

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 0005

Caption: relating to public school accountability, including assessment, and curriculum requirements; providing a criminal penalty

Effective Date: 6-10-2013

Application: ED 25.092 applies beginning with the 2013-2014 school year;

Statutes ED 25.092

Affected:

Subject: Minimum attendance for class credit or final grade

Summary: Amends ED 25.092 to provide that a student in any grade level from kindergarten through grade 12 may not be given credit or a final grade for a class unless the student is in attendance for at least 90% of the days the class is offered;
A student who is in attendance for at least 75% but less than 90% of the days a class is offered may be given credit or a final grade for the class if the student completes a plan approved by the school's principal;

Subject:

Summary:

Subject:

Summary:

Comments: Education policy in Texas has focused on ensuring that students are academically prepared to pursue a postsecondary education. Interested parties contend that such efforts to increase the rigor of curriculum and assessments have unintentionally led to limited options for students during high school and an excessive reliance on standardized testing. In addition, many in business and industry are frustrated with the lack of applied core curriculum courses to prepare students for the growing labor demands in this state.

Current law provides for three public high school graduation plans: minimum, recommended, and distinguished. All students are required to begin high school under the recommended program, satisfying four credits each in English language arts, mathematics, science, and social studies. To opt out of this default program, students and their parents must sign a permission form.

C.S.H.B. 5 seeks to transform the current structure by creating a single diploma, the foundation program, and enable students to pursue their interests through diploma endorsements. In addition, it seeks to reduce the emphasis on testing by decreasing the number of end-of-course examinations required for graduation, and to institute school ratings that provide a clearer understanding of overall school performance.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 0035

Caption: relating to the authority of a property owners' association to regulate the use of certain lots for residential purposes

Effective Date: 6-14-2013

Application:

Statutes PP 209.015

Affected:

Subject: Regulation of land use: residential purpose

Summary: Adds PP 209.015 to prohibit a property owners' association from adopting or enforcing a provision in a dedicatory instrument that prohibits or restricts the owner of a lot on which a residence is located from using an adjacent lot owned by the property owner for residential purposes;
Requires approval of an architectural committee or POA relative to size, location, shielding, and aesthetics;
Requires owner who builds on adjacent lot to (1) include the adjacent lot in the sales agreement and transfer the lot to the new owner under the same dedicatory conditions; or
(2) restore the adjacent lot to the original condition before the addition of the improvements allowed under this section to the extent that the lot would again be suitable for the construction of a separate residence as originally platted and provided for in the conveyance to the owner;
Allows owner to sell adjacent lot separately only for purpose of new residence construction;
Provision in dedicatory instrument that violates these provisions is void;

Subject:

Summary:

Subject:

Summary:

Comments: There is a lack of specificity regarding the allowable uses of a residential lot owned by a homeowner that is adjacent to the homestead. In these circumstances, the parties note, the conveyance restrictions may be imprecise as to the otherwise allowable use of the property. H.B. 35 seeks to clarify this issue and to specify the authority of a property owners' association to regulate the use of such a lot for residential purposes.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 0062

Caption: relating to a justice or judge having an interest in a business entity that owns, manages, or operates a private correctional or rehabilitation facility

Effective Date: 1-1-2015

Application:

Statutes GV 21.010

Affected:

Subject: Financial interest in private correctional and rehabilitation facilities prohibited

Summary: Adds GV 21.010 to prohibit a justice of the supreme court and court of criminal appeals, and a judge of a district, county, county court at law, or statutory probate court from having a significant interest in a business entity that owns, manages, or operates:

(1) a community residential facility,

(2) a correctional or rehabilitation facility, or

(3) any other facility intended to accomplish a purpose or provide a service to a person convicted of a misdemeanor or felony or found to have engaged in delinquent conduct who is housed in the facility, on the date the judge takes office or while serving as a judge;

Significant interest is ownership of voting stock, a direct investment of the lesser of 10% or \$15,000 of the fair market value of the business, or receipt of money from the business;

Violation is a violation of Canon 4D(1);

Subject:

Summary:

Subject:

Summary:

Comments:

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Janet Marton, Senior Assistant County Attorney
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Bill Number: HB 0115

Caption: relating to identification numbers on vessels

Effective Date: 9-1-2013

Application:

Statutes PW 31.032

Affected:

Subject: Numbering location and visibility; exemption

Summary: Amends PW 31.032 to require the owner of a vessel to paint on or attach to each side of the forward half of the vessel the identification number and a registration decal in the manner prescribed by the TxPWD; if the number on the hull is not easily visible, the number must be painted on or attached to a backing plate that is attached to the forward half of the vessel so that the number is visible from each side of the vessel;

Subject: Unauthorized numbers prohibited

Summary: Amends PW 31.3033 to prohibit a person from painting, attaching, or displaying a number other than the number awarded to the vessel on the forward half of a vessel;

Subject:

Summary:

Comments: PW § 31.127. Penalties

(a) A person who violates or fails to comply with any provision of this chapter, or who violates or fails to comply with a proclamation of the commission entered under this chapter or a city ordinance or order of a commissioners court or a political subdivision of the state made or entered under this chapter, commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

...

(c) Except as provided by Subsection (f), a person who operates a vessel in violation of Section 31.021(b) or 31.095 commits an offense punishable by a fine of not less than \$100 or more than \$500.

(f) A court may dismiss a charge of operating a vessel with an expired certificate of number under Section 31.021 if:

(1) the defendant remedies the defect not later than the 10th working day after the date of the offense and pays an administrative fee not to exceed \$10; and

(2) the certificate of number has not been expired for more than 60 days.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 0174

Caption: relating to creating American Indian Heritage Day

Effective Date: 5-10-13

Application:

Statutes GV 662.056

Affected:

Subject: American Indian heritage day

Summary: Adds GV 662.056 to designate the last Friday in September as American Indian Heritage Day; regularly observed in public schools and other places to honor American Indians in Texas by appropriate ceremonies, activities, and programs;

Subject:

Summary:

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 0200 **Caption:** relating to liability of certain electric utilities that allow certain uses of land that the electric utility owns, occupies, or leases

Effective Date: 5-16-13

Application: Applies only to a cause of action that accrues on or after 5-16-13
Applies only to an electric utility located in a county with a population of 4 million or more

Statutes Affected: CV 75.0022
CV 51.014

Subject: Limited liability of certain electric utilities

Summary: Adds CV 75.0022 to allow an electric utility to enter into an agreement with a political subdivision to allow public access to and use of the premises of the electric utility for recreation, exercise, relaxation, travel, or pleasure; By entering into the agreement the utility does not:
(1) assure the premises are safe;
(2) owe a greater duty of care than owed to a trespasser; or
(3) assume responsibility or incur liability for damages for bodily injury or death, property damage, or the acts of a third party regardless of whether the act was intentional;
Utility is liable for serious bodily injury or death caused by utility's willful or wanton acts or gross negligence with respect to a dangerous condition existing on the premises;
Attractive nuisance does not apply;

Subject: Appeal from interlocutory order

Summary: Amends CV 51.014 to allow an interlocutory order of a district court, county court at law, or county court that denies a motion for summary judgment filed by an electric utility regarding liability in a suit subject to CV 75.022, to be appealed.

Subject:

Summary:

Comments: Under current law, an owner of real property who opens the owner's land for recreational use is liable for property damage, injury, or death arising from gross negligence on the part of the property owner. Hike and bike trails in Harris County are encouraged.
Public hike and bike trails provide many benefits, including supplementing transportation infrastructure, reducing congestion, connecting communities, and encouraging a healthy lifestyle. However, acquiring real estate in an urban area that is suitable for development of hike and bike trails can be both difficult and expensive. By utilizing an electric utility's property, miles of public hike and bike trails can be constructed at virtually no cost for land. H.B. 200 seeks to establish limitations on the liability of certain electric utilities that allow public use of the utility's property for recreation and certain other purposes.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
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Bill Number: HB 0232

Caption: relating to allowing certain minors convicted of certain alcohol offenses to perform community service instead of attending an alcohol awareness program

Effective Date: 6-14-2013

Application:

Statutes AB 106.115

Affected:

Subject: Attendance at alcohol awareness course; license suspension

Summary: Amends AB 106.115 to authorize a court a court, if a defendant resides in a county with a population of 75,000 or less and access to an alcohol awareness program is not readily available in the county, to allow the defendant to take an online alcohol awareness program if the Department of State Health Services (DSHS) approves online courses, or to require the defendant to perform not less than eight hours of community service related to alcohol abuse prevention or treatment and approved by DSHS instead of attending the alcohol awareness program. Provides that community service ordered under this subsection is in addition to community service ordered under Section 106.071(d) (relating to requiring a court to order certain minors to perform community service as a punishment for an alcohol-related offense);

Authorizes a court, for purposes of Subsection (b-1), if the defendant is enrolled in an institution of higher education located in a county in which access to an alcohol awareness program is readily available, to consider the defendant to be a resident of that county. Provides that if the defendant is not enrolled in such an institution of higher education, or if the court does not consider the defendant to be a resident of the county in which the institution is located, the defendant's residence is the residence listed on the defendant's driver's license or personal identification certificate, or if none, the residence on the defendant's voter registration certificate, or if none, the residence on file with the public school district on which the defendant's enrollment is based; Provides that if the defendant is not enrolled in public school, the defendant's residence is determined as provided by Texas Alcoholic Beverage Commission rule;

Requires DSHS to create a list of community services related to alcohol abuse prevention or treatment in each county in the state to which a judge is authorized to sentence a defendant under Subsection (b-1);

Subject:

Summary:

Subject:

Summary:

Comments: The Alcoholic Beverage Code states that a minor placed on a deferred disposition or a minor convicted of an alcohol related offense is required to attend an alcohol awareness course approved by the court. Defendants in rural areas, however, may not have access to such a course due to a lack of approved providers in their community. Consequently, these individuals would have to travel long distances in order to meet these requirements.

C.S.H.B. 232 amends current law relating to allowing certain minors convicted of certain alcohol offenses to perform community service instead of attending an alcohol awareness program.

As amended:

AB § 106.115. Attendance at Alcohol Awareness Course; License Suspension

(a) On the placement of a minor on deferred disposition for an offense under Section 49.02, Penal Code, or under Section 106.02, 106.025, 106.04, 106.041, 106.05, or 106.07, the court shall require the defendant to attend an alcohol awareness program approved by the Department of State Health Services under this section or a drug and alcohol driving awareness program approved by the Texas Education Agency. On conviction of a minor of an offense under one or more of those sections, the court, in addition to assessing a fine as provided by those sections, shall require a defendant who has not been previously convicted of an offense under one of those sections to attend the alcohol awareness program or a drug and alcohol driving awareness program described by this subsection. If the defendant has been previously convicted once or more of an offense under one or more of those sections, the court may require the defendant to attend an alcohol awareness program or a drug and alcohol driving awareness program described by this subsection. If the defendant is younger than 18 years of age, the court may require the parent or guardian of the defendant to attend the program with the defendant. The Department of State Health Services:

(1) is responsible for the administration of the certification of approved alcohol awareness programs;

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(2) may charge a nonrefundable application fee for:

(A) initial certification of the approval; or

(B) renewal of the certification;

(3) shall adopt rules regarding alcohol awareness programs approved under this section; and

(4) shall monitor, coordinate, and provide training to a person who provides an alcohol awareness program.

(b) When requested, an alcohol awareness program may be taught in languages other than English.

(b-1) If the defendant resides in a county with a population of 75,000 or less and access to an alcohol awareness program is not readily available in the county, the court may allow the defendant to take an online alcohol awareness program if the Department of State Health Services approves online courses or require the defendant to perform not less than eight hours of community service related to alcohol abuse prevention or treatment and approved by the Department of State Health Services under Subsection (b-3) instead of attending the alcohol awareness program. Community service ordered under this subsection is in addition to community service ordered under Section 106.071(d).

(b-2) For purposes of Subsection (b-1), if the defendant is enrolled in an institution of higher education located in a county in which access to an alcohol awareness program is readily available, the court may consider the defendant to be a resident of that county. If the defendant is not enrolled in such an institution of higher education or if the court does not consider the defendant to be a resident of the county in which the institution is located, the defendant's residence is the residence listed on the defendant's driver's license or personal identification certificate issued by the Department of Public Safety. If the defendant does not have a driver's license or personal identification certificate issued by the Department of Public Safety, the defendant's residence is the residence on the defendant's voter registration certificate. If the defendant is not registered to vote, the defendant's residence is the residence on file with the public school district on which the defendant's enrollment is based. If the defendant is not enrolled in public school, the defendant's residence is determined as provided by commission rule.

(b-3) The Department of State Health Services shall create a list of community services related to alcohol abuse prevention or treatment in each county in the state to which a judge may sentence a defendant under Subsection (b-1).

(c) The court shall require the defendant to present to the court, within 90 days of the date of final conviction, evidence in the form prescribed by the court that the defendant, as ordered by the court, has satisfactorily completed an alcohol awareness program or performed the required hours of community service. For good cause the court may extend this period by not more than 90 days. If the defendant presents the required evidence within the prescribed period, the court may reduce the assessed fine to an amount equal to no less than one-half of the amount of the initial fine.

(d) If the defendant does not present the required evidence within the prescribed period, the court:

(1) shall order the Department of Public Safety to:

(A) suspend the defendant's driver's license or permit for a period not to exceed six months or, if the defendant does not have a license or permit, to deny the issuance of a license or permit to the defendant for that period; or
(B) if the defendant has been previously convicted of an offense under one or more of the sections listed in Subsection (a), suspend the defendant's driver's license or permit for a period not to exceed one year or, if the defendant does not have a license or permit, to deny the issuance of a license or permit to the defendant for that period; and

(2) may order the defendant or the parent, managing conservator, or guardian of the defendant to do any act or refrain from doing any act if the court determines that doing the act or refraining from doing the act will increase the likelihood that the defendant will present evidence to the court that the defendant has satisfactorily completed an alcohol awareness program or performed the required hours of community service.

(e) The Department of Public Safety shall send notice of the suspension or prohibition order issued under Subsection (d) by first class mail to the defendant. The notice must include the date of the suspension or prohibition order, the reason for the suspension or prohibition, and the period covered by the suspension or prohibition.

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Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 0333

Caption: relating to requiring notice of a hotel's firearms policy and other guest policies;
providing a criminal penalty

Effective Date: 9-1-2013

Application:

Statutes OC 2155.101 et seq

Affected:

Subject: Notice regarding firearms policy

Summary: Adds OC 2155.103 to require a hotel to include on the hotel's internet reservation website the hotel's policy regarding the possession, storage, and transportation of firearms;
a confirmation or written statement of terms and conditions accepting a reservation must provide information to access guest policies; guest policies must indicate policy for firearms;
Creates an offense if the hotel owner or keeper does not comply; Misdemeanor punishable by fine of not more than \$100;

Subject:

Summary:

Subject:

Summary:

Comments:

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Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 0338 **Caption:** relating to the court in which a hearing regarding the towing of a motor vehicle may be held

Effective Date: 6-14-2013

Application: Applies only to a cause of action filed on or after 6-1-2013

Statutes OC 2308.453

Affected: OC 2308.455

Subject: Jurisdiction

Summary: Amends OC 2308.453 to allow a hearing to determine rights of owners and operators in towed vehicles to be in any justice court in the county from which the motor vehicle was towed, or for booted vehicles, in any justice court in the county in which the parking facility is located;

Subject: Contents of notice

Summary: Amends OC 2308.455 to require the VSF receipt to include notice of the person's right to request a hearing in any justice court in the county from which the motor vehicle was towed, or for booted vehicles, in any justice court in the county in which the parking facility is located, and the name, address, and telephone number of each justice court in the county, or the address of an internet site maintained by OCA that contains the name, address, and telephone number of each justice court in that county;

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 0346

Effective Date: 6-14-2013

Caption: relating to the accessing and use of electronically readable personal identification information obtained from driver's licenses or personal identification certificates

Application:

**Statutes
Affected:** TN 521.126

Subject: Electronically readable information

Summary: Amends TN 521.126 to allow a financial institution or a business to:

- (1) access or use electronically readable information for purposes of identification verification of an individual or check verification at the point of sale for a purchase of a good or service by check;
- (2) access or use electronically readable information as part of a transaction initiated by the license or certificate holder to provide information to a check services company or fraud prevention services company for the purpose of effecting, administering, or enforcing the transaction;
- (3) access or use electronically readable information or compiles or maintains a database of that information for the purpose of effecting, administering, or enforcing the transaction if the business is a check services company or a fraud prevention services company; or
- (4) compile or maintain a database of electronically readable information, if each license or certificate holder whose information is included in the compilation or database consents to the inclusion of the person's information on a separate document, signed by the license or certificate holder, that explains in at least 14-point bold type the information that will be included in the compilation or database;

Access to electronically readable information on a driver's license is available to a person who uses the information for a law enforcement or governmental purpose;

Subject:

Summary:

Subject:

Summary:

Comments: Texas is one of only two states that prohibit businesses from saving electronically readable information obtained from scanned driver's licenses. Because driver's license numbers rarely change, businesses can use driver's license numbers to track fraudulent and potentially fraudulent activities such as returning shoplifted or used merchandise. Return fraud costs Texas businesses approximately \$1 billion a year.

Information electronically embedded in Texas driver's licenses is the same as the information displayed on the license, which includes a unique number, a color photograph of the entire face, a brief physical description, and the license holder's address.

Under Section 512.126, Transportation Code, accessing or using electronically readable information from a driver's license or personal identification certificate, or compiling or maintaining this information in a database, is a misdemeanor offense. However, a business may access this information to verify a check or an individual's identity at the point of sale of a good or service by check.

C.S.H.B. 346 seeks to protect businesses from fraud by allowing them to scan and store electronically readable information embedded in a driver's license. It also allows businesses to provide this information to check services or fraud prevention services companies as part of a transaction initiated by the license holder. Check services and fraud prevention services companies are governed by the Fair Credit Reporting Act, and therefore any electronically readable information that they obtain would be subject to the Act's data privacy protections.

C.S.H.B. 346 amends current law relating to the accessing and use of electronically readable personal identification information obtained from driver's licenses or personal identification certificates.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 0347 **Caption:** relating to prohibiting using a wireless communication device while operating a motor vehicle on school property

Effective Date: 9-1-2013

Application: Applies only to an offense committed on or after 9-1-2013

Statutes Affected: TN 545.4252

Subject: Use of wireless communication device on school property; offense

Summary: Adds TN 545.4252 to create an offense if an operator uses a wireless communication device while operating a motor vehicle on the property of a public elementary, middle, junior high, or high school for which a local authority has designated a school crossing zone, during the time a reduced speed limit is in effect, unless:

- (1) the vehicle is stopped; or
- (2) the wireless communication device is used with a hands-free device;

Creates an affirmative defense if the wireless communication device was used to make an emergency call to:

- (1) an emergency response service, including a rescue, emergency medical, or hazardous material response service;
- (2) a hospital;
- (3) a fire department;
- (4) a health clinic;
- (5) a medical doctor's office;
- (6) an individual to administer first aid treatment; or
- (7) a police department

Does not apply to the operator of an authorized emergency vehicle while acting in an official capacity, or an operator licensed by FCC while operating a radio frequency device other than a wireless communication device; Preempts all local ordinances, rules, or regulations, except allows a political subdivision by ordinance or rule to prohibit the use of a wireless communication device while operating a motor vehicle throughout the jurisdiction of the political subdivision;

Subject:

Summary:

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 0389

Caption: relating to the enforcement of spousal maintenance agreements and property distribution agreements incident to divorce or annulment

Effective Date: 9-1-2013

Application: Applies to the enforcement of a property division and any contractual provisions under the terms of an agreement incident to divorce or annulment regardless of whether the agreement was approved or the decree was rendered before, on, or after 9-1-2013

**Statutes
Affected:** FA 9.002

Subject: Continuing authority to enforce decree

Summary: Amends FA 9.002 to provide that the court that rendered the decree of divorce or annulment retains the power to enforce the property division, including a property division and any contractual provisions under the terms of an agreement incident to divorce or annulment that was approved by the court;

Subject:

Summary:

Subject:

Summary:

Comments: Under current law, parties to a decree of divorce or annulment may request enforcement of the decree by filing suit in the court that rendered the decree. Agreements to divide property, which are approved by the same court that renders the decree of divorce or annulment, are not necessarily included within the four corners of the decree.

H.B. 389 seeks to provide for the uniform enforcement of court-ordered, agreed, and contractual alimony and maintenance and to provide for the enforcement of certain property division agreements, regardless of whether the agreement is included in the decree or in a separate document.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 0419

Caption: relating to designating the first Friday in November as Texas Arbor Day

Effective Date: 5-18-13

Application:

Statutes GV 662.056

Affected:

Subject: Texas arbor day

Summary: Adds GV 662.056 to designate the first Friday in November of each year as Texas Arbor Day to encourage the planting and cultivation of forest, shade, and ornamental trees;

Subject:

Summary:

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 0438 **Caption:** relating to the courts authorized to issue an occupational driver's license

Effective Date: 9-1-2013

Application: Applies to an occupational driver's license that is applied for on or after 9-1-2013

Statutes TN 521.242

Affected:

Subject: Petition (for occupational driver's license)

Summary: Amends TN 521.242 to allow a person whose license has been suspended for a cause other than a physical or mental disability or impairment or a conviction for DWI, to apply for an occupational license by filing a verified petition with the clerk of a justice, county, or district court with jurisdiction that includes the precinct or county in which:

- (1) the person resides; or
- (2) the offense occurred for which the license was suspended.;

Application for an occupational license is by filing a verified petition with the clerk of the court in which the person was convicted if:

- (1) the person's license has been automatically suspended or canceled under this chapter for a conviction of an offense under the laws of this state; and
- (2) the person has not been issued, in the 10 years preceding the date of the filing of the petition, more than one occupational license after a conviction under the laws of this state;

Requires a petition to set forth in detail the person's essential need;
Requires a petition to state that the petitioner was convicted in that court for an offense under the laws of this state, if applicable;
Requires the clerk of the court to file the petition as in any other matter;

Subject:

Summary:

Subject:

Summary:

Comments: In Texas, an occupational driver's license authorizes the operation of a noncommercial motor vehicle in connection with a person's occupation, religious purposes, educational purposes, or the performance of essential household duties when an individual's driver's license has been suspended for reasons other than a physical or mental disability or failure to pay child support. Legislation enacted decades ago authorized a person to obtain an occupational driver's license by filing a verified petition only in a district court. In an attempt to unclutter the dockets of district courts and to save money for the state and the applicant for the occupational license, subsequently enacted legislation expanded the authorized filing venues to include a justice, county, or district court.

As amended:

TN § 521.242. Petition (for occupational license)

(a) A person whose license has been suspended for a cause other than a physical or mental disability or impairment or a conviction under Section 49.04, Penal Code, may apply for an occupational license by filing a verified petition with the clerk of a justice, county, or district court with jurisdiction that includes the precinct or county in which:

(1) the person resides; or

(2) the offense occurred for which the license was suspended.

(b) A person may apply for an occupational license by filing a verified petition only with the clerk of the court in which the person was convicted if:

(1) the person's license has been automatically suspended or canceled under this chapter for a conviction of an offense under the laws of this state; and

(2) the person has not been issued, in the 10 years preceding the date of the filing of the petition, more than one occupational license after a conviction under the laws of this state.

(c) A petition filed under this section must set forth in detail the person's essential need.

(d) A petition filed under Subsection (b) must state that the petitioner was convicted in that court for an offense under the laws of this state.

(e) The clerk of the court shall file the petition as in any other matter.

(f) A court may not grant an occupational license for the operation of a commercial motor vehicle to which Chapter 522 applies.

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**Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney**

§ 521.243. Notice to State; Presentation of Evidence

(a) The clerk of the court shall send by certified mail to the attorney representing the state a copy of the petition and notice of the hearing if the petitioner's license was suspended following a conviction for:

- (1) an offense under Section 19.05, 49.04, 49.07, or 49.08, Penal Code; or
- (2) an offense to which Section 521.342 applies.

(b) A person who receives a copy of a petition under Subsection (a) may attend the hearing and may present evidence at the hearing against granting the petition.

§ 521.244. Hearing; Order; Determination of Essential Need

(a) The judge who hears the petition shall sign an order finding whether an essential need exists.

(b) In determining whether an essential need exists, the judge shall consider:

- (1) the petitioner's driving record; and
- (2) any evidence presented by a person under Section 521.243(b).

(c) If the judge finds that there is an essential need, the judge also, as part of the order, shall:

- (1) determine the actual need of the petitioner to operate a motor vehicle; and
- (2) require the petitioner to provide evidence of financial responsibility in accordance with Chapter 601.

(d) Except as provided by Section 521.243(b), the hearing on the petition may be ex parte.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 0455

Caption: relating to excused absences from public school for certain students

Effective Date: 6-14-2013

Application: Applies beginning with 2013-2014 school year

Statutes ED 25.087

Affected:

Subject: Excused absences

Summary: Amends ED 25.087 to require a school district to excuse a student from attending school for a temporary absence resulting from an appointment with health care professionals for the student or the student's child if the student commences classes or returns to school on the same day of the appointment;

Subject:

Summary:

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 0483 **Caption:** relating to a public hearing held on the issue of making a payment in excess of the compensation contracted for by a political subdivision

Effective Date: 6-14-2013

Application: Applies only to a payment made by a political subdivision on or after 6-2-1013

Statutes Affected: LG 180.007

Subject: Payments in excess of contractual amount

Summary: Adds LG 180.007 to prohibit a political subdivision from paying an employee or former employee more than an amount owed under a contract unless the political subdivision holds at least one public hearing after giving notice; In the hearing, the political subdivision must state (1) the reason the payment in excess of the contractual amount is being offered to the employee or former employee, including the public purpose that will be served by making the excess payment; and (2) the exact amount of the excess payment, the source of the payment, and the terms for the distribution of the payment that effect and maintain the public purpose to be served by making the excess payment;

Subject:

Summary:

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 0487

Caption: relating to liability of certain persons assisting in man-made or natural disasters

Effective Date: 5-24-13

Application:

Statutes LG 370.006

Affected:

Subject: Assistance in man-made or natural disaster

Summary: Adds LG 370.006 to clarify that a person, corporation, or other private legal entity, who provides care, assistance, or advice to a city or county, including the loan or operation of construction equipment or heavy equipment, or the donation of resources necessary to address the disaster, is immune from civil liability for an act or omission that occurs in giving care, assistance, or advice, except in a case of reckless conduct or intentional, willful, or wanton misconduct;

Subject:

Summary:

Subject:

Summary:

Comments: State law provides immunity from civil liability for a person responding to a disaster at the request of an authorized representative of a local, state, or federal agency, except in a case of reckless conduct or intentional, willful, or wanton misconduct. A recent court case has been interpreted to affirm that immunity, but there is concern that despite such protections, local officials resist accepting volunteer services while responding to hazardous or dangerous situations because of a fear of being exposed to liability suits based on a volunteer's actions. H.B. 487 seeks to address those concerns by clarifying existing law with regard to a local official's authority to request or accept assistance in a hazardous or dangerous situation and with regard to a person's immunity from liability in providing such assistance.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 0489 **Caption:** relating to rights and responsibilities of persons with disabilities, including with respect to the use of service animals that provide assistance to those persons; providing penalties

Effective Date: 1-1-2014

Application: HB 121.004 applies only to an offense committed on or after 1-1-2014

Statutes Affected: HR 121.003
HR 121.004
HR 121.006
HS 437.023

Subject: Discrimination prohibited

Summary: Amends HR 121.003 to prohibit a common carrier, airplane, train, bus, boat, or other public conveyance or mode of transportation from refusing to accept as a passenger a person with a disability because of the disability; prohibits requiring a person with a disability from paying an additional fare because of the use of a service animal, wheelchair, crutches, or other assistance device;
No person with a disability may be denied admittance to any public facility in the state because of the person's disability. No person with a disability may be denied the use of a white cane, assistance animal, wheelchair, crutches, or other device of assistance
Discrimination includes a refusal to allow a person with a disability to use or be admitted to any public facility, a ruse or subterfuge calculated to prevent or discourage a person with a disability from using or being admitted to a public facility, and a failure to:
(1) comply with GV Chapter 469 (required elimination of architectural barriers);
(2) make reasonable accommodations in policies, practices, and procedures; or
(3) provide auxiliary aids and services necessary to allow the full use and enjoyment of the public facility;
Regulations relating to use of public facilities by any designated class of persons may not prohibit the use by persons with disabilities who are within the class;
Persons with disabilities are entitled to full and equal access to housing accommodations offered for rent;
A person using a service animal is entitled to full and equal access to housing accommodations and may not be required to pay extra for the animal, but is liable for damage to the premises, except for reasonable wear and tear;
A service animal in training shall not be denied admittance to any public facility when accompanied by a trainer;
A person is not entitled to make demands or inquiries relating to the qualifications or certifications of a service animal for purposes of admittance to a public facility except to determine the basic type of assistance provided by the service animal to a person with a disability; if a person's disability is not readily apparent, for purposes of admittance to a public facility with a service animal, a staff member or manager of the facility may inquire about:
(1) whether the service animal is required because the person has a disability; and
(2) what type of work or task the service animal is trained to perform;

Subject: Penalties for and damages resulting from discrimination (rights and responsibilities of persons with disabilities)

Summary: Amends HR 121.004 to create an offense if a person, including a firm, association, corporation, or other public or private organization, or the agent of the person, who discriminates against a person with disabilities;
An offense is a misdemeanor punishable by:
(1) a fine of not more than \$300 and
(2) 30 hours of community service to be performed for a governmental entity or nonprofit organization that primarily serves persons with visual impairments or other disabilities, or for another entity or organization at the discretion of the court, to be completed in not more than one year;

In addition, a person who discriminates is deemed to have deprived a person with a disability of his or her civil liberties and may be sued for damages in a court of competent jurisdiction; there is a conclusive presumption of damages in the amount of at least \$300 to the person with a disability;

Subject: Penalties for improper use of assistance animals

Summary: Amends HR 121.006 to create an offense if a person uses a service animal with a harness or leash of the type commonly used by trainers in order to represent the animal as specially trained when it was not;
An offense is a misdemeanor punishable by:
(1) a fine of not more than \$300 and
(2) 30 hours of community service to be performed for a governmental entity or nonprofit organization that primarily serves persons with visual impairments or other disabilities, or for another entity or organization at the discretion of the court, to be completed in not more than one year;

Comments:

HB 0489

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 0489 **Page 2 of 2** **Caption:** relating to rights and responsibilities of persons with disabilities, including with respect to the use of service animals that provide assistance to those persons; providing penalties

Effective Date:

Application:

Statutes

Affected:

Subject: Service animals

Summary: Adds HS 437.023 to require a food service establishment, retail food store, or other entity regulated under HS 437 (regulation of food service establishments, retail food stores, mobile food units, and roadside food vendors) to admit a service animal into an area of the establishment or store or physical space occupied by the entity that is open to customers and is not used to prepare food if:

- (1) the service animal is accompanied and controlled by a person with a disability; or
- (2) the service animal is in training and is accompanied and controlled by an approved trainer;

If disability is not readily apparent, a staff member may inquire only about:

- (1) whether the service animal is required because the person has a disability; and
- (2) what type of work the service animal is trained to perform;

"Service animal" means a canine that is specially trained or equipped to help a person with a disability, not an animal that provides only comfort or emotional support;

The tasks that a service animal may perform in order to help a person with a disability must be directly related to the person's disability and may include:

- (1) guiding a person who has a visual impairment;
- (2) alerting a person who has a hearing impairment or who is deaf;
- (3) pulling a wheelchair;
- (4) alerting and protecting a person who has a seizure disorder;
- (5) reminding a person who has a mental illness to take prescribed medication; and
- (6) calming a person who has post-traumatic stress disorder;

Subject:

Summary:

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 0503

Caption: relating to the ability of a property owners' association to contract with an association board member or certain other persons or entities associated with the board member

Effective Date: 9-1-2013

Application: Applies only to a contract entered into on or after 9-1-2013

Statutes Affected: PP 209.0052

Subject: Association contracts

Summary: Adds PP 209.0052 to allow a POA to enter into an enforceable contract with:
a current association governing board member,
a person related to a current board member within the third degree by consanguinity or affinity,
a company in which a current board member has a financial interest in at least 51 percent of profits, or
a company in which a person related to a current board member within the third degree by consanguinity or affinity has a financial interest in at least 51 percent of profits only if the following conditions are satisfied:
(1) the board member, relative, or company bids on the proposed contract and the association has received at least two other bids for the contract from persons not associated with the board member, relative, or company, if reasonably available in the community;
(2) the board member:
(A) is not given access to the other bids;
(B) does not participate in any board discussion regarding the contract; and
(C) does not vote on the award of the contract;
(3) the material facts regarding the relationship or interest with respect to the proposed contract are disclosed to or known by the association board and the board, in good faith and with ordinary care, authorizes the contract by an affirmative vote of the majority of the board members who do not have an interest governed by this subsection; and
(4) the board certifies that the other requirements of this subsection have been satisfied by a resolution approved by an affirmative vote of the majority of the board members who do not have an interest governed by this subsection;

Subject:

Summary:

Subject:

Summary:

Comments: Currently, members of the boards of homeowners' associations (HOA) serve on a voluntary basis and receive no payment or monetary benefit. However, problems arise when HOA board members vote to approve contracts that would provide them, their family members, or entities in which they have a financial interest financial compensation. Some homeowners within those HOAs perceive a conflict of interest and misuse of their HOA dues.

H.B. 503 intends to mitigate conflicts of interests on property owner association boards by requiring more transparency and fairness in the contracting process.

H.B. 503 amends current law relating to the ability of a property owners' association to contract with an association board member or certain other persons or entities associated with the board member.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 0511

Caption: relating to the registration of token trailers

Effective Date: 6-14-2013

Application:

Statutes TN 502.255

Affected:

Subject: Truck-tractor or commercial motor vehicle combination fee; semitrailer token fee

Summary: Amends TN 502.255 to require TxDMV to issue a license plate for a token trailer that does not expire or require an annual registration insignia to be valid; alphanumeric pattern for a license plate may remain on a token trailer for as long as the registration of the token trailer is renewed or until the token trailer is removed from service or sold; registration receipt is not required for a vehicle that displays a license plate;

Subject:

Summary:

Subject:

Summary:

Comments: Token trailers—any trailer over 6,000 pounds pulled by a truck or cab that has apportioned or combination truck registration—may be registered in Texas, but travel well beyond the state's borders. The current system of registration requires license plate updating and the placement of paperwork on or in the trailer, which is a burden for the trailer owner, whose units may be in any number of locations outside the state, including traveling cross-country on a rail car or in Canada or Mexico. H.B. 511 creates a nonexpiring license plate and eliminates the requirements to show the expiration date on the license plate and to carry a paper registration receipt on the trailer.

Trailer owners will now be able to renew trailer registration without requiring physical access or alteration to the trailer, and law enforcement can continue to verify registration through online systems.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 0528 **Caption:** relating to the restriction of access to the records and files of a child charged with or convicted of certain fine-only misdemeanor offenses

Effective Date: 1-1-2014

Application: Applies to an offense committed before, on, or after 1-1-2014

Statutes Affected: CP 45.0217

Subject: Confidential records related to the conviction of a child

Summary: Amends CP 45.0217 to make all records and files, including those held by law enforcement, and information stored by electronic means or otherwise from which a record or file could be generated, relating to a child who is charged with, is convicted of, is found not guilty of, had a charge dismissed for, or is granted deferred disposition, confidential;
Prohibits disclosure of the records to the public;
Does not apply to traffic offenses;
Allows information to be open to inspection only by:
(1) judges or court staff;
(2) a criminal justice agency for a criminal justice purpose;
(3) the Department of Public Safety;
(4) an attorney for a party to the proceeding;
(5) the child defendant; or
(6) the defendant's parent, guardian, or managing conservator.

Subject:

Summary:

Subject:

Summary:

Comments: Under current law, the records of a child convicted of a fine-only misdemeanor, other than a traffic offense, are confidential. Interested parties contend that the intent of this provision is to prevent the release of information of a child convicted in this type of case, but that the records of a child who has been charged with or who is appealing the case are not protected. H.B. 528 seeks to close this unintended loophole in current law.

"Criminal justice agency" means:
(A) a federal or state agency that is engaged in the administration of criminal justice under a statute or executive order and that allocates a substantial portion of its annual budget to the administration of criminal justice; or
(B) a nongovernmental railroad or campus police department that has obtained an originating agency identifier from the Federal Bureau of Investigation.

(4) "Criminal justice purpose" means:
(A) an activity that is included in the administration of criminal justice; or
(B) screening of applicants for employment with a criminal justice agency.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 0555 **Caption:** relating to certain criminal offenses for violations of the law regulating metal recycling entities
Effective Date: 9-1-2013

Application: Applies to an offense committed on or after 9-1-2013

Statutes Affected: OC 1956.204

Subject: General criminal penalty

Summary: Adds OC 1956.204 to create an offense if a person violates OC Chapter 1956 relating to metal recycling entities or a rule adopted under OC Chapter 1956, including an order issued by a county;
Class C misdemeanor

Subject:

Summary:

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 0567

Caption: relating to the definition of an authorized emergency vehicle

Effective Date: 6-14-2013

Application:

Statutes TN 541.201

Affected:

Subject: Vehicles

Summary: Amends TN 541.201 to include an emergency medical services vehicle:

- (i) authorized under an emergency medical services provider license issued by the Department of State Health Services under Chapter 773, Health and Safety Code; and
 - (ii) operating under a contract with an emergency services district that requires the emergency medical services provider to respond to emergency calls with the vehicle;
- within the definition of authorized emergency vehicle;

Subject:

Summary:

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 0570

Caption: relating to issuance of a magistrate's order for emergency protection

Effective Date: 6-14-2013

Application:

Statutes CP 17.292

Affected:

Subject: Magistrate's Order for Emergency Protection

Summary: Amends CP 17.292 to allow the defendant to be served with a copy of the magistrate's order for emergency protection in person or electronically; the magistrate is required to make a separate record of the service in written or electronic form;

Subject:

Summary:

Subject:

Summary:

Comments: A magistrate is authorized issue an order for emergency protection when the defendant appears before the magistrate after being arrested for an offense involving family violence or certain other offenses to prevent the offender from committing further acts of violence against a victim and the victim's family members. While the law does not specify the required venue for the issuance of such an order, it requires a copy of the order to be served on the defendant in open court. These orders often are issued while the offender is imprisoned, thus serving a copy of the order to a defendant in open court could create safety concerns for the magistrate, law enforcement officers, and members of the general public present in the courtroom.

In an effort to alleviate these safety risks, H.B. 570 removes the requirement that the defendant be served a copy of the emergency order for protection in open court and provides the option of serving the copy electronically to a defendant, including a defendant in jail.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 0584

Caption: relating to the posting of a notice of foreclosure sale on a county's Internet website

Effective Date: 9-1-2013

Application:

Statutes Affected: PP 51.002

Subject: Sale of real property under contract lien

Summary: Amends PP 51.002 to require a county which maintains an internet website to post a notice of sale filed with the county clerk for the sale of real property on the website on a page that is publicly available for viewing without charge or registration;

Subject:

Summary:

Subject:

Summary:

Comments: Currently, notice of a foreclosure sale of real property is filed with a county clerk and then posted in the courthouse lobby, with an auction later taking place on the steps of the county's courthouse. Competitive sales, such as a public auction where cash bidders compete for the property, are good for troubled borrowers and communities because the sales may help real estate retain its value and may allow a borrower to be compensated for the equity acquired in a foreclosed home.

H.B. 584 seeks to make foreclosure information readily available to the bidding public by requiring any county that maintains an Internet website to post on that website a notice of foreclosure sale filed with the county clerk.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 0625

Caption: relating to the penalty for the operation of a vehicle without a license plate

Effective Date: 9-1-2013

Application: Applies to an offense committed on or after 9-1-2013

Statutes TN 504.943

Affected:

Subject: Operation of vehicle without license plate

Summary: Amends TN 504.943 to punish this offense by a fine not to exceed \$200;

Subject:

Summary:

Subject:

Summary:

Comments: Recent legislation inadvertently removed a section of law that set a fine for operating a vehicle without license plates. License plates are necessary for law enforcement officers to identify vehicles effectively and to maintain public safety.

As amended:

§ 504.943. Operation of Vehicle Without License Plate

(a) Except as provided by Subsection (b), a person commits an offense if the person operates on a public highway, during a registration period, a motor vehicle that does not display two license plates that:

(1) have been assigned by the department for the period; and

(2) comply with department rules regarding the placement of license plates.

(b) A person commits an offense if the person operates on a public highway during a registration period a road tractor, motorcycle, trailer, or semitrailer that does not display a license plate that:

(1) has been assigned by the department for the period; and

(2) complies with department rules regarding the placement of license plates.

(c) This section does not apply to a dealer operating a vehicle as provided by law.

(d) A court may dismiss a charge brought under Subsection (a)(1) if the defendant:

(1) remedies the defect before the defendant's first court appearance; and

(2) pays an administrative fee not to exceed \$10.

(e) An offense under this section is a misdemeanor punishable by a fine not to exceed \$200.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 0658

Caption: relating to certain lawsuits seeking damages

Effective Date: 9-1-2013

Application: Applies to an action commenced on or after 9-1-2013

Statutes CV 74.351

Affected:

Subject: Expert report (health care liability claim)

Summary: Amends CV 74.351 to require a claimant, in a health care liability claim, not later than the 120th day after the date each defendant's original answer is filed, to serve on that party or the party's attorney one or more expert reports, with certain curriculum vitae, rather than requiring a claimant, in a health care liability claim, not later than the 120th day after the date the original petition was filed, to serve on each party or the party's attorney one or more expert reports, with certain curriculum vitae.
Requires each defendant physician or health care provider whose conduct is implicated in a report to file and serve any objection to the sufficiency of the report not later than the later of the 21st day after the date the report is served or the 21st day after the date the defendant's answer is filed, failing which all objections are waived, rather than providing that each defendant physician or health care provider whose conduct is implicated in a report to file and serve any objection to the sufficiency of the report not later than the 21st day after the date it was served, failing which all objections are waived;

Subject:

Summary:

Subject:

Summary:

Comments: "Health care liability claim" means a cause of action against a health care provider or physician for treatment, lack of treatment, or other claimed departure from accepted standards of medical care, or health care, or safety or professional or administrative services directly related to health care, which proximately results in injury to or death of a claimant, whether the claimant's claim or cause of action sounds in tort or contract.

"Health care provider" means any person, partnership, professional association, corporation, facility, or institution duly licensed, certified, registered, or chartered by the State of Texas to provide health care, including:

(i) a registered nurse;

(ii) a dentist;

(iii) a podiatrist;

(iv) a pharmacist;

(v) a chiropractor;

(vi) an optometrist;

(vii) a health care institution; or

(viii) a health care collaborative certified under Chapter 848, Insurance Code.

(B) The term includes:

(i) an officer, director, shareholder, member, partner, manager, owner, or affiliate of a health care provider or physician; and

(ii) an employee, independent contractor, or agent of a health care provider or physician acting in the course and scope of the employment or contractual relationship.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 0680

Caption: relating to provisions in the dedicatory instruments of property owners' associations regarding display of flags

Effective Date: 6-14-2013

Application:

Statutes PP 202.001

Affected:

Subject: Definitions

Summary: Amends PP 202.001 to define front yard to mean a yard within a lot having a front building setback line with a setback of not less than 15 feet extending the full width of the lot between the front lot line and the front building setback line;

Subject: Flag display

Summary: Amends PP 202.011 to prohibit a property owners' association from adopting or enforcing a dedicatory instrument provision that prohibits, restricts, or has the effect of prohibiting or restricting an owner from the display of:

- (1) the flag of the United States of America;
- (2) the flag of the State of Texas; or
- (3) an official or replica flag of any branch of the United States armed forces;

but may adopt provisions that require United States and Texas flags to be flown according to applicable law; May regulate the size, number, and location of flagpoles on which flags are displayed, except that the regulation may not prevent the installation or erection of at least one flagpole per property that:

- (A) is not more than 20 feet in height and, subject to applicable zoning ordinances, easements, and setbacks of record, is located in the front yard of the property; or
- (B) is attached to any portion of a residential structure owned by the property owner and not maintained by the property owners' association; a property owner who has a front yard may elect to install either a free standing flagpole or one attached to the residential structure;

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 0694

Caption: relating to access by certain military personnel to juvenile and criminal history information

Effective Date: 6-14-2013

Application:

Statutes GV 411.1410

Affected:

Subject: Access to criminal history record information: United States armed forces

Summary: Adds GV 411.1410 to allow an agency of the armed forces, including a recruiter, to obtain criminal history record information from TxDPS with written authorization from the applicant;
Provides that information may not further be released, and must be destroyed when the purpose for the information is accomplished;

Subject:

Summary:

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 0699

Caption: relating to the location of certain public sales of real property

Effective Date: 10-1-2013

Application:

Statutes CV 34.041

Affected: PP 51.002

TX 34.01

Subject: Sale at place other than courthouse door

Summary: Amends CV 34.041 to allow commissioners court to designate an area, other than at the courthouse, where public sales of real property under execution may take place; location must be within reasonable proximity of courthouse and as accessible to the public as the courthouse door; designation must be recorded in real property records;

Designation of other location is not a ground for challenging or invalidating any sale;

Sale at other location may be held on or after 90th day after date designation is recorded;

Subject: Sale of real property under contract lien

Summary: Amends PP 51.002 to allow commissioners court to designate an area, other than at the courthouse, where public sales of real property under contract lien may take place; location must be within reasonable proximity of courthouse and as accessible to the public as the courthouse door; designation must be recorded in real property records;

Designation of other location is not a ground for challenging or invalidating any sale;

Sale at other location may be held on or after 90th day after date designation is recorded;

Subject: Sale of property

Summary: Amends PP 52.01 to allow commissioners court to designate an area, other than at the courthouse, where public sales of real property pursuant to foreclosure of tax lien may take place; location must be within reasonable proximity of courthouse and as accessible to the public as the courthouse door; designation must be recorded in real property records;

Designation of other location is not a ground for challenging or invalidating any sale;

Sale at other location may be held on or after 90th day after date designation is recorded;

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 0705

Caption: relating to the definition of emergency services personnel for purposes of the enhanced penalty prescribed for an assault committed against a person providing services in that capacity

Effective Date: 9-1-2013

Application:

Statutes PE 22.01

Affected:

Subject: Assault

Summary: Amends PE 22.01 to include emergency room personnel among emergency services personnel, the assault of whom enhances the offense to a 3rd degree felony;

Subject:

Summary:

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 0719

Caption: relating to the operation of a golf cart or utility vehicle on a public highway in certain counties; authorizing a fee

Effective Date: 6-14-2013

Application: Not later than 12-31-13, DMV will establish procedure for issuance of license plates for golf carts to be used for operation on a public highway

Statutes TN 551.402

Affected: TN 551.404

Subject: Registration not authorized

Summary: Amends TN 551.402 to allow TxDMV to establish rules to issue license plates for a gold cart used for operation:
(1) in a master planned community;
(A) that has in place a uniform set of restrictive covenants; and
(B) for which a county or municipality has approved a plat;
(2) on a public or private beach; or
(3) on a public highway for which the posted speed limit is not more than 35 miles per hour, if the golf cart is operated:
(A) during the daytime; and
(B) not more than two miles from the location where the golf cart is usually parked and for transportation to or from a golf course;

Subject:

Summary:

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 0798 **Caption:** relating to certain actions taken by certain licensing authorities regarding a license holder or applicant who has been convicted of a Class C misdemeanor

Effective Date: 9-1-2013

Application: Applies to an application for or a disciplinary proceeding regarding a license that is pending with a licensing authority on 9-1-2013 or an application filed or proceeding commenced on or after 9-1-2013

Statutes Affected: OC 53.021

Subject: Authority to revoke, suspend, or deny license

Summary: Amends OC 53.021 to make the provisions of this section inapplicable to a person who has been convicted only of an offense punishable as a Class C misdemeanor unless:
(1) the person is an applicant for or the holder of a license that authorizes the person to possess a firearm; and
(2) the offense for which the person was convicted is a misdemeanor crime of domestic violence as that term is defined by 18 U.S.C. Section 921;

Subject:

Summary:

Subject:

Summary:

Comments: Under current law, individuals convicted of Class C misdemeanors are often denied occupational licenses under Chapter 53 (Consequences of Criminal Conviction), Occupations Code. The maximum punishment of a Class C misdemeanor is a \$500 fine and no jail time. The denial of a license removes any possibility of practicing certain occupations regardless of training and experience such as water well drillers, auctioneers, and surveyors.

C.S.H.B. 798 amends current law relating to certain actions taken by certain licensing authorities regarding a license holder or applicant who has been convicted of a Class C misdemeanor.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 0802

Caption: relating to the definition of an authorized emergency vehicle

Effective Date: 6-14-2013

Application:

Statutes TN 541.201

Affected:

Subject: Vehicles

Summary: Amends TN 541.201 to expand the definition of "authorized emergency vehicle" to include a county owned or county leased emergency management vehicle that has been designated or authorized by commissioners court;

Subject:

Summary:

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 0869

Effective Date: 9-1-2013

Caption: relating to the issuance of a marriage license for an absent applicant, the participation of a proxy in certain marriage ceremonies, and the maintenance and submission of records relating to a marriage license issued for an absent applicant

Application:

**Statutes
Affected:** FA 2.203

Subject: Ceremony

Summary: Amends FA 2.203 to provide that a person may assent to marriage by the appearance of a proxy appointed in the affidavit of absent applicant if the person is:
(1) a member of the armed forces of the United States stationed in another country in support of combat or another military operation; and
(2) unable to attend the ceremony;

Subject:

Summary:

Subject:

Summary:

Comments: Marriage by proxy allows for an individual to stand in for another person while applying for a marriage license. Under certain circumstances, if an individual is unable to appear in person for the application or the ceremony, the individual can sign an affidavit naming another person to represent that individual. According to interested parties, Texas is one of only four states that allows for marriage by proxy.

There is concern that, in its present form, this process allows for potential fraud and abuse. Concerned parties contend that there have been documented cases where individuals have fraudulently acquired a marriage license by proxy without the other person's knowledge, enabling them to receive entitlement benefits. H.B. 869 seeks to address these concerns while preserving the full benefits of marriage by proxy for certain members of the United States military. H.B. 869 still allows a clerk to issue a marriage license to a person on behalf of both absent applicants if one or both absent applicants are members of the military. However, if neither absent applicants are members of the military, then at least one of the people getting married has to appear before the clerk with an absent applicant affidavit for the other in hand to acquire the marriage license.

The license requirements have been amended to prohibit the clerk from issuing a marriage license for which both applicants are absent unless the person applying on behalf of each absent applicant provides to the clerk an affidavit of the applicant declaring that the applicant is a member of the armed forces stationed in another country in support of combat or another military operation (deleting or confined in a correctional facility);

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 0912 **Caption:** relating to images captured by unmanned aircraft and other images and recordings; providing penalties

Effective Date: 9-1-2013

Application: applies to the capture, possession, disclosure, display, distribution, or other use of an image that occurs on or after 9-1-2013

Statutes Affected: GV 423.001 et seq

Subject: Offense: illegal use of unmanned aircraft to capture image

Summary: Adds GV 423.003 to create an offense if a person uses an unmanned aircraft to capture an image of an individual or privately owned real property in this state with the intent to conduct surveillance on the individual or property captured in the image; Class C misdemeanor
Creates a defense to prosecution under this section that the person destroyed the image:
(1) as soon as the person had knowledge that the image was captured in violation of this section; and
(2) without disclosing, displaying, or distributing the image to a third party;

Adds GV 423.005 to provide that an image captured in violation of GV 423.003, or an image captured by an unmanned aircraft that was incidental to the lawful capturing of an image:
(1) may not be used as evidence in any criminal or juvenile proceeding, civil action, or administrative proceeding;
(2) is not subject to disclosure, inspection, or copying under GV Chapter 552; and
(3) is not subject to discovery, subpoena, or other means of legal compulsion for its release;
but the image may be disclosed and used as evidence to prove the violation of GV Chapter 423 and is subject to discovery, subpoena, or other legal compulsion for that purpose;

Subject: Offense: possession, disclosure, display, distribution, or use of image

Summary: Adds GV 423.004 to create an offense if a person:
(1) captures an image in violation of GV 423.003; and
(2) possesses, discloses, displays, distributes, or otherwise uses that image;
Possession of an image is a Class C misdemeanor;
Each image a person possesses, discloses, displays, distributes, or otherwise uses in violation of this section is a separate offense;
Creates a defense to prosecution for the possession of an image that the person destroyed the image as soon as the person had knowledge that the image was captured in violation of GV 423.003;

Subject: Civil action

Summary: Adds GV 423.006 to allow an owner or tenant of privately owned real property to bring against a person who, in violation of GV 423.003, captured an image of the property or the owner or tenant while on the property an action to:
(1) enjoin a violation or imminent violation of GV 423.003 or GV 423.004;
(2) recover a civil penalty of:
(A) \$5,000 for all images captured in a single episode in violation of GV 423.003; or
(B) \$10,000 for disclosure, display, distribution, or other use of any images captured in a single episode in violation of GV 423.004; or
(3) recover actual damages if the person who captured the image in violation of GV 423.003 discloses, displays, or distributes the image with malice;
all owners of a parcel of real property are considered to be a single owner and all tenants of a parcel of real property are considered to be a single tenant;
the court shall award court costs and reasonable attorney's fees to the prevailing party;
an action brought under this section must be commenced within two years from the date the image was:
(1) captured in violation of GV 423.003; or
(2) initially disclosed, displayed, distributed, or otherwise used in violation of GV 423.004

Comments: It is lawful to capture an image using an unmanned aircraft in this state:
(1) for purposes of professional or scholarly research and development by a person acting on behalf of an institution of higher education, as defined by Section 61.003, Education Code, including a person who:
(A) is a professor, employee, or student of the institution; or
(B) is under contract with or otherwise acting under the direction or on behalf of the institution;
(2) in airspace designated as a test site or range authorized by the Federal Aviation Administration for the purpose of integrating unmanned aircraft systems into the national airspace;

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- (3) as part of an operation, exercise, or mission of any branch of the United States military;
- (4) if the image is captured by a satellite for the purposes of mapping;
- (5) if the image is captured by or for an electric or natural gas utility:
 - (A) for operations and maintenance of utility facilities for the purpose of maintaining utility system reliability and integrity;
 - (B) for inspecting utility facilities to determine repair, maintenance, or replacement needs during and after construction of such facilities;
 - (C) for assessing vegetation growth for the purpose of maintaining clearances on utility easements; and
 - (D) for utility facility routing and siting for the purpose of providing utility service;
- (6) with the consent of the individual who owns or lawfully occupies the real property captured in the image;
- (7) pursuant to a valid search or arrest warrant;
- (8) if the image is captured by a law enforcement authority or a person who is under contract with or otherwise acting under the direction or on behalf of a law enforcement authority:
 - (A) in immediate pursuit of a person law enforcement officers have reasonable suspicion or probable cause to suspect has committed an offense, not including misdemeanors or offenses punishable by a fine only;
 - (B) for the purpose of documenting a crime scene where an offense, not including misdemeanors or offenses punishable by a fine only, has been committed;
 - (C) for the purpose of investigating the scene of:
 - (i) a human fatality;
 - (ii) a motor vehicle accident causing death or serious bodily injury to a person; or
 - (iii) any motor vehicle accident on a state highway or federal interstate or highway;
 - (D) in connection with the search for a missing person;
 - (E) for the purpose of conducting a high-risk tactical operation that poses a threat to human life; or
 - (F) of private property that is generally open to the public where the property owner consents to law enforcement public safety responsibilities;
- (9) if the image is captured by state or local law enforcement authorities, or a person who is under contract with or otherwise acting under the direction or on behalf of state authorities, for the purpose of:
 - (A) surveying the scene of a catastrophe or other damage to determine whether a state of emergency should be declared;
 - (B) preserving public safety, protecting property, or surveying damage or contamination during a lawfully declared state of emergency; or
 - (C) conducting routine air quality sampling and monitoring, as provided by state or local law;
- (10) at the scene of a spill, or a suspected spill, of hazardous materials;
- (11) for the purpose of fire suppression;
- (12) for the purpose of rescuing a person whose life or well-being is in imminent danger;
- (13) if the image is captured by a Texas licensed real estate broker in connection with the marketing, sale, or financing of real property, provided that no individual is identifiable in the image;
- (14) of real property or a person on real property that is within 25 miles of the United States border;
- (15) from a height no more than eight feet above ground level in a public place, if the image was captured without using any electronic, mechanical, or other means to amplify the image beyond normal human perception;
- (16) of public real property or a person on that property;
- (17) if the image is captured by the owner or operator of an oil, gas, water, or other pipeline for the purpose of inspecting, maintaining, or repairing pipelines or other related facilities, and is captured without the intent to conduct surveillance on an individual or real property located in this state;
- (18) in connection with oil pipeline safety and rig protection; or
- (19) in connection with port authority surveillance and security.
- (b) This chapter does not apply to the manufacture, assembly, distribution, or sale of an unmanned aircraft.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 0949 **Caption:** relating to continuation of automobile insurance coverage for certain motor vehicles acquired during a personal automobile insurance policy term

Effective Date: 9-1-2013

Application: Applies only to an insurance policy delivered, issued for delivery, or renewed on or after 1-1-2014

Statutes Affected: IN 1952.059

Subject: Required provision: coverage for certain vehicles acquired during policy term

Summary: Adds IN 1952.059 as applicable to insurers writing automobile policies in this state;
Requires a personal automobile insurance policy to contain a provision defining coverage for a vehicle acquired during the policy term if the vehicle is a private passenger automobile or a pickup, utility vehicle, or van weighing 25,000 pounds or less not used for the primary purpose of transporting goods;
Notification to the insurer of the new vehicle is required on or before the 20th day after the date on which the insured acquires the vehicle or a later date specified by the policy;

Subject:

Summary:

Subject:

Summary:

Comments: Prior to 2003, an insurance company was required to include coverage for a newly acquired or replaced vehicle in its standard personal Texas automobile policy. Since 2003, the newly acquired and replaced vehicle coverage has not been required as standard coverage for a personal automobile insurance policy, although most insurers include such coverage.

However, because insurers have different policies, problems have arisen for purchasers who acquire a vehicle, particularly on a weekend or holiday, who are not able to contact their insurance company or insurance agent to verify that they are covered. The purchaser unknowingly drives a vehicle that is not covered, leaving them at risk. This is also problematic for the automobile dealer who cannot tell from looking at the proof of coverage whether or not the purchaser's policy provides coverage during the transition period.

C.S.H.B. 949 requires an insurer to cover certain motor vehicles that are acquired during the term of an insured's policy and to provide the same or similar coverage for the replaced or newly acquired vehicle for a minimum of 20 days.

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Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 0978

Caption: relating to the transportation of certain patients to a mental health facility

Effective Date: 9-1-2013

Application:

Statutes HS 574.045

Affected:

Subject: Transportation of patient

Summary: Amends HS 574.045 to change the order of priority of those persons who may transport a patient to a designated mental health facility:

- (1) a certified special officer for mental health assignment;
- (2) the facility administrator;
- (3) a representative of the local mental health authority;
- (4) a qualified transportation service provider;
- (5) the sheriff or constable;
- (6) a relative or other responsible person who has a proper interest in the patient's welfare with no remuneration, except actual and necessary expenses;

Subject: Transportation of patient to another state

Summary: Adds HS 574.0456 to prohibit a person from transporting a patient to a mental health facility in another state for court-ordered inpatient services unless transportation to that facility is authorized by court order;

Subject:

Summary:

Comments: As the population of Texas grows, more persons are being incarcerated who need to be transferred to mental health facilities. Some patients require transportation to facilities across the state.

Under current law, it is the duty of law enforcement to transport persons with mental illness. The growing need for transportation of these patients is putting an increasing strain on the sheriffs' departments. Not only is a sheriff's department not equipped for medical transport, but it diverts resources from their primary function: protecting the citizens of Texas. Other parties that can adequately provide the same service are not being utilized.

C.S.H.B. 978 amends current law relating to the transportation of certain patients to a mental health facility.

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Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 1009

Effective Date: 6-14-2013

Caption: Relating to the creation of a new category of law enforcement officer who shall be designated a school marshal, the training and appointment of certain employees of a school district or open-enrollment charter school as school marshals, and the rights, restrictions, limitations, and responsibilities of school marshals; authorizing the imposition of a fee

Application: Commission on Law Enforcement Officer Standards and Education must establish a school marshal training program not later than 1-1-2014

Statutes CP 2.127

Affected: ED 37.0811

OC 1701.260

Subject: School marshals

Summary: Adds CP 2.127 to allow a school marshal to make arrests and exercise authority of a peace officer, subject to regulations adopted by ISD board of trustees or governing body of open enrollment charter school, only as necessary to prevent or abate the commission of an offense that threatens serious bodily injury or death of students, faculty, or visitors on school premises; a school marshal may not issue a traffic citation; Person serving as school marshal must be licensed by Commission on Law Enforcement Officer Standards and Education and appointed by ISD trustees or governing body of open enrollment charter school;

Subject: School marshals

Summary: Adds ED 37.0811 to allow ISD board of trustees or governing body of open enrollment charter school to appoint not more than 1 school marshal per 400 students in average daily attendance per campus; School marshal may carry a handgun on school premises of a specific school per regulations of ISD board of trustees or governing body of charter school; school marshal may not carry a concealed handgun if the primary duty involves regular, direct contact with students; handgun may be left in a safe within immediate reach when conducting duties; handgun can be loaded only with frangible ammunition; School marshal may access handgun only under circumstances that would justify the use of deadly force; Identity of school marshal is confidential;

Subject: Training for holders of license to carry concealed handgun; certification of eligibility for appointment as school marshal

Summary: Adds OC 1701.260 to require the Commission on Law Enforcement Officer Standards and Education to establish a training program for any employee of a school district or open enrollment charter school who holds a license to carry a concealed handgun; Program includes 80 hours of instruction designed to:

- (1) emphasize strategies for preventing school shootings and for securing the safety of potential victims;
- (2) educate a trainee about legal issues relating to the duties of peace officers and the use of force or deadly force in the protection of others;
- (3) introduce the trainee to effective law enforcement strategies and techniques;
- (4) improve the trainee's proficiency with a handgun; and
- (5) enable the trainee to respond to an emergency situation requiring deadly force, such as a situation involving an active shooter;

Commission must devise and administer psychological exam to determine whether trainee is psychologically fit; Commission must license as a school marshal a trainee who completes training and is psychologically fit; License expires on first birthday after 2nd anniversary of license date; renewal requires renewal course; Commission shall inform the DPS, employer, city police chief, and sheriff of each person licensed as a school marshal;

Comments: In light of the recent Sandy Hook Elementary School shooting, reported to be the most deadly shooting at a public elementary school and the second-deadliest school shooting in U.S. history, school safety and the protection of America's children have become critical issues of concern for parents, administrators, lawmakers, and members of the public. Interested parties note that there are limited school safety options for school districts in Texas. Some larger school districts employ a dedicated police force tasked with protecting all schools in the district, and others use school resource officers. It has been observed that a few schools have adopted policies that allow teachers who are concealed handgun license holders to carry a firearm in school buildings and on school grounds.

In an effort to provide an additional option for protecting students, faculty, and other staff in Texas schools, H.B. 1009 seeks to authorize a school district or open-enrollment charter school to appoint school marshals to prevent or abate the commission of an offense in the event of a life-threatening situation that occurs on school premises. School marshals would be required to successfully complete a rigorous training course administered by the

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Office of Vince Ryan, Harris County Attorney**

Commission on Law Enforcement Officer Standards and Education (TCLEOSE) and required to be certified by TCLEOSE to be eligible for appointment.

"School marshal" means a person employed and appointed by the board of trustees of a school district or the governing body of an open-enrollment charter school under Article 2.127, Code of Criminal Procedure, and in accordance with and having the rights provided by Section 37.0811, Education Code.

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Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 1020

Caption: relating to the certification of alcohol awareness programs required for minors convicted of or receiving deferred disposition for certain alcohol offenses

Effective Date: 6-14-2013

Application:

Statutes AB 106.115

Affected:

Subject: Attendance at alcohol awareness course; license suspension

Summary: Amends AB 106.115 to require the court to require the defendant placed on deferred for public intoxication or an alcohol related offense to attend an alcohol awareness program approved by the Department of State Health Services or a drug and alcohol driving awareness program approved by the Texas Education Agency; Requires the court to require a convicted defendant who has not been previously convicted of these offenses to attend an alcohol awareness program or a drug and alcohol driving awareness program; if the defendant has been previously convicted, the court may require the defendant's attendance at an alcohol awareness program or a drug and alcohol driving awareness program; Makes the Department of State Health Services responsible for administration of the certification of approved alcohol awareness programs;

Subject:

Summary:

Subject:

Summary:

Comments:

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Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 1035 **Caption:** relating to the filing of reports of political contributions and expenditures and of personal financial statements by certain officeholders and candidates

Effective Date: 9-1-2013

Application: Applies to a financial statement or report required to be filed under LG Chapter 159 due on or after 1-1-2014

Statutes LG 159.004
Affected: LG 159.0341
LG 159.053

Subject: Filing dates; timeliness of filing (financial statement)

Summary: Amends LG 159.004 to provide that a person is considered to have timely filed a financial statement if:
(1) the statement is personally delivered not later than 5 p.m. of the last day for filing the statement; or
(2) the county clerk has adopted rules and procedures to provide for the electronic filing of the statement and the statement is electronically filed in accordance with those rules not later than midnight of the last day for filing the statement.
Allows a county clerk to adopt rules and procedures relating only to the manner in which a person must electronically file a financial statement and the required format of an electronically filed statement;

Subject: Timeliness of filing (financial disclosure reporting system)

Summary: Adds LG 159.0341 to provide for timely filing of a report if:
(1) the report is placed in the mail not later than the last day for filing;
(2) is personally delivered not later than 5:00 pm of the last day for filing;
(3) the officer with whom the report is required to be filed has adopted rules for electronic filing and the report is filed in accordance with those rules not later than midnight of the last day for filing the report;
Allows the officer to adopt rules for electronic filing and the format;

Subject:

Summary:

Comments:

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Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 1044

Caption: relating to the operation of all-terrain vehicles and recreational off-highway vehicles; creating an offense

Effective Date: 9-1-2013

Application:

Statutes TN 663.001

Affected: TN 663.0371

TN 502.140 REPEAL

Subject: Definitions

Summary: Amends TN 663.001 to re-define all-terrain vehicle with the definition of that vehicle in TN 502.001, to mean: a motor vehicle that is:
(A) equipped with a saddle for the use of:
(i) the rider; and
(ii) a passenger, if the motor vehicle is designed by the manufacturer to transport a passenger;
(B) designed to propel itself with three or more tires in contact with the ground;
(C) designed by the manufacturer for off-highway use; and
(D) not designed by the manufacturer primarily for farming or lawn care.
Defines "beach to mean a beach area, publicly or privately owned, that borders the seaward shore of the Gulf of Mexico;

Amends TN 663.031 et seq to include a beach in the registration and equipment provisions relating to all-terrain vehicles;

Subject: Operation on beach

Summary: Adds TN 663.0371 to prohibit the operation of an all-terrain vehicle on a beach except as provided:
Person must hold and have in the person's possession a driver's license or a CDL;
Operator may drive an all-terrain vehicle on a beach that is open to motor vehicle traffic, with some exception;
Person authorized to operate all-terrain vehicles owned by the state, a county, or a city may drive the all-terrain vehicle on a beach if the vehicle is registered;
TxDOT, a county, or city may prohibit the operation of an all-terrain vehicle on a beach in the interest of safety;

Subject:

Summary:

Comments: There has been controversy over whether the operation of all-terrain vehicles and recreational off-highway vehicles is permissible on public beaches. A recent attorney general opinion on this subject has been interpreted by one county to authorize the use of such vehicles on public beaches, but not on public roads, pedestrian-only beaches, or dunes. H.B. 1044 seeks to clearly provide for the operation of such vehicles on a beach, with certain limitations.

TN § 663.038. Violation of Chapter; Offense

(a) A person commits an offense if the person violates a provision of this chapter.

(b) Except as otherwise provided by Title 6 [FN1] or this title, an offense under this section is a Class C misdemeanor.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 1086

Caption: relating to interruption of electric service by a residential landlord

Effective Date: 9-1-2013

Application: Applies only to an electric bill that becomes delinquent on or after 9-1-2013

Statutes PP 92.008

Affected:

Subject: Interruption of utilities

Summary: Amends PP 92.008 to allow a tenant to recover tenant's actual damages, one month's rent plus \$1,000, reasonable attorney's fees, and court costs for landlord's wrongful interruption of utility service; Allows a landlord who submeters electricity or allocates or prorates nonsubmetered master metered electricity to interrupt or cause the interruption of electric service for a tenant's nonpayment of an electric bill if:

- (1) the landlord's right to interrupt electric service is provided by a written lease entered into by the tenant;
- (2) the tenant's electric bill is not paid on or before the 12th day after the date the electric bill is issued;
- (3) advance written notice of the proposed interruption is delivered to the tenant by mail or hand delivery separately from any other written content that:
 - (A) prominently displays the words "electricity termination notice" or similar language underlined or in bold;
 - (B) includes:
 - (i) the date on which the electric service will be interrupted;
 - (ii) a location where the tenant may go during the landlord's normal business hours to make arrangements to pay the bill to avoid interruption of electric service;
 - (iii) the amount that must be paid to avoid interruption of electric service;
 - (iv) a statement providing that when the tenant makes a payment to avoid interruption of electric service, the landlord may not apply that payment to rent or other amounts owed under the lease;
 - (v) a statement providing that the landlord may not evict a tenant for failure to pay an electric bill when the landlord has interrupted the tenant's electric service unless the tenant fails to pay for the electric service after the electric service has been interrupted for at least two days, not including weekends or state or federal holidays; and
 - (vi) a description of the tenant's rights under Subsection (j) to avoid interruption of electric service if the interruption will cause a person residing in the tenant's dwelling to become seriously ill or more seriously ill; and
 - (C) is delivered not earlier than the first day after the bill is past due or later than the fifth day before the interruption date stated in the notice; and
- (4) the landlord, at the same time the service is interrupted, hand delivers or places on the tenant's front door a written notice that:
 - (A) prominently displays the words "electricity termination notice" or similar language underlined or in bold; and
 - (B) includes:
 - (i) the date the electric service has been interrupted;
 - (ii) a location where the tenant may go during the landlord's normal business hours to make arrangements to pay the bill to reestablish interrupted electric service;
 - (iii) the amount that must be paid to reestablish electric service;
 - (iv) a statement providing that when the tenant makes a payment to reestablish electric service, a landlord may not apply that payment to rent or other amounts owed under the lease;
 - (v) a statement providing that the landlord may not evict a tenant for failure to pay an electric bill when the landlord has interrupted the tenant's electric service unless the tenant fails to pay for the electric service after the electric service has been interrupted for at least two days, not including weekends or state or federal holidays; and
 - (vi) a description of the tenant's rights under Subsection (j) to avoid interruption of electric service if the interruption will cause a person residing in the tenant's dwelling to become seriously ill or more seriously ill;

Unless there is a dangerous condition or the tenant requests disconnection, prohibits a landlord from interrupting electric service on a day:

- (1) on which the landlord or a representative of the landlord is not available to collect electric bill payments and reestablish electric service;
- (2) that immediately precedes a day described by Subdivision (1); or
- (3) on which:
 - (A) the previous day's highest temperature did not exceed 32 degrees Fahrenheit and the temperature is predicted to remain at or below that level for the next 24 hours according to the nearest National Weather Service reports; or
 - (B) the National Weather Service issues a heat advisory for a county in which the premises is located or has issued such an advisory on one of the two preceding days;

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**Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney**

Prohibits a landlord from interrupting electric service of a tenant who, before the cutoff date has:

- (1) established that the interruption will cause a person residing in the tenant's dwelling to become seriously ill or more seriously ill by having a physician, nurse, nurse practitioner, or other similar licensed health care practitioner attending to the person who is or may become ill provide a written statement to the landlord or a representative of the landlord stating that the person will become seriously ill or more seriously ill if the electric service is interrupted; and
 - (2) entered into a written deferred payment plan allowing payment of bill in installments over at least 3 electric service billing cycles;
- Landlord may not interrupt service before the 63rd day after these circumstances are established, or an earlier agreed date;

Requires landlord to reconnect electric service within 2 hours of payment or entry into a deferred payment plan;

Prohibits landlord from interrupting electric service for any of the following reasons:

- (1) a delinquency in payment for electric service furnished to a previous tenant;
- (2) failure to pay non-electric bills, rent, or other fees;
- (3) failure to pay electric bills that are six or more months delinquent; or
- (4) failure to pay an electric bill disputed by the tenant, unless the landlord has conducted an investigation as required by the particular case and reported the results in writing to the tenant;

Prohibits landlord from applying a payment for electric service to rent or any other amounts owed;

Prohibits landlord from evicting tenant for failure to pay an electric bill when landlord has interrupted service unless tenant fails to pay for the service after the service has been interrupted for at least 2 days, not including weekends or holidays;

Allows a reconnection fee based on the average cost to the landlord for the expenses associated with reconnection, but may not exceed \$10; must be agreed in written lease;

Subject:

Summary:

Subject:

Summary:

Comments: In 2009, the legislature passed H.B. 882 that prevented landlords from disconnecting utilities, but left them with eviction as the only remedy for nonpayment of electric bills by tenants.

H.B. 1086 will allow landlords who bill tenants for electric service through submetering or prorating electric bills to disconnect a tenant's electric service for nonpayment of electric service so long as proper notice is given to the tenant, interruption would not be detrimental to the health of the tenant, and/or repayment options are available.

Under H.B. 1086, in order for a landlord to disconnect electric service, he or she is required present a written lease as a reminder to the tenant and the electric bill is required to have remained unpaid for at least 12 days after the date the bill was issued. Requires that the notice provided to the tenant display the words "electricity termination notice;" provide the date that electric service will be interrupted if the bill remains unpaid; include the amount that is required to be paid; provide a location where the landlord may be met during business hours to accept payment; include a statement that the electric payment cannot be applied to rent or other amount owned under the lease; and describe the tenant's right to avoid interruption of services if interruption would cause the tenant to become seriously ill.

In addition, a landlord will be prohibited from discontinuing service on a day which the preceding day's temperature did not rise above freezing and the National Weather Service predicted the temperature to remain or fall further below freezing over the course of 24 hours. The same rule applies if there was a heat advisory issued in the area. Provisions encouraging deferred payment plans are also included.

H.B. 1086 includes many protections for tenants while also giving landlords alternative ways to collect unpaid

SUMMARIES -- 83rd LEGISLATURE -- 2013

**Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney**

utility bills rather than simply resorting to eviction.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 1097

Caption: Relating to the amount of a fine for certain traffic offenses committed in a construction or maintenance work zone

Effective Date: 9-1-2013

Application:

Statutes TN 542.404

Affected:

Subject: Fine for offense in construction or maintenance work zone

Summary: Amends TN 542.404 to make the increased fine for a speeding offense committed in a construction or maintenance work zone when workers are present applicable only if the construction zone is marked by a sign indicating the applicable maximum lawful speed;

Subject:

Summary:

Subject:

Summary:

Comments: Under current law, a person commits an offense if the person drives around a barricade or disobeys the instructions, signals, warnings, or markings of a warning sign. Interested parties have expressed concern about drivers being unaware of the speed limit in construction or maintenance work zones and therefore committing an offense as the nearest speed limit signs may not be near a construction or maintenance work zone. C.S.H.B. 1097 seeks to alleviate this problem by placing additional requirements on the signs marking a construction or maintenance work zone.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 1106

Caption: relating to the identification and operation of vessels in the waters of this state

Effective Date: 9-1-2013

Application:

Statutes PW 31.074

Affected:

Subject: Visual distress signal

Summary: Adds PW 31.074 to provide that no person is authorized to operate on the coastal waters a vessel that is 16 feet or more in length, or any vessel operating as an uninspected passenger vessel, unless the vessel is equipped with readily accessible visual distress signals approved for day and night use in the number required by the commandant of the United States Coast Guard;

Provides that, between sunset and sunrise, no person is authorized to operate on the coastal waters a vessel less than 16 feet in length unless the vessel is equipped with readily accessible visual distress signals approved for night use in the number required by the commandant of the United States Coast Guard;

Provides that no person is authorized to operate a vessel on coastal waters unless each visual distress signal required under this section is in serviceable condition and the service life of the signal, if indicated by a date marked on the signal, has not expired;

Subject:

Summary:

Subject:

Summary:

Comments: PW § 31.127. Penalties

(a) A person who violates or fails to comply with any provision of this chapter, or who violates or fails to comply with a proclamation of the commission entered under this chapter or a city ordinance or order of a commissioners court or a political subdivision of the state made or entered under this chapter, commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 1174

Caption: relating to the penalties for illegally passing a stopped school bus

Effective Date: 9-1-2013

Application: Applies to an offense committed on or after 9-1-2013

Statutes
Affected: TN 545.066

Subject: Passing a school bus; offense

Summary: Amends TN 545.066 to increase the punishment to a fine of not less than \$500 or more than \$1,250; The fine is increased to not less than \$1,000 or more than \$2,000 if the person is convicted of a second or subsequent offense committed within 5 years of the date of the most recent preceding offense was committed; (please note wording of the enhanced penalty;)

Subject:

Summary:

Subject:

Summary:

Comments: Last year, a national association focusing on transportation services recorded thousands of cases in Texas of vehicles illegally passing school buses when school bus lights and stop signs were activated. Critics assert that increasing fines for this potentially dangerous violation would create a stronger deterrent for a driver in committing such a violation.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 1188 **Caption:** relating to limiting the liability of persons who employ persons with criminal convictions

Effective Date: 6-14-2013

Application: Applies only to a cause of action that accrues on or after 5-30-2013

Statutes Affected: CV 142.001 et seq

Subject: Limitation on liability for hiring employee convicted of offense

Summary: Adds CV 142.002 to prohibit a cause of action against an employer, general contractor, premises owner, or other third party solely for negligently hiring or failing adequately to supervise an employee who has been convicted of an offense;
Allows a cause of action for negligent hiring or failure to supervise if:
(1) the employer, general contractor, premises owner, or other third party knew or should have known of the conviction; and
(2) the employee was convicted of:
(A) an offense that was committed while performing duties substantially similar to those reasonably expected to be performed in the employment, or under conditions substantially similar to those reasonably expected to be encountered in the employment, taking into consideration the factors listed in OC 53.022 -
(1) the nature and seriousness of the crime;
(2) the relationship of the crime to the purposes for requiring a license to engage in the occupation;
(3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and
(4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the licensed occupation.
and OC 53.023(a) -
(1) the extent and nature of the person's past criminal activity;
(2) the age of the person when the crime was committed;
(3) the amount of time that has elapsed since the person's last criminal activity;
(4) the conduct and work activity of the person before and after the criminal activity;
(5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release; and
(6) other evidence of the person's fitness, including letters of recommendation from:
(A) prosecutors and law enforcement and correctional officers who prosecuted, arrested, or had custodial responsibility for the person;
(B) the sheriff or chief of police in the community where the person resides; and
(C) any other person in contact with the convicted person
without regard to whether the occupation requires a license;
(B) an offense listed in CP 42.12-3g -
murder, capital murder, indecency with a child, aggravated kidnapping, aggravated sexual assault, aggravated robbery, controlled substance offenses, sexual assault, injury to a child, elderly, disabled person, sexual performance by a child, criminal solicitation, compelling prostitution, trafficking of persons, or use of a deadly weapon;
or
(C) a sexually violent offense;

Subject:

Summary:

Subject:

Summary:

Comments: Currently, a person with a criminal record seeking employment will receive less than half as many job offers as a person without a criminal record. Many employers view an applicant with a criminal record as a potential liability in negligent hiring actions and may disregard such individuals as potential employees. Employment protection policies may enhance public safety, raise employment levels, decrease recidivism, and allow job seekers with criminal records to become self-sufficient, law-abiding citizens. In addition, employers could benefit from having more options when hiring, and thus increase the employer's efficiency and profitability.

H.B. 1188 amends the Civil Practice and Remedies Code to prohibit a cause of action from being brought against an employer, general contractor, premises owner, or third party based solely on evidence that an employee has been convicted of an offense.

SUMMARIES -- 83rd LEGISLATURE -- 2013

**Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney**

The bill's provisions do not preclude a cause of action for negligent hiring or the failure of an employer, general contractor, premises owner, or other third party to provide adequate supervision of an employee, if the employer, general contractor, premises owner, or other third party knew or should have known of the conviction and if the employee was convicted of an offense to which judge-ordered community supervision does not apply; a sexually violent offense; or an offense that was committed while performing duties substantially similar to those reasonably expected to be performed in the employment, or under conditions substantially similar to those reasonably expected to be encountered in the employment, taking into consideration certain specified factors.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 1204

Caption: relating to designating October 1 as Influenza Awareness Day

Effective Date: 9-1-2013

Application:

Statutes GV 662.059

Affected:

Subject: Influenza Awareness Day

Summary: Adds GV 662.069 to designate October 1 as Influenza Awareness Day to raise awareness of the health risks and encourage Texans to take proactive measures to reduce exposure;

Subject:

Summary:

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 1222

Caption: relating to venue for certain alleged violations or offenses under the Water Safety Act

Effective Date: 5-25-13

Application: Applies only to a violation that occurs on or after 5-25-13

Statutes PW 31.126

Affected:

Subject: Venue

Summary: Amends PW 31.126 to include a municipal court among the courts having venue of a violation of the Water Safety Act;

Subject:

Summary:

Subject:

Summary:

Comments: The Water Safety Act (Act) provides for various measures, including criminal penalties to protect public safety on Texas waterways. Under current law, venue for any alleged violation or offense under the Act is restricted to the justice court or county court that has jurisdiction where the violation or offense occurred.

H.B. 1222 adds a municipal court as an authorized venue for such violations and offenses in an effort to make the system used to enforce water safety laws more closely resemble the efficient and effective system that has been implemented with regard to policing the roads and highways.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 1241

Caption: relating to the adoption of rules by the Parks and Wildlife Commission to protect the public water of this state from the spread of aquatic invasive species

Effective Date: 6-14-2013

Application:

Statutes PW 66.0073

Affected:

Subject: Rules requiring water to be drained

Summary: Adds PW 66.0073 to allow the PW Commission to adopt rules requiring a person leaving or approaching public water to drain any water that has been collected from or has come into contact with public water from a vessel or portable container on board the vessel; does not apply to salt water; Commission shall consider effects of rules on boaters and local interests while maintaining ability to prevent the spread of harmful exotic fish, shellfish, and aquatic plants;

Subject:

Summary:

Subject:

Summary:

Comments: Even though the Texas Parks and Wildlife Department regulates the possession and transport of certain harmful aquatic species, it can be difficult to apply such regulation to the microscopic life stages of aquatic species. There are concerns that harmful, or even potentially harmful, aquatic species are a major environmental and industrial threat, with an estimated potential economic impact in the billions of dollars. In addition, experts note that rapidly proliferating harmful aquatic species may be spread through the transport of water in live wells, cooling systems, or other intake systems of boats that are operated on infested waters and subsequently operated on unaffected waters. H.B. 1241 seeks to give the Parks and Wildlife Commission certain rulemaking authority to address this issue in freshwater bodies.

PW § 66.012. Penalties

(a) Except as otherwise provided by this section, a person who violates a provision of this subchapter or a rule adopted by the commission under this subchapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 1263

Caption: relating to the delay in the implementation of the abolishment of small claims courts

Effective Date: 04-10-2013

Application:

Statutes GV 27.060

Affected: GV 27.061
GV 28 Repealed

Subject: Small claims

Summary: Adds GV 27.060 to require the supreme court to promulgate rules of practice in justice courts that govern small claims cases no later than May 1, 2013;

Subject: Repeal of Chapter 28, Government Code

Summary: Delays the repeal of Chapter 28 of the Government Code, Small Claims Court, until August 31, 2013;
Delays the implementation of Rules of Practice in Justice Courts until August 31, 2013.

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 1271 **Caption:** relating to providing links in the online text of proposed legislation to other state laws referenced in that legislation

Effective Date: 11-1-2014

Application: Applies only to a bill filed, or an amendment or substitute adopted by a legislative committee, on or after 11-1-2014

Statutes Affected: GV 323.0145

Subject: Electronic availability of legislative information through the internet

Summary: Amends GV 323.0145 to require the Texas Legislative Council, to the extent feasible, to include in any electronic version of a document made available to the public through the Internet an electronic link or other method by which a person reading the document is authorized to automatically access the text of the referenced section if the text of a document described includes a cross-reference to a section of state statute;

Subject:

Summary:

Subject:

Summary:

Comments: Currently, bills published on the Texas Legislature Online website do not contain hyperlinks to statutory provisions referenced in the bill. As a result, the public has to manually look up such provisions, and interested parties contend that, in addition to being inconvenient and time-consuming, this process is prone to error. H.B. 1271 seeks to make finding the content of cross-referenced statutes in bills easier and more accurate.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 1294 **Caption:** relating to the offense of failing to secure a child in a child passenger safety seat

Effective Date: 9-1-2013

Application: Applies only to an offense committed on or after 9-1-2013

Statutes TN 545.412

Affected: TN 545.4121

Subject: Child passenger safety seat systems; offense

Summary: Amends TN 545.412 to change the fine to not less than \$25 and not more than \$250;

Subject: Dismissal; obtaining child passenger safety seat system

Summary: Amends TN 545.4121 to create a defense to prosecution that the defendant provides the court satisfactory evidence that:

- (1) at the time of the offense:
 - (A) the defendant was not arrested or issued a citation for violation of any other offense;
 - (B) the defendant did not possess a child passenger safety seat system in the vehicle; and
 - (C) the vehicle the defendant was operating was not involved in an accident; and
- (2) subsequent to the time of the offense, the defendant obtained [the defendant possesses] an appropriate child passenger safety seat system

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 1421

Caption: relating to the disposition of certain seized weapons

Effective Date: 9-1-2013

Application:

Statutes CP 18.19

Affected:

Subject: Disposition of seized weapons

Summary: Amends CP 18.19 to allow the law enforcement agency holding a weapon seized in connection with an offense involving the use of a weapon to sell the weapon or a licensed auctioneer to sell the weapon at public sale; permits only a licensed firearms dealer to purchase a weapon at public sale; proceeds are transferred to the law enforcement agency holding the weapon after deducting district clerk's costs, if any, and auction costs;

Allows the court entering a conviction or deferred adjudication to order a weapon to be sold at public sale by the law enforcement agency holding the weapon, under certain circumstances, rather than returning the weapon;

Subject:

Summary:

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 1479

Caption: relating to establishing a committee in certain counties to recommend a uniform truancy policy

Effective Date: 6-14-2013

Application: Expires January 1, 2016; Applies to Bexar County

Statutes ED 25.0916

Affected:

Subject: Uniform truancy policies in certain counties

Summary: Adds ED 25.0916 to require counties (1) with a population greater than 1.5 million; and (2) that includes at least: (A) 15 school districts with the majority of district territory in the county; and (B) one school district with a student enrollment of 50,000 or more and an annual dropout rate spanning grades 9-12 of at least five percent, to establish a committee to recommend a uniform truancy policy for each school district located in the county;

Not later than 9-1-2013, the county judge and the mayor of the municipality in the county with the greatest population shall each appoint one member to serve on the committee as a representative of each of the following:

- (1) a juvenile district court;
- (2) a municipal court;
- (3) the office of a justice of the peace;
- (4) the superintendent or designee of an independent school district;
- (5) an open-enrollment charter school;
- (6) the office of the district attorney; and
- (7) the general public;

Not later than September 1, 2014, the committee shall recommend:

- (1) a uniform process for filing truancy cases with the judicial system;
- (2) uniform administrative procedures;
- (3) uniform deadlines for processing truancy cases;
- (4) effective prevention, intervention, and diversion methods to reduce truancy and referrals to a county, justice, or municipal court;
- (5) a system for tracking truancy information and sharing truancy information among school districts and open-enrollment charter schools in the county; and
- (6) any changes to statutes or state agency rules the committee determines are necessary to address truancy;

Compliance with the committee recommendations is voluntary;

The committee's presiding officer shall issue a report not later than December 1, 2015, on the implementation of the recommendations and compliance with state truancy laws by a school district located in the county;

Subject:

Summary:

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 1494

Caption: relating to certain regulatory programs administered by the Department of Agriculture; providing penalties; imposing fees

Effective Date: 9-1-2013

Application:

Statutes AG 13.041 et seq

Affected:

Subject:

Summary:

Subject:

Summary:

Subject:

Summary:

Comments: C.S.H.B. 1494 amends current law relating to certain regulatory programs administered by the Department of Agriculture, provides penalties, and imposes fees.

This bill changes the wording of various sections in Chapter 13, Weights and Measures, from "a person commits an offense" to "a person violates this chapter" in order to allow the imposition of a civil penalty, rather than prosecution as an offense;

Provides that an offense under the following sections is a Class C misdemeanor:

§ 13.030. Sale of Commodities by Net Weight

§ 13.032. Standard Fill and Quantity Labeling for Commodities in Package Form

§ 13.037. Use of Incorrect Weighing or Measuring Device

§ 13.039. Testing of Package by Department;

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 1514

Caption: relating to privileged parking for veterans of World War II

Effective Date: 9-1-2013

Application:

Statutes TN 681.008

Affected:

Subject: Privileged parking

Summary: Amends TN 681.008 to exempt a vehicle displaying word war II veteran plates from payment of a parking fee collected through a parking meter when operated by or for the transportation of a veteran of world war II;

Subject:

Summary:

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 1597

Caption: relating to installment payments of ad valorem taxes

Effective Date: 9-1-2013

Application:

Statutes PP 51.0011

Affected:

Subject: Default arising from delinquent ad valorem taxes: installment agreements

Summary: Adds PP 51.0011 to provide that notwithstanding any agreement to the contrary, a debtor is not in default under a deed of trust or other contract lien on real property used as the debtor's residence for the delinquent payment of ad valorem taxes if:

(1) the debtor gave notice to the mortgage servicer of the intent to enter into an installment agreement with the taxing unit for the payment of the taxes at least 10 days before the date the debtor entered into the agreement; and

(2) the property is protected from seizure and sale and a suit may not be filed to collect a delinquent tax on the property as provided by Section 33.02(d) (relating to prohibiting property from being seized and sold and from a suit being filed to collect a delinquent tax subject to an installment agreement unless the property owner fails to make a payment as required by the agreement, fails to pay other property taxes collected by the unit when due as required by the collector, or breaches any other condition of the agreement);

Authorizes a mortgage servicer who receives a notice of intent to enter into an installment agreement with a taxing unit to pay the taxes subject to the installment agreement at any time;

Requires a mortgage servicer who receives a notice and gives the debtor notice that the mortgage servicer intends to accelerate the note securing the deed of trust or other contract lien as a result of the delinquency of the taxes that are subject to the installment agreement, to rescind the notice if the debtor enters into the agreement not later than the 30th day after the date the debtor delivers the notice;

Subject:

Summary:

Subject:

Summary:

Comments: Property tax lending is the practice of soliciting property owners who are delinquent in their tax payments to take out a loan to cover the tax payments. In return, the lender receives a lien on the property, allowing the lender to foreclose on the property if a sufficient number of payments are missed. As of late 2012, there were 76 registered property tax lenders and in 2011, 12,682 loans were made. These loans have become like "pay-day loans" but for a house.

The problem with these loans is the fees and interest. The Office of the Consumer Credit Commissioner estimates that an owner taking out an \$8,000 property tax loan will end up needing between \$13,000-\$17,000 to pay off the loan. But the problem is that the property tax lender has the priority right of foreclosure—even before the mortgage lender or any other lienholder. Because non-judicial foreclosure is permitted under Texas law, this foreclosure process can be completed with limited notice in as little as three or four weeks.

Although Texas has greatly increased regulation of these lenders over the last few years, property tax lenders are finding ways to evade this regulation, like originating property tax loans, but then selling the loans to investment groups that are not licensed as property tax lenders.

Texas property owners need a reasonable means to rectify tax delinquency. Property owners who take out these tax loans need adequate safeguards against unfair business practices, so they do not lose their homes to foreclosure. The mortgage/banking industry is regularly having to intervene and pay off these property tax loans in order to keep their mortgage holders from being foreclosed upon. The mortgage/banking industry wants increased regulation of property tax lenders.

H.B. 1597 does not target the property tax loans directly. It removes the demand for property tax loans by requiring reasonable installment plans from the taxing entities and prohibiting mortgage lenders from declaring a default if an individual is current on a property tax installment plan.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 1607

Caption: relating to the authority of the commissioners court of a county to alter speed limits on county roads

Effective Date: 6-14-2013

Application:

Statutes TN 545.355

Affected:

Subject: Authority of county commissioners court to alter speed limits

Summary: Amends TN 545.355 to allow commissioners court to establish a speed limit of not more than 70 miles per hour, rather than not more than 60 miles per hour, in order to modify the rule that an operator may not drive at a speed greater than is reasonable and prudent under the circumstances then existing;

Subject:

Summary:

Subject:

Summary:

Comments: Current state law sets the maximum speed limit allowed on certain county roads or highways at 60 miles per hour, but some of these roads are designed and constructed for higher speed limits.

H.B. 1607 amends current law relating to the authority of the commissioners court of a county to alter speed limits on county roads.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 1711

Caption: relating to barratry

Effective Date: 9-1-2013

Application:

Statutes GV 82.0651

Affected: PE 38.12

Subject: Contract for legal services

Summary: Amends GV 82.065 to allow a client to bring an action to void a contract for legal services that was procured as a result of conduct violating PE 38.12 or Rule 7.03 of the Texas Disciplinary Rules of Professional Conduct of the State Bar, regarding barratry by attorneys or other persons, and to recover all damages that may be awarded, including a penalty in the amount of \$10,000;
Authorizes a client who enters into a contract described by this subsection to bring an action to recover any amount that may be awarded even if the contract is voided voluntarily.

Authorizes a person who was solicited by conduct violating PE 38.12 or Rule 7.03 of the Texas Disciplinary Rules of Professional Conduct of the State Bar regarding barratry by attorneys or other persons, but who did not enter into a contract as a result of that conduct, to file a civil action against any person who committed barratry;

Provides that the expedited actions process created by Rule 169, Texas Rules of Civil Procedure, does not apply to an action under this section;

Subject: Barratry

Summary: Amends PE 38.12 to provide that a person who solicits employment that concerns an arrest or issuance of a summons to a person is not barratry;

Subject:

Summary:

Comments: Recent legislation established civil liability for prohibited barratry and provided for the ability of a client to void any contract for legal services that was procured through such prohibited conduct.

Some attorneys have found a loophole in the law to avoid one of the civil penalties for barratry by releasing their client after a case is "run" and a contract for legal services is signed. The \$10,000 penalty currently assessed applies only when a person is illegally solicited but no legal services contract is signed as a result of that conduct and that there is no such penalty if a legal services contract is signed as a result of that illegal solicitation.

In an effort to close this loophole and hold attorneys who commit barratry accountable for their actions, C.S.H.B. 1711 authorizes a client who enters into a legal services contract to recover certain damages and amounts from a person who commits barratry.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 1728

Caption: relating to the use of an unsworn declaration, the disposition of certain court exhibits, and the seal of a constitutional county court or county clerk

Effective Date: 6-14-2013

Application:

Statutes CV 132.001

Affected:

Subject: Unsworn declaration

Summary: Amends CV 132.001 to prohibit the use of an unsworn declaration in connection with a lien to be filed with a county clerk, an instrument concerning real or personal property required to be filed with the county clerk, or an oath of office or oath required to be taken before a specified official other than a notary;

Subject:

Summary:

Subject:

Summary: County clerks are seeing an increase in the number of documents filed without notaries that potentially place fraudulent liens on properties. As a result, there is a need to update current law regarding the use of unsworn declarations to prevent this fraud.

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 1738

Effective Date: 9-1-2013

Caption: relating to the emergency detention by a peace officer of a person who may have mental illness, including information provided to the person subject to detention and a standard form of notification of detention to be provided to a facility by a peace officer

Application:

Statutes HS 573.001
Affected: HS 573.002
HS 573.025

Subject: Apprehension by peace officer without warrant

Summary: Amends HS 573.001 to require a peace officer who takes a person into custody without a warrant for mental illness to immediately inform the person orally in simple, nontechnical terms:
(1) of the reason for the detention; and
(2) that a staff member of the facility will inform the person of the person's rights within 24 hours after the time the person is admitted to a facility;

Amends HS 573.021 to require a facility to temporarily accept a person for whom an application for detention is filed or for whom a peace officer files a notification of detention;

Amends HS 573.025 to specify that a person apprehended, restrained, or transported for emergency detention has the right to a reasonable opportunity to communicate with a relative or other responsible person who has a proper interest in the person's welfare;

Subject: Peace officer's notification of detention

Summary: Amends HS 573.002 to require a peace officer immediately to file with a facility a notification of detention after transporting a person to that facility following apprehension without a warrant for mental illness;
Requires the facility to include the notification in the person's clinical file;
The notification must be on the following form:

Notification--Emergency Detention

NO. _____ DATE: _____ TIME: _____

THE STATE OF TEXAS
FOR THE BEST INTEREST AND PROTECTION OF:

NOTIFICATION OF EMERGENCY DETENTION

Now comes _____, a peace officer with (name of agency) _____, of the State of Texas, and states as follows:

1. I have reason to believe and do believe that (name of person to be detained) _____ evidences mental illness.
2. I have reason to believe and do believe that the above-named person evidences a substantial risk of serious harm to himself/herself or others based upon the following:

3. I have reason to believe and do believe that the above risk of harm is imminent unless the above-named person is immediately restrained.

4. My beliefs are based upon the following recent behavior, overt acts, attempts, statements, or threats observed by me or reliably reported to me:

5. The names, addresses, and relationship to the above-named person of those persons who reported or observed recent behavior, acts, attempts, statements, or threats of the above-named person are (if applicable):

For the above reasons, I present this notification to seek temporary admission to the (name of facility) _____ inpatient mental health facility or hospital facility for the detention of (name of

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

person to be detained) _____ on an emergency basis.

6. Was the person restrained in any way? Yes ☐ No ☐

☐ BADGE NO. _____

PEACE OFFICER'S SIGNATURE

Address: _____ Zip Code: _____ Telephone: _____

No other forms may be required by a mental health facility or hospital emergency room as a predicate to accepting a detained person for temporary admission;

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 1759 **Caption:** relating to a correction, clarification, or retraction of incorrect information published

Effective Date: 6-14-2013

Application: Applies to information published on or after ____

Statutes Affected: CV 73.051 et seq

Subject: Request for correction, clarification, or retraction

Summary: Adds CV 73.051 et seq to create the Defamation Mitigation Act to provide a method for a person who has been defamed by a publication or broadcast to mitigate any perceived damage or injury;

Adds CV 73.055 to allow a person to maintain an action for defamation only if:

- (1) the person has made a timely and sufficient request for a correction, clarification, or retraction from the defendant (prior to the expiration of the S/L); or
- (2) the defendant has made a correction, clarification, or retraction;

If no request for correction, clarification, or retraction was made before the 90th day after knowledge of the publication, no exemplary damages may be recovered;

Notice must be given to the publisher pointing out the statement that is false and defamatory and specifying the circumstances causing a defamatory meaning;

Publisher may request reasonably available information regarding the falsity not later than the 30th day after request to correct, clarify, or retract;

A correction, clarification, or retraction is sufficient if it is published in same manner and medium as original publication, or in a manner or medium reasonably likely to reach substantially the same audience, and acknowledges the statement is erroneous, and publisher disclaims an intent to communicate a defamatory meaning, or publisher identifies the person who made the statement and disclaims an intent to assert the truth of the statement, or the publisher publishes the requestor's statement of the facts;

A correction, clarification, or retraction made as required, prohibits the recovery of exemplary damages unless the publication was made with actual malice;

Subject:

Summary:

Subject:

Summary:

Comments: Restoring one's reputation is at the heart of any defamation dispute. The idea of mitigating the impact of publication errors through a retraction has been the subject of legislation in 30 other states dating back as far as 1882. Establishing a framework for how and when a retraction is warranted has led to less litigation and standards by which a retraction must be published to make the subject of defamation whole. In 1993, the Uniform Law Commission adopted the Uniform Correction or Clarification of Defamation Act which this bill patterned after.

C.S.H.B. 1759 encourages individuals to come forward in a timely manner if a mistake has been made in a publication and gives the publisher the opportunity to correct false content believed to have damaged the individual's reputation. It encourages publishers to correct mistakes in a timely and prominent manner intended to reach the same audience the original publication reached. It limits damages if a retraction is run in accordance with the statute but has no impact on existing law if the publication was made with actual malice. It applies to all defamation claims, whether a public or private figure, media or non-media publisher, thus establishing a simplified structure for the prompt resolution of all disputes. The bill also requires permanent attachment of the retraction if published on the Internet. The purpose of the bill is to bring forth the early resolution of claims for harm to reputation by restoring a person's reputation more quickly and more thoroughly than our current system provides for.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 1772 **Caption:** relating to the disconnection of electric or gas utility service

Effective Date: 1-1-2014

Application: Applies only to disconnection of service for nonpayment of a utility bill issued for a billing period that begins on or after 1-1-2014

Statutes Affected: PP 92.302
UT 17.201
UT 104.352

Subject: Notice of utility disconnection of nonsubmetered master metered multifamily property to municipalities, owners, and tenants

Summary: Adds PP 92.302 to require a customer to provide written notice of a service disconnection to each tenant or owner at a nonsubmetered master metered multifamily property not later than the 5th day after the date the customer receives a disconnect notice from the electric or gas utility; notice is by mail to the tenant's or owner's preferred mailing address or hand delivery;
Notice must include customer's contact information and tenant's remedies under PP 92.301;
Notice must include the following text in both English and Spanish:
"Notice to residents of (name and address of nonsubmetered master metered multifamily property): Electric (or gas) service to this property is scheduled for disconnection on (date) because (reason for disconnection)."
If property is in city, customer shall provide same notice to governing body by CMRRR;

Subject: Notice of disconnection to municipalities for nonsubmetered master metered multifamily properties

Summary: Adds UT 17.202 to require an electric utility to send written notice of service disconnection to a municipality before the provider disconnects service to a nonsubmetered master metered multifamily property for nonpayment if the property is within the city and the city has designated a representative to receive the notice;
Notice must be send not later than the 10th day before the date electric service is scheduled for disconnection;

Subject:

Summary: Adds UT 104.352 to require a gas utility to send written notice of service disconnection to a city before the gas utility disconnects service to a nonsubmetered master metered multifamily property for nonpayment if the property is in the city and the city has a representative to receive the notice; notice is required not later than the 10th day before the disconnect;

Comments: Concerns have been raised about multifamily properties and the impact that unexpected utility service disconnection has on the residents. Tenants in nonsubmetered master metered apartment properties usually pay a flat rate for utilities, which is typically included in their monthly rent, with the landlord being responsible for directly paying the utility company for the property as a whole. One of the biggest concerns regarding this method is that it leaves tenants with little to no recourse in getting service restored when it is unexpectedly disconnected as a result of a landlord's failure to meet the lease agreement. Recent reports indicate that this scenario is not uncommon among large numbers of apartment and condominium complexes, particularly in low-income urban areas where buildings might be older and, therefore, not submetered.

H.B. 1772 requires written notice to be provided to tenants and to the municipality in which the apartment complex is located of a pending disconnection in gas or electric utility service.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 1807 **Caption:** relating to fever tick eradication; creating a penalty

Effective Date: 9-1-2013

Application: Applies only to an offense committed on or after 9-1-2013
Requires rules to be adopted by the Texas Animal Health Commission no later than 12-1-2013

Statutes Affected: AG 167.131 et seq

Subject: Penalties

Summary: Amends AG 167.131 - AG 167.142 to conform the various offenses by changing the term "livestock" to "animals," and the term "dip" to "treat;" the term "dip the livestock" to "treat the animals," and the term "dipping material" to "treatment chemical;" the term "dipping vat" to "treatment facility;"

Class C misdemeanor offenses

Subject:

Summary:

Subject:

Summary:

Comments: H.B. 1807 amends the Agriculture Code to broaden the scope of statutory provisions relating to tick eradication by providing for the treatment of animals, rather than for the dipping of livestock, in such provisions, which include provisions relating to general provisions, quarantines and the regulation of the movement of animals and commodities, treatment, stockyard regulation, enforcement, and penalties and which affect the rulemaking authority of the Texas Animal Health Commission (TAHC).

The bill defines "animal" as any domestic, free-range, or wild animal capable of hosting or transporting ticks capable of carrying Babesia, including livestock; zebras, bison, and giraffes; and deer, elk, and other cervid species. The bill defines "treatment" as a procedure or management practice used on an animal to prevent the infestation of, control, or eradicate ticks capable of carrying Babesia.

H.B. 1807 removes the requirement that a certificate for movement of goats, hogs, sheep, exotic livestock, or circus animals accompany the movement to the final destination in Texas or so long as the animals are moving through Texas. The bill requires each animal submitted for movement from a quarantined enclosure to be treated as prescribed by TAHC rules before a certificate or permit for movement is issued if ticks are found on any of the animals, rather than require each head of livestock submitted for such movement to be dipped at certain intervals and found free from ticks at the last dipping before such a certificate or permit is issued if ticks are found on any of the livestock.

H.B. 1807 amends current law relating to fever tick eradication and creates a penalty.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 1819

Caption: relating to liability for injuring a trespassing sheep or goat

Effective Date: 9-1-2013

Application: Applies to a person who maims, wounds, or kills a sheep or goat on or after 9-1-2013

Statutes AG 143.033

Affected:

Subject: Injury to trespassing animal

Summary: Amends AG 143.033 to include a sheep or goat among the animals protected from harm by another person;

Subject:

Summary:

Subject:

Summary:

Comments: Under current law, a person whose fence is insufficient to keep out a trespassing head of cattle or a horse, mule, jack, or jennet is liable for damages if the person maims, wounds, or kills such an animal. The situation has occurred where sheep and goats have been injured and killed by a neighboring landowner. The law already recognizes that if an individual's livestock escapes his or her pasture, a neighbor does not have the right to harm that livestock, and this bill seeks to provide the protections afforded other forms of livestock to sheep and goats, a protection which is not reflected in current law.

H.B. 1819 amends current law relating to liability for injuring a trespassing sheep or goat.

AG § 143.034. Penalty

(a) A person commits an offense if the person knowingly:

- (1) turns out or causes to be turned out on land that does not belong to or is not under the control of the person an animal that is prohibited from running at large under this subchapter;
- (2) fails or refuses to keep up an animal that is prohibited from running at large under this subchapter;
- (3) allows an animal to trespass on the land of another in an area or county in which the animal is prohibited from running at large under this subchapter; or
- (4) as owner, agent, or person in control of the animal, permits an animal to run at large in an area or county in which the animal is prohibited from running at large under this subchapter.

(b) An offense under this section is a Class C misdemeanor.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 1869 **Caption:** relating to contractual subrogation and other recovery rights of certain insurers and benefit plan issuers

Effective Date: 1-1-2014

Application: Applies only to a contractual right of subrogation in a cause of action that accrues on or after 1-1-2014

Statutes CV 140.001 et seq
Affected: LG 172.015 REPEALS

Subject: Contractual subrogation rights authorized

Summary: Adds CV 140.004 to authorize an issuer of a health benefit plan that provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, or a disability benefit plan, under which the policy or plan issuer may be obligated to make payments or provide benefits to or on behalf of a covered individual as a result of a personal injury to the individual caused by the tortious conduct of a third party, to contract to be subrogated to and have a right of reimbursement for payments made or costs of benefits provided from the individual's recovery for that injury;

Adds CV 140.008 to prohibit a payor of benefits from pursuing a recovery against a covered individual's first-party recovery; but authorizes a payor of benefits to pursue recovery against uninsured/underinsured motorist coverage or medical payments coverage only if the covered individual or the covered individual's immediate family did not pay the premiums for the coverage;

Subject: Payor's recovery limited

Summary: Adds CV 140.005 to entitle all payors, if an injured covered individual is entitled by law to seek a recovery from the third-party tortfeasor for benefits paid or provided by a subrogee as described by Section 140.004, to recover;

When a covered individual is not represented by an attorney in obtaining a recovery, all payors' share of a covered individual's recovery is an amount that is equal to the lesser of one-half of the covered individual's gross recovery or the total cost of benefits paid, provided, or assumed by the payor as a direct result of the tortious conduct of the third party;

When a covered individual is represented by an attorney in obtaining a recovery, all payors' share of a covered individual's recovery is an amount that is equal to the lesser of one-half of the covered individual's gross recovery less attorney's fees and procurement costs or the total cost of benefits paid, provided, or assumed by the payor as a direct result of the tortious conduct of the third party less attorney's fees and procurement costs;

Provides that a common law doctrine that requires an injured party to be made whole before a subrogee makes a recovery does not apply to the recovery of a payor under this section.

Subject: Attorney's fees in recovery action

Summary: Adds CV 140.007 to require a payor of benefits whose interest is not actively represented by an attorney in an action to recover for a personal injury to a covered individual to pay to an attorney representing the covered individual a fee in an amount determined under an agreement entered into between the attorney and the payor plus a pro rata share of expenses incurred in connection with the recovery.

Requires the court, in the absence of an agreement, to award to the attorney, payable out of the payor's share of the total gross recovery, a reasonable fee for recovery of the payor's share, not to exceed one-third of the payor's recovery.

Requires the court, if an attorney representing the payor's interest actively participates in obtaining a recovery, to award and apportion between the covered individual's and the payor's attorneys a fee payable out of the payor's subrogation recovery; requires the court, in apportioning the award, to consider the benefit accruing to the payor as a result of each attorney's service; prohibits the total attorney's fees from exceeding one-third of the payor's recovery.

Comments: health insurance carriers nationwide have become very aggressive about collecting under subrogation agreements when such a practice is legal. With respect to health insurance carriers, interested parties report that subrogation agreements most commonly become an issue when the health insurance carrier pays an injured claimant's medical bills and then assumes the right to any remedies the claimant has against the injuring party as a means of recovering for itself the amount of the claim paid to the insured for the loss. The parties contend that inequities arise when the party responsible for an injury does not have adequate assets or insurance to make the injured party whole. The interested parties also report that there are circumstances where subrogation carriers recover the amount of benefits they paid without contributing to the injured parties legal fees or expenses

SUMMARIES -- 83rd LEGISLATURE -- 2013

**Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney**

to achieve that recovery.

H.B. 1869 seeks to take a balanced approach to the issue of subrogation that addresses all parties to a health insurance transaction.

H.B. 1869 amends current law relating to contractual subrogation and other recovery rights of certain insurers and benefit plan issuers.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 2021 **Caption:** relating to the authority of a municipality or county to collect unpaid court costs in civil cases

Effective Date: 6-14-2013

Application: Does not apply to commercial bail bonds

Statutes Affected: LG 140.009

Subject: Contract for collection of amounts in civil cases

Summary: Adds LG 140.009 to allow commissioners court to contract with a private attorney or vendor for the collection of amounts owed to the county relating to civil case, including an unpaid fine, fee, or court costs, if more than 60 days past due;
County may authorize the addition of a collection fee of 30% of the amount referred;
Does not apply to the collection of commercial bail bonds;

Subject:

Summary:

Subject:

Summary:

Comments: Interested parties have raised concerns regarding the lack of available tools to recover those unpaid court costs on civil cases compared to the available tools to recover the respective costs for criminal cases. Interest has been shown regarding outsourcing for the collection of these amounts in a manner similar to the outsourcing of the collection of criminal court costs in which a collection fee may be added to the amounts to be collected. The parties contend, however, that outsourcing currently is an unattractive option in civil cases as the court will forfeit a significant portion of the recovered amount to pay the contractor fees, since such fees must come out of the court costs to be collected. H.B. 2021 provides a means for a municipality or county to collect unpaid court costs in civil cases.

H.B. 2021 amends current law relating to the authority of a municipality or county to contract for the collection of certain amounts, and authorizes a fee.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 2058 **Caption:** relating to the administration of a high school equivalency examination

Effective Date: 6-14-2013

Application: Applies beginning with the 2013-2014 school year

Statutes ED 7.111

Affected:

Subject: High school equivalency examination

Summary: Amends ED 7.111 to allow an 18 year old to take the examination online;

Subject:

Summary:

Subject:

Summary:

Comments: Under current law, high school equivalency testing allows an adult lacking a high school diploma to earn a certificate of high school equivalency. Recent legislation prohibits a person under 18 years of age from taking the high school equivalency examination online. Interested parties note that county juvenile probation departments administer high school equivalency examinations to students at risk of dropping out, many of whom are 16 or 17 years of age, but who are now prohibited from taking the examination in a manner in which it is commonly administered.

H.B. 2058 seeks to address this and other related issues by clarifying the current exceptions for the high school equivalency examination and allowing certain individuals under 18 years of age in the custody of a state agency under court order to take the examination online.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 2090 **Caption:** relating to a written statement made by an accused as a result of custodial interrogation

Effective Date: 9-1-2013

Application: Applies to a statement made on or after 9-1-2013

Statutes Affected: CP 38.22

Subject: When statements may be used

Summary: Amends CP 38.22 to re-define written statement of an accused to mean:
(1) a statement made by the accused in his own handwriting; or
(2) a statement made in a language the accused can read or understand that:
(A) is signed by the accused; or
(B) bears the mark of the accused, if the accused is unable to write and the mark is witnessed by a person other than a peace officer;

Subject:

Summary:

Subject:

Summary:

Comments: The United States Constitution provides that no person shall be compelled in any criminal case to be a witness against himself. Interested parties note that procedural safeguards under the United States Constitution and federal and state statutes protect this right but the Texas Code of Criminal Procedure does not require a written statement that is signed by an accused or on which the accused makes a mark in lieu of such signature to be written in a language the accused can read and understand. Thus, a non-English speaker potentially could sign a statement in English without understanding the content of the statement and, as a result, could be compelled to be a witness against himself or herself in violation of the individual's constitutional right. To address this issue, H.B. 2090 requires a statement signed by or bearing the mark of the accused to be made in a language the accused can read and understand.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 2268

Effective Date: 6-14-2013

Caption: relating to search warrants issued in this state and other states for certain customer data, communications, and other related information held in electronic storage in this state and other states by providers of electronic communications services and remote computing services

Application:

Statutes Affected: CP 18.02

Subject: Grounds for issuance (of search warrant)

Summary: Amends CP 18.02 to include the following among those items for which a search warrant may be issued:
(13) electronic customer data held in electronic storage, including the contents of and records and other information related to a wire communication or electronic communication held in electronic storage;

"Electronic communication" means a transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photo-optical system. The term does not include:

- (A) a wire or oral communication;
- (B) a communication made through a tone-only paging device; or
- (C) a communication from a tracking device;

"Electronic storage" means any storage of electronic customer data in a computer, computer network, or computer system, regardless of whether the data is subject to recall, further manipulation, deletion, or transmission, and includes any storage of a wire or electronic communication by an electronic communications service or a remote computing service;

"Wire communication" means an aural transfer made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception, including the use of such a connection in a switching station, furnished or operated by a person authorized to engage in providing or operating the facilities for the transmission of communications as a communications common carrier;

"Electronic customer data" means data or records that:

- (A) are in the possession, care, custody, or control of a provider of an electronic communications service or a remote computing service; and
- (B) contain:
 - (i) information revealing the identity of customers of the applicable service;
 - (ii) information about a customer's use of the applicable service;
 - (iii) information that identifies the recipient or destination of a wire communication or electronic communication sent to or by the customer;
 - (iv) the content of a wire communication or electronic communication sent to or by the customer; and
 - (v) any data stored by or on behalf of the customer with the applicable service provider;

"electronic storage," and "wire communication" have the meanings assigned by Article 18.20, and "electronic customer data"

Subject: Warrant issued in this state for stored customer data or communications

Summary: Adds CP 18.21 Sec. 5A applicable to a warrant for government access to stored communications to obtain electronic customer data, including the contents of a wire communication or electronic communication; Allows only a district judge to issue a search warrant for electronic customer data held in electronic storage, including the contents of and records and other information related to a wire communication or electronic communication held in electronic storage, by a provider of an electronic communications service or a provider of a remote computing service regardless of whether the customer data is held at a location in this state or at a location in another state;

Subject:

HB 2268

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Summary:

Comments: Internet communications companies often hold information and data vital to prosecute an offense under state law, particularly relating to internet crimes. Although the certain electronic communications may take place within a state, law enforcement officers must apply for a local search warrant in an internet company's jurisdiction, often found out of state. This limitation hampers law enforcement's efforts to obtain evidence on internet criminals, who are able to remove or change identifying data much faster than law enforcement can obtain warrants. In response to this problem, several other states including Florida, California, and Minnesota have enacted computer data warrant statutes that take advantage of "long-arm," or out-of-state, jurisdiction when dealing with internet data.

There are limited purposes for which traditional search warrants may be obtained, and C.S.H.B. 2268 adds customer data, transactional data, and content of communications related to electronic or wire communication providers to the list of grounds for issuance of a search warrant found in Article 18 of the Code of Criminal Procedure. The bill also creates a data search warrant which operates differently from a traditional search warrant in three ways. First, a data search warrant allows employees of the electronic communication company that is subject of the warrant to perform the search rather than a peace officer. Second, the data search warrant extends the time allowed to serve the warrant on the company's representative. The bill also provides a timeline for return of the data sought. In addition, C.S.H.B. 2268 extends the jurisdiction of district judges by granting them privileges to issue data search warrants beyond the physical boundaries of the state for computer data searches only.

The bill also reciprocates the electronic data search warrant process with other states already implementing similar statutes, which would allow Texas to serve data search warrants directly to out of state companies as well.

C.S.H.B. 2268 amends current law relating to search warrants issued in this state and other states for certain customer data, communications, and other related information held in electronic storage in this state and other states by providers of electronic communications services and remote computing services.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 2302

Caption: relating to signing electronic or digital court documents, to the electronic filing system established by the Texas Supreme Court, to the statewide electronic filing system fund, to certain court fees and court costs, and to recovery of electronic filing fees by taxing units; imposing and authorizing certain fees

Effective Date: 9-1-2013

Application: Applies only to a fee that becomes payable on or after 9-1-2013;
Not later than 12-1-2018, OCA shall report number of local governments and appellate courts collecting a fee and the necessity of continuing the fee

Statutes GV 51.851

Affected: GV 21.011

Subject: Electronic filing fee

Summary: Adds GV 51.851 to require the clerk of a justice court to collect a \$10 fee on the filing of any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third party action; court may waive fee for indigency;
Fee must be deposited in the local treasury and remitted to the comptroller, for credit to the statewide electronic filing system fund;
OCA will use the fund to:
(1) support a statewide electronic filing technology project for courts in this state;
(2) provide grants to counties to implement components of the project; or
(3) support court technology projects that have a statewide impact as determined by the office of court administration;

Subject: Electronic or digital signature

Summary: Adds GV 21.011 to allow a judge presiding over a court in this state to sign an electronic or digital court document, including an order, judgment, ruling, notice, commission, or precept, electronically, digitally, or through another secure method; a document signed digitally or electronically is the official document issued by the court;

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 2305 **Page 1 of 4** **Caption:** relating to motor vehicle inspections; creating an offense; changing the collection method for certain fees

Effective Date: Various

Application: Article 45.003, Code of Criminal Procedure, Section 103.0213, Government Code, and Sections 521.3465, 521.3466, 548.601, 548.603, and 548.6035, Transportation Code, as amended by this Act, and the repeal by this Act of Sections 548.602 and 548.605, Transportation Code, apply only to an offense committed on or after March 1, 2015;
To the extent of any conflict, this Act prevails over another Act of the 83rd Legislature, Regular Session, 2013, relating to nonsubstantive additions to and corrections in enacted codes;
Not later than March 1, 2014, the Department of Public Safety shall create the database described by Section 548.251, Transportation Code, as amended by this Act, and require inspection stations to submit to the database the information required by Section 548.253;
The change in law made by Section 548.104(d)(3), Transportation Code, as added by this Act, takes effect September 1, 2014, and applies only to a vehicle inspected on or after that date

Statutes Affected: TN 548.104
TN 548.605 Repealed
TN 502.047
TN 548.001
TN 548.101
TN 548.251
TN 548.252
TN 548.253
TN 548.254
TN 548.256
TN 548.509
TN 548.601
TN 683.071
CP 45.003
OC 2308.253

Subject: Equipment related prerequisites to issuance of passing vehicle inspection report

Summary: Amends TN 548.104 to prohibit an inspection station or inspector from issuing a passing vehicle inspection report for a vehicle equipped with a compressed natural gas container unless the owner proves that the container meets the federal inspection requirements and the manufacturer's recommended service life for the container has not expired;

Subject: REPEALED: Dismissal of charge; administrative penalty

Summary: REPEALS TN 548.605 allowing the court to dismiss driving with expired inspection certificate and charging an administrative fee;

Also REPEALS:
TN § 548.255. Attachment or production of inspection certificate
TN § 548.257. Lost, stolen, or destroyed certificate
TN § 548.602. Failure to display inspection certificate

Subject: Motor vehicle emissions inspection and maintenance requirements

Summary: Amends TN 502.047 to require TxDMV and TxDPS to ensure compliance with inspection requirements through a vehicle registration based enforcement system; TxDPS must timely submit inspection compliance information to TxDMV; vehicle may not be registered without verification of compliance with TN Chapter 548 (compulsory inspection);

Comments: Compressed natural gas is a growing source of clean burning fuel for vehicles in the United States and particularly in Texas. Federal motor vehicle safety standards and manufacturers of compressed natural gas containers on vehicles require that each container be inspected by a certified inspector once every three years or 36,000 miles in operation to ensure the continued integrity of the container and safety of the passengers. There is currently no way to ensure these cylinders are being inspected and, if necessary, removed.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 2305 **Page 2 of 4** **Caption:** relating to motor vehicle inspections; creating an offense; changing the collection method for certain fees

Effective Date:

Application:

Statutes

Affected:

Subject: Definitions

Summary: Amends TN 548.001 to define "vehicle inspection report" to mean a report issued by an inspector or an inspection station for a vehicle that indicates whether the vehicle has passed the safety and, if applicable, required emissions inspections;

Subject: General one-year inspection period

Summary: Amends TN 548.101 to require TxDPS to adopt rules to allow a vehicle owner to obtain an inspection not earlier than 90 days before the date of expiration of the vehicle's registration, and to require that a used vehicle sold by a dealer be inspected in the 180 day period preceding the date of sale;

Subject: Department to maintain database

Summary: Amends TN 548.251 to require TxDPS to maintain an electronic database to which inspection stations may electronically submit inspection information and verification;

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 2305 **Page 3 of 4** **Caption:** relating to motor vehicle inspections; creating an offense; changing the collection method for certain fees

Effective Date:

Application:

Statutes

Affected:

Subject: Issuance of vehicle inspection reports

Summary: Amends TN 548.252 to require TxDPS to make rules to require inspection station to issue an inspection report to the owner or operator of each vehicle inspected, and issue a passing report to the owner or operator for each vehicle that passes inspections;

Amends TN 548.253 to require an inspection station electronically to submit to TxDPS the VIN and information required by rule following a vehicle inspection;

Amends TN 548.254 to provide that a vehicle inspection report is invalid after the end of the 12th month following the month in which the report was issued;

Amends TN 548.256 to provide that before a vehicle may be registered, TxDMV or tax collector must verify that the vehicle has passed the required inspections by accessing the inspection database; an owner may present a vehicle inspection report;

Subject: Collection of fee during registration

Summary: Adds TN 548.509 to require TxDMV or tax collector to collect the portion of the inspection fee that is required to be remitted to the state \$5.50 out of \$12.50 inspection fee for passenger vehicles and light trucks) at the time of registration of a vehicle;

Subject: Offense generally

Summary: Amends TN 548.601 to redefine the elements of offenses:
(1) submit information to inspection database or issue inspection report in violation of TN Chapter 548 or rules;
(4) submit information to inspection database or issue inspection report without authorization or without inspecting vehicle;
(5) submit information to inspection database indicating vehicle passed inspection or issue passing inspection report without knowledge vehicle was not been repaired, adjusted, corrected after inspection;
(6) submit information to inspection database or issue inspection report without conducting inspection, or for a vehicle missing item to be inspected or not in compliance;

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 2305 **Page 4 of 4** **Caption:** relating to motor vehicle inspections; creating an offense; changing the collection method for certain fees

Effective Date:

Application:

Statutes

Affected:

Subject: Definition and applicability

Summary: Amends TN 683.071 to redefine "junked vehicle" as applicable only to a motor vehicle that displays an expired license plate or does not display a license plate;

Subject: Definition for certain prosecutions

Summary: Amends CP 45.003 to provide that for purposes of dismissing a charge under TN 502.407 (operating a vehicle with expired license plates) "day" does not include Saturday, Sunday, or legal holiday;

Subject: Unattended vehicles on parking facility of apartment complex; removal and storage of vehicles

Summary: Amends OC 2308.253 to prohibit an apartment complex parking facility owner from removing a vehicle merely because the vehicle does not display an unexpired license plate or registration insignia except as provided by contract;
A contract provision providing for the removal of a vehicle from a parking facility of an apartment complex because it does not display an unexpired license plate or registration insignia is valid only if the provision requires the owner or operator of the vehicle to be given 10 days' written notice that the vehicle will be towed if it is not removed; notice must be delivered in person or sent by CMRRR;

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 2377

Caption: relating to the use of legislatively produced audio or visual materials; providing penalties

Effective Date: 9-1-2013

Application:

Statutes GV 306.005

Affected: GV 306.006

Subject: Use of legislatively produced audio or visual materials in political advertising prohibited

Summary: Amends GV 306.005 to prohibit use of audio or visual materials produced by the legislature in political advertising.

Allows a photograph of a current or former member of the legislature obtained from a house, committee, or agency of the legislature that is used in accordance with conditions established when obtained;

Subject: Commercial use of legislatively produced audio or visual materials

Summary: Amends GV 306.006 to prohibit a person from using audio or visual materials produced by the legislature or a committee, for a commercial purpose unless the legislature gives permission and the use is only for educational or public affairs programming, including new, or transmission of an unedited feed to paid subscribers on public accessible internet site;

Permission must be granted if the person submits to the legislative entity a signed, written request for the use that:

(1) states an allowed purpose; and

(2) contains an agreement by the person that the audio or visual materials will not be used for a commercial purpose other than the stated purpose;

Violation is a Class C misdemeanor;

Subject:

Summary:

Comments: For years, legislative information has been available to the public through the Internet. To adapt to the technology, relevant state law was amended to prohibit legislatively produced audio or visual materials from being used in political advertising and for commercial use. Observers have noted that these measures were intended to protect applicable copyrights and private contracts with the state and to avoid unintentional alterations of the material. H.B. 2377 seeks to impose additional limits on the use of audio or visual materials produced by or under the direction of the legislature.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 2539

Caption: relating to requiring computer technicians to report images of child pornography; providing a criminal penalty

Effective Date: 9-1-2013

Application:

Statutes BC 109.002

Affected:

Subject: Reporting of images of child pornography

Summary: Adds BC 109.002 to require a computer technician who, in the course and scope of employment or business, views an image on a computer that is child pornography, immediately to report the discovery to a local or state law enforcement agency or the Cyber Tipline at the National Center for Missing and Exploited Children; report must include the name and address of the owner or person claiming a right to possession of the computer; Computer technician is not liable for reporting or failing to report unless for willful or wanton misconduct; Defense that child in the image appeared to be at least 18 years of age; Class B misdemeanor

Subject:

Summary:

Subject:

Summary:

Comments: Due to recent technological advancements, information has become readily accessible and available via the Internet. However, this increase in access to information has also led to increased access to child pornography, which is illegal under both state and federal law.

Cases of child exploitation often go unreported or unprosecuted due to the anonymous nature of the Internet and computer hard drives. While federal, state, and local agencies work to combat child pornography through underground sting operations and other aggressive measures and are effectively identifying, catching, and prosecuting sexual predators, child pornography discovered by computer service technicians often goes unreported, partly due to the fact that current Texas law does not require a computer service technician to report such a discovery.

Several other states have enacted laws requiring computer or information technology technicians to report child pornography found on personal computers during the normal course of repair.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 2619

Caption: relating to the educational needs of children in the conservatorship of the Department of Family and Protective Services

Effective Date: 9-1-2013

Application:

Statutes ED 25.001
Affected: ED 25.007
ED 25.087

Subject: Admission and transition assistance for students in substitute care

Summary: Amends ED 25.001 to allow a student enrolled in primary or secondary public school who is placed in the conservatorship of the Department of Family and Protective Services at a residence outside the school district is entitled to continue to attend the school at which the student was enrolled until the student completes the highest grade level offered by the school;

Amends ED 25.007 to require the Department of Family and Protective Services to assist in the transition of substitute care students from one school to another by, among other things,
(9) requiring school districts to provide notice to the child's educational decision-maker and caseworker regarding events that may significantly impact the education of a child, including:
(A) requests or referrals for an evaluation under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), or special education under Section 29.003;
(B) admission, review, and dismissal committee meetings;
(C) manifestation determination reviews required by Section 37.004(b);
(D) any disciplinary actions under Chapter 37 for which parental notice is required;
(E) citations issued for Class C misdemeanor offenses on school property or at school-sponsored activities;
(F) reports of restraint and seclusion required by Section 37.0021; and
(G) use of corporal punishment as provided by Section 37.0011;

Subject: Excused absences

Summary: Amends ED 25.087 to require the ISD to excuse a child in the conservatorship of the Department of Family and Protective Services from attending school if the child is attending a mental health or therapy appointment or court ordered family visitation;

Requires an excused absence for a temporary absence resulting from an appointment with a health care professional if the student commences classes or returns to school on the same day of the appointment;

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 2649

Caption: relating to the punishment for violating certain rules or permit terms under a permit to trap, transport, and transplant certain animals

Effective Date: 6-14-2013

Application: Applies only to an offense committed on or after 6-2-2013

Statutes
Affected: PW 43.062

Subject: Penalty

Summary: Amends PW 43.062 to create an offense if a person violates:
(1) a rule relating to a reporting requirement for a permit issued under Subchapter E, Permits for Trapping, Transporting, and Transplanting Game Animals and Game Birds, PW 43.061 - PW 43.062; or
(2) a term of a permit issued under Subchapter E, Permits for Trapping, Transporting, and Transplanting Game Animals and Game Birds, PW 43.061 - PW 43.062 relating to a reporting requirement;

Subject:

Summary:

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 2679

Caption: relating to permitting an alternative plea for a defendant detained in jail pending trial for a Class C misdemeanor

Effective Date: 9-1-2013

Application:

Statutes CP 45.023

Affected:

Subject: Defendant's plea

Summary: Amends CP 45.023 to allow a justice or judge to permit a defendant detained in jail before trial to enter a plea; if the plea is guilty or no contest, the justice or judge may, after providing the statutory warnings and advising the defendant of the right to trial by jury:

- (1) accept the defendant's plea;
- (2) assess a fine, determine costs, and accept payment of the fine and costs;
- (3) give the defendant credit for time served;
- (4) determine whether the defendant is indigent; or
- (5) discharge the defendant.

Notwithstanding Article 45.037, following a plea of guilty or nolo contendere, requires the justice or judge to grant a motion for new trial made not later than 10 days after the rendition of judgment and sentence, and not afterward;

Subject:

Summary:

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 2690

Caption: relating to the sale of a vehicle by an unlicensed seller; creating an offense

Effective Date: 9-1-2013

Application:

Statutes TN 503.096

Affected:

Subject: Towing of vehicles

Summary: Adds TN 503.096 to allow a peace officer to tow a vehicle being sold by a person without a dealer general distinguishing number to be towed from the location where the vehicle is being offered for sale and stored in a VSF; the vehicle may be towed only if:

- (1) the peace officer has a probable cause that the vehicle is being offered for sale by a person engaged in business as a dealer without a license;
- (2) the peace officer has attached a notice to the windshield or a conspicuous part of the vehicle stating: the make and model and license plate number of the vehicle, the date and time the notice was affixed, that the vehicle is being offered for sale illegally, and that the vehicle may be towed and stored at owner's expense if the vehicle remains parked at the location for two hours, and the name, address, and telephone number of the VSF; and
- (3) the notice was attached to the vehicle not less than two hours before the vehicle is caused to be towed;

Allows the peace officer to prevent the vehicle from being removed unless proof of ownership or authorization to remove is offered;

Subject:

Summary:

Subject:

Summary:

Comments: Many municipalities currently prohibit by ordinance the illegal sale of vehicles by unlicensed persons, known as curbstoning. Interested parties assert that many such ordinances are individually crafted with the assistance of state agencies and that there are currently no effective provisions that may be uniformly enforced across the state. C.S.H.B. 2690 seeks to provide a consistent regulatory environment across the state regarding the sale of motor vehicles by certain sellers.

TN § 503.021. Dealer General Distinguishing Number

A person may not engage in business as a dealer, directly or indirectly, including by consignment, without a dealer general distinguishing number ... for each location from which the person conducts business as a dealer.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 2741 **Page 1 of 3** **Caption:** relating to the regulation of motor vehicles by counties and the Texas Department of Motor Vehicles; authorizing a fee; creating an offense

Effective Date: 9-1-2013

Application: Immed TN 504.948; all other sections effective 9-1-2013
To the extent of any conflict, this bill prevails over another bill passed by the 83rd Leg relating to nonsubstantive additions to and corrections in enacted codes;

Statutes TN 501.0521
Affected: TN 502.4755
TN 504.946
TN 504.947
TN 504.948
TN 551.304
TN 621.506
TN 623.019

Subject: Court ordered title change

Summary: Adds TN 501.0521 to clarify that a justice of the peace may not issue an order related to a title except under CP Chapter 47, or GV 27.031 (foreclosure of lien);
Prohibits a county or district court from ordering the TxDMV to change the type of title for:
(1) a nonrepairable vehicle titled after September 1, 2003; or
(2) a vehicle for which the department has issued a certificate of authority to dispose of an abandoned vehicle by demolition, wrecking, or dismantling;

Subject: Deceptively similar insignia

Summary: Adds TN 502.4755 to create an offense if a person:
(1) manufactures, sells, or possesses a registration insignia deceptively similar to the registration insignia of the department; or
(2) makes a copy or likeness of an insignia deceptively similar to the registration insignia of the department with intent to sell the copy or likeness;
Creates an affirmative defense if the insignia was produced pursuant to a licensing agreement with the TxDMV;
Class C misdemeanor

An insignia is deceptively similar if the insignia is not prescribed by TxDMV but a reasonable person would presume that it was prescribed by TxDMV;

Subject: Deceptively similar license plate

Summary: Adds TN 504.946 to create an offense if a person:
(1) manufactures, sells, or possesses a license plate deceptively similar to a license plate issued by the department; or
(2) makes a copy or likeness of a license plate deceptively similar to a license plate issued by the department with intent to sell the copy or likeness;
Creates an affirmative defense that license plate was produced under a licensing agreement with the TxDMV;
Class C misdemeanor

A license plate is deceptively similar if it is not prescribed by TxDMV but a reasonable person would presume that it was prescribed by the TxDMV;

Comments: Through passage of H.B. 2357, 82nd Legislature, Regular Session, 2011, the Texas Department of Motor Vehicles (TxDMV) was provided with the statutory authorization needed to more fully utilize technology, to accept modern forms of payment, and to move forward with modern processes by removing statutory language tied to outdated technology. H.B. 2357 standardized and moved definitions to one location within the Transportation Code in order to create uniformity. S.B. 1420, 82nd Legislature, Regular Session, 2011, was the Sunset bill for the Texas Department of Transportation (TxDOT) that moved the oversize/overweight permit function from TxDOT to TxDMV.

C.S.H.B. 2741 provides general clean-up language for the TxDMV. The bill replaces references and definitions in certain sections of the Transportation and Occupations Codes, and renumbers the statutes as necessary.

This bill amends certain sections of the Transportation Code to clarify language relating to a nonrepairable title, salvage vehicle title, and salvage record of title; require a county to submit funds by electronic funds transfer; and limit the penalty for late title transfer to \$250.

SUMMARIES -- 83rd LEGISLATURE -- 2013

**Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney**

The bill also amends current law to provide that the governor may waive permits for motor carriers who are performing emergency assistance; to permit an individual who is wishing to transfer his vehicle to a dealer and has paid for more than one year of registration to be credited the remaining amounts of unused registration; to authorize the owner of a trailer with a gross vehicle weight of 4,000 pounds or less to apply for a title; and add TxDMV, as well as a county tax-assessor collector, to the governmental entities that may request a person's photographic image from the Department of Public Safety of the State of Texas.

C.S.H.B. 2741 amends current law relating to the regulation of motor vehicles by counties and the Texas Department of Motor Vehicles, authorizes a fee, and creates an offense.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 2741 **Page 2 of 3** **Caption:** relating to the regulation of motor vehicles by counties and the Texas Department of Motor Vehicles; authorizing a fee; creating an offense

Effective Date:

Application:

Statutes

Affected:

Subject: License plate flipper; offense

Summary: Adds TN 504.947 to create an offense if a person, with criminal negligence, uses, purchases, possesses, manufactures, sells, offers to sell, or distributes a license plate flipper;
Class C misdemeanor

"License plate flipper" means a manual, electric, or mechanical device designed or adapted to be installed on a motor vehicle and:

- (1) switch between two or more license plates for the purpose of allowing a motor vehicle operator to change the license plate displayed on the operator's vehicle; or
- (2) hide a license plate from view by flipping the license plate so that the license plate number is not visible

Subject: General penalty

Summary: Adds TN 504.948 to create an offense if a person violates a provision of TN Chapter 504 relating to license plates and no other penalty is prescribed for the violation;
Misdemeanor punishable by a fine of not less than \$5 or more than \$200;

Effective ____

Subject: Limited operation (neighborhood electric vehicle)

Summary: Adds TN 551.304 to allow the operation of a neighborhood electric vehicle:
(1) in a master planned community:
(A) that has in place a uniform set of restrictive covenants; and
(B) for which a county or municipality has approved a plat;
(2) on a public or private beach; or
(3) on a public highway for which the posted speed limit is not more than 35 miles per hour, if the neighborhood electric vehicle is operated:
(A) during the daytime; and
(B) not more than two miles from the location where the neighborhood electric vehicle is usually parked and for transportation to or from a golf course;

Provides that a person is not required to register a neighborhood electric vehicle operated in under this section;

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 2741 **Page 3 of 3** **Caption:** relating to the regulation of motor vehicles by counties and the Texas Department of Motor Vehicles; authorizing a fee; creating an offense

Effective Date:

Application:

Statutes

Affected:

Subject: Offense of operating or loading overweight vehicle; penalty; defense

Summary: Amends TN 621.506:

(a) to expand the offense and change the punishments if a person:

(1) operates a vehicle or combination of vehicles in violation of:

TN 621.101 (maximum weight of vehicle or combination),

TN 622.012 (axle weight restriction of ready mixed concrete truck),

TN 622.031 (length and axle weight restrictions of vehicle used exclusively to transport milk),

TN 622.041 (length limitation of vehicle used exclusively to transport poles, piling, or unrefined timber),

TN 622.0435 (vehicles transporting raw wood products),

TN 622.051 (length limitation of vehicle used exclusively to transport electric power transmission poles),

TN 622.061 (length limitation of vehicle used exclusively to transport poles or pipe),

TN 622.133 (axle weight restrictions of vehicle used exclusively to transport recyclable materials),

TN 622.953 (vehicle transporting seed cotton or chili pepper modules) ; or

TN 623.162 (axle weight restriction of vehicle transporting solid waste) ; or

(2) loads a vehicle or causes a vehicle to be loaded in violation of Section 621.503 (loading more than weight limitation);

(b) Except as provided by (b-1), (b-2), and (b-3), offense is misdemeanor punishable:

(1) by a fine of not less than \$100 and not more than \$250;

(2) on conviction of an offense involving a vehicle having a single axle weight or tandem axle weight that is heavier than the vehicle's allowable weight, by a fine according to the following schedule:

Pounds Overweight □ □ Fine Range

Less than 2,500 □ □ \$100 to \$500

2,500-5,000 □ □ □ \$500 to \$1,000

More than 5,000 □ □ \$1,000 to \$2,500; or

(3) on conviction of an offense involving a vehicle having a gross weight that is heavier than the vehicle's allowable weight, by a fine according to the following schedule:

Pounds Overweight □ □ Fine Range

Less than 2,500 □ □ \$100 to \$500

2,500-5,000 □ □ □ \$500 to \$1,000

5,001-10,000 □ □ □ \$1,000 to \$2,500

10,001-20,000 □ □ □ \$2,500 to \$5,000

20,001-40,000 □ □ □ \$5,000 to \$7,000

More than 40,000 □ □ \$7,000 to \$10,000

(b-1) On conviction of a third offense punishable under Subsection (b)(2) or (3), before the first anniversary of the date of a previous conviction of an offense punishable under Subsection (b)(2) or (3), the defendant shall be punished by a fine not to exceed twice the maximum amount specified by Subsection (b)(2) or (3);

(b-2) A defendant operating a vehicle or combination of vehicles at a weight for which a permit issued under this subtitle would authorize the operation, but who does not hold the permit, shall be punished by a fine in addition to the fine imposed under Subsection (b) of not less than \$500 or more than \$1,000, except that for a second or subsequent conviction under this section, the offense is punishable by an additional fine of not less than \$2,500 or more than \$5,000;

(b-3) A defendant operating a vehicle or combination of vehicles at a weight in excess of 84,000 pounds with a load that can reasonably be dismantled shall be punished by a fine in addition to the fine imposed under Subsection (b) of not less than \$500 or more than \$1,000, except that for a second or subsequent conviction under this section, the offense is punishable by an additional fine of not less than \$2,500 or more than \$5,000.

(i) A fine may not be imposed under this section that exceeds the minimum dollar amount that may be imposed unless the vehicle's weight was determined by a portable or stationary scale furnished or approved by the Department of Public Safety;

Subject: Violations of subchapter (relating to general permits for excess axle or gross weight)

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Summary: Amends TN 623.019 to change the punishments for violation of the provisions relating to general permits for excess axle or gross weight:

(b) Except as provided by Subsections (c) and (d), an offense under Subsection (a) is a misdemeanor punishable by a fine of not less than \$100 or more than \$250;

(c) An offense under Subsection (a) is a misdemeanor and, except as provided by Subsection (d), is punishable by a fine according to the following schedules if the offense involves a vehicle:

(1) having a single axle weight or tandem axle weight that is heavier than the vehicle's allowable weight:

Pounds Overweight	Fine Range
Less than 2,500	\$100 to \$500
2,500-5,000	\$500 to \$1,000
More than 5,000	\$1,000 to \$2,500; or

(2) having a gross weight that is heavier than the vehicle's allowable gross weight:

Pounds Overweight	Fine Range
Less than 2,500	\$100 to \$500
2,500-5,000	\$500 to \$1,000
5,001-10,000	\$1,000 to \$2,500
10,001-20,000	\$2,500 to \$5,000
20,001-40,000	\$5,000 to \$7,000
More than 40,000	\$7,000 to \$10,000

(d) On conviction of a third offense under Subsection (a), before the first anniversary of the date of a previous conviction under that subsection, the defendant shall be punished by a fine in an amount not to exceed twice the maximum amount specified by Subsection (c).

(h) A fine may not be imposed under this section that exceeds the minimum dollar amount that may be imposed unless the vehicle's weight was determined by a portable or stationary scale furnished or approved by the TxDPS;

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 2772

Caption: relating to an interim study regarding the method by which certain judicial officers are selected

Effective Date: 6-14-2013

Application:

Statutes

Affected:

Subject:

Summary:

Establishes the joint interim committee on judicial selection to study and review the method by which the following judicial officers are selected in Texas:

- (1) statutory county court judges, including statutory probate court judges;
- (2) district judges; and
- (3) appellate justices and judges;

Committee composed of six senators and six members of the house of representatives as follows:

- (1) the chair of the senate jurisprudence committee, the chair of the senate criminal justice committee, and four senators appointed by the lieutenant governor; and

- (2) the chair of the judiciary and civil jurisprudence committee of the house of representatives, the chair of the criminal jurisprudence committee of the house of representatives, and four members of the house of representatives appointed by the speaker of the house of representatives;

Options to be studied include:

partisan elections;

selection methods by other states;

lifetime appointment; appointment for a term;

appointment for a term, followed by a partisan election;

appointment for a term, followed by a nonpartisan election;

appointment for a term, followed by a nonpartisan retention election;

partisan election for an open seat, followed by a nonpartisan retention election for incumbents; and
any other method;

Subject:

Summary:

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 2781

Caption: relating to rainwater harvesting and other water conservation initiatives

Effective Date: 9-1-2013

Application: Applies only to a transfer of property that occurs on or after 9-1-2013

Statutes PP 5.008

Affected:

Subject: Seller's disclosure of property condition

Summary: Amends PP 5.008 to require disclosure of any rainwater harvesting system located on the property that is larger than 500 gallons and that uses a public water supply as an auxiliary water source;

Subject:

Summary:

Subject:

Summary:

Comments: Recently enacted legislation allows individual rainwater harvesting systems to be used within a dwelling serviced by a public water supply. A significant feature of this legislation was the indemnification of the public water supply from liability arising from waterborne illnesses at such a dwelling. Because the task of rulemaking related to rainwater treatment for those dwellings was assigned to the Texas Commission on Environmental Quality (TCEQ), implementation of rainwater harvesting was made unworkable for most homeowners, as the required tests administered by TCEQ could cost tens of thousands of dollars per dwelling per year.

Treatment of rainwater for potable use has been practiced for hundreds of years and that modern treatment allows the quality of the water in some cases to surpass the quality of water supplied by the public water supply. However, outside of a public water supply service area, these rainwater systems are considered private water systems. All public water supplies are required to be protected by appropriate cross-connection control devices when rainwater is used for potable purposes in areas serviced by public water supply.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 2862 **Caption:** relating to procedures related to juvenile cases

Effective Date: 9-1-2013

Application: To the extent of any conflict, HB 2862 prevails over another Act of the 83rd Reg Session relating to nonsubstantive additions to and corrections

Statutes CP 45.0216
Affected: FA 51.03

Subject: Expunction of certain conviction records

Summary: Amends CP 45.0216 to correct reference to electronic transmission of certain visual material depicting minor; The court shall order conviction and all records expunged if the court finds that (1) the person was not convicted of any other fine only misdemeanor offense while the person was a child; or (2) the person was not found to have engaged in CINS described as electronic transmission of certain visual material depicting minor;

Subject: Delinquent conduct; conduct indicating a need for supervision

Summary: Amends FA 51.03 to correct the references to conduct described by or conduct that violates "electronic transmission of certain visual material depicting minors;

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 2902

Caption: relating to lost, damaged, or overdue county library property; authorizing fines; authorizing civil penalty;

Effective Date: 9-1-2013

Application:

Statutes LG 323.071

Affected: LG 323.072

Subject: Library fines

Summary: Adds LG 323.071 to allow commissioners court to establish reasonable fines to be collected by a county library for lost, damaged, or overdue library property; funds are deposited in the county free library fund;

Subject: Abuse of county library services

Summary: Adds LG 323.072 to allow commissioners court to adopt regulations to prohibit a person from abusing library services by intentionally failing to pay fines or return library property; Violation results in liability to the county for a civil penalty of not more than \$100 for each violation; county may sue in district or county court to recover the penalty;

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 2918 **Caption:** relating to statutory durable powers of attorney

Effective Date: 1-1-2014

Application: Applies to a power of attorney executed on or after 1-1-2014

Statutes ES 752.051

Affected:

Subject: Form

Summary: Amends ES 752.002 to provide that a power of attorney is valid with respect to meeting the requirements for a statutory durable power of attorney regardless of certain facts, including that one or more of the categories of optional powers listed in the statutory form are not initialed, rather than are struck.
Changes the statutory durable power of attorney form to provide that an attorney in fact has all of the powers initialed below (instructions require powers granted to be initialed; powers withheld should not be initialed, and may be crossed out;)
Informs agent of legal relationship and duty to act in good faith, within authority, loyalty, and avoiding conflicts; requires disclosure of identity as agent or attorney in fact;
Requires signature: Principal's name by signature of agent, as Agent or Attorney in Fact;
Requires agent to maintain a record of each action or decision, provide an accounting of all property and transactions if requested by principal, and to stop acting on behalf of principal on principal's death, principal's revocation of the power of attorney, or any termination event stated within the power of attorney;

Subject:

Summary:

Subject:

Summary:

Comments: Interested parties note that the power of attorney form promulgated by the National Conference of Commissioners on Uniform State Laws is an "opt-in" form, meaning that if the principal wants to provide for a power to be exercised by a designated agent, the party must affirmatively grant that power. However, the power of attorney form used in Texas is an "opt-out" form, which means that a person signing the form grants the designated agent general power of attorney unless the principal specifically restricts the powers given to the agent. Interested parties contend that Texas is the only state that utilizes an opt-out form for such purposes.

Some consumer groups have suggested that the opt-out form is an anti-consumer approach to power of attorney forms because people are often led to believe that certain parts of their property will be maintained by the agent operating under the power of attorney and do not realize that by signing the power of attorney, they are granting the agent the power not to do so. Observers note that in the past, Texas used an opt-in form, but the form was changed to an opt-out form by subsequent legislation.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 3068

Caption: relating to debit card or stored value card surcharges

Effective Date: 9-1-2013

Application:

Statutes FI 59.402

Affected:

Subject: Imposition of surcharge for use of debit or stored value card

Summary: Adds FI 59.402 to prohibit a merchant from imposing a surcharge on a buyer who uses a debit or stored value card instead of cash, check, or credit card in a sale of goods or services;
Does not apply to a state agency, county, or local governmental entity, that accepts a debit or stored value card for fees, taxes, or other charges;

Subject:

Summary:

Subject:

Summary:

Comments: Current law restricting surcharges on credit card transactions was enacted at a time when the use of debit cards for purchases was limited. As debit cards have become the preferred method of payment for a growing number of consumers, the need to provide similar protections to individuals who choose to utilize this form of payment also has grown. Furthermore, recent changes in federal law could result in financial alliances between large stores and large banks under which such stores could steer consumers toward those particular banks by creating financial disincentives for consumers to use the debit cards of smaller community banks. This practice is potentially discriminatory against smaller banks, the majority of which issue debit cards rather than credit cards to their customers.

C.S.H.B. 3068 seeks to extend the same level of consumer protection from surcharges to debit and stored value card transactions as is currently provided to certain other forms of payments.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 3176

Caption: relating to the appointment of a board member of a property owners' association to fill a vacancy

Effective Date: 6-14-2013

Application:

Statutes PP 209.00593

Affected:

Subject: Election of board members

Summary: Amends PP 209.00593 to allow the appointment of a member to fill any vacant position on the board of directors; a board member appointed to fill a vacant position shall serve for the remainder of the unexpired term of the position;

Subject:

Summary:

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 3279

Caption: relating to the uprooting of seagrass plants; creating an offense

Effective Date: 9-1-2013

Application:

Statutes PW 66.024

Affected:

Subject: Seagrass plants

Summary: Adds PW 66.024 to create an offense if a person uproots or digs out any rooted seagrass plant from a bay bottom or other saltwater bottom area by means of a propeller, unless authorized by a commercial license or permit issued by the Tx PWD;
Creates a defense to prosecution that a person:
(1) anchors a vessel within an area containing seagrass plants and uproots a seagrass plant;
(2) uses an electric trolling motor within an area containing seagrass plants and uproots a seagrass plant; or
(3) operates a vessel in a manner consistent with the acceleration required to reach and stay on plane;
Class C Parks and Wildlife Code misdemeanor

Subject:

Summary:

Subject:

Summary:

Comments: Environmental experts note the various beneficial roles that seagrass meadows play in a coastal environment. Because of the valuable ecosystem services seagrasses provide, resource managers, coastal scientists, environmentalists, and sports enthusiasts have expressed concerns about detrimental impacts of certain boating activities to this important shallow-water habitat. The Texas Parks and Wildlife Commission recently appointed the Coastal User Working Group to discuss and recommend solutions for protecting seagrass habitat and reducing user conflict in the bays and estuaries of the Texas coast. One of the workgroup's recommendations was to develop a regulation protecting seagrasses statewide. In an effort to protect seagrass meadows while preserving access to coastal waters by all user groups, C.S.H.B. 3279 makes the act of uprooting or digging out seagrass plants a criminal offense under certain circumstances.

C.S.H.B. 3279 amends current law relating to the uprooting of seagrass plants and creates an offense. At the agency's request, the committee substitute removes the authority for the General Land Office to grant a waiver. It also adds an additional species of seagrass (*Halodule wrightii*).

"Seagrass plant" means a flowering marine plant of the species:

- (1) *Cymodocea filiformis*, known as manatee grass;
- (2) *Halodule beaudettei* or *Halodule wrightii*, known as shoal grass;
- (3) *Halophila engelmannii*, known as star grass or Engelmann's seagrass;
- (4) *Ruppia maritima*, known as widgeon grass; or
- (5) *Thalassia testudinum*, known as turtle grass.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 3439

Caption: relating to the representation of a property owner by an agent in a property tax matter

Effective Date: 9-1-2013

Application:

Statutes TX 1.11

Affected: TX 1.111

Subject: Communications to fiduciary

Summary: Amends TX 1.11 to provide that an appraisal office or tax collector must deliver all notices, bills and other communications relating to property or taxes to the owner's fiduciary on written request filed with the appraisal district; provides that the request remains in effect until revoked in writing by the owner or the owner's designated agent;

Subject: Representation of property owner

Summary: Amends TX 1.111 to provide that the designation by a property owner of a lessee or other person to act as agent for any purpose, remains in effect until revoked in writing by the property owner or the designated agent; if revoked by the agent, the agent must send notice of the revocation by CM to the property owner at the owner's last known address; allows a designation to expire according to its own terms, but it may be revoked by the owner or designated agent; Requires an appraisal review board to accept and consider a protest filed by an agent if an agency authorization is filed at or before the time of the hearing;

Subject:

Summary:

Comments: Under current law, only a property owner can revoke the appointment of a designated agent to act on the owner's behalf in connection with property tax-related matters. Interested parties note that sometimes a property owner can be non-responsive to a designated agent and not provide the information needed to adequately represent the owner's interests. The parties assert that, in such situations, the agent should be allowed to revoke the designation. H.B. 3439 seeks to provide a designated agent with this option.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 3483

Effective Date: 9-1-2013

Caption: relating to requirements for a driver education course, the eligibility of persons under 18 years of age to operate a motor vehicle, and the administration of certain driver's license examinations by home-taught driver education course providers

Application: Applies only to a driver education course that begins on or after 9-1-2013
Not later than 1-1-2014, TxDPS is required to adopt rules required by TN 521.205

Statutes ED 1001.101

Affected: TN 521.1655

TN 545.424

Subject: Adult and minor driver education course

Summary: Amends ED 1001.101 to require a student to complete 30 hours of behind the wheel instruction, at least 10 of which are at night, in the presence of an adult instructor, during a driver education course;

Subject: Testing by driver education school and certain driver education course providers

Summary: Amends TN 521.1655 to allow an approved driver education course provider to administer to a student the highway sign and traffic law parts of the driver's license examination;

Subject: Operation of vehicle by person under 18 years of age

Summary: Amends TN 545.424 to prohibit a person under 18 years of age from operating a motor vehicle (1) after midnight and before 5am unless necessary for employment or school activity or medical emergency, or with more than one passenger under 21 years of age who is not a family member;

Comments: The National Safety Council recommends a minimum of 30 hours of supervised driving hours as part of an extended learner's stage as an effective component of a comprehensive process for young adults to obtain their driver's licenses. Requiring just 20 hours, Texas is one of only a few states requiring less than the recommended 30 hours.

H.B. 3483 increases the number of required hours of behind-the-wheel instruction required for driver's license training from 20 to 30 hours. The bill also increases the age on the driving curfew from under 17 to under 18.

H.B. 3483 amends current law relating to requirements for a driver education course and the eligibility of persons under 18 years of age to operate a motor vehicle at certain times.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 3668 **Caption:** relating to an individual's responsibilities following an accident reasonably likely to result in injury to or death of a person; imposing criminal penalties

Effective Date: 9-1-2013

Application: applies only to an offense committed on or after 9-1-2013

Statutes Affected: TN 550.021

Subject: Accident involving personal injury or death

Summary: Amends TN 550.021 to require the operator of a vehicle involved in an accident that results or is likely to result in injury or death to immediately determine whether a person is involved in the accident and whether that person requires aid;

Subject:

Summary:

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 3676

Caption: relating to the application of restrictions on drivers under 18 years of age

Effective Date: 9-1-2013

Application:

Statutes TN 545.424

Affected:

Subject: Operation of vehicle by person under 18 years of age

Summary: Amends TN 545.424 to prohibit:

- (1) a person under 18 years of age from operating a vehicle while using a wireless communications device;
 - (2) a person under 18 years of age from operating a vehicle during the 12 month period following issuance of an original license between midnight and 5am or with more than 1 passenger under 21 years of age in the vehicle who is not a family member;
 - (3) a person under 17 years of age who holds a restricted motorcycle license from operating a motorcycle while using a wireless communication device; or
 - (4) a person under 17 years of age who holds a restricted motorcycle license from operating a vehicle during the 12 month period following the issuance of an original license between midnight and 5am unless the person is within sight of parent or operation is for employment or school attendance, or medical emergency;
- Makes the section applicable to a holder of a hardship license;

Subject:

Summary:

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 3800

Caption: relating to the recording and indexing of property owners' association management certificates in the county real property records

Effective Date: 9-1-2013

Application: Not later than 1-1-2014, each property owners' association required to file a management certificate shall file the association's management certificate regardless of whether the association filed a management certificate before 9-1-2013;

**Statutes
Affected:** PP 209.004

Subject: Management certificates

Summary: Amends PP 209.004 to require the county clerk to record the management certificate in the real property records of the county and index the document as a Property Owners' Association management Certificate;

Subject:

Summary:

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: HB 3838 **Caption:** relating to motorcycle equipment and training and the license requirements for a three-wheeled motorcycle; creating an offense

Effective Date: 9-1-2013

Application: Applies to an offense committed on or after 9-1-2013
TN 547.617 is effective 1-1-2015

Statutes TN 521.148
Affected: TN 545.416

Subject: Application for Class M license or authorization to operate motorcycle

Summary: Amends TN 521.148 to require TxDPS to issue a Class M license that is restricted to the operation of a three-wheeled motorcycle if the motorcycle operator training course completed by the applicant is specific to the operation of a three-wheeled motorcycle;

Subject: Riding on motorcycle

Summary: Amends TN 545.416 to prohibit an operator from carrying another person on a motorcycle, and prohibiting a person who is not operating the motorcycle from riding on the motorcycle, unless the motorcycle is designed to carry more than one person and is equipped with footrests and handholds for use by the passenger;

Subject: Motorcycle footrests and handholds required

Summary: Adds TN 547.617 to require that a motorcycle that is designed to carry more than one person must be equipped with footrests and handholds for use by the passenger (effective 1-1-2015);

Comments: Motorcycles have become an increasingly popular mode of transportation for Texans, but the inherent risks associated with riding on a motorcycle have prompted observers to note the importance of properly equipping motorcycles to support passengers and properly educating motorcycle operators on how to safely carry passengers. C.S.H.B. 3838 establishes Malorie's Law, in remembrance of Malorie Bullock, to increase motorcycle safety for passengers. This bill says that a sport bike, if designed for more than one person, shall be equipped with foot pegs and handholds for the passenger. It also states that a motorcycle training course shall contain material regarding operating a bike while carrying a passenger.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0060

Caption: relating to authorizing the placement of a security freeze on the consumer file or other record created or maintained by a consumer reporting agency regarding a person under 16 years of age

Effective Date: 1-1-2014

Application:

**Statutes
Affected:** BC 20.21 et seq

Subject: Request to place a security freeze; creation of record

Summary: Adds BC 20.25 to require a consumer reporting agency to place a security freeze on a protected consumer's file if:
(1) the agency receives a request for the placement of the security freeze, and
(2) the protected consumer's representative provides sufficient proof of identification and pays the fee (unless a copy of a valid police report is submitted);
If there is no file, the agency shall create a record for the protected consumer and place a security freeze on the record, within 30 days of the request;

Subject: Definitions

Summary: Adds BC 20.21 to include the following definitions:
"Protected consumer" means an individual who resides in this state and is younger than 16 years of age at the time a request for the placement of a security freeze is made;
"Record," with respect to a protected consumer, means a compilation of information identifying a protected consumer created by a consumer reporting agency solely to comply with this subchapter;
"Security freeze," with respect to a protected consumer, means:
(A) if a consumer reporting agency does not have a consumer file pertaining to the protected consumer, a restriction that:
(i) is placed on the protected consumer's record in accordance with this subchapter; and
(ii) prohibits a consumer reporting agency from releasing a consumer report relating to the extension of credit involving the consumer's record without the express authorization of the consumer's representative or the consumer, as applicable; or
(B) if a consumer reporting agency has a consumer file pertaining to the protected consumer, a restriction that:
(i) is placed on the protected consumer's consumer report in accordance with this subchapter; and
(ii) except as otherwise provided by this subchapter, prohibits a consumer reporting agency from releasing the protected consumer's consumer report relating to the extension of credit involving that consumer file, or any information derived from the protected consumer's consumer report.

Subject:

Summary:

Comments: Currently, credit consumers may place freezes on their credit file to prevent identity thieves from opening lines of credit in their name. Because most children have not established a credit file, they are particularly susceptible to tarnished credit histories if their identity is stolen.

S.B. 60 amends current law relating to authorizing the placement of a security freeze on the consumer file or other record created or maintained by a consumer reporting agency regarding a person under 16 years of age.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0094 **Caption:** relating to civil liability for compelled prostitution and certain promotion of prostitution

Effective Date: 9-1-2013

Application: Applies only to a cause of action that accrues on or after 9-1-2013

Statutes Affected: CV 98A.001 et seq

Subject: Liability

Summary: Adds CV 98A.002 to provide that a defendant is liable to a victim of compelled prostitution for damages arising from the compelled prostitution if the defendant:
(1) engages in compelling prostitution with respect to the victim;
(2) knowingly or intentionally engages in promotion of prostitution or aggravated promotion of prostitution that results in compelling prostitution with respect to the victim; or
(3) purchases an advertisement that the defendant knows or reasonably should know constitutes promotion of prostitution or aggravated promotion of prostitution, and the publication of the advertisement results in compelling prostitution with respect to the victim;
It is not a defense that the defendant is related to the victim, and has paid or otherwise compensated the victim;
It is not a defense that the victim voluntarily engaged in prostitution before or after the compelled prostitution, or did not attempt to escape or otherwise terminate the contact with the defendant;

Subject: Damages

Summary: Adds CV 98A.003 to provide that a claimant who prevails shall be awarded actual damages, including mental anguish with or without other injury, court costs, and reasonable attorneys fees, and exemplary damages;
Imposes joint and several liability on all defendants;

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0146

Caption: relating to access by a public institution of higher education to the criminal history record information of certain persons seeking to reside in on-campus housing

Effective Date: 6-14-2013

Application: Applies to a person who applies to reside in on-campus housing at a public institution of higher education for an academic period that begins on or after ____

**Statutes
Affected:** GV 411.0945

Subject: Access to criminal history record information: Public institution of higher education; on-campus student housing

Summary: Adds GV 411.0945 to allow an institution of higher education to obtain criminal history record information that relates to a student, or to an applicant for admission as student, who applies to reside in on-campus housing, from TxDPS;

Subject:

Summary:

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0164

Caption: relating to the issuance to veterans of specially marked licenses to carry a concealed handgun and specially marked personal identification certificates

Effective Date: 9-1-2013

Application:

Statutes GV 411.174

Affected: TN 521.102

Subject: Application (license to carry concealed handgun)

Summary: Amends GV 411.174 to require an application for a license to carry a concealed handgun to provide space for the applicant to list any military service qualifying for a veteran's designation, and to include the designator "veteran" on the license if the veteran requests the designation and provides proof of military service and honorable discharge;

Subject: Designator on personal identification certificate issued to veteran

Summary: Adds TN 521.102 to require DPS to include the designation "veteran" on a personal identification certificate if the veteran requests the designation and provides proof of military service and honorable discharge;

Subject:

Summary:

Comments: H.B. 1514 was enacted by the 82nd Legislature, Regular Session, 2011, authorizing a specialized marking to be printed on a veteran's driver's license to provide the veteran with more expedient and convenient access to certain benefits that various businesses, organizations, and events may provide to veterans. With the marking, the driver's license could be used to prove a veteran's status in lieu of printed discharge papers (DD-214) or various other cumbersome documents.

S.B. 164 provides for a special marking of "VETERAN" to be printed upon request on a concealed handgun license or personal identification card to expand the variety of methods through which veterans could prove their status. A veteran would be required to provide proof of the veteran's military service and honorable discharge.

As proposed, S.B. 164 amends current law relating to the issuance to veterans of specially marked licenses to carry a concealed handgun and specially marked personal identification certificates.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0166

Caption: relating to the use by certain health care providers of electronically readable information from a driver's license or personal identification certificate

Effective Date: 9-1-2013

Application:

Statutes TN 521.126

Affected:

Subject: Electronically readable information

Summary: Amends TN 521.126 to include a health care provider among those who may use electronically readable information from a driver's license;
Health care provider includes physician, nurse, dentist, podiatrist, pharmacist, chiropractor, therapeutic optometrist, ambulatory surgical center, urgent care facility, nursing home, home and community support services agency, and emergency medical services personnel;

Subject:

Summary:

Subject:

Summary:

Comments: Texas hospitals are currently permitted to use the electronic strip on a patient's driver's license to facilitate the patient's admission into their facilities; however, physicians and other health care providers are prohibited from this practice. Interested parties report that substantial resources have been expended at both the federal and state levels to develop and use electronic medical records, yet patients and providers are often still faced with paper systems during the check-in process.

C.S.S.B. 166 seeks to improve and streamline patients' access to their health care provider and to increase medical record efficiency and accuracy for health care providers, while maintaining the state and federal regulations currently governing health care providers with respect to privacy or data protection.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0174

Caption: relating to the control of stray bison and other estrays

Effective Date: 5-10-13

Application:

Statutes AG 142.001 et seq

Affected:

Subject: Definitions

Summary: Amends AG 142.001 to include stray bison in the definition of "estrays;"
Defines "perilous condition" to mean a circumstance or condition in which capture and impoundment of an estray presents an immediate threat to law enforcement personnel or to the health of the estray;

(Under AG 142.006, if the owner of the estray and the owner or occupant of the property are unable to agree to a redemption payment, either party may file a petition in the justice court having jurisdiction and have the amount of the payment determined by the justice of the peace;)

Subject: Discovery of estray; notice

Summary: Amends AG 142.003 to allow the sheriff to impound an estray if the owner does not immediately remove the estray discovered on public property, or if a perilous condition exists, to proceed with disposition.

Subject: Disposition of estray under perilous condition

Summary: Adds AG 142.015 to provide that a sheriff does not have to impound an estray if a perilous condition exists, and may immediately dispose of the estray by any means without notifying the owner; sheriff must file report of disposition in county estray records;

Comments: Stray bison are not included in the list of animals protected under the estray law. They hypothesize that this omission is likely because bison have long been regarded as wildlife and have not traditionally been owned as private property. The parties report that under the current classification, when a bison roams from its owner's land onto another person's property, that property owner is not required to provide certain notice of the bison, as is the case with certain livestock under the estray law, and may dispose of the animal as the property owner sees fit.

S.B. 174 seeks to revise and update the law relating to estrays.

Under AG 142.006, the owner or occupant of property on which an estray is found, held, or impounded is entitled to receive from the owner of the estray the payment of a reasonable amount for maintenance and damages, if the original notice of the discovery of the estray was given to the sheriff not later than the fifth day after the date of discovery.

If the owner of the estray and the owner or occupant of the property are unable to agree to a redemption payment, either party may file a petition in the justice court having jurisdiction and have the amount of the payment determined by the justice of the peace

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0181

Caption: relating to verification of motor vehicle financial responsibility information

Effective Date: 5-24-13

Application:

Statutes TN 601.053

Affected:

Subject: Evidence of financial responsibility

Summary: Amends TN 601.053 to allow the operator of a motor vehicle to provide evidence of financial responsibility by exhibiting an image displayed on a wireless communication device that includes:

- (1) the name of the insurer;
- (2) the insurance policy number;
- (3) the policy period;
- (4) the name and address of each insured;
- (5) the policy limits or a statement that the coverage of the policy complies with the minimum amounts of motor vehicle liability insurance required by this chapter; and
- (6) the make and model of each covered vehicle;

Prohibits an officer from issuing a citation unless the officer attempts to verify financial responsibility through TexSure, if accessible;

Prohibits an officer from accessing contents of a wireless communication device used to provide evidence of financial responsibility except to view the financial responsibility information;

Allows a court to requiring a person to provide a paper copy of the evidence of financial responsibility in a hearing or trial or in discovery;

Subject:

Summary:

Subject:

Summary:

Comments: Current law requires the operator of a motor vehicle, on request, to provide evidence of financial responsibility to a peace officer or to a person involved in an accident with the operator. Evidence of financial responsibility may be exhibited through a liability insurance policy or a photocopy of such a policy, a standard proof of motor vehicle liability insurance provided by the Texas Department of Insurance, an insurance binder that confirms the operator is in compliance, a surety bond certificate, a certificate of deposit with the comptroller of public accounts covering the vehicle, a copy of the certificate of deposit, or a certificate of self-insurance covering the vehicle issued. C.S.B. 181 seeks to increase options for displaying evidence of financial responsibility by allowing a driver to show proof of insurance on a wireless communication device.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0192

Caption: relating to access to criminal history record information by the banking commissioner

Effective Date: 9-1-2013

Application:

Statutes GV 411.092

Affected:

Subject:

Summary:

Subject:

Summary:

Subject:

Summary:

Comments:

S.B. 192 amends the Government Code to establish that the banking commissioner is entitled to obtain from the Department of Public Safety (DPS) criminal history record information maintained by DPS relating to a person who is an applicant for a license, charter, or other authority granted or issued by the banking commissioner under Finance Code provisions relating to trust companies, bank holding companies, interstate bank operations, the regulation of money services businesses, and under Health and Safety Code provisions relating to perpetual care cemeteries. The bill establishes that the banking commissioner is entitled to such information relating to a person who is an employee of or an applicant for employment or volunteer with the Texas Department of Banking or who is a contractor or subcontractor of that department.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0198

Caption: relating to restrictive covenants regulating drought-resistant landscaping or water-conserving natural turf

Effective Date: 9-1-2013

Application:

Statutes PP 202.007

Affected:

Subject: Certain restrictive covenants prohibited

Summary: Amends PP 202.007 to prohibit a property owners' association from including or enforcing a provision in a dedicatory instrument that restricts a property owner from using drought-resistant landscaping or water conserving natural turf;
A property owners' association may require an owner to submit a plan for the installation of drought-resistant landscaping or water conserving turf for approval to ensure maximum aesthetic compatibility with other landscaping in the subdivision;
A property owners' association may not unreasonably deny or withhold approval of a proposed installation of drought-resistant landscaping or water-conserving natural turf or unreasonably determine that the proposed installation is aesthetically incompatible;

Subject:

Summary:

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0209

Caption: relating to the functions and operation of the State Commission on Judicial Conduct

Effective Date: 9-1-2013

Application: Some sections require passage of a constitutional amendment

Statutes Affected: GV 33.001 et seq

Subject:

Summary:

Subject:

Summary:

Subject:

Summary:

Comments: In conjunction with voter approval of a constitutional amendment, authorizes the Commission to use its full range of disciplinary actions following formal proceedings.
S.B. 209 authorizes the Commission to issue a public admonition, warning, reprimand, or order of education following a formal proceeding, in addition to its current authority to issue a public censure or recommend removal or retirement of a judge or justice to a Review Tribunal. The bill provides for these changes to take effect on the date the constitutional amendment proposed by the 83rd Legislature, Regular Session, 2013, regarding this provision takes effect, and only if the voters approve the constitutional amendment.

Authorizes a Court of Review to hear appeals of sanctions following formal proceedings, in the same manner as it hears appeals of censures.

This bill requires the Court of Review to conduct a review of the record of the formal proceeding and to allow new evidence with good cause shown, as is currently done for censures; instead of by trial de novo as is currently done for appeals of sanctions issued in informal proceedings. The bill provides for these changes to take effect on the date the constitutional amendment regarding the authorization of the Commission to issue sanctions following a formal proceeding takes effect contingent upon voter approval.

Requires the Commission to report to the Supreme Court as needed on suggested changes to update the Commission's procedural rules.

The bill requires the Commission to study its procedural rules for needed updates to reflect changes in case law, statute, and the constitution, and to report these findings to the Supreme Court on an as-needed basis. The bill requires the Commission to assess needed updates to improve its operations or increase efficiency. The bill also requires the Commission to make its first assessment and report any needed revisions to the Supreme Court as soon as possible but no later than December 31, 2013.

Requires the Commission to provide Sunset staff with access to observe its closed meetings and review its confidential records to ensure a complete and thorough evaluation of the Commission's activities.

S.B. 209 clarifies that the Commission's confidentiality and privilege provisions do not authorize the Commission to withhold from the Sunset Advisory Commission staff access to any confidential document, record, meeting, or proceeding to which Sunset staff determines access is necessary for a review under the Texas Sunset Act. The bill clarifies that Sunset staff must maintain the same level of confidentiality as the staff of the Commission and, as a result, is entitled to access whatever components of the Commission's process Sunset staff deems necessary. The bill also clarifies that the sharing of confidential agency documents prepared by Commission staff attorneys to aid the Commission in reaching a decision does not constitute a violation of attorney-client privilege.

Requires the Commission to hold an annual public hearing to allow the public to offer input on the Commission's mission and operations.

S.B. 209 requires the Commission to hold an open public meeting at least once every year to seek public input on the Commission's mission and operations. The bill requires the Commission to provide notice of a public hearing to the secretary of state. The bill also requires the secretary of state to post the notice on the Internet for at least seven days before the hearing and to provide members of the public access to view the notice in the manner specified for an open meeting of a governmental body with statewide jurisdiction under Section 551.044 of the Open Meetings Act of the Government Code.

Requires the Commission, after dismissing a complaint, to provide the individual who filed the complaint with the

SUMMARIES -- 83rd LEGISLATURE -- 2013

**Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney**

reason(s) in plain language why the allegation made in the complaint failed to meet the definition of judicial misconduct.

The bill requires the Commission to include, in its notice that informs individuals that the Commission has dismissed their complaint, an explanation of each reason why the conduct alleged in the complaint failed to constitute judicial misconduct. The bill requires the Commission to provide this explanation in plain and easily understandable language.

Clarifies in statute that the Commission is a state agency for the administration of judicial discipline, and does not have the power and authority of a court.

S.B. 209 amends the Commission's enabling statute to state that the Commission does not have the power and authority of a court, but is instead a state agency within the judicial branch that administers judicial discipline.

Maintains in law the requirement for the Commission to distribute an annual report on its activities to protect the public from judicial misconduct.

This bill maintains the requirement in the Commission's enabling statute to report on its activities and sanctions in the preceding fiscal year and requires that the report be provided to the Legislature in an electronic format only.

Requires the Commission to undergo a Sunset review in six years and every 12th year after that year.

The bill makes a one-time change to provide for the next Sunset review to occur in six years, 2019. The bill also provides that, after 2019, the Commission reverts back to a periodic Sunset review every 12th year.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0223

Caption: relating to designation of certain vehicles of the Texas Division of Emergency Management as authorized emergency vehicles

Effective Date: 5-10-13

Application:

Statutes TN 541.201

Affected: TN 546.0065

Subject: Vehicles

Summary: Amends TN 541.201 to include those vehicles of the Texas Division of Emergency Management that have been designated by DPS as an authorized emergency vehicles, within the definition of "authorized emergency vehicle;"

Subject: Authorized Emergency Vehicle of the Texas Division of Emergency Management

Summary: Adds TN 546.0065 to require DPS to designate vehicles of the Texas Division of Emergency Management that may be operated as authorized emergency vehicles;

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0251 **Caption:** relating to an unsworn declaration made by an employee of a state agency or political subdivision in the performance of the employee's job duties

Effective Date: 9-1-2013

Application: Applies only to an unsworn declaration executed on or after 9-1-2013

Statutes CV 132.001

Affected:

Subject: Unsworn declaration

Summary: Amends CV 132.001 to allow an employee of a political subdivision in the performance of the employee's job duties to execute a jurat to an unsworn declaration in a form that includes the agency employing the employee rather than the employee's date of birth and other personal information;

An unsworn declaration made under this section by an employee of a state agency or a political subdivision in the performance of the employee's job duties, must include a jurat in substantially the following form:

"My name is _____,

(First) (Middle) (Last)

and I am an employee of the following governmental agency: _____. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the foregoing is true and correct.

Executed in _____ County, State of _____, on the _____ day of _____, _____.
(Month) (Year)

Declarant"

Subject:

Summary:

Subject:

Summary:

Comments: The Civil Practice and Remedies Code recently was amended to allow the use of an unsworn declaration in lieu of a written sworn declaration, verification, certification, oath, or affidavit. Current law prescribes the format for an unsworn declaration, which requires the declarant to list his or her date of birth and home address. S.B. 251 provides an alternate format for an unsworn declaration made by an employee of a state agency or of a political subdivision in the performance of the employee's job duties that allows the employee to provide relevant job-related information in lieu of the individual's date of birth and home address.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0260

Caption: relating to the absence of a student from school to visit with a parent, stepparent, or guardian who will be or has been deployed on military duty

Effective Date: 6-14-2013

Application:

Statutes ED 25.087

Affected:

Subject: Excused absences

Summary: Amends ED 25.087 to require a school district to excuse a student whose parent, stepparent, or legal guardian is an active duty member of the military and has been called to duty for, is on leave from, or is immediately returned from continuous deployment of at least four months outside the residence, to visit; the excused absence is for no more than 5 days in a school year;
The excused absence must be taken not earlier than the 60th day before the date of deployment, or not later than the 30th day after the date of return from deployment;

Subject:

Summary:

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0265

Caption: relating to bond requirements for county officers and employees, district attorneys, and criminal district attorneys

Effective Date: 5-18-13

Application:

Statutes LG 88.008

Affected:

Subject: Self-insurance instead of bond

Summary: Adds LG 88.008 to provide that, notwithstanding any other law requiring a bond, a county officer or employee is not required to execute the bond and may perform the duties of office or employment if (1) commissioners court authorizes the county to self-insure against losses that would have been covered by the bond, and (2) the county judge approves the order if the county judge was required to approve the bond;

Subject:

Summary:

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0270

Caption: relating to a limited exception to the prohibition on releasing personal information about a juror collected during the jury selection process in certain cases

Effective Date: 9-1-2013

Application: Applies to a writ of habeas corpus pending on or filed after 9-1-2013

Statutes CP 35.29

Affected:

Subject: Personal information about jurors

Summary: Amends CP 35.29 to allow defense counsel to disclose information about jurors to successor counsel representing the same defendant in a habeas corpus proceeding without application to the court or a showing of good cause;

Subject:

Summary:

Subject:

Summary:

Comments: Under current statute, Article 35.29 (Personal Information About Jurors), Code of Criminal Procedure, juror information is confidential and may not be disclosed by the court, the prosecuting attorney, the defense counsel, or any court personnel. In post-conviction capital defense cases, post-conviction counsel must apply to the trial court for access to juror information. This process takes anywhere from one to two months on average and costs time and resources to the state. S.B. 270 carves out a very narrow exception allowing the defense counsel in the original case to disclose the juror information (juror surveys) to successor counsel in post-conviction cases. This is the only part of the case record that currently does not transfer to new counsel automatically.

As proposed, S.B. 270 amends current law relating to a limited exception to the prohibition on releasing personal information about a juror collected during the jury selection process in certain cases.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0275 **Caption:** relating to the penalty for the offense of leaving the scene of an accident that involves personal injury or death

Effective Date: 9-1-2013

Application: Applies only to an offense committed on or after 9-1-2013

Statutes Affected: TN 550.021

Subject: Accident involving personal injury or death

Summary: Amends TN 550.021 to increase the penalty for failing to stop following an accident involving injury to or death of a person to a second degree felony;

Subject:

Summary:

Subject:

Summary:

Comments: The penalty for failure to stop and render aid (third degree felony) is lower than the penalty for intoxication manslaughter (second degree felony), despite the fact that a failure to stop and render aid can lead to the victim's death. Often, alcohol is a factor, and people know to leave the scene of the accident to avoid intoxication-related charges.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0299

Caption: relating to the intentional display of a handgun by a person licensed to carry a concealed handgun

Effective Date: 9-1-2013

Application: Applies only to an offense committed on or after 9-1-2013

Statutes PE 46.035

Affected:

Subject: Unlawful carrying of handgun by license holder

Summary: Amends PE 46.035 to provide that a license holder commits an offense if the license holder carries a handgun and intentionally displays the handgun in plain view of another person in a public place (rather than intentionally fails to conceal the handgun);

Provides that it is a defense to prosecution that the actor displayed the handgun under circumstances in which the actor would have been justified in the use of force or deadly force;

Subject:

Summary:

Subject:

Summary:

Comments: Current law prohibits the intentional failure to conceal a handgun by a person licensed to carry a concealed handgun. Many concealed-carry licensees fear that this language is too broad, and that it could lead to prosecutions in situations where the display of the weapon is inadvertent or where the display of a handgun takes place in a private place in an unthreatening manner, like the home of a friend. Additionally, a recent opinion from the Dallas Court of Appeals has many concerned that courts interpret the current wording of the affirmative defense to the crime of failing to conceal too narrowly. The Dallas Court of Appeals held that this affirmative defense allowed a concealed handgun licensee to draw a handgun only when use of deadly force is authorized.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0354 **Caption:** relating to permitting electronic delivery of certain documents in a criminal case

Effective Date: 5-18-13

Application: Apply to a document delivered, filed, or served on or after 5-18-13

Statutes CP 38.41
Affected: CP 38.42

Subject: Certificate of analysis

Summary: Amends CP 38.41 to include secure electronic mail among the delivery methods by which notice of the filing of a certificate of analysis is provided to the opposing party;

Subject: Chain of custody affidavit

Summary: Amends CP 38.42 to include secure electronic mail among the delivery methods by which notice of the filing of a chain of custody affidavit is provided to the opposing party;

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0366

Caption: relating to the authority of political subdivisions to offer certain deferred compensation plans to employees

Effective Date: 5-18-13

Application:

Statutes GV 209.1025

Affected: GV 609.1175

Subject: Roth contribution programs

Summary: Adds GV 609.1025 to allow a political subdivision to establish a qualified Roth contribution program under which an employee may designate all or a portion of the employee's contribution under a 401(k) plan as a Roth contribution at the time the contribution is made, or convert all or a portion of the employee's previous contribution to a Roth contribution;

Subject: Loans under 457 plan

Summary: Adds GV 609.1175 to allow a 457 plan administrator to develop and implement procedures to allow a qualified vendor to lend money to a participating employee;

Subject:

Summary:

Comments: Currently, political subdivisions are allowed to establish only traditional deferred compensation plans and not qualified Roth contribution plans. There are concerns that some political subdivisions, without realizing they did not have the authority to do so, have implemented Roth contribution programs in their deferred compensation plan offerings in accordance with federal law. There are additional concerns that the plan administrator of a 457 plan does not have the authority to allow a qualified vendor to lend money to an employee participating in such a plan. S.B. 366 seeks to give political subdivisions more freedom in the administration of their deferred compensation plans.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0367

Caption: relating to the disposition of abandoned or unclaimed property seized at the time of certain arrests

Effective Date: 5-18-13

Application: Applies to personal property seized or taken into custody on or after 5-18-13

Statutes CP 18.17

Affected:

Subject: Disposition of abandoned or unclaimed property

Summary: Amends CP 18.17 to allow a law enforcement agency to provide a notice to a defendant arrested for an offense punishable as a Class C misdemeanor, at the time the defendant is taken into custody or released from custody, describing the property being held by the law enforcement agency, the address where the property is being held, and a statement that if the owner does not claim the property before the 31st day after the date the owner is released from custody, the property will be disposed of and the proceeds placed in the treasury after deducting reasonable expenses for keeping and disposing of the property; If the property is not claimed before the 31st day after the owner is released from custody, the law enforcement agency must deliver the property to the purchasing agent who may sell or donate the property without further notice;

Subject:

Summary:

Subject:

Summary:

Comments: Class C prisoners may be booked into jail with property that is too large to be stored in the jail. These items, such as large bags, bicycles, and hard hats, must be taken to a property room for storage. These items are not held as evidence, but instead are simply stored for safekeeping until the individual is released.

Current law requires a person designated by a municipality to mail a notice to the last known address of the owner of abandoned or unclaimed property by certified mail. This notice provides a description of the property held and states that if the owner does not claim such property within 90 days from the date of the notice, such property will be disposed of. A provision to allow notification in person is absent in current law.

S.B. 367 provides a more effective and efficient means of providing notice to persons arrested for misdemeanors—a written notice at the time the prisoner is released. This legislation adds a provision to Section 18.17 (Disposition of Abandoned or Unclaimed Property), Code of Criminal Procedure, to allow the option of presenting a written notice in person to an individual being released from jail on a misdemeanor offense. If the written notice is presented and signed for by the property owner, the time frame for claiming the property is reduced from 90 days to 30 days.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0389 **Caption:** relating to the imposition of court costs in certain criminal proceedings

Effective Date: 6-14-2013

Application: Applies to a defendant convicted of an offense in a district, county, or statutory county court on or after 6-14-2013

Statutes Affected: GV 51.608

Subject: Imposition of court costs in criminal proceedings

Summary: Adds GV 51.608 to provide that notwithstanding any other law establishing court costs collected by a clerk of a district, county, or statutory county court in a criminal case, the amount of a court costs imposed on the defendant must be the amount established under the law in effect on the date the defendant is convicted of the offense;

Subject:

Summary:

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0390 **Caption:** relating to the effective date of a new court cost or fee or of an amendment to the amount of a court cost or fee

Effective Date: 6-14-2013

Application: Applies only to a law imposing or changing the amount of a court cost or fee that takes effect on or after 6-14-2013

Statutes Affected: GV 51.607

Subject: Implementation of new or amended court costs and fees

Summary: Amends GV 51.607 to repeal subsection (d) which provided:
(d) This section does not apply to a court cost or fee if the law imposing or changing the amount of the cost or fee:
(1) expressly provides that this section does not apply to the imposition or change in the amount of the cost or fee; or
(2) takes effect before August 1 or after the next January 1 following the regular session of the legislature at which the law was enacted.

Subject:

Summary:

Subject:

Summary:

Comments: Current law requires that all new criminal court costs imposed during a legislative session become effective on January 1 of the following year. However, there is an exception to this requirement for certain court costs. This exception complicates an already confusing criminal court cost structure by requiring court clerks to charge different costs during various times of the year. S.B. 390 seeks to enact a recommendation of the Texas Judicial Council to repeal the exception so that all new legislatively enacted criminal costs, among other costs and fees, become effective on January 1.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0392 **Caption:** relating to notice to the attorney general of challenges to the constitutionality of Texas statutes

Effective Date: 9-1-2013

Application: Applies to a petition, motion, or other pleading filed in litigation on or after 9-1-2013

Statutes Affected: GV 402.010

Subject: Legal challenges to constitutionality of state statutes

Summary: Amends GV 402.010 to require a party challenging the constitutionality of a statute to file a form adopted by OCA, with the court in which the action is pending indicating which pleading should be served on the attorney general;

Subject:

Summary:

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0393 **Page 1 of 5** **Caption:** relating to the criminal procedures related to children who commit certain Class C misdemeanors

Effective Date: 9-1-2013

Application: CP 45.041 and CP 45.0491 apply to a sentencing proceeding that commences before, on, or after 9-1-2013
CP 45.0217 applies to the disclosure of a record on or after 9-1-2013 regardless of whether the offense was committed before, on, or after 9-1-2013

Statutes Affected: CP 45.0217
CP 45.0491
CP 45.056
ED 25.0915
ED 37.081
ED 37.141 et seq
FA 51.08
FA 52.03
FA 52.031
PE 8.07
PE 8.08

Subject: Confidential records related to the conviction of or deferral of disposition for a child

Summary: Amends CP 45.0217, applicable to a misdemeanor offense punishable by fine only, other than traffic, to require that all records, including those held by law enforcement, and information stored by electronic means or otherwise, relating to a child who is convicted of and has satisfied the judgment for or who has received a dismissal after deferral of disposition are confidential and may not be disclosed to the public;

Subject: Judgment

Summary: Amends CP 45.041 to allow the judge, at the time of conviction of a child, to allow the discharge of fine and costs by:
(1) performing community service or tutoring, or
(2) paying the fine and costs when sentence is pronounced, at some later date, or in intervals;
Requires the choice to be made in writing, signed by the defendant, and the defendant's parent if present; a copy must be provided to the defendant, and the election maintained as a record of the court;
For purposes of electing community service or tutoring to satisfy the judgment, it does not matter whether the offense occurred in a building or on school grounds or not;

Subject: Waiver of payment of fines and costs for indigent defendants and children

Summary: Amends CP 45.0491 to allow a justice court to waive payment of a fine or costs owed by a defendant who defaulted in payment if the court determines that:
(1) the defendant is indigent or was a child at the time the offense was committed; and
(2) discharging the fine and costs under Article 45.049 (community service) or as otherwise authorized by this chapter (tutoring) would impose an undue hardship on the defendant;

Comments: There is concern that too many juveniles are entering the criminal justice system due to the fact that there are no other alternatives. It is often the case that minors who commit minor fine-only misdemeanors face more stringent fines and court costs than minors who commit more serious offenses. Interested parties contend that additional diversionary measures are needed in order to provide early interventions for minors who commit certain minor offenses to allow more resources to be focused on those minors with the potential to commit more serious acts of violence. Recently, the Texas Judicial Council, the policy-making body of the judiciary in Texas, made several recommendations for statutory updates to provide such diversionary programs prior to the referral to municipal and justice courts. C.S.S.B. 393 seeks to codify these recommendations.

As amended:

PE § 8.07. Age Affecting Criminal Responsibility

(a) A person may not be prosecuted for or convicted of any offense that the person committed when younger than 15 years of age except:

- (1) perjury and aggravated perjury when it appears by proof that the person had sufficient discretion to understand the nature and obligation of an oath;
- (2) a violation of a penal statute cognizable under Chapter 729, Transportation Code, except for conduct for which the person convicted may be sentenced to imprisonment or confinement in jail;
- (3) a violation of a motor vehicle traffic ordinance of an incorporated city or town in this state;
- (4) a misdemeanor punishable by fine only;
- (5) a violation of a penal ordinance of a political subdivision;

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

(6) a violation of a penal statute that is, or is a lesser included offense of, a capital felony, an aggravated controlled substance felony, or a felony of the first degree for which the person is transferred to the court under Section 54.02, Family Code, for prosecution if the person committed the offense when 14 years of age or older; or

(7) a capital felony or an offense under Section 19.02 for which the person is transferred to the court under Section 54.02(j)(2)(A), Family Code.

(b) Unless the juvenile court waives jurisdiction under Section 54.02, Family Code, and certifies the individual for criminal prosecution or the juvenile court has previously waived jurisdiction under that section and certified the individual for criminal prosecution, a person may not be prosecuted for or convicted of any offense committed before reaching 17 years of age except an offense described by Subsections (a)(1)-(5).

(c) No person may, in any case, be punished by death for an offense committed while the person was younger than 18 years.

(d) Notwithstanding Subsection (a), a person may not be prosecuted for or convicted of an offense described by Subsection (a)(4) or (5) that the person committed when younger than 10 years of age.

(e) A person who is at least 10 years of age but younger than 15 years of age is presumed incapable of committing an offense described by Subsection (a)(4) or (5), other than an offense under a juvenile curfew ordinance or order. This presumption may be refuted if the prosecution proves to the court by a preponderance of the evidence that the actor had sufficient capacity to understand that the conduct engaged in was wrong at the time the conduct was engaged in. The prosecution is not required to prove that the actor at the time of engaging in the conduct knew that the act was a criminal offense or knew the legal consequences of the offense.

PE § 8.08. CHILD WITH MENTAL ILLNESS, DISABILITY, OR LACK OF CAPACITY. (a) On motion by the state, the defendant, or a person standing in parental relation to the defendant, or on the court's own motion, a court with jurisdiction of an offense described by Section 8.07(a)(4) or (5) shall determine whether probable cause exists to believe that a child, including a child with a mental illness or developmental disability:

(1) lacks the capacity to understand the proceedings in criminal court or to assist in the child's own defense and is unfit to proceed; or

(2) lacks substantial capacity either to appreciate the wrongfulness of the child's own conduct or to conform the child's conduct to the requirement of the law.

(b) If the court determines that probable cause exists for a finding under Subsection (a), after providing notice to the state, the court may dismiss the complaint.

(c) A dismissal of a complaint under Subsection (b) may be appealed as provided by Article 44.01, Code of Criminal Procedure.

(d) In this section, "child" has the meaning assigned by Article 45.058(h), Code of Criminal Procedure.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0393 **Page 2 of 5** **Caption:** relating to the criminal procedures related to children who commit certain Class C misdemeanors

Effective Date:

Application:

Statutes

Affected:

Subject: Juvenile case managers

Summary: Amends CP 45.056, to allow a county court, justice court, municipal court, school district, juvenile probation department, or other governmental entity to:

- (1) employ a case manager to provide services in cases involving juvenile offenders who are before a court consistent with the court's statutory powers or referred to a court by a school administrator or designee for misconduct that would otherwise be within the court's statutory powers prior to a case being filed, with the consent of the juvenile and the juvenile's parents or guardians; or
- (2) agree to jointly employ a case manager; on approval of commissioners court, city council, IDS trustees, juvenile board, or other authority;

On approval of commissioners court or a municipality, allows a justice or municipal court to employ one or more juvenile case managers who:

- (1) shall assist the court in administering the court's juvenile docket and in supervising its court orders in juvenile cases; and
- (2) may provide:
 - (A) prevention services to a child considered at-risk of entering the juvenile justice system; and
 - (B) intervention services to juveniles engaged in misconduct prior to cases being filed, excluding traffic offenses;

Subject: Truancy prevention measures; referral and filing requirement

Summary: Amends ED 25.0915 to require a court to dismiss a complaint that (1) is not accompanied by a statement from the student's school certifying that: (A) the school applied the truancy prevention measures to the student; and (B) the truancy prevention measures failed to meaningfully address the student's school attendance; and (2) does not specify whether the student is eligible for or receives special education services;

Subject: School district peace officers and security personnel

Summary: Amends ED 37.081 to allow a school district peace officer, within the officer's jurisdiction, to dispose of cases (1) without referral to juvenile court under guidelines adopted by the juvenile board under FA 52.03, or by referral to a first offender program established by the juvenile board under FA 52.031;

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0393 **Page 3 of 5** **Caption:** relating to the criminal procedures related to children who commit certain Class C misdemeanors

Effective Date:

Application:

Statutes

Affected:

Subject: Disruption of class and disruption of transportation

Summary: Amends ED 37.124 (disruption of class) and ED 37.126 (disruption of transportation) to provide that the offense does not apply to a person younger than 12 years of age at the time the person engaged in the prohibited conduct;

Subject: Criminal procedure for school offenses

Summary: Adds ED Subchapter E-1, ED 37.141 et seq to define criminal procedures for school offenses, which control over any other law applied to a school offense committed by a child;

"School offense" means an offense committed by a child enrolled in a public school that is a Class C misdemeanor committed on property under the control and jurisdiction of a school district, other than a traffic offense;

Adds ED 37.143 to prohibit the issuance of a citation by a peace officer to a child who is alleged to have committed a school offense; does not prohibit the child from being taken into custody;

Adds ED 37.145 to allow the school to file a complaint against a child if a child fails to comply with or complete graduated sanctions, or if the school has not elected to adopt graduated sanctions;

Adds ED 37.146 to require that a complaint alleging a school offense must:

- (1) be sworn to by a person who has personal knowledge of the underlying facts giving rise to probable cause to believe that an offense has been committed; and
 - (2) be accompanied by a statement from a school employee stating:
 - (A) whether the child is eligible for or receives special services; and
 - (B) the graduated sanctions, that were imposed on the child before the complaint was filed;
- Allows the issuance of a summons after the complaint is filed;

Adds ED 37.147 to allow a prosecutor to adopt rules pertaining to the filing of a complaint that the state considers necessary to:

- (1) determine whether there is probable cause to believe that the child committed the alleged offense;
- (2) review the circumstances and allegations in the complaint for legal sufficiency; and
- (3) see that justice is done;

Subject: Graduated sanctions for certain school offenses

Summary: Adds ED 37.144 to allow a school district that commissions peace officers to develop graduated sanctions that may be required to be imposed on a child before a complaint is filed for the following school offenses:
Disruption of class
Disruption of transportation
Disorderly conduct - abusive or vulgar language, offensive gesture, chemically created noxious odor, offensive abuse or threats, or unreasonable noise;

Graduated sanctions may require:

- (1) a warning letter to be issued to the child and the child's parent or guardian that specifically states the child's alleged school offense and explains the consequences if the child engages in additional misconduct;
- (2) a behavior contract with the child that must be signed by the child, the child's parent or guardian, and an employee of the school and that includes a specific description of the behavior that is required or prohibited for the child and the penalties for additional alleged school offenses, including additional disciplinary action or the filing of a complaint in a criminal court;
- (3) the performance of school-based community service by the child; and
- (4) the referral of the child, and parent, to counseling, community-based services, or other in-school or out-of-school services aimed at addressing the child's behavioral problems;

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

**Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney**

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0393 **Page 4 of 5** **Caption:** relating to the criminal procedures related to children who commit certain Class C misdemeanors

Effective Date:

Application:

Statutes

Affected:

Subject: Transfer from criminal court

Summary: Amends FA 51.08 to require the justice court to waive original jurisdiction and refer the child to juvenile court if the child is charged with a complaint alleging a fine only misdemeanor, other than traffic, and the justice court or another court has previously dismissed a complaint against the child under PE 8.08 (child with mental illness, disability, of lack of capacity);

Subject: Disposition without referral to court

Summary: Amends FA 52.03 to allow a law enforcement officer to dispose of the case of a child taken into custody or accused of a Class C misdemeanor, other than traffic, without referral to juvenile court or filing the case in a justice court, if:
(1) guidelines for disposition have been adopted by the juvenile board;
(2) the disposition is authorized by the guidelines; and
(3) the officer makes a written report of the disposition to the agency, identifying the child and specifying the grounds for believing that the taking into custody or accusation of criminal conduct was authorized;
The guidelines may allow the officer to refer the child to an agency other than the juvenile court, confer with the child and parent, or refer the child and parent for early youth intervention services);

Subject: First offender program

Summary: Amends FA 52.031 to allow the juvenile board to establish a first offender program for referral and disposition of children taken into custody or accused prior to filing of a charge for CINS, a Class C misdemeanor other than traffic, or delinquent conduct other than a felony, or state jail felony or misdemeanor involving violence to a person or use of a firearm, illegal knife or club, or prohibited weapon;
Law enforcement officer taking a child into custody or accusing a child of a Class C misdemeanor, other than traffic or felony, or state jail felony or misdemeanor involving violence to a person or use of a firearm, illegal knife or club, or prohibited weapon, may not refer the child to the juvenile court or the justice court, but may refer the child for disposition under the first offender program only if:
(1) the child has not previously been adjudicated as having engaged in delinquent conduct;
(2) the referral complies with the guidelines;
(3) the officer reports the referral in writing to the agency, identifying the child and specifying the grounds for taking the child into custody or accusing the child of the allowable offense;
Notice of the referral must be received by the parent, stating:
(1) the grounds for taking the child into custody or accusing the child of the offense;
(2) identifying the law enforcement officer or agency to which the child was referred;
(3) describing the nature of the program;
(4) warning that the child's failure to complete the program will result in the child being referred to the juvenile court or other court;

Successful completion of the first offender program results in the case being closed; child may not be referred to juvenile or other court unless child is taken into custody for conduct other than the conduct for which the child was referred to the first offender program within 90 days after the date of completion of the first offender program;

The case of a child referred to the first offender program must be referred to the juvenile court or other court if the child fails to complete the program, or the child or parent terminates the child's participation before completion;

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0393 **Page 5 of 5** **Caption:** relating to the criminal procedures related to children who commit certain Class C misdemeanors

Effective Date:

Application:

Statutes

Affected:

Subject: Age affecting criminal responsibility

Summary: Amends PE 8.07 to clarify that a person may not be prosecuted for or convicted of a fine only misdemeanor or a city or county penal ordinance committed when younger than 10 years of age;

Creates the presumption that a person who is at least 10 years of age but younger than 15 years of age is incapable of committing a fine only misdemeanor or a city or county penal ordinance, other than a juvenile curfew ordinance; allows the presumption to be refuted if the prosecutor proves to the court by a preponderance of the evidence that the child had sufficient capacity to understand that the conduct was wrong at the time in which it was engaged; the prosecutor does not have to prove that the child knew that the act was a crime or knew the legal consequences of the offense;

Subject: Child with mental illness, disability, or lack of capacity

Summary: Adds PE 8.08 to require a court, on its own, or on motion by the prosecutor, the defendant, or a parent, to determine whether probable cause exists to believe that a child, including a child with a developmental disability or mental illness:

(1) lacks the capacity to understand the proceedings in criminal court or to assist in the child's own defense and is unfit to proceed; or

(2) lacks substantial capacity either to appreciate the wrongfulness of the child's own conduct or to conform the child's conduct to the requirement of the law;

Court may dismiss the complaint if the court determines that probable cause exists to believe that a child meets the requirements;

Allows prosecutor to appeal the dismissal;

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0394 **Caption:** relating to restricting access to records of children convicted of or receiving deferred disposition for certain fine-only misdemeanors

Effective Date: 9-1-2013

Application: Applies to disclosure of a record or file on or after 9-1-2013 regardless of whether the offense was committed before, on, or after 9-1-2013

Statutes Affected: CP 45.0217
FA 58.00711

Subject: Confidential records related to the conviction of or deferral of disposition for a child

Summary: Amends CP 45.0217 to make its provisions applicable to a fine only misdemeanor offense, other than traffic; Provides that all records and files, including those held by law enforcement, relating to a child who is convicted of and has satisfied the judgment for, or who has received a dismissal after deferral of disposition for a fine only offense other than traffic, are confidential and may not be disclosed to the public;
Records may be inspected only by:
(1) judges or court staff;
(2) a criminal justice agency for a criminal justice purpose;
(3) the Department of Public Safety;
(4) an attorney for a party to the proceeding;
(5) the child defendant; or
(6) the defendant's parent, guardian, or managing conservator;

Subject: Records relating to children convicted of or receiving deferred disposition for fine only misdemeanors

Summary: Amends FA 58.00711 to make its provisions applicable to a fine only misdemeanor offense, other than traffic;' Provides that all records and files, including those held by law enforcement, relating to a child who is convicted of and has satisfied the judgment for, or who has received a dismissal after deferral of disposition for a fine only offense other than traffic, are confidential and may not be disclosed to the public;

Subject:

Summary:

Comments: H.B. 961, 82nd Legislature, Regular Session, 2011, established that the records of minors convicted of certain fine-only Class C misdemeanors are confidential. Although this bill provided needed protections for children, additional clarification is needed regarding the confidentiality of the records of those minors who are not adjudicated.

S.B. 394 seeks to put in place statutory suggestions of the Texas Judicial Council, which is the policy-making body of the judiciary in this state. This bill expands the confidentiality of records for all minors, including those who received deferred prosecution. It also expands existing confidentiality provisions to include municipal and justice courts.

As proposed, S.B. 394 amends current law relating to restricting access to records of children convicted of or receiving deferred disposition for certain fine-only misdemeanors.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0395 **Caption:** relating to fines and court costs imposed on a child in a criminal case

Effective Date: 9-1-2013

Application: CP 45.041 applies to a sentencing proceeding that commences on or after 9-1-2013;
CP 45.0491 applies to a sentencing proceeding that commences before, on or after 9-1-2013;

Statutes Affected: CP 45.041
CP 45.0491

Subject: Judgment

Summary: Amends CP 45.041 to provide that the judge may allow a defendant who is a child to elect at the time of conviction, to discharge the fine and costs by:
(1) performing community service or receiving tutoring under Article 45.0492, or
(2) paying the fine and costs immediately, at some later date, or in intervals;
Requires the election to be made in writing, signed by the defendant, and if present, the defendant's parent; court must keep the writing and provide a copy to the defendant;
Provides that any defendant who is a child may perform community service or tutoring to discharge a fine or costs, whether or not the offense was committed in a school building or on the grounds of a primary or secondary school at which the defendant was enrolled;

Subject: Waiver of payment of fines and costs for indigent defendants

Summary: Amends CP 45.0491 to allow the justice court to waive the fine and costs of a defendant who was indigent, or who was a child at the time the offense was committed if discharging the fine would impose an undue hardship on the defendant;

Subject:

Summary:

Comments: Prior to the 83rd Legislature, the Texas Judicial Council, which is the policy making body for the Texas judiciary, convened a workgroup of stakeholders to review juvenile justice issues. This review resulted in several legislative proposals, including the statutory proposals contained in S.B. 395.

Juvenile offenders in Texas can potentially be impacted by two different court structures. These include juvenile courts, which have jurisdiction over certain Penal Code violations, and municipal and justice courts, which have jurisdiction over fine-only misdemeanors. An imbalance is created due to the fact that fines are not typically charged within the juvenile court system.

S.B. 395 seeks to balance the imposition of fines and court costs for juveniles while still balancing youth accountability. The bill gives judges in fine-only offenses the discretion to waive payment of fines and court costs for children in the same manner as currently done for indigent defendants and will allow juvenile defendants to choose to elect to pay fines and court costs or dispense of them through community service or receiving tutoring.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0422

Caption: relating to service of citation on a financial institution

Effective Date: 5-2-13

Application:

Statutes CV 17.028

Affected:

Subject: Service on Financial Institutions

Summary: Amends CV 17.028 to provide that citation is served on a financial institution by serving the registered agent or the president or branch manager;

Subject:

Summary:

Subject:

Summary:

Comments: Process service requirements for claims against a financial institution are now required to be served on an institution's registered agent.

As amended:

CV § 17.028. Service on Financial Institutions

(a) In this section, "financial institution" has the meaning assigned by Section 201.101, Finance Code.

(b) Except as provided by Subsection (c), citation may be served on a financial institution by:

(1) serving the registered agent of the financial institution; or

(2) if the financial institution does not have a registered agent, serving the president or a branch manager at any office located in this state.

(c) Citation may be served by:

(1) serving the registered agent of the credit union; or

(2) if the credit union does not have a registered agent, serving the president or vice president.

(d) If citation has not been properly served as provided by this section, a financial institution may maintain an action to set aside the default judgment or any sanctions entered against the financial institution.

(e) A citation served on a credit union that is located in a place of worship may not be served during a worship service.

(f) Service on and delivery to a financial institution of claims against a customer of the financial institution are governed by Section 59.008, Finance Code.

A financial institution is a bank, savings and loan association, federal savings and loan association, federal savings bank, or federal credit union, credit union, or trust company. FI 201.101)

FI § 59.008. Claims Against Customers of Financial Institutions

(a) A claim against a customer of a financial institution shall be delivered or served as otherwise required or permitted by law at the address designated as the address of the registered agent of the financial institution in a registration filed with the secretary of state pursuant to Section 201.102, with respect to an out-of-state financial institution, or Section 201.103, with respect to a Texas financial institution.

(b) If a financial institution files a registration statement with the secretary of state pursuant to Section 201.102, with respect to an out-of-state financial institution, or Section 201.103, with respect to a Texas financial institution, a claim against a customer of the financial institution is not effective as to the financial institution if the claim is served or delivered to an address other than that designated by the financial institution in the registration as the address of the financial institution's registered agent.

(c) The customer bears the burden of preventing or limiting a financial institution's compliance with or response to a claim subject to this section by seeking an appropriate remedy, including a restraining order, injunction, protective order, or other remedy, to prevent or suspend the financial institution's response to a claim against the customer.

(d) A financial institution that does not file a registration with the secretary of state pursuant to Section 201.102, with respect to an out-of-state financial institution, or Section 201.103, with respect to a Texas financial institution, is subject to service or delivery of all claims against customers of the financial institution as otherwise provided by law.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0457

Caption: relating to the confidentiality of certain autopsy records

Effective Date: 9-1-2013

Application: Apply to a request for information that is received on or after 9-1-2013

Statutes CP 49.25

Affected:

Subject: Medical examiners

Summary: Amends CP 45.25 to prohibits records kept by the medical examiner relating to the death of certain individuals from being withheld, subject to a discretionary exception;
A photograph or x-ray of a body taken during an autopsy is excepted from required public disclosure, but is subject to disclosure:
(1) under a subpoena or authority of other law; or
(2) if the photograph or x-ray is of the body of a person who died while in the custody of law enforcement;
A governmental body may withhold a photograph or x-ray without requesting a decision from the attorney general under the Public Information Act;

Subject:

Summary:

Subject:

Summary:

Comments: Under current law, photographic and x-ray autopsy records held by a medical examiner are not subject to mandatory disclosure under the Texas Public Information Act. However, current law provides that each time a request for such records is made, the medical examiner must request a decision from the attorney general regarding whether they must be disclosed.

S.B. 457 provides that the governmental body is not required to seek an open records decision from the Texas attorney general if the governmental body declines to provide the photograph or x-ray.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0458 **Caption:** relating to certain motor vehicle records excepted from disclosure under the Public Information Act

Effective Date: 5-18-2013

Application: Applies to a request for information received by a governmental body on or after 5-18-13

Statutes Affected: GV 552.130

Subject: Exception: confidentiality of certain motor vehicle records

Summary: Amends GV 552.130 to authorize the redaction of certain motor vehicle information without the necessity of requesting a decision from the attorney general;

Subject:

Summary:

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0487

Caption: relating to all-terrain vehicles and recreational off-highway vehicles

Effective Date: 9-1-2013

Application:

Statutes TN 663.001

Affected:

Subject: Definitions

Summary: Amends TN 663.001 to amend the definition of all-terrain vehicle to mean a motor vehicle that is:
(A) equipped with a seat or seats [saddle] for the use of: (i) the rider; and (ii) a passenger, if the motor vehicle is designed by the manufacturer to transport a passenger;
(B) designed to propel itself with three or four tires in contact with the ground;
(C) designed by the manufacturer for off-highway use by the operator only; [and]
(D) not designed by the manufacturer for farming or lawn care; and
(E) not more than 50 inches wide;

Subject:

Summary:

Subject:

Summary:

Comments: It has been estimated that Texas consumers spend billions of dollars annually on outdoor recreation, including the purchase of new and used off-road motorcycles, all-terrain vehicles, and recreational off-highway vehicles and related accessories and services. The outdoor recreation industry generates billions of dollars in wage and salary income and state and local tax revenue and supports more than 250,000 direct jobs in Texas.

Under current law, the definitions of "all-terrain vehicle" and "recreational off-highway vehicle" do not encompass the industry's current and future product offerings. S.B. 487 seeks to update this language to accommodate newer, more popular models of these vehicles.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0510

Caption: relating to passing certain vehicles on a highway

Effective Date: 9-1-2013

Application:

Statutes TN 545.157

Affected: TN 545.301

Subject: Passing Certain Vehicles

Summary: Amends TN 545.157 to require an operator approaching a (i) stationary authorized emergency vehicle using visual signals, (ii) a stationary tow truck using flashing lights, and (iii) a TxDOT vehicle using visual signals which is not separated from the roadway by a traffic control channelizing device, to:
(1) vacate the lane closest to the vehicle if the highway has 2 or more lanes;
(2) slow to a speed not to exceed 20 mph less than the posted speed or 25 mph or more; or 5 mph when the posted speed is less than 25 mph;
Punishable by fine of not less than \$1 or more than \$200;
Punishable by fine of \$500 if violation results in property damage;
Class B misdemeanor if violation results in bodily injury;

Subject:

Summary:

Subject:

Summary:

Comments:

"Traffic control channelizing device" means equipment used to warn and alert drivers of conditions created by work activities and to guide drivers and pedestrians safely; includes traffic cones, tubular markers, vertical panels, drums, barricades, temporary raised islands, concrete or cable barriers, guardrails, or channelizers;

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0553

Caption: relating to certain high school students serving as early voting clerks in an election

Effective Date: 6-14-2013

Application:

Statutes ED 25.087

Affected: EL 83.012

Subject: Excused absence

Summary: Amends ED 25.087 to allow a school district to adopt a policy excusing a student from attending school for service as a student early voting clerk in an election for a maximum of 2 days in a school year;

Subject: EL 83.012

Summary: Adds EL 83.012 to allow the early voting clerk to appoint no more than 4 student early voting clerks to serve at an early voting polling place;

Subject:

Summary:

Comments: Students who get involved in the voting process at a young age are more likely to continue to vote throughout their life.

SB 1134, 81st Legislature, Regular Session, 2009, permitted high school students to participate in voting clerkships. SB 1134 created an opportunity for students to learn about the democratic process in a hands-on manner. These students must get permission from their schools to participate in the clerkships. Unfortunately, many students were unable to participate because they could not do so on the election date.

SB 553 allows students to participate as early voting clerks, thereby expanding the opportunity to participate in the election process. SB 553 allows each polling location to have four students serve as clerks.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0630 **Caption:** relating to certain obligations of and limitations on residential landlords

Effective Date: 1-1-2014

Application: Applies only to a lease the effective date of which is on or after 1-1-2014

Statutes PP 92.024
Affected: PP 92.331

Subject: Landlord's duty to provide copy of lease

Summary: Adds PP 92.024 to require the landlord to provide at least one complete copy of the lease to at least one tenant not later than the 3rd business day after the date the lease is signed; the landlord shall provide a copy of the lease to a tenant who has not received a copy not later than the 3rd business day after the date a landlord receives a written request;
If a tenant submits a plea in abatement or other evidence that the landlord failed to provide a copy of the lease, the court is required to abate an action to enforce the lease, other than an action for nonpayment of rent, but only until the landlord provides the tenant a complete copy of the lease;
Copies may be in paper or electronic format, and sent by email if the parties communicated by email.

Subject: Retaliation by landlord

Summary: Amends PP 92.331 to prohibit a landlord from retaliating against a tenant because the tenant establishes, attempts to establish, or participates in a tenant organization;

Subject:

Summary:

Comments: The Property Code is silent on a landlord's statutory duty to provide a tenant with a copy of the tenant's lease. Also under the Property Code, landlords are prohibited from retaliating against tenants when the tenant has engaged in lawful conduct including exercising a right or remedy against a landlord, providing a landlord with a notice to repair, or complaining in good faith to the governmental entity responsible for enforcing building or housing codes. However, unlike the majority of other states, current law does not prohibit retaliatory actions by the landlord for the tenant's participation or involvement with a tenant organization.

S.B. 630 requires landlords to provide a tenant with a complete copy of the tenant's lease within three business days after it is signed by both parties. S.B. 630 also states that a landlord cannot retaliate against a tenant who establishes, attempts to establish, or participates in a tenant organization.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0634

Effective Date: 9-1-2013

Caption: relating to regulating faulty on-site sewage disposal systems in the unincorporated areas of a county as a public nuisance; providing a criminal penalty

Application:

Statutes HS 343.011

Affected: HS 343.021

Subject: Public nuisance

Summary: Amends HS 343.011 to include (13) surface discharge from an on-site sewage disposal system, as a public nuisance;

Subject: Authority to abate nuisance

Summary: Amends HS 343.021 to allow the county to use any means of abatement reasonably necessary to bring a faulty on-site sewage disposal system into compliance but only after the defendant fails to abate the nuisance within 30 days of the notice to abate given by a county official and the court's order to abate if the defendant is prosecuted and convicted;

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0646

Caption: relating to court-ordered outpatient mental health services

Effective Date: 9-1-2013

Application: Applies to an application for court-ordered mental health services or temporary detention filed on or after 9-1-2013

Statutes HS 574.0125 et seq

Affected:

Subject: Identification of person responsible for court-ordered outpatient mental health services

Summary: Adds HS 574.0125 to require a judge, not later than the third day before the date of a hearing that may result in the judge ordering a patient to receive court-ordered outpatient mental health services, to identify the person the judge intends to designate to be responsible for those services;

Amends HS 574.037 to require the person responsible for outpatient mental health services to submit the program to the court before the hearing for an order for temporary mental health services, before the hearing for an order for extended mental health services, or before the court modifies an order for inpatient treatment, as appropriate.

Requires the program to include services to provide care coordination and any other treatment or services, including medication and supported housing, that are available and considered clinically necessary by a treating physician or the person responsible for the services to assist the patient in functioning safely in the community; Requires the court to order the patient to participate in the program but prohibits the court from compelling performance;

Authorizes the court, if the court receives information that a patient is not complying with the court's order, to set a modification hearing and to issue an order for temporary detention if an application is filed for temporary detention; prohibits the court from punishing the patient by contempt;

Amends HS 574.064 to require a physician to evaluate a patient as soon as possible within 24 hours after the time detention under a temporary detention order begins to determine whether the patient, due to mental illness, presents a substantial risk of serious harm to the patient or others so that the patient cannot be at liberty pending a probable cause hearing

Subject:

Summary:

Subject:

Summary:

Comments: Studies have shown that assisted outpatient mental health treatment is effective in keeping certain patients from committing illegal activities and from going to or returning to prison, and Texas is one of many states that permit this type of court-ordered treatment for patients who have a history of not complying with taking prescribed medications.

Because current Texas law authorizes a judge to "advise but not compel" certain patients to receive treatment with psychoactive medication, some judges are reluctant to order the use of assisted outpatient mental health treatment because these judges believe they do not have the authority to require these patients to take their medications. Interested parties contend that this was not the original intent of the law.

C.S.S.B. 646, among other items, seeks to address this issue and to clarify certain statutory provisions relating to court-ordered outpatient mental health services.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0649

Caption: relating to the exemption of certain property from seizure by creditors

Effective Date: 9-1-2013

Application: Does not apply to property that is subject to a voluntary bankruptcy or a valid claim of a final judgment who has by levy, garnishment, or other process, obtained rights superior to those that would otherwise be held by a trustee in bankruptcy if a petition were pending

**Statutes
Affected:** PP 42.0021

Subject: Additional exemption for certain savings plans

Summary: Amends PP 42.0021 to include a Roth IRA or inherited Roth IRA among those plans and accounts that are exempt from attachment, execution, and seizure for the satisfaction of debts to the extent the plan, contract, annuity, or account is exempt from federal income tax, or to the extent federal income tax on the person's interest is deferred until actual payment of benefits to the person;

Subject:

Summary:

Subject:

Summary:

Comments: Certain insurance and annuity benefits are exempt from seizure by creditors. A question exists as to whether that exemption continues if such proceeds are paid to the estate of the insured decedent. Deductible contributions to a traditional individual retirement account and nondeductible contributions to a Roth IRA are currently exempt from seizure by creditors but there is no such exemption for nondeductible contributions to a traditional individual retirement account. Courts or parties to a suit must then determine whether the taxpayer claimed a deduction for all contributions to a traditional individual retirement account in order to determine what portion of the account is exempt.

S.B. 649 seeks to simplify the administration of this statute by extending the exemption to nondeductible contributions to a traditional individual retirement account. The bill also seeks to amend current law relating to the exemption of certain insurance and annuity benefits from various forms of seizure by creditors.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0651 **Caption:** relating to medical power of attorney

Effective Date: 1-1-2014

Application: Does not affect the validity of a document executed 1-1-2014;
Requires TDHHS to adopt forms by 10-1-2013

Statutes HS 166.164
Affected: HS 166.165

Subject: Form of medical power of attorney

Summary: Amends HS 166.164 to allow a person signing a medical power of attorney to sign the form and have the signature acknowledged before a notary public or sign the form in the presence of two competent adult witnesses;

Subject: Civil action

Summary: Amends HS 166.165 to require that a near relative or responsible adult directly interested in the principal requesting that a medical power of attorney be revoked because the principal was not competent or was under duress, fraud, or undue influence at the time of signing, bring an action for that purpose in the statutory probate court, or if there is not one in the county, in the district court;

Subject:

Summary:

Comments: Currently, a medical power of attorney document is not deemed to be valid unless it is signed in the presence of two competent adult witnesses. However, the current law fails to specify who is required to sign the power of attorney document. Further, the requirement limits the instances in which a signature can be deemed valid, despite the existence of verification measures such as notarization.

S.B. 651 clarifies current law by stating that the principal must sign the document in the presence of two competent witnesses in order for the document to be valid. In addition, S.B. 651 recognizes the principal's signature as valid if the signature is acknowledged by a notary public.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0679 **Caption:** relating to certain records and supporting affidavits filed as evidence in certain actions

Effective Date: 9-1-2013

Application: Applies only to an action commenced on or after 9-1-2013;
As soon as practical, the supreme court shall amend Rule 902(1);

Statutes Affected: CV 18.001

Subject: Affidavit concerning cost and necessity of services

Summary: Amends CV 18.001 to provide that for purposes of a civil action other than an action on a sworn account, that unless a controverting affidavit is served, rather than filed, an affidavit that the amount a person charged for a service was reasonable at the time and place that the service was provided and that the service was necessary is sufficient to support a finding of fact by judge or jury that the amount charged was reasonable or that the service was necessary;
Except as provided by the Texas Rules of Evidence, the records attached to such an affidavit are not required to be filed with the clerk of the court before the trial commences;
An affidavit concerning proof of medical expenses is sufficient if it substantially complies with a specified form provided by the bill;
If a medical bill or other itemized statement attached to such an affidavit reflects a charge that is not recoverable, the reference to that charge is not admissible;

Subject:

Summary:

Subject:

Summary:

Comments: Because affidavits concerning cost and necessity of services are unclear and inconsistent with Texas Rules of Evidence, practitioners often file medical records and medical billing information with the court prior to trial. The filing of such records and information, which contain highly sensitive information and are often voluminous in nature, raises confidentiality concerns and overwhelms the court with unnecessary paperwork and filing. The current expense affidavit is insufficient to prove medical expenses in light of a recent Texas Supreme Court decision, which held that damages for medical expenses are only those medical expenses that are actually paid or to which the provider has a legal right to be paid.

An affidavit concerning proof of medical expenses is sufficient if it substantially complies with the following form:

Affidavit of Records Custodian of

STATE OF TEXAS §
COUNTY OF _____ §

Before me, the undersigned authority, personally appeared _____, who, being by me duly sworn, deposed as follows:

My name is _____. I am of sound mind and capable of making this affidavit, and personally acquainted with the facts herein stated.

I am a custodian of records for _____. Attached to this affidavit are records that provide an itemized statement of the service and the charge for the service that _____ provided to _____ on _____. The attached records are a part of this affidavit.

The attached records are kept by _____ in the regular course of business, and it was the regular course of business of _____ for an employee or representative of _____, with knowledge of the service provided, to make the record or to transmit information to be included in the record. The records were made in the regular course of business at or near the time or reasonably soon after the time the service was provided. The records are the original or a duplicate of the original.

The services provided were necessary and the amount charged for the services was reasonable at the time and place that the services were provided.

The total amount paid for the services was \$_____ and the amount currently unpaid but which _____ has a right to be paid after any adjustments or credits is \$_____.

Affiant

SWORN TO AND SUBSCRIBED before me on the _____ day of _____, _____.

SUMMARIES -- 83rd LEGISLATURE -- 2013

**Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney**

Notary Public, State of Texas

Notary's printed name: _____

My commission expires: _____

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0686

Caption: relating to the change of the name of the Commission on Law Enforcement Officer Standards and Education to the Texas Commission on Law Enforcement

Effective Date: 5-18-13

Application: Name change is effective January 1, 2014

A reference in law to the Commission on Law Enforcement Officer Standards and Education or the Texas Commission on Law Enforcement Officer Standards and Education means the Texas Commission on Law Enforcement

Statutes OC 1701.001 et seq

Affected:

Subject:

Summary:

Subject:

Summary:

Subject:

Summary:

Comments: In the 47 years since it was created the role of the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) has dramatically evolved, through legislative direction, from a training-only role to include regulatory authority. The name change from the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) to simply the Texas Commission on Law Enforcement (TCOLE), makes the agency name consistent with other regulatory agencies that do similar work in other venues.

S.B. 686 amends the Occupations Code changes the name and amends the Code of Criminal Procedure, Education Code, Election Code, Government Code, Health and Safety Code, Human Resources Code, Labor Code, Local Government Code, Parks and Wildlife Code, Penal Code, and Transportation Code to make conforming and nonsubstantive changes.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0692

Caption: relating to the filing by electronic mail of financial disclosures by certain county officers, county employees, or candidates for county office

Effective Date: 9-1-2013

Application:

Statutes LG 159.003

Affected: LG 159.034

Subject: Financial statement required

Summary: Amends LG 159.003 to allow a financial statement to be filed with the county clerk by electronic mail in a manner and format prescribed by the county clerk;

Subject: Filing requirement (financial disclosure reporting system)

Summary: Amends LG 159.034 to allow a financial disclosure report to be filed by electronic mail in a manner and format prescribed by the authority with whom the report is to be filed;

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0698

Caption: relating to the refund of unearned premium for a personal automobile or residential property insurance policy

Effective Date: 5-18-13

Application: Applies only to a policy delivered, issued for delivery, or renewed on or after 9-1-2013

Statutes

Affected:

IN 558.002

Subject:

Summary: Amends IN 558.002 to require an insurer to refund unearned premium to the policyholder not later than the 15th business day after the effective date of cancellation or termination of a policy of personal automobile or residential property insurance; "business day" means a day other than a Saturday, Sunday, or holiday recognized by this state

Subject:

Summary:

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0699

Caption: relating to the contents of an assumed name certificate filed by certain businesses or professionals

Effective Date: 9-1-2013

Application: Applies only to a certificate filed on or after 9-1-2013

Statutes BC 71.102

Affected:

Subject: Contents of certificate

Summary: Amends BC 71.102 to require a certificate for an incorporated business or profession, limited partnership, limited liability partnership, limited liability company, or foreign filing entity state certain information, including the state, country, or other jurisdiction under the laws of which the registrant was incorporated or organized, rather than the state, country, or other jurisdiction under the laws of which the registrant was incorporated or organized and the registrant's registered or similar office address in that state, country, or jurisdiction; and the street or mailing address of the registrant's principal office in this state or outside this state, as applicable, rather than the address of the registrant's principal office, or if the registrant is not required to or does not maintain a registered office in this state, the registrant's office in this state and the registrant's place of business in this state and any office of the registrant outside this state, if the registrant is not incorporated or organized under the laws of this state;

Subject:

Summary:

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0718

Caption: relating to voluntary and involuntary mental health services

Effective Date: 6-14-2013

Application:

Statutes HS 572.001

Affected: HS 572.002

Subject: Request for admission

Summary: Amends HS 572.001 to authorize a person 16 years of age or older to request admission to an inpatient mental health facility or for outpatient mental health services by filing a request with the administrator of the facility where admission or outpatient treatment is requested;
Authorizes the parent, managing conservator, or guardian of a person younger than 18 years of age to request the admission of the person to an inpatient mental health facility or for outpatient mental health services by filing a request with the administrator of the facility where admission or outpatient treatment is requested;
Authorizes an inpatient mental health facility or provider of outpatient mental health services to admit or provide services to a person older than 16 years of age and younger than 18 years of age if the person's parent, managing conservator, or guardian consents to the admission or services, even if the person does not consent to the admission or services;
Authorizes a person younger than 18 years of age, if the person does not consent, to be admitted for inpatient services only pursuant to an application for court-ordered mental health services or emergency detention or an order for protective custody;
Prohibits a person younger than 18 years of age from being involuntarily committed unless provided by this chapter, other state law, or Texas Department of Mental Health and Mental Retardation rule;

Amends HS 572.002 to authorize the administrator of an inpatient or outpatient mental health facility to admit a minor who is 16 years of age or older to an inpatient or outpatient mental health facility as a voluntary patient without the consent of the parent, managing conservator, or guardian;

Subject: Transportation of patient to another state

Summary: Adds HS 572.0051 to prohibit a person from transporting a patient to a mental health facility in another state for inpatient mental health services unless transportation to that facility is authorized by a court order;

Subject:

Summary:

Comments: Texas law is clear that the age of consent for inpatient mental health services for an individual is 16 years of age or older, but silent on the age of consent for outpatient mental health services. Because outpatient services can be used earlier in a mental health crisis, often avoiding the need for more costly and involved inpatient services, it should be made explicit in the Health and Safety Code that the age of consent is the same for both.

Also, current law states that foster parents and Child Protective Services (CPS) staff cannot enroll a minor in inpatient mental health services without the minor's consent, but does not explicitly state what should be done when the minor refuses.

The bill addresses the issue of voluntarily enrollment of minors in services by a parent, guardian, or conservator and matters relating to the age of consent for outpatient mental health services and inpatient services.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0743

Caption: relating to the penalties prescribed for repeated violations of certain court orders or conditions of bond in a family violence case

Effective Date: 9-1-2013

Application: Applies to an offense committed on or after 9-1-2013

Statutes PE 25.072

Affected:

Subject: Repeated violation of certain court orders or conditions of bond in family violence case

Summary: Adds PE 25.072 to create an offense if a person, two or more times during a period that is 12 months or less in duration, engages in conduct that constitutes a violation of certain court orders or conditions of bond in a family violence case under PE 25.07;

Subject:

Summary:

Subject:

Summary:

Comments: Currently, violating a protective order is a Class A misdemeanor under Section 25.07 (Violation of Certain Court Orders or Conditions of Bond in a Family Violence Case), Penal Code. Repeat violations can be prosecuted as a third degree felony if two or more violations are adjudicated within a 12-month period. However, it can take more than a year to adjudicate each violation, thereby leaving victims exposed to harm from offenders who repeatedly violate the order.

S.B. 743 creates Section 25.072, Penal Code, to create a new criminal offense for a continuous violation of a protective order. Under this offense, offenders can be prosecuted for a third degree felony for two or more violations within a 12-month period, even if they are still being adjudicated.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0763

Caption: relating to motorcycle training, the enforcement of certification standards for motorcycles, and the license requirements for a three-wheeled motorcycle; creating an offense

Effective Date: 9-1-2013

Application:

Statutes TN 521.148

Affected:

Subject: Application for Class M license or authorization to operate motorcycle

Summary: Amends TN 521.148 to require Tx DPS to issue a Class M license that is restricted to the operation of a three-wheeled motorcycle if the applicant completed a motorcycle operator training course specific to the operation of a three-wheeled motorcycle;

Subject:

Summary:

Subject:

Summary:

Comments: Motorcycle training and safety programs are crucial to making Texas roadways safer for both motorcyclists and other drivers. The operation of three-wheeled motorcycles, which is significantly different from the operation of a typical motorcycle, has recently increased. Interested parties note that, although there are some training courses for the operation of three-wheeled motorcycles that are distinct from the available training courses for the operation of the more common two-wheeled motorcycles, these three-wheeled motorcycle training courses are more costly and less readily available than comparable courses for two-wheeled motorcycles and that, consequently, there is a growing need for alternative state-approved training courses and licensing requirements specific to these three-wheeled motorcycles.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0821 **Caption:** relating to the prosecution of certain criminal offenses involving theft or involving fraud or other deceptive practices

Effective Date: 9-1-2013

Application: Applies only to an offense committed on or after 9-1-2013

Statutes PE 31.06
Affected: PE 32.41
BC 3.507

Subject: Presumption for theft by check or similar sight order

Summary: Amends PE 31.06 to provide that if the actor obtained property or secured performance of service by issuing or passing a check or similar sight order for the payment of money, when the issuer did not have sufficient funds in or on deposit with the bank or other drawee for the payment in full of the check or order as well as all other checks or orders then outstanding, it is prima facie evidence of the issuer's intent to deprive the owner of property under PE 31.03 (Theft) including a drawee or third-party holder in due course who negotiated the check or order to avoid payment for service under PE 31.04 (Theft of Service) (except in the case of a postdated check or order) if the issuer had no account with the bank or other drawee at the time the issuer issued the check or sight order, or payment was refused by the bank or other drawee for lack of funds or insufficient funds, on presentation within 30 days after issue, and the issuer failed to pay the holder in full within 10 days after receiving notice of that refusal;

Subject: Issuance of bad check or similar sight order

Summary: Amends PE 32.41 to authorize a person charged with an offense under this section to make restitution for the bad checks or sight orders;

Subject: Delivery notification fee by holder of check or similar sight order

Summary: Amends BC 3.507(a) to authorize the holder, the holder's assignee, agent, or representative, or any other person retained by the holder to seek collection of the dishonored check or sight order to charge the drawer or indorser the cost of delivery notification by registered or certified mail with return receipt made under PE 31.06 (Presumption for Theft by Check) or PE 32.41 (Issuance of Bad Check) on return of a check or similar sight order to the holder following dishonor by the payor and prior to the check or sight order being referred for prosecution;

Comments: This legislation is required to bring Texas law up to date regarding the electronic transfer of funds in modern business transactions. Current law addresses the issue of "hot checks," or paper transactions, but does not address insufficiently funded electronic funds transfers, or "hot drafts." Currently, district and county attorneys lack the authority to file charges against individuals or corporations that submit insufficiently funded accounts for electronic funds transfers. Bringing the code up to date will give prosecutors the authority to prosecute those who pay with hot drafts. Moreover, wholesale fuel distributors, who frequently receive payment by electronic funds transfers, would be provided a tool to spur the collection of difficult to collect accounts.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0825

Caption: relating to disciplinary standards and procedures applicable to grievances alleging certain prosecutorial misconduct

Effective Date: 9-1-2013

Application: Requires the Supreme Court to amend Texas rules of Disciplinary Procedure no later than 12-1-2013

Statutes GV 81.072

Affected:

Subject: General disciplinary and disability procedures

Summary: Amends GV 81.072 to require the supreme court to establish minimum standards and procedures for attorney discipline to prohibit a private reprimand for a violation of a rule that requires a prosecutor to disclose to the defense all evidence that tends to negate the guilt of the accused or mitigates the offense; Requires the supreme court to that the statute of limitations applicable to a grievance filed against a prosecutor does not begin to run until the date on which a wrongfully imprisoned person is released from a penal institution;

Subject:

Summary:

Subject:

Summary:

Comments: Under the Texas Disciplinary Rules of Professional Conduct, a prosecutor is required to make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense. Currently, the statute of limitations for filing a grievance against a prosecutor who violates the prosecutor disclosure rule, otherwise known as a Brady violation, begins to run at the time a violation is discovered or should have been discovered. In an effort to address the barriers to seeking and pursuing accountability and justice for wrongfully convicted individuals, S.B. 825 seeks to provide an opportunity for a wrongfully convicted person to pursue such a grievance after being released from prison by tolling the statute of limitations until the date on which the person is released. S.B. 825 also seeks to enhance open government and public confidence in the prosecutor disciplinary process by prohibiting the use of a private reprimand as a means of discipline for such a violation.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0847

Caption: relating to business entities and associations

Effective Date: 9-1-2013

Application:

Statutes BO 3.059
Affected: BO 7.001
BO 11.052
BO 101.052
BO 101.605
BO 101.609
BO 101.622
BO 154.104
BC 24.003 Repealed

Subject:

Summary:

Subject:

Summary:

Subject:

Summary:

Comments: Series limited liability companies (series) are a relatively new type of LLC in Texas. Series operate as independent divisions within the LLC, shielded from liability by the LLC itself.

S.B. 847 amends the Business Organizations Code state that a series is not an independent entity but has the ability to acquire and sell assets and exercise all of the powers and privileges as necessary to conduct its business purpose.

S.B. 847 clarifies that partnership agreements and agreements between LLCs can extend rights to third parties not privy to the agreement.

S.B. 847 requires limited partnerships to notify potential claimants when the entity is in the process of settling their affairs upon dissolution, and clarifies that the owners of partnerships and LLCs possess contractual freedom to eliminate or limit the liability of the entity's governing individuals.

SB 847 Amends Subchapter M, Chapter 101, Business Organizations Code, by adding Section 101.622, as follows:

Sec. 101.622. SERIES NOT A SEPARATE DOMESTIC ENTITY OR ORGANIZATION. Provides that for purposes of this chapter and Title 1 (General Provisions), a series has the rights, powers, and duties provided by this subchapter to the series but is not a separate domestic entity or organization.

SECTION 10. Amends Subchapter B, Chapter 154, Business Organizations Code, by adding Section 154.104, as follows:

Sec. 154.104. RIGHTS OF THIRD PERSONS UNDER PARTNERSHIP AGREEMENT. Authorizes a partnership agreement to provide rights to any person, including a person who is not a party to the partnership agreement, to the extent provided by the partnership agreement.

SB 847 repeals BC 23.003(c) defining partnership insolvency: A partnership is insolvent under Subsection (a) of this section if the sum of the partnership's debts is greater than the aggregate, at a fair valuation, of all of the partnership's assets and the sum of the excess of the value of each general partner's nonpartnership assets over the partner's nonpartnership debts.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0849

Caption: relating to social purposes of a for-profit corporation

Effective Date: 9-1-2013

Application:

Statutes BO 1.002

Affected: BO 3.007

Subject: Supplemental provisions required in certificate of formation of for-profit or professional corporation

Summary: Amends BO 3.007 to allow a for-profit corporation to include one or more social purposes in the corporation's certificate of formation and to require the board of directors and officers of the corporation to consider any social purpose specified in the certificate of formation in discharging the duties of directors or officers;

Subject: Definitions

Summary: Amends BO 1.002 to define "social purposes" to mean:
one or more purposes of a for-profit corporation that are specified in the corporation's certificate of formation and consist of promoting one or more positive impacts on society or the environment or of minimizing one or more adverse impacts of the corporation's activities on society or the environment. Those impacts may include:
(A) providing low-income or underserved individuals or communities with beneficial products or services;
(B) promoting economic opportunity for individuals or communities beyond the creation of jobs in the normal course of business;
(C) preserving the environment;
(D) improving human health;
(E) promoting the arts, sciences, or advancement of knowledge;
(F) increasing the flow of capital to entities with a social purpose; and
(G) conferring any particular benefit on society or the environment.

Subject:

Summary:

Comments: Both federal income tax law and state corporate law have historically divided corporations into either for-profit or nonprofit corporations. The primary purpose of a for-profit corporation is creating financial gain for its shareholders. Nonprofit corporations can have a social purpose or cause, but cannot have economic owners or make dividends to investors.

Nationally, the movement of social entrepreneurship is on the rise and continuing to gain prominence in the corporate community. Broadly, social entrepreneurship refers to a person or entity who uses entrepreneurial principles to affect change in a particular social purpose or cause. This movement has reached both consumers and investors and more businesses are seeking to distinguish themselves by aligning with a particular social purpose.

S.B. 849 amends the Business Organizations Code to authorize a for-profit corporation to include a "social purpose" in its certificate of formation.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0852 **Caption:** relating to availability of certain property and casualty insurance forms

Effective Date: 9-1-2013

Application: Applies only to a policy that is delivered, issued for delivery, or renewed on or after 9-1-2013

Statutes Affected: IN 1812.001 et seq

Subject: Availability of certain forms

Summary: Adds IN 1812.002 to allow an insurer to make a personal automobile, commercial automobile, inland marine, or residential property insurance policy available to an insured by posting a specimen policy on the insurer's internet website;

Subject: Notice of availability of certain forms

Summary: Adds IN 1812.003 to require an insurer posting a policy on the website to disclose that the specimen policy is available on the website, and clearly identify each posted specimen policy incorporated into the insured's policy; this information must be clearly stated on the declarations page; the insurer must also explain how to obtain a copy of the specimen policy, and provide the Texas Department of Insurance and the office of public insurance counsel an electronic copy of the specimen policy that may be posted on the Internet website of TDI or the office of public insurance counsel;
Insurer must notify of amendments or additions to the policy;
Posting must be in readily capable of being saved or printed;

Subject:

Summary:

Comments: Many property and casualty insurers make insurance policies available by mailing the policy to the insured, resulting in costs to the insurer for mailing, printing, and paper. These parties assert that such costs could be reduced by permitting a property and casualty insurer to make a policy available by posting certain specimen policies on the insurer's website.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0887

Caption: relating to certain correction instruments in the conveyance of real property

Effective Date: 9-1-2013

Application:

Statutes PP 5.028

Affected: PP 5.030

Subject: Correction instruments: nonmaterial corrections

Summary: Amends PP 5.028 to allow a person who has personal knowledge of facts relevant to the correction of a recorded original instrument of conveyance to prepare or execute a correction instrument to make a nonmaterial change resulting from inadvertent error, including correction of a legal description, or an omitted call in metes and bounds;

Subject: Correction instrument: effect

Summary: Amends PP 5.030 to provide that a correction instrument replaces and is a substitute for the original instrument, and allows a bona fide purchaser of property that is subject to a correction instrument, to rely on the instrument against any person making an adverse or inconsistent claim
Provides that a correction instrument is subject to the property interest of a creditor or a subsequent purchaser for valuable consideration without notice acquired on or after the date the original instrument was filed for record and before the correction instrument filed for record;

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0946

Caption: relating to the right to terminate a lease and avoid liability by a victim of certain sexual offenses or stalking

Effective Date: 1-1-2014

Application:

Statutes PP 92.0161

Affected:

Subject: Right to vacate and avoid liability following certain sex offenses or stalking

Summary: Amends PP 92.0161 to include a tenant who is a victim or a parent or guardian of a victim of indecency with a child or sexual performance by a child among the tenants who are authorized to terminate the tenant's rights and obligations under a lease, vacate the dwelling, and avoid liability for future rent and certain other sums due under the lease if the offense takes place during the preceding six-month period on the premises or at any dwelling on the premises and if the tenant provides to the landlord or the landlord's agent a copy of certain documentation of the assault or abuse of the victim or documentation of a protective order relating to sexual assault, trafficking, or stalking;
Authorizes a tenant who is a victim or a parent or guardian of a victim of stalking that takes place during the preceding six-month period on the premises or at any dwelling on the premises to exercise such rights if the tenant provides to the landlord or the landlord's agent a copy of documentation of a stalking protective order or a protective order relating to trafficking, sexual assault, or stalking, except for a temporary ex parte order, or documentation of the stalking from a specified service provider and a law enforcement incident report or, if a law enforcement incident report is unavailable, another record maintained in the ordinary course of business by a law enforcement agency;
Requires a tenant who is a parent or guardian of a victim to reside with the victim to exercise the rights;
Prohibits the disclosure of information to any other person except for a legitimate or customary business purpose or as may be required by law;

Subject:

Summary:

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0953

Caption: relating to the adoption of the Uniform Trade Secrets Act

Effective Date: 9-1-2013

Application: Applies to misappropriation of a trade secret made on or after 9-1-2013

Statutes Affected: CV 123A.001 et seq

Subject:

Summary:

Subject:

Summary:

Subject:

Summary:

Comments: Texas is currently one of only a few states that have not adopted the Uniform Trade Secrets Act. S.B. 953 defines "trade secret" as information, including a formula, pattern, compilation, program, device, method, technique, process, financial data, or list of actual or potential customers or suppliers, that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value by its disclosure or use, and that is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. The bill defines "proper means" as the discovery by independent development, reverse engineering unless prohibited, or any other means that is not improper.

S.B. 953 amends the Civil Practice and Remedies Code to authorize injunctive relief for actual or threatened misappropriation of trade secrets. The bill requires such an injunction to be terminated, on application to the court, when the trade secret has ceased to exist, but authorizes the injunction to be continued for an additional reasonable period of time in order to eliminate commercial advantage that otherwise would be derived from the misappropriation. The bill authorizes an injunction, in exceptional circumstances, to condition future use upon payment of a reasonable royalty for no longer than the period of time for which use could have been prohibited and specifies that exceptional circumstances include a material and prejudicial change of position before acquiring knowledge or reason to know of misappropriation that renders a prohibitive injunction inequitable. The bill authorizes, in appropriate circumstances, affirmative acts to protect a trade secret to be compelled by court order.

S.B. 953 establishes that a claimant is entitled to recover damages for misappropriation in addition to or in lieu of injunctive relief and that these damages can include both the actual loss caused by misappropriation and the unjust enrichment caused by misappropriation that is not taken into account in computing actual loss. The bill authorizes, in lieu of damages measured by other methods, the damages caused by misappropriation to be measured by imposition of liability for a reasonable royalty for a misappropriator's unauthorized disclosure or use of a trade secret. The bill authorizes the fact finder, if willful and malicious misappropriation is proven by clear and convincing evidence, to award exemplary damages in an amount not exceeding twice that of any award made under the bill's provisions relating to damages for misappropriation. The bill authorizes the court to award reasonable attorney's fees to the prevailing party if a claim of misappropriation is made in bad faith, if a motion to terminate an injunction is made or resisted in bad faith, or if willful or malicious misappropriation exists.

S.B. 953 requires the court to preserve the secrecy of an alleged trade secret by reasonable means and specifies that there is a presumption in favor of granting protective orders to preserve the secrecy of trade secrets. The bill authorizes protective orders to include provisions limiting access to confidential information to only the attorneys and their experts, holding in-camera hearings, sealing the records of the action, and ordering any person involved in the litigation not to disclose an alleged trade secret without prior court approval.

S.B. 953 specifies that its provisions displace conflicting tort, restitutionary, and other state law providing civil remedies for misappropriation of a trade secret, except that the bill's provisions do not affect contractual remedies, whether or not based upon misappropriation of a trade secret; other civil remedies that are not based upon misappropriation of a trade secret; or criminal remedies, whether or not based upon misappropriation of a trade secret. The bill clarifies that, to the extent that its provisions conflict with the Texas Rules of Civil Procedure, the bill's provisions control. The bill prohibits the supreme court from amending or adopting rules in conflict with its provisions. The bill requires its provisions to be applied and construed to effectuate its general

SUMMARIES -- 83rd LEGISLATURE -- 2013

**Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney**

purpose to make uniform the law with respect to trade secrets among the states enacting it. The bill clarifies that its provisions do not affect the disclosure of public information by a governmental body under public information law.

S.B. 953 removes the offense of theft of trade secrets, as described by applicable Penal Code provisions, from the definition of "theft" for purposes of the Texas Theft Liability Act.

S.B. 953 defines "misappropriation" as one of the following acts:

- acquisition of another's trade secret by a person who knows or has reason to know that the trade secret was acquired by improper means, including theft, bribery, misrepresentation, breach or inducement of a breach of a duty to maintain secrecy, to limit use, or to prohibit discovery of a trade secret, or espionage through electronic or other means;
- disclosure or use of a trade secret of another without express or implied consent by a person who used such improper means to acquire knowledge of the trade secret;
- disclosure or use of a trade secret of another without express or implied consent by a person who, at the time of disclosure or use, knew or had reason to know that the person's knowledge of the trade secret was derived from or through a person who had utilized such improper means to acquire it, was acquired under circumstances giving rise to a duty to maintain its secrecy or limit its use, or was derived from or through a person who owed a duty to the person seeking relief to maintain its secrecy or limit its use; or
- disclosure or use of a trade secret of another without express or implied consent by a person who, before a material change of the person's position, knew or had reason to know that it was a trade secret and that knowledge of it had been acquired by accident or mistake.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0966

Caption: relating to creation of the Judicial Branch Certification Commission and the consolidation of judicial profession regulation; imposing penalties; authorizing fees

Effective Date: 9-1-2014

Application: Supreme Court shall adopt rules no later than 9-1-2014;
On 9-1-2014 the Judicial Branch Certification Commission is created; the Court Reporters Certification Board, Guardianship Certification Board, and Process Server Review Board are abolished;
Duties, including those relating to court interpreters are transferred to Judicial Branch Certification Commission;
Various employees, contracts, property, and records are transferred to OCA;

**Statutes
Affected:** GV 152.001 et seq

Subject: Court Professions regulations

Summary: Adds GV Title 2, Subtitle K Chapter 152.001 et seq to create the Judicial Branch Certification Commission comprised of nine members:
5 judges, 3 from a court that employs a court reporter;
4 public members;
Commission may establish advisory boards, including Court Reporters Certification Advisory Board, Guardianship Certification Advisory Board, Process Server Certification Advisory Board, and Licensed Court interpreter Advisory Board;

Subject:

Summary:

Subject:

Summary:

Comments: Currently, the Court Reporters Certification Board, the Guardianship Certification Board, and the process server review board all exist as separate regulatory entities. The licensed court interpreter advisory board is currently an advisory board to the Texas Commission of Licensing and Regulation. Interested parties observe that since these boards all function to assist with the certification of judicial agents or those individuals who assist the court, efficiencies could be realized through a consolidation of efforts.

S.B. 966 seeks to provide greater efficiency and remove the duplication of efforts by consolidating the Court Reporters Certification Board, the Guardianship Certification Board, and the process server review board into an entity to be known as the Judicial Branch Certification Commission and also by moving oversight of the licensed court interpreter advisory board to this new entity.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 0972

Caption: relating to the repeal of certain offenses relating to certain occupations regulated by the Texas Department of Licensing and Regulation

Effective Date: 5-18-13

Application: Does not apply to an offense committed before 5-18-13

Statutes HS 754.024 (Repeal)

Affected: OC 1151.251 (Repeal)

OC 1602.554 (Repeal)

Subject:

Summary:

Subject:

Summary:

Subject:

Summary:

Comments: S.B. 972 repeals the following provisions:

- HS 754.024, relating to a Class C misdemeanor offense for noncompliance with the inspection, certification, and registration requirements of elevators, escalators, and related equipment
- OC 1151.251 (Failure of chief appraiser of appraisal district, person who appraises property for ad valorem tax purposes for appraisal district, and assessor-collector for taxing unit, to register with TDLR), relating to certain misdemeanor offenses by property tax professionals and property tax consultants
- Subchapter L, Chapter 1602, Occupations Code, relating to a fine only misdemeanor offense for violating statutory provisions governing cosmetologists

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 1010

Caption: relating to access to certain facilities by search and rescue dogs and their handlers; providing a criminal penalty

Effective Date: 9-1-2013

Application:

Statutes HS 785.001 et seq

Affected:

Subject: Discrimination prohibited

Summary: Adds HS 785.002 to prohibit the owner, manager, or operator of a public facility, or an employee or other agent of the owner, manager, or operator, from denying a search and rescue dog's handler admittance to the facility because of the presence of the handler's search and rescue dog;
Prohibits the owner, manager, or operator of a common carrier, airplane, railroad train, motor bus, streetcar, boat, or other public conveyance or mode of transportation operating within this state, or an employee or other agent of the owner, manager, or operator, from:
(1) refusing to accept as a passenger a search and rescue dog or the dog's handler; or
(2) requiring the dog's handler to pay an additional fare because of the search and rescue dog;
Provides that the discrimination prohibited by this section includes:
(1) refusing to allow a search and rescue dog or the dog's handler to use or be admitted to a public facility;
(2) a ruse or subterfuge calculated to prevent or discourage a search and rescue dog or the dog's handler from using or being admitted to a public facility; and
(3) failing to make a reasonable accommodation in a policy, practice, or procedure to allow a search and rescue dog or the dog's handler to be admitted to a public facility;
Entitles a search and rescue dog's handler to full and equal access, in the same manner as other members of the general public;

Subject: Penalty for discrimination

Summary: Adds HS 785.003 to create an offense if a person violates the discrimination provisions;
Misdemeanor punishable by a fine of not less than \$300 or more than \$1000;
Defense that handler failed to provide credentials when requested;

Subject: Responsibilities of handlers; civil liability

Summary: Adds HS 785.004 to require a handler who accompanies a search and rescue dog to keep the dog properly harnessed or leashed;
Authorizes a person to maintain a cause of action against a dog's handler for personal injury, property damage, or death resulting from the failure of the dog's handler to properly harness or leash the dog under the same law applicable to other causes brought for the redress of injuries caused by animals;
Provides that the handler of a search and rescue dog is liable for any property damage caused by the search and rescue dog to a public facility or to housing accommodations;
Provides that a governmental unit is liable only as provided by the TTCA (CV Chapter 101); and the liability of a public servant is under the Limitation of Liability for Public Servants (CV Chapter 108);

Comments: Texas faces numerous emergency situations every year, including hurricanes, tornadoes, and wildfires. When these disasters strike, search and rescue teams often travel with little advance notice to locations across Texas. While traveling, search and rescue teams frequently experience difficulties in securing lodging, food, and public transportation.

In an effort to make traveling and lodging more convenient for search and rescue teams, S.B. 1010 prohibits discrimination against search and rescue dogs and their handlers by public facilities. The bill provides that a person may ask to see proof that the handler is a peace officer, firefighter, or a certified member of a nationally recognized search and rescue agency.

S.B. 1010 amends current law relating to access to certain facilities by search and rescue dogs and their handlers, and provides a criminal penalty.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 1044

Effective Date: 9-1-2013

Caption: relating to access to criminal history record information by certain entities, including certain local government corporations, public defender's offices, and the office of capital writs, and to an exemption for those offices from fees imposed for processing inquiries for that information

Application:

Statutes GV 411.1272

Affected: GV 411.1301

Subject: Access to criminal history record information: office of capital writs and public defender's offices

Summary: Adds GV 411.1272 to allow access to criminal history record information by the office of capital writs and a public defender's office;

Subject: Access to criminal history record information: certain local government corporations engaged in criminal identification activities

Summary: Adds GV 411.1301 to allow access to criminal history record information by transportation corporations for governmental purposes relating to criminal identification activities, including forensic analysis, and that allocates a substantial part of its annual budget to those activities;

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 1061

Caption: relating to parking privileges of disabled veterans on the property of institutions of higher education

Effective Date: 6-14-2013

Application:

Statutes TN 681.008

Affected:

Subject: Parking privileges: certain veterans and military award recipients

Summary: Amends TN 681.008 to allow a veteran to park for an unlimited period in a parking space designated for persons with disabilities on property of an institution of higher education, regardless of whether a permit is required; a permit may be required, but no fee can be charged;

Subject:

Summary:

Subject:

Summary:

Comments: Disabled veterans who meet specified requirements, such as displaying a specialized license plate, are allowed to park in spaces designated for persons with physical disabilities. S.B. 1061 seeks to clarify that institutions of higher education must also allow access to those designated parking spaces for eligible vehicles, regardless of the institution's parking permit requirements.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 1074 **Caption:** relating to electronic transmission of documentation involved in certain insurance transactions

Effective Date: 9-1-2013

Application: Applies only to a written communication that is delivered by electronic means on or after 1-1-2014

Statutes Affected: IN 35.004

Subject: Minimum standards for regulated entities electronically conducting business with consumers

Summary: Amends IN 35.004 to authorize the delivery, storage, and presentment by electronic means of a required notice or other written communication with a party in an insurance transaction, or that is to serve as evidence of insurance coverage, only if such delivery, storage, or presentment complies with the state Uniform Electronic Transactions Act;
Defines "party" to mean a recipient, including an applicant, insured, policyholder, enrollee, or annuity contract holder, of a notice or document or of information required as part of an insurance transaction;
Establishes that delivery of a written communication in compliance with the bill's provisions is equivalent to any delivery method required by law;
Authorizes a written communication to be electronically delivered to a party by a regulated entity if the party affirmatively consented to such delivery and has not withdrawn the consent; if the party, before giving consent, is provided with a clear and conspicuous statement informing the party of certain specified rights or options relating to such consent; and if the party, before giving consent, is provided with a statement identifying the hardware and software requirements for accessing and retaining such written communication and electronically consents or confirms consent in a manner that reasonably demonstrates that the party can access a written communication in the electronic form used to deliver the communication;

Amends IN 35.0045 to require the insurance commissioner to promulgate rules;

Subject:

Summary:

Subject:

Summary:

Comments: Most states have adopted the Uniform Electronic Transactions Act which validates electronic versions of signatures, records, and storage as the legal equivalent to their paper counterparts. Additionally, the federal government enacted the Electronic Signatures in Global and National Commerce Act to allow the use of electronic records to satisfy any regulation requiring that such information be provided in writing. S.B. 1074 seeks to make e-commerce a viable and equivalent channel of communication in the insurance industry by allowing a property and casualty insurance company to legally deliver insurance documents and notices electronically to an insured when the insured agrees to conduct business by electronic means.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 1114 **Page 1 of 3** **Caption:** relating to the prosecution of certain misdemeanor offenses committed by children and to school district law enforcement

Effective Date: 9-1-2013

Application: Applies only to an offense committed on or after 9-1-2013;
ED 37.085 applies to an offense committed before, on, or after 9-1-2013

Statutes Affected: CP 45.058
ED 25.0915
ED 37.001
ED 37.081
ED 37.085
ED 37.124
ED 37.126
FA 52.031
PE 42.01

Subject: Children taken into custody

Summary: Amends CP 45.058 to require a law enforcement officer who issues a citation or files a complaint for conduct by a child 12 years of age or older that is alleged to have occurred on school property or on a vehicle owned or operated by a county or independent school district to submit to the court:
the offense report,
a statement by a witness to the alleged conduct, and
a statement by a victim of the alleged conduct, if any;
Prohibits the prosecutor from proceeding in a trial of an offense unless the law enforcement officer complied with the submission requirement;
Prohibits a law enforcement officer from issuing a citation or filing a complaint for conduct by a child younger than 12 years of age that is alleged to have occurred on school property or on a vehicle owned or operated by a county or independent school district;

Subject: Truancy prevention measures; referral and filing requirement

Summary: Amends ED 25.0915 to require a court to dismiss a complaint or referral made by a school district that is not accompanied by a statement from the student's school certifying that:
(A) the school applied the truancy prevention measures adopted under Subsection (a) to the student; and
(B) the truancy prevention measures failed to meaningfully address the student's school attendance; and
(2) specify whether the student is eligible for or receives special education services;

Subject: Student code of conduct

Summary: Amends ED 37.001 to require the board of trustees of an independent school district to include in the student code of conduct the circumstances under which a student may be removed from a classroom, campus, disciplinary alternative education program, or vehicle owned or operated by the district; and provide methods for managing students in the classroom, on school grounds, and on a vehicle owned or operated by the district, appropriate for students at each grade level;

Comments: Texas students may be issued a Class C misdemeanor citation for misbehavior, which may result in a fine of up to \$500, potential jail time if the citation goes unaddressed and progresses to the warrant stage, and a criminal record for the student. S.B. 1114 seeks to decrease the number of student referrals to criminal court and the number of youth exposed to the criminal justice system because of common misbehavior.

As amended:

ED § 37.124. Disruption of Classes

(a) A person other than a primary or secondary grade student enrolled in the school commits an offense if the person, on school property or on public property within 500 feet of school property, alone or in concert with others, intentionally disrupts the conduct of classes or other school activities.

(b) An offense under this section is a Class C misdemeanor.

(c) In this section:

(1) "Disrupting the conduct of classes or other school activities" includes:

(A) emitting noise of an intensity that prevents or hinders classroom instruction;

(B) enticing or attempting to entice a student away from a class or other school activity that the student is required to attend;

(C) preventing or attempting to prevent a student from attending a class or other school activity that the student is required to attend; and

(D) entering a classroom without the consent of either the principal or the teacher and, through either acts of

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misconduct or the use of loud or profane language, disrupting class activities.

(2) "Public property" includes a street, highway, alley, public park, or sidewalk.

(3) "School property" includes a public school campus or school grounds on which a public school is located and any grounds or buildings used by a school for an assembly or other school-sponsored activity.

(d) It is an exception to the application of Subsection (a) that, at the time the person engaged in conduct prohibited under that subsection, the person was younger than 12 years of age.

ED § 37.126. Disruption of Transportation

(a) Except as provided by Section 37.125, a person other than a primary or secondary grade student commits an offense if the person intentionally disrupts, prevents, or interferes with the lawful transportation of children:

(1) to or from school on a vehicle owned or operated by a county or independent school district; or

(2) to or from an activity sponsored by a school on a vehicle owned or operated by a county or independent school district.

(b) An offense under this section is a Class C misdemeanor.

(c) It is an exception to the application of Subsection (a)(1) that, at the time the person engaged in conduct prohibited under that subdivision, the person younger than 12 years of age.

PE § 42.01. Disorderly Conduct

(a) A person commits an offense if he intentionally or knowingly:

(1) uses abusive, indecent, profane, or vulgar language in a public place, and the language by its very utterance tends to incite an immediate breach of the peace;

(2) makes an offensive gesture or display in a public place, and the gesture or display tends to incite an immediate breach of the peace;

(3) creates, by chemical means, a noxious and unreasonable odor in a public place;

(4) abuses or threatens a person in a public place in an obviously offensive manner;

(5) makes unreasonable noise in a public place other than a sport shooting range, as defined by Section 250.001, Local Government Code, or in or near a private residence that he has no right to occupy;

(6) fights with another in a public place;

(7) discharges a firearm in a public place other than a public road or a sport shooting range, as defined by Section 250.001, Local Government Code;

(8) displays a firearm or other deadly weapon in a public place in a manner calculated to alarm;

(9) discharges a firearm on or across a public road;

(10) exposes his anus or genitals in a public place and is reckless about whether another may be present who will be offended or alarmed by his act; or

(11) for a lewd or unlawful purpose:

(A) enters on the property of another and looks into a dwelling on the property through any window or other opening in the dwelling;

(B) while on the premises of a hotel or comparable establishment, looks into a guest room not the person's own through a window or other opening in the room; or

(C) while on the premises of a public place, looks into an area such as a restroom or shower stall or changing or dressing room that is designed to provide privacy to a person using the area.

(a-1) For purposes of Subsection (a), the term "public place" includes a public school campus or the school grounds on which a public school is located.

(b) It is a defense to prosecution under Subsection (a)(4) that the actor had significant provocation for his abusive or threatening conduct.

(c) For purposes of this section:

(1) an act is deemed to occur in a public place or near a private residence if it produces its offensive or proscribed consequences in the public place or near a private residence; and

(2) a noise is presumed to be unreasonable if the noise exceeds a decibel level of 85 after the person making the noise receives notice from a magistrate or peace officer that the noise is a public nuisance.

(d) An offense under this section is a Class C misdemeanor unless committed under Subsection (a)(7) or (a)(8), in which event it is a Class B misdemeanor.

(e) It is a defense to prosecution for an offense under Subsection (a)(7) or (9) that the person who discharged the firearm had a reasonable fear of bodily injury to the person or to another by a dangerous wild animal as defined by Section 822.101, Health and Safety Code.

(f) Subsections (a)(1), (2), (3), (5), and (6) do not apply to a person who, at the time the person engaged in conduct prohibited under the applicable subdivision, was a student younger than 12 years of age, and the prohibited conduct occurred at a public school campus during regular school hours.

(g) Noise arising from space flight activities, as defined by Section 100A.001, Civil Practice and Remedies Code, if lawfully conducted, does not constitute "unreasonable noise" for purposes of this section.

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Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 1114 **Page 2 of 3** **Caption:** relating to the prosecution of certain misdemeanor offenses committed by children and to school district law enforcement

Effective Date:

Application:

Statutes

Affected:

Subject: School district peace officers and security personnel

Summary: Amends ED 37.081 to allow a peace officer, within the officer's jurisdiction, to take a child into custody in accordance with Chapter 52 of the Family Code or CP 45.058;
School district's chief of police is accountable and reports to the superintendent;

Subject: Arrests prohibited for certain Class C misdemeanors

Summary: Adds ED 37.085, notwithstanding any other law, to prohibit the issuance of a warrant for the arrest of a person for a Class C misdemeanor under the Education Code committed when the person was younger than 17 years of age;

Subject: Disruption of classes

Summary: Amends ED 37.124 to except a primary or secondary grade student (any student in grades K-12) enrolled in a school from the commission of the offense of disruption of classes or other school activities on school property or on public property within 500 feet of school property;

Comments:

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Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 1114 **Page 3 of 3** **Caption:** relating to the prosecution of certain misdemeanor offenses committed by children and to school district law enforcement

Effective Date:

Application:

Statutes

Affected:

Subject: Disruption of transportation

Summary: Amends ED 37.126 to exempt a primary or secondary grade student (any student in grades K-12) enrolled in a school from the commission of the offense of disruption of transportation to or from school, or to or from an activity sponsored by a school on a vehicle owned or operated by a county or ISD;

Subject: First offender program

Summary: Amends FA 52.031 to allow the referral of a child accused of a Class C misdemeanor, other than traffic, to be referred to a first offender program prior to the filing of a complaint with a criminal court; (requires the juvenile board to adopt guidelines and designate law enforcement officers to process a child under the first offender program);
Before issuing a citation, a law enforcement officer may refer the child to the designated law enforcement officer or agency for disposition under the first offender program and not refer the child to juvenile court for the conduct or file a complaint only if:
(1) the child has not previously been adjudicated as having engaged in delinquent conduct;
(2) the referral complies with guidelines; and
(3) the officer reports in writing the referral to the agency, identifying the child and specifying the grounds for accusing the child of an offense;
Notice to the parent must state the grounds for accusing the child of a Class C misdemeanor, and warn that the child's failure to complete the program will result in the child being referred to juvenile court for the conduct or the filing of a complaint;

Subject: Disorderly conduct

Summary: Amends PE 42.01 to define the term "public place" to include a public school campus or the school grounds on which a public school is located;

Comments:

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Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 1120 **Caption:** relating to a residential tenant's lease obligation after the loss the leased premises resulting from a natural disaster

Effective Date: 1-1-2014

Application: Applies only to a lease that is executed or renewed on or after 1-1-2014

Statutes Affected: PP 92.062

Subject: Lease term after natural disaster

Summary: Adds PP 92.062 to provide that a landlord who allows a tenant to move to another rental unit owned by the landlord following a natural disaster, may not require the tenant to execute a lease for a term longer than the term remaining on the tenant's lease on the date the premises were rendered unusable as a result of the natural disaster;

Subject:

Summary:

Subject:

Summary:

Comments: After a recent natural disaster, the April 3, 2012, tornado in Lancaster, Texas, an apartment management company tried to require impacted residents to sign new leases at a term longer than that of their existing lease term before they would relocate them.

This bill prohibits an apartment or property management company from requiring a displaced resident to sign a new lease at a term longer than the existing lease term before relocating the resident to a habitable unit.

S.B. 1120 amends current law relating to a residential tenant's lease obligation after the loss of the leased premises resulting from a natural disaster.

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Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 1185

Caption: relating to the creation of a mental health jail diversion pilot program

Effective Date: 6-14-2013

Application:

Statutes HS 579.001 et seq

Affected:

Subject: Mental health jail diversion pilot program

Summary: Adds HS 579.002 to require the Department of State Health Services (DSHS), in cooperation with the county judge of Harris County, to establish a pilot program in Harris County to be implemented by the county judge for the purpose of reducing recidivism and the frequency of arrests and incarceration among persons with mental illness in that county;
the program is temporary, set to expire September 1, 2017;
The county judge, in implementing the program, is required to ensure the program has the resources to provide mental health jail diversion services to not fewer than 200 individuals, and to endeavor to serve not fewer than 500 or more than 600 individuals cumulatively each year the program operates;
County judge must seek input from and coordinate services with:
(1) the Harris County Sheriff's Office;
(2) the mental health division of the office of the district attorney of Harris County;
(3) the Harris County public defender;
(4) mental health courts;
(5) specially trained law enforcement crisis intervention teams and crisis intervention response teams;
(6) providers of competency restoration services;
(7) providers of guardianship services;
(8) providers of forensic case management;
(9) providers of assertive community treatment;
(10) providers of crisis stabilization services;
(11) providers of intensive and general supportive housing; and
(12) providers of integrated mental health and substance abuse inpatient, outpatient, and rehabilitation services;

Subject:

Summary:

Subject:

Summary:

Comments: Harris County recently identified more than 18,000 people with mental health service needs incarcerated in the county's criminal justice facilities, and reports indicate that, at any given time, more than 2,100 people, or approximately one quarter of the total Harris County jail population, are receiving prescribed psychotropic medication. The criminal justice system is the most expensive and least effective way to treat mental illness and to stop the repeated arrests of those with mental health diagnoses through evidence-based intervention strategies. Community-based mental health services are much less costly and more successful at treating the underlying symptoms that often are responsible for recurrent incarceration of the mentally ill. S.B. 1185 seeks to address this issue by creating a jail diversion pilot program for mentally ill inmates among the Harris County jail population.

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Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 1189

Caption: relating to the disposition of certain firearms seized by a law enforcement agency

Effective Date: 9-1-2013

Application: Applies to the disposition of a firearm that is seized by a law enforcement agency on or after 9-1-2013

Statutes HS 573.001

Affected: CP 18.191

Subject: Apprehension by peace officer without warrant

Summary: Amends HS 573.001 to allow a peace officer who takes a mentally ill person into custody without a warrant to seize any firearm found in the possession of the person;

Subject: Disposition of firearm seized from certain persons with mental illness

Summary: Adds CP 18.191 to require a peace officer taking a weapon from a person with mental illness taken into custody without a warrant (not in connection with an offense involving the use of a weapon) immediately to provide the person with a written copy of a receipt for the firearm and written notice of the procedure for the return of the firearm;

Not later than the 15th day after the person is taken into custody, the law enforcement agency must provide written notice of the procedure for the return of the firearm by CMRRR to the last known address of the person's closest immediate family member; the notice must state the date by which a request for the return of the firearm must be submitted to the law enforcement agency;

Not later than the 30th day after seizure of the firearm, the law enforcement agency shall contact the court with jurisdiction of the commitment and request the disposition of the case;

Not later than the 30th day after this request, the clerk of the probate court shall advise whether the person was released or was ordered to receive inpatient mental health services;

Not later than the 30th day after the clerk informs the law enforcement agency of the patient's release, the agency shall (1) conduct criminal history record check to verify whether the person may lawfully possess a firearm, and (2) provide written notice, CMRRR, that the firearm may be returned;

Not later than the 30th day after the date the clerk provides information that the patient was ordered to receive inpatient services, the agency shall provide written notice to the person, CMRRR, that the person (1) is prohibited from owning, purchasing, or possessing a firearm, (2) may petition the probate court for relief, (3) may release the firearm to the law enforcement agency for disposition by selling it to a licensed firearms dealer, or (3) may dispose of the firearm by:

(a) releasing the firearm to the person's designee if (i) the law enforcement agency verifies that the designee may lawfully possess a firearm, (b) the person provides a notarized statement releasing the firearm to the designee, and (c) the designee provides the agency an affidavit confirming that the designee will not allow access to the firearm by the mentally ill person while ineligible and acknowledges responsibility to verify whether the mentally ill person has reestablished the person's eligibility to lawfully possess a firearm;

Subject:

Summary:

Comments: Peace officers are often dispatched to calls involving a person in a mental crisis. If the person is believed to be a danger to self or others, he or she is detained under an emergency detention order and taken to a hospital for a mental health evaluation. Because of the severity of the illness, often there are no criminal charges filed on these individuals.

If the person in crisis had a firearm on their person or in their immediate control, officers will often take custody of the firearm and place it in the police property room for safekeeping.

There is no wording in current law that gives police the legal authority to confiscate the firearm in these incidents, to secure the firearm until a determination is made on the person's mental stability, or to return the firearm if appropriate. State law only addresses the procedures for the disposition of weapons seized in connection with an offense involving the use of a weapon or an offense under Chapter 46 (Weapons), Penal Code. State law does not address the disposition of weapons confiscated by peace officers from those persons in a mental health crisis who are detained under an emergency detention order and subsequently taken for an emergency mental health evaluation.

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**Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney**

S.B. 1189 amends Chapter 573.001, Health and Safety Code, by incorporating language that specifically authorizes peace officers to hold any firearm found on or about a person who is in a mental health crisis, is determined to be a danger to self or others, and is being detained and transported for an emergency mental health evaluation. Additionally, S.B. 1189 adds Article 18.191, Code of Criminal Procedure, to provide law enforcement with the necessary time to conduct follow-up investigations of the person taken for an emergency evaluation to determine whether the case was dismissed or the person was court ordered into in-patient psychiatric treatment. This bill requires the concerned courts of each county to verify for the investigating law enforcement agency if the person received court ordered in-patient psychiatric treatment, so that the agency will know whether or not it is permissible to return the firearm. Article 18.191 also includes procedures for law enforcement agencies to return the weapon to the owner or other potential party.

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Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 1237 **Caption:** relating to referral of disputes for alternative dispute resolution, including victim-directed referrals; authorizing a fee

Effective Date: 9-1-2013

Application: Applies only to a criminal case in which the defendant is arrested for or charged with an offense that occurs on or after 9-1-2013;
Applies only to a civil case referred to a county alternative dispute resolution system on or after 9-1-2013

Statutes Affected: CV 152.002
CV 152.003
CV 152.006
CV 152.007

Subject: Establishment and referral of cases and fee for alternative dispute resolution centers

Summary: Amends CV 152.002 to allow commissioners court to make reasonable rules relating to an alternative dispute resolution system including specifying whether criminal cases may be referred to the system;

Amends CV 152.003 to allow a judge, including a justice of the peace, in a county in which an alternative dispute resolution system has been established and accepts criminal cases, at the request of the prosecutor, to refer a criminal case to the system regardless of whether the defendant has been formally charged; must have the consent of the victim and the defendant;
Prohibits mediation for certain offenses, i.e. murder, indecency with a child, aggravated kidnapping, sexual assault and robbery, etc.

Amends CV 152.006 to Allow a system to collect a fee set by commissioners court;

Subject: Participant fee for criminal dispute resolution

Summary: Adds CV 152.007 to allow an system providing services in criminal cases to collect a reasonable fee set by commissioners court not to exceed \$350, except that a fee may not be collected from an alleged victim;
Fees may be paid on a periodic basis or deferred payment schedule at the discretion of the judge or program director; fees must be based on defendant's ability to pay;

Subject:

Summary:

Comments: Current law does not expressly authorize adult criminal cases to be referred for a fee to mediation or victim-offender conferencing. Such programs seek to resolve the offender's acts against a victim without formal judicial intervention by directly redressing a victim's losses and the victim's needs to be made whole. Research shows that the use of victim-offender conferencing in other jurisdictions has resulted in high rates of both agreement completion and victim satisfaction and has reduced recidivism rates. Interested parties contend that victim-offender conferencing more often results in payment of restitution and victim satisfaction than does handling cases through the formal justice system processes. Those parties further contend that the diversion of cases to criminal alternative dispute resolution has also been shown to reduce costs to taxpayers by reducing the number of cases that must be resolved through traditional court proceedings. C.S.S.B. 1237 seeks to establish procedures through which a criminal case may be referred to a participating county's alternate dispute resolution system and addresses the fees that may be collected by certain entities that provide dispute resolution services.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 1268

Caption: relating to recreational vehicles and recreational vehicle parks

Effective Date: 9-1-2013

Application:

Statutes PP 94.001

Affected:

Subject: Definitions

Summary: Amends 92.001 to DELETE the following definitions:

(8) "Park model unit" means a recreational vehicle that is designed primarily as temporary living quarters for recreation, camping, or seasonal use and that is built on a single chassis, mounted on wheels, and has a gross trailer area not exceeding 400 square feet in the set-up mode;

(10) "Recreational vehicle" means a vehicle that is primarily designed as a temporary living quarters for recreational camping or travel use and that is permanently tied to, affixed, or anchored to the premises as in the case of a park model unit;

Redefines "manufactured home, deleting the reference to the inclusion of recreational vehicle;

Subject: Applicability

Summary: Amends PP 94.002 to delete reference to a recreational vehicle;

Subject: Utility cutoff at recreational vehicle park

Summary: Adds UT 184.036 to provide that, notwithstanding any other law, a person who operates a recreational vehicle park may withhold electric, water, or wastewater utility services from a person occupying a recreational vehicle at the park if the occupant is delinquent in paying for utility services provided by the operator until the occupant pays the delinquent amount;

Comments: "Recreational vehicle park" means a commercial property:

(A) that is designed primarily for recreational vehicle transient guest use; and

(B) for which fees for site service connections for recreational vehicles, as defined by Section 522.004(b), Transportation Code, are paid daily, weekly, or monthly;

"Recreational vehicle" means a motor vehicle primarily designed as temporary living quarters for recreational camping or travel use, and includes a travel trailer, camping trailer, truck camper, and motor home;

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Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 1289

Caption: relating to certain business entities engaged in the publication of mug shots and other information regarding the involvement of an individual in the criminal justice system; providing a civil penalty

Effective Date: 9-1-2013

Application: Applies to publication of criminal record information that occurs on or after 9-1-2013

Statutes BC 109.001 et seq

Affected:

Subject: Duty to publish complete and accurate criminal record information

Summary: Adds BC 109.003 to impose a duty on a business entity that publishes criminal record information and requires a fee of \$150 or more to correct or modify the information to ensure that the information published is complete and accurate, reflecting arrest and disposition of criminal charges, being the most recent information received from TxDPS, or being information obtained from a law enforcement or criminal justice agency or a governmental agency within the 60 day period preceding the date of publication;

Adds BC 109.004 to require a business entity to conspicuously publish contact information to enable a person to dispute the completeness or accuracy of the information;

Requires the business entity to verify the information if disputed within 45 days;

Requires the business entity to remove inaccurate information without charge;

Requires the business entity to provide written notice of the results of the investigation no later than the 5th business day after the investigation is completed;

Subject: Publication of certain criminal record information prohibited; civil liability

Summary: Adds BC 109.005 to prohibit a business entity from publishing criminal record information with knowledge or notice that an order of expunction has been issued, or an order of nondisclosure has been issued; Violation imposes liability to the individual in the amount of \$500 for each separate violation, and \$500 for each subsequent day the violation occurs; Court may grant injunctive relief, court costs, and reasonable attorney's fees; Provides that business entity in violation of chapter is liable to state for civil penalty of \$500 for each separate violation, and \$500 for each subsequent day; Allows attorney general to sue to collect a civil penalty and seek injunction in a district court in Travis County, or in the county in which the business entity is located;

Subject:

Summary:

Comments:

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Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 1317 **Caption:** relating to persons authorized to perform a marriage ceremony

Effective Date: 9-1-2013

Application: Applies to a license issued on or after 9-1-2013
Applies to a ceremony conducted on or after 9-1-2013

Statutes FA 2.201
Affected: FA 2.202

Subject: Expiration of license

Summary: Amends FA 2.201 to extend the validity of a license for 90 days, rather than 31 days;

Subject: Persons authorized to conduct ceremony

Summary: Amends FA 2.202 to include a retired judge of a municipal court, and a retired judge or magistrate of a federal court of Texas among those persons authorized to conduct a marriage ceremony;

Subject:

Summary:

Comments:

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Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 1360

Caption: relating to the punishment for the offense of tampering with a witness and the evidence that may be offered to show that offense

Effective Date: 9-1-2013

Application: Applies to an offense committed on or after 9-1-2013

Statutes CP 38.48

Affected: CP 38.49

Subject: Evidence in prosecution for tampering with witness or prospective witness involving family violence

Summary: Adds CP 38.48 (applies to the prosecution of tampering with a witness involving family violence) to allow each party to offer testimony or other evidence of all relevant facts that would assist the trier of fact in determining whether the actor's conduct coerced the witness or prospective witness, including the nature of the relationship between actor and witness;

Subject: Forfeiture by wrongdoing

Summary: Adds CP 38.49 to provide that a party who wrongfully procures the unavailability of a witness may not benefit from the wrongdoing by depriving the judge or jury of relevant evidence, and forfeits the party's right to object to the admissibility of evidence based on the unavailability of the witness through forfeiture by wrongdoing;

Subject:

Summary:

Comments: According to the United States Department of Justice, witness intimidation is widespread and increasing. In domestic violence cases, witness tampering is the most common crime. Without the victim's testimony, prosecutors face significant legal and practical barriers to moving forward with a criminal case against the batterer.

The doctrine of "forfeiture of wrongdoing" represents a United States Supreme Court-sanctioned and constitutional tool for holding battering wrongdoers accountable when the batterers' own bad acts have caused the victim's unavailability in court. Texas has not created rules for courts to make this determination, and as a result, this tool is not being utilized to hold batterers accountable.

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Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 1365

Caption: relating to the provision of credit by examination for public school students

Effective Date: 6-14-2013

Application: Applies beginning with 2013-2014 school year

Statutes

ED 25.092

Affected:

Subject: Minimum attendance for class credit

Summary: Amends ED 25.092 to provide that the minimum attendance requirement for class credit (90% of days the class is offered) does not apply to a student who receives credit by examination for the class;

Subject:

Summary:

Subject:

Summary:

Comments:

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Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 1400

Caption: relating to the municipal and county regulation of air guns

Effective Date: 6-14-2013

Application:

Statutes LG 235.022

Affected:

Subject: Authority to regulate

Summary: Amends LG 235.022 to allow commissioners court to prohibit or otherwise regulate the discharge of firearms and air guns on lots that are 10 acres or smaller and are located in the unincorporated area of the county in a subdivision;
"Air gun" means any gun that discharges a pellet, BB, or paintball by means of compressed air, gas propellant, or a spring;
Class C misdemeanor

Subject:

Summary:

Subject:

Summary:

Comments: LG § 235.025. Criminal Penalty

A person commits an offense if the person intentionally or knowingly engages in conduct that is a violation of a regulation adopted under this subchapter by the commissioners court. An offense under this section is a Class C misdemeanor. If it is shown on the trial of an offense under this section that the person has previously been convicted of an offense under this section, the offense is a Class B misdemeanor.

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Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 1404 **Caption:** relating to attendance at and completion of high school by students who are in the conservatorship of the Department of Family and Protective Services

Effective Date: 6-14-2013

Application: Applies beginning with the 2013-2014 school year

Statutes ED 25.087
Affected: ED 28.025

Subject: Excused absences

Summary: Amends ED 25.087 to require an ISD to excuse the absence of a student in the conservatorship of the Department of Family and Protective Services if the student is participating in a court ordered activity provided that it is not practicable to schedule the participation outside of school hours;

Subject:

Summary:

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 1419 **Caption:** relating to funding for juvenile case managers through certain court costs and to the establishment of the truancy prevention and diversion fund

Effective Date: 9-1-2013

Application: Applies only to an offense committed on or after 9-1-2013

Statutes CP 45.056
Affected: CP 102.015

Subject: Juvenile case managers

Summary: Amends CP 45.056 to provide that, on approval of commissioners court or other entities, a county court, justice court, municipal court, school district, juvenile probation department, or other entity may:
(1) employ a case manager to provide services in cases involving juvenile offenders who are before a court consistent with the court's statutory powers or referred to a court by a school administrator or designee for misconduct that would otherwise be within the court's statutory powers prior to a case being filed, with the consent of the juvenile and the juvenile's parents or guardians;
(2) employ one or more juvenile case managers who:
(A) shall assist the court in administering the court's juvenile docket and in supervising the court's orders in juvenile cases; and
(B) may provide:
(i) prevention services to a child considered at risk of entering the juvenile justice system; and
(ii) intervention services to juveniles engaged in misconduct before cases are filed, excluding traffic offenses; or
(3) agree to jointly employ a case manager to provide services;

Subject: Court costs: Truancy prevention and diversion fund

Summary: Adds CP 102.015 to require a person convicted in a justice court of an offense, other than an offense relating to a pedestrian or the parking of a motor vehicle, to pay a \$2 court cost in addition to other court costs; County may retain 50% of the funds collected for the purpose of operating or establishing a juvenile case manager program if the county has established or is attempting to establish a juvenile case manager program; A person is considered to have been convicted if:
(1) a sentence is imposed; or
(2) the defendant receives deferred disposition in the case;
Legislature may appropriate money from the account only to the criminal justice division of the governor's office for distribution to local governmental entities for truancy prevention and intervention services;
A local governmental entity may request funds from the criminal justice division of the governor's office for providing truancy prevention and intervention services

Subject:

Summary:

Comments: There is concern that too many juveniles are entering the criminal justice system for the offense of truancy, or failure to attend school, which is a Class C misdemeanor. Interested parties assert that alternatives to adjudicating juveniles for this offense should be pursued, noting that juvenile case managers, who can currently be employed to assist a court with administering the juvenile docket, could provide certain prevention and intervention measures to juveniles prior to their involvement with the criminal justice system. However, the parties contend that additional funds would be needed at the local level to adequately support this function. S.B. 1419 seeks to address this problem by expanding the uses of juvenile case managers and providing for a dedicated account in the general revenue fund for truancy prevention and intervention.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 1427

Caption: relating to the administration of the citrus budwood certification program and the creation of the citrus nursery stock certification program; providing civil, criminal, and administrative penalties and authorizing fees

Effective Date: 9-1-2013

Application: Applies only to a violation committed on or after 9-1-2013

Statutes AG 19.012

Affected:

Subject: Criminal Penalty

Summary: Amends AG 19.012 to create an offense if a person:

- (1) sells or offers to sell citrus budwood, [or] a citrus nursery tree, or citrus nursery stock falsely claiming that it is certified or that it comes from a designated foundation grove or a certified citrus nursery;
 - (2) uses, for commercial purposes, citrus budwood that is required by department rule to be certified and is not certified or does not come from a designated foundation grove; [or]
 - (3) sells or offers to sell in the citrus zone citrus nursery stock that has not been propagated in a certified citrus nursery;
 - (4) operates, in the citrus zone for the propagation of citrus nursery stock, a citrus nursery that is not a certified citrus nursery or that is not in compliance with this chapter or a rule adopted under this chapter;
 - (5) operates, outside of the citrus zone for the propagation of citrus nursery stock for sale in the citrus zone, a citrus nursery that is not a certified citrus nursery or that is not in compliance with this chapter or a rule adopted under this chapter; or
 - (6) fails to comply with an order of the department issued under this chapter;
- Class C misdemeanor;

Subject:

Summary:

Subject:

Summary:

Comments:

Citrus greening disease is a bacterial disease spread by an insect vector known as the Asian citrus psyllid and is regarded as the most devastating citrus disease worldwide, killing citrus plants and slashing citrus production, with no applicable cure or treatment for an infected tree. The disease recently was discovered in Texas. S.B. 1427 seeks to address this issue by establishing provisions relating to the administration of the citrus budwood certification program and the creation of the citrus nursery stock certification program in order to grant the Department of Agriculture certain authority to regulate the propagation of citrus budwood in a manner that would minimize the threat posed by the Asian citrus psyllid.

Brooks, Cameron, Hidalgo, Jim Hogg, Kenedy, Starr, Willacy, and Zapata Counties are designated as the citrus zone of Texas for the purpose of the citrus budwood and citrus nursery stock certification programs.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 1432 **Caption:** relating to the punishment for violating certain rules or permit terms under a permit to trap, transport, and transplant certain animals

Effective Date: 6-14-2013

Application: Applies only to an offense committed on or after 6-14-2013

Statutes Affected: PW 43.062

Subject: Penalty (trapping, transporting, and transplanting game animals and game birds, white tailed deer)

Summary: Amends PW 43.062 to create an offense if a person violates:
(1) a rule relating to a reporting requirement for a permit issued under this subchapter; or
(2) a term of a permit issued under this subchapter that relates to a reporting requirement;
Class C Parks and Wildlife Code misdemeanor;

Subject:

Summary:

Subject:

Summary:

Comments: under current law, if a permit holder violates a reporting requirement associated with the permit for trapping, transporting, and transplanting a white-tailed deer, the permit holder can be charged with a Class B Parks and Wildlife Code misdemeanor, which is punishable by a maximum \$2,000 fine, jail time, or both. Certain other deer reporting requirement violations, however, are punishable as Class C misdemeanors, which have a lower maximum fine and no jail time.

S.B. 1432 seeks to enhance uniformity throughout the Parks and Wildlife Code and align the penalties for similar offenses by reducing the punishment for violating certain rules or permit terms under a permit to trap, transport, and transplant certain animals.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 1541 **Caption:** relating to discipline of public school students by school bus drivers

Effective Date: 6-14-2013

Application: Applies beginning with the 2013-2014 school year

Statutes Affected: ED 37.0022

Subject: Removal by school bus driver

Summary: Adds ED 37.0022 to allow a bus driver transporting students to or from school or a school sponsored or related activity to send a student to the principal's office to maintain effective discipline on the school bus; principal must employ appropriate discipline management techniques;
Allows the board of trustees to include standards in the student code of conduct under which a student may be removed from a school bus;

Subject:

Summary:

Subject:

Summary:

Comments: C.S.S.B. 1541 authorizes the driver of a school bus transporting students to or from school or a school-sponsored or school-related activity to send a student to the principal's office to maintain effective discipline on the school bus. The bill requires the principal to respond by employing appropriate discipline management techniques consistent with the student code of conduct. The bill makes statutory provisions regarding the placement of students with disabilities applicable to any placement under the bill's provisions of a student with a disability who receives special education services. The bill's provisions apply beginning with the 2013-2014 school year.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 1567 **Caption:** relating to coverage of certain persons under an automobile insurance policy

Effective Date: 9-1-2013

Application: Applies only to an insurance policy that is delivered, issued for delivery, or renewed on or after 1-1-2014

Statutes IN 1952.0545

Affected: TN 601.081

Subject: Required disclosure regarding named driver policies; persons in insured's household

Summary: Adds IN 1952.0545 to require an agent or insurer must make the following disclosure, orally and in writing to the applicant or insured:
WARNING: A NAMED DRIVER POLICY DOES NOT PROVIDE COVERAGE FOR INDIVIDUALS RESIDING IN THE INSURED'S HOUSEHOLD THAT ARE NOT NAMED ON THE POLICY.
Agent or insurer must receive a signed copy of the disclosure; must confirm in writing the provision of the oral disclosure; must include the disclosure in any policy; and must include the disclosure on proof of insurance;

Subject: Standard proof of motor vehicle liability insurance form

Summary: Amends TN 601.081 to require proof of insurance to include the required disclosure for a named driver policy;

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 1611

Caption: relating to discovery in a criminal case

Effective Date: 1-1-2014

Application: Applies to prosecution of an offense committed on or after 1-1-2014

Statutes CP 39.14

Affected:

Subject: Discovery

Summary: Amends CP 39.14 to require the state to produce and permit the inspection and the electronic duplication, copying, and photographing of discovery as soon as practicable after receiving a timely request from the defendant; any discoverable material in the possession, custody, or control of the state or any person under contract with the state is required; Allows defendant to request a hearing to determine whether the state's withholding or redacting a portion of discoverable material is justified; The state is not required to allow electronic duplication of discovery provided to a pro se defendant; Defendant and attorneys and agents for defendant are prohibited from further disclosure of discovery unless by court order, or if the documents have already been made public; witnesses for the defense may view the discovery but may not have copies; all personal information must be redacted; Requires the state to disclose any exculpatory, impeachment, or mitigating document, item, or information; State must document any discovery provided to the defendant; Before accepting a plea of guilty or no contest, or before trial, each party must acknowledge in writing or on the record in open court, the disclosure, receipt, and list of all documents, items, and information, provided to the defendant; State has continuing obligation to disclose; Defendant may pay costs;

Subject:

Summary:

Subject:

Summary:

Comments: Criminal discovery, which involves the exchange of relevant information between prosecutors and the defense prior to trial, is considered a necessary element of a fair and just criminal justice system and is also required as part of a defendant's constitutional right to a full defense. A recent U.S. Supreme Court ruling requires prosecutors to turn over to the defense any evidence that is relevant to the defendant's case, but the ruling is vague and open to interpretation, resulting in different levels of discovery across different counties in Texas. There is a need to change the state's criminal discovery laws to ensure uniformity throughout Texas.

A uniform discovery policy promotes efficiency in the criminal justice system and lessens the likelihood of discovery disputes, costly appeals, and wrongful convictions. Reducing the occurrence of appeals and wrongful convictions through the criminal discovery process could save the state substantial amounts of money.

S.B. 1611 amends current law relating to discovery in a criminal case in an effort to uphold a defendant's constitutional right to a defense, minimize the likelihood of wrongful convictions, save thousands in taxpayer dollars, promote an efficient justice system, and improve public safety, all while increasing the public's confidence in the criminal justice system.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 1620

Caption: relating to certified communication access realtime translation providers

Effective Date: 6-14-2013

Application:

Statutes GV 57.002

Affected:

Subject:

Summary: Amends GV 57.002 to require a court to appoint a certified communication access realtime translation (CART) provider, defined in the bill as an individual who holds a certification to provide CART services at an advanced or master level issued by the Texas Court Reporters Association or another certification association selected by the Department of Assistive and Rehabilitative Services (DARS), for an individual who has a hearing impairment if a motion for the appointment of a provider is filed by a party or requested by a witness in a civil or criminal proceeding in the court;
Authorizes a court, on its own motion, to appoint a certified CART provider for an individual who has a hearing impairment;
Defines "communication access realtime translation" or "CART" as the immediate verbatim translation of the spoken word into English text by a certified CART provider;

Clarifies statutory provisions relating to the appointment of an interpreter by a court to specify that the appointment of a certified court interpreter is for an individual who has a hearing impairment and the appointment of a licensed court interpreter is for an individual who can hear but does not comprehend or communicate in English.

Subject:

Summary:

Subject:

Summary:

Comments: Translators who are able to immediately translate the spoken word into English text would be able to benefit parties to court proceedings where interpreters are needed. These translators are known as communication access realtime translation (CART) providers. C.S.S.B. 1620, among other provisions, seeks to allow parties to a court proceeding to request a certified CART provider for an individual who has a hearing impairment in addition to having the option to request a certified court interpreter for such an individual.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 1630

Caption: relating to the protection of defendants against vexatious litigants

Effective Date: 9-1-2013

Application: Applies to an action commencing on or after 9-1-2013

Statutes CV 11.001

Affected: CV 11.101 et seq
CV 11.1035

Subject: Definitions

Summary: Amends CV 11.001 to redefine "plaintiff" to mean an individual who commences or maintains a litigation pro se;

Subject: Prefiling order; contempt

Summary: Amends CV 11.101 to provide that a prefiling order issued by a justice court applies only to the justice court that entered the order;

Amends CV 11.102 to prohibit a vexatious litigant subject to a prefiling order issued by a justice court from filing, pro se, new litigation in a court to which the order applies without permission of the local administrative district judge; a copy of the request for permission must be provided to all defendants named in the proposed litigation; Allows the local administrative judge to determine if a hearing is necessary and require the plaintiff to notice the hearing;

A writ of mandamus to the court of appeals is the plaintiff's remedy for denial of permission;

Subject: Mistaken filing

Summary: Adds CV 11.1035 to provide that in the event of acceptance by the clerk of a petition from a vexatious litigant without permission, a party may file with the clerk and serve on all parties a notice stating that the plaintiff is a vexatious litigant filing without permission;

Requires clerk to notify court of mistaken filing and the court must stay the proceeding;

Requires to dismiss litigation if plaintiff does not obtain permission within 10 days from date of filing of the notice;

Provides that there is no appeal from the dismissal of a mistakenly filed petition;

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 1729

Caption: relating to an agreement between the Department of Public Safety and a county for the provision of renewal and duplicate driver's license and other identification certificate services; authorizing a fee

Effective Date: 6-14-2013

Application:

Statutes TN 521.008

Affected:

Subject: Pilot program regarding the provision of renewal and duplicate driver's license and other identification certificate services

Summary: Adds TN 521.008 to authorize the TxDPS to establish a pilot program for the provision of renewal and duplicate driver's license, election identification certificate, and personal identification certificate services in:

- (1) not more than three counties with a population of 50,000 or less,
- (2) not more than three counties with a population of more than 50,000 but less than 1,000,001, and
- (3) not more than two counties with a population of more than 1 million;

Authorizes DPS to enter into an agreement with a county commissioners court to permit county employees to provide services at a county office relating to the issuance of renewal and duplicate driver's licenses, election identification certificates, and personal identification certificates, including the following services: taking photographs; administering vision tests; updating those documents to change a name, address, or photograph; distributing and collecting information relating to organ donations; collecting fees; and performing other basic ministerial functions and tasks necessary to issue renewal and duplicate documents;

Authorizes an additional fee of \$5 for each transaction that relates to driver's licenses and personal identification certificates only;

Subject:

Summary:

Subject:

Summary:

Comments: Under current law, the Department of Public Safety (DPS) has the authority to issue renewal and duplicate driver's licenses, election identification certificates, and personal identification certificates. As the state's population has increased, the demand for these services has also increased. Interested parties report that DPS has been unable to meet this growing demand and that Texans in many areas of the state experience an inconvenience in obtaining these services due to overcrowding at the local DPS office or the lack of a DPS office within the vicinity of the person's residence. S.B. 1729 seeks to address this issue by establishing a pilot program under which DPS may enter into an agreement with the commissioners court of certain counties for county employees to provide services relating to the issuance of renewal and duplicate driver's licenses and other identification certificates.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 1757

Caption: relating to the manufacture, sale, distribution, purchase, or possession of a license plate flipper; creating an offense

Effective Date: 6-14-2013

Application:

Statutes TN 504.946

Affected:

Subject: License plate flipper; offense

Summary: Adds TN 504.946 to create an offense if a person with criminal negligence purchases or possesses a license plate flipper; Class B misdemeanor;
A person commits an offense if the person with criminal negligence manufactures, sells, offers to sell, or distributes a license plate flipper;
"License plate flipper" means a manual, electronic, or mechanical device designed or adapted to be installed on a motor vehicle and:
(1) switch between two or more license plates for the purpose of allowing a motor vehicle operator to change the license plate displayed on the operator's vehicle; or
(2) hide a license plate from view by flipping the license plate so that the license plate number is not visible;

Subject:

Summary:

Subject:

Summary:

Comments: The use of license plate flippers in some areas of Texas has come to the attention of law enforcement officials. The parties report that these devices, whether home-made or manufactured and purchased online, are designed to allow an individual to rotate or flip between two license plates within a matter of seconds through the push of a button or the pull of a cord. Under Texas law, it is illegal to have false or obscured license plates showing on a vehicle, but it is not currently illegal to possess a license plate flipper and operate a vehicle with false license plates that are not showing.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 1773

Caption: relating to the creation of a select interim committee to review and make recommendations for substantive changes to ethics laws

Effective Date: 9-1-2013

Application:

Statutes

Affected:

Subject: Interim study regarding ethics laws

Summary: Creates a select interim committee to study and review the statutes and regulations related to ethics, including campaign finance laws, lobby laws, and personal financial disclosure laws; members are to be appointed by the 60th day after 9-1-2013;
The committee is composed of:
3 senators and 1 public member appointed by the lieutenant governor;
3 representatives and 1 public member appointed by the speaker of the house;
Presiding officer of the Texas Ethics Commission on 9-1-2013;
Requires the committee to report findings and recommendations to the lieutenant governor by 12-20-2014;

Subject:

Summary:

Subject:

Summary:

Comments:

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 1889 **Caption:** relating to the transport of a mental health patient who is not a resident of this state

Effective Date: 9-1-2013

Application: Applies to a reciprocal agreement between the state and another entity entered into on or after 9-1-2013

Statutes Affected: HS 571.0081

Subject: Return of committed patient to state of residence; reciprocal agreements

Summary: Adds HS 571.0081 to require the Department of State Health Services, if a state or local authority of another state petitions DSHS, to enter into a reciprocal agreement with the state or local authority to facilitate the return of persons committed to mental health facilities in Texas to the state of their residence unless DSHS determines that the terms of the agreement are not acceptable;
A reciprocal agreement must require DSHS to develop a process for returning persons committed to mental health facilities to their state of residence and requires the process to provide suitable care for the person committed, use available resources efficiently, and consider commitment to a proximate mental health facility to facilitate the return of the committed patient to the patient's state of residence;

Subject:

Summary:

Subject:

Summary:

Comments: In certain parts of Texas, particularly those counties that share borders with other states, coordinating care for mental health patients can be difficult. Federal law requires a hospital to stabilize a patient who presents for emergency treatment, regardless of the state in which the person resides. If an out-of-state patient requires an involuntary commitment to a mental health facility, it can be difficult to get that individual back to the individual's home state to receive appropriate treatment. The situation can be complicated further if such a patient is in a hospital without an available inpatient bed. Such circumstances can prove harmful to the patient, who is not getting the proper care, and can be especially burdensome on the hospital because the patient must be held in an emergency room until being involuntarily committed and transferred to an appropriate facility.

S.B. 1889 seeks to address this issue by providing for reciprocal agreements between states regarding the return of certain mental health patients

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 1907

Effective Date: 9-1-2013

Caption: relating to the transportation and storage of firearms and ammunition by concealed handgun license holders in private vehicles on the campuses of certain institutions of higher education

Application:

**Statutes
Affected:** GV 411.2032

Subject: Transportation and storage of firearms and ammunition by license holders in private vehicles on certain campuses

Summary: Adds GV 411.2032 to prohibit a public, private, or independent institution of higher education in Texas from adopting or enforcing any rule, regulation, or other provision prohibiting or placing restrictions on the storage or transportation of a firearm or ammunition in a locked, privately owned or leased motor vehicle by a person who lawfully possesses the firearm or ammunition on a street or driveway or a parking lot, parking garage, or other parking area located on the campus of the institution;

"Campus" means all land and buildings owned or leased by an institution of higher education or private or independent institution of higher education;

Subject:

Summary:

Subject:

Summary:

Comments: Recently enacted legislation prohibits an employer from enforcing policies restricting an employee's right to store lawfully owned firearms and ammunition in the employee's locked, private motor vehicle while parked on the employer's property. Interested parties note that this legislation applies to faculty, staff, and employees at public and private colleges and universities but not to students who are not employees of these institutions of higher education. While it is legal for students to transport and store firearms in vehicles located on campus, many institutions have adopted administrative policies that prohibit such activity. C.S.S.B. 1907 seeks to address this issue.

SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney
Office of Vince Ryan, Harris County Attorney

Bill Number: SB 1908

Caption: relating to a study conducted by the Office of Court Administration of the Texas Judicial System and the repeal of certain court fees and costs

Effective Date: 9-1-2013

Application:

Statutes GV 72.0313

Affected:

Subject: Study to repeal certain court fees and costs

Summary: Adds GV 72.031 to require OCA to:

- (1) conduct a study on court fees and costs that identifies each statutory law imposing a court fee or cost in a court in this state;
- (2) determine whether each identified fee or cost is necessary to accomplish the stated statutory purpose;
- (3) compile a list of the identified fees and costs and of each fee or cost the office determines is necessary;
- (4) publish the list on the office's Internet website and in the Texas Register; and
- (5) provide a copy of the list and determinations to the governor, lieutenant governor, and speaker of the house of representatives;

Requires OCA to consult with local government representatives;

Requires Texas Legislative Council to prepare a revision of court fees and costs not necessary for consideration by the 84th Legislature;

Subject:

Summary:

Subject:

Summary:

Comments: