yield the right of way and pull over to the side of the road whenever an emergency or police vehicle is approaching while using emergency signals. Under current law, an operator of a vehicle is only required to yield the right of way and pull over to the side of the road if a police vehicle is using an audible signal, but H.B. 2837 requires an operator or yield the right away and pull over if the police vehicle is using and audible *or visual* signal.

Furthermore, Section. 547.405 of the Transportation Code is amended to require that all trailers, semitrailers, and pole trainers that are either equipped with air or vacuum brake or have a gross weight heavier than 4,500 pounds, shall be equipped with emergency brakes. The bill also amends Section 547.703 of the Transportation Code, which requires that a slow-moving vehicle display a slow-moving-vehicle emblem at a height that does not impair the visibility of the emblem.

Lastly, H.B. 2837 repeals Section 504.947 of the Transportation Code. This change eliminates the Class C misdemeanor offense associated with license plate flipping. License plate flipping is when a device allows a vehicle to display two or more license plates one at a time in order to change the plate displayed on a vehicle. The repeal only applies to license plate flipping occurring on or after September 1, 2019.

TMCEC: Don't flip out over the repeal of the criminal offenses for license plate flippers in H.B. 2837. License plate flippers are still illegal under Section 547.9465. Purchasing and possessing is a Class B misdemeanor. Selling and distributing is Class A misdemeanor. Offenses under Section 547.9465 require criminal negligence.

H.B. 3171
Subject: Moped Licensing and Classification
Effective: September 1, 2019

H.B. 3171 removes mopeds from Section 521 of the Transportation Code (motorcycle licensing). Specifically, Section 521.225 (moped licensing) is repealed in its entirety. This means that starting September 1, 2019 only a traditional Class C driver's license, not a Class M license or endorsement, will be needed to operate a moped.

The bill also clarifies the definitions of "moped" and "motorcycle." Section 541.201(8) of the Transportation Code, which defines moped, is amended to read that a moped is "a motor vehicle that is equipped with a rider's saddle and designed to have when propelled not more than three wheels on the ground…[which] cannot attain a speed in one mile of more than 30 miles per hour, and [an engine that] cannot produce more than five-break horsepower." This is a significant broadening of the definition of a moped. Section 541.201(9) of the Transportation Code, which defines "motorcycle," it amended to explicitly provide that a motorcycle is a vehicle other than a moped.

H.B. 3171 also amends numerous areas of Texas law that previously only referred to motorcycles. Those sections are amended to say "motorcycle or moped." This ensures that even though the licensing procedure of motorcycles and mopeds will now be different, the rules of the road governing their operation will generally remain the same.

The bill also repeals Section 541.201(10) of the Transportation Code, which defines "motor-driven cycle." The soon-to-be-repealed definition covers a narrow class of vehicles: a motorcycle with an engine piston displacement of 250 cubic centimeters or less. Moving forward, the term "moped" will be used to cover these less-powerful motorcycles.

TMCEC: Due to the need for numerous conforming changes, H.B. 3171 takes 24 pages to remove the specialized licensure process for mopeds. The bill also simplifies the convoluted area of motor vehicle law by merging the definitions of "moped" and "motor-driven cycle."

H.B. 3582
Subject: Allowing Deferred Adjudication for DWI First Offenders
Effective: September 1, 2019

H.B. 3582 amends Chapter 42A of the Code of Criminal Procedure to allow judges to place first-time DWI offenders on deferred adjudication. In order to qualify, the DWI must not have resulted in any personal injury or property damage and the driver's blood alcohol content must not have been at or above .15%. DWI with a child passenger, flying while intoxicated, boating while intoxicated, and assembling or operating an amusement park ride while intoxicated are still not eligible for deferred adjudication. The defendant must use an ignition interlock device throughout the probation period. Once the probation period is successfully completed, the defendant can opt to have his record *partially* sealed: if the defendant receives a subsequent DWI, the first DWI is no longer sealed.

