

Judicial Legislative Update: 86th Legislative Session Bills Significantly Impacting County Courts

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Senate Bill 2

- Ad Valorem Taxation: Revenue and Fees
 - * Bill compresses the capability of a local government to generate revenue and provide services by lowering the tax rate a county can adopt without a rollback election, now mandatory.
 - * SB2 also makes changes to the process a county uses to adopt a tax rate, the manner in which the county calculates the tax rate, and the tax appraisal process



County Jails

SB 1700

Relating to the discharge of a prisoner from county jail

*Amends the Code of Criminal Procedure and the Government Code to require discharge of prisoners from county jails take place after 6 a.m. and before 5 p.m.

Exceptions are permitted if the defendant:

- Requests a release after 5 p.m. but before 6 a.m.;
- Is subject to another arrest warrant;
- Is being transferred; or
- Is being admitted to an inpatient mental health facility or state supported living center for court-ordered mental health or intellectual disability services.

Texas Commission on Jail Standards authorized to monitor compliance with these discharges



County Jails (cont.)

HB 2169

- Relating to hygiene products for female prisoners.
- Summary:
 - Amends Gov't Code to require Texas Commission on Jail Standards to adopt reasonable rules and procedures by 12/1/19
 - establishing minimum standards for quantity and quality of feminine hygiene products, including tampons in regular sizes and menstrual pads with wings in regular and large sizes to female prisoners and
 - inclusion of number of female prisoners in monthly reports to commissions beginning 10/5/19.

County Jails (cont.)

HB 1651

- Relating to pregnant women in county jails.
 - Amends Gov't Code to require Texas Commission on Jail Standards to adopt reasonable rules and procedures on use of restraints to control or restrict movement of a prisoner who is confirmed to be pregnant or who has given birth in the preceding 12 weeks
 - unless health care professional determines use of restraints is necessary to prevent immediate **and** credible risk that prisoner will attempt escape, **or**
 - there is immediate and serious threat to the health and safety of prisoner, staff, or public.

County Jails (cont.)

SB 306

- Relating to the release by a peace officer of certain individuals suspected of the offense of public intoxication.
 - Provides statutory option for law enforcement to take publicly intoxicated individuals, upon their verbal consent, to a facility that provides a place for these individuals to become sober under supervision.

County Jails (cont'd)

HB 1325

- Hemp/ CBD Oil

- Does not legalize marijuana but introduced a new definition for hemp that is “any part of the plant cannabis sativa L. with a concentration of THC less than .3%”

- *All marijuana cases will now require lab tests

- *TxDPS does not currently have such a test (2 commercial labs can currently test at a cost of \$125/test)

- *Officer may no longer arrest for simply recognizing marijuana, but must also have probably cause the substance is not hemp

- Bill follows federal law (40 states in same position as Texas)



Mental Health

HB 601

- Procedures and reporting regarding criminal defendants who are or may be persons with mental illness or intellectual disability.
 - Amends CCP to require LMHAs or service providers to collect information regarding potential mental illness or intellectual and development disability.
 - Replaces current assessments
 - Confidential
 - Not subject to public information law.



Mental Health (cont.)

HB 4468

- Relating to community mental health programs in certain countries.
 - Amends Gov't Code to require Texas Commission on Jail Standards to arrange for prisoners to access a mental health professional within a reasonable time if one is not available at the jail or through telemedicine health services. Sandra Bland cleanup and jailer training.

Mental Health (cont.)

HB 362

- Relating to court-ordered mental health services

The bill reforms procedures relating to court-ordered outpatient and inpatient mental health services.



Courts

HB 914

- Regulation of Bingo Games

- Amends the Occupations Code as it relates to the regulation of bingo games and transfers certain responsibilities from an organization that holds a license to conduct bingo to the Texas Lottery Commission (TLC). Requires a licensee to remit 50% of the amount collected as the prize fee to TLC and a certain amount to the county and/or municipality if the county in which the bingo game is conducted voted before November 1, 2019 to impose the prize fee.
- If the County did not vote to impose a prize fee, 50% of the amount collected as prize fee is to be deposited in the general fund of the charitable organization after November 1, 2019



Courts

HB 2737

- Judicial guidance related to child protective service cases and juvenile cases.
 - Requires the Texas Supreme Court to annually provide guidance to judges who preside over Child Protective Services (CPS) and juvenile cases
 - to establish greater uniformity in issues related to placement of children with severe mental health issues
 - changes in children’s placement
 - termination of parental rights
 - release of children from juvenile detention
 - certification of children to stand trial as an adult
 - and children’s appearance before the court (including the use of restraints and clothing worn by the child, and commitment of children to TJJD).



A BILL TO BE ENTITLED

AN ACT

relating to judicial guidance related to child protective services cases and juvenile cases.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 22, Government Code, is amended by adding Section 22.0135 to read as follows:

Sec. 22.0135. JUDICIAL GUIDANCE RELATED TO CHILD PROTECTIVE SERVICES CASES AND JUVENILE CASES. (a) The supreme court annually shall provide guidance to judges who preside over child protective services cases or juvenile cases to establish greater uniformity across the state for:

(1) in child protective services cases, issues related to:

(A) children with severe mental health issues;

(B) child placement and changes in placement; and

(C) final termination of parental rights; and

(2) in juvenile cases, issues related to:

(A) children with severe mental health issues;

(B) children detained in juvenile detention facilities;

(C) certification of juveniles to stand trial as adults; and

(D) commitment of children to the Texas Juvenile Justice Department.

(b) The supreme court shall adopt the rules necessary to accomplish the purposes of this section.

SECTION 2. This Act takes effect September 1, 2019.



Courts (cont.)

HB 3582

- Relating to the punishment for certain intoxication offenses
 - the conditions of bond for defendants charged with certain intoxication offenses, and
 - the eligibility for deferred adjudication community supervision of defendants who committed certain intoxication offenses.

Courts (cont.)

HB 3582 (Cont'd)

- Amends Article 17.441(a), Code of Criminal Procedure to allow judges the ability to grant deferred adjudication community supervision for certain DWI and Boating WI offenses.
 - Those defendants must install vehicle ignition interlock devices.
 - The bill enhances the offense of DWI with a child passenger from a state jail felony to a 3rd degree felony under certain circumstances.
 - establishes procedures for defendants in these cases to request the court grant an order of nondisclosure of criminal record information.
 - The bill allows the judges to grant **deferred adjudication for first-time driving and boating while intoxicated** offenses **unless** the defendant held a **commercial driver license of a commercial learner permit, or** if the alcohol **concentration was 0.15 or more.**
 - Amends CCP to allow a magistrate to require a DWI with child passenger to install an ignition interlock device as a condition of bond release. Judge may waive the IID requirement under deferred adjudication community supervision if, based on a controlled substance and alcohol evaluation, the judge determines that the device is not necessary for the safety of the community.
 - Additionally, the judge may waive or reduce the cost of the interlock device if the defendant is found indigent.



Courts (cont.)

SB 31

- Establishing a guardianship abuse, fraud, and exploitation deterrence program.
 - The bill adds Subchapter G to Chapter 72, Government Code to ***require Office of Court Administration*** to establish and maintain a guardianship, abuse, and exploitation deterrence program
 - designed to provide additional resources and assistance to courts that have jurisdiction over guardianship proceedings.

Courts (cont.)

SB 325

- Establishing a protective order registry and the duties of court personnel and other persons and entities in regard to the registry.
 - The bill requires the OCA, in consultation with DPS, to establish and maintain a centralized internet-based registry for all protective orders.
 - Requires the registry to be capable of interfacing with local court case management systems.
 - Mandates courts to enter protective order information into the registry within 24 hours of filing, issuing, or modifying a protective order.
 - Will require OCA to establish and supervise a training program for magistrates, court staff, and peace officers by June 1, 2020.

Courts (cont.)

- SB 346
- Consolidation, Allocation, Classification, and Repeal of Certain Criminal Court Costs and Other Court-Related Costs, Fines and Fees
 - Omnibus bill to restructure court fees.
 - Amends the Local Government Code, Alcoholic Beverage code, Business and Commerce Code, Code of Criminal Procedure, Family Code, Government Code, Health and Safety code, Human Resources Code, Parks and Wildlife Code and the Transportation Code.
 - Repeals, redefines, or changes the distribution of criminal court costs and fees that do not serve a criminal justice court purpose.

Courts (cont.)

- SB 583
- Appointment of a local public defender's office to represent indigent defendants in criminal cases.
 - Amends Subsections (a) and (f) of Article 26.04, CCP to clarify that a court in a county with a public defender's office must give priority in appointing that office with certain exceptions, such a finding of good cause.

Courts (cont.)

SB 1125

- Relating to the use of video teleconferencing for testimony of a forensic analyst in a criminal proceeding.
 - Amends the CCP to allow a forensic analyst to testify by video teleconference, as a witness in the prosecution of a criminal offense, if approved by the court and all parties. (must be able to transmit documents and be encrypted)

Courts (cont.)

SB 2342

- Relating to the jurisdiction of, and practice and procedures in civil cases before justice courts, county courts, statutory courts, and district courts.
- Increases jurisdiction in Justice and county courts from \$10,000 to \$20,000.



Courts (cont.)

SB 2048

- Repeal of the driver responsibility program and the amount and allocation of state traffic fine funds.
 - Eliminates DRP surcharges assessed on drivers convicted of driving offenses and replaces lost revenue with increases in certain fees and fines so there is no impact to funding trauma centers.

Estate Planning

HB 2782

- EST § 201.003
- Surviving Spouse's Intestate share if non-marital descendant
 - Clarified statute to prevent misreading and clarifying that surviving spouse of deceased spouse with children outside the marriage receives none of deceased spouse's half of community property.



Estate Planning

(HB 2782 cont.)

EST § 111.101 & 111.102

Grants personal representative the ability to obtain information about non-probate assets.

- Adds section to code to make it easier for the personal representative to prepare estate tax returns and ascertain whether the personal representative should pursue these assets to pay debts and expenses.
- Pertains to assets such as multiple party accounts, property subject to non-testamentary transfers, and insurance contracts that are not part of probate estate.



Estate Planning

(HB 2782 cont.)

EST § 202.151

- Determination of Heirship
 - Determination of heirship will now require two disinterested and credible witnesses, unless the court can determine that one disinterested witness is sufficient if a diligent search does not discover another witness.
 - Note there is no specific requirement that they personally knew decedent



Estate Planning

(HB 2782 cont.)

EST § 254.006

- Testator may authorize named person authority to designate administrator
 - Adds section for a testator to now grant another person (e.g., named executor, specified person) the authority to designate one or more persons to serve as the administrator of the testator's estate.
 - Designee named would be able to act in the same capacity as a named executor if named successors are unable or unwilling to act.



Estate Planning

(HB 2782 cont.)

EST § 255.456

- Transfer of Proceeding in request to modify or reform terms of will
 - If a party requests a modification or reformation of the terms of a will, the county judge **may**, on his own motion **or shall**, on the motion of a party request a statutory probate Judge or transfer proceeding to the district court or county court at law.



Estate Planning (HB 2782 cont.)

EST § 256.053(b)

- Custody of Original Will
 - amends this section and clarifies that the testator’s original will must remain in the custody of the county clerk unless
 - (1) a court order authorizes the temporary removal for inspection purposes **or**
 - (2) the entire case is transferred to another court.

Estate Planning (HB 2782 cont.)

EST § 257.151 & 257.152

- Conversion of Muniment of Title to Estate Administration
 - Added sections to deal with fact that a will that has already been admitted to probate as a muniment of title **will not preclude a later estate administration** as long as
 - (1) either four years have not elapsed since the testator dies, **or**
 - (2) the court determines that estate administration is needed under Estates Code § 301.002(b) (e.g. to recover property due a decedent's estate).
 - Certain time periods for the court or personal representative to take action will now run from the date the personal representative qualifies rather than from when the court admitted the will to probate as a muniment of title (e.g. giving notice to the beneficiaries)



Estate Planning (SB 667)

EST § 1054.201

Lawyers Representing **any** Person in a Guardianship Proceeding Must be Certified

- Clarifies and changes Code so that now any attorney representing any person in a guardianship proceeding of any kind must obtain guardianship certification
- Includes court appointed attorneys
- If attorney enters appearance without certification, they have 14 days to complete the course



Estate Planning (SB 667 cont.)

EST § 111.001

- New Information Required on Forms and Pleadings in Guardianships
 - Added information which must now be included:
 - Any former name of proposed incapacitated person in a guardianship proceeding
 - Approximate value of proposed incapacitated’s liquid assets
 - This replaced approximate value of “property”



Miscellaneous

SB 944

- Relating to disclosure of certain information under the public information law.
 - Includes private devices.
 - Counties must develop policies and procedures for retention and release of information.



Questions??

