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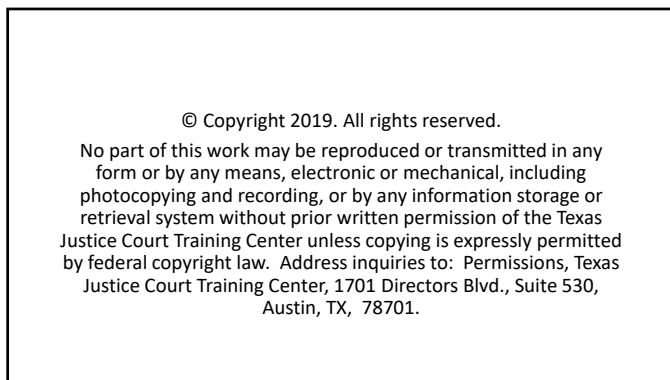
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TJCTC Update	On the Horizon
	Civil
	Tenant Rights
Introduction	Criminal
	Occupational Driver's Licenses
	Magistrations
Noteworthy Bills by Topic	Inquests
	Costs & Fees
	Court Administration

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TJCTC Updates
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New Clerk Seminars
Stand alone seminars: Waco in February & Austin in August. More room for experienced clerks in 16-hour program.

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## Room Cost Changes

No more paying the hotel directly!  
\$55/night to TJCTC for a single room.  
Double occupancy policy does not change.

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Legislative requirement: child disabilities course every  
year ending in 0 or 5.  
General session at the 20-hour seminar to fulfill  
requirement.

2020 Judicial Education Requirements

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## CLE Requirements

Attorneys can use CLE to fulfill hours, BUT must be justice  
court related. 10 hours must be on civil topics. Contact us  
for pre-approval if you have questions.

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## FY20 JP 20-Hour Seminar Courses

Pre-Trial Risk Assessment & Bail  
 Causes of Death  
 Contracts  
 Torts  
 Search Warrants  
 Future of E-Filing

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## FY20 Court Personnel 16-Hour Seminar Courses

Organizing Your Court  
 Eviction Appeals  
 Jurisdictional Increase  
 Authorities and Duties of the Clerk

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## FY20 Interactive Workshops

Court Security (Judges & Clerks)  
 The Civil Trial with Baylor Law School (Judges)  
 Rural Leadership (Judges & Clerks)  
 Office Management for High Volume Courts (Judges & Clerks)

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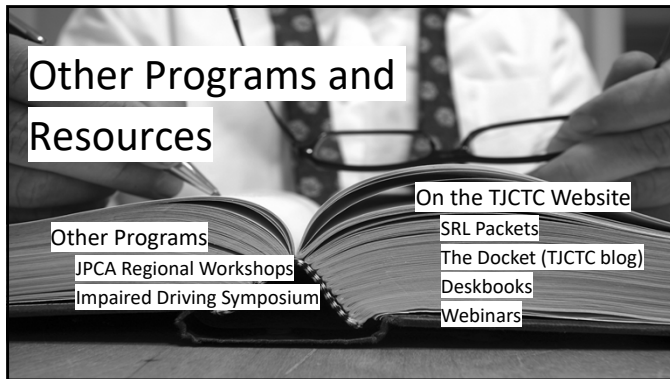
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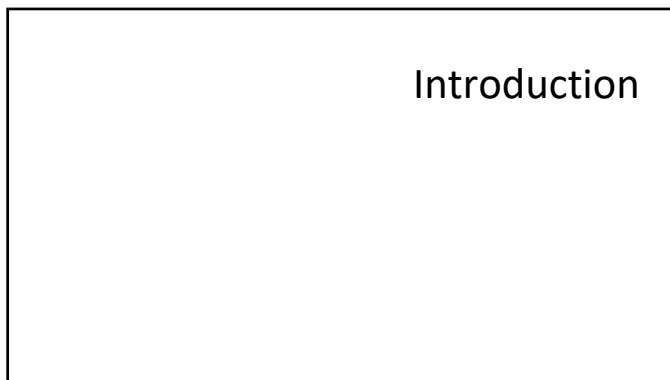
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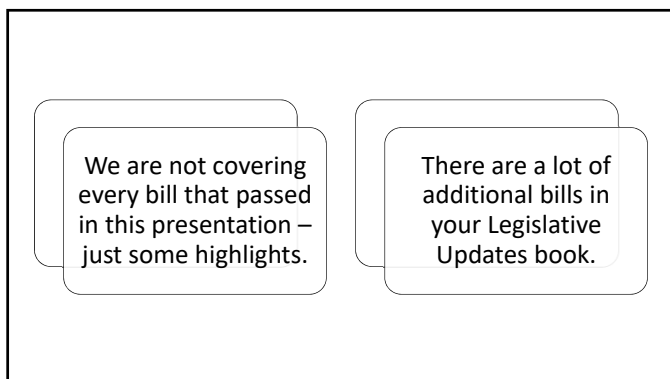
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### Using the Legislative Updates Book – Grab Your Books!

- Organized by code in alphabetical order and by section in numerical order.
- Table of Contents in each section.
  - Lists sections modified and bill that modified it.
  - Notes when a section is repealed.
- Underlined means language added by a bill.
- ~~Struck through~~ means language deleted by a bill.
- In back of book:
  - Chart of new fine-only offenses
  - Bill charts
    - Lists sections affected and effective dates for each bill.
    - Bold effective date = not 9/1/19.
    - Asterisk next to effective date = special notes apply.
  - Notes on Effective Dates chart
    - Where the special notes for each bill are listed.

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### When Two Bills Change the Same Section

- Both bills will be noted next to that section in the table of contents.
- If changing the same parts of a section, we have combined them together to give both bills as much effect as possible.
  - Might be slightly different than when the updated statutes come out.
  - If there is a conflict and there is nothing in the bills to say which one wins, the one that passed most recently becomes the law.

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Find in your books:

Have any changes been made to GC 27.031?

PRACTICE!



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Find in your books:

What statutes were changed by SB 194?

PRACTICE!



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Find in your books:

What is the effective date for the changes made to CPRC 31.002? Are there any special notes about the effective date?

PRACTICE!



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#### Abbreviations in Presentation

CCP =  
Code of Criminal  
Procedure

TC =  
Transportation  
Code

LGC =  
Local Government  
Code

GC =  
Government Code

CPRC =  
Civil Practice and  
Remedies Code

PC =  
Penal Code

Prop Code =  
Property Code

FC =  
Family Code

HSC =  
Health and Safety  
Code

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### Effective Dates in Presentation

- All effective dates are 9/1/19 unless we mention otherwise.
- We will also cover any special notes on effective dates regarding leases entered into, suits filed, or offenses committed before the effective date of the bill.

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### On the Horizon

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### On the Horizon

**Did NOT Pass  
this Time, but  
Likely to Come  
Up Again**



Bail Reform



Juvenile Justice Reform

Domestic Violence Bond  
Condition Database

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## Bail Reform

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## Multiple Bills This Session – NONE PASSED

- Move to add an assessment tool (our bail class in our JP 20-hour school will show an example of this).
- Move towards requirements for personal bonds in more situations.
- Move towards more options to keep violent offenders from being released.



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## Juvenile Justice Reform

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## SB 2242 / HB 4606 – DIDN'T PASS

- Involved mandatory diversion for eligible juveniles on Class C misdemeanors other than traffic offenses and laid out guidelines for diversion programs.
- Passed the house but did not get a committee hearing in the Senate.



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Domestic Violence Bond  
Condition Database

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## SB 1804 / HB 4751 – VETOED

- Would have established a statewide law enforcement information system maintained by DPS to facilitate the enforcement of bond conditions related to domestic violence.
- Would have established a grant program to fund counties in monitoring defendants and victims in domestic violence cases.
- Bill was passed unanimously and was vetoed due to an unrelated amendment involving a radioactive waste company.



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## What Happens in Non- Legislative Years?

- House of Representatives has created a House Criminal Justice Reform Caucus made up of 5 Democrats and 5 Republicans (so far) to work on criminal issues.
  - Rep. Joe Moody & Rep. Jeff Leach will chair.
  - Goal is to get a bipartisan push on issues like Bail Reform
- JPCA & TAC working with legislators on next session's bills already.
- Interim Studies

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TAC Legislative Manager

Kelsey Bernstein  
[kelseyb@county.org](mailto:kelseyb@county.org)  
 (800) 456-5974  
 (512) 789-6499

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## QUESTION

True or False:

Nothing in the "On the Horizon"  
section that we just discussed  
became law this session.

