



# TEXAS JUDICIAL REPORT

## OFFICE OF COURT ADMINISTRATION TEXAS JUDICIAL COUNCIL

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The 79<sup>th</sup> regular and special legislative sessions were notable for the Judiciary. In addition to the passage of a much needed pay raise for appellate and district judges, the 79<sup>th</sup> Texas Legislature successfully addressed many significant judicial issues, including:

- Increased funding for visiting judges;
- Potential additional funding for the Texas Fair Defense Act;
- Funding for the creation of eleven additional district courts that will serve Bell, Blanco, Brazoria, Burnet, Comal, Dallas, Fort Bend, Hays, Hidalgo, Llano, San Saba, Travis, and Williamson counties;
- Authority for the creation of a statutory probate court in El Paso County and seven county courts at law to be located in Brazoria, Cass, Hidalgo, Hill, Kaufman, Randall, and Williamson counties; and
- Funding for the implementation of the Guardianship Certification Board to be administered by the Office of Court Administration.

In addition, the Legislature has mandated the establishment of Model Collections Programs, in counties with a population of at least 50,000 and municipalities with a population of at least 100,000. These jurisdictions must implement a collections program that complies with the prioritized implementation schedule and collection model developed by our office. Program details and contact information are available for your convenience on our website at <http://www.courts.state.tx.us/oca/collections/collections.asp>

Recognizing that 1,398 bills passed during the regular session, this report offers a brief description of the 269 bills that most directly impact the Texas Judiciary. We hope the report will be a useful resource for the judicial and legal community, and all those interested in the administration of justice.

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### Appellate Courts

**HB 1077** – Effective 9/1/05

Amends Section 22.201, Government Code, to remove Burleson, Trinity and Walker counties from the First and the Fourteenth Court of Appeals Districts; Van Zandt from the Fifth Court of Appeals District; Angelina from the Ninth Court of Appeals District; and Hopkins, Kaufman, and Panola counties from the Twelfth Court of Appeals District. Adds Burleson and Walker counties to the Tenth Court of Appeals District. Adds Angelina and Trinity counties to the Twelfth Court of Appeals District.

**HB 1586** – Effective 9/1/05

Amends Section 22.212, Government Code, to provide that the Eleventh Court of Appeals may transact its business in the City of Eastland or in any county in the district as the court determines is necessary or convenient.

**HB 1997** – Effective 9/1/05

Adds Section 22.2121, Government Code, to establish an appellate judicial system for the Eleventh Court of Appeals District. Creates a \$5 court costs fee (effective 1/1/06) for each civil suit filed in county court, statutory county court, probate court, or district court in the county.

**HCR 88** – Effective 6/18/05

Provides that the Supreme Court of Texas and the Court of Criminal Appeals should adopt rules for the random assignment of cases pending in or appealed from counties lying within the jurisdiction of more than one court of appeals district. Urges the supreme court to adopt rules regarding which court’s precedent applies in cases transferred from one court of appeals to another.

**SB 241** – Effective 9/1/05

Adds Section 22.2041, Government Code, to establish an appellate judicial system for the Third Court of Appeals District. Creates a \$5 court costs fee (effective 1/1/06) for each civil suit filed in county court, statutory county court, probate court, or district court in the county.

### Civil Law

**HB 107** – Effective 6/18/05

Adds Chapter 38, Civil Practice & Remedies Code, to prohibit civil actions filed on or after June 1, 2005, against a manufacturer, seller, trade association, livestock producer, or agricultural producer for a claim arising out of weight gain, obesity, or other condition related to the consumption of food. Excepts actions in which a manufacturer or seller knowingly and willfully violates federal or state law.

**HB 231** – Effective 9/1/05

Amends Chapter 151, Civil Practice & Remedies Code, to expand the use of special judges by allowing civil and family matters pending in statutory county court or statutory probate court, as well as district courts, to be referred to a special judge on agreement of the parties.

**HB 330** – Effective 5/24/05

Amends Section 42.0021, Property Code, to include health savings accounts described by Section 223 of the Internal Revenue Code on the list of assets exempt from seizure for satisfaction of debts

**HB 729** – Effective 5/17/05

Amends Section 31.002, Civil Practices & Remedies Code, to clarify that a court may enter or enforce an order requiring turnover of non-exempt property without specifically identifying the property subject to turnover.

**HB 755** – Effective 9/1/05

Amends Section 71.051, Civil Practices & Remedies Code, to remove the provision that prohibits a court from staying or dismissing an action under the doctrine of forum non conveniens if there is prima facie evidence that an act or omission that was a proximate or producing cause of an injury or death occurred in Texas. Requires that a court set forth specific findings of fact and conclusions of law when granting a motion to stay or dismiss an action under the doctrine of forum non conveniens.

**HB 1098** – Effective 9/1/05

Adds Chapter 48, Business & Commerce Code, to create the Anti-Phishing Act which prohibits individuals with intent to fraudulently use or possess identifying information from creating web pages falsely represented as legitimate businesses or sending emails falsely represented as being sent by legitimate businesses to induce, request, or solicit another person to provide identifying information. Provides for civil relief.

**HB 1294** – Effective 6/18/05

Amends Section 51.014, Civil Practice & Remedies Code, to allow a county court at law or a county court to issue a written order for interlocutory appeal in a civil action not otherwise appealable if the parties agree, the order involves a controlling question of law as to which there is a substantial ground for difference of opinion, and an immediate appeal may materially advance the ultimate termination of the litigation.

**HB 1379** – Effective 6/18/05

Adds Section 18.062, Civil Practice & Remedies Code, to limit civil liability for businesses that disclose information to law enforcement personnel in connection with an investigation involving identity theft by making such information inadmissible in a civil action. Provides that a business record is admissible if the party offering the record has obtained the record from a source other than law enforcement personnel.

**HB 1544** – Effective 9/1/05

Adds Section 692.017, Health & Safety Code, to provide that a person who removes or accepts corneal tissue from a decedent knowing that a gift authorizing the removal has not been made is liable to the state for a civil penalty up to \$500 for each violation.

**HB 1690** – Effective 9/1/05

Amends Chapter 125, Civil Practice & Remedies Code, to provide that a property owner or agent who tolerates the habitual use of the premises for illegal purposes, without attempting to abate the activity, maintains a common nuisance.

**HB 1833** – Effective 9/1/05

Adds Section 35.455, Business & Commerce Code, to create an actionable deceptive trade practice for a person who, without providing the required notice and disclosures, solicits business by mailing a check to an individual, who by endorsing or negotiating the check enters into a contract to pay for future good or services.

**HB 1855** – Effective 9/1/05

Adds Section 35.62, Business & Commerce Code, to require a business to delete any electronic record, except the account or routing transit number, regarding a dishonored check when the business and customer agree the information is incorrect or the customer presents a police report that the check was unauthorized. Provides for a civil penalty.

**HB 1940** – Effective 9/1/05

Amends Chapter 2260, Government Code, to clarify that a contractor sued by a unit of state government may assert a counterclaim or right of offset. Allows for the recovery of any delay or labor-related expenses; shortens the timeframes for negotiations, mediation, and counterclaims; amends the amounts the state must pay for valid claims; and allows contested case decisions to be appealed when there has been an abuse of discretion.

**HB 2645** – Effective 9/1/05

Amends Section 74.351, Civil Practice & Remedies Code to provide that in a health care liability claim, a claimant must serve the expert reports no later than the 120<sup>th</sup> day after the filing date of the original petition.

**HB 2988** – Effective 9/1/05

Amends Section 311.034, Government Code, to clarify that statutory prerequisites are jurisdictional requirements in all suits against a governmental entity.

**SB 15** – Effective 9/1/05

Adds Chapter 90, Civil Practice & Remedies Code, to address claims involving asbestos and silica. Sets forth requirements regarding pulmonary function testing; reports for claims involving asbestos and silica related injury; motions to dismiss; joinder of claimants; and multidistrict litigation proceedings. Adds Section 16.0031 to provide that a cause of action for an asbestos or silica related injury accrues for purposes of the two year limitation on the earlier of the date of the exposed person's death or the date that the claimant serves on a defendant a report as outlined in Chapter 90. Amends Section 51.014 to allow an appeal from an interlocutory order of a district court or county court that denies a motion to dismiss filed under Chapter 90. Amends Section 22.225, Government Code, to provide that a petition for review regarding the denial of a motion to dismiss may be filed with the supreme court.

**SB 122** – Effective 9/1/05

Adds Chapter 48, Business & Commerce Code, to create the Identity Theft Enforcement and Protection Act which prohibits the unauthorized use or possession of personal identifying information with the intent to obtain a good, a service, insurance, credit, or any value in the other person's name. Creates a civil penalty of \$2,000 to \$50,000 for each violation that is enforceable by the attorney general. Requires a business to implement procedures to protect from unlawful use any sensitive information collected or maintained in the regular course of business. **[See also, Open Records]**

**SB 263** – Effective 9/1/05

Amends Chapter 111, Tax Code, by adding Section 111.0075 to prohibit a person who receives sales tax audit information from the Comptroller through an open records request from using the information before the sixth day after receipt, for the solicitation of business or employment for pecuniary gain. Provides for a civil penalty.

**SB 327** – Effective 9/1/05

Adds Chapter 48, Business & Commerce Code, to create the Consumer Protection Against Computer Spyware Act which prohibits the unauthorized collection or culling of personally identifiable information by causing computer software to be copied onto a computer. Prohibits other unauthorized activities, such as modifying computer settings and taking control of the computer through software copied to a computer. Provides for civil relief and penalties.

**SB 890** – Effective 6/9/05

Amends Section 33.012, Civil Practices & Remedies Code, to restore the dollar-for-dollar settlement credit in civil actions.

**SB 912** – Effective 9/1/05

Amends Chapter 841, Health & Safety Code, to expand the scope of the civil commitment process to include as sexually violent predators those inmates who have been convicted of committing or attempting to commit a "sexually motivated" murder or capital murder and at least one other sexually violent offense.

**SB 1351** – Effective 9/1/05

Adds Chapter 41A, Tax Code, to provide a homeowner who is dissatisfied with the results of an appraisal review board hearing with the option to contest the appraisal order through binding arbitration.

**SB 1563** – Effective 9/1/05

Amends Chapters 3 and 4, Business & Commerce Code, to reflect changes promulgated in the Uniform Commercial Code regarding negotiable instruments, bank deposits and collections.

**SB 1593** – Effective 9/1/05

Amends Chapter 7, Business & Commerce Code, to reflect changes promulgated in Article 7 of the Uniform Commercial Code regarding documents of title.

**Costs and Fees**

**HB 11, 2<sup>nd</sup> Called Session** – Effective 12/1/05

Amends the Government Code and Local Government Code to create an additional \$37 civil filing fee and \$4 criminal fee, excluding cases involving pedestrian or parking related offenses, to be deposited in the judicial fund for court-related purposes for the support of the judiciary, including additional judicial compensation. Provides that 60 cents of each criminal fee must be deposited in the general fund of the municipality or county to promote the efficient operation of the courts and the investigation, prosecution, and enforcement of offenses. Provides that the remainder be deposited in the judicial fund. [See also, **Judicial Compensation and Retirement**]

**HB 282** – Effective 1/1/06

Amends Chapter 152, Civil Practice & Remedies Code, to increase from \$10 to \$15 the maximum fee a commissioners court may collect on civil case filings, excluding tax, condemnation, and mental health proceedings, in a county or district court to maintain an alternative dispute resolution system. Allows the commissioners court of a county to set a court cost not to exceed \$5 for certain civil cases, excluding tax and eviction proceedings, filed in a justice court to maintain an alternative dispute resolution system. Allows for the collection of a fee from any person who uses the ADR system established by a commissioners court in a county with population of 250,000 to 290,000 (Jefferson and Galveston counties).

**HB 703** – Effective 9/1/05

Amends Article 45.0511, Code of Criminal Procedure, to allow a judge to require a defendant seeking deferred disposition to pay a fee of \$10 for a copy of the defendant's driving record that the judge will obtain from the Department of Public Safety.

**HB 950** – Effective 1/1/06

Amends Section 118.011, Local Government Code, to increase the cost of filing a personal or a real property record with the county clerk to \$5.00 for the first page, \$4.00 for each additional page, and \$4.00 for all or part of each legal-sized attachment or rider.

**HB 1116** – Effective 9/1/05

Section 6.1 requires the Sunset Advisory Commission, as part of its review of criminal justice agencies for the 80<sup>th</sup> Legislature, to study the purpose, collection, and use of certain criminal court costs and fees and parole, probation, and community supervision fees.

**HB 1404** – Effective 1/1/06

Amends Section 118.052, Local Government Code, to establish a filing fee of \$25 for the filing of a document in probate actions that is more than 25 pages in length and not otherwise specified if the filing occurs after the filing of an order approving the inventory and appraisal or after the 120<sup>th</sup> day after the date of the initial filing of the action.

**HB 1418** – Effective 1/1/06

Amends Article 102.0173, Code of Criminal Procedure, to make mandatory the payment of a \$4 justice court technology fee for a misdemeanor conviction in a justice court.

**HB 1470** – Effective 6/18/05

Amends Article 103.003, Code of Criminal Procedure, to allow any community supervision and corrections department (CSCD), rather than only those serving a county with a population of 2.8 million or more, to collect money payable under Title 2 of the Code with the approval of the court clerk or fee officer and to collect money payable as otherwise provided by law.

**HB 1575** – Effective 1/1/06

Adds Article 102.0174, Code of Criminal Procedure, to create the juvenile case manager fund. Allows the governing body of a municipality or the commissioners court of a county to create a juvenile case manager fund and to require a defendant convicted of a fine-only misdemeanor offense in a municipal court, justice court, county court, or a county court at law to pay a juvenile case manager fee not to exceed \$5 as a cost of court. The fund may be used only to finance the salary and benefits of a juvenile case manager. [See also, **Juvenile Matters; Open Records**]

**HB 1489** – Effective 9/1/05

Amends Chapter 56, Code of Criminal Procedure, regarding the Crime Victims' Compensation Act, to define "victim related services" to mean compensation, services, or assistance provided directly to a victim or claimant for the purpose of supporting or assisting the recovery of the victim or claimant from the consequences of criminally injurious conduct.

**HB 1751** – Effective 9/1/05

Amends Chapter 42, Code of Criminal Procedure, to allow a court to order a defendant convicted of an offense to make restitution to the crime victims' compensation fund to the extent that fund has paid compensation to or on behalf of the victim. Prohibits a court from ordering restitution for a loss a victim has or will receive compensation for from another source. Authorizes a court that specifies restitution in installments to require the defendant to pay a one-time fee of \$12, half of which remains with the court for costs incurred in collecting the payments and half of which the court must forward to the fund. Requires a court or parole panel, in determining whether to revoke probation, to consider the victim's financial resources or ability to pay expenses incurred from the offense.

**HB 1934** – Effective 1/1/06

Amends Article 102.017, Code of Criminal Procedure, to increase the courthouse security court cost in justice courts from \$3 to \$4. Provides that in a county where one or more justice courts are located in a building that is not the county courthouse, the county treasurer must deposit ¼ of the cost collected in an eligible justice court into a justice court building security fund.

**HB 2630** – Effective 1/1/06

Amends Section 685.008 to allow a court to assess a filing fee of \$20, rather than \$10, for a hearing on probable cause for removal of a vehicle and placement in a storage facility. [See also, **Municipal and Justice Courts**]

**HB 3531** – Effective 1/1/06

Amends Section 103.022, Government Code, to repeal the following Dallas County fees: the \$2 per page fee for a copy of records of spousal or child support and fees administered; the fee not to exceed \$3 per month pertaining to the collection, distribution and monitoring of spousal and child support payments; and the fee not to

exceed \$250 for adoption, family and home study investigations.

**SB 6** – Effective 1/1/06

Amends Section 51.961, Government Code, to increase and mandate the collection of a \$30 family protection fee by district or county clerks in a suit for dissolution of marriage. Provides that half of the fee must be submitted to the comptroller for deposit into the child abuse and neglect prevention trust fund account. Adds Article 102.0186, Code of Criminal Procedure, to require a person convicted of certain offenses involving children and sexual conduct to pay a \$100 cost on conviction to be deposited in the county's child abuse prevention fund for child abuse prevention programs. [See also, **Open Records; Probate and Guardianship**]

**SB 291** – Effective 9/1/05

Amends Chapters 101 – 103 of the Government Code to update the index of court fees and costs.

**SB 526** – Effective 6/17/05

Amends Article 102.005, Code of Criminal Procedure, to increase the fee assessed on a defendant convicted of an offense in a district court, county court, or a county court at law for records management and preservation services performed by the county from \$20 to \$25. Provides that \$22.50 of the fee goes to the county records and management fund and \$2.50 goes to the records management and preservation fund of the clerk of court.

**SB 1006** – Effective 1/1/06

Amends Article 102.012, Code of Criminal Procedure, to provide that a court that authorizes a defendant to participate in a pretrial intervention program may order the defendant to pay a supervision fee not to exceed \$60 per month. Provides that the court may order the defendant to pay or reimburse a community supervision and corrections department for any other expenses incurred as a result of the defendant's participation.

**SB 1424** – Effective 1/1/06

Amends Section 118.122, Local Government Code, to include the filing of a counterclaim among the actions on which a justice or small claims court may assess a fee in a civil matter.

**SB 1426** – Effective 1/1/06

Amends the Alcoholic Beverage Code, Code of Criminal Procedure, Health and Safety Code, and Government Code to provide that a court must assess a \$30 fee for each application for expunction of certain offenses committed by minors.

**SB 1524** – Effective 1/1/06

Amends Section 191.0045, Health & Safety Code, to require county clerks to charge the same fee charged by the Bureau of Vital Statistics for issuing a certified copy of a birth or death certificate. Provides that a local registrar or county clerk already charging a fee that exceeded the Bureau's fee, cannot raise the fee until the Bureau's fee

exceeds the local registrar's or county clerk's established fee. Provides that county clerks and local registrars may charge an additional \$1 for preserving vital statistics records.

**SB 1704** – Effective 9/1/05

Adds Article 102.0045, Code of Criminal Procedure, to provide that a person convicted of an offense, excluding pedestrian or parking related offenses, must pay a \$4 court cost for deposit into the jury service fund to be used to reimburse counties for the cost of juror services. Provides that any unexpended balance exceeding \$10 million be transferred to the Fair Defense Account for indigent defense services. **[See also, Juries]**

**SB 1863** – Effective 9/1/05

Adds Article 103.0033, Code of Criminal Procedure, to require a county with a population of 50,000 or more and a municipality with a population of 100,000 or more to implement a Collection Improvement Program that complies with the prioritized implementation schedule and collection model developed by the Office of Court Administration (OCA). Allows OCA, in consultation with the Comptroller, to use case dispositions, population, revenue data, or other appropriate measures to develop the schedule. Allows OCA to determine whether it is not cost-effective to implement a program in a particular county or municipality and to grant a waiver to such county or municipality. Requires OCA to assist with the implementation of a program through training and consultation. Requires the Comptroller to periodically audit counties and municipalities to verify compliance. Amends Section 133.058, Local Government Code, to provide that any county or municipality determined to not be in compliance with the Program may not retain certain fees on collections.

**County Courts**

**HB 564** – Effective 9/1/05

Amends Chapter 25, Government Code, to create the County Court at Law No. 4 of Williamson County on January 1, 2006.

**HB 595** – Effective 5/27/05

Amends Section 25.1932, Government Code, to allow a county court at law in Randall County to accept guilty pleas in uncontested cases and to reduce the concurrent jurisdiction with the district court in civil cases to those in which the amount in controversy exceeds \$500 but does not exceed \$100,000, excluding interest, statutory or punitive damages and penalties, and attorney's fees and costs.

**HB 597** – Effective 9/1/05

Amends Chapter 25, Government Code, to create the County Court at Law No. 2 of Randall County on October 1, 2006.

**HB 1622** – Effective 9/1/2005

Amends Chapter 25, Government Code to create the County Court at law of Hill County on September 1, 2005.

**HB 2458** – Effective 6/18/05

Amends Section 111.070, Local Government Code, to allow a commissioners court in a county with a population of 125,000 or more to designate a budget officer who may amend the budget subject to conditions and directions provided by the court.

**HB 3475** – Effective 9/1/05

Amends Sections 25.0731 and 25.0733, Government Code, to create an additional statutory probate court in El Paso County.

**HB 3489** – Effective 9/1/05

Amends Chapter 25, Government Code, to create the County Court at Law No. 4 and Probate Court of Brazoria County on January 1, 2007.

**HB 3547** – Effective 9/1/05

Amends Chapter 25, Government Code, to create the County Court at Law No. 2 of Kaufman County on September 1, 2007 or an earlier date as determined by the Commissioners Court of Kaufman County.

**HB 3557** – Effective 9/1/05

Amends Section 54.602, Government Code, to allow the judge of the Harris County Probate Court No. 3, with the approval of the commissioners court, to appoint an associate judge.

**HB 3570/ SB 1875** – Effective 9/1/05

Amends Chapter 25, Government Code, to create the County Court at Law No. 6 of Hidalgo County on September 1, 2005.

**SB 524** – Effective 5/3/05

Amends Chapter 25, Government Code, to create the County Court at Law of Cass County on May 3, 2005.

**Court Clerks**

**HB 291** – Effective 9/1/05

Amends Article 46.03, Code of Criminal Procedure, to require the court clerk, when a court orders the release of a person acquitted by reason of insanity on discharge or to outpatient care, to provide name, address, and phone number information to the Department of Criminal Justice victim services division which is required to notify the victim of the release.

**HB 413** – Effective 9/1/05

Amends Article 55.02, Code of Criminal Procedure, and Section 411.081, Government Code, to require the clerk of the court to send the certified copy of a petition or order

for expunction or nondisclosure of criminal records by secure electronic mail or by facsimile transmission, if requested in writing by the person who is the subject of the order.

**HB 646** – Effective 9/1/05

Amends Article 2.23, Code of Criminal Procedure, to require a clerk of a district or county court, when requested in writing by the Attorney General, to report any information in court records that relates to a criminal matter, including information requested for purposes of federal habeas review, not later than the 10<sup>th</sup> day after the request in the form prescribed. [See also, State Agencies]

**HB 723** – Effective 5/27/05

Amends Section 194.002, Health & Safety Code, to require that prior to submitting a divorce or annulment of marriage report to the Bureau of Vital Statistics, a district clerk provide the date the divorce or annulment was granted, the court, the style, and the docket number of the case, if that information was not already included on the form when submitted to the clerk.

**HB 858** – 9/1/05

Amends Section 2.006, Family Code, to prohibit a clerk from issuing a marriage license for which both applicants are absent unless the persons applying on their behalf can provide an affidavit declaring that the absent applicants are either on active duty in the military or incarcerated.

**HB 1140** – Effective 6/18/05

Amends Section 191.007, Local Government Code, to prohibit a county clerk from imposing additional requirements or fees for filing or recording a legal paper beyond that prescribed by this section.

**HB 1191** – Effective 9/1/05

Amends Section 615, Probate Code, to provide that when a guardianship is removed to another county, the court clerk must transmit the case file and a certified copy of the index of the records to the appropriate county clerk. [See also, Probate and Guardianships]

**HB 2408** – Effective 9/1/05

Amends Section 158.105, Family Code, to allow a clerk of court to deliver a judicial writ of withholding for payment of child support to an employer by electronic mail or by facsimile transmission. Provides delivery receipt or confirmation requirements.

**HB 3376** – Effective 9/1/05

Amends the Penal Code to facilitate the investigation and prosecution of money laundering and insurance fraud. Adds Article 42.0181, Code of Criminal Procedure, to require that a court clerk provide to the Texas Department of Insurance written notice of a person's conviction or deferred adjudication for theft, fraud, money laundering, or insurance fraud.

**SB 335** – Effective 9/1/05

Adds Chapter 15, Property Code, to create the Uniform Real Property Electronic Recording Act which provides for the validity of electronic documents and the recording of such documents with the county clerk. Provides that a county clerk implementing this chapter must comply with the rules and standards adopted by the Texas State Library and Archives Commission.

**SB 461** – Effective 5/13/05

Amends Section 11.008, Property Code, to clarify that a deed or deed of trust that discloses a social security number or driver's license number must include a confidentiality notice on the top of the first page. Clarifies that the county clerk may not reject the filing solely because the instrument does not comply with this section. Amends Section 191.007, Local Government Code, to provide that a clerk may not increase the filing fee for a document that fails to meet the type set and notice requirements .

**SB 1589** – Effective 9/1/05

Amends Section 51.901 and adds Section 405.021, Government Code, to provide that if a county clerk or the secretary of state believes that a document being filed to create a lien is fraudulent, the clerk or secretary of state must request the assistance of the county or district attorney to determine whether it is fraudulent before filing or recording the document, request that the filer provide additional supporting documentation, and forward any such documentation to the county or district attorney.

**Criminal Law**

**HB 56** – Effective 9/1/05

Adds Section 33.05, Penal Code, to create a first degree felony when a person knowingly accesses a computer system that is part of a voting system that uses direct recording electronic voting machines to prevent a person from lawfully casting a vote, to change a lawfully cast vote, to prevent a lawfully cast vote from being counted, or to cause a vote that was not lawfully cast to be counted. Provides that an attempt to commit this offense is a third degree felony.

**HB 126** – Effective 6/18/05

Amends Section 37.10, Penal Code, to reduce the offense of tampering with a government record to a Class C misdemeanor when the record was used to establish the residency of a student as required for enrollment in a school district.

**HB 164** – Effective 8/1/05

Adds Section 481.1245, Health and Safety Code, to create a third degree felony for the possession or transportation of anhydrous ammonia in an inappropriate container. Imposes a licensure requirement on wholesale distributors

of prescription drugs and provides for criminal penalties. [See also, Family Law]

**HB 364** – Effective 5/30/05

Adds Section 544.0055, Transportation Code, to create a Class C misdemeanor when a person uses, sells, offers for sale, purchases, or possesses for use or sale a traffic control signal preemption device.

**HB 582** – Effective 9/1/05

Amends Section 38.14, Penal Code, to provide that a person commits a third degree felony by intentionally or knowingly with force taking a stun gun from a peace officer, parole officer, or community supervision and corrections department officer with the intention of harming the officer or another person. Provides that an attempt to commit this offense is a state jail felony.

**HB 699** – Effective 9/1/05

Amends Section 521.451, Transportation Code, to increase the penalty for certain offenses involving fictitious driver's licenses to a Class A misdemeanor. Provides that conduct constituting an offense under this section and Section 106.07, Alcoholic Beverage Code regarding the misrepresentation of age by a minor may be prosecuted only under the Alcoholic Beverage Code.

**HB 823** – Effective 9/1/05

Amends Section 46.15, Penal Code, to define "traveling" for purposes of the provision that makes the unlawful carrying of weapons statute inapplicable. Amends Section 2.05 regarding presumptions, to specify the consequences that arise when a penal provision establishes a presumption in favor of a defendant.

**HB 825** – Effective 6/18/05

Amends Section 38.15, Penal Code, to create an offense for interfering with an animal control officer while the officer is performing public duties.

**HB 904** – Effective 9/1/05

Amends Section 3.03, Penal Code, to include intoxication assault, possession or promotion of child pornography, and improper photography or visual recording among the list of crimes for which a judge may order a defendant to serve consecutive sentences following a single trial.

**HB 1012** – Effective 6/18/05

Amends the Penal Code, Code of Criminal Procedure and Family Code to expand the offense of abuse of a corpse to include the vandalism, damage or offensive treatment of the space in which a corpse has been interred or otherwise permanently laid to rest.

**HB 1095** – Effective 9/1/05

Amends Section 22.11, Penal Code, to provide that a person, with the intent to assault, harass, or alarm, commits an offense by causing a person known to be a public servant to contact certain human or animal fluids or products while the public servant is lawfully discharging an official duty or power.

**HB 1323** – Effective 9/1/05

Amends Section 32.31, Penal Code, to provide that a person commits a state jail felony when the person, not being the cardholder and without the effective consent of the cardholder, possesses a credit card or debit card with intent to use it.

**HB 1357** – Effective 9/1/05

Amends Section 106.115, Alcoholic Beverage Code, to require a court to order the Department of Public Safety to suspend for a period not to exceed one year the driver's license or permit of a minor who has been placed on deferred disposition for public intoxication or certain alcoholic offenses relating to age, has previously been convicted of one of those offenses, has been ordered to attend an alcohol awareness program, and has failed to timely present evidence of the satisfactory completion of the program or has failed to timely present evidence showing the performance of required community service hours. Adds Section 521.251, Transportation Code, to mandate the automatic suspension of a person's driver's license upon final conviction of the offense of purchasing or furnishing alcohol to a minor. Increases the period of suspension to one year for those who have previously had a driver's license suspended.

**HB 1361** – Effective 9/1/05

Amends Section 161.056, Agriculture Code, to authorize the Texas Animal Health Commission to implement an animal identification program. Provides that a person commits a Class C misdemeanor by failing to comply with the program rules.

**HB 1634** – Effective 9/1/05

Amends Section 28.02, Penal Code, to provide that a person commits an offense by recklessly starting a fire or causing an explosion, while manufacturing or attempting to manufacture a controlled substance, that damages any building, habitation, or vehicle. Amends Section 352.021, Local Government Code, to provide that a person who is the owner of property subject to a fire marshal's investigation commits a Class C misdemeanor punishable by a fine not to exceed \$2,000 by refusing to be sworn, refusing to appear and testify, or failing to provide the fire marshal with any requested book, paper, or other document relating to the investigation.

**HB 2104** – Effective 9/1/05

Amends Section 38.05, Penal Code, to expand the offense of hindering apprehension or prosecution to include actions with intent to hinder the arrest of another under the authority of a warrant or capias.

**HB 2110** – Effective 9/1/05

Amends Section 46.15, Penal Code, to include federal judges, district attorneys, criminal district attorneys, and county attorneys among those persons who may carry a licensed concealed handgun into prohibited places. Amends Section 30.05, to provide that the criminal trespass offense is inapplicable if the basis on which entry on the property or land or in the building was forbidden is



that entry with a handgun or other weapon was forbidden and the actor was a peace officer.

**HB 2228** – Effective 6/18/05

Adds Section 33.021, Penal Code, to create the offense of Online Solicitation of a Minor which involves a person who, over the internet or by electronic mail, communicates in a sexually explicit manner with a minor, distributes sexually explicit material to a minor, or solicits a minor to meet another person, with the intent that the minor will engage in sexual contact.

**SB 91** – Effective 9/1/05

Amends Sections 22.01 and 22.02 of the Penal Code to enhance the penalty for an assault against a person who is a member of the defendant’s family or household or is involved in a “dating relationship” with the defendant if the defendant has been previously convicted of any assaultive offense against such a person. Provides that a conviction in another state for a similar offense allows for the enhancement.

**SB 149** – Effective 6/17/05

Adds Section 70.307, Property Code, to create a Class B misdemeanor when a person, through surreptitious removal or by trick, fraud, or device perpetrated on the holder of the lien, obtains possession of all or part of an aircraft that is subject to a maintenance lien.

**SB 1791** – Effective 9/1/05

Amends Section 19.03, Penal Code, to create a capital offense for the murder of a judge or justice in retaliation of or on account of the service of the person as a judge.

**Criminal Procedure**

**HB 51** – Effective 9/1/05

Amends Article 42.12, Code of Criminal Procedure, to require a court to order that an ignition interlock device be installed in a defendant’s vehicle as a condition of community supervision if it is shown at the trial of a defendant charged with an intoxication offense that the person had a blood alcohol concentration level of .15 or more at the time of the analysis. Repeals Sections 49.09(e) and (f), Penal Code, to remove the exclusion that did not allow for the enhancement of certain intoxication offenses for persons with a prior intoxication offense conviction more than 10 years old.

**HB 544** – Effective 9/1/05

Amends Chapter 56, Code of Criminal Procedure, to provide that a law enforcement agency, a person authorized to act on behalf of the victim, or an employee of the Department of Family and Protective Services, must request a forensic medical examination for a victim of sexual assault who reports the assault to a law enforcement agency within 96 hours of the assault. Allows the law enforcement agency to decline to request an exam if the

person reporting the assault has made one or more false reports of sexual assault and there is no other evidence to corroborate the allegations.

**HB 550** – Effective 9/1/05

Amends Article 42.12, Code of Criminal Procedure, to provide that a judge is not required to direct an officer to prepare a presentence report in a felony case under this section when punishment is to be assessed by a jury, the defendant is convicted of or enters a plea of guilty or nolo contendere to capital murder, the only available punishment is imprisonment, or the judge intends to follow a plea bargain under which the defendant agrees to imprisonment. Requires a judge to allow a defendant or his counsel to read the presentence report at least 48 hours before sentencing, unless waived by the defendant.

**HB 599** – Effective 9/1/05

Amends Article 17.151, Code of Criminal Procedure, to allow for an exemption to the mandatory release of a defendant who is pending trial for violating a condition of the defendant’s bond.

**HB 681** – Effective 9/1/05

Amends Section 498.0045, Government Code, to clarify that for the purpose of forfeiture of good conduct credit, an inmate’s application for writ of habeas corpus is considered “frivolous” if brought for the purpose of abusing judicial resources.

**HB 705** – Effective 9/1/05

Amends Article 18.19, Code of Criminal Procedure, to provide that a magistrate or a court that orders seized weapons to be destroyed or forfeited to the state may order forfeiture for use by the law enforcement agency holding the weapon or by a county forensic laboratory designated by the magistrate or court.

**HB 840** – Effective 9/1/05

Amends Article 59.01, Code of Criminal Procedure, to more broadly define “contraband” for purposes of forfeiture to include property of any nature that is used to facilitate or intended to be used to facilitate the commission of a felony under Section 15.031 (criminal solicitation of a minor) or Section 43.25 (sexual performance by a child) of the Penal Code.

**HB 915** – Effective 9/1/05

Amends Article 14.03, Code of Criminal Procedure, to limit the ability of city police officers, city marshals, and city reserve police officers to make warrantless arrests outside their jurisdiction for violations of Subtitle C, Title 7, Transportation Code, that are committed within their presence or view to situations where the offense is committed in the county or counties in which a particular officer’s employing city is located. Requires a law enforcement agency with jurisdiction in a certain area to take custody of any property seized during or after an arrest made by a peace officer without jurisdiction in that area.

**HB 967** – Effective 9/1/05

Amends Article 42.01, Code of Criminal Procedure, to require that the defendant's state identification number and the incident number, if they have been assigned at the time of judgment, be included on the felony judgment form. Requires all courts entering felony judgments to use the form promulgated by the Office of Court Administration.

**HB 969** – Effective 6/18/05

Amends Article 39.14, Code of Criminal Procedure, to require, rather than permit, a court to order the State to produce any designated documents that the defendant requests to inspect or copy if the defendant shows good cause and notices other parties.

**HB 975** - Effective 6/18/05

Amends Article 39, Code of Criminal Procedure, to provide the state with the same authority that a defendant currently has to have the deposition of a witness taken when an examination takes place in a criminal action before a magistrate

**HB 1048** - Effective 9/1/05

Amends Articles 2, 18 and 59, Code of Criminal Procedure, to provide that the court reporter, at any time during or after a criminal proceeding, must release for safekeeping any firearm or contraband received as an exhibit to the sheriff or, in a county with a population of 500,000 or more, to the law enforcement agency that took possession at the proceeding. Expands the definition of contraband or property that can be seized by a peace officer.

**HB 1068** - Effective 9/1/05

Amends Chapter 38, Code of Criminal Procedure, to create the Texas Forensic Science Commission to develop and implement a professional misconduct reporting system and investigate reports of professional negligence and misconduct at all facilities that conduct forensic analyses. Provides that a forensic analysis of physical evidence is generally not admissible unless conducted by an accredited entity. Amends Chapter 411, Government Code, to require the director of the Department of Public Safety to adopt rules regarding the collection, preservation, shipment, and analysis of a DNA database sample. Requires the following persons to provide DNA samples for the creation of a DNA record: individuals ordered by a magistrate or court; individuals confined in a penal institution operated by the Texas Department of Criminal Justice; and juveniles adjudicated for conduct constituting a felony who are confined in a facility operated by the Texas Youth Commission.

**HB 1601** – Effective 9/1/05

Amends Article 38.30, Code of Criminal Procedure, to allow the use of a qualified telephone interpreter in the trial of a Class C misdemeanor or a proceeding before a magistrate if an interpreter is not available to appear in person or the only available interpreter is not considered to possess adequate interpreting skills. Amends Article 42.12, to include among the community supervision conditions

the requirement that the defendant reimburse the county for compensation paid to any interpreter in the case.

**HB 1759** – Effective 9/1/05

Amends Article 42.12, Code of Criminal Procedure, to allow a jury to recommend community supervision for a defendant who has been convicted of a state jail felony unless the sentence occurs automatically and community supervision is ordered under Section 15(d). Increases the time period from 90 to 180 days confinement in a county jail that a judge may require of a defendant convicted of a state jail felony who has been placed on community supervision.

**HB 2120** - Effective 9/1/05

Amends the Code of Criminal Procedure to permit an arrested person to be brought before a magistrate in any county in the state for a hearing under Article 15.17. Clarifies the person may be presented to the magistrate through the use of an electronic broadcast system if it permits two-way electronic communication of image and sound between the arrested person and the magistrate and includes secure internet videoconferencing. Amends the Government Code, the Health and Safety Code, the Local Government Code, and the Tax Code, to make a number of other operational, administrative, or permissive changes applicable to counties.

**HB 2193** – Vetoed by the governor

The bill would have amended provisions within the Code of Criminal Procedure, Health & Safety Code, Government Code, and Local Government Code relating to community supervision and deferred adjudication to expand credit for time served and reduce or terminate community supervision.

**HB 2194** – Effective 6/18/05

Amends Article 46B.025, Code of Criminal Procedure, to require a court to direct the expert of a defendant's competency to stand trial to provide his or her report to the court and the parties in the form approved by the Texas Correctional Office on Offenders with Medical or Mental Impairments. Amends Article 46B.026 to require the court to forward the expert report to the Office.

**HB 2275** – Effective 9/1/05

Amends Article 59.01, Code of Criminal Procedure, to include among the list of crimes that subject property used in the commission of the crime to be considered contraband, the intoxication and alcoholic beverage offenses under Chapter 49 of the Penal Code that are punishable as a third-degree felony or a state jail felony if the defendant has been previously convicted three times of such an offense.

**HB 2294** – Effective 9/1/05

Adds Article 13.30, Code of Criminal Procedure, to provide that the venue for the prosecution of a defendant who misapplies property held as a fiduciary or property of a financial institution in one county and removes the property to another county is appropriate in the county

where the defendant misapplied the property, in any other county through or into which the defendant removed the property, or, as applicable, in the county in which the fiduciary was appointed to serve. Provides that an offense related to the misapplication of construction trust funds under Chapter 162, Property Code, can only be prosecuted in the county where the construction project is located.

**HB 2296** – Effective 9/1/05

Amends Section 12.44, Penal Code, to clarify that at the request of the prosecuting attorney, the court may authorize a prosecuting attorney to prosecute a state jail felony as a Class A misdemeanor.

**HB 2518** – Effective 6/18/05

Amends Chapter 616, Health and Safety Code, to provide that a commissioners court may allow persons who have been arrested and charged with a felony to participate in a mental health court program. Requires a mental health court program to ensure that eligible individuals have adequate counsel before volunteering and while participating in the program; to allow an eligible individual to choose whether to proceed through the program or through the criminal justice system; to allow a participant to withdraw at any time before a trial on the merits is initiated; to provide a participant with a court-ordered individualized treatment plan; and to ensure that the jurisdiction extends at least six months, but not longer than the probationary period for the offense charged.

**HB 2791** – Effective 6/18/05

Amends Section 76.017, Government Code, to provide that a magistrate may require a person to participate in a drug court program established under Chapter 469, Health & Safety Code, as a condition of bond or condition of pretrial release. Amends Section 493.009 to require the Texas Department of Criminal Justice to establish a program to confine and treat individuals referred for treatment as part of a drug court program or similar program created under other law.

**HB 3093** – Effective 9/1/05

Amends Article 55, Code of Criminal Procedure, to allow the director of the Department of Public Safety to file an ex parte petition for expunction of criminal records. [See also, **Juries**]

**HB 3152** – Vetoed by the governor

The bill would have amended Article 1.051, Code of Criminal Procedure, to prohibit judges or prosecutors from encouraging unrepresented defendants to waive their right to counsel or to communicate with the prosecutor unless the court has denied the defendant's request for appointed counsel. The bill would have required the judge to warn a defendant seeking to waive counsel before proceeding to trial or entering a guilty plea of the dangers and disadvantages of doing so and require the defendant to sign a statement waiving counsel.

**HB 3481** – Effective 9/1/05

Amends Chapter 54, Government Code, by adding Subchapter BB to allow the judges of the district courts and statutory county courts in Montgomery County, with the consent of the commissioners court, to appoint one or more magistrates.

**HB 3485** – Effective 9/1/05

Amends Chapter 54, Government Code, by adding Subchapter BB to allow the majority of the members of a board composed of the judges of the district courts and statutory county courts of Cameron County to appoint not more than two criminal law hearing officers. Amends Article 2.09, Code of Criminal Procedure, to include a criminal law hearing officer for Cameron County as a magistrate for purposes of the Code of Criminal Procedure.

**HB 3541** – Effective 9/1/05

Amends Section 54.1106, Government Code, to expand the powers and duties of a magistrate in Brazos County. Amends Article 2.09, Code of Criminal Procedure, to include a magistrate appointed by a judge in Nolan County as a magistrate for purposes of the Code of Criminal Procedure.

**SB 56** – Effective 9/1/05

Adds Article 17.091, Code of Criminal Procedure, to require that a judge or magistrate, before reducing the amount of bail set for a defendant charged with Section 3g, Article 42.12 offense, provide reasonable notice of the proposed bail reduction to the attorney representing the state and allow for a hearing upon request of the defendant or the attorneys.

**SB 60** - Effective 9/1/05

Amends Section 12.31, Penal Code, to provide that juries may sentence a person convicted of capital murder to life in prison without parole or to death, when the prosecutor seeks the death sentence. Provides that a life without parole sentence is mandatory on conviction of a capital felony when the prosecutor does not seek the death penalty. Removes the sentencing option in capital murder cases of a life sentence with possibility of parole after 40 years. Amends Articles 26.052 and Article 11.071 to require the regional selection committee and the Court of Criminal Appeals to amend the respective standards for attorneys seeking appointment in death penalty cases to exclude attorneys found to have rendered ineffective assistance of counsel in any capital case by a federal or state court.

**SB 552** – Effective 5/20/05

Amends Chapter 54, Government Code, by adding Subchapter BB to allow the Commissioners Court of Nolan County to authorize the judge of the district court to appoint one or more magistrates. Amends Article 2.09, Code of Criminal Procedure, to include a magistrate appointed by a judge in Nolan County as a magistrate for purposes of the Code of Criminal Procedure.

**SB 611** – Effective 6/17/05

Amends Chapter 21, Code of Criminal Procedure, to permit a prosecutor to file electronic charging instruments such as indictments, information, complaints, or other related documents. Amends Chapters 23 and 38 to authorize a district clerk, county clerk, or court to issue a writ in electronic form and provide for the admissibility of an electronically preserved document. [See also, **Technology**]

**SB 781** – Effective 6/17/05

Amends Section 101.106, Insurance Code, to provide that an attorney representing the state is not required to prove that defendants of fraudulent insurance cases were intentional in their actions.

**SB 837** – Effective 9/1/05

Adds Chapter 46C, Code of Criminal Procedure, relating to the insanity defense. Conforms the standards for experts used in an insanity case to the standards for experts used to determine the competency of a defendant to stand trial. Streamlines the insanity defense process and improves the post-acquittal procedures for persons found not guilty by reason of insanity.

**SB 1507** – Effective 9/1/05

Amends Article 37.071, Code of Criminal Procedure, to provide that in the punishment phase of a capital felony case the state must give notice, as specified in Article 37.07, to the defendant regarding the introduction of evidence of extraneous conduct.

**SB 1507** – Effective 9/1/05

Amends Article 18.20, Code of Criminal Procedure, to include murder and all capital murder felonies among the offenses for which a judge may issue an order authorizing the interception of wire, oral, or electronic communications.

**District Courts**

**HB 593** – Effective 1/1/06

Amends Section 24.149, Government Code, to provide that the terms of the 47<sup>th</sup> district court in Armstrong County begin on the first Monday in January.

**HB 788** – Effective 9/1/05

Amends Section 24.152, Government Code, to provide the 50<sup>th</sup> District Court with the criminal jurisdiction of a county court, and to allow the county judges in Baylor, Cottle, King, and Knox counties to transfer to the 50<sup>th</sup> District Court, with the approval of the district judge, cases in which the courts have concurrent jurisdiction.

**HB 2174** – Effective 9/1/05

Amends Section 24.116, Government Code, to provide that the terms of the 15<sup>th</sup> and 59<sup>th</sup> district courts begin on the first Monday in January and July.

**HB 2256** – Effective 9/1/05

Amends Section 24.214, Government Code, to provide that the terms of the 112<sup>th</sup> District Court in Pecos County begin on the first Monday in May and November.

**HB 2913** – Effective 5/17/05

Amends Chapter 24 of the Government Code to allow the 28<sup>th</sup>, 94<sup>th</sup>, 105<sup>th</sup>, 117<sup>th</sup>, 148<sup>th</sup>, 214<sup>th</sup>, 319<sup>th</sup>, and 347<sup>th</sup> district courts in Nueces County to receive guilty pleas and dispose of misdemeanor cases pending in a county court at law, regardless of whether the case is transferred to the district court. Provides that the judgment, order, or action of the district court is binding as if the case were pending in the district court.

**HB 3199** – Effective 9/1/05

Amends Section 24.110, Government Code, to provide that the terms of the 410<sup>th</sup> District Court in Montgomery County begin on the first Monday in January and July.

**SB 235** – Effective 5/3/05

Amends Section 53.004, Government Code, to remove the residency requirement for the bailiffs who are appointed by the criminal district court judges of Tarrant County.

**SB 321** – Effective 9/1/05

Amends Section 24.541, Government Code, to expand the jurisdiction of the 396<sup>th</sup> District Court in Tarrant County by providing concurrent original jurisdiction with the justice courts over misdemeanor cases.

**SB 550** – Effective 9/1/05

Amends Section 53.009, Government Code, to provide that the salary paid to the bailiff of the 106<sup>th</sup> District Court may be paid out of either the general fund or the courthouse security fund of each county. Amends Article 102.017, Code of Criminal Procedure, to allow the courthouse security fund and the municipal court building security fund to be used to pay for security personnel for a district, county, justice, or municipal court, as appropriate.

**SB 1189** – Effective 1/1/05

Amends Chapter 24, Government Code, to create the following eleven district courts: the 412<sup>th</sup> Judicial District composed of Brazoria County, the 428<sup>th</sup> Judicial District composed of Hays County, the Dallas County Criminal Judicial Districts Nos. 6 and 7 composed of Dallas County, the 424<sup>th</sup> Judicial District composed of Blanco, Burnet, Llano, and San Saba Counties (effective 1/1/05); the 430<sup>th</sup> Judicial District composed of Hidalgo County, the 425<sup>th</sup> Judicial District composed of Williamson County, the 426<sup>th</sup> Judicial District composed of Bell County, the 427<sup>th</sup> Judicial District composed of Travis County, the 433<sup>rd</sup> Judicial District composed of Comal County, and the 434<sup>th</sup> Judicial District composed of Fort Bend County (effective 1/1/07). Sets forth provisions regarding the jurisdiction and procedure of certain judicial districts; the selection of a local administrative judge for Blanco, Burnet, Llano, and San Saba Counties and El Paso County; the juvenile boards in Comal, Leon, and Webb counties; and the use of a criminal court administrator in Tarrant County.

## Family Law

### **HB 164** – Effective 8/1/05

Amends Chapter 262, Civil Practices & Remedies Code, to allow the Department of Family and Protective Services, a law enforcement officer, or a juvenile probation officer to take possession of a child without a court order on personal knowledge and belief that the child has been permitted to remain on premises used for the manufacture of methamphetamine. [See also, Criminal Law]

### **HB 201** – Effective 9/1/05

Amends Chapter 8, Family Code, to allow for spousal maintenance when the duration of the marriage was 10 years or longer and the spouse seeking maintenance lacks sufficient property and is the custodian of a child of the marriage of any age who requires substantial care and personal supervision because of mental or physical disability.

### **HB 202** – Effective 9/1/05

Adds Section 6.604, Family Code, to create provisions for informal settlement conferences in suits for dissolution of marriage. Provides that a written agreement is binding on the parties if the parties and their attorneys, if any, signed the agreement and the agreement prominently states that the agreement is not subject to revocation. Provides that if the court determines that the terms of the agreement are not just and right, the court may request the parties to submit a revised agreement or set the case for a contested hearing.

### **HB 203** – Effective 9/1/05

Adds Section 7.008, Family Code, to allow the court ordering the division of the estate in a suit for dissolution of marriage to consider whether a specific asset will be subject to taxation and when that tax will be required to be paid.

### **HB 204** – Effective 9/1/05

Amends Section 162.507, Family Code, to prohibit an adopted adult from inheriting from or through the adult's biological parent under the laws of intestate succession.

### **HB 209** – Effective 9/1/05

Amends Section 160.308, Family Code, to provide that a challenge to an acknowledgment or denial of paternity executed by a minor may be commenced up to four years after the signatory's eighteenth birthday or up to four years after the removal of the signatory's disabilities of minority by court order, marriage or by other operation of law.

### **HB 240** – Effective 9/1/05

Amends Section 192.008, Health & Safety Code, to provide that an adult adoptee who knows the identity of each parent named on the original birth certificate is entitled to a noncertified copy of the original birth certificate without obtaining a court order.

### **HB 248** – Effective 6/17/05

Adds Section 9.1045, Family Code, to provide that a court that renders a qualified domestic relations order retains continuing exclusive jurisdiction to amend the order and to clarify the terms of the order. Requires an amended order to be submitted to the plan administrator to determine whether the order satisfies the requirements of a qualified domestic relations order.

### **HB 252** – Effective 9/1/05

Amends Chapter 153, Family Code, by adding Subchapter J relating to the use of parenting plans and coordinators in high-conflict suits affecting the parent-child relationship to set forth the rights and duties of the parents and to minimize future disputes. Provides requirements for temporary and final parenting plans and for the appointment, qualifications, authority, removal, and compensation of a coordinator. Specifies that the subchapter does not apply to a Title IV-D case relating to the determination of parentage or establishment, modification, or enforcement of child support or medical support.

### **HB 260** – Effective 6/18/05

Amends Section 6.603, Family Code, to extend the confidentiality provisions for ADR procedures to collaborative law. Adds Section 81.009 to permit the appeal of protective orders except that orders rendered in a divorce suit or suit affecting the parent-child relationship may not be appealed until the decree or support order is final. Amends Title 5 to change the standing requirement for a grandparent to file an original suit requesting managing conservatorship; to allow a court to decline to enter a judgment on certain mediated settlement agreements; to require the court, upon request, to interview in chambers a child 12 years of age or older regarding conservatorship; to address the military deployment of a conservator; to set forth additional procedures to prohibit modification of child support when the parties have agreed to an amount that differs from the guidelines unless the circumstances have materially and substantially changed; and to limit the court's authority to render a judgment for past due child support to 10 years after the child becomes an adult or 10 years after the obligation terminates under the child support order.

### **HB 261** – Effective 9/1/05

Amends Subchapter H, Family Code, to permit the court to consider appointment of an aunt or an uncle as a managing conservator of the child. Requires a court to order reasonable possession of or access to a grandchild if the grandparent can prove by a preponderance of the evidence that denial of possession of or access to the child would significantly impair the child's physical health or emotional well-being.

### **HB 270** – Effective 9/1/05

Amends Title 5, Family Code, by adding Section 102.0045 and Subchapter J to permit the adult sibling of a child in foster care to file a suit requesting access to the child.

**HB 307** – Effective 9/1/05

Amends Chapter 107, Family Code, to clarify existing and create additional distinctions among the duties and appointment of the amicus attorney, the attorney ad litem, and the guardian ad litem.

**HB 383** – Effective 9/1/05

Amends Section 151.001, Family Code, to provide that only a parent, grandparent, stepparent, or guardian of the child may use corporal punishment for the reasonable discipline of the child.

**HB 409** – Effective 9/1/05

Amends Section 263.405, Family Code, to prohibit an appellate court in a case regarding the placement of a child under the care of the Department of Protective and Regulatory Services from considering any issue that was not specifically presented to the trial court in a timely filed statement of points on which the party intends to appeal or in a statement combined with a motion for a new trial. Provides that a claim that a judicial decision is contrary to the evidence or that the evidence is factually or legally insufficient is not sufficiently specific to preserve an issue for appeal.

**HB 410** – Effective 9/1/05

Adds Section 3.007, Family Code, to set forth provisions regarding the valuation of separate and community property interests in defined benefit retirement plans, defined contribution retirement plans, employer-provided stock option plans and employer-provided restricted stock plans. Adds Section 3.008 to provide that insurance proceeds arising from a casualty loss to property during marriage are characterized in the same manner as the property to which the claim is attributable. Provides that disability insurance payments and workers' compensation benefits are community property to the extent that the payments are meant to replace earnings lost while the disabled person or injured person is married.

**HB 657** – Effective 9/1/05

Amends Section 161.001, Family Code, to allow a court to order termination of the parent-child relationship when the court finds by clear and convincing evidence that the parent has been convicted of the murder of the other parent of the child.

**HB 678** – Effective 5/27/05

Amends Section 157.265, Family Code, to clarify that any unpaid child support that accrued before January 1, 2002, accrued at the interest rate in effect at the time the child support payment became delinquent.

**HB 1059** – Effective 6/17/05

Amends Section 85.005, Family Code, to provide that protective orders can be enforced civilly or criminally.

**HB 1174** – Effective 9/1/05

Amends Section 157.167, Family Code, to provide that when the court finds that a respondent has failed to comply with the terms of an order providing for possession of or access to a child, and the court finds that the enforcement

of the order was necessary to ensure the child's physical or emotional health or welfare, the fees and costs awarded to the movant may be enforced by any means available for the enforcement of child support, including contempt, but not including income withholding.

**HB 1179** – Effective 9/1/05

Amends Section 201.007, Family Code, to provide that an associate judge has the authority to render and sign a temporary order.

**HB 1181** – Effective 9/1/05

Amends Section 411.1285, Government Code, to provide that a county domestic relations office is entitled to obtain from the Department of Public Safety criminal history record information regarding a person who is a party to a proceeding in which the domestic relations office has been appointed guardian ad litem for a child or has been ordered to conduct a social study.

**HB 1182** – Effective 9/1/05

Amends Chapters 101, 158, and 203, Family Code, to allow a domestic relations office to issue an administrative writ of withholding in a proceeding in which the office is providing child support enforcement services. Allows a domestic relations office to assess and collect a fee to reimburse the office for filing an administrative writ of withholding.

**HB 1238** – Effective 9/1/05

Amends Section 234.008, Family Code, to allow the state child support disbursement unit to distribute the payment to an individual or entity as designated by the obligee in a signed final order in a suit affecting the parent-child relationship.

**HB 1999** – Effective 9/1/05

Amends Chapter 161, Family Code, to require a biological parent of a child to prepare a medical history report that addresses the medical history of the parent and the parent's ancestors when the parent signs an affidavit of voluntary relinquishment of parental rights or is involved in a suit terminating the parent-child relationship.

**HB 2231** – Effective 5/30/05

Amends Section 156.409, Family Code, to provide that if the sole managing conservator of a child or a joint managing conservator with the exclusive right to determine the residence of a child voluntarily relinquished the primary care and possession of the child to another person for at least six months, the court must modify a child support order to provide that the other person having possession of the child receive child support payments.

**HB 2331** – Effective 9/1/05

Adds Sections 262.308 and 262.309, Family Code, to provide for the confidentiality of all identifying information regarding a person who voluntarily delivers a child to a designated emergency infant care provider. Amends Chapter 263 to create a rebuttable presumption that a parent who delivers a child to a designated

emergency infant care provider is the child's biological parent and intends to relinquish parental rights. Requires the Department of Protective and Regulatory Services to verify with the National Crime Information Center and state and local law enforcement that the child is not a missing child. [See also, Open Records]

**HB 2668** – Effective 9/1/2005

Amends Section 154.24 to allow a private entity to perform the duties and functions of a local registry under a contract with a county commissioners court or a domestic relations office.

**HB 3531** – Effective 10/1/05

Amends Chapter 152, Human Resources Code, to abolish the Dallas County child support office and family court services department and to establish a Dallas County Domestic Relations Office. Provides for a Dallas County Criminal District Courts Administrator. Amends Section 105.009, Family Code, to require that any parent education and family stabilization course required in a suit affecting the parent-child relationship in Dallas County be available in both Spanish and English.

**HCR 153** – Effective 6/18/05

Directs the Texas Legislative Council to schedule a revision of the Family Code during the 2005-2006 interim using updated terminology.

**SB 1147** – Effective 9/1/05

Amends Chapter 201 of the Family Code to allow the presiding judges to appoint retired or former child protection and child support associate judges to sit as visiting associate judges regardless of when they were last employed by the Office of Court Administration.

**SB 1151** – Effective 6/17/05

Amends Section 159.316, Family Code, to provide that a voluntary acknowledgment of paternity, certified as a true copy, is admissible to establish parentage of the child.

**SB 1275** – Effective 6/17/05

Amends Article 17.292, Code of Criminal Procedure, to provide that an order for emergency protection remains in effect up to the 91<sup>st</sup> day but not less than 61 days after the date of issuance. Amends the Family Code by adding Sections 6.404 and 105.0011, to require a court, at any time while a suit for dissolution of marriage or a suit affecting the parent-child relationship is pending, that believes a party or a member of the party's family or household may be a victim of family violence, to inform that party of the right to apply for a protective order.

**Judicial Compensation and Retirement**

**HB 11, 2<sup>nd</sup> Called Session** – Effective 12/1/05

Amends Section 659.012, Government Code, to increase judicial compensation by providing that a district court judge is entitled to an annual state salary of at least

\$125,000, an appellate justice is entitled to an amount that is 110% of the salary of a district judge (\$137,500), and a judge or justice on either of the two high courts is entitled to an amount that is 120% of the salary of a district judge (\$150,000). Provides that the combined salary from state and county sources for a district judge may not exceed \$5,000 less than the salary paid to an appellate justice and the combined salary of an appellate justice may not exceed \$5,000 less than the salary paid to a justice on the supreme court. Amends Section 26.006 to provide that a county judge is entitled to an annual salary supplement from the state of \$15,000, rather than \$10,000, if at least 40% of the functions the judge performs are judicial. Amends Chapter 72 to require the Office of Court Administration to collect biennial data relating to judicial turnover. [See also, Costs and Fees].

**HB 617** – Effective 9/1/05

Amends Sections 840.102, 840.1027, and 839.102, Government Code, to provide that a member of the Judicial Retirement System Plan Two who has served twelve years on an appellate court and the sum of the member's age and amount of service credited in the retirement system equals or exceeds the number 70 ("Rule of 70") ceases making the six percent contribution to the Judicial Retirement System. Allows a member who has attained the Rule of 70 to elect to make the six percent contribution for up to 10 years of subsequent service credit. Provides that the service retirement annuity for a member qualifying under the Rule of 70 may not exceed 80% of the applicable state salary.

**HB 633** – Effective 1/1/06

Amends Chapters 841-845 of the Government Code to address benefits and participation in the Texas County and District Retirement System (System). Adds Section 841.0051 to provide that the venue of any action brought against the System in a state court or before the State Office of Administrative Hearings is in Travis County, and that the venue for an action brought by the System is in Travis County or the county where the defendant is situated, domiciled, or doing business. Amends Section 75.112 to provide that a senior district court judge appointed under this subchapter who is not a retiree of the System is subject to the Optional Membership provisions in Section 842.107.

**HB 831** – Effective 9/1/05

Amends Sections 839.101 and 834.101, Government Code, to provide that a member of the Judicial Retirement System Plan One or Plan Two who has served twelve years on an appellate court and the sum of the member's age and amount of service credited in the retirement system equals or exceeds the number 70 ("Rule of 70") is eligible to retire and receive a base service retirement annuity.

**HB 1079** – Effective 9/1/05

Amends Section 839.101, Government Code, to remove the age requirement of 55 from the Judicial Retirement

System Plan Two eligibility option that allows a member to retire after achieving 20 years of service.

**HB 1114** – Effective 9/1/05

Amends Chapters 833-835 and 838-840 of the Government Code to provide that under Judicial Retirement System Plan One or Plan Two, a member who accrues 20 years of service credit may elect to make the six percent contribution for up to 10 years of subsequent service credit. Provides that the service retirement annuity for a member who is eligible to retire may not exceed 80% of the applicable state salary.

**HB 1686** – 9/1/05

Amends Section 74.051 of the Government Code to provide for a \$10,000 increase in compensation for the presiding judges of the administrative judicial regions.

**HB 3045** – 6/18/05

Amends Chapter 152, Human Resources Code, to increase the annual compensation that may be paid to the juvenile board members of Grimes, Leon, Madison, and Walker counties to \$1,200.

**SB 672** – Effective 9/1/05

Amends Section 152.1971, Human Resources Code, to remove the \$1,200 annual salary cap for the juvenile board members of Randall County.

**SB 1176** – Effective 9/1/05

Requires the Employees Retirement System of Texas to recompute the annuities of those judges who retired or received a death benefit annuity from Judicial Retirement System Plan One or Plan Two before January 1, 2002, as if the changes in law made by the 77<sup>th</sup> Legislature to Sections 834.102(b) and 839.102(b) of the Government Code, had been in effect on the date of the judge’s retirement or death, to allow those judges who retired before January 1, 2002 and who served as visiting judges within a year of retirement to obtain the additional 10% annuity.

**Judicial Elections**

**HB 57** – Effective 10/1/05

Amends Section 41.001, Election Code, to require that all general and special elections be held on the second Saturday in May or the first Tuesday after the first Monday in November. Specifies the period for early voting and local canvassing relating to the uniform May election date.

**HB 178** – Effective 9/1/05

Adds Section 63.0102, Election Code, to allow an election officer to access electronically readable information on a driver’s license or personal identification card for proof of identification when determining when a voter must be accepted for voting.

**HB 964** – Effective 9/1/05

Amends Section 172.024 of the Election Code to provide that the \$2,500 filing fee for a candidate for nomination in the general primary election for chief justice or justice of a court of appeals is applicable to an appellate district in which a county with a population of more than 750,000 is wholly or partly situated.

**HB 1163** – Effective 9/1/05

Amends Section 172.024, Election Code, to increase the filing fee for a candidate running for district clerk in the general primary election from \$750 to \$1,250 in counties with a population of 200,000 or more.

**HB 1509** – Effective 9/1/05

Amends Section 141.063, Election Code, to reduce the information required of each signer on a petition filed in connection with a candidate’s application for a place on the ballot such that a signer’s date of birth or voter registration number, but not both, are among the requirements to validate the signature.

**Juries**

**HB 75** – Effective 9/1/05

Amends Article 35.03, Code of Criminal Procedure, and Chapter 62, Government Code, to allow a commissioner’s court’s designee, except in a capital felony case, to discharge or postpone the service of a prospective juror who claims an excuse, exemption, or lack of qualification.

**HB 1271** – Effective 9/1/05

Amends Chapter 62, Government Code, to provide that if a written summons for jury duty allows a person to claim a disqualification or exemption by signing a statement and returning it to the clerk, the form must notify the person that by claiming a disqualification or exemption based on lack of residence in the county, the person might no longer be eligible to vote in the county. Requires the clerk, on the third business day of each month, to send to the voter registrar a list containing the name and address of each person who was excused or disqualified the previous month because the person did not reside in the county. Requires the voter registrar to notify each person on the list that the person is being placed on the county’s suspense list of registered voters.

**HB 2414** – Effective 6/18/05

Amends Chapter 62, Government Code, to provide that in a county with a single district court and single county court that has concurrent jurisdiction with the district court, the judges may coordinate an interchangeable general panel of prospective jurors for service in the district, county, and justice courts.

**HB 3265** – Effective 9/1/05

Amends Article 37, Code of Criminal Procedure, to provide that when a jury fails to agree on the issue of guilt or innocence, the judge must declare a mistrial and



discharge the jury. Provides that if the jury finds the defendant guilty, but fails to agree on the issue of punishment, a mistrial must be declared only in the punishment phase of the trial and another jury must be impaneled as soon as practicable to determine the issue of punishment.

**HB 3093** – Effective 9/1/05

Amends Article 35.10, Code of Criminal Procedure, to provide that in testing the qualification of a prospective juror regarding whether the juror has been the subject of an order of nondisclosure or has a criminal history that includes information subject to that order, the juror may state only that the matter in question has been sealed. [See also, **Criminal Procedure**]

**SB 234** – Effective 4/27/05

Amends Section 53.002, Government Code, to remove the limitation on the number of grand jury bailiffs in Tarrant County to allow the district judges to appoint one bailiff for each grand jury.

**SB 451** – Effective 9/1/05

Amends Section 62.102, Government Code, to conform the service qualifications for jurors in civil and criminal cases by providing that a person who has been convicted of misdemeanor theft is not eligible to serve as a juror in a civil case.

**SB 1704** – Effective 1/1/06

Amends Chapter 61, Government Code, to increase juror pay to \$40 for each day or fraction of each day served as a juror after the first day. Requires the state to reimburse a county \$34 per day for the money paid to a grand or petit juror for each day served after the first day. Amends Section 62.0141 to provide that a person who knowingly provides false information in a request for an exemption or to be excused from jury service is subject to contempt with a fine from \$100 to \$1,000 (Effective 9/1/05). [See also, **Costs and Fees**]

**Juvenile Matters**

**HB 706** – Effective Date: See bill remarks

Amends Chapter 60, Family Code to adopt a new Interstate Compact for Juveniles. Addresses the return of youths to their home states when they have run away or escaped from custody; the juvenile probation, parole supervision and other services provided to youths whose families have moved to another state; and the return to a requesting state of a juvenile who committed a crime.

**HB 956** – Effective 6/17/05

Amends Section 152.1511, Human Resources Code, to provide that the juvenile board of Leon County is composed of the county judge and the district judges of Leon County.

**HB 1575** – Effective 9/1/05

Amends Sections 51.07-51.075, Family Code, to abolish the practice of “courtesy supervision” for children under court supervision who move from one county to another. Implements a mandatory system of interim supervision in the county to which a child moves for up to 180 days after the move, which is initiated if a child will reside in the county for at least two months. Provides for joint supervision of the child by the sending and receiving county during the period of interim supervision. Requires the interim supervision to automatically convert to permanent supervision after 180 days and formal transfer of the child’s case to the receiving county. Authorizes collaborative supervision between counties when a child is being supervised by the probation department in one county but spends substantial time in an adjoining county. Amends Section 51.095 to authorize a magistrate who is giving juvenile warnings for a videotaped interrogation to require the law enforcement officer to return the child and videotape to the magistrate for a determination that the statement was given voluntarily. Amends Section 52.01 to authorize a probation officer to take a child into custody for violation of a condition of release from detention imposed by the juvenile court or referee prior to court disposition, rather than requiring them to first obtain a directive to apprehend. Amends Section 25.0951, Education Code, to require school districts to report within seven school days of a student’s last absence, a student’s truant behavior to the juvenile court, to the county, municipal or justice court. Requires a court to dismiss a complaint against a child not made in compliance with this section. Amends Section 61.081, Human Resource Code, to authorize the Texas Youth Commission to release a youth on parole, without juvenile court approval, when nine months remain on the youth’s sentence before discharge of a determinate sentence. Amends Section 22.04, Penal Code, to allow a youth charged with injury to a child to assert a defense to the charges when they were no more than three years older than the victim. Adds Section 38.11 to make it a third degree felony to possess prohibited substances and items such as drugs, alcohol, weapons, tobacco, and money in secure juvenile facilities and Texas Youth Commission property in the same way such items are prohibited in adult correctional facilities. Amends Chapter 58, Family Code, to streamline the process for sealing a child’s records and notifying a child of automatic restriction of access to the child’s records. Makes clarifying and technical amendments related to the juvenile justice system in the Family Code, Penal Code, Code of Criminal Procedure, Education Code, and Human Resources Code. [See also, **Costs and Fees; Open Records**]

**HB 3010** – Effective 9/1/05

Amends Section 51.08, Family Code, to prohibit a juvenile court from refusing to accept the transfer of a case involving failure to attend school when the prosecuting attorney determines that the case is legally sufficient for adjudication in a juvenile court.

**HB 3098** – Effective 6/17/05

Amends Section 152.2051, Human Resources Code, to include the judge of the County Court at Law of Rockwall County, rather than the county judge, on the Rockwall County Juvenile Board.

**HB 3515** – Effective 6/18/05

Amends Section 152.0521, Human Resources Code, to include the judge of each county court at law in the county on the Comal County Juvenile Board.

**Municipal and Justice Courts**

**HB 62** – Effective 9/1/05

Adds Sections 24.0052, 25.0053, and 25.0054, Property Code, to provide that a tenant in a residential eviction suit who is unable to pay the costs of appeal or file an appeal bond may appeal the judgment by filing a pauper's affidavit with the justice court on a form provided by the court. Provides that the justice court must promptly notify the landlord who may contest the affidavit. Sets forth provisions regarding the payment of rent during appeal of the eviction.

**HB 183** – Effective 9/1/05

Amends Chapter 545, Transportation Code, to provide that a child in a vehicle who is younger than five years of age and less than 36 inches in height must be secured in a child passenger safety seat. Provides a defense to prosecution that the defendant possesses appropriate child passenger safety seat system for each child required to be secured. Provides for a specialized driving safety course that includes four hours of instruction encouraging the use of child safety seats, regardless of whether the defendant took a general safety course within the preceding 12 months.

**HB 596** – Effective 5/27/05

Amends Section 33.00934, Government Code, to exempt a municipal judge in the City of Amarillo who is employed to work less than 40 hours per week from the residency requirement and the private practice restriction.

**HB 970** – Effective 9/1/05

Amends Section 6.02, Penal Code, to provide that an offense defined by municipal ordinance or by county commissioners court order may not dispense with the requirement of a culpable mental state if the offense is punishable by a fine exceeding the maximum amount authorized by Section 12.23, currently \$500.

**HB 1394** – Effective 6/17/05

Adds Section 30.001845, Government Code, to authorize the governing body of the City of Kennedale to appoint one or more magistrates to perform certain specified duties for the municipal court of record in Kennedale.

**HB 1481** – Effective 9/1/05

Amends Section 472.022, Transportation Code, to create a misdemeanor offense for driving around a barricade punishable by a fine of \$1 to \$200. Provides that driving around a barricade erected because water is over the road is a Class B misdemeanor.

**HB 1484** – Effective 9/1/05

Amends Section 550.022, Transportation Code, to create a Class C misdemeanor for failure to comply with the requirement that a vehicle involved in an accident on a freeway in a metropolitan area be moved if the vehicle can be normally and safely driven.

**HB 2509** – Effective 6/18/05

Amends Section 503.092, Transportation Code, to provide that a municipal court has concurrent original jurisdiction with the county court or a county court at law over an action to enforce provisions of this chapter regarding dealer's and manufacturer's vehicle license plates.

**HB 2630** – Effective 9/1/05

Amends Chapter 685, Transportation Code, to provide that an owner or operator of a vehicle that has been placed in a vehicle storage facility without consent is entitled to a hearing in the justice court having jurisdiction in the precinct in which the vehicle storage facility is located. **[See also, Costs and Fees]**

**HB 2885** – Effective 9/1/05

Amends Articles 45.014 and 45.019, Code of Criminal Procedure, to provide that in a county with a population of more than two million that does not have a county attorney, a justice or a judge may not issue an arrest warrant regarding the issuance of a bad check unless the district attorney has approved the complaint or affidavit on which the warrant is based.

**HB 3441** – Effective 9/1/05

Amends Section 27.054, Government Code, to provide that a justice of the peace may hold court for any other justice in any county at the request of that justice. Provides that the justices may exchange benches for a period not to exceed five days. Specifies that a justice who exchanges benches with another justice is not entitled to receive compensation from the commissioners court of the county in which the regular justice serves.

**HB 3519** – Effective 9/1/05

Amends Section 27.055, Government Code, to provide that a county judge, in a county with a population of more than 800,00 that has no more than five justices of the peace, may appoint a qualified person to serve as a temporary justice to hold court when necessary to dispose of accumulated business. Provides that the county judge may designate the local administrative statutory county court judge to act on his or her behalf.

**SB 436** – Effective 9/1/05

Amends Section 27.004, Government Code, to provide that all records of a justice of the peace are subject to the

public access requirements prescribed by Rule 12, Rules of Judicial Administration. Requires a person who vacates the office of justice of the peace to transfer all court records, documents, property, and unfinished business to the person's successor on the date the successor takes office. [See also, **Open Records**]

**SB 439** – Effective 9/1/05

Amends Section 24.0051, Property Code, to require that the citation in an eviction suit include the following notice to the defendant: "FAILURE TO APPEAR FOR TRIAL MAY RESULT IN A DEFAULT JUDGMENT BEING ENTERED AGAINST YOU."

**SB 737** – Effective 6/17/05

Amends Section 621.506, Transportation Code, to remove the \$500 limitation to allow a municipal court to preside over cases involving operating or loading an overweight vehicle.

**SB 1005** – Effective 9/1/05

Amends Article 45.051, Code of Criminal Procedure, to provide that if a person younger than 25 commits a moving violation, the judge must require the defendant to complete a driving safety course approved by the Texas Education Agency or an examination administered by the Texas Department of Public Safety (DPS). Provides that a person examined must pay a \$10 fee to be deposited into a special account in the general revenue fund for use only by DPS for the administration of Chapter 521, Transportation Code.

**SB 1425** – Effective 9/1/05

Amends Section 28.052, Government Code, to allow a person determined by the court to be indigent to file an affidavit of inability to pay in appealing a small claims court judgment.

**SB 1014** – Effective 9/1/05

Amends Chapter 30, Government Code, to conform the language in the Uniform Municipal Court of Record Act to the language in the Rules of Appellate Procedure and the Code of Criminal Procedure.

**Open Records**

**HB 269/SB 166** – Effective 6/17/05

Amends Article 55.03, Code of Criminal Procedure, to remove the exceptions previously granted to the Department of Public Safety such that the prohibition on the release, maintenance, dissemination or use of expunged records and files for any purpose is applicable to the department.

**HB 345** – Effective 6/17/05

Amends Section 13.004, Election Code, to prohibit a voter registrar from posting on a website information regarding a voter's telephone number, social security number, driver's

license number or number of a personal identification card, or date of birth.

**HB 1575** – Effective 9/1/05

Adds Section 58.0072, Family Code, to clarify that juvenile justice information collected and maintained by the Texas Juvenile Probation Commission for statistical and research purposes is confidential except for certain limited exceptions. [See also, **Costs and Fees; Juvenile Matters**]

**HB 2197** – Effective 6/18/05

Amends Section 552.029, Government Code, to require that the Texas Department of Criminal Justice photo of an inmate confined in a facility operated by or under contract with the department be subject to public disclosure under the Public Information Act.

**HB 2331** – Effective 9/1/05

Adds Sections 262.308 and 262.309, Family Code, to provide for the confidentiality of all identifying information regarding a person who voluntarily delivers a child to a designated emergency infant care provider. Provides that any pleadings or other court documents are confidential, and that any hearing regarding a child for whom the Department of Family and Protective Services assumes custody is closed to the public unless the court finds that interests of the child or the public would be better served by opening the hearing. [See also, **Family Law**]

**SB 6** – Effective 1/1/06

Amends Chapter 161, Human Resources Code, by adding Subsection F to provide that all files, reports, records, communications, or working papers used or developed by the Department of Aging and Disability Services relating to the assessment for or the provision of guardianship services are confidential and not subject to disclosure under the Public Information Act. Provides that the department establish policies and procedures for the exchange of information with another state agency or governmental entity, including a court. Provides that a court may order disclosure of confidential information only if the court determines after a hearing and an *in camera* review of the information that disclosure is essential to the administration of justice and will not endanger the life or safety of an individual- who is a ward, is being assessed, or is providing services to a ward. [See also, **Costs and Fees; Probate and Guardianships**]

**SB 122** – Effective 9/1/05

Adds Chapter 48, Business & Commerce Code, to create the Identity Theft Enforcement and Protection Act which provides that an individual may file an application in district court for the issuance of a court order declaring that the person is a victim of identify theft. Provides that an order rendered under this section must be sealed because of the confidential nature of the information required on the order. Provides that the order may be released only to: the proper officials in a civil proceeding brought by or against the victim arising out of a violation

of this chapter; the victim for submission to a governmental entity or private business to prove or correct information; on order of the judge; or as otherwise provided by law. [See also, Civil Law]

**SB 286** – Effective 1/1/06

Adds Sections 551.005 and 552.012, Government Code, to require each elected or appointed public official who is a member of a governmental body subject to the Open Meetings Act or Public Information Act to complete a one to two hour training course on each topic. Allows a public official to designate a public information coordinator to satisfy the open records training requirement.

**SB 436** – Effective 9/1/05

Amends Section 27.004, Government Code, to provide that all records of a justice of the peace are subject to the public access requirements prescribed by Rule 12, Rules of Judicial Administration. [See also, Municipal and Justice Courts]

**SB 450** – Effective 6/17/05

Amends Section 552.1175, Government Code, to allow an employee of the district attorney, criminal district attorney, or county or municipal attorney whose jurisdiction includes any criminal law or child protective services matters to restrict public access under the Public Information Act to the employee's home address, home telephone, social security number, and the existence of family members.

**SB 690** – Effective 6/17/05

Amends Section 551.0411, Government Code, to allow a governmental body to recess to the following day without having to post notification. Provides that when a governmental body is prevented from convening a properly posted open meeting because of a catastrophe, the meeting may be convened within 72 hours in a convenient location, subject to the two hour notice provisions for an emergency meeting.

**SB 1485** – Effective 6/17/05

Adds Section 552.147, Government Code, to provide that the social security number of a living person is exempt from the requirements of the Open Records Act. Provides that a governmental body may redact the social security number from information it discloses without the necessity of requesting a decision from the attorney general.

**Probate and Guardianships**

**HB 230** – Effective 9/1/05

Amends Chapter 761, Probate Code, to allow a court to remove without notice a guardian who has neglected a ward.

**HB 637** – Effective 9/1/05

Amends Section 781, Probate Code, to allow the guardian of an estate to receive a home equity loan on the ward's

behalf, under court order, when necessary to make improvements or repairs to the homestead or to pay for education or medical expenses of the ward. Adds Sections 889A and 890A to provide that when a minor has an interest of \$100,000 or less in a residence homestead, a natural or adoptive parent or managing conservator of the minor who is not a ward, may apply to the court for an order authorizing an extension of credit on the minor's behalf to make improvements or repairs to the homestead or to pay for education or medical expenses of the ward, without being appointed guardian.

**HB 934** – Effective 9/1/05

Amends Section 123.003, Property Code, to increase the time within which a person must give notice to the attorney general about a proceeding involving a charitable trust from 10 days prior to the hearing to 25 days prior to the hearing. Excludes proceedings that exclusively seek the admission of a will to probate or a proceeding that is not covered under Section 83 of the Probate Code regarding second applications.

**HB 1186** – Effective 9/1/05

Amends Section 5, Probate Code, to clarify jurisdiction of contested probate matters. Amends Section 58b to provide that a devise or bequest made to a parent, descendant of a parent, or employee of the attorney who prepares or supervises the preparation of the will or one made to a spouse of any of those individuals is void. Amends Chapter IV by adding Section 71A to provide that a specific devise passes subject to each debt secured by the property unless the will specifically states otherwise. Adds Chapter XI-A to provide that gifts, powers of appointment, and nominations made by means of a living trust to a former spouse are void in the event of divorce.

**HB 1190** – Effective 1/1/06

Amends Title 9, Property Code, to create default and mandatory rules relating to the terms of a trust and to conflict between the terms and statute. Amends provisions regarding who may be considered a settlor. Provides for the creation of a trust for the care of an animal. Addresses judicial modification or termination of trusts, the division and combination of trusts; granting options exercisable beyond the duration of the trust; trust distributions; the powers of multiple trustees, the liability of cotrustees, and the exculpation of a trustee.

**HB 1191** – Effective 9/1/05

Amends Section 694A, Probate Code, to require an investigator or guardian ad litem appointed to file an application for an order regarding capacity, to investigate the circumstances of the ward and to determine whether the ward is no longer an incapacitated person or whether modification is necessary. Amends Section 761, to reduce the number of days from 90 to 30 that a guardian has to return an inventory of the property of the guardianship estate and a list of claims that have come to the guardian's knowledge before a court may remove the guardian. Amends Section 831 to remove the notice requirement on a guardian who wishes to purchase property from the

estate. Amends Section 855B to allow for the investment or sale of securities under an investment plan. [See also, **Court Clerks**]

**HB 1472** – Effective 9/1/05

Amends Section 867, Probate Code, to set forth provisions regarding the creation of a management trust. Specifies who may apply for the creation of a trust and authorizes a court to create a trust for the management of the estate of an alleged incapacitated person who does not have a guardian.

**HB 1501** – Effective 9/1/05

Amends Section 865, Probate Code, to allow a court to authorize a guardian who has been granted the power to make tax-motivated charitable gifts from the ward's estate, to make such gifts on an annual or other periodic basis without subsequent application to or order of the court. Allows the court to modify or set aside such order if the court finds that the ward's financial condition has changed in such manner that the gifts would no longer be in the best interest of the ward.

**HB 3434** – Effective 6/17/05

Amends the Probate Code to provide that a court may appoint an appraiser on its own motion for good cause shown. Extends the time within which an appointed temporary administrator must post bond to no later than the third business day after the date of the order. Prohibits a trustee from proceeding with a cause of action in his or her representative capacity over the objection of each beneficiary.

**SB 6** – Effective 9/1/05

Amends the Education Code, Family Code, Human Resources Code and Government Code to implement comprehensive reforms of child and adult protective services by strengthening investigative functions, supporting quality casework, collaborating with law enforcement, improving management and accountability, providing enhanced technology, and improving the effectiveness of ongoing services including child care, child placement, medical, and educational services. Provides that the commissioners court of a county may establish a family drug court program that strives for family reunification through the rehabilitation of a parent who has had a child removed from the parent's care because of suspected child abuse or neglect and who is suspected of substance abuse. Creates the Guardianship Certification Board to establish a certification process for individuals, other than volunteers, who act as private professional guardians or provide guardianship services to wards of a guardianship program or to wards of the Department of Aging and Disability Services. [See also, **Costs and Fees; Open Records**]

**SB 346** – Effective 4/27/05

Amends Section 761 of the Probate Code to provide for the removal of a guardian who fails to return an inventory of the property and a list of claims within 30 days after qualification, rather than 90.

**SB 347** – Effective 9/1/05

Amends Section 248, Probate Code, to require that good cause be shown for a court to order an appraisal of a decedent's or a ward's estate.

**SB 348** – Effective 5/3/05

Amends Section 462.0025, Health and Safety Code, to provide that a court having probate jurisdiction over emergency detention of a chemically dependant person or court ordered treatment proceedings be open during normal business hours, rather than open at all times. Requires the probate judge or magistrate to be available at all times at the request of the detainee or proposed patient who is the subject of the proceedings.

**Prosecuting Attorneys**

**HB 2569** – Effective 1/1/09

Amends Section 43.170, Government Code, to provide that the district attorney for Liberty County represents the state in the 253<sup>rd</sup> Judicial District only in that county and in all cases before the 75<sup>th</sup> District Court. Adds Section 43.1777 to create a new office of district attorney for Chambers County. Amends Section 46.002 to provide that the professional prosecutor's law applies to the district attorney for the 344<sup>th</sup> Judicial District.

**HB 3263** – Effective 9/1/05

Amends Section 43.181, Government Code, to transfer the power, duty, and privilege in Fort Bend County relating to a matter involving children's protective services from the district attorney to the county attorney.

**SB 441** – Effective 9/1/05

Amends Section 46.002 to provide that the professional prosecutor's law applies to the district attorney for the 112<sup>th</sup> Judicial District.

**SB 792** – Effective 9/1/05

Amends Section 45.270, Government Code, to codify the duties and responsibilities of the county attorney in Montgomery County.

**State Agencies**

**HB 26** – Effective 6/17/05

Adds Section 2177.052, Government Code, to require state agencies to send to the Texas Building and Procurement Commission a copy of each contract entered into by the agency that is expected to value at least \$5 million and each request for proposal, invitation to bid, or other solicitation related to that contract. Requires the Commission to post the information on the electronic procurement marketplace.

**HB 423** – Effective 9/1/05

Adds Section 441.1035, Government Code, to require a state agency that distributes a state publication by subscription in a physical format without a fee to make the publication accessible in an electronic format from the agency’s website. Requires the agency to inform subscribers that the publication may be accessed on Internet and, if the subscriber prefers to access a publication on the agency’s website, the agency must remove the subscriber from the distribution list and notify the subscriber electronically each time the publication becomes available online.

**HB 646** – Effective 9/1/05

Amends Article 2.23, Code of Criminal Procedure, to require a state agency or the office of an attorney representing the state, when requested in writing by the Attorney General, to provide any record that is needed for federal habeas review not later than the 10<sup>th</sup> day after the request. [See also, **Court Clerks**]

**HB 762** – Effective 9/1/05

Adds Section 572.060, Government Code, to permit state officers and employees to solicit contributions to charitable organizations listed in Section 501(c) (3), Internal Revenue Code, and to governmental entities. Provides that the contributions are not considered to be political contributions or expenditures and are not considered to be gifts for purposes of Section 36.08, Penal Code.

**HB 912** – Effective 5/30/05

Amends Section 2113.201, Government Code, to provide that the maximum cost of an award presented to a state agency employee for professional achievement or outstanding service may not exceed \$100.

**HB 2196** – Effective 6/17/05

Amends Section 497.012, Government Code, to permit the Texas Department of Criminal Justice to receive surplus or salvage data processing equipment from a state agency or from a political subdivision.

**HB 2379** – Effective 9/1/05

Amends Section 2165.104, Government Code, to require the Texas Building and Procurement Commission to develop rules that are consistent with private business standards for the allocation of office space among state agencies.

**HB 2772** – Effective 6/17/05

Requires the Employees Retirement System of Texas (ERS) to evaluate the long-term impact on future costs and benefits, access to quality care, and provider availability of implementing a health reimbursement account program or a health savings account and high-deductible health plan program as part of the group benefits program. The ERS must report the results of the evaluation no later than December 31, 2006.

**SB 729** – Effective 9/1/05

Provides that the Office of Court Administration contract with an independent nonprofit organization to conduct a weighted caseload study of the district courts for the purpose of making recommendations regarding the need for new district courts. [Funding for the study was not appropriated.]

**SB 1139** – Effective 9/1/05

Amends Section 2175.125, Government Code, to require a state agency, during the ten-day state property sale process, to coordinate its activities and report its transactions to the Texas Building and Procurement Commission.

**SB 1491** – Effective 6/17/05

Amends Section 91.011, Government Code, to provide that the library service fees set by the director of the state law library are applicable to a public agency.

<b>Technology</b>
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**HB 1098** – Effective 9/1/05

Adds Chapter 48, Business & Commerce Code, to create the Anti-Phishing Act. [See also, **Civil Law**]

**HB 1516** – Effective 9/1/05

Adds Subchapter J, Chapter 2054, Government Code to establish the Texas Project Delivery Framework. Requires state agencies that propose major information resources projects to prepare a business case justifying the project including the anticipated return on investment and an impact analysis. Adds Subchapter L to provide for the creation of statewide technology centers. Allows DIR to operate statewide technology centers for two or more agencies to provide services related to information resource technologies and to the development and use of statewide applications. Adds “hardware” and “technology services,” other than telecommunications, to “software” in the definition of commodity items. Requires DIR to negotiate favorable prices for commodity items based on aggregate demand, and requires agencies to buy through those contracts unless granted an exemption.

**HB 1820** – Effective 6/18/05

Amends Section 2111.002, Government Code, to require a state agency to report certain technological innovations developed by that agency to the lieutenant governor and the speaker of the house rather than to the attorney general.

**HB 2048** – Effective 6/18/05

Amends Subchapter I, Chapter 2054, Government Code to transfer the powers and duties of the TexasOnline Authority to the Texas Department of Information Resources. Amends Section 531.0312 to require that certain information regarding public and private child-care and education services be posted on the Texas Information and Referral Network Internet site.

**HB 2473** – Effective 9/1/05

Amends Chapter 441, Government Code, to codify the current practice that state agencies include identifying and descriptive information about the publications made available on the Internet. Requires the Texas State Library and Archives Commission to make an index of all state publications available through the Internet.

**HB 2819** – Effective 9/1/05

Amends Chapter 2054, Government Code, by adding Subchapter M to provide for the development, procurement, maintenance, and use of electronic and information resources by state agencies to provide access to individuals with disabilities.

**HB 3112** – Effective 9/1/05

Adds Chapter 2059, Government Code, to provide for the development of the Texas Computer Network Security System. Requires the Department of Information Resources to provide network security services to a state agency that transfers its networks to the consolidated state network. DIR may provide security to local governments, the legislature, special districts, and if approved by the Information Technology Council for Higher Education, to institutions of higher education. Provides that center services must include real-time network security monitoring, 24-hour alerts, immediate incident response, and statewide cyber-security operations. Requires DIR to provide to each state agency the guidelines and standard operating procedures that must be followed.

**SB 96** – Effective 9/1/05

Amends Chapter 2054, Government Code by adding Section 2054.132 to require each state agency to make available on its Internet website any forms that are used by the public. Requires those state agencies with jurisdiction over occupational licenses to develop a link through the TexasOnline portal.

**SB 213** – Effective 9/1/05

Adds Section 2054.116, Government Code, to require each state agency to make a reasonable effort to ensure that Spanish-speaking persons of limited English proficiency can meaningfully access state agency information online.

**SB 255** – Effective 9/1/05

Adds Section 2054.130, Government Code, to require a state agency to permanently remove data from data processing equipment before disposing of or otherwise transferring the equipment to a person who is not an agent of the state.

**SB 327** – Effective 9/1/05

Adds Chapter 48, Business & Commerce Code, to create the Consumer Protection Against Computer Spyware Act. [See also, Civil Law]

**SB 611** – Effective 6/17/05

Amends Chapter 21, Code of Criminal Procedure, to permit a prosecutor to file electronic charging instruments

such as indictments, information, complaints, or other related documents. Amends Chapters 23 and 38 to authorize a district clerk, county clerk, or court to issue a capias in electronic form and provides for the admissibility of an electronically preserved document. [See also, Criminal Procedure]

**SB 1002** – Effective 9/1/05

Amends Chapter 2055, Government Code, by adding Subchapter E to create the Grants Assistance Project which requires the Department of Information Resources, in conjunction with the Office off the Governor, to develop an Internet website accessible though TexasOnline that provides a single location for information regarding grant assistance programs provided by state agencies.

**Miscellaneous**

**HB 182** – Effective 9/1/05

Amends Title 1, Tax Code, by adding Chapter 41A to allow a property owner, as an alternative to filing an appeal of an appraisal review board order, to appeal through a binding arbitration process if the value is \$1 million or less and does not involve other disputes.

**HB 571** – Effective 6/17/05

Adds Section 292.030, Local Government Code, to permit the commissioners court of a county to maintain a branch office in the unincorporated area of a county.

**HB 1326** – Effective 5/30/05

Amends Section 76.002, Government Code, to allow the statutory county court judges trying criminal cases, along with the district judges, to establish community supervision and corrections departments. Amends Section 76.0045 to limit judges' responsibilities to the appointment of a director, appointment of a fiscal officer, and approval of the budget. Provides judicial immunity in a suit arising from CSCD duties.

**HB 1642** – Effective 9/1/05

Amends Section 57.002, Government Code, to allow a court in a county with a population of 50,000 or more to appoint a spoken language interpreter who is not certified or licensed, but does qualify as an expert, is at least 18 years of age, and is not a party to the action, if the language necessary is not Spanish and the court finds that there is no licensed court interpreter within 75 miles.

**HB 1701** – Effective 9/1/05

Amends Section 71.0351, Government Code, to require judges and juvenile boards to submit their indigent defense plans to the Office of Court Administration on November 1<sup>st</sup> of odd numbered years. Amends Article 26.044, Code of Criminal Procedure, to define a "governmental entity" in the context of establishing a public defender office in Texas. Amends Articles 26.052 and Article 11.071 to require the regional selection committee and the Court of Criminal Appeals to amend the respective standards for

attorneys seeking appointment in death penalty cases to exclude attorneys found to have rendered ineffective assistance of counsel in any capital case by a federal or state court.

**HB 2039** – Effective 9/1/05

Adds Subchapter I to Chapter 271, Local Government Code, to address the adjudication of claims involving local governmental entities, other than a county or unit of state government, in county or state court that arise under written contracts. Provides that local governmental entities waive sovereign immunity to suit for purposes of the adjudication of a claim for breach of contract and establishes limits on adjudication awards.

**HB 2200** – Effective 9/1/05

Amends Chapter 57, Government Code, to recognize the Department of Assistive and Rehabilitative Services (DARS) as the agency that certifies court interpreters for hearing-impaired individuals. Includes arraignments, depositions, mediations, court-ordered arbitrations, and other forms of alternative dispute resolution in the definition of “court proceeding.” Permits DARS to maintain a list of persons certified by the Texas Court Reporters Association as qualified to provide real-time translation services.

**HB 2902** – Effective 9/1/05

Amends Section 442.0081, Government Code, to require the Texas Historical Commission to develop a maintenance program to assist those counties that receive money under the preservation program with the continued maintenance, repair, and preservation of the courthouses. Increases the maximum dollar amount that may be granted for an historic courthouse project.

**SB 1122** – Effective 9/1/05

Amends Section 82.005, Government Code, to increase to \$30,000 the maximum annual compensation for each member of the Board of Law Examiners.