

Substantive Criminal Law

Judge Robin Smith

Presiding Judge

City of Midland

No one's life, liberty or property
are safe while the legislature
is in session.

-- Benjamin Franklin

Legislative Process

- Texas Legislature meets every two years
- Session lasts 140 days
- All bills must pass both chambers
 - House of Representatives
 - Senate
- Must be approved by the Governor

81st Texas Legislature: By the Numbers

Lawmakers filed 7,609 bills and proposed Constitutional amendments.

- 19 Percent Increase from the 80th Legislature in 2007
- 29 Percent Increase from the 76th Legislature in 1999

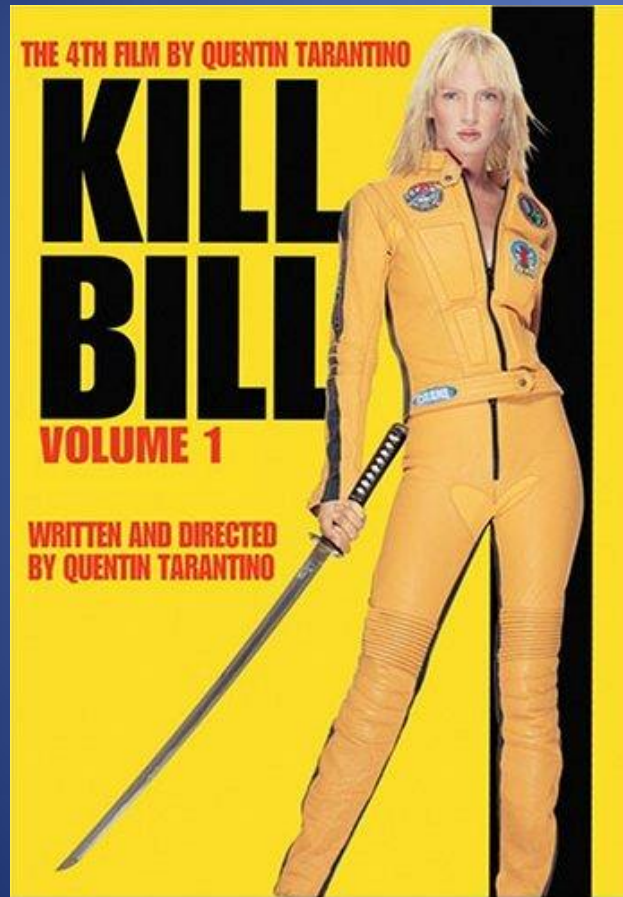
According to the Texas Municipal League^{TML}

Legislative Update (June 11, 2009 No. 21)

“It’s likely that no other American legislative body has ever filed that many bills in a biennium.”

“The volume of bills was made even harder to handle by a five-day, late-session talk-a-thon in the House that prevented a voter identification bill from being considered for passage but held up dozens of other measures, as well.”

If this Session had been a Movie, it Could have been Called ...



The Number of Bills Passed Declined

- In 2007, 23.5 Percent of Bills filed became Law
- In 2009, only 19.3 Percent became Law

House Bill 857

- Drops some Water Code burning offenses to Class C Misdemeanors
- Burning of waste generated from a private residence
- Fine up to \$500
- Split fine with the State
- Venue in County or Travis County
- Convictions must be sent to Texas Commission on Environmental Quality

- Class B prosecution for second offense or burning of: insulation on electrical wire or cable, treated lumber, plastics, non-wood construction or demolition materials, heavy oils, asphaltic materials, potentially explosive materials, furniture, carpet, chemical wastes, or items containing natural or synthetic rubber.
- Does not include burning of plants, leaves, trees or grass which may be governed otherwise.



House Bill 1282

- Creates a Criminal Offense for Stealing a Driver's License or identification Card
- Amends Theft Statute – Penal Code Section 31.03
- Applies to any state issued license or I.D.
- Penalty is a Class B Misdemeanor

House Bill 1357

- Requires a “Free Standing Emergency Medical Care Facility” to have a license
- Provides for a Class C misdemeanor for operating without a license.
- Does not apply to a Doctor’s Office
- Goes into Effect on September 1, 2010

House Bill 1468

- Provides Access to Cemeteries
- Creates a Class C Misdemeanor to anyone who interferes with anyone's access to a private burial ground or cemetery
- Land owners may designate routes and times but a person may request a variance that must be granted (if reasonable)



House Bill 1965

- Allows for permitting to reduce the population of wildlife causing damage to crops.
- Allows Texas Parks and Wildlife Department to require reports (by rule) from permit holders
- Failure to file the report is a Class C misdemeanor

House Bill 2031

- Defines “sight order” for use Penal Code prosecutions.
- "Sight order" means a written or electronic instruction to pay money that is authorized by the person giving the instruction and that is payable on demand or at a definite time by the person being instructed to pay.
- The term includes a check, an electronic debit, or an automatic bank draft.

House Bill 2609

- Rewrote criminal trespass
- Class C if the trespass is:
 - On agricultural land within 100 feet of boundary
 - On residential property within 100 feet of a freshwater area
- Class A if a habitation, Superfund sight, critical infrastructure facility or carrying a deadly weapon
- Class B otherwise



Senate Bill 589

- Creates an offense for tinting windows and not placing a compliance sticker
- Light transmission or luminous reflectance of 25%
- Fine up to \$1000
- All other fines remain the same: \$200

Senate Bill 1016

- Bill is 140 pages and reauthorizes Texas Department of Agriculture
- Class C implications:
 - Unlicensed perishable commodities handlers
 - Commercial use of uncertified citrus budwood
 - Failure to cooperate in the suppression of the Asian Citrus Psyllid





“There ought to be a law ...”

The Legislature passed about 40 new
criminal offenses in 2009

- Possession of Dog Fighting Equipment
 - Senate Bill 554
 - Class A misdemeanor
- Fraud in Mortgage Lending
 - House Bill 2840
 - Class Based upon property value
- Expanded Barratry to include solicitations
 - House Bill 148
 - Class A misdemeanor or 3rd Degree Felony

- Interfering with Public Safety Radio Frequencies
 - Senate Bill 1273
 - Class A misdemeanor or State Jail Felony
- Coercion of a potential Candidate for Office
 - Senate Bill 1970
 - Class A misdemeanor
- No Political Contributions in a Courthouse
 - Senate Bill 1152
 - Class A misdemeanor

- Online Harassment
 - House Bill 2003
 - Class A misdemeanor or 3rd Degree Felony
- Tougher penalties for Rustlers
 - Senate Bill 1163
 - Penalty varies with value or number of head
- Looting in Evacuation areas
 - Senate Bill 359
 - Bumps penalty one class



But, your Honor ...

New Defenses

- Exception for Law Enforcement to install a tracking device
 - House Bill 1659
- Disabled Hunters may use a laser sight
 - House Bill 1805
- Switchblade Redefined
 - House Bill 4456

What got vetoed ...

- Vulnerable Road Users – Senate Bill 488
 - Created a “protected” class of road users
- Failure to Report Barratry - House Bill 3515
 - Would punish lawyers who failed to report the fact that a non-lawyer tried to solicit for another lawyer

On the other hand ...

... perhaps a ring

TEXAS
MUNICIPAL COURT - JUSTICE COURT
NEWS

VOL. XXII, NO. 11

JULY 2009

MUNI JUDGES
MARRIAGE
BILL ENACTED

Citizens of Texas wishing to get married will have a new option beginning September 1,

2009.

The Texas Legislature has passed, and the Governor has signed, Senate Bill 935 which added municipal judges to the list of persons who may conduct marriage ceremonies.

Texans may now call upon religious leaders and all judges to perform a ceremony.

The Bill passed the Senate on

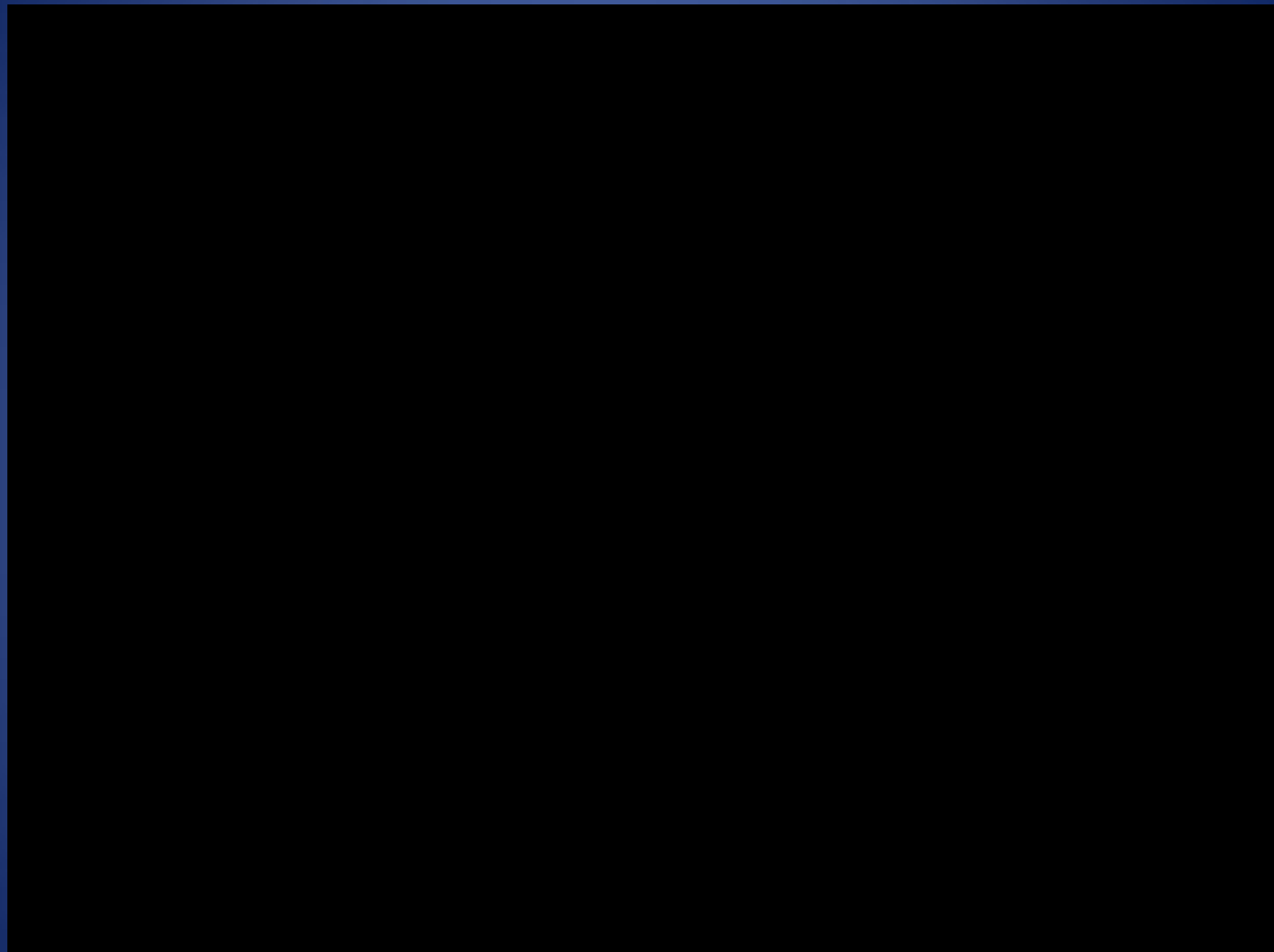
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- ★ A.G. Gives Opinion on Death Certificate
- ★ Legislation Passed ... and more

Senate Bill 935

- Amends the Texas Family Code to allow Municipal Court Judges to perform marriage ceremonies



Have a Good Break!

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