



2021

Legislative Updates

Texas Justice Court
Training Center

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Agenda

Landlord/Tenant
Magistration
Criminal
Truancy & Juvenile Criminal
Fines, Fees, & Costs
Other Topics
Looking Up Changes in Statutes Online

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Notes About Presentation

Not every bill will be covered in the presentation, but all relevant bills are listed in the Bill Chart handout along with the statutes that are affected by each one.

The presentation will only mention effective dates that are something other than 9/1/21 or if there is a special note related to the effective date; but all effective dates and any related notes are in the Bill Chart handout.

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Landlord/Tenant

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Landlord/Tenant Bill List

HB 1012:

Writ of Retrieval

SB 1783:

Fee in Lieu of
Security Deposit

HB 375:

Early Lease
Termination Due to
Sexual Abuse

HB 531:

Early Lease
Termination for
Floodplain Dwellings

SB 318:

Production of
Condominium
Association Records

HB 900:

Landlord Not Liable
for Execution of Writ
of Possession

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HB 1012: Writ of Retrieval – Where to Apply

Property Code § 24A.002; Applies only to an application submitted after 9/1/21

- If the applicant & occupant are parties to a pending divorce or annulment case or to a completed divorce decree or annulment that covers the property being sought, the application must be filed in the court that has jurisdiction over that case.
- The application must certify whether either of the above situations applies (and if they don't apply, the application must be filed in a justice court).

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HB 1012: Writ of Retrieval – New Items

Some new items have been added to the list of what can be sought:

- Assistance or service animals used by the applicant or their dependent.
 - Defined as a canine that is specially trained or equipped to help a person with a disability and that is used by a person with a disability (*Human Resources Code § 121.002*).
- Wireless communication devices belonging to the applicant or their dependent.
 - Defined as a device that uses a commercial mobile service, as defined by 47 U.S.C. Section 332 (*Transportation Code § 545.425(a)*).
- Tools, equipment, books, and apparatus used by the applicant in their trade or profession.
 - **Question:** What is an example of something that would fall under this category?

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SB 1783: Fee in Lieu of Security Deposit

Offer & Notice

Property Code § 92.111; Applies only to a lease entered into or renewed on or after 9/1/21

- A landlord may offer a tenant the **option** of paying a nonrefundable fee instead of a security deposit.
 - Ex: \$25/month in addition to rent with no possibility of getting it back instead of \$600 up front with the possibility of a refund.
- The landlord must provide a written notice that includes:
 - the tenant's right to pay a security deposit instead;
 - that the tenant may terminate at any time and pay a security deposit in the amount offered to new tenants in substantially similar housing at that time; and
 - the amount of the fee and the deposit.

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<p>SB 1783: Fee in Lieu of Security Deposit</p>	<ul style="list-style-type: none"> Requires a written agreement signed by the landlord or their legal representative and the tenant. <ul style="list-style-type: none"> See Property Code § 92.111(f) for specific terms that must be included. Must be a recurring fee of equal amount payable at the time of rent payment. May only be used to buy insurance to protect against unpaid rent or damage to the premises (other than normal wear and tear) for which the tenant is liable and may not be more than the reasonable cost of insurance.
<p>Agreement & Other Requirements</p>	

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<p>SB 1783: Fee in Lieu of Security Deposit</p>	<ul style="list-style-type: none"> Before a landlord can file an insurance claim on a policy paid for by a fee in lieu of a security deposit, they must give the tenant proper notice of the claim within 30 days after the tenant leaves. The tenant may challenge that claim (but this would happen in a court other than a justice court). If that court rules for the tenant and finds that the claim is invalid, the landlord may not file the insurance claim.
<p>How Would this Come Up? – Insurer Suit (Part 1)</p>	<p>See Property Code § 92.111(j),(k) for more info on the procedures for notices and invalidation of claims.</p>

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<p>SB 1783: Fee in Lieu of Security Deposit</p>	<ul style="list-style-type: none"> But if the insurance claim is valid, the landlord files it, and it is paid out, then the insurer may try to recover from the tenant the amount that the insurer paid to the landlord. This could be heard in a justice court if it is within the jurisdictional limits.
<p>How Would this Come Up? – Insurer Suit (Part 2)</p>	

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<p>SB 1783: Fee in Lieu of Security Deposit</p>	<p>Requirements of Insurer Suit:</p> <ul style="list-style-type: none"> • Only an option if there is a subrogation clause in the insurance policy. • Must be within 1 year of the termination of tenant's occupancy. • The tenant is entitled to any defenses they would have raised against the landlord. • The insurer must include in the reimbursement demand: <ul style="list-style-type: none"> • evidence of damages/unpaid rent and repair costs that the landlord submitted to the insurer, and • a copy of the settled claim that documents payment to the landlord.
<p>How Would this Come Up? – Insurer Suit (Part 3)</p>	

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<p>SB 1783: Fee in Lieu of Security Deposit</p>	<p>Possible Defense to Insurer Suit:</p> <ul style="list-style-type: none"> • If the landlord filed an insurance claim when they shouldn't have (because they didn't give proper notice, or the claim was found to be invalid) – • The tenant won't be liable if the insurer brings a case against them for reimbursement of the amount that was paid to the landlord because the insurer never should have paid the claim in the first place.
<p>How Would this Come Up? – Insurer Suit (Part 4)</p>	

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<p>SB 1783: Fee in Lieu of Security Deposit</p>	<p>Possible Defense to Landlord Suit:</p> <ul style="list-style-type: none"> • If a landlord recovers from an insurance policy paid for by a fee in lieu of a security deposit, they can't also recover that money from the tenant in a lawsuit. • So, if the landlord sues the tenant and the evidence showed that they had already been paid by the insurer, the tenant will have a defense to the landlord's claim.
<p>How Would this Come Up? – Landlord Suit</p>	