TMCEC: This bill is truly historic. For decades, DWI has been ineligible for deferred adjudication in Texas. This bill indicates a marked shift in the way Texas will deal with first-time DWI offenses. It is likely to decrease the number of DWI trials, which may irk some DWI defense attorneys but may be a relief to defendants who want to avoid the financial and emotional cost of going to trial.

H.B. 3871
Subject: Allowing Charter Schools to Request Hearings for Speed Limits in School Zones
Effective: September 1, 2019

Under Section 545.357 of the Transportation Code, public schools, private schools, and institutions of higher education could request hearings to consider the creation of a school zone to lower speed limits on designated streets. Depending on the location of the road, either the governing body of the municipality, the commissioners court of the county, or the Texas Transportation Commission would field these requests and conduct a hearing. However, even though charter schools are a part of the public school system, they were not explicitly included in the list of education institutions able to request a hearing. H.B. 3871 closes this gap by explicitly allowing open-enrollment charter schools to request hearings regarding the creation of school zones.

H.B. 3871 also requires that—following a public hearing held under Section 545.357—an applicable school may request the body that facilitated the hearing to conduct an engineering and traffic investigation for the highway or road that is the subject of the request. The applicable governing body must comply.
H.B. 3871 amends Section 545.355 of the Transportation Code to allow a commissioners court to declare a lower speed limit of not less than 20 miles per hour on a county road or highway located within 500 feet of an elementary, secondary, or open-enrollment school, or an institution of higher education.

S.B. 357
Subject: Height Restrictions on Outdoor Advertising Signs
Effective: September 1, 2019

S.B. 357 relates to the height of outdoor advertising signs regulated by the Texas Department of Transportation (TxDOT). The bill amends Section 391.038 of the Transportation Code by providing that a sign may not be more than 60 feet tall. This 60-foot limitation does not apply if (1) the sign is regulated by a municipality certified for local control under an agreement with TxDOT or (2) the sign was erected before March 1, 2017 when the limit was 85 feet tall. A person who holds a permit for a sign that existed on March 1, 2017 may rebuild the sign at a height that does not exceed the height of the sign on March 1, 2017, or 85 feet, whichever is less. They must, however, obtain a new permit unless there was damage to the sign due to wind or a natural disaster, a motor vehicle accident, or an act of God.

S.B. 357 also adds Section 391.0381 to the Transportation Code which allows the Texas Transportation Commission to deny an application for a sign permit requested by a person with permits for 100 or more signs and has a permit for a sign that violates Section 391.038.

S.B. 616
Subject: Sunset Review of DPS and Transfer of Certain Tasks
Adopted: May 17, 2019

The Texas Department of Public Safety (DPS) underwent its Sunset review and its operations have been

extended for 12 years (through September 1, 2031). Among the important changes to come out of the review are:

- Driver's license issuance will transfer from DPS to the Texas Department of Motor Vehicles (DMV);
- The term of non-commercial driver's licenses is extended;
- Driver's license issuance and renewal fees are increased; and
- Motorcycle and ATV safety training will transfer from DPS to the Texas Department of Licensing and Regulation (TDLR).

Section 521.011of the Transportation Code, the section which delegates authority to administer the licensing program, is amended to replace DPS with DMV. The change is scheduled to take effect on September 1, 2021. However, H.B. 616 adds $212.4 million to the DPS budget, much of which is earmarked to hire some 762 new license workers. Furthermore, $1 million is provided for DPS to conduct a study by September 1, 2020 to support its maintaining the driver's license issuance program. The report, if completed, will be reviewed by the 2021 Legislature. Unless the 2021 Legislature determines that DPS is fit to keep the program, it will automatically transfer to DMV on September 1, 2021.

Section 521.271(a)(1) of the Transportation Code is amended to extend the term of a non-commercial driver's license from six to eight years.

Section 521.421(a) of the Transportation Code is amended to increase the fee for issuance or renewal of a license from $24 to $32.

Section 521.421(b) of the Transportation Code is amended to increase the fee for renewal of a Class M license or a license with authorization to operate a motorcycle from $32 to $43.