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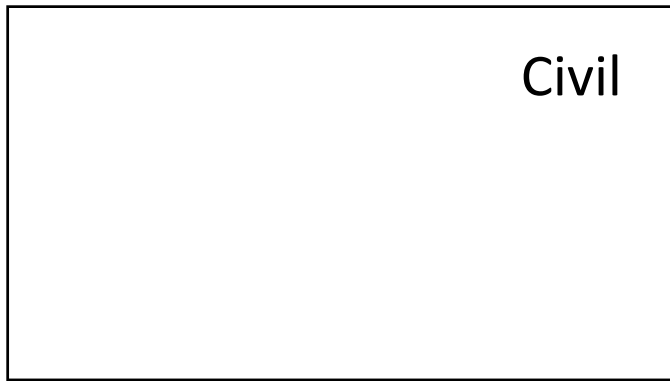
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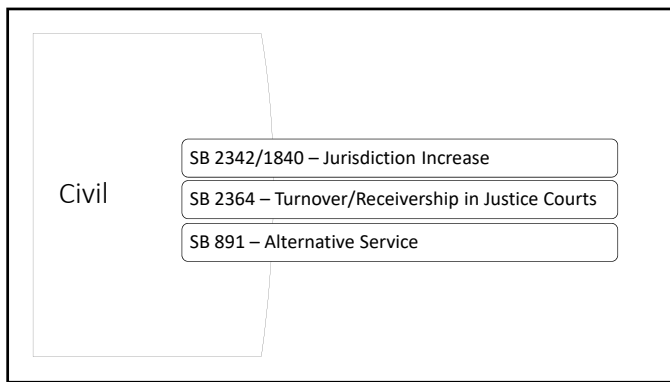
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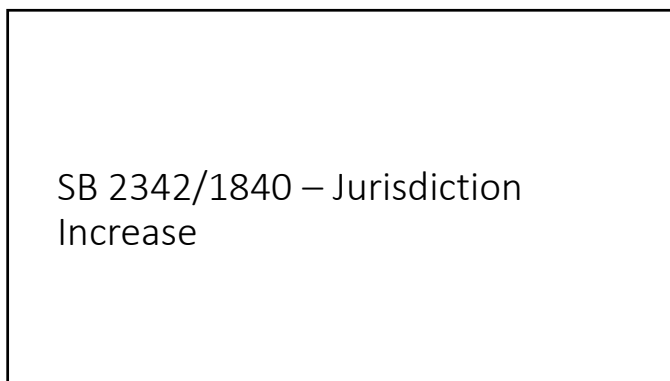
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Jurisdictional limit of justice court is increasing  
from \$10,000 to \$20,000.

- GC 27.031(a)
- **Effective: 9/1/20**

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## TELL YOUR NEIGHBOR

What concerns you about  
this bill, if anything?



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## How We Got Here

- 2007 – went from \$5k to \$10k.
- Last session – a bill was filed, it got some traction despite no input from JPs, but it didn't pass.
- This session – JPCA got in front of it so the JP voice could be heard, to keep it from going too high, & to keep it consistent across the state.
- Increases access to justice for unrepresented parties.

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## Dealing with Additional Costs – SB 1840

There was no filing fee increase, but:

- Tech fund can now be used to pay for clerk salaries and benefits; and for continuing education training for clerks and judges even if not related to technological enhancements.



**Effective: 9/1/19 – So will be in place *before* jurisdiction increase happens.**

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## Dealing with Additional Costs – SB 1840

- Tech fund can also now be used in any county to assist a constable's office or other county department with an allowed technological enhancement if it directly relates to the operation or efficiency of the justice court.
  - Used to be limited to certain counties



- CCP 102.0173

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## Tech Fund is Meant to Provide **Additional** Funds

- The purpose of increasing what the tech fund can cover is to provide **additional** funds.
- Although use of the fund is subject to commissioner court approval, the county should not just replace current funding with tech fund money.
- Make sure to observe your budget and communicate with your county officials about your needs.

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### A Note About CCP 102.0173

- Go find CCP 102.0173 in your books.
- Two different bills amended this section, with different effective dates.
  - One version is effective from 9/1/19 to 12/31/19.
  - The version combining both bills is effective starting 1/1/20 (remember – could be slightly different than when the final version of the statutes comes out).
- **QUESTION:** Is using the tech fund to pay for clerk salaries allowed in both versions? When does this start being an option? Look in your books!

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### Some Things You Might See More of:

- Cases that were traditionally small claims cases but often are worth more than \$10k now.
  - Ex: car accident cases (cars are more expensive now).
- Debt claims
  - Though most debt claim cases are already filed in justice courts.
- Premises liability cases
- Cases with lawyers
- Discovery issues

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### Relevant Upcoming FY20 Classes

- Clerk Schools:
  - The \$20,000 Question: How Will the Jurisdictional Increase Affect Your Court?
- Judge Schools:
  - Translating Legalese to English
  - Fundamentals of Contracts (focus on a contract for services)
  - Torts: Crash Into Me (focus on a car accident)
  - Practical Debt Claim Issues
  - CPR for Civil Knowledge: Understanding the CPRC
  - A Motion for What?!
- Webinar – Slip & Fall Cases and Other Premises Liability Issues
- Civil Jury Trial Workshop at Baylor University

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## SCENARIO

Amber files a small claims case on September 5, 2019. She is seeking damages for a car accident and asking for \$13,000.

What do you do?



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## SCENARIO

What if Amber filed her \$13,000 suit on 8/31/20?

What do you do?

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SB 2364 – Turnover/Receivership  
in Justice Courts

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### Now Clear that Justice Courts May Issue Turnover Orders

A judgment creditor is entitled to aid from a court of appropriate jurisdiction, including a justice court, through injunction or other means in order to reach property to obtain satisfaction on the judgment if the judgment debtor owns property . . . that is not exempt from attachment, execution, or seizure for the satisfaction of liabilities.

- "Aid" can be a *turnover order to the defendant* or an order appointing a receiver.

**Applies to the collection of any judgment, regardless of whether the judgment was entered before, on, or after 9/1/19.**

CPRC 31.002(a)

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### SB 891 – Alternative Service

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### Substituted (Alternative) Service via Social Media

- The Texas Supreme Court must adopt rules for substitute service on a defendant via social media by 12/31/20.
- The court must apply these rules if they choose to allow service via social media.
- **This change only applies to cases filed after the date the Supreme Court adopts these rules.**

CPRC 17.033

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## Service by Publication

- There are also new laws regarding posting service by publication on a public information website.
  - Supreme Court must adopt rules by 6/1/20.
  - OCA must develop website to “publish” on for implementation by 6/1/20 – Look for more info/details from OCA after 6/1/20.

CPRC 17.032 & GC 72.034

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## Tenant Rights

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## Tenant Rights

HB 69 – Termination of Lease: Tenant Death

SB 234 – Termination of Lease: Family Violence

HB 302 – Tenant Firearms Rights

SB 1414 – Late Fees

HB 1002 – Parking Permits

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## HB 69 – Termination of Lease: Tenant Death

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If a person dies before their lease expires and they are the only occupant, then a representative of their estate may now terminate the lease, vacate the premises, and avoid any liability for future rent or early termination if:

1

The representative provides written notice of the termination;

2

The deceased tenant's property is removed under Prop Code 92.014(c) or (d); **and**

3

The representative signs an inventory, if required by the landlord.

**Applies only to a lease entered into on or after 1/1/20.**

Ex: If tenant enters into a lease on 10/1/19 and dies on 2/1/20, this would not apply.

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Termination is effective on the later of:

30 days after the date on which the notice was provided; or

The date on which all the requirements on the previous slide have been met.

Prop  
Code  
92.0162

Note: Termination does not affect the tenant's obligations prior to lease termination – the estate would still owe whatever they are liable for up to that point (ex: unpaid rent, damages to premises).

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## SB 234 – Termination of Lease: Family Violence

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Broadens right to terminate lease in the event of family violence and avoid liability for future rent or other sums due for early termination.

**Only applies to a lease entered into or renewed on or after 9/1/19.**

Ex: If tenant enters into a lease on 8/15/19 and then a family violence incident occurs on 9/15/19 and the tenant wants to terminate the lease, these changes would not apply.