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<p>SB 1783: Fee in Lieu of Security Deposit</p>	<p>Questions:</p> <ul style="list-style-type: none"> • How do you think a fee in lieu of a security deposit could come up as a defense in an eviction case? • If the fee is not paid as required, could the landlord recover the unpaid amount as part of an eviction suit?
<p>How Would this Come Up? – Eviction Case</p>	

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<p>HB 375: Early Lease Termination Due to Sexual Abuse – Current Law</p>	<p><i>Property Code § 92.0161(c)</i></p> <ul style="list-style-type: none"> • It was already the law that a tenant may terminate the tenant's rights and obligations under a lease without court involvement if the tenant is a victim or the parent/guardian of a victim of certain offenses or attempted offenses (as long as specific requirements are met). • This is covered in Ch. 15 of the Evictions Deskbook.
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<p>HB 375: Early Lease Termination Due to Sexual Abuse – New Law</p>	<ul style="list-style-type: none"> • One of those offenses – continuous sexual abuse of a child (<i>Penal Code § 21.02</i>) – has been amended so that it is now continuous sexual abuse of a child or disabled individual. • "Disabled individual" = a person older than 13 years of age who by reason of age or physical or mental disease, defect, or injury is substantially unable to protect the person's self from harm or to provide food, shelter, or medical care for the person's self.
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HB 531: Early Lease Termination for Floodplain Dwellings – Required Notice

Property Code § 92.0135; Effective 1/1/22, only applies to a lease entered into or renewed on or after that date

- A landlord must give a tenant the notice required by Property Code § 92.0135(b) stating whether the dwelling is located in a 100-year floodplain.
 - Not required to state that it is in a floodplain if the elevation of the dwelling is raised above floodplain levels.
- Also must disclose any flood damage that has occurred in the previous five years.
- These notices must be included in a separate written document, contain specific required language (*set out in Property Code § 92.0135(b),(d)*), and be given to the tenant at or before execution of the lease.

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HB 531: Early Lease Termination for Floodplain Dwellings - Termination

- If a landlord fails to provide the required information and the tenant suffers a substantial loss or damage to their personal property due to flooding, the tenant may terminate the lease.
 - The justice court is not involved with the actual termination.
 - Tenant must give written notice of termination no later than the 30th day after the loss or damage.
 - Substantial loss or damage = the total cost of repair or replacement is 50% or more of the market value on the date of the flooding.

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HB 531: Early Lease Termination for Floodplain Dwellings – Termination Effective Date

- Termination is effective when the tenant surrenders possession. No later than 30 days after that, all rent paid for any period after the termination date must be refunded.
- Any delinquent rent owed for periods before the termination date would still be owed by the tenant.

Question: So how might this come up in your court?

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SB 318: Production of Condominium Association Records

Property Code § 82.114(b), 82.1141; Applies only to a request for records made on or after 9/1/21

Adopts effectively the same procedures for production of records by a condominium association that currently apply to a property owners' association under Property Code § 209.005.



The procedures for the two types of associations will be covered in Chapter 13 of the revised Civil Deskbook (coming soon!).

22

HB 900: Landlord Not Liable for Execution of Writ of Possession

Property Code § 24.0061(i); Only applies to the execution of a writ of possession in an eviction case filed on or after 9/1/21

A landlord is not liable for damages to the tenant resulting from the execution of a writ of possession by an officer.

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Magistrations

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Magistrations Bill List

HB 1005:

Bond Requirements
for Prostitution and
Trafficking Offenses

HB 766:

Notice to sheriff of
Bond Conditions for
Violent Offenses

HB 1906:

Grant Program for
GPS Monitoring

HB 3774:

Protective Order
Registry

HB 3363/SB 112:

Search Warrants

SB 1047:

Blood Search
Warrants

SB 49:

Art. 16.22 and
Personal Bond
Procedures

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HB 1005: Bond Requirements for Prostitution and Trafficking Offenses –

Bail Bond Requirements

*Code of Criminal Procedure Art. 17.081;
Applies only to a bail bond that is executed
on or after 9/1/21*

- In addition to the standard requirements, a bail bond for a defendant charged with an offense under Section 20A.02, 20A.03, 43.02, 43.03, 43.031, 43.04, 43.041 or 43.05 of the Penal Code [trafficking of persons, prostitution and related prostitution offenses] must include:
 - the address, identification number, and state of issuance on a valid driver's license or identification card for the defendant and any surety.

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HB 1005: Bond Requirements for Prostitution and Trafficking Offenses –

Child Victim Bond Conditions

*Code of Criminal Procedure Art. 17.41(a); Applies only
to a person who is arrested on or after 9/1/21*

- For certain offenses committed against a child, the magistrate must impose as a bond condition that the defendant not communicate directly with the victim or go to or near their residence, school, etc. (unless supervised access applies).
 - Used to only apply if the victim was under 14, now it is if the victim is under 18.
- Two new offenses have been added to the list (Trafficking of Persons and Public Indecency).
- One offense was removed (Sexual Performance by a Child), but that is now covered by the Trafficking offense that was added.

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HB 1005: Bond Requirements for Prostitution and Trafficking Offenses –

Adult Victim Bond Conditions

Code of Criminal Procedure Art. 17.465; Applies only to a person who is arrested on or after 9/1/21

- For trafficking and prostitution offenses committed against a person who is 18 years of age or older:
 - a magistrate must now impose as a bond condition that the defendant not communicate directly or indirectly with the victim or go to or near their residence, place of employment, or a school or day-care facility where a dependent is in attendance.
- The magistrate must specifically describe the prohibited locations and the minimum distance the defendant must maintain.