Section 662.0005 of the Transportation Code is amended to transfer the motorcycle and ATV safety training from DPS to TDLR.

TMCEC: Relieving DPS of its driver's license issuance duties has been a long time coming. Substandard customer service and long wait times are among the chief complaints regarding DPS's handling of the driver's license program. Good luck, DMV!

S.B. 636
Subject: Enforcement of Commercial Driver's License Regulations in Small Cities
Effective: September 1, 2019

Some small Texas cities experience disruptions when commercial motor vehicles exceeding vehicle weight and size restrictions pass through town in order to avoid delays. Some cities' law enforcement officers, however, are not eligible to enforce commercial motor vehicle safety standards. S.B. 636 addresses this issue by amending Subsection 644.101(b) of the Transportation Code, which lists the type of municipalities in which police officers are eligible to apply for certification to enforce commercial motor vehicle safety standards. Starting September 1, 2019, police officers in municipalities with populations of less than 75,000 that are located in three counties, at least one of which has a population greater than 3.3 million, will be eligible to apply for certification to enforce commercial motor vehicle standards.

S.B. 688
Subject: Cotton Transport Truck Size Limitations
Effective: September 1, 2019

Single motor vehicles transporting cotton are limited to a height of 14 feet 6 inches if operating on a highway or road, but a truck-tractor operated in combination with a semitrailer hauling these products is limited to a height of 14 feet if operating on a highway or road. S.B. 688 addresses this discrepancy by amending Section 622.101 of the Transportation Code to increase the maximum height of a truck-tractor operated in combination with a semitrailer and used to transport cotton to 14 feet 6 inches.

S.B. 969
Subject: Delivery Robots; Mobile Carrying Devices and Personal Delivery Devices
Effective: June 10, 2019

Companies are beginning to test and operate mobile delivery devices in Texas as an alternative to traditional delivery options. However, nothing in current Texas law regulates these devices. S.B. 969 fills this gap by amending Section 502.001 of the Transportation Code and adding Chapter 552A. The bill defines "mobile carrying device" as a device that transports cargo while remaining within 25 feet of a human operator, and is equipped with technology that allows the operator to actively monitor the device. It also defines "personal delivery device" as a device that is manufactured primarily for transporting cargo in a pedestrian area or on the shoulder of a highway, and is equipped with automated driving technology that enable the operation of the device with the remote supervision of a human. A person is not considered an operator of a personal delivery device unless they are a business entity or an agent of a business operating the device. However, anyone (business entity or not) may be considered an operator of a mobile carrying device if they are operating the device.

S.B. 969 outlines the regulations pertaining to personal delivery and mobile carrying devices. These devices must (1) comply with regulations related to pedestrians; (2) yield the right-of-way to all traffic and pedestrians; (3) not unreasonably interfere with traffic or pedestrians; (4) display required lighting if operated at nighttime; (5) comply with any applicable regulations adopted by a local authority; (6) not transport hazardous materials in a quantity requiring placarding by a regulation; and (7) be monitored or controlled by an operator. These devices must operate at 10 miles per hour or less in pedestrian areas, or 20 miles per hour or less in the side of roadways. Additionally, these devices must be equipped with certain brakes and nighttime lights. Further, personal delivery devices must be clearly labeled with the name and contact information of the owner, as well as an identification number.

The bill also addresses a local authority's ability to regulate personal delivery and mobile carrying devices. S.B. 969 permits local authorities to reduce the pedestrian area speed limit to as low as seven miles per hour if the 10 miles per hour in a specific area is determined to be unsafe. Local authorities can also regulate these devices in any way that is consistent with Chapter 552A of the Transportation Code.

Lastly, S.B. 969 moves Section 542.009, relating to "motorized mobility devices" for persons with physical disabilities, to Section 552A.101. Further, it amends Section 551.351 to clarify that the terms "pocket bike" and "minimotorbike" do not include motorized mobility devices.

S.B. 1311
Subject: Electronic Transmission of Invoices and Notices in Lieu of Mail
Effective: September 1, 2019

With the development of new communication technology, such as texts and emails, some authorities have assessed the efficiency of alternative options to the United States Postal Service. S.B. 1311 accounts for developments in communication technology by adding Sections 284.0703, 370.177(n), and 372.116 to the Transportation Code. These sections allow authorities, including counties and toll project entities, to send invoices or notices by electronic record, opposed to first class mail. To send invoices or notices by electronic record, the recipient of the information must agree to the transmission of the information as an electronic record, and it must be transmitted on terms acceptable to the recipient.

S.B. 2119
Subject: Regulating Motor Fuel Metering Devices
Effective: September 1, 2019 (repeals effective June 14, 2019)

S.B. 2119 amends the Occupations Code by adding Chapter 2310, which regulates the use of motor fuel metering devices and the requirements related to such devices. In doing so, it transfers several provisions related to fuel mixtures and documentation regarding fuel grades from Chapter 17 of the Agriculture Code to this newly-created chapter. Further, the bill repeals several provisions in Chapters 13 and 17 of the Agriculture Code, which are substantially replaced by new provisions in Chapter 2310. However, it is worth noting that the repeals are effective immediately, while Chapter 2310 will not be effective until September 1, 2019.

S.B. 2119 also creates seven new Class C misdemeanor offenses and two new Class B misdemeanor offenses. The new Class C misdemeanors can be found in Sections 2310.057, 2310.059, 2310.109, 2310.110, 2310.111, and 2310.203(d) of the Occupations Code. Under these new provisions, a person commits an offense if he: (1) knowingly uses an incorrect motor fuel metering device to buy or sell motor fuel, to compute a charge for services rendered on the basis of weight or measure, or to determine the weight or measure of motor fuel if a charge is based on such determination; (2) refuses to exhibit motor fuel being sold at a given weight or quantity to the Texas Department of Licensing and Regulation (TDLR) for testing and proving weight or quantity; (3) refuses to allow a motor fuel metering device under the person's control/possession to be inspected, tested, or examined by the TDLR; (4) sells, offers for sale, or distributes any incorrect motor fuel metering device; (5) removes or obliterates a tag or device placed or required by the department to be placed on a motor fuel metering device; (6) disposes of a motor fuel metering device condemned under Sections 2310.105 or 2310.110 in a manner contrary to those sections; or (7) refuses to allow a TDLR agent to collect samples or conduct motor fuel testing.

The new Class B misdemeanors can be found in Sections 2310.155 and 2310.156 of the Occupation Code. Both of these new provisions are related to licensing. Section 2310.155 requires a fuel metering device *technician* to possess proper licensing, while 2310.156 requires a fuel metering device *service company* to possess proper licensing. Both of these new offenses may be enhanced to a Class A misdemeanor if the actor has prior convictions for not meeting these requirements.

ONLINE REGISTRATION

WILL YOUR CITY BE RECOGNIZED?

In AY 2020, TMCEC is actively promoting online registration. All cities who register exclusively online in AY 2020 will be recognized in a future issue of the The Recorder.

1. LOGIN

Visit www.tmcec.com to login and register for events online.
Login Sample id:67493 password:67493ud

2. CHOOSE

Once logged in, click on
Register > Event List
Choose preferred seminar to register

3. REGISTER

Make selections to attend Special Sessions, Room preferences & add CLE
Checkout and proceed to payment

FORGOT USERNAME & PASSWORD?
No worries! Please contact us to retrieve that information.

NEED HELP? For online registration issues and/or questions, email us at info@tmcec.com or call 512.320.8274 and the TMCEC staff will be happy to help.

