

**HITS AND MISSES
FROM THE 82ND
LEGISLATIVE SESSION**

Presented by
Stewart Milner,
Chief Judge
Arlington

▣ Hit or Miss

**Child Safety Seat Court Cost
Repealed**



- ▣ Repeals Section 545.412 TC
- ▣ Effective September 28, 2011

SB 1 (Special Session)

So, No New Court Costs!!!



Record Retention of Historical Documents

- ▣ Amends Sec. 441.026 GC
- ▣ Effective May 30, 2011



I Know They're in Here Somewhere



Concurrent Municipal Jurisdiction with Contiguous Cities

- ▣ HB 984
- ▣ Amends Sec. 29.003 GC and Art. 4.14 CCP
- ▣ Effective May 19, 2011



▣ Hit or Miss

Court Building Security Fund

- ▣ SB 1521
- ▣ Amends Sec. 102.017 CCP
- ▣ Includes warrant officers and related equipment to list of authorized uses for fund



Hit or Miss?



Restricting Employee Access to Firearms?

- ▣ In Labor Code
- ▣ Effective September 1, 2011
- ▣ Check your local ordinances



Refund Cash Bond

- ▣ HB 1658
- ▣ Amends Art. 17.02 CCP
- ▣ Effective September 1, 2011
- ▣ Court clerks take note



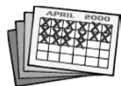
Impact?

- ▣ What about Art. 45.043 CCP, Forfeiture of Cash Bond in Satisfaction of Fine?

45.044 C.C.P. Conditional Plea

- ▣ A judge may enter a judgment of conviction and forfeit a cash bond posted BY THE DEFENDANT in satisfaction of the defendant's fine and cost IF the defendant:
- ▣ Has entered a written and signed plea of nolo and a waiver of jury trial and
- ▣ Fails to appear according to terms of release

Time to Post Docket



- ☐ HB 1573
- ☐ Amends Art. 17.085 CCP
- ☐ Effective September 1, 2011
 - Take note if you do not post online docket

17.085 C.C.P.

- ☐ Now provides:
- ☐ Clerk that does not provide online internet access to that court's criminal case records shall post in a designated public place in the courthouse notice of a prospective criminal court docket setting **AS SOON AS THE COURT NOTIFIES THE CLERK OF THE SETTING.**

Collection Improvement Program

- ☐ HB 2949 (p. 25)
- ☐ Effective September 1, 2011
- ☐ Amends Art. 103.0033 L.G.C.
- ☐ Oh, remember SB 1?



Municipal Courts Week

- HR 1485 & 1486
- Effective May 19, 2011
- Recognizing the important work of municipal courts, the Legislature has designated
- Nov. 7-11, 2011 and Nov. 5-9, 2012 as Municipal Courts Week (p. 31)



Person First Respectful Language Initiative

- HB 1481
- Effective September 1, 2011
- (p. 29)



New Name Same Game

- HB 1504 (p. 30)
- Effective June 17, 2011

TexasOnline

State Electronic Internet Portal

**A slide from update in
2009...**

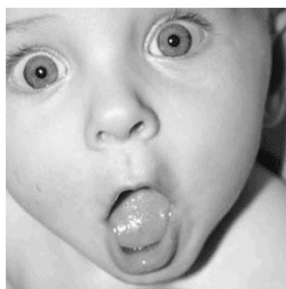
**H.B. 319
JUROR EXEMPTION FOR
THOSE WITH CUSTODY OF
CHILDREN UNDER AGE 15**



**EFFECTIVE DATE:
SEPTEMBER 1,
2009**

**Amends Sec.
62.106 G.C.**

Now the age is 12



ORDINANCES

▣ What do these pictures have in common?

Abandoned Vehicles











Abandoned Vessel and Abandoned Aircraft...

- ▣ HB 787
Effective September 1, 2011
Amends Sec. 683.011 TC
- ▣ And adds Section 31.0466 Parks
and Wildlife Code
- ▣ (p. 31)

Substantive:

- ▣ New crimes
- ▣ New ways to commit old
crimes

Old



New



Confidentiality and Protective Orders for Victims of Human Trafficking

- ▣ HB 2329
- ▣ Effective September 1, 2011
- ▣ Adds 7B to CCP
- ▣ Why does it matter to municipal courts?
- ▣ Caution: New Class C Misdemeanor, Art. 57D.03(d) CCP for public servant to disclose info



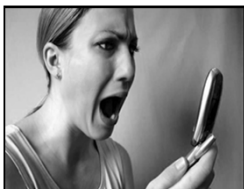
Fraudulent Emissions Inspection

SB 197 (p. 36)
Effective September 1, 2011
Adds Sec. 548.6035 TC



Sexting:

- ▣ SB 407 (p. 37)
- ▣ Effective September 1, 2011
- ▣ New offense Sec. 43.261 PC



How does that apply to Municipal Court??????

- ▣ New Class C misdemeanor
- ▣ Applies to minor (under 18)
 - That knowingly promotes or possesses images depicting sexual conduct

 - If under 17 case must be transferred to juvenile court
 - What cases do we see?

Issues?



Installation of Irrigation System Without a License

- ▣ HB 2507
- ▣ Effective September 1, 2011
- ▣ Amends Sec. 1903.256 OC
- ▣ (p. 36)





K2—not the mountain

- ▣ SB 331
- ▣ Effective September 1, 2011
- ▣ Sec. 481.1031 HSC
- ▣ (p. 37)



Jailers Authorities Expanded



- ▣ HB 1070 - Authorizes Jailers to Take Bail (p. 77)
 - Creates Art. 17.025, CCP
- ▣ SB 604 - Authorizes Jailers to Serve Criminal Process in Jail (p. 82)
 - Creates Art. 2.31, CCP
 - Requires Special Training (Chapter 1701 Occupation Code)

Ch. 821, HSC – Costs and Appeals of Civil Hearings; Cruelly Treated Animals HB 963 (p. 76)
 – Costs
 – Hearings are Not Trials?
 – Juries Only on Appeal to County?





Motion for New Trial

- ▣ SB 519 (p. 82) Amending Art. 45.037, CCP
- ▣ Time Period Changed from 1 to 5 Days
- ▣ Creates Uniformity with Civil Procedure for Justice Courts
- ▣ Does Not Create Uniformity Among Municipal Courts
- ▣ Municipal Courts or Records are Unaffected (Still 10 Days)


SECTION 2: Recusal & Disqualification

- ▣ Section 29.012, Govt. Code is Repealed!!!
- ▣ TOTALLY NEW Subchapter 29A, Govt. Code
- ▣ 10 Totally New Procedural Rules Governing Recusal and DQ in ALL Municipal Courts
- ▣ Important to Distinguish between “Presiding Judge” and “Reg. PJ”
- ▣ Adapted from TRCP 18A

- ▣ Contains "Recuse or Refer"
- ▣ Pecking Order Contemplates 1 or More Municipal Judges
- ▣ Efforts to Maximize Resources (Teleconference)
- ▣ Hearing on Motion Will Not be by a Municipal Judge
- ▣ Judge Assigned to Case Will be a Municipal Judge
- ▣ Provisions for Compensation Provided

SECTION 3: MANDATORY REPORTS

- ▣ Duty on City Secretary or Other Proper Employee
- ▣ Notice to Texas Judicial Council within 30 Days of Election Appointment or Vacancy of Mayor, Judges, Clerks
- ▣ Replaces Sec. 22.073(c) 29.013, Govt. Code.



HB 961(Page 10)

Non disclosure under
411.081(f-1) and (j),
Government Code

REPEALED

HB 961(Page 10)

- Adds Art. 44.2811
 - Class C Convictions, other than traffic, Confidential (if satisfied)
 - Contemplates appeals as well
- Adds Art. 45.0217
 - Access
 - Courts
 - Crim J Agencies
 - DPS
 - Child Defendant
 - Parent/Guardian
- Applies to all satisfied judgements past, present, and future



Community Service Comes in ~~THREE~~ FOUR Flavors

1. As a Mandatory Remedial Measure (status offenses involving juveniles: MIP, DUI, MIC, Tobacco, etc.)
2. As a reasonable condition of Deferred Disposition (Art. 45.051(b)(10) CCP)
3. As a Means for an Indigent Person to Discharge fine and Costs (Note: Must be Indigent. Community Service is as good as \$\$\$)
4. As A Means for a Defendants under the age of 17 to discharge assessed fines and costs (45.0492)

Compulsory Installment Payments for Those Unable to Pay (HB 27)

- - Amends Art. 45.041 (Judgment)
- - Once Judge Makes Determination that Defendant *Cannot Immediately Pay* the Defendant is Guaranteed Payment Plan Option
- Does Not Preclude Community Service Option
- Does Not Apply Where Defendant is Capable of Paying and Court Orders Payment in Future
- DOES PRECLUDE “Freezer to Frying Pan” “Pay or Lay” Orders



**Traffic Safety and
Transportation
Issues**
from the 82nd Legislature

**Registration and Parking
Issues**

**Altered Disabled Parking
Placards**
HB 1473 (p 55)

- Altering a genuine placard =
Class A misdemeanor
- Displaying an altered
placard in handicap spot =
Class C misdemeanor



Specialty License Plates



HB 559 (p 61)

SB 1755 (p 67)



Exempt from parking meter fees

Specialty License Plates

HB 2017 (p 56)

- Repeals specialty license plates for state and federal judges, federal administrative law judges, and constables



Registration of Vehicles

HB 2017 (p 56)

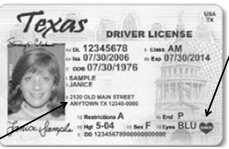
- Only 30 days to register a vehicle
- Rules for registration in disaster areas
- TxDOT must deny registration of CMV if applicant has business affiliated with a person whose privilege to operate has been suspended

Driver Licensing Issues

Information on a License

HB 1514 (p 62)

- Military veterans can apply for “Veteran” endorsement



SB 1292 (p 65)

- Peace officers can print alternate address on their license

The image shows a Texas Driver License for JAMICIE. It includes fields for ID number (12345678), class (A88), issue date (07/30/2006), and expiration date (07/30/2014). The license holder's name is JAMICIE, and the address is 2700 HILL MARK STREET, APT 709A, TX 75245-0000. There are also fields for sex (F), height (5-04), and eye color (BLU).

Driver Responsibility Program

Changes to the Surcharge Program

HB 2851 (p 58)

- Imposition of 3 year surcharges for No DL, DWLI, and FMFR deferred for active deployed military

HB 588 (p 52)

- Provides for a single, advanced payment option to cover the 3 years of surcharges

Changes to the Surcharge Program

HB 2730 (81st) (see handout)

- Minimum time periods to pay surcharges
- DL may not be suspended before 105th day
- Procedure to deduct points for good behavior
- Establish indigency program ✓
- Waiver of all surcharges if indigent

Court as Collections Agency?

Court Collecting Administrative Fees in Criminal Cases

SB 469 (p 64)

- Toll collection and enforcement by regional tollway authorities

SB 959 (p 65)

- Toll collection and enforcement by state highway toll projects

Court Collecting Administrative Fees in Criminal Cases

SB 990 (p 58)

- New Class C misdemeanor to fail to pay administrative penalty by 30th day after notification for
 - exiting or entering HOV lane at wrong location
 - operating vehicle in HOV lane with too few passengers

Speed Limit Issues



Cities' Authority to Lower Speed Limit
HB 2596 (p 57) Limit

- Applies to pop \leq 2,000
- Can lower speed limit to no less than 10 mph
- On one-lane road used for two-way access if not part of state highway system
- Must determine prima facie limit is unsafe and unreasonable
- Must post report on Internet and with TxDOT

Cities' Authority to Raise Speed Limit
HB 1353 (p 54)

- Cities may establish speed limit of not more than 75 mph (up from 60)
- May not violate maximum limits established by state law
- Must conduct engineering and traffic investigation study

—————

No more truck or nighttime limits

Radar Interference Devices
HB 1116 (p 53)

- A device, mechanism, instrument, or piece of equipment...designed, manufactured, used, or intended to be used to interfere with,

disrupt, or cause to malfunction a radar or device used to measure speed of a motor vehicle

Radar Interference Devices

- Offense to use, attempt to use, install, operate, or attempt to operate; purchase, sell, or attempt to sell
- Rules of the Road offense, but a Class C misdemeanor (max \$500 fine)
- Mere possession not an offense

**Substantive Traffic Safety
Laws**

Get Over for Tow Trucks

HB 378 (p 51)

- Must slow down or move over when passing a stationary tow truck using its equipment
- Rules of the Road offense
- \$1-\$200 fine
- \$500 fine if cause property damage
- Class B misdemeanor if cause bodily injury

**Don't Tow Boats with Kids In
HB 2981 (p 58) Them**

- Offense to tow a boat or personal watercraft in which a child under 18 is riding
- Defense if in a parade or on a beach, or an emergency
- Rules of the Road offense
- \$1-\$200 fine

**Minor Licensing and
Education**

**Minor Driver Education
SB 1330 (p 59)**

- Amends the deferred disposition statute
- Gives judges one more option to reach young drivers charged with moving violations
- Must be a 4-hour, live, interactive class
- Must make written promise not to engage in dangerous driving habits

“Alive @ 25”

Distracted Driving

Cell Phones in School Zones

HB 1899 (p 55)

- Removes sign requirement for those cities that ban cell phone use throughout the municipality
- Cities that ban throughout must post signs at at each point where a road enters the municipality
- In such cities, lose the “no sign” defense

Do general law cities have authority to ban throughout?

Drive Now, Text Later

HB 242 (p 50)

- Would have banned **VETO** driving as a state law off
- Would **VETO** road
offen **VETO**

“Government effort to micromanage the behavior of adults”

**Enjoy the rest of the
Conference!**

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the Conference**