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HB 766: Notice to Sheriff of Bond Conditions for Violent Offenses

Code of Criminal Procedure Art. 17.50; Effective 1/1/22

- A magistrate who imposes a bond condition on a defendant for a “violent offense” (listed in Art. 17.50(a)(3)) must notify the sheriff of the condition as soon as practicable but no later than the next day and provide the following information:
 - Identifying information listed in Government Code Sec. 411.042(b)(6);
 - Name & address of any person the condition of bond is intended to protect as well as the name & address of any victim of the alleged offense (if different);
 - The date the order releasing the defendant on bond was issued; and
 - The court that issued the order releasing the defendant on bond.
- DPS is required to develop a form by 12/31/21 to facilitate this requirement.

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HB 766: What is a “Violent Offense”?

- The list of violent offenses in Art. 17.50(a)(3) is the same as the list that already exists in Art. 17.032(a).

Activity: Find the 17.032(a) list in the appropriate deskbook to see what offenses are included.

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HB 766: Notice to Sheriff of Bond Conditions for Violent Offenses

- Any time there are bond conditions ordered for a violent offense, the magistrate must also notify the sheriff of any bond modification/revocation or disposition of underlying charges (if aware of the disposition).
- The sheriff must:
 - Enter/modify/remove (as applicable) the information in the TCIC database as soon as practical but no later than the next business day after receiving the information.
 - Make a good faith effort to notify anyone who is protected and/or the victim (if different and applicable) of the defendant's release.

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HB 766: Notice to Protected Person/Victim of Bond Conditions for Violent Offenses

- The clerk of the court must send a copy of the order to any named person the bond condition is intended to protect or any victim of the alleged offense (if different).
- Must be done by the next business day after the magistrate issued the order.

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HB 1906: Grant Program for GPS monitoring

Government Code § 772.0077; Effective immediately

A grant program has been created to reimburse counties for all or part of the costs of GPS monitoring in FV cases (under CCP Art. 17.292 or 17.49).

The criminal justice division established under Government Code § 772.006 will establish and administer the grant program (no info yet on program specifics or the application process – TJCTC will let everyone know if we hear anything).

This may be a good opportunity for counties that do not currently order GPS monitoring due to lack of funds.

33

HB 3774: Protective Order Registry

Government Code § 72.154, .155, .157, .158

- A few small changes regarding the registry, mostly do not matter for justice courts.
- Main thing: Information on EPOs already couldn't be accessed by the public through the registry, but courts must now ensure that a record of a vacated order is not accessible by the public through their courts either.
- Just as a reminder, here is where you can access the registry:
<https://www.txcourts.gov/judicial-data/protective-order-registry/>

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HB 3363/SB 112: Search Warrants

Code of Criminal Procedure Art. 18B.001, 18B Subchapter G-1

New search warrant added, but it may **not** be issued by JPs.

- Related to obtaining disclosure of location information that is held in electronic storage by an electronic communications service or a provider of a remote computing service.
- Must be filed in a district court.

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Search Warrants

Activity: Make a list of the warrants that you *can* issue.

Hint: it isn't cheating to look in the Magistration Deskbook.

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SB 1047: Blood Search Warrants

Code of Criminal Procedure Art. 18.067, 18.10; Applies only to a search warrant issued on or after 9/1/21

- May now be executed in any county adjacent to the county in which the warrant was issued by any law enforcement officer authorized to make an arrest in the county of execution.
- Evidence seized under a blood search warrant may now be removed from the county in which it was seized and returned to the county in which the warrant was issued without a court order.

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SB 49: Art. 16.22 and Personal Bond Procedures – Interview

Code of Criminal Procedure Art. 16.22; Applies only to a person arrested on or after 9/1/21

- A magistrate is not required to order an interview and collection of information if the defendant is no longer in custody.

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SB 49: Art. 16.22 and Personal Bond Procedures – Report

• In addition to the defense counsel, attorney for the state, and trial court, the magistrate must now also provide copies of the written report to:

- the sheriff or other person responsible for the defendant's medical records while confined; and
- as applicable:
 - Any personal bond office established under Art. 17.42 for the county where the defendant is confined; or
 - The director of the office or department that is responsible for supervising the defendant while released on bail and receiving mental health/disability services as a condition of bail.

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SB 49: Art. 16.22 and Personal Bond Procedures – Oath Requirement

Code of Criminal Procedure Art. 17.04; Applies only to a personal bond executed on or after 9/1/21

- The oath described by CCP 17.04(a)(3) is not required for a personal bond if:
 - the magistrate determines under Art. 16.22 that the defendant has a mental illness or intellectual disability;
 - the defendant is released on a personal bond under Art. 17.032; or
 - the defendant is found incompetent to stand trial under Ch. 46B.

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Criminal

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Criminal Bill List

HB 3774:

Acceptance of Guilty/Nolo Plea

HB 3774:

Obtaining Fingerprints in FV Cases

HB 1560:

Courses Ordered on Deferred and DSC

HB 1693:

Court Access to Verify Financial Responsibility

HB 3026:

Clarification of Laws for Automated Cars

HB 569:

Jail Credit

42

HB 3774: Acceptance of Guilty/Nolo Plea

Code of Criminal Procedure Art. 45.0241

- A judge may not accept a guilty/nolo plea in open court unless it appears to the judge that the defendant is mentally competent and that the plea is free and voluntary.

Question: What are some things that might indicate lack of competence or lack of a free and voluntary plea?

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HB 3774: Obtaining Fingerprints in FV Cases

CCP 66.252; Applies only to a case that is initially filed in justice or municipal court on or after 9/1/21 (regardless of when the offense occurred)

- At any time before final disposition of the case, the judge in a family violence case may order a law enforcement officer to use the uniform incident fingerprint card to take the fingerprints of a defendant who has been charged, but who was not placed under custodial arrest at the time of the offense.