2019-2020 TMCEC Academic Schedule
At-A-Glance

Seminar	Date(s)	City	Hotel Information
Regional Clerks Seminar	October 21-23, 2019	Tyler	Holiday Inn South Broadway 5701 South Broadway, Tyler, TX 75703
Regional Judges Seminar	October 23-25, 2019	Tyler	Holiday Inn South Broadway 5701 South Broadway, Tyler, TX 75703
Regional Judges & Clerks Seminars	November 18-20, 2019	Austin	Omni Southpark 4140 Governor's Row, Austin TX 78744
New Judges & Clerks Seminars	December 9-13, 2019	Austin	Omni Southpark 4140 Governor's Row, Austin TX 78744
Regional Judges & Clerks Seminars	January 6-8, 2020	San Antonio	Omni at Colonnade 9821 Colonnade Blvd., San Antonio, TX 78230
Regional Clerks Seminar	January 12-14, 2020	Galveston	San Luis Resort 5222 Seawall Blvd. Galveston, TX 77551
Level III Assessment Clinic	January 21-24, 2020	Austin	Crowne Plaza 6121 N Interstate Hwy. 35, Austin, TX 78752
Regional Judges Seminar	February 2-4, 2020	Galveston	San Luis Resort 5222 Seawall Blvd. Galveston, TX 77551
Regional Judges & Clerks Seminars	February 10-12, 2020	Houston	Omni Westside 13210 Katy Freeway, Houston, TX 77079
Regional Clerks Seminar	March 2-4, 2020	Addison	Crowne Plaza 14315 Midway Road, Addison, TX 75001
Regional Judges Seminar	March 4-6, 2020	Addison	Crowne Plaza 14315 Midway Road, Addison, TX 75001
Prosecutors Conference	March 23- 25, 2020	Houston	Omni Westside 13210 Katy Freeway, Houston, TX 77079
Regional Judges & Clerks Seminars	March 30- April 1, 2020	Lubbock	Overton Hotel 2322 Mac Davis Ln., Lubbock, TX 79401
Traffic Safety Conference	April 6-8, 2020	Austin	Omni Southpark 4140 Governor's Row, Austin, TX 78744
Teen Court Conference	April 20-21, 2020	Georgetown	Sheraton Georgetown Hotel 1101 Woodlawn Ave., Georgetown, TX 78628
Regional Clerks Seminar	April 27-29, 2020	S. Padre Island	Isla Grand Beach Resort 500 Padre Blvd., S. Padre Island, TX 78597
Regional Attorney Judges Seminar	May 3-5, 2020	S. Padre Island	Isla Grand Beach Resort 500 Padre Blvd., S. Padre Island, TX 78597
Regional Non-Attorney Judges Seminar	May 5-7, 2020	S. Padre Island	Isla Grand Beach Resort 500 Padre Blvd. S. Padre Island, TX 78597
Court Administrators & Prosecutors Conference	May 18-20, 2020	Corpus Christi	Omni Corpus Christi Hotel 900 N. Shoreline Blvd., Corpus Christi, TX 78401
Bailiffs & Warrant Officers Conference	June 8-10, 2020	Austin	Omni Southpark 4140 Governor's Row, Austin, TX 78744
Regional Judges & Clerks Seminar	June 22-24, 2020	El Paso	Wyndham El Paso Airport Hotel 2027 Airway Blvd, El Paso, TX 79925
Juvenile Case Managers Conference	July 20-22, 2020	Austin	Omni Southpark 4140 Governor's Row, Austin, TX 78744
New Judges & Clerks Seminars	July 27-31, 2020	Austin	Omni Southpark 4140 Governor's Row, Austin, TX 78744
Impaired Driving Symposium	August 2-3, 2020	Corpus Christi	Omni Corpus Christi Hotel 900 N. Shoreline Blvd., Corpus Christi, TX 78401
Mental Health Conference	August 12-14, 2020	Houston	Omni Westside 13210 Katy Freeway, Houston, TX 77079

TEXAS MUNICIPAL COURTS EDUCATION CENTER

JUDGES: NEW FOR FY20!
☐ Check if you would like paper course materials provided (otherwise only electronic files will be available)

REGIONAL JUDGES FY20 REGISTRATION FORM

Check only one:

☐ Regional Judges Seminar, Tyler (October 23-25, 2019)
☐ Regional Judges Seminar, Austin (November 18-20, 2019)
☐ Regional Judges Seminar, San Antonio (January 6-8, 2020)
☐ Regional Judges Seminar, Galveston (February 2-4, 2020)
☐ Regional Judges Seminar, Houston (February 10-12, 2020)
☐ Regional Judges Seminar, Addison (March 4-6, 2020)
☐ Regional Judges Seminar, Lubbock (March 30-April 1, 2020)
☐ Regional Attorney Judges Seminar, S. Padre Island (May 3-5, 2020)
☐ Regional Non-Attorney Judges Seminar, S. Padre Island (May 5-7, 2020)
☐ Regional Judges Seminar, El Paso (June 22-24, 2020)

Last Name: _____ First Name: _____ MI: _____

Female/Male: _____ Position held: _____ Date appointed/hired/elected: _____

Emergency contact (Please include name and contact number): _____

Municipal Court of: _____ Email Address: _____

Court Mailing Address: _____ City: _____ Zip: _____

Office Telephone #: _____ Court #: _____ Fax#: _____

Primary City Served: _____ Other Cities Served: _____

HOUSING INFORMATION:

TMCEC will make all hotel reservations from the information provided on this form. Grant guidelines require you to work at least 30 miles from the conference site to qualify for a hotel room. TMCEC can only make reservations beginning the first day of the seminar and ending the last day of the seminar. If you wish to extend your stay, please contact the hotel directly.

Check only 1 box below:

☐ **Shared Room** (NO CHARGE). **TMCEC will pay for a double occupancy room for two nights with another seminar participant.** Room will have two double beds. TMCEC will assign a roommate **or** you may request roommate by entering the seminar participant's name here: _____

☐ **Private room** (Additional $50 a night), **MUST Select 1 or 2 nights below.** TMCEC can only guarantee a private room; type of room (queen, king, or two double beds*) is dependent on hotels availability. Special Request: _____

☐ **1 night** ($50 private room) **Hotel arrival date:** _____ ☐ **2 nights** ($100 private room)

☐ **No Room**

*If you bring a companion with you to stay in the hotel, the hotel reserves the right to charge an additional fee.

PAYMENT INFORMATION (Payment in full must be received to be registered):

$ 100 **Registration Fee**
+ $_____ CLE Fee (Add $100*)
+ $_____ Housing Fee (Add from housing information above)
= $_____ Total Amount Enclosed

Payment Type:

☐ Check Enclosed *(Make checks payable to TMCEC)*
Credit Card: Register Online at register.tmcec.com.

***CLE Fee (Attorneys Only):**
Your voluntary support is appreciated, by choosing TMCEC as your MCLE provider you contribute to TMCA and help pay for expenses not covered by the Court of Criminal Appeals grant. This contribution helps cover non-grant expenses such as staff compensation, membership services, and building fund.

Receipts are automatically sent to registrant's email when payment is processed. To have an additional receipt emailed to your finance department, list email address here: _____

I have read and accept the cancellation policy, which is outlined in full on page 13 of the Academic Catalog and under the Registration section of the website, www.tmcec.com. **Registration shall be confirmed only upon receipt of the registration form and full payment of fees.**

_____ _____
Participant Signature (May only be signed by participant) *Date*

Please return completed form with payment to TMCEC at 2210 Hancock Drive, Austin, TX 78756, or fax to 512.435.6118.

TEXAS MUNICIPAL COURTS EDUCATION CENTER

JUDGES: NEW FOR FY20!
☐ Check if you would like paper course materials provided (otherwise only electronic files will be available)

NEW JUDGES & NEW CLERKS FY20 REGISTRATION FORM

Check ONLY one:

☐ New Judges Seminar, Austin (December 9-13, 2019)
☐ New Judges Seminar, Austin (July 27-31, 2020)
☐ New Clerks Seminar, Austin (December 9-13, 2019)
☐ New Clerks Seminar, Austin (July 27-31, 2020)

Last Name: _____ First Name: _____ MI: _____

Female/Male: _____ Position held: _____ Date appointed/hired/elected: _____

Emergency contact (Please include name and contact number): _____

Municipal Court of: _____ Email Address: _____

Court Mailing Address: _____ City: _____ Zip: _____

Office Telephone #: _____ Court #: _____ Fax#: _____

Primary City Served: _____ Other Cities Served: _____

HOUSING INFORMATION:

TMCEC will make all hotel reservations from the information provided on this form. Grant guidelines require you to work at least 30 miles from the conference site to qualify for a hotel room. TMCEC can only make reservations beginning the first day of the seminar and ending the last day of the seminar. If you wish to extend your stay, please contact the hotel directly.

Check only 1 box below:

☐ **Private room** (No Charge), **4 Nights (arriving Monday).** TMCEC can only guarantee a private room; type of room (queen, king, or two double beds*) is dependent on hotels availability. Special Request: _____

☐ **Shared Room** (No Charge). **TMCEC will pay for a double occupancy room for four nights with another seminar participant.** Room will have two double beds. TMCEC will assign roommate **or** you may request roommate by entering seminar participant's name here: _____

☐ **No Room**

*If you bring a companion with you to stay in the hotel, the hotel reserves the right to charge an additional fee.

PAYMENT INFORMATION: Payment in full must be received to be registered.

$ 250 Total Amount Enclosed

Payment Type:

☐ Check Enclosed *(Make checks payable to TMCEC)*

Credit Card: Register Online at register.tmcec.com.

Receipts are automatically sent to registrant's email when payment is processed. To have an additional receipt emailed to your finance department, list email address here: _____

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_____ _____
Participant Signature (May only be signed by participant) *Date*

Please return completed form with payment to TMCEC at 2210 Hancock Drive, Austin, TX 78756, or fax to 512.435.6118.

TEXAS MUNICIPAL COURTS EDUCATION CENTER

REGIONAL CLERKS
FY20 REGISTRATION FORM

Course Materials available Online and on the TMCEC Mobile App

Check ONLY one:

☐ Regional Clerks Seminar, Tyler (October 21-23, 2019)
☐ Regional Clerks Seminar, Austin (November 18-20, 2019)
☐ Regional Clerks Seminar, San Antonio (January 6-8, 2020)
☐ Regional Clerks Seminar, Galveston (January 12-14, 2020)
☐ Regional Clerks Seminar, Houston (February 10-12, 2020)
☐ Regional Clerks Seminar, Addison (March 2-4, 2020)
☐ Regional Clerks Seminar, Lubbock (March 30-April 1, 2020)
☐ Regional Clerks Seminar, S. Padre Island (April 27-29, 2020)
☐ Regional Clerks Seminar, El Paso (June 22-24, 2020)

Last Name: _____ First Name: _____ MI: _____

Female/Male: _____ Position held: _____ Date appointed/hired/elected: _____

Emergency contact (Please include name and contact number): _____

Municipal Court of: _____ Email Address: _____

Court Mailing Address: _____ City: _____ Zip: _____

Office Telephone #: _____ Court #: _____ Fax#: _____

Primary City Served: _____ Other Cities Served: _____

HOUSING INFORMATION:

TMCEC will make all hotel reservations from the information provided on this form. Grant guidelines require you to work at least 30 miles from the conference site to qualify for a hotel room. TMCEC can only make reservations beginning the first day of the seminar and ending the last day of the seminar. If you wish to extend your stay, please contact the hotel directly.

Check only 1 box below:

☐ **Shared Room** (NO CHARGE). **TMCEC will pay for a double occupancy room for two nights with another seminar participant.** Room will have two double beds. TMCEC will assign a roommate **or** you may request roommate by entering a seminar participant's name here: _____

☐ **Private room** (Additional $50 a night), **MUST Select 1 or 2 nights below.** TMCEC can only guarantee a private room; type of room (queen, king, or two double beds*) is dependent on hotels availability. Special Request: _____

☐ **1 night** ($50 private room) **Hotel arrival date:** _____ ☐ **2 nights** ($100 private room)

☐ **No Room**

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PAYMENT INFORMATION: Payment in full must be received to be registered.

$ 100 **Registration Fee**
+ $_____ **Housing Fee** (Add from housing information above)
= $_____ **Total Amount Enclosed**

Payment Type:
☐ Check Enclosed *(Make checks payable to TMCEC)*
Credit Card: Register Online at register.tmcec.com.

Receipts are automatically sent to registrant's email when payment is processed. To have an additional receipt emailed to your finance department, list email address here: _____

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_____ _____
Participant Signature (May only be signed by participant) *Date*

Please return completed form with payment to TMCEC at 2210 Hancock Drive, Austin, TX 78756, or fax to 512.435.6118.

TEXAS MUNICIPAL COURTS EDUCATION CENTER

BAILIFF/WARRANT OFFICERS, COURT ADMINISTRATORS, JUVENILE CASE MANAGERS
FY20 REGISTRATION FORM

Course Materials available Online on the TMCEC Mobile App

Check only one:

☐ Bailiff & Warrant Officers, Austin (June 8-10, 2020) **DOB:**_____ **PID#**_____

☐ Court Administrators Conference, Corpus Christi (May18-20, 2020)

☐ Juvenile Case Manager Conference, Austin (July 20-22, 2020)

Last Name: _____ First Name: _____ MI:_____

Female/Male: _____ Position held: _____ Date appointed/hired/elected: _____

Emergency contact (Please include name and contact number):_____

Municipal Court of: _____ Email Address: _____

Court Mailing Address: _____ City: _____ Zip:_____

Office Telephone #: _____ Court #: _____ Fax#: _____

Primary City Served: _____ Other Cities Served:_____

HOUSING INFORMATION:

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☐ **1 night** ($50 private room) **Hotel arrival date:** _____ ☐ **2 nights** ($100 private room)

☐ **No Room**

*If you bring a companion with you to stay in the hotel, the hotel reserves the right to charge an additional fee.

PAYMENT INFORMATION: Payment in full must be received to be registered.

$ 150 **Registration Fee**

+ **$**_____ **Housing Fee** (Add from housing information above)

= **$**_____ **Total Amount Enclosed**

Payment Type:

☐ Check Enclosed *(Make checks payable to TMCEC)*

Credit Card: Register Online at register.tmcec.com.

Receipts are automatically sent to registrant's email when payment is processed. To have an additional receipt emailed to your finance department, list email address here: _____

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_____ _____

Participant Signature (May only be signed by participant) *Date*

Please return completed form with payment to TMCEC at 2210 Hancock Drive, Austin, TX 78756, or fax to 512.435.6118.

TEXAS MUNICIPAL COURTS
EDUCATION CENTER
2210 Hancock Drive
AUSTIN, TX 78756
www.tmcec.com

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TMCEC MISSION STATEMENT

To provide high quality judicial education, technical assistance, and the necessary resource materials to assist municipal court judges, court support personnel, and prosecutors in obtaining and maintaining professional competence.

TMCEC Personal Academic Profile

Your personal profile has many of the answers you seek! Go to register.tmcec.com.

TMCEC constituents are persons who are currently employed by a city and are appointed or sworn officers of a Texas municipal court. This includes judges, court support personnel, prosecutors, juvenile case managers, and bailiff/warrant officers.

Each constituent has a personal profile that shows important details about a person's academic records. This information is just a click away and may provide the answers to the most common administrative questions.

Log in and click on the tabs to display the following information:

- Upcoming Events: Events that you are currently registered to attend
- Past Events: Events you have previously attended and a printable certificate for your attendance
- Transcript: Chronological list of your academic record
- Clerk Certification: The status of your certification
  - Renewal years & dates of each level
  - Exam Status
  - You can also upload renewal applications with information from other providers
  - Your renewal status and the status of your certification exam

It is NOT necessary for you to file a "Renewal Application" if you are a Certified Court Clerk Level I or II AND have attended a 12-16 hour TMCEC program. This will be done automatically for you within 2-4 weeks following the proper completion of your "Record of Attendance" at the end of the program.

Register Online: register.tmcec.com