- Tenant may now provide a copy of:
  - An EPO; or
  - Documentation of family violence against the tenant or an occupant from:
    - Licensed health care services provider who examined the victim;
    - Licensed mental health services provider who examined or evaluated the victim; or
    - Family violence advocate (as defined by Family Code § 93.001) who assisted the victim.

Prop Code 92.016

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## QUESTION

How might these lease termination issues come up in your court?

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## HB 302 – Tenant Firearms Rights

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### New Defense to Trespass Offenses

- Defense applies to the following offenses:
  - PC 30.05 – Criminal Trespass
  - PC 30.06 – Trespass by License Holder with a Concealed Handgun
  - PC 30.07 – Trespass by license Holder with an Openly Carried Handgun
- Defense applies only if one of the following is true:
  - The person owns a condominium governed by Prop Code Ch. 81 or 82, Prop Code, or is a tenant or guest of an owner; or
  - The person is a tenant or a guest of a tenant of:
    - A leased premises governed by Prop Code Ch. 92 (residential tenancies); or
    - A manufactured home lot governed by Prop Code Ch. 94.

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### New Defense to Trespass Offenses



#### Defense:

- If the reason the person was considered to be “trespassing” was because they brought a firearm or ammunition on property where doing so is forbidden, AND:
  - The person carried or stored the firearm or ammunition directly to/in their unit or directly to/in their vehicle; and
  - The person is not otherwise prohibited by law from possessing a firearm or ammunition.

PC 30.05 – 30.07

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### Prohibition of Firearms/Ammo on Properties

- Unless otherwise provided by state or federal law, lawfully possessing, carrying, transporting, or storing a firearm/ammunition in a person's own unit, vehicle, or as necessary to go to and from the property, their unit, or their vehicle may no longer be prohibited:
  - For a tenant or tenant's guest under Prop Code Ch. 92 or 94. – Prop Code 92.026, 94.257
    - **This does not affect the enforceability of a provision in a lease agreement entered into or renewed before 9/1/19.**
  - For an owner, guest, tenant, or guest of a tenant of a condo governed by Prop Code Ch. 82. – Prop Code 82.121

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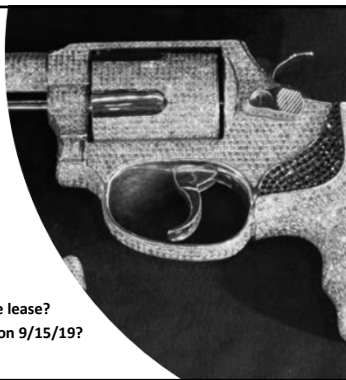
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### SCENARIO

#### Eviction case:

The landlord, Randy, and the tenant, Bronson, entered into a lease on 8/15/19. Randy says Bronson has been carrying a jewel encrusted gun on his hip on the property outside of his unit and this is clearly forbidden in the lease. Bronson says Randy is a jerk and is just trying to get rid of him.

- Can Randy evict Bronson for violating the lease?
- What if the lease had been entered into on 9/15/19?  
Any development of the facts needed?



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### SB 1414 – Late Fees

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### Landlord May Not Collect a Late Fee Unless:

- Notice of the fee is included in a written lease;
- The fee is reasonable; **and**
- **Any portion** of the tenant's rent has remained unpaid at least **two full days** (used to be one) after the date the rent was originally due.

Tenant may request statement of late fees, but it does not affect tenant's liability if landlord fails to provide it.

Only applies to a lease entered into on or after 9/1/19, even if late fee was incurred after 9/1/19.

Prop Code  
92.019, 92.0191

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### A late fee is considered "reasonable" now if:

- It is not more than 12 percent of the rent if no more than 4 units;
- It is not more than 10 percent of the rent if more than 4 units; or
- It is more than those amounts but not more than uncertain damages to the landlord related to the late payment of rent, including direct or indirect expenses or costs or overhead associated with the collection of late payment.

The late fee may include an initial fee and a daily fee for each day any portion of the rent remains unpaid.

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## SCENARIO

There is an eviction case in your court. The landlord is asking for possession, back rent, and late fees. The landlord has provided evidence that the late fees were assessed pursuant to the requirements of the law and that they are reasonable.

Should the court award the late fees to the landlord?

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## HB 1002 – Parking Permits

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### A Landlord Who Issues a Parking Permit to a Tenant:

- Must issue the permit for the full term of the tenant's lease; and
- May not terminate or suspend the permit until the date the tenant's right to possession ends.

**Applies to a parking permit issued on or after 1/1/20.**

- Ex: if tenant enters into a lease on 09/05/19 and a parking permit is issued to them on 1/05/20, then these changes apply.



Prop Code 92.0132

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### QUESTION

What kind of case might this come up in a justice court case?

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## Criminal

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## Criminal

HB 1631 – Red Light Cameras

HB 1505 – New Criminal Conviction Reporting Requirement

SB 969 – Personal Delivery &amp; Mobile Carrying Devices

SB 21 – Tobacco Age

HB 2789 – Electronic Transmission of Sexually Explicit Material

HB 1528 – Family Violence Fine-Only Misdemeanors

SB 346 – Indigence

HB 2048 – Repeal of Surcharges Program

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## HB 1631 – Red Light Cameras

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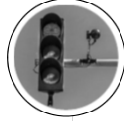
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## No More Red Light Cameras

- Local authorities may not operate red light camera enforcement systems anymore. – TC 707.020, 707.021
  - Many claim systems were used for revenue, not public safety; and can even have a negative impact on safety.
- Justice Court jurisdiction over these cases is eliminated. – GC 27.031(a)



**Effective: 6/2/19**

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## HB 1505 – New Criminal Conviction Reporting Requirement

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## New Reporting Requirement Upon Conviction

### Offense hasn't changed:

Class C (on first conviction) if movers of household goods are unregistered as required by Subchapter B of TC Ch. 643 and solicit or engage in moving services for compensation.

Registration requirement only applies to motor carriers (TC 643.051).

Now, court **must report to DPS** as soon as practicable following a conviction of this offense. Report should be as directed by DPS and contain the person's DL number.

**Only applies if offense was committed on or after 9/1/19.**

- Ex: if defendant commits an offense on 7/1/19 and isn't convicted until 10/15/19, the reporting requirement does not apply

TC 643.253

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## SB 969 – Personal Delivery & Mobile Carrying Devices

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### New Transportation Code Chapter

- Ch. 552A
- Regarding the operation of personal delivery and mobile carrying devices and the laws that apply to them.

Effective: 6/10/19



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What are Personal Delivery and Mobile Carrying Devices?

Robots that transport cargo.

- "Mobile carrying device" = actively monitored by someone who is within 25 feet of it.
- "Personal delivery device" = automated driving technology, supported/supervised remotely by someone.

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### Must Follow Rules of the Road Pedestrian Laws

- These devices are not considered vehicles.
- They can be driven on sidewalks and hike/bike trails.
- They must comply with Rules of the Road laws applicable to pedestrians (TC Ch. 552).
  - Unless the provision cannot by its nature apply to the device.
  - If these laws are violated, you could see the cases in your courts.

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### Additional Laws That Must Be Followed

- Must yield the right-of-way to all other traffic, including pedestrians.
- Must not unreasonably interfere with or obstruct other traffic, including pedestrians.
- If operated at nighttime, must display the lights required by Ch. 552A.
- Must comply with any applicable regulations adopted by a local authority (as allowed by this chapter).
- Must not transport hazardous materials in a quantity requiring placarding by the Hazardous Materials Transportation Act.

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### Additional Laws That Must Be Followed

- Must be monitored or controlled by the operator.
- Must be equipped with a braking system that enables the device to come to a controlled stop.
- May only be operated:
  - On the side of a roadway or the shoulder of a highway at a speed of not more than 20 miles per hour; or
  - In a pedestrian area at a speed of not more than 10 miles per hour
    - Max speed can be limited to 7-9 mph by a local authority within its jurisdiction if 10 mph would be unreasonable or unsafe for an area.

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### Additional Laws That Must Be Followed

- Mobile Carrying Devices
  - Must remain within 25 feet of the operator while the device is in motion.
- Personal Delivery Devices
  - Must be equipped with a marker that clearly states the name and contact information of the owner and a unique identification number.
  - Can only be operated by a business entity and must be monitored/controlled by a person that is an agent of that business entity.
  - The business entity must maintain an insurance policy that includes general liability coverage of not less than \$100,000 for damages arising from the operation of the device.