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Obtaining Fingerprints in FV Cases – Best Practice

- It is a best practice to have a plan with your bailiff and other local law enforcement agencies on how you want to handle fingerprinting.
 - Many counties have agreements where defendants can report to a particular law enforcement office or the jail where this process is routinely done, so the fingerprinting can be done properly and efficiently.
 - If the bailiff has the proper equipment for fingerprinting, they can complete the fingerprint cards at a defendant's regular court appearance.
- An arrest warrant should **not** be issued just to get someone fingerprinted.

45

HB 1560: Courses Ordered on Deferred and DSC – Young Drivers Course

CCP 45.051(b-1), repealed: Educ Code 1001.111; Applies only to a court order entered on or after 6/1/23

- Before, if someone under 25 was given deferred for a moving violation traffic offense, the judge was required to order a driving safety course and could also choose to order an additional course designed for younger drivers.
- The mandatory course is still in place, but the option to order an additional course has been removed.

Note: the course shall continue in place until DPS determines that everyone subject to a court order entered before 6/1/23 has had adequate time to complete any ordered courses.

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HB 1560: Courses Ordered on Deferred and DSC – Safety Seat and Seat Belt Course (Part 1)

Repealed: Code of Criminal Procedure Art. 45.0511(u), Trans Code § 545.412(g) & 545.413(i); Effective 6/1/23

- The requirement for defendants doing DSC dismissal who are charged with a child safety seat or seatbelt offense under Transportation Code 545.412 or 545.413 to be ordered to take a specialized child safety seat/seat belt DSC (instead of the regular DSC) has been removed.
- The provision is also removed that would make defendants charged with an offense under 545.412 eligible for mandatory DSC as long as they haven't taken the **specialized** course in the past 12 months.

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HB 1560: Courses Ordered on Deferred and DSC – Safety Seat and Seat Belt Course (Part 2)

- Now, these offenses are treated like any other traffic offenses as far as DSC is concerned.

Note: the specialized courses shall continue in place until DPS determines that everyone subject to a court order entered before 6/1/23 has had adequate time to complete any ordered courses.

48

HB 1693: Court Access to Verify Financial Responsibility

Transportation Code § 601.455; Effective immediately

- Courts may now access the verification program (TexasSure) established under Ch. 601, Subchapter N of the Transportation Code to verify financial responsibility for the purpose of court proceedings.
- Costs to access the program shall be paid out of the county treasury by order of the commissioners court.
- TexasSure is currently working on getting a portal set up for judges. TJCTC will let everyone know when we have more information.

Question: Other than criminal cases, what type of proceeding could this be used for?

49

HB 3026: Clarification of Laws for Automated Cars

Laws that Govern

Transportation Code § 545.452; 547.618

- Remember the laws regarding automated vehicle laws that were added last session?
- This bill clarifies that the operation of automated motor vehicles and driving systems are governed exclusively by Transportation Code Ch. 545, Subchapter J and Section 547.618.

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HB 3026: Clarification of Laws for Automated Cars

Not Subject to Irrelevant Laws

- An automated motor vehicle that is designed to be operated exclusively by the automated driving system for all trips is not subject to motor vehicle equipment laws or regulations of this state that:
 - relate to or support motor vehicle operation by a human driver; and
 - are not relevant for an automated driving system.

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HB 3026:
**Clarification of Laws
for Automated Cars**
–
Inspections

- If a vehicle safety inspection is required under the Transportation Code for the operation of an automated vehicle, the vehicle shall automatically be considered to pass the inspection with respect to any equipment:
 - where requirements don't apply as described on the previous slide, or
 - for which inspection is not required under Section 548.051 (general list of vehicles and equipment subject to inspection).

Question: How might any of these provisions related to automated cars come up in a justice court?

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HB 569:
Jail Credit –

**When
Available**

*Code of Criminal Procedure Art. 45.041 (c),(c-1); Applies only if the defendant is **sentenced** on the justice court case on or after 9/1/21 (regardless of when the offense occurred)*

- Jail credit for fines and costs must now be given for incarceration on other offenses (and not just the current offense) if the confinement occurred after the commission of the offense for which the defendant is getting the credit.

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HB 569:
Jail Credit –

Rate

*Code of Criminal Procedure Art. 45.041, 45.048; Applies only to a defendant who is **sentenced** or who is **placed in jail** for failure to pay on the justice court case on or after 9/1/21 (regardless of when the offense occurred)*

- Minimum rate of credit is \$150 (used to be \$100).
 - Per day if for confinement on a different offense.
 - Per 8–24 hour period (as set by the judge) if for confinement on the offense receiving the credit.

Question: A defendant owes \$600 in fines and costs. After committing the current offense, they were confined on an unrelated offense for two days. How much do they owe now? What if they were confined on the other offense before the current offense was committed?

54

HB 569: Jail Credit – Notice

Code of Criminal Procedure Art. 45.014(e)

- The required notice before issuing an arrest warrant for a defendant's failure to appear at the initial court setting must now also include a statement that the defendant may be entitled to jail credit if the defendant was confined in jail or prison after the commission of the offense for which the notice is given.

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Truancy & Juvenile Criminal

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Truancy & Juvenile Criminal Bill List

SB 289 & HB 699:
Excused Absences

HB 3165:
Defense to Truant
Conduct

HB 80:
Community Service in
Lieu of Fine/Costs for
Certain Defendants

SB 2054:
Program to cover DSC
Fees for Certain
Defendants

SB 1480/HB 1560:
Court Ordered
Drug/Alcohol Education
Programs

HB 2669:
Confidentiality of
Juvenile Records

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SB 289: Excused Absence

Education Code § 25.087; Effective immediately, but applies beginning with the 2021-2022 school year

- A school district **may** excuse a student who is 15 years of age or older from attending school to go to a driver's license office to obtain a DL or learner's permit.
 - Can only excuse a maximum of one day to get a learner's permit and one day to get a license for all of high school.
 - The school district must adopt procedures to verify the reason for the absence.

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HB 699: Excused Absence

Edu Code 25.087(b), 25.0915(a-3); Effective immediately, but applies beginning with the 2021-2022 school year

- A school district **shall** excuse a student from attending school for an absence resulting from a serious or life-threatening illness or related treatment that makes attendance infeasible if the student or their parent/guardian provides a certification from a physician licensed in TX specifying:
 - the student's illness; and
 - the anticipated period of the student's absence relating to the illness or related treatment.

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HB 699: Excused Absence – No Truancy Referral

- If the school determines that the cause of the student's truancy is a severe or life-threatening illness or related treatments, the school shall:
 - offer additional counseling to the student; and
 - may not refer the student to truancy court.
- This was already the law for truancy caused by pregnancy, being in the state foster program, homelessness, or being the principal income earner for the student's family – this new category has just been added to the list.

60

HB 3165: Defense to Truant Conduct

Family Code § 65.003; Effective immediately, but applies beginning with the 2021-2022 school year

- New affirmative defense to truant conduct: If one or more of the absences were due to the child's voluntary absence from their home due to abuse (as defined by Family Code § 261.001).
- Not available if after deducting those absences, there are still sufficient unexcused absences to constitute truant conduct.
- The burden is on the child to show by a preponderance of the evidence that the defense applies.

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HB 80: Community Service in Lieu of Fine/Costs for Certain Defendants

Code of Criminal Procedure Art. 45.041(b-6); Applies to a sentencing proceeding that commences before, on, or after 9/1/21

- Notwithstanding any other provision of CCP Ch. 45, a judge may not require a defendant who is under the conservatorship of the Department of Family and Protective Services (DFPS) or in extended foster care (as provided by Family Code Chapter 263, Subchapter G), to pay any amount of the fine and costs imposed in a criminal case.
- Instead, the justice or judge may require the defendant to perform community service under Art. 45.049 or 45.0492.

Question: So what can the court do if they don't do the community service?

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SB 2054: Program to Cover DSC Fees for Certain Defendants

Transportation Code § 521.168

- On request (and if funds are available), DSC fees will be paid by the Texas Workforce Commission for foster or homeless children or youth under 26 years old and under DFPS care.
- The defendant would apply to the TX workforce commission for the fee to be paid and then it would be paid to the DSC provider.
- The court will not be involved with the process, but may want to let defendants know about the option.

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SB 1480: Court Ordered Drug/Alcohol Education Programs – Standards and Procedures

Government Code Ch. 171; Alcoholic Beverage Code § 106.115; Code of Criminal Procedure Art. 45.051

- Provides standards and procedures for court ordered education programs, including:
 - alcohol education programs for minors,
 - drug offense education programs,
 - intervention programs for intoxication offenses, and
 - education programs for intoxication offenses.

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SB 1480: Court Ordered Drug/Alcohol Education Programs – Must Complete Program

- A minor convicted of an offense under Section 49.02, Penal Code, or Section 106.02, 106.025, 106.04, 106.041, 106.05, or 106.07 must now complete (not just attend) the appropriate educational program.

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SB 1480: Court Ordered Drug/Alcohol Education Programs – Online Option

- It was already the law that if a defendant resides in a county of 75,000 or less and a course is not available, they can take a TDLR approved course online or perform not less than 8 hours of TDLR approved community service that is related to alcohol abuse prevention or treatment.
- There is a list of ways to determine residence.
- If none of them apply, it used to be determined “as provided by commission rule.” That has now been changed to as determined “by the court.”

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HB 1560 : Court Ordered Drug/Alcohol Education Programs – TEA Program Removed

Alcoholic Beverage Code § 106.115, Education Code § 1001.103;
Applies only to a court order entered on or after 6/1/23

- “Drug and alcohol driving awareness program approved by TEA” removed.
- Because alcohol and drug awareness programs will now be regulated by Government Code Ch. 171 as mentioned earlier.

Note: the TEA course shall continue in place until DPS determines that everyone subject to a court order entered before 6/1/23 has had adequate time to complete any ordered courses.

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HB 2669: Confidentiality of Juvenile Records

CCP 44.2811, 45.0217

- It looks like changes were made to the provisions related to confidentiality of juvenile records, but when you look at it more closely, the bill has really just moved some language around and added a definition.
- Nothing will actually change in practice.

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Fines, Fees, & Costs

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Fines, Fees, & Costs Bill List

SB 1373: Costs Include Reimbursement Fees	SB 41: Civil Fees and Costs	SB 1923: Criminal Fines, Fees, and Costs
SB 1373/HB 3774: Uncollectible Fines, Fees, and Costs	HB 3607: Technology Fund	

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SB 1373: Costs Include Reimbursement Fees

*Code of Criminal Procedure Art.
45.004; Applies to a fine, fee, or cost
imposed before, on, or after 9/1/21*

- A “cost” includes a reimbursement fee unless the context clearly indicates otherwise.

71

SB 41: Civil Fees and Costs – State Consolidated Civil Fee

Effective January 1, 2022

- In most counties the filing fee will be \$54 (\$46 for cases filed before January 1, 2022). This fee is now made up of the state consolidated civil fee (this slide) and the local consolidated civil fee (next slide).
- The **State Consolidated Civil Fee (\$21)** consolidates the fees below into one fee. This is sent to the county treasurer and then to the comptroller. (*Local Government Code § 133.151(a-1) and related Ch. 133 provisions – see handout.*)

\$6: Indigent
Legal Services

\$10: E-filing
System Fund

\$5: Judicial
Education Fund

72

SB 41: Civil Fees and Costs – Local Consolidated Civil Fee

- The **Local Consolidated Civil Fee** for justice court (**\$33**) is made up of the fees below. This is sent to the county treasurer for deposit in the county treasury. (*Local Government Code § 135.103 and related Ch. 135 provisions – see Bill Chart handout*).

