The background of the slide features a low-angle shot of the Texas State Capitol dome, showing its intricate architectural details and the statue on top. To the right, the United States flag and the Texas state flag are flying on a tall pole against a clear blue sky.

State Bar of Texas  
Annual Meeting  
Justice of the Peace Courts Section  
Legislative Updates  
June 23, 2021

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Texas Justice Court Training Center

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**BILLS  
AFFECTING  
JUSTICE  
COURTS**

**Landlord/Tenant**

- HB 1012: Writ of Retrieval
- SB 1783: Fee in lieu of security deposit
- HB 531: Notice of 100-year floodplain
- SB 318: Access to condominium association records
- HB 900: Landlord not liable for execution of writ of possession

**BILLS  
AFFECTING  
JUSTICE  
COURTS**

**Magistration**

- HB 1005: Bond conditions for prostitution and trafficking offenses
- HB 766: Notice to sheriff of bond conditions for violent offenses
- HB 558: Mandatory blood draws
- SB 1047: Blood search warrants
- SB 49: Art. 16.22 procedures

BILLS  
AFFECTING  
JUSTICE  
COURTS

Criminal

- HB 569: Notice before issuing warrant
- HB 3774: Acceptance of guilty plea

BILLS  
AFFECTING  
JUSTICE  
COURTS

Handguns

- HB 1927: Carrying a handgun
- HB 918: Protective Order designation

Abortion

- SB 8: Fetal heartbeat
  - May NOT be Filed in Justice Court!

# BILLS AFFECTING JUSTICE COURTS

## Truancy

- SB 289: Excused absence
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## Juvenile

- SB 1480: Court ordered education programs
- HB 80: Community service in lieu of fine

**BILLS  
AFFECTING  
JUSTICE  
COURTS**

**Dangerous Dogs**

- HB 3340: Stay of dog's destruction pending appeal

**Inquests**

- HB 1419: Unidentified persons

**Fines, Fees and Costs**

- SB 41: Filing fees
- SB 1373 and HB 3774:  
Uncollectible fine or cost

BILLS  
AFFECTING  
JUSTICE  
COURTS

See Handout 1 for  
Effective Date of each  
Bill.



# Landlord and Tenant Rights



HB 1012

SB 1783

HB 531

SB 318

HB 900

## HB 1012: Writ of Retrieval

- Must now be filed in the court where a divorce case is pending if the applicant and occupant are parties to a divorce proceeding.

## HB 1012: Writ of Retrieval

- If the right to possession of the items sought is subject to a divorce decree to which they are parties, then the application must be filed in the court having jurisdiction of the divorce action.
- The application must certify whether either of those situations applies.

## HB 1012: Writ of Retrieval

- Additional items are now subject to retrieval:
  - Assistance or service animals;
  - Wireless communication devices;
  - Tools, equipment, books and apparatus used by the applicant in their trade or profession.

SB 1783:  
Fee in lieu  
of security  
deposit

- Allows a landlord to offer the tenant the option of paying a fee in lieu of a security deposit.
  - But the landlord must still offer the tenant the option to pay a security deposit and may not use their choice in deciding whether to approve their application.
- Property Code § 92.111

SB 1783:  
Fee in lieu  
of security  
deposit

- Requires a notice from the landlord and a separate written agreement; tenant may terminate at any time.
  - Fee must be a recurring fee of equal amount payable at time of rent payment.
  - May be used to buy insurance.
  - May not be more than reasonable cost of insurance.

SB 1783:  
Fee in lieu  
of security  
deposit

- Before filing a claim with the insurer the landlord must notify the tenant of the claim for damage or unpaid rent.
  - If tenant challenges claim and court finds it is not valid, landlord may not file it with insurer or must withdraw it.
  - If paid, insurer may seek reimbursement from tenant after subrogation.

## HB 531: Notice of 100-year Floodplain

- Requires a landlord to give a tenant a notice if a dwelling is located in a 100-year floodplain.
  - The language of the notice is stated in the statute.
  - Not required if elevation of dwelling is raised above floodplain levels

-- Property Code § 92.0135



## HB 531: Notice of 100-year Floodplain

- If landlord knows that flooding has damaged a dwelling during the five-year period preceding the lease, the landlord must give the tenant a written notice informing them that they are aware of the flooding.
- These notices must be included in a separate written document given to the tenant at or before execution of the lease.

# HB 531: Notice of 100-year Floodplain

- If a landlord violates this statute and the tenant suffers a substantial loss or damage to their personal property as a result of flooding, the tenant may terminate the lease.
  - Substantial loss or damage = the total cost of repair or replacement of the tenant's personal property is 50% or more of the market value on the date of the flooding.

# SB 318: Production of Condominium Association Records

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

Explained in Chapter 13 of the Civil Deskbook.

-- Property Code § 82.1141

# HB 900: Writ of Possession

- A landlord is not liable for damages to the tenant resulting from the execution of a writ of possession by an officer.  
-- Property Code § 24.0061



HB 1005

HB 766

HB 558

SB 1047

SB 49

Magistrations |



## HB 1005: Bond conditions for prostitution and trafficking offenses

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

-- Art. 17.465, CCP



## HB 1005: Bond conditions for prostitution and trafficking offenses

- The magistrate must specifically describe the prohibited locations and the minimum distance the defendant must maintain.

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

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- A magistrate who imposes a bond condition on a defendant for a violent offense must:
    - notify the sheriff of the condition as soon as practicable but no later than the next day and
    - provide information concerning identification of the defendant, any person protected by the order, and any bond conditions for the protection of a victim.
- Art. 17.50, CCP



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

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- A “violent offense” includes those listed in Art. 17.032(a).
- The magistrate must also notify the sheriff of any bond modification or revocation.
- Sheriff must enter the information in a database and make good faith effort to notify anyone who is protected.

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

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- Clerk of the court must send a copy of the order to any named person the bond condition is intended to protect or any victim of the alleged offense not later than the next business day after the magistrate issues the order.

# HB 558: Mandatory Blood Draws

- Requires a peace officer to take a blood specimen of a person arrested for a DWI or BWI offense under Chapter 49 of the Penal Code if:
  - the person refuses the officer's request;
  - the person was the operator of a motor vehicle or watercraft involved in an accident that the officer reasonably believes was due to the offense; and

# HB 558: Mandatory Blood Draws

- the officer reasonably believes that as a direct result of the accident an individual has died, will die or has suffered serious bodily injury.
- Peace officer must obtain a warrant or have probable cause to believe exigent circumstances exist.

-- Section 724.012, Transportation Code



# SB 1047: Blood Search Warrant

May be executed in any county adjacent to the county in which the warrant was issued by any law enforcement officer authorized to make an arrest in the county of execution.

Evidence seized under a blood search warrant may be removed from the county in which it was seized and returned to the county in which the warrant was issued without a court order.

- -- Art. 18.067, CCP

SB 49: Art.  
16.22  
Procedures

- Magistrate is not required to order an interview and collection of information if the defendant is no longer in custody.
- Magistrate must provide copies of the report to defense counsel, prosecutor, trial court and:
  - The sheriff or person responsible for defendant's medical records while the defendant is in jail; and

SB 49: Art.  
16.22  
Procedures

- Any personal bond office established under Art. 17.42 for the county where the defendant is being held; or the director of the office or department responsible for supervising the defendant while released on bail and receiving mental health or intellectual disability services as a condition of bond.

SB 49: Art.  
16.22  
Procedures

- Oath not required for personal bond if magistrate determines defendant has a mental illness or intellectual disability, defendant is released on a personal bond or the defendant is found incompetent to stand trial.



# Criminal

CRIME SCENE DO NOT ENTER

HB 569

HB 3774

## HB 569: Notice Before Issuing Warrant

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

-- Art. 45.014(e), CCP

## HB 569: Notice Before Issuing Warrant

- In addition to any jail credit for time spent in jail for the current offense, the judge must also give credit for any time the defendant was confined in jail or prison while serving a sentence for another offense, if that confinement occurred after the commission of the misdemeanor.

-- Art. 45.041, CCP

## HB 569: Notice Before Issuing Warrant

- Amount of jail credit is raised from \$100 per time period served to \$150 per time period served.