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### Offense/Penalty for Violating Applicable Laws

General offense under Rules of the Road subtitle	TC 542.301
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Penalty: Fine of \$1 – \$200	TC 542.401

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### Who is Responsible?

- Personal delivery devices
  - Business is considered the operator unless the agent of the business operating it does so outside of the scope of their employment, in which case the agent is the operator.
  - A person is not considered the operator just because they request a delivery/service or dispatch the device.
- Mobile carrying device
  - The person operating it is considered the operator.

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### SB 21 – Tobacco Age

HSC 161.081 – 161.087; 161.251 – 161.256

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### Purchase/Possession

- Person under the age of 21 (instead of 18) may not possess, purchase, consume or accept a cigarette, e-cigarette, or tobacco product.
  - Fine amount is reduced from \$250 to \$100.
  - Court may no longer suspend Driver's License if person does not complete tobacco awareness course.
  - Defense that possession occurred in the presence of an adult parent, guardian, or spouse has been removed.

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### Purchase/Possession – Expunction

- Defendant must now wait until their 21<sup>st</sup> birthday before can apply for expunction and court must expunge even if they did not satisfactorily complete the tobacco awareness program/community service.
- On conviction, court must now give notice of expunction rights.
- Can still expunge unlimited number of offenses.

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### Sale

- Bill also prohibits the sale of cigarettes, e-cigarettes, or tobacco products to anyone under the age of 21 instead of 18 (this is a Class C).
  - May not sell to someone under 30 unless they produce valid proof of ID (currently is 27).
  - New provision states that prohibition does not apply to a product approved by the FDA for use in treatment of nicotine or smoking addiction and labeled with a drug facts panel in accordance with FDA regulations.
  - Warning signs must be updated to say must be 21, not 18 and must also state the exceptions to the new law.

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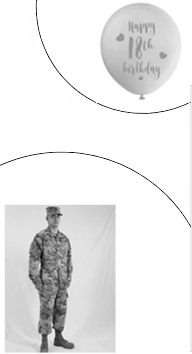
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### Exceptions to New Law

New age requirements do not apply:

- To anyone who is at least 18, is in the military, and presents a valid military ID at time of purchase.

OR

- If the person buying/attempting to buy was born on or before 8/31/01 (so is already 18 or older before 9/1/19).

So, basically: if someone can legally buy before the law goes into effect, they can still do it after. If not, then they have to wait until they are 21 unless they are at least 18 and in the military.

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### New/Modified Related Class C Misdemeanors

- Distribution or redemption of coupons for discounted cigarettes, e-cigarettes, or tobacco products to anyone under 21.
  - Exceptions for people who are 18 and in military and for people who turn 18 by 8/31/19 do **not** apply here.
- Redemption of coupons for these products through mail or courier delivery (regardless of age of recipient).
- Distribution of free samples or distribution/redemption of coupons for free products (regardless of age of recipient).

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**SCENARIO**

Rebecca turns 18 on 9/1/19. On her birthday, she is planning to go buy a whole bunch of cigarettes.

Is this going to work out for her?



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**SCENARIO**

Amber turns 18 on 9/15/19. She buys some cigarettes from her friend who works at a convenience store and promptly gets arrested. Before her court date, Amber joins the military.

What happens to Amber's case?

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HB 2789 – Electronic  
Transmission of Sexually  
Explicit Material

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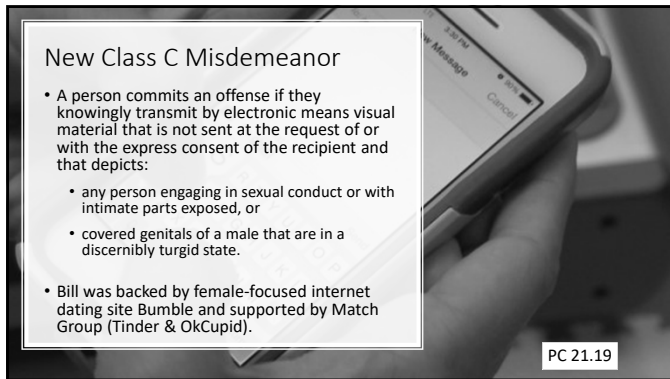
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**New Class C Misdemeanor**

- A person commits an offense if they knowingly transmit by electronic means visual material that is not sent at the request of or with the express consent of the recipient and that depicts:
  - any person engaging in sexual conduct or with intimate parts exposed, or
  - covered genitals of a male that are in a discernibly turgid state.
- Bill was backed by female-focused internet dating site Bumble and supported by Match Group (Tinder & OkCupid).

PC 21.19

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**HB 1528 – Family Violence  
Fine-Only Misdemeanors**

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**When would you see a family violence fine-only misdemeanor in justice court?**

- Ex: Class C assault involving family violence as defined by FC 71.004.
- This could be something like a husband threatening to punch his wife and punching the wall next to her to scare her.

**How do you know if an offense involves family violence?**

- Look at the citation or complaint.

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If a Defendant is Charged with an Offense  
Involving Family Violence as Defined by FC 71.004

- Judge must now take their plea in open court. – CCP 45.0211
  - Defendant may not instead mail in or deliver plea under CCP 27.14(b).
- The required court admonishment regarding firearms under CCP 27.14(e)(1) that a court must provide before accepting a guilty plea or nolo plea can no longer be provided via a statement printed on a citation.
- **Only applies if offense was committed on or after 9/1/19, regardless of when the defendant enters their plea.**

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SCENARIO

A defendant is charged with Class C Assault-Family Violence. They mail in their plea to the court on 10/5/19.

Can the court accept the plea?

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New Reporting Requirement for Family Violence  
Fine-Only Misdemeanors



Upon disposition of the case, the court must now report to DPS under CCP 66.252.

This statute already existed, but it didn't apply to any fine-only misdemeanors before.



Law enforcement prepares uniform incident fingerprint card and initiates reporting process when offender is charged.



Clerk then reports applicable info regarding person's citation/arrest and the disposition of the case to DPS within 30 days of disposition.

Shall report using a uniform incident fingerprint card (CCP 66.251) or an electronic method approved by DPS.

**Only applies if offense was committed on or after 9/1/19, regardless of conviction date.**

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## SB 346 – Indigence

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### Background

- Applesseed has been monitoring courts across the state since the indigence bills from last session went into effect.
- Applesseed reached out to TJCTC and JPCA to communicate what they were seeing and to get our feedback.
- Many courts (but mostly not justice courts!) had practices that were not within the spirit of the law.
- Most of the changes are what you already are or should be doing.
- There are also several changes that aren't substantive and just combine duplicate sections, clean up language, etc.

**Effective: 1/1/20**

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### Alternative Satisfaction

- New section added to general provisions of CCP:
  - Except as otherwise specifically provided, in determining a defendant's ability to pay, the court shall consider only the defendant's **present ability** to pay. – CCP 1.053
- Waiver added as an option for discharging fines/costs under deferred disposition. – CCP 45.051(a-1)
  - We've already said a court could do this under the authority of 45.0491, but now it is explicitly added to 45.051 as well.

**Both of the above apply starting 1/1/20, regardless of when the offense was committed.**



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### Reconsideration of Fine or Costs

- New explicit requirement: if the defendant notifies the judge that they have difficulty paying the fine/costs ordered in the judgment, the judge **shall** hold a hearing to determine whether the judgment imposes an undue hardship on the defendant.
  - Holding a hearing on ability to pay at the time the judgment was entered does not meet this requirement – a defendant's circumstances can change.

**Applies to a notification received by a court on or after 1/1/20, even if the judgment of conviction was entered before 1/1/20.**

CCP 45.0445

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### Reconsideration of Fine or Costs

- Notification can be by defendant appearing and informing judge/clerk, filing a motion, mailing a letter, or any other method established by the judge.
- If the judge determines that the judgment imposes an undue hardship, the judge shall consider whether to allow the defendant to satisfy the fine and costs through one or more of the alternative satisfaction methods listed under CCP 45.041(a-1) (payment plan, community service, and/or waiver).

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### Reconsideration of Fine or Costs

**The judge may decline to hold a hearing under this section if the judge:**

Is able to determine without holding a hearing that:

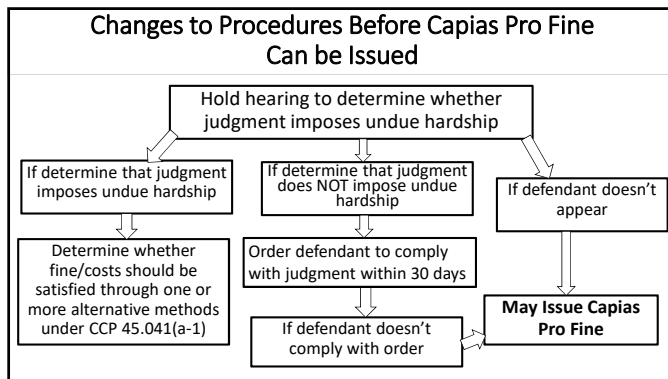
**OR**

Has previously held a hearing under this section with respect to the case and is able to determine without a hearing that the judgment does not impose an undue hardship.

- The judgment imposes an undue hardship on the defendant; and
- The fine and costs should be satisfied through one or more methods listed under CCP 45.041(a-1).

- This should be rare!
- Ex: a defendant who is coming in twice a week to claim undue hardship despite no change in their circumstances (and the judge has already determined there is NOT an undue hardship).

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**Changes to Capias Pro Fine Procedures**

- The court shall recall a capias pro fine if, before the capias pro fine is executed, the defendant:
  - Provides notice to the judge under CCP 45.0445 (Reconsideration of Fine or Costs) and a hearing is set; or
  - Voluntarily appears and makes a good faith effort to resolve the capias pro fine.
- **Changes to issuance and recall requirements apply only to a capias pro fine issued on or after 1/1/20 (regardless of when the offense or conviction were).**

CCP 45.045

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**Appearance at Reconsideration or Capias Pro Fine Hearing**

If the judge determines that requiring a defendant to appear before the judge in person for a hearing under Article 45.0445 or 45.045 would impose an undue hardship on the defendant.

The judge may allow appearance by telephone or videoconference.

**Applies starting 1/1/20, regardless of when the offense was committed.**

CCP 45.0201

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## Waiver

- Removes the “community service would be an undue hardship” factor for waiver of costs (it is still in place for waiver of fines).
- Now, only analysis on whether to waive **costs** is if defendant is indigent or doesn’t have enough resources/income to pay; or if they were a child at the time of the offense.
  - New definition added to CCP Ch. 45: “Cost” includes any fee imposed on a defendant by the justice or judge at the time a judgment is entered. –CCP 45.004

Applies 1/1/20 even if defendant was sentenced before 1/1/20.

CCP 45.0491








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## Waiver

For determining whether there is an undue hardship in deciding whether to waive **fines**, a new subsection:

-Makes explicit that a determination of undue hardship is in the court’s discretion, and

-Gives factors that the court may consider (on right).

-  Significant physical or mental impairment/disability
-  Pregnancy and childbirth
-  Substantial family commitments or responsibilities, including child or dependent care
-  Work responsibilities and hours
-  Transportation limitations
-  Homelessness or housing insecurity
-  Any other factors the court determines relevant

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## SCENARIOS

Would you find that community service is an undue hardship and waive the defendant’s fines?

**SCENARIO 1:** Defendant is 3 months pregnant, has been placed on bed rest for the rest of her pregnancy, and has had to quit her job.

**SCENARIO 2:** Defendant works 40 hours per week and says he does not have time to do community service. He says he can’t afford to pay because his paychecks are being garnished for child support and he has a wife and 2 young kids at home that he has to support as well.

**SCENARIO 3:** Defendant lives with her aunt on a farm out in the country and does not have a job. She cannot drive due to epilepsy and does not have any method of transportation to get into town.

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## HB 2048 – Repeal of Surcharges Program

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### Repealed!

- Chapter 708, Transportation Code (the Driver Responsibility Program) is repealed.
- **The repeal applies to any suspensions for surcharges pending on 9/1/19, even if they were imposed before that date.**
- DPS must reinstate any driver's license that is suspended as of 9/1/19 if the only reason for the suspension is the failure to pay surcharges.
- Between now and 9/1/19, surcharges are still due and can still be waived as needed.
- FAQ sheet from DPS available on the front page of the TJCTC website.

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### Multiple Previous Attempts to Repeal

- In 2002, the Texas Legislature passed a series of surcharges based on a point system for traffic offenses and additional surcharges based on convictions for impaired driving cases.
- Continued efforts were made during the past five legislative sessions to amend or repeal the Driver Responsibility Program.

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### Why Now?

- While very unpopular, it was difficult to change or repeal up to now because it funded the emergency trauma care system.
- This session, the total repeal passed unanimously in the house and senate. A major reason is that there are now new sources of funding for trauma centers/emergency medical services:
  - 30% of state traffic fines (changed from \$30 to \$50).
  - 20% of additional fines for DWI convictions (replacing surcharges).
    - Note: the new law mentions justice courts, but justice courts don't have jurisdiction of these offenses and so won't be collecting these fines.
  - 60% of yearly fees paid by insurers (changed from \$2 to \$4 per policy).

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### Impact

- According to information from DPS, nearly 1.5 million people currently have driver's license suspensions due to the Driver's Responsibility Program.
- So we will see a large reduction in the number of license suspensions now, which will likely include a reduction in suspensions due to DWLIs as well.
- May reduce numbers of ODL applications.
- **POLL:** Current percentage of ODL applications due to surcharges suspensions

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### Impact

- Driving While License Invalid (DWLI) is still an offense.
  - There are lots of other reasons a person's license might be invalid other than a suspension for failure to pay surcharges.
- Habitual violator suspensions are still an option even though there are no more "points."
  - See TC 521.292(b) for more details.

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## Occupational Driver's Licenses

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Occupational  
Driver's  
Licenses

HB 162 – DWLI Suspension Term

HB 156 – Supervision Fee

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HB 162 – DWLI Suspension Term

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### Suspension Term Changed

- The period of license suspension for DWLI (*operating a motor vehicle while the person's license is suspended/canceled/disqualified/revoked, or without a license after an application for a license was denied*) has been changed to **90 days**.
  - It used to be for an additional period of the lesser of the term of the original suspension or one year.
  - Duration of term is the same now as for all other reasons for suspension under TC 521.292.

TC 521.293

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#### **This change only applies to a suspension based on conduct that occurred on or after 9/1/19.**

- Ex: If a person is driving while their license is suspended on 8/15/19 and the suspension for it isn't put in place until 9/15/19, this change does NOT apply.

This change, like the repeal of surcharges, may reduce the numbers of ODL applicants.

- It will also reduce the amount of time that a person has to have an ODL for many people, meaning less time for the court to have to monitor them and less likelihood of them needing modifications.

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### HB 156 – Supervision Fee

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### Part of ODL Order

- Under TC 521.2462, a judge can choose to include in the order a requirement that the person submit to supervision to verify compliance with the conditions of their order.
  - Unless their ODL has an Ignition Interlock Device requirement, in which case it is not an option. – TC 521.251(d-1)
- Before, if supervision was ordered, it had to be done by CSCD and there was a \$25-60 fee that the judge **could** assess.

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Now, **if supervision is ordered**, the options are:

- Supervision by CSCD
  - The *Judge* **MUST** assess \$25-60 fee.
- Supervision by a personal bond office established under CCP 17.42
  - The *office* **MAY** collect \$25-60 fee.

**These changes apply to an ODL order issued on or after 9/1/19, regardless of whether the underlying offense giving rise to the order was committed before, on, or after that date.**

TC 521.2462, GC 76.015(a-1)

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## Magistration

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Magistrations

- HB 3540 / HB 601 / SB 362 – Mental Health
- SB 194 / SB 2390 / SB 325 – EPOs
- HB 3582 – IID on First Offense of DWI Child Passenger
- SB 583 – Appointing Counsel
- SB 362 – Emergency Detention

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HB 601 / HB 3540 / SB 362 –  
Mental Health

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HB 601 – Changes to CCP 16.22

- The bill has combined the two versions of 16.22(a-1), done some language clean up, and made a few other changes.
  - Throughout, they have changed:
    - “Collection of information” to “interview and collection of information”
    - “Assessment” to “report”
  - Law now explicitly says reports under this article are confidential (we had already been treating them as such based on interpretation of other law).
  - Other changes will be covered in following slides.
- The next several slides will provide an overview of the 16.22 process, with additions to the law underlined.

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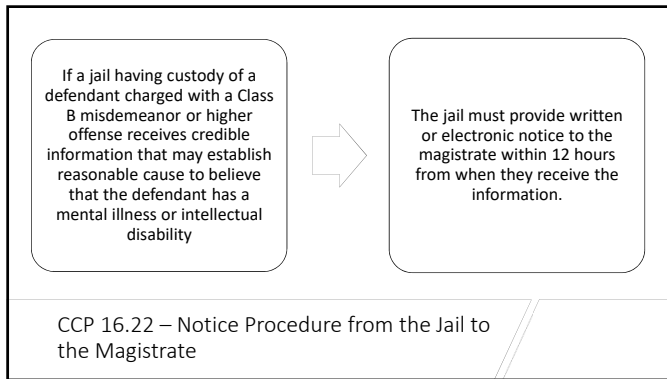
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CCP 16.22 – Magistrate’s Order

- On a determination that there is reasonable cause to believe that the defendant has a mental illness or intellectual disability, the magistrate must order:
  - The service provider that contracts with the jail to provide mental health or intellectual and developmental disability services; or
  - The LMHA;
  - The local intellectual and developmental disability authority; or
  - Another qualified mental health or intellectual and developmental disability expert to:
    - Interview the defendant if he has not been interviewed by a qualified mental health expert since his arrest on the current offense; and
    - Collect information on whether he has a mental illness or intellectual disability and info on any previous assessments or recommended treatment/services; and
    - Provide a written report to the magistrate of the interview and information collected.

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CCP 16.22 – Interview/Collection of Info

- The interview may be conducted in person at the jail, by telephone or through a telemedicine medical service or telehealth service.
- The magistrate is not required to order the interview and information collection if in the year before the current arrest it was done by one of the authorized entities/experts.



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### CCP 16.22 – Interview/Collection of Info

- If defendant fails or refuses to submit to interview and information collection, the magistrate may order the defendant to submit to an examination in the jail or other appropriate place for a reasonable period, not to exceed 72 hours.
- The commissioners court will reimburse the LMHA, local intellectual and developmental disability authority, or qualified expert for services.
  - May adopt a fee schedule.
  - If costs are more than fee schedule or there isn't one, up to trial court judge to determine amount.

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Unless permitted by the magistrate for good cause shown, the **report** shall be provided to the magistrate:

- *If defendant is held in custody:*  
Not later than 96 hours after the order was issued.
- *If defendant was released:*  
Not later than the 30<sup>th</sup> day after the order was issued.

Magistrate shall provide copies of the **report** to:

- Defense counsel
- Attorney representing the state
- Trial court

### CCP 16.22 – The Report

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### QUESTION

What if either the notice from the jail or the report from the interview/collection of information isn't being sent to the magistrate by the required deadline?

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### Changes to CCP 16.22 Trial Court Procedures

- When 16.22 info is sent to trial court, they have several options of what to do next and certain procedures to follow.
- JPs will never be the trial court, but we included the changes to these sections by SB 362 and HB 601 in our book for context in case you are interested.

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### HB 601 – Changes to CCP 17.032

- This is the section that deals with the release on personal bond of certain defendants with mental illness or intellectual disability.
- Changes to this by HB 601 mostly mirror the changes to 16.22 where relevant:
  - “Report” instead of “assessment.”
  - Including as one of the provider options: “the service provider that contracts with jail to provide mental health or intellectual and developmental disability services.”
  - Adding “developmental” disability services/expert to who can conduct exams or provide treatment/services.

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### HB 601 – Mental Health Documentation Sent to TDCJ

Note that the county will send copies of any mental health records, screening reports, etc. to the Texas Department of Criminal Justice if the defendant is incarcerated.



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### HB 3540 – Authority of Peace Officer to Release Certain People Instead of Arresting Them

- If a person with an intellectual disability or developmental disability resides in a certain type of group home or intermediate care facility, they can be released at their residence instead of arrested if:
  - The officer believes confinement is unnecessary to protect the person and others who reside at the residence; and
  - The peace officer made reasonable efforts to consult with the staff at the residence and the person about the decision.
- A magistrate isn't part of this decision, but it could affect who is being brought in to be magistrated.
- Fairly limited in scope at this point, but we could see more of this sort of thing.

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### Resources: Judicial Commission on Mental Health



#### Main Website:

<http://texasjcmh.gov/>



#### Bench Book and Cards:

<http://texasjcmh.gov/publications/bench-book-and-cards/>

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### SB 194 / SB 2390 / SB 325 – Emergency Protective Orders

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### SB 194 – New Offense Where EPO May Be Issued on Arrest

- New Class A misdemeanor under Penal Code 22.012 – Indecent Assault:
  - A person commits an offense if, without the other person's consent and with the intent to arouse or gratify the sexual desire of any person, the person:
    - touches the anus, breast, or any part of the genitals of another person;
    - touches another person with the anus, breast, or any part of the genitals of any person;
    - exposes or attempts to expose another person's genitals, pubic area, anus, buttocks, or female areola; or
    - causes another person to contact the blood, seminal fluid, vaginal fluid, saliva, urine, or feces of any person.

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### SB 194 – New Offense Where EPO May Be Issued on Arrest

- This bill also tweaks the language of the statements that must be on the EPO – See 17.292(g).
- **QUESTION:** What has changed? Look in your books!

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### SB 2390 – Protected Person's Info

- When issuing an EPO, if the protected person requests it, the court may now issue an order to protect the person's address. Order must:
  - Require the protected person to give their address to the court and designate another person/address to receive any notices or documents related to the order.
  - Require the court clerk to strike the address from any public court records and maintain a confidential record of the protected person's address for use only by the court or a law enforcement agency entering info required by GC 411.042(b)(6) into the statewide law enforcement information system.
  - Prohibit release of the protected person's address to the defendant.


 CONFIDENTIAL

CCP 17.294

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### SB 2390 – Protected Person’s Info

- Specific info on residence/place of employment/child care facility/school of a protected person/child was already able to be omitted from an EPO if the magistrate determined it necessary for the safety of the protected person under CCP 17.292(e).
- This information must now be collected in the statewide law enforcement information system even if it is omitted from the EPO.

GC 411.042(b)(6)

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### SB 325 – Protective Order Registry

- OCA is required, by 6/1/20, to establish:
  - A protective order registry unless a 90-day delay is authorized.
  - A training program for magistrates, court personnel, and peace officers on how to use the registry.
- Look for more info/details from OCA after 6/1/20.



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### SB 325 – Protective Order Registry

- Only applications and orders filed or issued on or after 9/1/20 are to be entered into the registry.
- Procedures will include:
  - Applications and orders (original or modified) must be entered as soon as possible, but not more than 24 hours after filing/issuance.
  - A clerk can delay only to the extent that they lack the specific info required to be entered.
  - If an EPO is vacated or expired, the clerk shall update the status of the order in the registry.

GC 72.151-72.158

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## HB 3582 – Ignition Interlock Device (IID) on First Offense of DWI Child Passenger

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### Mandatory Ignition Interlock Device

- Makes IID a mandatory bond condition for a **first** offense of DWI with child passenger under PC 49.045.

**Applies to a defendant released on bond on or after 9/1/19 even if the offense was committed before 9/1/19.**

CCP 17.441



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### QUESTION

When else is IID mandatory on a first offense?

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## DWI Bond Condition Program

- Under this program, the county adopts a comprehensive plan for setting, monitoring, and enforcing bond conditions in DWI cases. The goal of the program is to get all county officials on the same page concerning:
  - Mandatory bond conditions
  - Permissive bond conditions
  - Monitoring and enforcing bond conditions
  - Communication concerning jurisdiction
- The program is funded by a traffic safety grant from the Texas Department of Transportation and administered by the Texas Justice Court Training Center.
  - Free to counties!

157

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## DWI Bond Condition Program

For further information contact:

Randall L. Sarosdy or Rebecca J. Glisan  
 Texas Justice Court Training Center  
[rsarosdy@txstate.edu](mailto:rsarosdy@txstate.edu)  
[rebecca.glisan@txstate.edu](mailto:rebecca.glisan@txstate.edu)  
 512-347-9927, ext. 201 or ext. 211

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## DWI Bond Condition Program

Counties Signed Up For & Expressing  
 Interest in the Program



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## SB 583 – Appointing Counsel

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For Any Judges Who Personally Appoint  
Counsel at Magistration:

If your county has a public  
defender's office



You must now give that  
public defender's office  
priority in appointments for  
indigent defendants unless  
an exception applies.

See CCP 26.04 for more details.

161

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## SB 362 – Emergency Detention

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The Supreme Court shall:

Adopt rules to streamline and promote the efficiency of court processes under Chapter 573, Health and Safety Code (Emergency Detention).

Adopt rules or implement other measures to create consistency and increase access to the judicial branch for mental health issues.

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## Inquests

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### Inquests

HB 3716 – Medical Examiners

HB 881 – Right of Parent to View Child's Body

HB 1540 – Body Transport

HB 2248 – Disposition of Remains Disputes

HB 300 – Inquest Summary Report & Evidence

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## HB 3716 – Medical Examiners

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### Counties Required to Have Medical Examiners

- Used to be any county with a population of more than one million that did not have a reputable medical school as defined in Articles 4501 and 4503, Revised Civil Statutes of Texas.
- Now it is any county with a population of more than two million.
- Any county may still *choose* to have one even if not required.

CCP 49.25

167

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#### Counties Over 2M

Harris  
Dallas  
Tarrant

#### Counties Over 1M, But Less Than 2M

Bexar  
Travis  
Collin

#### Counties Close To 1M

Hidalgo (865k)  
Denton (859k)  
El Paso (840k)  
Fort Bend (787k)

168

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## HB 881 – Right of Parent to View Child's Body

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Last session, a bill was passed to allow a parent (anyone who has established a parent-child relationship under FC 160.201) to view the body of their deceased child; and to provide guidelines for how that was to occur. That bill only applied, however, if the child was under 18 years old.

The law has been modified this session to apply to any parent whose child has died, regardless of how old the child is now.

Ex: applies if the child is 65 years old just the same as if the child is 10 years old.

CCP 49.51, 49.52

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## HB 1540 – Body Transport

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Sec. 654.401, Occupations Code discusses who can move a body once a funeral director is involved and has the duty to take charge of the body.

- This section now explicitly says that a body may be transferred without the direction of the funeral director if the transfer is at the direction of a justice of the peace or other law enforcement official.
- Removes any other requirements that must be met for transfer without a funeral director.

- Funeral director no longer has to personally supervise, but may direct an unlicensed person, provisional license holder, or embalmer in the removal of a body.
- But the funeral director is still strictly accountable for compliance with the requirements of Ch. 654.

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## HB 2248 – Disposition of Remains Disputes

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For disputes about who has the right to control the disposition of a decedent's remains:

- Law used to say would be resolved "by a court of competent jurisdiction."
- Now explicitly says: "by a court with jurisdiction over probate proceedings for the decedent, regardless of whether a probate proceeding has been initiated."
  - This clarifies that a justice court MAY NOT resolve these disputes.



Probate Court Hears Any Disputes

HSC 711.002

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**QUESTION**

If a JP conducts an inquest and there is a dispute about what to do with the remains, what does the JP do while waiting on the probate court to sort things out?

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## HB 300 – Inquest Summary Report & Evidence

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**Inquest Summary Report**

No longer have to give certified copy of inquest summary report to district court clerk.

- Certified copies from before the effective date must be kept by the district clerk until they can be destroyed according to the record retention schedule.

**Effective: 6/10/19**

CCP 49.15(d), repealed

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## Inquest Evidence

- Previously had the choice of depositing evidence gathered during an inquest with the appropriate law enforcement agency or delivering to the district clerk for safekeeping.
- Now, can no longer give to the clerk. Must give to law enforcement.
- Any district clerk who currently has evidence must transfer it to the appropriate law enforcement agency as soon as practicable.



Effective: 6/10/19

CCP 49.17

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## Fees & Costs

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Fees  
&  
Costs

SB 346 / HB 2048 – Changes to Fees/Costs

HB 435 – Uncollectible Fees

SB 891 – Fees and Costs List, CIP Repealed

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SB 346 – Fees & Costs Reform  
HB 2048 – State Traffic Fine

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Fees & Costs Reform

SB 346 goes into effect **1/1/20**, and it changes not only how much your court will charge on criminal offenses, but also the language courts will use as well as how the costs charged are distributed.

Unless otherwise noted, the changes in this section only apply to an **offense that occurs on or after 1/1/20**, regardless of when the conviction/deferral occurs.

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New Language:  
Reimbursement  
Fees, Court Costs,  
and Fines

- The Time Payment Fee was challenged as being an unconstitutional punishment instead of “reimbursing” counties for their expenses in a defendant’s case or covering the general costs of the criminal justice system.
- In response, this bill creates a three-tiered system of reimbursement fees, court costs, and fines.

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New Language:  
Reimbursement  
Fees, Court Costs,  
and Fines

- **Fines** are penalties which exist to punish the defendant for the criminal offense.
- **Court costs** are assessed to pay for the costs of the general criminal justice system.
- **Reimbursement fees** are assessed to offset the costs incurred in a specific defendant's case.

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Examples of Fees That Are Now Defined as  
**Reimbursement Fees:**

- \$30 expunction fee
- Fees for services of peace officers (such as warrant fees)
- Fees associated with personal bonds and certain bond conditions
- Jury empanelment costs ordered when the defendant no-shows for jury trial
- DSC and teen court administrative fees
- Time Payment Fee
- The \$25-60 fee assessed by CSCD for various monitoring services
- Fees for processing credit card payments
- Scofflaw fees
- Omni fees
- Fees for impounding a defendant's car after subsequent no insurance offense

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Omni Reimbursement Fee

- Reduced from \$30 to \$10.
- All of the fee now goes to the county for the purpose of compensating private vendors contracted to implement TC Ch. 706.
- TC 706.006, 706.007, GC 103.0213
- Additional note about TC 706.006:
  - This section now applies to any fee assessed on or after 1/1/20, even if the offense, complaint, citation, or other violation the fee is based on occurred before 1/1/20.

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### Time Payment Reimbursement Fee

- Moved from LGC 133.103 to CCP 102.030
- Reduced from \$25 to \$15.
- All of the fee now goes to the county for improving collection processes or improving the efficiency of administration of justice in the county – resolving the constitutional challenge issue.
- **PRACTICE:** Look in your book to see what you find at LGC 133.103. What about CCP 102.030?

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### Consolidation of Court Costs

Many separate court costs were eliminated, with most being consolidated into general court costs charged on all offenses. This money is then divided up among accounts which pay the general costs of operating the criminal justice system.

See the next slide for a list of specific court costs that were eliminated.

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\$ .10 moving  
violation

\$4 jury  
reimbursement

\$4 court security

\$4 technology

\$2 truancy  
prevention and  
diversion

\$6 court support

\$2 indigence  
defense

\$12 restitution  
(if restitution  
ordered)

\$3 jury  
(if convicted by jury  
or withdrew request  
within 24 hours)

\$5 juvenile case  
manager  
(if court had JCM)

\$1.50 juv. placement  
special fund  
(Comal Co. only –  
civil & criminal)

## Not Fees Anymore

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### Consolidation of Court Costs – State Costs

- Consolidated state court cost is now \$62 (was \$40)
  - On conviction/deferral of fine-only misdemeanors **other than pedestrian or parking offenses**.
  - Only for **offenses occurring on or after 1/1/20**.
  - Sent to the comptroller, and divided among several different statewide accounts, as provided by LGC 133.102.
    - Includes statewide truancy & diversion fund; jury reimbursement fund; transportation administrative fund (the money that goes to DPS to replace the chunk of the Omni fee that went to them); among others.

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### Consolidation of Court Costs – Local Costs

- New local consolidated court cost – \$14 (all stays with county)
  - On conviction/deferral of **all** fine-only misdemeanors.
  - Applies for **offenses occurring on or after 1/1/20**.
  - Distributed as provided by LGC 134.103:
    - \$4.90 to courthouse security fund
    - \$5 to the local truancy prevention and diversion fund
    - \$4 to the justice court tech fund (remember the changes from earlier!)
    - \$.10 to the county jury fund

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### Juvenile Case Managers & Truancy Prevention and Diversion Funds

- The juvenile case manager fund (funded by \$5 court cost approved in counties with JCMs) no longer exists.
- Salary/benefits/expenses/training of JCMs can now be paid out of the state truancy prevention and diversion fund established under LGC 133.125 or the local truancy prevention and diversion fund established under the new LGC 134.156.
  - The state fund is maintained by the governor's office and counties can apply for grants to obtain money from the fund.

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### Juvenile Case Managers & Truancy Prevention and Diversion Funds

- The local truancy prevention and diversion fund may be used to implement programs including juvenile alcohol and substance abuse programs, educational and leadership programs, and any other projects designed to prevent or reduce the number of juvenile referrals to the court.
- Money in the fund **may not** be used to supplement the income of an employee whose primary role is not that of a juvenile case manager.

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### Other Fees & Costs

Processing fee for holder of a dishonored check or similar sight order

- Before, when a defendant was convicted, the court could collect the fee allowed by Business & Commerce Code 3.506 and give it to the holder.
- Now, the holder can still charge the fee, but the court doesn't collect it anymore. – CCP 102.0071 repealed

Parks and Wildlife 12.110 – Costs for confiscated game

- Provision repealed that allowed defendant to be charged with the expense of storage/care/feeding/cold storage/processing upon conviction.

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### Changes in Fines

- HB 2048 changes state traffic fine from \$30 to \$50.
  - This fine is assessed on conviction/deferral on all **Rules of the Road** offenses.
  - County keeps 4% of this fine (was 5%).
- Applies to **offenses committed on or after 9/1/19**.
  - TC 542.4031
- The \$3 traffic cost assessed on all Rules of the Road offenses is also now called a **fine**.
  - TC 542.403

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Deferred Disposition Special Expense Fee	<ul style="list-style-type: none"> <li>When placing a defendant on deferred disposition, the court assesses court costs and a <b>fine</b> (replacing the <b>special expense fee</b>).</li> <li>If they are convicted following a show cause hearing, another fine, called “the fine as punishment for the offense” is imposed.</li> </ul>
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Deferred Disposition Special Expense Fee	<ul style="list-style-type: none"> <li>The same rules apply to the initial fine that applied to the special expense fee.</li> <li>Cannot exceed the maximum fine for the offense.</li> <li>Defendant who pays the fine and is later convicted and a “fine as punishment for the offense” is imposed gets credit for the original fine payment.</li> <li>CCP 45.051</li> </ul>
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SCENARIO	<ul style="list-style-type: none"> <li>A defendant is placed on deferred disposition for speeding and assessed a fine of \$150. They pay the fine and costs.</li> <li>They fail to comply and are convicted at a show cause hearing.</li> <li>What’s the maximum fine that can now be imposed? How much would the defendant owe if that fine was imposed?</li> </ul>
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<div style="border: 1px solid black; padding: 5px; display: inline-block;">SCENARIO</div>	<ul style="list-style-type: none"> <li>• A defendant is placed on deferred disposition for a PWC offense on 12/23/19 and a special expense fee of \$100 is assessed. How much of that fee does P&amp;W get?</li> <li>• What if the defendant is placed on deferred disposition on 1/10/20 instead?</li> </ul>
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Compliance Dismissal Fees Fines	<ul style="list-style-type: none"> <li>• Transportation Code and other compliance dismissal fees are now called "fines."</li> <li>• Similar to the change for deferrals from special expense fees to fines, this is a change from the traditional idea of "no conviction, no fine."</li> <li>• This is still seen as a "penalty" to the defendant for getting the original offense, rather than a "reimbursement" or "cost."</li> </ul>
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The Bottom Line – Costs on Conviction in Addition to the Fine	<div style="display: flex; flex-direction: column; align-items: flex-start;"> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;">Counties charging the \$5 JCM fee must stop</div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;">No more \$.10 moving violation fee!</div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;">No more extra \$3 fee on conviction by jury</div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;">End result:</div> </div> <div style="display: flex; flex-direction: column; align-items: flex-start;"> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;">Non-Rules of the Road misdemeanor offense costs are \$76</div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;">Rules of the Road offense costs are \$129 (includes STF)</div> <div style="border: 1px solid black; padding: 5px;">Parking/pedestrian offense costs are \$67 if RotR, \$14 if not</div> </div>
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### Additional Fines

- In addition to the costs on the preceding slide:
- Conviction of passing a school bus under 545.066 previously carried an additional \$25 court cost, this is now an additional \$25 fine.
  - Only assessed in a municipality.
- Conviction of parent contributing to nonattendance (EC 25.093) previously carried an additional \$20 court cost, this is now an additional \$20 fine.
- These fines fund school crossing guard programs.

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### SCENARIO: Effective Date of Fees, Costs, and Fines

- A Rules of the Road offense is committed on 8/31/19 in a county that did not impose the JCM fee. The defendant is convicted on 2/1/20.
  - What costs do we assess?
  - What if they committed the offense on 9/5/19, is anything different?

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### HB 435 – Uncollectible Fees

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## Uncollectible Fees

- **CIVIL:** If a cost or fee in a civil case has been unpaid for at least 15 years, the clerk may request the court to make a finding that the fee is uncollectible. – GC 51.609
- **CRIMINAL:** An officer authorized to collect a fee/cost in a criminal case under CCP Ch. 103 may ask the court to find that a fee is uncollectible if the officer believes the defendant is deceased, is serving a life sentence in prison, or the fee has been unpaid for at least 15 years. – CCP 103.0081
  - This used to only apply to a county with a population between 780,000 and 790,000, but now applies to all counties.

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## Uncollectible Fees – Court Order

- If the court makes the requested finding in either type of situation, the court may then order the fee to be designated as uncollectible in the record and a copy of the court order should be attached to the fee record.
- GC 51.609, CCP 103.0081

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## SB 891 – Collection Improvement Program Repealed; OCA Costs & Fees List

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### Collection Improvement Program Repealed

Collection Improvement Program (CCP Art. 103.0033) is repealed.

This was the program that was run by OCA in counties with a population of 100,000 or more to improve collections on unpaid criminal judgments.

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### Cost & Fees List

- OCA (rather than the comptroller) is now required to prepare a list of all additions or changes to costs and fees after every legislative session
  - Only applies to costs/fees that take effect on or after 9/1/19.
  - GC 51.607, 72.033

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### Court Administration

210

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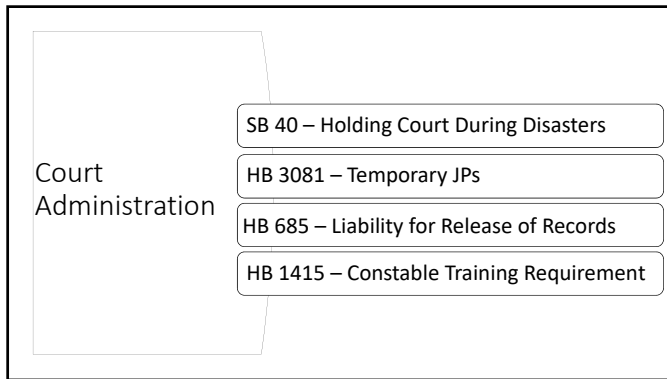
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When Hurricane Harvey hit, a lot of courts were impacted and couldn't conduct business as usual. The supreme court had to keep issuing special orders to address the situation.

**POLL:** Raise your hand if you've ever had a natural disaster impact your ability to hold court.

Now, if a court can't continue business as usual due to a disaster, the new law allows for the presiding judge of the administrative judicial region (with the approval of the affected judge) to designate an alternate location and alternate terms/sessions of court.

**Effective: 6/7/19**

GC 27.0515

213

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## HB 3081 – Temporary JPs

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### Definition of "Qualified Person"

- The definition of a "qualified person" who may be appointed as a temporary justice of the peace *used to be* a person who has served as a JP for at least 4 ½ years.
- *Now*, it is a person who has served as a JP, county judge, or county court at law judge for at least four years.

### If Can't Find a "Qualified Person"

- If the county judge can't find a "qualified person," then the county judge *used to be* able to appoint any qualified voter to serve as a temporary JP.
- *Now*, that person also has to be someone "who has experience and knowledge relevant to judicial or justice court processes and procedures and is approved by the county judge and a justice of the peace in the county."

GC 27.055

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## HB 685 – Liability for Release of Records

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A clerk, the county, and/or the commissioners court are not responsible or liable for release of a confidential document from a state court document database if the clerk in good faith performs duties as provided by law and the TRCP.

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 the release of the document.

Effective: 6/14/19

GC 51.609

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## HB 1415 – Constable Training Requirement

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New training  
requirement for  
constables.



At least 20 hours every  
4 years of continuing  
education instruction  
on civil process.

Occupations Code 1701.3545

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