\$25: Justice Court Support Fund	\$5: County Dispute Resolution Fund	\$3: Language Access Fund
<ul style="list-style-type: none"> • Replaces money collected as part of \$25 civil filing fee (<i>repealed Local Government Code 118.121(1)</i>). • May only be used to cover costs of services provided by a justice court. 	<ul style="list-style-type: none"> • Replaces optional \$5 ADR fee (<i>repealed CPRC 152.005</i>). • No longer discretionary. • May only be used to help fund an ADR program set up by a county under CPRC Ch. 152. 	<ul style="list-style-type: none"> • Replaces \$3 interpreter fee (<i>repealed CPRC 21.051</i>). • May only be used to help pay for required interpreter services.

73

SB 41: Civil Fees and Costs – When Filing Fee is Assessed

- In addition to when the filing fee would already be charged, it now also needs to be charged on a motion for new trial or appeal.
- What about appeals in other types of cases (such as a dangerous dog case)?
 - If you wouldn't charge a filing fee to initiate the case, then don't charge it for an appeal.

74

SB 41: Civil Fees and Costs – Other Fees

Government Code § 411.0745(b): Changes fee for nondisclosure order from \$28 to regular civil filing fee.

Occupations Code § 2308.457: Takes away the \$20 tow hearing fee – now just charge the standard civil filing fee.

Transportation Code 372.107(c): Changes the filing fee from \$100 to the standard civil filing fee for toll hearings.

Multiple sections from Government Code Ch. 51 repealed: Takes away several county-specific filing fees.

75

SB 41: Civil Fees and Costs – Effective Date Rule

Government Code § 51.607 (the same provision is in SB 1923)

- The rule about when a cost/fee change goes into effect has changed.
- If the effective date is on or after Jan 1 following the regular session when the law was enacted, it goes into effect on the effective date of the law.
- If the effective date is prior to Jan 1 following the regular session when the law was enacted, it goes into effect Jan 1.

76

Effective Date Rule Quiz

Answer the following questions:

- A bill that changes fees and costs goes into effect on 9/1/21. When do the changes apply?
- A bill that changes fees and costs goes into effect on 1/1/22. When do the changes apply?

77

SB 1923: Criminal Fines, Fees, and Costs – Conviction Definition

- *Code of Criminal Procedure Art. 101.004*: Adds a definition of “conviction” for all of Title 2 (Ch. 101-104) and removes the definitions that were in Articles 102.018(c)(1), 102.011(j), and 102.014(e).
- So now, for the purposes of all of Title 2, it counts as a “conviction” if:
 - a judgment, sentence, or both are imposed on a defendant;
 - the defendant receives community supervision, deferred adjudication, or deferred disposition; or
 - the court defers final disposition of the case or defers imposition of judgment and sentence.

78

SB 1923: Criminal Fines, Fees, and Costs – Time Payment Reimbursement Fee

- This is the main thing that is impacted by the “conviction” definition change discussed on the previous slide.
- Now, the Time Payment Reimbursement Fee applies to deferred disposition and DSC cases (*where the orders are signed on or after 9/1/21*) if the defendant pays any amount due more than 30 days after the order to pay.
- Before, the fee could only be assessed if the defendant was actually convicted following a show cause hearing and then paid the amount due more than 30 days after that.

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SB 1923: Criminal Fines, Fees, and Costs – Other Reimbursement Fees

- *Local Government Code § 133.058(d)*: Just adds “reimbursement or other” before fee.
- For all of the following, the “fine” for a compliance dismissal is changed to a reimbursement fee:
 - *Parks and Wildlife Code § 31.127(f)*
 - *Transportation Code § 502.407(b), 502.473(d), 502.475(c), 504.943(d), 504.945(d), 521.026(b), 521.054(d), 521.221(d), 547.004(c), 548.605(e), 681.013(b)*

Question: What does this change in practice?

80

SB 1373/ HB 3774: Uncollectible Fines, Fees, and Costs

*Code of Criminal Procedure Art. 103.0081;
Applies to a fine, fee, or cost imposed before,
on, or after 9/1/21*

- Adds “fines” and “reimbursement fees” to the uncollectible fees statute.
 - “Fees” and “items of cost” were already included.
- Reminder: this is the statute that allows outstanding amounts owed to be deemed uncollectible (and enforcement efforts to be ceased) if:
 - the defendant is deceased or serving a life sentence, or
 - if the amount has been unpaid for 15 years.

81

HB 3607: Technology Fund – Part 1

CCP 102.0173

- You may remember – last session, there were two bills that amended the tech fund statute.
- There was some confusion around the different versions and when they were effective, and some counties took the position that the tech fund could **not** be used to pay court personnel salaries and/or to assist a constable's office or other county department with a technological enhancement.

82

HB 3607: Technology Fund – Part 2

- The statute has now been reenacted with just one version and it clears up any confusion:
 - Tech fund money **may** be used for court personnel salaries and benefits (CCP 102.0173(b)(1)).
 - Tech fund money **may** be used to assist a constable's office or other county department with a technological enhancement, or cost related to the enhancement, if the enhancement directly relates to the operation or efficiency of the justice court. (CCP 102.0173(d)).

83

HB 3607: Technology Fund – Part 3

- *Note:* the commissioners court is still in charge of administering the fund and must approve expenditures, but these **are** options.

84

Other Topics

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Other Topics Bill List

HB 19:
Civil Liability of CMV
Owner/Operator

SB 8:
Abortion Regulations
(Can't be Filed in
Justice Court!)

HB 918:
Early Handgun
License When
Protected by PO/EPO

HB 1927:
Carrying a Handgun

HB 3340:
Stay of Dog's
Destruction

HB 1419:
Inquests on
Unidentified Persons

86

HB 19: Civil Liability of CMV Owner/Operator

CPRC Ch. 72, Subchapter B; Applies only to an action commenced on or after 9/1/21

- A subchapter was added regarding civil liability of CMV owners/operators and covers various topics, including:
 - Procedures for bifurcated trials in certain actions.
 - Admissibility of evidence of failure to comply with regulations or standards.
 - Liability for employee negligence.
 - Admissibility of visual depictions of an accident.
- Most of these cases will likely be outside of justice court jurisdiction, but now you will know where to find the law if one comes up.

87

**SB 8:
Abortion
Regulations
(Can't be
Filed in
Justice
Court!)**

*Health & Safety Code § 107.205 – 107.207;
Applies only to an abortion performed or
induced on or after 9/1/21*

- Prohibits abortion if a fetal heartbeat can be detected except in cases of medical emergency and provides a civil cause of action.
- Injunctive relief is a mandatory part of any order entered under this statute. As a result, these cases may not be heard in a justice court.

Question: So what do you do if one of these cases is filed in your court?

88

**HB 1927: Carrying a
Handgun**

Penal Code § 30.05, 30.06, 30.07, 46.03, Government Code § 411.186; Applies only to an offense committed on or after 9/1/21

- Basically, a license to carry is not required (but is still an option) if a person is 21 or older and not otherwise prohibited from carrying a handgun.
 - Has to be concealed or in a holster (same as for licensed holders).
- Everyone who is already prohibited from possessing/carrying is still prohibited (including if subject to an EPO) – this applies whether or not they have a license.
- Carrying is still prohibited in certain locations (whether licensed or not).

89

**HB 1927: Carrying a Handgun –
Penal Code § 30.05**

Offense: Criminal Trespass

Context:

- A person commits an offense if the person enters or remains on or in property of another, including residential land, agricultural land, a recreational vehicle park, a building, or an aircraft or other vehicle, without effective consent and the person:
 - had notice that the entry was forbidden; or
 - received notice to depart but failed to do so.

90

HB 1927: Carrying a Handgun – Penal Code § 30.05(c)

Requirements for notice that entry is forbidden if carrying a firearm:

- A person may provide notice that firearms are prohibited on the property by posting a sign at each entrance to the property that:
 - includes language that is identical to or substantially similar to the following: "Pursuant to Section 30.05, Penal Code (criminal trespass), a person may not enter this property with a firearm";
 - includes the above language in both English and Spanish;
 - appears in contrasting colors with block letters at least one inch in height; and
 - is displayed in a conspicuous manner clearly visible to the public.

91

HB 1927: Carrying a Handgun – Penal Code § 30.05(d-3)

Punishment if the trespass was based solely on having entered the property with a firearm when it was forbidden to do so:

- Class C misdemeanor punishable by a fine not to exceed \$200
- **Except** that it is a Class A if it is shown at trial that after entering the property with the firearm or other weapon, the actor personally received proper notice that entry with a firearm or other weapon was forbidden and subsequently failed to depart.

92

HB 1927: Carrying a Handgun – Penal Code § 30.05(f)

Defense slightly changed:

- It is a defense to prosecution under this section that:
 - the basis on which entry on the property was forbidden is that entry with a handgun was forbidden;
 - the person was carrying a license issued under Subchapter H, Chapter 411, Government Code, to carry a handgun;
 - and the handgun was carried in a concealed manner or in a ~~shoulder or belt~~ holster.

93

HB 1927: Carrying a Handgun – Penal Code § 30.06 & 30.07 (Part 1)

Context:

- Both are Class C misdemeanors depending on the circumstances.
- 30.06: Trespass by license holder with a concealed handgun
 - A license holder commits an offense if they carry a concealed handgun on the property of another without effective consent and received notice that entry on the property by a license holder with a concealed handgun was forbidden.
- 30.07: Trespass by license holder with an openly carried handgun
 - A license holder commits an offense if the license holder openly carries a handgun on property of another without effective consent; and received notice that entry on the property by a license holder openly carrying a handgun was forbidden.

94

HB 1927: Carrying a Handgun – Penal Code § 30.06 & 30.07 (Part 2)

Small changes to definition and exception in both statutes:

- Definition of license holder refers to 46.03 instead of 46.035 now.
 - 46.035 was repealed, but the definition didn't actually change, it just got moved to 46.03.
- An exception also now refers only to 46.03 and not 46.035.
 - It is an exception if "the property on which the license holder carries a handgun is owned or leased by a governmental entity and is not a premises or other place on which the license holder is prohibited from carrying the handgun under Section 46.03 or ~~46.035~~."
 - The places where carrying is prohibited that used to be listed in the now repealed 46.035 were moved to 46.03.

95

HB 1927: Carrying a Handgun – Penal Code § 30.06 & 30.07 (Part 3)

Defense slightly changed for both statutes :

- "It is not a defense to prosecution under this section that the handgun was carried in a ~~shoulder or belt~~ holster."

96

HB 1927: Carrying a Handgun - Penal Code § 46.03 (Part 1)

Offense: Places Weapons Prohibited

- Only a Class C if the weapon is a location-restricted knife.
- Places added:
 - Civil commitment facility
 - Rooms where a government entity meeting is held (if the meeting is an open meeting under GC 551 and the entity provided the notice required by that chapter).
- Place removed: church, synagogue, or other established place of religious worship.

97

HB 1927: Carrying a Handgun - Penal Code § 46.03 (Part 2)

- See 46.03(a) for the full list of places and 46.03(c) for definitions of certain places (a few definitions have been moved over from the now repealed 46.035, but the content is the same).
- Exceptions under 46.15(b) now also apply to the government entity meeting place mentioned on the previous slide.
 - Includes things like if engaged in actual discharge of duties for armed forces or as a prison guard, traveling, on duty security officer, personal protection officer, has a license and is carrying concealed or in a holster, ABC permit and supervising operations, related to law enforcement class activities, etc.

98

HB 1927: Carrying a Handgun – Government Code § 411.186 (Part 1)

Handgun Licenses:

- One of the possible reasons for revocation of a handgun license was removed: Conviction of an offense under Penal Code § 46.035 (Unlawful carrying of handgun by license holder).
- This was removed because 46.035 was repealed. But, as previously mentioned, parts of it were moved to other places, such as 46.03.

99

HB 1927: Carrying a Handgun – Government Code § 411.186 (Part 2)

- Now, some of what would have resulted in revocation from a 46.035 conviction could still result in revocation under 411.186(a)(3).
- 411.186(a)(3) says that a license is revoked if the license holder becomes ineligible under 411.172, unless the sole basis for the ineligibility is that the license holder is charged with certain offenses.
- One way to lose eligibility under 411.172 that is not excepted by the above is to be **convicted** of a felony. So, if a person is convicted of a felony for an offense that used to be under 46.035 and is now under 46.03, they would become ineligible under 411.172 and their license would be revoked.

100

HB 918: Early Handgun License When Protected by PO/EPO – Eligibility

*Government Code § 411.172(i), 411.1735, 411.205;
Applies only to a completed application received by
DPS on or after 9/1/21*

- Generally, a person must be 21 to get a handgun license.
- There was already a military exception to this, and now a person also can get a license before turning 21 if they are:
 - At least 18 years old,
 - Protected under a protective order or EPO, and
 - Otherwise meets the requirements to be eligible for a license under Section 411.172(a), Govt. Code.
- The court may let protected parties know about this option when issuing an EPO.

Question: How else might this come up in a justice court?

101

HB 918: Early Handgun License When Protected by PO/EPO – Requirements

- The license must contain a protective order designation on the face of the license.
- When asked to display their license by an officer or magistrate, the license holder must also display the PO/EPO.
- The license expires when the PO/EPO is rescinded or expires or on their 22nd birthday, whichever is earlier.

102

HB 3340: Stay of Dog's Destruction

Health and Safety Code § 822.042(e-1); Applies only to an order issued by a court on or after 9/1/21

- In dangerous dog proceedings, a court sometimes has to order a dog to be destroyed.
- It was already the law that a dog could not be destroyed pending the appeal of one of these cases.
- But now, any order to destroy a dog is also automatically stayed for a period of 10 calendar days from when it is issued in order to give the owner time to file an appeal.

Question: Why is this important?

103

HB 1419: Inquests on Unidentified Persons

Reporting Requirement

CCP Art. 49.04(e); Applies only to inquests commenced on/after 9/1/21

New reporting requirement when a JP investigates the death of an unidentified person: **National Missing and Unidentified Persons System (NamUs)**.

- Must enter all available identifying features of the unidentified body (fingerprints, dental records, any unusual physical characteristics, and a description of the clothing found on the body).
- Report must be made no later than the 10th working day after one or more identifying features of the unidentified body are determined, or the 60th day after the investigation began, whichever is earlier.

104

HB 1419: Inquests on Unidentified Persons

NamUs Info

- NamUs is administered and funded by the National Institute of Justice and managed through a cooperative agreement with UNT Center for Human Identification.
- They provide an online clearinghouse, free forensic services, investigative support, victim services, and training and outreach services.
- More information about NamUs can be found on their website: <https://www.namus.gov>.

105

Looking Up Changes in Statutes Online

106

Texas Statutes Website

- <https://statutes.capitol.texas.gov/>
- This is the website we've provided often that contains the text of all the statutes.
 - Note: when a statute has been changed but the changes aren't integrated yet, there will be a note and a link to the relevant bill immediately above the statute.

If you need a reminder later for how to use this site, check out this self-paced module:

- The People's Court: Overview, Resources, and Ethics (Part 3: Resources That Will Help You Do Your Job)
- <https://www.tjctc.org/onlinelearning/selfpacedmodules.html>

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Using the Texas Statutes Website – Example

Let's say the court is going to hear a truancy case and you decide to look up the definition of truant conduct just to make sure you're remembering what exactly has to be proven. So you pull up Family Code § 65.003 and see that there is a note that the section has been amended.

Let's use the link in that note to find out what was changed!

- Click on the bill link in the note above the section to see the text of the bill.
- Find the statute in the bill (bills can change just one or multiple statutes).
 - Ctrl + F can be a good tool!
- Double check the effective date and any notes (found at the bottom of the bill).

108

Using the Texas Statutes Website - Questions

- What do you do if there is more than one bill listed in the note?
- What do you do if the part of the section you are looking at is not mentioned in the bill?

109

Using the Texas Statutes Website – You Try!

Now let's say that a criminal docket is set for the next day and you take a look at CCP 45.041 to remind yourself of the options for judgments. You see a note that the section has been amended.

Look at the note and figure out what was changed!

110

Texas Legislature Online Website

- <https://capitol.texas.gov/>
- This website lets you look up bills by bill number or by search terms!

If you need a reminder later for how to use this site, refer to the "How to Use Texas Legislature Online" handout.

111

Using Texas Legislature Online – Example

We discussed earlier how when there is a fee instead of a security deposit, a written agreement is required and that it must include specific terms.

- That slide referred you to Property Code § 92.111(f) (SB 1783) for more information about what those terms are.

Let's use Texas Legislature Online to find out what exactly is required!

- *Pull up the bill on the website.*
- *Find the statute in the bill (bills can change just one or multiple statutes)*
 - *Ctrl + F can be a good tool!*
- *Double check the effective date and any notes (found at the bottom of the bill).*

112

Using Texas Legislature Online – You Try!

We discussed earlier how specific notices are required for flood plain dwellings and that a tenant can terminate their lease if the notices are not provided, and the tenant then suffers substantial loss or damage to their property due to flooding.

- That slide referred you to Property Code §92.0135(b),(d) (HB 531) for more information on the required language of the notices.

Use Texas Legislature Online to find out what exactly is required!

113

Questions?

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