-- Art. 45.048, CCP

# HB 3774: Acceptance of Guilty Plea

- A justice of the peace may not accept a plea of guilty or nolo contendere from a defendant in open court unless it appears that the defendant is mentally competent and the plea is free and voluntary.

-- Art. 45.0241, CCP

# HB 3774: Acceptance of Guilty Plea

- A Justice of the Peace having jurisdiction of a criminal fine only misdemeanor case involving family violence may order a law enforcement officer to use the uniform incident fingerprint card to take the fingerprints of an offender who is charged with the misdemeanor but was not placed under custodial arrest at the time of the offense.

-- Art. 66.252, CCP



# Handguns and Abortion

HB 1927

HB 918

SB 8

# HB 1927: Carrying a Handgun

- Permits a person who is 21 years of age or older to carry a handgun in a holster in a public place.
  - Section 46.02(a-5), Penal Code
- Prohibits carrying a handgun:
  - in specified locations (e.g. liquor store or sporting event or open meeting of a governmental entity);
  - if convicted of certain offenses (e.g. assault, deadly conduct);
  - if intoxicated under certain circumstances; or
  - where a person has provided a notice that firearms are prohibited on the property.



## HB 1927: Carrying a Handgun

- It is a Class C misdemeanor offense punishable by a fine not to exceed \$200 to enter property, land or a building with a firearm if the sole basis for prohibiting entry was the carrying of a firearm.
  - Section 30.05(d-3), Penal Code
- Permits the expunction of a conviction under Section 46.02(a) for the unlawful carrying of a handgun without a license if the offense occurred before 9/1/21.
  - Art. 55.01(a), CCP

# HB 1927: Carrying a Handgun

- What about issuance of an EPO?
  - A license to carry must be suspended when the EPO is issued.
  - If the defendant does not have a license to carry, Section 46.04(c), Penal Code, prohibits a person who is under an EPO or a protective order from possessing a firearm after receiving notice of the order.
  - So if an EPO is issued, a person no longer has a right to carry a handgun without a license even without a specific provision in the EPO.

## HB 918: Protective Order Designation for Handgun License

- A person is eligible for a license to carry a handgun if they are at least 18 years old but not yet 21 and are protected under a protective order or EPO and otherwise meet the requirements to be eligible for a license under Section 411.172(a), Govt. Code.
  - The license must contain a protective order designation on the face of the license.

# HB 918: Protective Order Designation for Handgun License

- A license that bears a protective order designation expires on the earlier of the date the applicable court order is rescinded or expires or the 22<sup>nd</sup> birthday of the license holder.
  - Section 411.172(j), Government Code

# SB 8: Abortion

- Prohibits abortion if a fetal heartbeat can be detected except in cases of medical emergency.
- Enforcement of this law is to be conducted solely through private civil actions; no criminal enforcement is allowed.

-- Sections 107.205 – 107.207, Health & Safety Code

# SB 8: Abortion

- Any person other than an officer or state or local government employee may bring a civil action against:
  - a person who performs or induces an abortion in violation of Subchapter H;
  - knowingly engages in conduct that aids or abets an abortion, including paying for an abortion, regardless of whether they knew the abortion would be performed or induced in violation of Subchapter H; or
  - intends to engage in such conduct.

# SB 8: Abortion

- Venue is proper in the county where the claimant lives (provided they are a natural person).
- If a claimant prevails, the court **shall award**:
  - **injunctive relief** sufficient to prevent the defendant from violating Subchapter H or engaging in acts that aid or abet violations;
  - statutory damages of not less than \$10,000 for each abortion that the defendant performed or induced or aided and abetted; and
  - costs and attorney's fees.

# SB 8: Abortion

- **Because injunctive relief is mandatory, a justice court may not hear a civil action to enforce this statute.**



# TRUANCY AND JUVENILE



SB 289

HB 80

HB 3165

SB 1480

# SB 289: Excused Absence

Permits a school district to excuse a student who is 15 years of age or older from attending school to go to a driver's license office to obtain a DL or permit.

- -- Section 25.087, Education Code

# HB 3165: Defense to Truant Conduct

It's a defense to truant conduct if one or more of the absences were due to the child's voluntary absence from their home due to abuse.

Not available if after deducting those absences there are still sufficient unexcused absences to constitute truant conduct.

# SB 1480: Court Ordered Education Program

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

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

Section 106.115, ABC; Subtitle M to Title 2, Govt Code

# HB 80: Community Service in Lieu of Fine

A judge may not impose a fine and court costs on a defendant who is under the conservatorship of DFPS or in extended foster care. In lieu of the fine and court costs, the judge may require the defendant to perform community service.

- -- Art. 45.041, CCP

# Dangerous Dogs

HB 3340





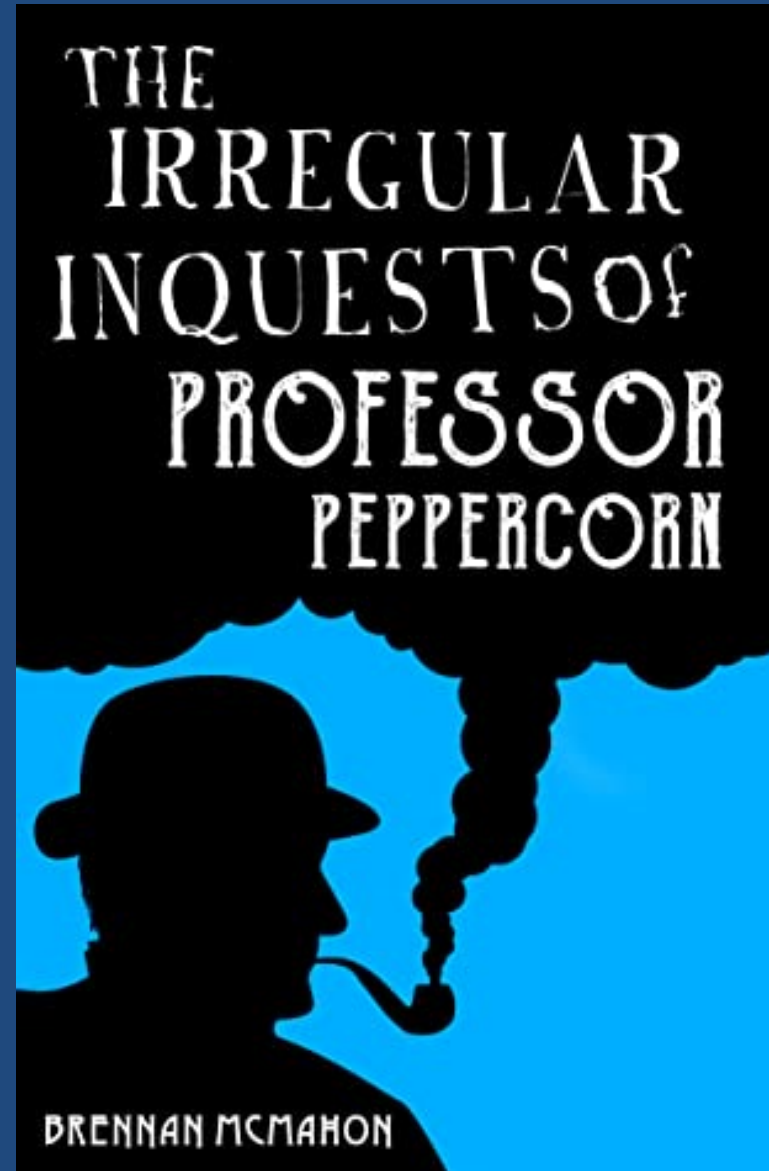
## HB 3340: Stay of Dog's Destruction Pending Appeal

- Where a dog has been found to be a dangerous dog and the owner has failed to comply with the requirements for keeping a dangerous dog, an order to destroy the dog is automatically stayed for a period of 10 calendar days from the date the order is issued during which period the dog's owner may file a notice of appeal.
- A justice court or other court may not order the dog's destruction during the pendency of the appeal.

-- Section 822.042(e-1)

# Inquests

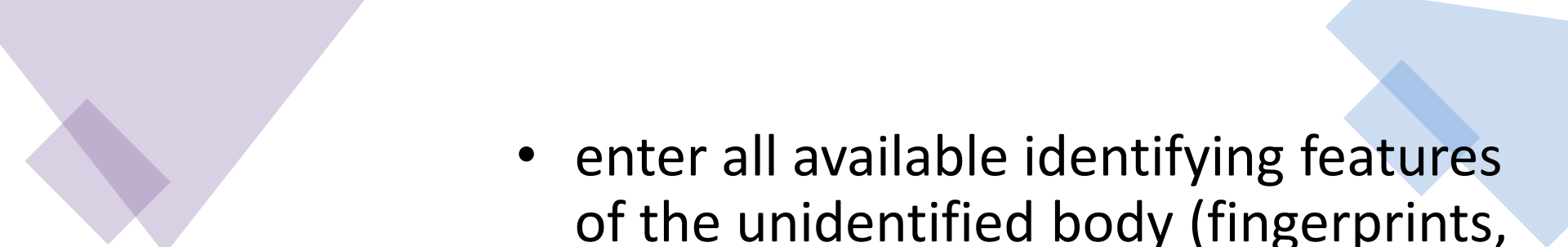
HB 1419





## HB 1419: Unidentified Persons


- If a JP is investigating the death of an unidentified person where the cause or circumstances of death are unknown (see Art. 49.04(a)(3)(B)), the JP or their designee shall:
  - not later than the 10<sup>th</sup> working day after one or more identifying features of the unidentified body are determined, or
  - the 60<sup>th</sup> day after the date the investigation began, whichever is earlier,



## HB 1419: Unidentified Persons

- enter all available identifying features of the unidentified body (fingerprints, dental records, any unusual characteristics, and a description of the clothing found on the body) into the National Missing and Unidentified System.
- A medical examiner must follow the same procedure.

-- Arts. 49.04 and 49.25, CCP





Fines, Fees  
and Costs

SB 41

SB 1373 and  
HB 3774

## SB 41: Filing Fees

- Changes the filing fee from \$25 to \$33 for the filing of any civil case in justice court.
  - And for the filing of any other pleading or action (e.g. appeal, counterclaim, cross-claim, intervention, contempt action, motion for new trial).
- Section 135.103, Local Govt Code.

## SB 41: Filing Fees

- Consolidates the \$10, \$6, and \$5 fees for e-filing, indigent defense and judicial training into one \$21 fee.
  - Section 133.151(a-1), Local Govt Code.
- Creates a Justice Court Support Fund to defray the costs of services provided by a justice court.
  - Section 135.161, Local Govt Code.

## SB 41: Filing Fees

- So filing fee in justice court will now be \$33 plus \$21 = \$54.
  - Note: some counties may have additional fees so check with clerk before filing!

# SB 1373 and HB 3774: Uncollectible fine or cost

- A “cost” includes a reimbursement fee unless the context clearly indicates otherwise.
- Adds reimbursement fee and “fine” to Section 103.0081, CCP.

# SB 1373 and HB 3774: Uncollectible fine or cost

- This allows an officer who is authorized to collect a fine or a reimbursement fee or other fee to request that the trial court make a finding that it is uncollectible if unpaid for at least 15 years (or defendant is deceased or serving a life sentence).

-- Arts. 45.004, 103.0081, CCP





# Status of Emergency Orders

# Current Emergency Orders



37<sup>th</sup> Emergency Order:

- Expires July 27, 2021.
- Eviction Diversion Program.
- All forms and information are on the TJCTC website.

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## Current Emergency Orders

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### 38<sup>th</sup> Emergency Order:

- Expires August 1, 2021.
- Courts should continue to use all reasonable efforts to conduct proceedings remotely, and may allow or require all persons to participate remotely.



## Current Emergency Orders

- But allows in-person proceedings if the local Administrative District Judge adopts:
  - minimum standard health protocols for court proceedings, including masking, social distancing or both; and
  - an in-person schedule for all persons in the county.
- A justice court may conduct an in-person jury trial if certain requirements are met.
- See OCA Guidance and TJCTC website



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