

**2013 LEGISLATIVE UPDATE**  
**83<sup>RD</sup> LEGISLATURE REGULAR SESSION**

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## **2013 LEGISLATIVE UPDATE 83<sup>RD</sup> LEGISLATIVE REGULAR SESSION**

What follows is a quick summary of the most obvious. Unless otherwise noted, the vast majority of the changes go into effect September 1, 2013.

### **BILLS AFFECTING THE CODE OF CRIMINAL PROCEDURE**

#### **HB 833: Writs in Non Death Penalty Cases**

Amends Section 3(d), Article 11.07, Code of Criminal Procedure, to require the reporter who is designated to transcribe a hearing to, immediately upon completion of the transcript of a hearing held pursuant to Article 11.07 (Procedure After Conviction Without Death Penalty), transmit the required transcript to the clerk of the convicting court.

#### **HB 2025 Concurrent Jurisdiction of Neighboring Muni Courts**

H.B. 984, 82nd Legislature, Regular Session, 2011, allowed neighboring municipalities to enter into an agreement to establish concurrent jurisdiction for their municipal courts in certain cases and to provide original jurisdiction in those cases to a municipal court in either municipality. The provisions of H.B. 984 applied only to an offense committed or conduct that occurs after the effective date of an agreement, meaning that an offense committed or conduct that occurred before the agreement would remain under the sole jurisdiction of the municipality in which the case was originally brought. H.B. 2025 modifies the effective language of Article 4.14(g) of the Code of Criminal Procedure to allow each municipality that enters into a concurrent jurisdiction agreement to have original jurisdiction over offenses committed or conduct that occurs in either of the municipalities before the date of the agreement.

#### **CSHB 2268: Search Warrants for Data**

Internet communications companies often hold information and although certain electronic communications may take place within a state, law enforcement officers must apply for a local search warrant in an internet company's jurisdiction, often found out of state. C.S.H.B. 2268 adds customer data, transactional data, and content of communications related to electronic or wire communication providers to the list of grounds for issuance of a search warrant found in Article 18.02 of the Code of Criminal

Procedure. The bill also adds Article 18.21 5(a) which creates a data search warrant which operates differently from a traditional search warrant in three ways. First, a data search warrant allows employees of the electronic communication company that is subject of the warrant to perform the search rather than a peace officer. Second, the data search warrant extends the time allowed to serve the warrant on the company's representative. The bill also provides a timeline for return of the data sought. In addition, C.S.H.B. 2268 extends the jurisdiction of district judges by granting them privileges to issue data search warrants beyond the physical boundaries of the state for computer data searches only.

#### **SB 34: Psychoactive Medication in Residential Care Facilities**

Concerns have been raised that current law does not adequately outline requirements for the administration of psychoactive medications to persons in residential care facilities, including state-supported living centers. According to industry experts, these types of drugs, which include antipsychotics, antidepressants, antianxiety agents, sedatives, hypnotics, sleep-promoting drugs, and psychomotor stimulants, can affect a person's central nervous system and modify behavior, cognition, and emotional state. Observers point to a recent federal report asserting that many patients receive psychotropic medication without a proper diagnosis and that the absence of adequate behavioral assessments to identify the causes of maladaptive behaviors contributes to misuse of psychotropic medications, with many patients receiving multiple medications for the same condition. The new law amends Article 46B.086 (a) and (b) as well as various provisions in Chapter 592 of the Health and Safety Code to add procedural safeguards for the administration of forced medication.

#### **SB 270: Limited Exception For Releasing Juror Info**

Under Article 35.29 (Personal Information About Jurors), Code of Criminal Procedure, juror information is confidential and may not be disclosed by the court, the prosecuting attorney, the defense counsel, or any court personnel. In post-conviction capital defense cases, post-conviction counsel must apply to the trial court for access to juror information. This process takes anywhere from one to two months on average and costs time and resources to the state. S.B. 270 carves out a very narrow exception allowing the defense counsel in the original case to disclose the juror information (juror surveys) to successor counsel in post-conviction cases.

**SB 336: Qualifications of a ME**

Amends Article 49.25 of the Code of Criminal Procedure. To be appointed as a medical examiner in Texas, one must be a physician licensed by the Texas Medical Board; however, it is unclear whether a provisional license suffices. S.B. 336 provides that a person can be appointed as a medical examiner if the person is licensed and in good standing as a physician in another state, has applied to the Texas Medical Board for a license to practice medicine in Texas, and has been granted a provisional license under Section 155.101 (Provisional License to Practice in Certain Areas), Occupations Code.

**SB 345: Abolition of the State Boot Camp Program**

S.B. 345 repeals Section 8, Article 42.12, Code of Criminal Procedure, and Section 499.052, Government Code relating to the state boot camp program. Beginning September 1, 2013, the bill prohibits a judge from recommending a person for placement in the program and establishes that a program participant remains a participant only until the later of the following dates: the date on which the convicting court suspends further execution of the sentence and reassumes custody of the person or the date on which the Texas Department of Criminal Justice (TDCJ) transfers the person to another unit in TDCJ. The bill specifies that statutory provisions relating to the program are continued in effect for the limited purpose of the orderly abolition of the program.

**SB 369 Info available to public on Sex Offenders**

Current law requires the Texas sex offender registry to include in the public database the name and address of the employer of an individual who is mandated to register under Article 62.005(b) of the Code of Criminal Procedure. S.B. 369 amends that article to remove the requirement and to move the name and address of the employer to the nonpublic database utilized by law enforcement.

**SB 391: Offenders Obligation to pay Fine & Court Costs after Expiration of CS**

S.B. 391 amends 42.12 Section 11 of the Code of Criminal Procedure to clarify that a defendant's obligation to pay a fine or court cost as ordered by a judge exists independently of any requirement to pay the fine or court cost as a condition of the defendant's community supervision. The bill specifies that a defendant remains obligated to pay any unpaid fine or court cost after the expiration of the defendant's period of community supervision.

**SB 457: Confidentiality of Autopsy Records**

Under current law, photographic and x-ray autopsy records held by a medical examiner are not

subject to mandatory disclosure under the Texas Public Information Act. However, current law provides that each time a request for such records is made, the medical examiner must request a decision from the attorney general regarding whether they must be disclosed. S.B. 457 amends Section 11, Article 49.25, Code of Criminal Procedure to provide that the governmental body is not required to seek an open records decision from the Texas attorney general if the governmental body declines to provide the photograph or x-ray.

**SB 1096: Monthly Fee for Probationers**

Current law provides a judge the discretion to terminate a defendant's period of community supervision once the defendant satisfactorily completes one-third of the original community supervision period. However, the law does not preclude a judge from requiring the defendant to continue to pay the monthly fee imposed on the defendant after terminating the community supervision. S.B. 1096 amends Section 19, Article 42.12 of the Code of Criminal Procedure to prohibit a judge from requiring a defendant to pay the fixed monthly fee imposed on the defendant for any month after the community supervision has been terminated by the judge.

**SB 1173: State Jail Felony Probations**

C.S.S.B. 1173 amends Article 42.12, Sections 9 and 15 of the Code of Criminal Procedure to require a presentence investigation report for every defendant charged with a state jail felony. This report shall contain recommendations for conditions of community supervision that the community supervision and corrections department considers advisable or appropriate based on the circumstances of the offense and other factors addressed in the report. Additionally, the new language requires the judge, in any case in which the jury assesses the punishment, to follow the recommendations of the jury in suspending the imposition of such a sentence or ordering such a sentence to be executed in whole if a jury assessing punishment does not recommend community supervision. When the judge is responsible for sentencing, the bill authorizes the judge to order the sentence to be executed in whole or in part, with a term of community supervision to commence immediately on release of the defendant from confinement. If the judge determines that the best interests of justice require the judge to suspend the imposition of the sentence and place the defendant on community supervision, then the judge will impose conditions of community supervision consistent with the recommendations contained in the presentence investigation report prepared for the defendant.

### **SB 1189: Disposition of Certain Firearms**

S.B. 1189 amends Chapter 573.001, Health and Safety Code, by incorporating language that specifically authorizes peace officers to hold any firearm found on or about a person who is in a mental health crisis, is determined to be a danger to self or others, and is being detained and transported for an emergency mental health evaluation. Additionally, S.B. 1189 adds Article 18.191, Code of Criminal Procedure, to provide law enforcement with the necessary time to conduct follow-up investigations of the person taken for an emergency evaluation to determine whether the case was dismissed or the person was court ordered into in-patient psychiatric treatment. This bill requires the concerned courts of each county to verify for the investigating law enforcement agency if the person received court ordered in-patient psychiatric treatment, so that the agency will know whether or not it is permissible to return the firearm. Article 18.191 also includes procedures for law enforcement agencies to return the weapon to the owner or other potential party.

### **SB 1238: Forensic Science Commission**

This bill is a major re-write of Section 38.01 of the Code of Criminal Procedure relating to the composition, duties and investigations conducted by the Texas Forensic Science Commission.

### **SB 1292 DNA Testing in Death Penalty Cases**

S.B. 1292 amends Article 38.43 of the Code of Criminal Procedure to require the Department of Public Safety (DPS), before a defendant is tried for a capital offense in which the state is seeking the death penalty, to perform DNA testing, in accordance with DPS's capabilities at the time the testing is performed, or have DNA tested by an accredited crime laboratory, on all biological evidence that was collected as part of an investigation of the offense. The bill requires the laboratory that performed the DNA testing to pay for such DNA testing. The bill requires the court, as soon as practicable after the defendant is charged with a capital offense, or on motion by the state or the defendant in a capital case, to order the state and the defendant to meet and confer about which biological materials collected as part of an investigation of the offense qualify as biological evidence that is required by the bill's provisions to be tested by DPS. The bill requires the biological evidence to be tested in accordance with the bill's provisions if the state and the defendant agree on which biological materials constitute biological evidence. The bill authorizes the state or the defendant, if the state and the defendant do not agree on which biological materials qualify as biological evidence, to request the court to hold a hearing to determine the issue and requires the court,

on receipt of such a request, to set a date for the hearing and provide written notice of the hearing date to the state and the defendant. The bill specifies that, at the hearing, a request by the defendant to test biological material is prima facie evidence that the biological material constitutes biological evidence that is required to be tested under the bill's provisions.

S.B. 1292 requires a laboratory that tested an item of biological evidence that is destroyed as a result of the DNA testing to provide to the defendant any documentation related to the testing of the evidence and the results of that testing. The bill specifies that a defendant is not entitled to a new trial or to a new sentencing proceeding based solely on a violation of the bill's provisions, but authorizes a defendant to have another accredited crime laboratory perform additional testing of any biological evidence required to be tested under the bill's provisions. The bill authorizes a defendant, on an ex parte showing of good cause to the court, to perform testing of any biological material that is not required to be tested under the bill's provisions and makes the defendant responsible for the cost of any such additional testing performed.

### **SB 222: Venue in Computer Crimes Cases**

Under current law, there is no provision for venue for prosecution of a computer crime in the jurisdiction where a victim resides if it is different from the offender. S.B. 222 amends section 13.25 (Computer Crimes), Code of Criminal Procedure, by adding language to include "any county in which an individual who is a victim of the offense resides" to the venue options for the prosecution of computer crimes.

### **SB 727: Burglary w/ Intent to Commit Sex Assault is Now 3G**

Section 3(g), Article 42.12, Code of Criminal Procedure, prohibits persons convicted of certain serious and violent crimes from receiving judge-ordered community supervision. S.B. 727 adds burglary with intent to commit a sexual offense to the list of offenses in Section 3(g) thereby making persons convicted of this offense ineligible for judge-ordered community supervision, as well as ineligible for release on parole until the inmate's actual calendar time served, without consideration of good conduct time, equals one-half of the sentence or 30 calendar years, whichever is less.

### **SB 12: Evidence of Other Sex-Related Offenses in Child Abuse Cases**

Amends Section 38.37 of the Code of Criminal Procedure to authorize evidence of other sexual-related offenses allegedly committed by the defendant against a child to be admitted in the trial of certain sexual-related offenses for any bearing the evidence has on

relevant matters, including the character of the defendant and acts performed in conformity with the character of the defendant, notwithstanding Rules 404 and 405 of the Texas Rules of Evidence. Before the evidence may be introduced, the state must give notice 30 days before trial, a hearing held outside the presence of the jury, and the trial judge must find that the evidence to be presented is such to support a finding by the jury that the defendant committed the separate offense beyond a reasonable doubt.

**HB 1421: Disposition of Certain Seized Weapons**

H.B. 1421 amends Article 18.19 of the Code of Criminal Procedure relating to the disposition of certain seized weapons. Under current law, law enforcement agencies are authorized to seize and hold firearms involved in the commission of certain weapons-related offenses until a court makes a ruling regarding the disposition of the weapon. The weapon may be returned within a specified time to the rightful owner if the court determines that there will be no prosecution or conviction for an offense involving the weapon seized. However, when the return of the weapon is prohibited, the court may order the weapon to be destroyed or forfeited to the state for use by the law enforcement agency holding the weapon or by a county forensic laboratory. H.B. 1421 adds the option for the court to authorize the sale such a seized weapon strictly to a federally licensed firearms dealer at a public sale by the law enforcement agency in possession of the weapon or by a licensed auctioneer.

**SB 878: Clarity on Spending Asset Forfeiture \$\$**

Article 59.06 of the Code of Criminal Procedure establishes the procedures for the disposition of forfeited property by either the attorney representing the state or the law enforcement agency. Such proceeds may be used for an "official purpose of the office" or a "law enforcement purpose." S.B. 878 will help provide clarity in the disposition and reporting process of forfeited property.

**SB 367: Disposition of Property held for Safekeeping**

Current law requires a person designated by a municipality to mail a notice to the last known address of the owner of abandoned or unclaimed property by certified mail. This notice provides a description of the property held and states that if the owner does not claim such property within 90 days from the date of the notice, such property will be disposed of. SB 367 adds a provision to Section 18.17 (Disposition of Abandoned or Unclaimed Property) to allow the option of presenting a written notice in person to an individual being released from jail on a misdemeanor offense. If the written notice is presented and signed for by the

property owner, the time frame for claiming the property is reduced from 90 days to 30 days.

**SB 344: Writs Involving False or Discredited Forensic Science**

S.B. 344 adds Article 11.073 of the Code of Criminal Procedure relating to procedures for applications for writs of habeas corpus based on relevant scientific evidence of false and discredited forensic testimony utilized in trial to convict an individual. S.B. 344 authorizes a court to grant a convicted person relief, on a properly filed application for a writ of habeas corpus, containing sufficient specific facts or evidence not available at the time of the convicted person's trial.

**SB 354: E-Filing in Criminal Cases**

S.B. 354 amends Article 11.07 and 11.071 as well as 38.42 of the Code of Criminal Procedure to allow the delivery of court documents by secure electronic mail where the code currently requires that the documents be delivered by certified mail. The law currently also allows documents to be transferred by fax, certified mail, or hand delivery.

**SB 1611: Discovery in Criminal Cases (Effective January 1, 2014)**

S.B. 1611, to be known as the Michael Morton Act, amends Article 39.14 of the Code of Criminal Procedure to revise provisions relating to discovery in a criminal case. The bill removes statutory language requiring a court in which a criminal action is pending, on motion of the defendant showing good cause and after notice to other parties, to order the state to produce and permit the inspection and copying or photographing, by or on behalf of the defendant, of certain documents, items, and information. The bill instead requires the state, as soon as practicable after receiving a timely request from the defendant and subject to certain restrictions, to produce and permit the inspection and the electronic duplication, copying, and photographing, by or on behalf of the defendant, of any offense reports, any designated documents, papers, written or recorded statements of the defendant or a witness, including witness statements of law enforcement officers but not including the work product of counsel for the state in the case and their investigators and their notes or report, or any designated books, accounts, letters, photographs, or objects or other tangible things not otherwise privileged that constitute or contain evidence material to any matter involved in the action and that are in the possession, custody, or control of the state or any person under contract with the state. The bill authorizes the state to provide to the defendant electronic

duplicates of any documents or other information described by the bill's provisions.

S.B. 1611 establishes that if only a portion of the applicable document, item, or information is subject to discovery, the state is not required to produce or permit the inspection of the remaining portion that is not subject to discovery and is authorized to withhold or redact that portion. The bill requires the state to inform the defendant that a portion of the document, item, or information has been withheld or redacted. The bill requires the court, on request of the defendant, to conduct a hearing to determine whether withholding or redaction is justified by law.

S.B. 1611 requires the state, if a court orders the state to produce and permit the inspection of a document, item, or information in the case of a pro se defendant, to permit the pro se defendant to inspect and review the document, item, or information, but does not require the state to allow electronic duplication of those materials in such a case.

S.B. 1611 prohibits the defendant, the attorney representing the defendant, or an investigator, expert, consulting legal counsel, or other agent of the attorney representing the defendant, except as otherwise provided in the bill, from disclosing to a third party any documents, evidence, materials, or witness statements received from the state under the bill's provisions unless a court orders the disclosure upon a showing of good cause after notice and hearing and after considering the security and privacy interests of any victim or witness or unless the documents, evidence, materials, or witness statements have already been publicly disclosed. The bill authorizes the attorney representing the defendant, or an investigator, expert, consulting legal counsel, or agent for the attorney representing the defendant, to allow a defendant, witness, or prospective witness to view the information provided under the bill's provisions, *but prohibits allowing that person to have copies of the information provided, other than a copy of the witness's own statement.* The bill requires the person possessing the information, before allowing such a person to view a document or the witness statement of another, to redact certain identifying personal information contained in the document or witness statement. The bill prohibits the defendant from being the agent for the attorney representing the defendant for such purposes.

S.B. 1611 prohibits its provisions from being interpreted to limit an attorney's ability to communicate regarding his or her case within the Texas Disciplinary Rules of Professional Conduct, except for the communication of information identifying any victim or witness or any information that by reference would make it possible to identify a victim or witness. That prohibition does not prohibit the disclosure of identifying information to an

administrative, law enforcement, regulatory, or licensing agency for the purpose of making a good faith complaint.

S.B. 1611 requires the state to disclose to the defendant any exculpatory, impeachment, or mitigating document, item, or information in the possession, custody, or control of the state that tends to negate the guilt of the defendant or would tend to reduce the punishment for the offense charged. The bill requires the state to electronically record or otherwise document any document, item, or other information provided to the defendant under the bill's provisions. *The bill requires each party, before accepting a plea of guilty or nolo contendere or before trial, to acknowledge in writing or on the record in open court the disclosure, receipt, and list of all documents, items, and information provided to the defendant under the bill's provisions.* The bill requires the state, if at any time before, during, or after trial the state discovers any additional exculpatory, impeachment, or mitigating document, item, or information required to be disclosed to the defendant to promptly disclose the existence of the document, item, or information to the defendant or the court.

S.B. 1611 authorizes a court to order the defendant to pay costs related to discovery under the bill's provisions that do not exceed the charges for providing copies of public information under state public information law. The bill's provisions prevail to the extent of any conflict with state public information law. The bill's provisions do not prohibit the parties from agreeing to discovery and documentation requirements equal to or greater than those required by the bill.

#### **HB 577: Appointment of Public Defender in 11.071 Habeas**

H.B. 577 amends Article 26.044(n), Code of Criminal Procedure to authorize an attorney employed by a public defender's office to be appointed with respect to an application for a writ of habeas corpus filed under Article 11.071 (Procedure in Death Penalty Case) only if an attorney employed by the office of capital writs is not appointed in the case; and the attorney employed by the public defender's office is on the list of competent counsel maintained under Section 78.056 (Appointment List), Government Code.

#### **C.S.H.B. 1125: Voluntary Waiver of Extradition in Rural Counties**

Texas counties that border other states often have defendants in custody who require extradition. Currently defendants may go before magistrate judges for extradition; however in rural counties a magistrate is not always a court of record. Until a magistrate can

hear the matter, which can be for weeks at a time, the county bears the cost of housing the defendant.

C.S.H.B. 1125 amends Article 51.13 Section 10 of the Code of Criminal Procedure to allow a justice of the peace serving a precinct that is located in a county bordering another state to accept a voluntary waiver of extradition, which would allow the immediate transfer of the defendant. C.S.H.B. 1125 requires a justice of the peace, before the waiver is executed, to inform the prisoner of the prisoner's right to the issuance and service of an extradition warrant and right to obtain a writ of habeas corpus. All defendants would be allowed the opportunity to discuss this voluntary waiver with their attorney prior to signing. If the prisoner or the prisoner's counsel states the desire to test the legality of the arrest, the justice of the peace would direct the prisoner to a court of record for purposes of obtaining a writ of habeas corpus.

#### **H.B. 1562: Notice When Bail Bond Surety is in Default**

H.B. 1562 amends Article 17.11, Code of Criminal Procedure, to require the clerk of the court where a surety is in default on a bond, if a bail bond is taken for an offense other than a Class C misdemeanor, to send notice of the default by certified mail to the last known address of the surety.

#### **H.B. 2090: Statements of the Accused**

H.B. 2090 amends Section 1, Article 38.22, Code of Criminal Procedure to require that a statement signed by or bearing the mark of the accused to be made in a language the accused can read and understand.

#### **C.S.H.B. 899: Defense Initiated Outreach in Capital Cases**

C.S.H.B. 899 amends Articles 56.02(a) and (c), Code of Criminal Procedure to entitle a victim, guardian of a victim, or close relative of a deceased victim in a capital felony, the right to receive by mail from the court a written explanation of defense-initiated victim outreach if the court has authorized expenditures for a defense-initiated victim outreach specialist; not be contacted by the victim outreach specialist unless the victim, guardian, or relative has consented to the contact by providing a written notice to the court; and designate a victim service provider to receive all communications from a victim outreach specialist acting on behalf of any person.

#### **H.B. 1302: LWOP For Certain Repeat Sexually Violent Offenses**

H.B. 1302 amends Article 42.015 of the Code of Criminal Procedure relating to the imposition of a sentence of life without parole on certain repeat sex

offenders and to certain restrictions on employment for certain sex offenders. Current law requires a defendant convicted of continuous sexual abuse of a young child or children, aggravated sexual assault, or continuous trafficking of persons to be punished by imprisonment in the Texas Department of Criminal Justice for life without parole if the defendant has previously been convicted of such an offense. H.B. 1302 seeks to expand this requirement to include additional sexually violent offenses as defined in Section 62.001 committed against a child and to prohibit certain sex offenders from some types of employment.

#### **H.B. 1790: Successful SJF probationer's case can be reduced to a Class A Misdemeanor:**

~~H.B. 1790 amends 12.44 of the Penal Code, adding subsection c to allow a reduction to a misdemeanor with the written consent of the prosecutor at the time of sentencing. Also amends Article 41.12, Section 15, of the Code of Criminal Procedure and provides for the modification of the record of conviction of a state jail felony to a Class A misdemeanor for certain eligible defendants who satisfy all conditions of community supervision. The provision is not available for burglary of building, burglary of vehicle, DWI with a child, family violence offenses, Title 5 offenses, improper sexual activity with persons in custody or sex offender registration offenses. This change applies only to a defendant who is placed on community supervision for an offense committed on or after September 1, 2013. Vetoed~~

#### **H.B. 2679: Pleas to Class C's in Jail**

H.B. 2679 amends current law relating to permitting an alternative plea for a defendant detained in jail pending trial for a Class C misdemeanor. Accepting a plea from an arrested person who is detained in jail for an unadjudicated fine-only offense is widely practiced in jurisdictions across Texas, as this method is convenient for both the court and the defendant. However, the practice is neither expressly sanctioned nor prohibited and concerns have been raised that the location of a plea may create a coercive atmosphere that impairs the voluntary aspect of the plea. Amends Article 45.023, Code of Criminal Procedure

#### **S.B. 893: Sexual Assault Protective Orders**

S.B. 893 amends Article 7A.05 of the Code of Criminal Procedure to authorize a court, in issuing a protective order relating to a victim of sexual assault or abuse, stalking, or trafficking, to prohibit the alleged offender from communicating in any manner with the protective order applicant or any member of the applicant's family or household except through the applicant's attorney or a person appointed by the court,

if the court finds good cause for the prohibition. The bill amends Section 38.112 of the Penal Code to make it a Class A misdemeanor to violate such an order by knowingly communicating in such a manner.

SB 893 also amends 25.07 of the Penal Code to make it a Class A misdemeanor or a 3<sup>rd</sup> Degree felony if it is shown on the trial of the offense that the defendant has previously been convicted two or more times or has violated the order or condition of bond by committing an assault or the offense of stalking, to knowingly or intentionally commit certain acts in violation of a condition of bond set in a sexual assault or abuse or stalking case and related to the safety of a victim or the safety of the community.

### **C.S.H.B. 2825: Sex Offender Registration Countywide Registration Location**

C.S.H.B. 2825 Amends Article 62.0045, Code of Criminal Procedure authorizing the commissioners court of a county, rather than the commissioners court in a county with a population of 100,000 or more, to designate the office of the sheriff of the county or to, through interlocal agreement, designate the office of a chief of police of a municipality in that county to serve as a mandatory countywide registration location for persons subject to the Sex Offender Registration Program. It then allows a person subject to this chapter to perform the registration and verification requirements of Articles 62.051 (Registration: General) and 62.058 (Law Enforcement Verification of Registration Information) and the change of address requirements of Article 62.055 (Change of Address; Lack of Address) with the centralized registration authority for the county, regardless of whether the person resides in any municipality located in that county. The centralized registration authority, not later than the third day after the date the person registers or verifies registration or changes address with that authority, will then provide the local law enforcement authority in that municipality notice of the person's registration, verification of registration, or change of address, as applicable.

### **SB 357: Protective Orders for Certain Sexual, Stalking & Trafficking Offenses**

S.B. 357 amends current law relating to the issuance of protective orders for certain sexual, stalking, and trafficking offenses. Amends Article 7A.01(b), Code of Criminal Procedure, as follows: Authorizes an application for a protective order under this chapter to be filed in any county in which an element of the offense occurred or any court with jurisdiction over a protective order previously issued under Title 4, Family Code, with respect to the same parties named in the application. The bill further amends Art. 7A.03, Code of Criminal Procedure, to

require a court, at the close of a hearing on an application for a protective order under this chapter, to find whether there are reasonable grounds to believe that the applicant is the victim of sexual assault, abuse, stalking, or trafficking.

### **SB 1114: Young Students & Class C's**

S.B. 1114 amends Article 45.058 of the Code of Criminal Procedure to require a law enforcement officer who issues a citation or files a complaint for conduct by a child 12 years of age or older that is alleged to have occurred on school property or on a vehicle owned or operated by a county or independent school district to submit to the court the offense report, a statement by a witness to the alleged conduct, and a statement by a victim of the alleged conduct, if any. The bill prohibits an attorney representing the state from proceeding in a trial of an offense unless the law enforcement officer complied with that submission requirement. The bill prohibits a law enforcement officer from issuing a citation or filing a complaint for conduct by a child younger than 12 years of age that is alleged to have occurred on school property or on a vehicle owned or operated by a county or independent school district.

### **HB 570: Electronic Service of MOEP**

H.B. 570 amends current law relating to issuance of a magistrate's order for emergency protection. Current law authorizes a magistrate to issue an order for emergency protection at a defendant's appearance before the magistrate after being arrested for an offense involving family violence or certain other offenses to prevent the offender from committing further acts of violence against a victim and the victim's family members. H.B. 570 amends Articles 17.292(d) and (j), Code of Criminal Procedure to removes the requirement that the defendant be served a copy of the emergency order for protection in open court and provides the option of serving the copy electronically to a defendant, including a defendant in jail.

### **SB 358: Polygraphs in MTR & MTA**

S.B. 358 amends Article 42.15, Sections 5 and 21 of the Code of Criminal Procedure to prohibit a court from proceeding with an adjudication of guilt on the original charge for a defendant who has been placed on deferred adjudication community supervision and allegedly violated a condition of the supervision if the court finds that the only evidence supporting the alleged violation of a condition of community supervision is an uncorroborated polygraph statement. The bill prohibits a court from revoking the community supervision of a defendant if, at the community supervision revocation hearing, the court finds that the only evidence supporting the alleged violation of a

condition of community supervision is an uncorroborated polygraph statement. This change applies to a hearing held under Section 5 or 21 on or after the effective date of the legislation.

S.B. 358 also amends 508.281 of the Government Code to prohibit a parole panel or designated agent of the Board of Pardons and Paroles from revoking the parole or mandatory supervision of a releasee if the parole panel or designated agent finds that the only evidence supporting the alleged violation of a condition of release is an uncorroborated polygraph statement.

## **BILLS AFFECTING THE PENAL CODE**

### **HB 1862: Switchblade Knives**

Removes Switchblade Knives from the list of prohibited weapons in Sections 46.05, Penal Code.

### **SB 124: Tampering Gov Records (School Info)**

The Public Education Information Management System (PEIMS) is used by the Texas Education Agency to collect student and teacher data from school districts and open-enrollment charter schools. Under current law, it is a third degree felony to falsify or otherwise impair the verity of a public school record, report, or assessment instrument. S.B. 124 amends Section 37.10(c) (2), Penal Code to also make the falsification of data reported through PEIMS a third degree felony.

### **SB 549: Penalties for EOCA**

S.B. 549 amends Section 71.02 of the Penal Code to specify that the first degree felony offense of engaging in organized criminal activity is punishable by imprisonment in the Texas Department of Criminal Justice (TDCJ) for life or for any term of not more than 99 years or less than 15 years if the most serious offense that the person committed or conspired to commit is a first degree felony. Further, this offense is punishable by LWOP if the most serious offense is aggravated sexual assault, the defendant is 18 years old or older and the victim younger than 6; or the victim is younger than 14 plus another aggravating factor under 22.021(a)(2)(A); or the victim is 17 or younger and suffered SBI.

The bill revises Section 71.023 of the Penal Code to amend the conduct that constitutes the offense of directing activities of criminal street gangs to make it an offense to knowingly, as part of the identifiable leadership of a criminal street gang, finance, direct, or supervise the commission of, or a conspiracy to commit, one or more specified felony offenses by members of a criminal street gang, rather than to knowingly initiate, organize, plan, finance, direct, manage, or supervise a criminal street gang or

members of a criminal street gang with the intent to benefit, promote, or further the gang's interests or to increase the person's standing, position, or status in the gang. The bill specifies that the punishment for the offense of directing activities of criminal street gangs is imprisonment in TDCJ for life or for any term of not more than 99 years or less than 25 years. The bill broadens the definition of "criminal street gang" for purposes of statutory provisions regarding the offense of directing activities of criminal street gangs.

S.B. 549 amends Article 37.07 Section 4 of the Code of Criminal Procedure to require a court to issue to a jury during the penalty phase of a trial of a defendant found guilty of the offense of engaging in organized criminal activity or the offense of directing activities of certain criminal street gangs a specific charge that provides information regarding parole eligibility and good conduct time and the jury's consideration of the existence, but not the extent or manner of application, of parole law and good conduct time.

S.B. 549 amends Section 508.145 of the Government Code to make an inmate serving a sentence for an offense of engaging in organized criminal activity or an offense of directing activities of certain criminal street gangs ineligible for release on parole until the inmate's actual calendar time served, without consideration of good conduct time, equals one-half of the sentence or 30 calendar years, whichever is less, but in no event in less than two calendar years.

### **HB 220: Stacking for F1 Injury to Child, Elderly & Disabled**

Current law, Penal Code 3.03(b), provides for the stacking of sentences for certain enumerated offenses if the accused is found guilty of more than one offense arising out of the same criminal episode. HB 220 adds the first degree felony offenses of injury to a child, an elderly individual, or a disabled individual to the list of offenses where the judges will have the ability to impose consecutive sentences for convictions arising out of the same criminal episode.

### **SB 1360: Tampering Enhancement in FV Cases**

S.B. 1360 amends Section 36.05 of the Penal Code as it relates to the punishment of tampering with a witness and the evidence that may be offered to prove that offense. If the underlying official proceeding involves family violence, the punishment for tampering will be the greater of a third-degree felony or the most serious offense charged in the criminal case. If the defendant has previously been convicted of an offense involving family violence, the punishment for tampering will be enhanced to the greater of a second-degree felony or the most serious

offense charged in the criminal case. Articles 38.48 and 38.49 of the Code of Criminal Procedure are added relating to evidence in prosecutions for tampering with a witness and forfeiture by wrongdoing.

### **HB 2637: Identity Theft to Avoid Sex Offender Registration Requirements**

Currently, the punishment for failure to comply with sex offender registration requirements ranges from a state jail felony to a second degree felony and if the offender has a prior conviction, the punishment is enhanced to the next highest felony degree. Also, the punishment for fraudulent use or possession of identifying ranges from a state jail felony to a first degree felony. H.B. 2637 amends Article 62.102 of the Code of Criminal Procedure (FRSO) and Section 32.51 (c-1) of the Penal Code to provide an enhancement where an individual fraudulently used identifying information to avoid registering as a sex offender to be punished at the next highest degree felony.

### **SB 743: Continuous VPO**

Currently, violating a protective order is a Class A misdemeanor under Section 25.07 (Violation of Certain Court Orders or Conditions of Bond in a Family Violence Case), Penal Code. Repeat violations can be prosecuted as a third degree felony if two or more violations are adjudicated within a 12-month period. S.B. 743 creates Section 25.072, Penal Code, to create a new criminal offense for a continuous violation of a protective order. Under this offense, offenders can be prosecuted for a third degree felony for two or more violations within a 12-month period, even if they are still being adjudicated.

### **SB 821: Hot Drafts**

S.B. 821 amends current law relating to the prosecution of criminal offenses involving theft or involving fraud or other deceptive practices. Current law addresses the issue of "hot checks," or paper transactions, but does not address insufficiently funded electronic funds transfers, or "hot drafts." SB 821 gives prosecutors the authority to file charges against individuals or corporations that submit insufficiently funded accounts for electronic funds transfers.

### **H.B. 705: Assault Enhancement for ER Personnel**

Current Texas law enhances the penalty for assault from a Class A misdemeanor to a third degree felony if committed against emergency services personnel while providing emergency services. However, this law does not include hospital emergency room personnel. H.B. 705 amends Section 22.01(e)(1), Penal Code, to redefine "emergency services personnel" to include firefighters, emergency medical services personnel as defined by Section 773.003

(Definitions), Health and Safety Code, emergency room personnel, and other individuals who, in the course and scope of employment or as a volunteer, provide services for the benefit of the general public during emergency situations.

### **H.B. 1972: Abusive, Harassing & Interference With 911 Calls**

H.B. 1972 updates language for criminal penalties to address abusive or harassing 9-1-1 calls as well as interference with 9-1-1 emergency requests. It amends Sections 42.061(a), (b), and (c), Penal Code to redefine, "9-1-1 service" and "public safety answering point" or "PSAP." It also provides that a person commits an offense if the person makes a call, rather than a telephone call, to a 9-1-1 service, or requests 9-1-1 service using an electronic communications device, when there is not an emergency and knowingly or intentionally remains silent, or makes abusive or harassing statements to a public safety answering point (PSAP) employee. Further, a person commits an offense if the person knowingly permits an electronic communications device, including a telephone, under the person's control to be used by another person in a manner described above. It also amends Section 42.062, Penal Code, to redefine "emergency" and provide that an individual commits an offense if the individual knowingly prevents or interferes with another individual's ability to place an emergency call, rather than an emergency telephone call, or to request assistance, including a request for assistance using an electronic communications device, in an emergency from a law enforcement agency, medical facility, or other agency or entity the primary purpose of which is to provide for the safety of individuals. Further, an individual commits an offense if the individual recklessly renders unusable an electronic communications device, including a telephone, that would otherwise be used by another individual to place an emergency call or to request assistance in an emergency from a law enforcement agency, medical facility, or other agency or entity the primary purpose of which is to provide for the safety of individuals.

### **S.B. 299: Intentional Failure to Conceal a Handgun**

S.B. 299 amends current law relating to the intentional display of a handgun by a person licensed to carry a concealed handgun. Current law prohibits the intentional failure to conceal a handgun by a person licensed to carry a concealed handgun. SB 299 amends Section 46.035 of the Penal Code to clearly state that failure to conceal a handgun is only illegal when the gun is displayed in plain view of another person in a public place and clarifies that it is an affirmative defense that the weapon was displayed pursuant to a justified use of force, as well as deadly force, under

Chapter 9 (Justification Excluding Criminal Responsibility) of the Texas Penal Code.

### **C.S.H.B. 8: Human Trafficking**

C.S.H.B. 8 amends Chapter 7A of the Penal Code relating to the prosecution and punishment of offenses related to trafficking of persons and to certain protections for victims of trafficking of persons. It includes amendments to both protective orders & the substantive offense.

### **C.S.H.B. 1606: Stalking & Harassment**

C.S.H.B. 1606 amends current law relating to the prosecution of the offenses of harassment and stalking. Section 42.07 (Harassment) of the Penal Code defines "harassment" as a person committing certain acts with the intent to harass, annoy, alarm, abuse, torment, or embarrass another person. These acts include initiating obscene communication or threatening in an alarming manner by telephone, in writing, or by electronic communication. One of the criteria for the act of stalking states the person knowingly engages in certain behavior that he or she knows or reasonably believes the victim will regard as threatening. While stalking and harassment behavior are similar, there is little overlap under current Texas law, which subjects certain stalking behavior to significantly lower penalties than harassment penalties. C.S.H.B. 1606 seeks to remedy these issues and other problematic language in statutory provisions regarding the offenses of harassment and stalking by revising the conditions and conduct that constitute those offenses.

### **H.B. 1284: Bomb Threats at Colleges & Universities**

H.B. 1284 amends Section 42.06(b), Penal Code, to provide that an offense under this section (False Alarm or Report) is a Class A misdemeanor unless the false report is of an emergency involving a public or private institution of higher education or involving a public primary or secondary school, public communications, public transportation, public water, gas, or power supply or other public service, in which event the offense is a state jail felony.

### **S.B. 701: Affirmative Defense to Criminal Trespass**

Section 30.05(e) of the Penal Code allows an employee or agent of a utility performing a duty within the scope of his or her employment or agency to claim an affirmative defense to a charge of trespass. S.B. 701 clarifies that employees and agents of municipally owned utilities, gas utilities, and electric cooperatives can claim the same affirmative defense as those who work for other utilities.

### **H.B. 1523: Money Laundering**

Texas law enforcement agencies have reported an increase in the number of people being detained with stored value cards on drug trafficking corridors in Texas. Drug traffickers use stored value cards for money laundering activities, as these cards can be used like currency but have certain characteristics that make the cards attractive to criminals, including anonymity and lack of traceability. HB 1523 amends Section 34.01(2), Penal Code, to redefine "funds" to include certain notes, including currency or its equivalent, including an electronic fund, a personal check, a bank check, a traveler's check, a money order, a bearer negotiable instrument, a bearer investment security, a bearer security, a certificate of stock in a form that allows title to pass on delivery, or a stored value card as defined by Section 604.001 (Definition of Stored Value Card), Business & Commerce Code.

## **BILLS AFFECTING THE TRANSPORTATION CODE**

### **SB 275: Penalty for FSRA**

S.B. 275 amends current law relating to the penalty for the offense of leaving the scene of an accident that involves personal injury or death. The penalty for failure to stop and render aid is a third degree felony and the penalty for intoxication manslaughter is a second degree felony. S.B. 275 enhances the penalty in Section 550.021 (Accident Involving Personal Injury or Death), Transportation Code, from a third degree felony to a second degree felony, thus making the punishment for hit and run fatalities the same as for intoxication manslaughter.

### **HB 434: Add Paramedics & EMT for Mandatory Blood Draws**

H.B. 434 amends current law relating to the persons authorized to take a blood specimen from a vehicle operator to test for alcohol concentration or other intoxicating substances. Currently, only a physician, qualified technician, chemist, registered nurse, or licensed vocational nurse is authorized to take a blood specimen at the request or order of a peace officer for purposes of intoxication-related offenses. H.B. 434 amends Section 724.017 of the Transportation Code to authorize a licensed or certified emergency medical technician-intermediate or emergency medical technician-paramedic to take a blood specimen at a peace officer's request or order under statutory provisions regarding the implied consent of a person arrested for certain intoxication-related offenses to submit to the taking of a specimen. The bill conditions that authority on authorization by the medical director for the entity that employs the technician-intermediate or technician-paramedic. The

bill requires a peace officer to observe the taking of the specimen by a licensed or certified emergency medical technician-intermediate or emergency medical technician-paramedic at a peace officer's request or order and to immediately take possession of the specimen for purposes of establishing a chain of custody. H.B. 434 also removes a chemist from the persons authorized to take a blood specimen at a peace officer's request or order for purposes of implied consent.

**HB 625: \$200 fine for No License Plates**

H.B. 625 amends Section 504.943 of the Transportation Code relating to the penalty for the operation of a vehicle without a license plate. Legislation from the previous session inadvertently removed a section of law that set a fine for operating a vehicle without license plates. H.B. 625 restores the penalty for operating a vehicle without license plates as a misdemeanor offense punishable by a fine not to exceed \$200.

**SB 510: Slow or Change Lanes for a TxDOT Vehicle**

S.B. 510 amends Section 545.157 of the Transportation Code to require a motor vehicle operator, on approaching a stationary emergency vehicle or tow truck, either to vacate the lane closest to the stationary vehicle or to slow to a specified speed unless otherwise directed by a police officer applicable to a motor vehicle operator on approaching a Texas Department of Transportation vehicle that is not separated from the roadway by a traffic control channelizing device as defined by the bill and is using visual signals that comply with applicable standards and specifications for maintenance and service equipment.

**H.B. 347: Cell Phones While Operating a MV on School Property**

Under current law, drivers are prohibited from using cell phones in a school crossing zone unless the vehicle is stopped, or they are using a hands-free device. C.S.H.B. 347 amends Chapter 545 of the Transportation Code to expand the current limitations on cell phone use in a school crossing zone to the property of a public elementary, middle, or junior high school for which a local authority has designated a school crossing zone. Cell phone use will only be restricted during the time a reduced speed limit is in effect for the school crossing zone. Further, it will not apply to vehicles that are stopped, or to drivers using a hands-free device.

**H.B. 1607: Authority of County Commissioners to set Speed Limits on County Roads**

Current state law sets the maximum speed limit allowed on certain county roads or highways at 60 miles per hour, but some of these roads are designed and constructed for higher speed limits. H.B. 1607 amends Section 545.355(c), Transportation Code relating to the authority of the commissioners court of a county to alter speed limits on county roads to a limit of 70 mph rather than 60 mph.

**H.B. 1294: Child Safety Seat Defense**

H.B. 1294 amends Section 545.4121(b), Transportation Code to remove as a defense to the prosecution for the offense of failing to secure a child in a safety seat that the defendant provide satisfactory evidence to the court that that the defendant possesses an appropriate child passenger safety seat system for each child required to be secured in such a system. The bill instead establishes a defense that the defendant provide satisfactory evidence to the court that the defendant, at the time of the offense, was not arrested or issued a citation for violation of any other offense and did not possess a child passenger safety seat system in the vehicle and that the defendant, subsequent to the time of the offense, obtained an appropriate child passenger safety seat system for each child required to be secured in such a system. Also amends Section 545.412(b), Transportation Code, to provide that an offense under this section is a misdemeanor punishable by a fine of not more than \$250.

**S.B. 1757: License Plate Flippers**

S.B. 1757 adds Section 504.946 of the Transportation Code to make it a Class B misdemeanor to purchase or possess, with criminal negligence, a license plate flipper, defined as a manual, electronic, or mechanical device designed or adapted to be installed on a motor vehicle and switch between two or more license plates for the purpose of allowing a motor vehicle operator to change the license plate displayed on the operator's vehicle or hide a license plate from view by flipping the license plate so that the license plate number is not visible. The bill makes it a Class A misdemeanor to manufacture, sell, offer to sell, or otherwise distribute, with criminal negligence, a license plate flipper.

**H.B. 438: Courts Authorized to Issue ODL**

H.B. 438 amends Sections 521.242, Transportation Code to authorize a person whose license has been suspended for a cause other than a physical or mental disability or impairment or a conviction under Section 49.04 (Driving While Intoxicated), Penal Code, to apply for an occupational

license by filing a verified petition with the clerk of a justice, county, or district court with jurisdiction that includes the precinct or county, rather than with the clerk of the county court or district court with jurisdiction in the county, in which the person resides or the offense occurred for which the license was suspended.

**H.B. 1174: Illegally Passing a Stopped School Bus**

H.B. 1174 amends Section 545.066(c), Transportation Code to provide an offense under this section is a misdemeanor punishable by a fine of not less than \$500 or more than \$1,250, rather than not less than \$200 or more than \$1,000, except that the offense is a misdemeanor punishable by a fine of not less than \$1,000 or more than \$2,000 if the person is convicted of a second or subsequent offense under this section committed within five years of the date on which the most recent preceding offense was committed; a Class A misdemeanor if the person causes serious bodily injury to another; or a state jail felony if the person has been previously convicted under the SBI provision of the newly-enacted statute.

**C.S.H.B. 38: Counterfeit Airbags**

C.S.H.B. 38 amends Section 547.614, Transportation increasing the penalty for installing a counterfeit airbag. An offense under this section is now a state jail felony, rather than a Class A misdemeanor. The offense is a felony of the third degree if the defendant has been previously convicted of an offense under this section; the offense a felony of the second degree if, as a result of the offense, an individual suffered bodily injury, and the offense is a felony of the first degree if it is shown on the trial of the offense that the offense resulted in the death of a person.

**OTHER LEGISLATION:**

**H.B. 124 - Salvia added to PG3**

H.B. 124 amends Section 481.104(a), Health and Safety Code, to add Salvia Divinorum and its derivatives and extracts to Penalty Group 3 of the Texas Controlled Substances Act.

**SB 825 – Grievances for Prosecutors**

Under the Texas Disciplinary Rules of Professional Conduct, a prosecutor is required to make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense. Currently, the statute of limitations for filing a grievance against a prosecutor who violates this rule begins to run at the time a violation is discovered or should have been discovered. In an effort to address

the barriers to seeking and pursuing accountability and justice for wrongfully convicted individuals, S.B. 825 amends Section 81.072 of the Government Code to provide an opportunity for a wrongfully convicted person to pursue such a grievance after being released from prison by tolling the statute of limitations until the date on which the person is released. S.B. 825 also seeks to enhance open government and public confidence in the prosecutor disciplinary process by prohibiting the use of a private reprimand as a means of discipline for such a violation. The bill requires the Supreme Court to amend the Texas Rules of Disciplinary Procedure to conform to the bill's provisions as soon as practicable after the bill's effective date but not later than December 1, 2013.

**HB 424- Notice of Sex Offenders in Group Homes**

Current law does not require certain group homes to notify the residents of the home of a newly admitted resident who is a registered sex offender. H.B. 424 adds Chapter 325 to the Health and Safety Code to ensure that a resident of a group home or the resident's legal guardian, if applicable, receives notification of a registered sex offender who becomes a resident of the group home.

**HB 798 – Effect of Class C’s on certain Licenses**

Under current law, individuals convicted of Class C misdemeanors are often denied occupational licenses under Chapter 53 (Consequences of Criminal Conviction), Occupations Code. The maximum punishment of a Class C misdemeanor is a \$500 fine and no jail time. The denial of a license removes any possibility of practicing certain occupations regardless of training and experience such as water well drillers, auctioneers, and surveyors. C.S.H.B. 798 amends Section 53.021 of the Occupations Code relating to certain actions taken by certain licensing authorities regarding a license holder or applicant who has been convicted of a Class C misdemeanor.

**SB 1191 - SANES**

S.B. 1191 amends Section 323 of the Health and Safety Code to require a health care facility that is not a health care facility designated in a community-wide plan as the primary health care facility in the community for treating sexual assault survivors to inform a sexual assault survivor that the facility is not the community's designated facility, to provide to the survivor the name and location of the designated facility, and to inform the survivor that the survivor is entitled, at the survivor's option, to receive the care required to be provided to the survivor at the current facility or to be stabilized and transferred to and receive such care at the community's designated facility. The bill requires a facility to stabilize and

transfer a sexual assault survivor to the community's designated facility only if the survivor chooses to be transferred and provides written signed consent to be transferred.

S.B. 1191 prohibits a person from performing a forensic examination on a sexual assault survivor unless the person has the basic sexual assault forensic evidence collection training under the bill's provisions or the equivalent education and training. The bill specifies that provisions regarding the minimum standards for emergency services provided to survivors of sexual assault do not affect the duty of a health care facility to comply with the requirements of the federal Emergency Medical Treatment and Active Labor Act of 1986 that are applicable to the facility.

S.B. 1191 requires each health care facility that has an emergency department to comply with statutory provisions relating to minimum standards for emergency services provided to survivors of sexual assault and makes a requirement that a health care facility submit a plan for providing those services to the Department of State Health Services (DSHS) for approval applicable only to a health care facility that has an emergency department.

S.B. 1191 requires a person who performs a forensic examination on a sexual assault survivor to have at least basic forensic evidence collection training or equivalent education and specifies that a person who completes a continuing medical or nursing education course in forensic evidence collection that is approved or recognized by the appropriate licensing board is considered to have basic sexual assault forensic evidence training for the purposes of the bill's provisions. The bill requires each health care facility that has an emergency department and that is not a health care facility designated in a community-wide plan as the primary health care facility in the community for treating sexual assault survivors to develop a plan to train personnel on sexual assault forensic evidence collection.

S.B. 1191 establishes that statutory provisions relating to emergency services for survivors of sexual assault do not affect participating entities of children's advocacy centers under statutory provisions relating to children's advocacy centers or the working protocols set forth by their multidisciplinary teams to ensure access to specialized medical assessments for sexual assault survivors who are minors and that those provisions control to the extent of a conflict with statutory provisions relating to emergency services for sexual assault survivors. The bill requires DSHS to post on its Internet website a list of all hospitals that are designated in a community-wide plan as the primary health care facility in the community for treating sexual assault survivors.

### **C.S.H.B. 2772: Interim Study on Judicial Selection & Retention**

C.S.H.B. 2772 seeks to form an interim committee to conduct a study to vet and consider exhaustively the current judicial selection system in Texas, as well as alternatives for judicial selections and retentions.

### **S.B. 390: Court Costs**

Current law requires that all new criminal court costs imposed during a legislative session become effective on January 1 of the following year. However, there is an exception to this requirement for certain court costs. This exception complicates the criminal court cost structure requiring court clerks to charge different costs during various times of the year. S.B. 390 repeals Subsection (d) Section 51.607 of Government Code so that all new legislatively enacted criminal costs, among other costs and fees, become effective on January 1.

### **C.S.H.B. 1659: Occupational Licenses**

Interested parties have raised concerns regarding certain licenses being denied to individuals who have completed deferred adjudication and contend that these individuals deserve an opportunity to practice certain occupations, trades, and professions for which a license is required.

C.S.H.B. 1659 is intended to provide a fair balance between protecting the public and allowing people to work. Specifically, the bill amends Section 51.356 of the Occupations Code to limit the consideration of a deferred adjudication in the suspension or denial of an occupational license to any offense that requires registration as a sex offender; any offense that would prohibit the person from holding the license; or up to five years after the completion of the period of deferred adjudication, unless an order of nondisclosure regarding the offense has been issued by a court.

C.S.H.B. 1659 amends Section 53.021(d) of the Occupations Code relating to certain actions taken by certain licensing authorities regarding a license holder or applicant who received deferred adjudication for certain offenses.

### **CSSB 462: Drug Courts**

C.S.S.B. 462 adds Subtitle K, Specialty Courts, to Title 2 of the Government Code to consolidate Texas statutes relating to specialty drug courts, improve oversight of specialty court programs, and change the composition of the governor's Specialty Courts Advisory Council.

**HB 1245: Training for Criminal Defense Attorney Personnel**

H.B. 1245 amends Section 56.004 of the Government Code relating to the allocation of money in the judicial and court personnel training fund to provide clarification that personnel of criminal defense attorneys who regularly represent indigent defendants are allowed to participate in trainings funded through the judicial and court personnel training fund. This Act takes effect September 1, 2014.

**C.S.H.B. 1847 Prosecutor Brady Training**

C.S.H.B. 1847 Amends Subchapter B, Chapter 41, Government Code, to require each attorney representing the state in the prosecution of felony and misdemeanor criminal offenses other than Class C misdemeanors to complete a course of study relating to the duty of a prosecuting attorney to disclose exculpatory and mitigating evidence in a criminal case as adopted & developed by the CCA & TDCAA. Each attorney, within 180 days of assuming duties as an attorney representing the state, shall have one hour of instruction relating to the duty of a prosecuting attorney to disclose exculpatory and mitigating evidence in a criminal matter along with additional training on a schedule or at a time as determined by the Court.

**HB 1875: Case Transfers Between District Courts**

Under current law relating to the transfer of cases from one district court to another district court in the county, the consent of the judge of the court to which a case is transferred is not required. H.B. 1875 seeks to require such consent, with certain exceptions, by amending Section 24.003 of the Government Code.

**H.B. 2539: Computer Technician Required to Report Child Pornography**

H.B. 2539 amends Subtitle C, Title 5, Business & Commerce Code, by adding Chapter 109, requiring computer technicians who, in the course and scope of employment or business, views an image on a computer that is or appears to be child pornography to immediately report the discovery of the image to a local or state law enforcement agency. A computer technician who intentionally fails to report an image in violation of this chapter commits a Class B misdemeanor.

It is a defense to prosecution under this section that the actor did not report the discovery of an image of child pornography because the child in the image appeared to be at least 18 years of age.

**SB129: Expanded Venue for FV Protective Orders**

Protective orders against family violence can currently only be filed in the county in which the

victim resides or the county in which the alleged offender resides. S.B. 129 amends Section 82.003 of the Family Code relating to venue for filing an application for a protective order against family violence to include any county in which the family violence is alleged to have occurred.

**HB 912: Illegal Use of Unmanned Vehicle or Aircraft to Capture Image**

Adds Sec. 423.003 of the Government Code to provide that a person commits an offense if the person uses an unmanned vehicle or unmanned aircraft to capture an image of an individual or privately owned real property in this state with the intent to conduct surveillance on the individual or property captured in the image or real property in this state, on which a primary or secondary school or a licensed child-care facility is operated or an individual located on that property, with the intent to conduct surveillance. An offense under this section is a Class C misdemeanor. The disclosure, display, distribution, or other use of an image is a Class B misdemeanor. There are provisions for non-applicability and many exceptions for law enforcement including search warrants, pursuit in a felony, investigating fatalities, missing persons & hostage situations.

**SB 395 – Court Costs & Fines for Kids**

S.B. 395 amends current law relating to fines and court costs imposed on a child in a criminal case. S.B. 395 seeks to balance the imposition of fines and court costs for juveniles while still balancing youth accountability. The bill gives judges in fine-only offenses the discretion to waive payment of fines and court costs for children in the same manner as currently done for indigent defendants and will allow juvenile defendants to choose to elect to pay fines and court costs or dispense of them through community service or receiving tutoring.

**SB 529: Automated Sales Suppression Devices**

Current law prohibits tax fraud, but says nothing about the software or devices used to commit the fraud, such as automated sales suppression devices and phantom-ware which can be used to falsify sales data on electronic cash registers at the point of sale. Merchants using these devices and software collect the full sales tax from their customers, but remit only a portion of those collections to the state. S.B. 529 adds Chapter 326 to the Business and Commerce Code to make it a state jail felony to willfully and knowingly sell, purchase, install, transfer, or possess any automated sales suppression device, or phantom-ware in the state.

**HB 1305: Penalty for Insurance Agents Acting After License is Suspended or Revoked**

H.B. 1305 amends Section 4005.151(b) of the Insurance Code relating to the criminal penalty for acting as an agent after suspension or revocation of the agent's license. Currently, a person acting as an insurance agent without a license may be prosecuted for a third degree felony. In contrast, a person acting as an agent after their license is suspended or revoked may be punished by a fine not to exceed \$5,000 and imprisonment for a term not to exceed two years. H.B. 1305 harmonizes the punishments for these individuals as third degree felonies.

**HB 1205: Failure to Report Child Abuse by Professionals**

H.B. 1205 amends Section 261.109 of the Family Code to create an offense for a professional knowingly failing to make a report as required under the chapter in which a professional has cause to believe that a child's well-being has been or may be adversely affected by abuse or neglect but fails to report that abuse or neglect (Class A misdemeanor) with the intent to conceal the abuse or neglect (State Jail Felony).