



# TEXAS JUDICIAL REPORT

## OFFICE OF COURT ADMINISTRATION TEXAS JUDICIAL COUNCIL

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**Legislative Edition – 80<sup>th</sup> Legislature**

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The 80<sup>th</sup> regular legislative session resulted in the passage of a number of bills of interest to the judiciary, including:

- Funding for the creation of ten additional district courts that will serve Bastrop, Burt, Cameron, Collin, El Paso, Grayson, Grimes, Hidalgo, Lee, Montgomery, Waller counties and one new criminal district court in El Paso County; authority for the creation of six new statutory county courts in El Paso, Hunt, Montgomery, Travis and Van Zandt counties;
- Increased state funding for statutory county court judicial salaries and heightened salary levels for those statutory county court judges whose salaries were not increased in 2005;
- Higher jurisdictional limits and filing fees in justice courts and small claims courts;
- Positive changes in state judicial retirement system benefits;
- Increased compensation for visiting judges;
- Judicial longevity pay;
- Required judicial training in the area of child abuse and neglect;
- Clarification of juror reimbursement issues;
- Authority for judges to conduct emergency mental health detentions via video conferencing.

This report briefly summarizes new legislation directly impacting the Texas judiciary. It does not cover bills dealing with substantive areas of law, such as HB 8 – sex offenders. It is anticipated that other entities will provide legislative updates on substantive legal topics. This report focuses on legislation affecting the Texas court system, judges, clerks, and other judicial system actors. We hope the report will be a useful resource for the judicial and legal community and all those interested in the administration of justice.

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**Additional Courts**

**HB 682** – Effective 9/1/07.  
Creates Montgomery County County Court at Law No. 5. *See* § 25.1721, Gov’t Code.

**HB 4008** – Effective 9/1/07.  
Creates El Paso County Criminal Courts at Law No. 3 and No. 4 which will have the criminal jurisdiction of a statutory county court. Court No. 4 will give preference to criminal offenses involving family violence. *See* §§ 25.0731, 25.0732, Gov’t Code.

**HB 4139** – Effective 1/1/11.  
Creates the Van Zandt County Court at Law. *See* § 25.2361, Gov’t Code.

**SB 660** – Effective 1/1/08.  
Creates Travis County Court at Law No. 8, which will give preference to criminal cases. *See* § 25.2292, Gov’t Code.

**SB 1951** – Effective 9/1/07.  
Creates additional district courts in Bastrop County (10/1/07), Cameron County (9/1/07), Collin County (1/1/09), El Paso County (9/1/07), Grayson County (9/15/08), Grimes County (9/1/07), Hidalgo County (9/1/07), Montgomery County (9/1/07), and Waller County (9/1/07). Also creates a criminal district court in El Paso County (9/1/07). *See* Ch. 24 and §§ 43.148, 43.182, 46.002, Gov’t Code.

**SB 2018** – Effective 9/1/07.  
Re-designates County Court at Law of Hunt County as County Court at Law No. 1 of Hunt County and creates the County Court at Law No. 2 of Hunt County. *See* § 25.1181, Gov’t Code.

**Appellate Courts**

**HB 335** – Effective 9/1/07.  
Provides that an official court reporter must furnish a transcript of the evidence not later than the 120<sup>th</sup> day after the date the reporter receives the application for the transcript or the date the transcript fee is paid or indigency is established. *See* § 52.047(a), Gov’t Code.

**SB 325** – Effective 9/1/07.  
Establishes an appellate judicial system for the Ninth Court of Appeals in Beaumont and requires the commissioners courts of the ten counties within the appellate district to set an additional \$5.00 civil filing fee in the district and county-level courts of those counties. Requires that the fees be deposited in an appellate judicial system fund and forwarded to the court of appeals. *See* §22.201, Gov’t Code.

**SB 885** – Effective 9/1/07.

Enables the supreme court, the court of criminal appeals, and intermediate appellate courts to obtain criminal histories of prospective court appointees, volunteers, or employees. Prohibits disclosure of such information absent a court order. Requires such courts to destroy criminal history information at the conclusion of employee's probationary period. Also enables such courts to obtain criminal histories of all current employees, court appointees, and volunteers, but requires courts to destroy this information by January 1, 2008. *See* § 411.1406, Gov't Code.

**SB 1182** – Effective 9/1/07.

Requires the comptroller of public accounts to create a supreme court support account in the judicial fund. Requires the clerk of the supreme court and the clerks of courts of appeal to collect a fee upon the filing of any application or proceeding otherwise requiring a filing fee that is directed to the comptroller for deposit in the judicial fund. Provides that the amount of the fee is not to exceed \$50 and is to be set by the supreme court. *See* §§ 51.0051, 51.708, Gov't Code.

**Associate Judges**

**HB 930** – Effective 6/15/07.

Authorizes associate judges to render and sign final orders waiving notice to a party of a final hearing or waiving the party's appearance at the final hearing if the party has filed an unrevoked waiver under Rule 119, Texas Rules of Civil Procedure (waiver is revoked if party has filed an answer). Authorizes associate judges to sign final orders that include a waiver of the right of appeal provided by § 201.015, Family Code. Clarifies the types of orders rendered and signed by an associate judge that constitute an order of the referring court. Also clarifies that a court reporter is required in final termination hearings only when the hearing is contested. Provides that, upon agreement of the parties, except in cases when a court reporter is mandated, a record can be maintained by any means

approved by the associate judge. *See* §§ 201.007, 201.009, Fam. Code.

**HB 1995** – Effective 9/1/07.

Increases time for a party to file appeal from an associate judge's report from three days to seven days from the date the party receives notice. *See* §201.015(a), Fam. Code.

**HB 2501** – Effective 9/1/07.

Changes the name of an appeal from an associate judge's order from "appeal" to "de novo review." Makes several changes to provisions relating to the appeal of an associate judge's order, including extending the time within which a party may request a de novo hearing from three days after the party received notice to seven business days. *See* Ch. 201, Fam. Code.

**SB 271** – Effective 9/1/07.

Enables child support and child protection associate judges to reside either in the administrative judicial region to which they are assigned or in a county adjacent to the administrative judicial region. *See* Ch. 201, Fam. Code.

**SB 821** – Effective 6/15/07.

Authorizes payment of statutory probate court associate judge's salary from excess contributions deposited in judicial fund and remitted to counties under § 25.00212, Gov't Code, upon recommendation by statutory probate judges and approval of commissioners court. *See* §§ 25.00213 and 54.605, Gov't Code. ***See also* Judicial Compensation and Retirement.**

**SB 1404** – Effective 9/1/07.

Expands the current limited criminal jurisdiction of criminal law hearing officers in counties of 3.3 million or more to be concurrent with justice courts and gives such hearing officers the powers and duties of magistrates. *See* §§ 54.856, 54.858, Gov't Code.

## Court Clerks

### **HB 343** – Effective 9/1/07.

Requires clerks of courts with probate jurisdiction to prepare and file with the voter registrar a monthly abstract of applications for determination of heirship and small estate affidavits. *See* §16.001, Elec. Code.

### **HB 391** – Effective 9/1/07 (except emergency intervention application provision effective 6/15/07).

Imposes additional requirements on clerks when application for sale of real property is filed. Requires clerks to inform interested persons of right to oppose the sale and also to inform judge immediately if an opposition to the sale is filed within certain time period. Requires clerks to notify applicant and any opponents if court sets a hearing. Also deletes requirement that social security number be included in application for emergency funeral funds. *See* §§ 111, 112, 345, 345A, Prob. Code. *See also Probate, Guardianships and Mental Health.*

### **HB 587** – Effective 9/1/07.

Changes name of “criminal docket” to “record of criminal actions.” Specifies that a subpoena or summons relating to a grand jury proceeding be kept secret for as long as necessary to prevent unauthorized disclosure of a matter before the grand jury. *See* Arts. 20.02, 20.22, 33.07, Code of Crim. Proc. and § 12.04, Prop. Code. *See also Open Records.*

### **HB 732** – Effective 9/1/07.

Excludes electronic documents from requirement that documents regarding real or personal property have original signatures that are acknowledged, sworn to with a proper jurat, proved according to law, or attached to an affidavit with original signatures. *See* §12.0011, Prop. Code.

### **HB 989** – Effective 9/1/07.

Prohibits a person from filing for record or having recorded in the county clerk’s office a plat, replat, amended plat, or amended replat of a subdivision or condominium unless original tax certificate from each taxing unit with

jurisdiction of the real property indicating that no delinquent ad valorem taxes are owed on the real property is attached to the plat. *See* §§ 12.002(e), 82.051, Prop. Code.

### **HB 1158** – Effective 9/1/07.

Specifies proper address for service of citation notifying criminal defendant of forfeiture of bail bond. *See* Arts. 22.03, 22.035, 22.05, Code of Crim. Proc.

### **HB 1303** – Effective 9/1/07.

Permits criminal history expunction notifications to be made via electronic transmission. Requires Department of Public Safety to notify private entities that a criminal history record has been ordered expunged at the same time that other repositories of criminal history information are notified. Compels private background-check companies to obtain and use updated criminal history information. *See* Art. 55.02, Code of Crim. Proc. and Chap. 411 & § 552.1425, Gov’t Code. *See also Criminal Procedure.*

### **HB 1801** – Effective 9/1/07.

Requires the clerk of a court that does not provide Internet access to that court’s criminal case records to post the criminal court docket setting not less than 48 hours before the docket setting in a designated public place in the courthouse. *See* Art. 17.085, Code of Crim. Proc. *See also Criminal Procedure*

### **HB 2061** – Effective 3/28/07.

Provides that county and district clerks are not liable under § 552.352, Gov’t Code, for disclosing social security numbers contained in documents filed with the clerk. Requires, upon written request of an individual, the redaction, from documents specified by the individual, of all but the last four numbers of a social security number unless another law requires the full social security number to be maintained on the document. Requires clerks to accept documents for filing even if they contain social security numbers and does not require clerks to confirm that a document preparer actually redacted a social security number from a document. *See* § 552.147, Gov’t Code and § 11.008, Prop. Code.

**HB 2564** – Effective 9/1/07.

Allows a governmental body to set a limit on the amount of time it will spend copying or providing information under the Public Information Act (“PIA”) for inspection at no charge. Allows a governmental body to charge requestors for time spent in excess of the limit in complying with a request under the PIA. *See* § 552.275, Gov’t Code. *See also* **Open Records**.

**HB 2685** – Effective 9/1/08.

Increases the marriage license fee from \$30 to \$60. Encourages marrying couples to take a minimum 8-hour premarital education course to include instruction in “key components of a successful marriage.” Provides for a waiver of the 72-hour waiting period for those who complete the course. *See* §§ 2.013, 2.204(b), Fam. Code and §§ 118.011(a), 118.018, 118.022, Loc. Gov’t Code.

**HB 2738** – Effective 5/25/07.

Authorizes notice of sale of real property under a contract lien to be posted or filed up to 48 hours after the courthouse or county clerk’s office reopens following natural disaster, inclement weather, or other act of God. Provides that a sale held in an area designated by the commissioners court may not be held before the 90th day after the date the designation is recorded. Clarifies the qualifications for a trustee and requires the purchase price in a trustee’s sale to be payable immediately upon acceptance of the bid. *See* §§ 51.0001, 51.002, 51.0074, 51.0075, Prop. Code.

**SB 229** – Effective 9/1/07.

Permits the seal of a district court to be impressed on a document by electronic means. Also permits the signature of a district clerk to be affixed to an original document using electronic means. *See* § 51.301, Gov’t Code.

**SB 291** – Effective 9/1/07.

Requires Department of Aging and Disability Services (“DADS”) to perform criminal background checks for persons employed by DADS as guardians and to submit the background checks to the Guardianship Certification Board (“GCB”) and the county clerk. Also requires DADS to submit to GCB a

list of names, along with identifiable information and the county of employment or prospective employment, of all persons employed or seeking employment as a guardian. *See* § 411.1386, Gov’t Code and §§ 697A, 698, Prob. Code.

**SB 580** – Effective 5/14/07.

Permits a county clerk to note recording information, including date and time an instrument is filed for recording, on the first page of the instrument (as opposed to “at the foot of the record”) if the instrument is electronically recorded. *See* § 193.001, Loc. Gov’t Code.

**SB 705** – Effective 9/1/07.

Requires the Office of Court Administration to collect information annually from court clerks and publish a report regarding the contents of jury charges and sentences in capital cases. *See* 72.087, Gov’t Code.

**SB 763** – Effective 9/1/07.

Provides that a party offering an affidavit in evidence to prove expenses in a civil action may not file the affidavit with the clerk of court but must serve the affidavit only on the opposing party. *See* § 18.001, Civil Prac. & Rem. Code.

**Court Costs and Filing Fees**

**HB 290** – Effective 9/1/07.

Conforms the fee for deposit of a will in the Probate Code with the \$5 fee set forth in § 118.052(2)(E), Loc. Gov’t Code. *See* § 71(a), Prob. Code.

**HB 530** – Bill effective 6/15/07. (*Court cost effective 6/15/07.*) Requires drug courts to be created in counties with populations over 200,000. Creates a \$50 court cost upon conviction of a Class B misdemeanor or any higher category of offense under Chapter 49, Penal Code (Intoxication and Alcoholic Beverage Offenses) or Chapter 481, Health & Safety Code (Controlled Substances Act) to be used to fund the drug courts. *See* Art. 102.0178, Code of Crim. Proc.; Subchapter GG, Chap. 54,

Gov't Code; and Ch. 469, Health & Safety Code.

**HB 764** – Bill effective 6/15/07. (*Fee change effective 6/15/07.*) Reduces the maximum amount of the family protection fee collected by the clerk of a district court on filing a suit for dissolution of a marriage from \$30 to \$15 and allows the county to retain the entire fee collected instead of remitting half of the fee to the state. *See* § 51.961, Gov't Code.

**HB 1260** – Effective 9/1/07. Exempts active duty military personnel being deployed to a hostile-fire zone from paying fees to transfer property titles and obtain copies of birth certificates, marriage certificates, divorce decrees, child support orders, guardianship documents, and property tax records. *See* § 431.039, Gov't Code.

**HB 1267** – Bill effective 9/1/07. (*Court cost effective 1/1/08.*) Creates a \$2 fee on all criminal convictions other than pedestrian and parking offenses. Provides that revenue from the new fee will be used for indigent defense services. *See* § 133.107, Loc. Gov't Code. ***See also Indigent Defense.***

**HB 1295** – Bill effective 9/1/07. (*Court cost effective 1/1/08.*) Creates a \$20 supplemental court-initiated guardianship fee for support of the judiciary in guardianships initiated under § 683 of the Probate Code. Provides that the fee is collected by the court clerk and is imposed in original probate actions and adverse probate actions. Provides that the fee is deposited in a court-initiated guardianship fund in the county treasury to supplement, not supplant, paying for the compensation of court-appointed guardian ad litem or of court-appointed attorney ad litem and to fund local guardianship programs that provide guardians for indigent incapacitated persons who do not have family members suitable and willing to serve as guardians. *See* Chapter 118, Loc. Gov't Code.

**HB 1623** – Bill effective 9/1/07. (*Fees effective 1/1/08.*) Authorizes courts to dismiss certain offenses if defendant remedies problem that is the basis for the violation within certain time

period and pays certain administrative fee. *See* Ch. 502 and 521 of the Trans. Code and Ch. 31 of the Parks & Wildlife Code.

**HB 2151** – Bill effective 9/1/07. (*Fee effective 1/1/08.*) Requires defendants convicted of graffiti offenses (§ 28.08, Penal Code) in district or county-level courts to pay \$50 juvenile delinquency prevention fee. Eliminates existing \$5 graffiti eradication fee. *See* § 102.0171, Code of Crim. Proc.

**HB 3060** – Effective 9/1/07. (*Court cost also effective 9/1/07.*) Authorizes district courts and county-level courts to issue a *capias pro fine*, which orders the arrest of a criminal defendant who has failed to pay court-ordered fines or fees. Clarifies differences among *capias* issued prior to trial, *capias* relating to the execution of judgment, *capias pro fine* currently provided under Ch. 45, Code of Criminal Procedure, and arrest warrant issued by a magistrate. *See* Art. 15.18, Art. 17.19, Art. 102.011 and Chapters 23, 43, & 45, Code of Crim. Proc. ***See also Criminal Procedure.***

**HB 3787** – Effective 6/15/07. Prohibits county clerk from charging any fees associated with filing a decedent's will for probate or with administration of decedent's estate if decedent died in a combat zone while in active service as member of the armed forces of the United States. *See* § 11A, Prob. Code.

**SB 168** – Effective 6/15/07. Continues the collection of \$65 legal services fee paid by Texas attorneys each year as part of bar dues by striking the expiration clause for this subsection. *See* § 81.054, Gov't Code.

**SB 291** – Effective 9/1/07. Requires clerks to obtain criminal history information for proposed guardians who are not members of the ward's family or an attorney. Also permits clerks to charge \$10 fee to recover costs of obtaining criminal history information. *See* §698, Prob. Code. ***See also Court Clerks; Probate, Guardianships and Mental Health.***

**SB 325** – Bill effective 9/1/07. (*Fees effective 1/1/08.*) Establishes an appellate judicial system

for the Ninth Court of Appeals in Beaumont and requires the commissioners courts of the ten counties within the district to set a court cost fee of up to \$5 in civil suits filed in the district, to be deposited in the appellate judicial system fund and forwarded to the court of appeals for its judicial system. *See* §22.201, Gov't Code. *See also Appellate Courts.*

**SB 600** – Bill effective 10/1/07. (*Fees effective 1/1/08.*) Increases the fee for filing civil suit in district court, statutory county court, or county court from \$37 to \$42. Increases the fee upon conviction for any non-parking and non-pedestrian offense from \$4 to \$6. Also increases compensation for statutory county court judges to an amount not less than \$1,000 less than a district court judge and requires state to pay 60% of that salary. *See* §§ 25.0005, 25.0003, and 25.0015, Gov't Code; §§ 133.154 and 133.105, Loc. Gov't Code. *See also Judicial Compensation and Retirement*

**SB 819** –Effective 9/1/07.  
Requires payment of \$25 fee for filing inventory and appraisal more than 90 days after personal representative has qualified to serve. Formerly, payment was required only if inventory and appraisal was filed more than 120 days after the initial filing of the action. *See* §§118.052, 118.056. Loc. Gov't Code. *See also Probate, Guardianships and Mental Health.*

**SB 1182** – Effective 9/1/07.  
Requires comptroller of public accounts to create supreme court support account in judicial fund, and requires the clerk of the supreme court and clerks of the courts of appeal to collect court cost fee of not more than \$50 and to send the fees to the comptroller for deposit in the judicial fund. *See* Subchapter A, Chapter 51, Gov't Code. *See also Appellate Courts.*

**SB 1412** –Bill effective 9/1/07. (*Fees effective 1/1/08.*) Increases civil filing fee in justice court from \$15 to \$25 and in small claims court from \$10 to \$25. *See* § 101.141(b), Gov't Code; § 118.121, Loc. Gov't Code. *See also Justices of the Peace and Municipal Judges.*

## Court Security and Facilities

**HB 41** – Effective 9/1/07.  
Provides that the residence address of certain federal and state judges and their spouses may be omitted from ad valorem tax appraisal records and certain voter registration records. *See* § 25.025, Tax Code; various sections of the Elec. Code. *See also Open Records.*

**HB 842** – Effective 9/1/07.  
Requires that residence address information be removed from personal financial statement filed with Texas Ethics Commission by a judge or a justice before making statement available to the public. *See* § 572.032, Gov't Code.

**HB 1380** – Effective 9/1/07.  
Expands scope of funding from “municipal court building security fund” to include operations of associate judges, masters, magistrates, referees, hearing officers, criminal law magistrate court judges, and masters in chancery. Also provides that a local administrative judge must give Office of Court Administration a written report regarding any security incidents occurring in or around a building housing a court. *See* § 102.017, Code of Crim. Proc.

**HB 1889** – Effective 5/24/07.  
Exempts municipal attorneys and bailiffs escorting judicial officers from restrictions on carrying weapons on in a courthouse. Also exempts judicial officers and bailiffs escorting judicial officers from restrictions on carrying firearms to certain restricted areas, such as meetings of a governmental entity. *See* §§ 46.15 and 46.035, Penal Code.

**HB 2300** – Effective 5/25/07.  
Requires concealed handgun licenses issued to judges, justices, district attorneys, criminal district attorneys, and county attorneys to indicate the individuals' title. Also exempts the above-listed groups from handgun proficiency certification requirements. These exemptions include federal and state judges. *See* Ch. 411, Gov't Code, and §§ 46.035 and 46.15, Penal Code.

**HB 2766** – Effective 5/23/07.

Allows a presiding judge of an administrative judicial region in a first or second tier coastal county to designate an alternate location at which a court may conduct proceedings during a disaster, so long as the court has the approval of the judge of the affected court. *See* Chapters 24 through 26, Gov't Code.

**Criminal Procedure**

**HB 312** – Effective 9/1/07.

Provides that, in order to revoke a defendant's community supervision for failure to pay community supervision fees, the state must prove by a preponderance of the evidence that the defendant was able to pay but did not pay as ordered by the judge. *See* § 21(c), Art. 42.12, Code of Crim. Proc.

**HB 485** – Effective 9/1/07.

Makes peace officers of law enforcement agencies eligible to collect restitution from individual who has written bad checks if the officer executes a warrant against the defendant with the approval of the court in which the offense is filed. Increases maximum amount of restitution available to the victim from \$500 to \$5000. *See* § 32.14(e), Penal Code & Art. 45.041, Code of Crim. Proc.

**HB 1121** – Effective 9/1/07.

Requires a judge, on the motion of the attorney representing the state, to make an affirmative finding and file a statement if the judge determines that, regardless of whether the conduct at issue under Ch. 20A, Penal Code (Trafficking of Persons) is the subject of the prosecution or part of the same criminal episode as the conduct that is the subject of the prosecution, if a victim in the trial is or has been a victim of a severe form of trafficking in persons or has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity under 8 U.S.C. Section 1101(a)(15)(U)(iii). The part of the papers containing the affirmative finding would be confidential unless appropriate written consent is given to release the information. *See* Ch. 42,

Code Crim. Proc.; §20A.01, Penal Code.; and § 125.002, Civ. Prac. & Rem. Code.

**HB 1178** – Effective 9/1/07.

Clarifies the circumstances under which a court is authorized to obtain from a defendant a waiver of the right counsel and under which an attorney representing the state is authorized to communicate with a defendant who is not represented by counsel. *See* Art. 1.051 & Art. 17.09, Code of Crim. Proc.

**HB 1303** – Effective 9/1/07.

Permits criminal history expunction notifications to be made through electronic transmission. Requires Department of Public Safety to notify private entities, at the same time that other repositories of criminal history information are notified, that a criminal history record has been ordered expunged. Requires private background check companies to obtain and use updated criminal history information. *See* Art. 55.02, Code of Crim. Proc. and Ch. 411 and § 552.1425, Gov't Code. ***See also* Court Clerks.**

**HB 1801** – Effective 9/1/07.

Imposes the additional requirement on clerks when that court does not provide online Internet access to that court's criminal case records. It directs the clerk to post, in a designated public place in the courthouse, the notice of a criminal court docket setting not less than 48 hours before the docket setting. *See* Art. 17.085, Code of Crim. Proc. ***See also* Court Clerks.**

**HB 1988** – Effective 9/1/07.

Provides that a protective order issued on behalf of a person who is the victim of indecency with a child, sexual assault, or aggravated sexual assault may be in effect for the duration of the lives of the offender and victim if the court finds reasonable cause to believe a threat that reasonably places the victim in fear of further harm from the offender exists. Provides that, if no effective period is stated in the order, it would remain in effect for two years from the date of issuance. Provides that, if the person to whom the protective order applies is imprisoned on the expiration date, the order continues in effect until one year after the person is released

from imprisonment. *See* Ch. 7A, Code of Crim. Proc.

**HB 2385** – Effective 9/1/07.

Allows district attorney, criminal district attorney, or county attorney to collect fee of up to \$500 to be used to reimburse county for expenses related to defendant's participation in pretrial intervention program offered in that county. Fees collected are to be used solely to administer the pretrial intervention program. *See* Art. 102, Code Crim. Proc.; and § 103, Gov't Code.

**HB 2391**-Effective 9/1/07.

Authorizes a peace officer charging an individual with Class A or B misdemeanor to issue a citation instead of taking the individual before a magistrate. Provides that the defendant must reside in the county where the offense occurred, and provides that the citation must contain written notice of the time and place to appear for magistration, name and address of the defendant, and the offense charged. *See* Art. 14.06 & 15.17, Code of Crim. Proc.

**HB 3060** – Bill effective 9/1/07. (*Court cost also effective 9/1/07.*) Authorizes district courts and county-level courts to issue a *capias pro fine*, which orders the arrest of a criminal defendant who has failed to pay court-ordered fines or fees. Clarifies differences among *capias* issued prior to trial, *capias* relating to the execution of judgment, *capias pro fine* currently provided under Ch. 45, Code of Criminal Procedure, and arrest warrant issued by a magistrate. Establishes a \$50 fee upon conviction for services of a peace officer in executing or processing an issued *capias pro fine*. *See* Art. 15.18, Art. 17.19, and Art. 102.011, and Chapters 23, 43, & 45, Code of Crim. Proc. (***See also Court Costs and Filing Fees.***)

**HB 3131** – Effective 9/1/07.

Authorizes any magistrate to issue a search warrant under Article 18.02(10)(relating to search warrants issued to search for and seize property or items, except for personal writings of the defendant, constituting evidence of an offense or constituting evidence tending to show

that a particular person committed an offense) or Article 18.02(12)(relating to search warrants issued to search for and seize contraband subject to forfeiture) in a county that does not have a judge of a municipal court of record who is an attorney licensed by the state, a county court judge who is an attorney licensed by the state, or a statutory county court judge. *See* Art. 18.01(i), Code of Crim. Proc.

**HB 3692** – Effective 1/1/08.

Allows judges and magistrates to hold defendants without bail for violating specified conditions of bond relating to family violence and protective orders. Also restricts community service in the county where defendant resides if the organization for which the service is being performed agrees to supervise defendant and report to the court. *See* § 25.07, Penal Code; Ch. 17, Code Crim. Proc.; and § 106.05, Alco. Bev. Code.

**SB 244** -- Effective 9/1/07.

Authorizes district or appellate courts to seal a search warrant affidavit when a compelling state interest exists for doing so, for 31 days after the execution of the search warrant (with one 30 day extension). Provides that an order sealing a search warrant affidavit may not prohibit disclosure of information related to the warrant or affect the right of a defendant to discover the contents of an affidavit. *See* Art. 18.011, Code of Crim. Proc.

**SB 1470** – Effective 9/1/07.

Requires judges to notify family violence offenders that, under existing provisions of state and federal law, they will be prohibited from possessing or transferring a firearm. *See* Article 26.13(a) and 42.0131, Code of Crim. Proc.

**HJR 6** – Effective 11/6/07. Permits the legislature to provide that any person who violates an emergency protection order after being arrested for an offense involving family violence or who violates an active protective order in a family violence case may be taken into custody and, pending trial or other court proceedings, denied release on bail if following a hearing a judge or magistrate in this state determines by a preponderance of the evidence

that the person violated the order. *See* Art. I, §§ 11b and 11c, Texas Constitution.

### Family Law

**HB 1972** – Effective 9/1/07.

Provides that a court may authorize an attorney ad litem to comply with the requirement that the attorney meet with the client by conferring with the client by telephone or video conference. *See* §107.004, Fam. Code

**SB 228** – Effective 9/1/07.

Makes several changes to the Family Code, relating to the establishment and enforcement of child support; provides an administrative process for the denial of license renewals as a method of enforcing child support obligations; provides an administrative, civil penalty for an employer's failure to report new hires to the state directory. *See* §207.093, Labor Code, and §501.002, Transp. Code.

**SB 584** – Effective 9/1/07.

Authorizes magistrate to issue protective order to victims of sexual assault or aggravated sexual assault and criminalizes those who violate the protective orders. Under current law, only victims of stalking and family violence are eligible to receive protective orders. *See* Art. 17.292(a), Code of Crim. Proc.; § 25.07(a), Penal Code.

**SB 759** – Effective 9/1/07.

Requires children under care of Department of Family and Protective Services to attend permanency review hearings unless court specifically excuses their attendance. *See* § 263.501(e), Fam. Code.

### Indigent Defense

**HB 1265** – Effective 9/1/07.

Allows Task Force on Indigent Defense to meet four times per year rather than meeting each quarter. Strikes “ad hoc” from definition of

assigned counsel programs. Eliminates 2007 sunset provision of legal services fee paid by attorneys to support indigent defense. *See* §§71.001, 71.055, 71.060, 81.054, Gov't Code.

**HB 1267** – Effective 9/1/07.

Allows counsel appointed to represent an indigent defendant to appeal a judge's failure to act on a request for payment within 60 days. Streamlines the payment system for paying attorneys for representing Texas Department of Criminal Justice inmates who are charged with new crimes who may not be represented by the State Counsel for Offenders. Creates a new \$2 fee on criminal convictions to be used for indigent defense services, which is expected to generate about \$7.6 million in new revenue annually. *See* Art. 26.05 & Art. 26.051, Code of Crim. Proc., §102.023, Gov't Code, §§133.003 and 133.107, Loc. Gov't Code.

**SB 168** – Effective 5/22/07.

Eliminates the 2007 sunset provision of the legal services fee paid by attorneys to support indigent defense. *See* §81.054, Gov't Code.

### Judicial Administration

**HB 909** – Effective 6/15/07.

Requires the district and county-level judges who appoint CSCD directors to take several actions before appointing a new director including: (1) advertising the position; (2) posting a job description and qualifications; (3) conducting a competitive hiring process; and (4) reviewing applicants who meet the posted qualifications. *See* § 76.004, Gov't Code.

### Judicial Compensation and Retirement

**HB 2882** – Effective 9/1/07.

Changes formula relating to benefits payable by Judicial Retirement System Plan One and Judicial Retirement System Plan Two by increasing accrual rate for extra years of contributing service from two percent to 2.3 percent. Increases maximum benefit to an

amount no greater than 90 percent of the state salary. *See* §§ 834.102(c), 839.102(d) and (f), Gov't Code.

**HB 3135** – Effective 9/1/07.

Provides that visiting judges be paid pro rata based on the revised salary formula of the sum of a regular judge's salary paid by the county plus the greater of: the state-paid salary of a regular judge on August 31, 2007; or 100 percent of a regular judge's salary from the state for any fiscal year. *See* §§ 74.061(h) and (i), Gov't Code.

**HB 3199** – Effective 9/1/07.

Creates Judicial Compensation Commission, which is charged with reporting to the legislature, before each legislative session, on the proper salaries to be paid by the state for all justices and judges of the Supreme Court, the Court of Criminal Appeals, the courts of appeals, and the district courts. *See* Ch. 35, Gov't Code.

**HJR 36** – Effective 11/6/07.

Permits state justice or judge who reaches mandatory age of retirement during first four years of term of office to complete the first four years of the current term. *See* Section 1-a(1), Article V, Texas Constitution.

**SB 600** – Bill effective 10/1/07. (*Fees effective 1/1/08.*)

Increases fee for filing civil suit in district court, statutory county court, or county court from \$37 to \$42. Increases fee upon conviction for any non-parking and non-pedestrian offense from \$4 to \$6. Also increases the compensation for statutory county court judges to an amount not less than \$1,000 less than a district court judge and requires the state to pay 60 percent of that salary. *See* §§ 25.0005, 25.0003, and 25.0015, Gov't Code; §§ 133.154 and 133.105, Loc. Gov't Code. *See also Court Costs and Filing Fees.*

**SB 749** – Effective 9/1/07.

Authorizes additional compensation for presiding judge of asbestos or silica multi-district litigation and authorizes presiding judge to appoint up to four staff members to address

additional workload. *See* §§ 23.101, 659.0125 Gov't Code; Ch 74, Subchapter I, Gov't Code.

**SB 821** – Effective 6/15/07.

Authorizes the payment of associate probate court judges from the excess contributions remitted to the contributions fund under §51.704, Gov't Code, upon the recommendation of the statutory probate court judges and subject to approval of the county commissioners court. *See* § 25.00213, Gov't Code. *See also Associate Judges.*

**SB 1519** – Effective 9/1/07.

Provides longevity pay to judge or justice who: (1) receives a salary paid by the state; (2) is a member of a Judicial Retirement System; and (3) is an active judge. Longevity pay includes \$20 for each year of service credited in retirement system, and is calculated and becomes payable beginning with the month following the month in which the judge or justice completes 16 years of service for which credit is established in the retirement system. *See* § 659.0445 Gov't Code.

**Judicial Education**

**HB 3505** – Effective 9/1/07.

Requires each district judge, judge of a statutory county court, and certain associate judges to complete—within judge's first term of office or the judicial officer's first four years of service—at least twelve hours, rather than eight hours, of training. Requires at least four hours of the training to be dedicated to issues related to child abuse and neglect. Requires each judge and judicial officer to complete an additional five, rather than three, hours of training during each additional term in office or four years of service and requires at least two hours of the additional training to be dedicated to issues related to child abuse and neglect. *See* §22.110, Gov't Code.

**SB 496** – Effective 9/1/07.

Requires court of criminal appeals to grant judicial training funds to provide innocence training programs to law enforcement officers,

law students, and other participants. *See* Ch. 56, Gov't Code.

## Juries

### **HB 1086** – Effective 9/1/07.

Discharges alternate jurors in criminal cases who do not replace regular jurors from duty only after the jury has rendered a verdict on guilt/innocence and, if applicable, the amount of punishment. Previously, alternate jurors were discharged after the jury retired to consider its verdict. *See* Articles 33.011, 36.29, Code of Crim. Proc.

### **HB 1204** – Effective 9/1/07.

Allows jurors to specify an amount of their juror daily reimbursement to be donated to certain programs or funds. Under current statute, a juror may designate the entire reimbursement, but no provision is made for designating part of the juror's reimbursement for donation purposes. *See* § 61.003(a), Gov't Code.

### **SB 343** – Effective 9/1/07.

Changes the language of the oath taken by witnesses before the grand jury. *See* § 20.16, Code of Crim. Proc.

### **SB 560** – Effective 9/1/07.

Clarifies current law regarding the proper reimbursement of persons for time served as jurors. Specifically, all persons who report for jury service and discharge their assigned duty for that day are to receive at least \$6 for the first such day and at least \$40 for all subsequent days. Notes that municipal court jurors are not entitled to this reimbursement, but that a city may choose to provide some level of reimbursement to jurors. Permits jurors to donate a portion of their juror reimbursement money. Authorizes commissioners courts to approve programs offering post trial psychological counseling to jurors who served in cases involving graphic evidence. *See* §§ 61.001, 61.0011, 61.0015, 61.003 Gov't Code; §56.04, Code of Crim. Proc.

## Justices of the Peace and Municipal Judges

### **HB 423** – Effective 9/1/07.

Requires medical examiner or justice of the peace acting as coroner to submit a written report to Department of Public Safety regarding death of person in traffic accident. Requires report to contain name of deceased and statement as to whether deceased was vehicle operator, passenger, or a pedestrian. Also requires report to contain name of lab conducting toxicology reports and results of such reports. *See* § 550.081, Transp. Code.

### **HB 586** – Effective 9/1/07.

Prohibits a defendant who is found guilty of driving at a speed higher than 95 miles per hour and issued a speeding ticket from taking a driving safety class to dismiss the ticket. *See* § 45.0511, Code Crim. Proc.

### **HB 755** – Effective 9/1/07.

Prohibits state agency from taking disciplinary action against person for failing to timely file death certificate if person supplies written documentation that person has made a good faith effort to file certificate within time required and that failure to timely file was result of circumstances beyond person's control. *See* Ch. 193, Health & Safety Code.

### **HB 2468** – