**Magistration Module Addendum for September 2023 Legislative Updates:**

**Chapter 1: Introduction to Magistration and Probable Cause:**

Orders Signed by a Magistrate

CCP Art. 2.101: Any signed orders issued by a magistrate must include the magistrate's signature, the magistrate's name in legible handwriting, legible typewritten form, or legible stamp print.

A defendant in a criminal action can make a motion to have the magistrate’s name added if the order is relevant to the action and the defendant is unable to identify the magistrate who signed the order.

**Chapter 2: Magistrating at the Jail:**

Boating While Intoxicated w/ Child Passenger

CCP Art. 17.441(a): Added to list of offenses where ordering an Ignition Interlock Device as a bond condition is required for subsequent offenses.

Electronic Monitoring Device

Penal Code § 38.112: New state jail felony offense added if a person removes/tampers with an electronic monitoring device that they are ordered to have (which could be ordered as a bond condition).

So, they could get a new criminal case, but there could also still be consequences with the bond in their existing case (revocation/modification).

Prohibited Actions in Bond Conditions & EPOs

CCP Art. 17.49(b) & CCP Art. 17.292(c): Adds to bond condition and Magistrate’s Emergency Protective Orders (EPO) options when defendant is charged with an offense involving family violence and committed on/after effective date:

* Refrain from tracking or monitoring personal property or a motor vehicle in the possession of the alleged victim of the offense, without the victim's effective consent, including by:
  + using a tracking application on a personal electronic device in the possession of the victim and/or family/household member or using a tracking device; or
  + physically following the victim and/or family/household member or causing another to physically follow the victim.

Reporting Bond Condition Information

CCP Art. 17.50: The reporting of bond condition information and entry of that information into TCIC is already required for violent offenses.

This reporting requirement is now also required for stalking (Penal Code § 42.072).

Protective Order Registry

Government Code § 72.154(a) & 72.155: PO registry maintained by OCA must now also be searchable by any known common misspellings of the name and any known aliases of a subject of a PO.

Adds magistrates to the list of ppl who can access certain restricted info on the PO registry (ex: applications, vacated orders, EPOs).

Mental Health Procedures at the Jail

CCP Art. 16.22(a): Notice from sheriff that a person may have a mental illness or intellectual disability is now required for all offenses, not just Class B offenses or higher.

And the magistrate may, but is not required to order the interview/collection of information by a mental health or intellectual and developmental disability expert if the defendant was only arrested or charged with a Class C.

A report is only required to state whether a complete competency exam is warranted if the defendant is charged with a felony or with a misdemeanor punishable by confinement.

If charged with a violent offense listed under 17.03 that is not listed in 17.032, now eligible for release under 17.032 (if all other requirements met), when would have been prohibited before.

If Art. 17.03(b-2)(2) applies, now eligible for release under 17.032 (if all other requirements met), when would have been prohibited before.

17.032(b-2)(2)= while released on bail or community supervision for an offense involving violence, defendant is charged with a felony, assault bodily injury, deadly conduct, terroristic threat, or disorderly conduct involving firearm.

**Chapter 3: Warrants**

Emergency Detention Warrant/Order

HSC § 573.012(d-1),(h): A peace officer doing the transport:

* is not required to remain at the facility while the person is screened/treated/having insurance verified; and
* may leave immediately after the person is taken into custody by the facility staff and the peace officer has provided the required documentation.

Adds "or a licensed mental health professional employed by a local mental health authority" to who can submit an EDO app electronically (along with “physician”).

HSC § 573.012(e),(h),(h-2),(h-3): Shall (instead of may) allow electronic application from physician.

A facility may detain a person who is physically located in the facility to perform a preliminary examination under HSC § 573.021 if:

* The magistrate transmits an EDO to the facility under § 573.012(h-1) for the detention of the person; and
* The person is not already under an order under Chapter 573 or 574.

OCA shall (as soon as practicable) develop and implement a process for an applicant to electronically present the application under § 573.012(h) and for a judge or magistrate to electronically transmit a warrant under § 573.012(h-1).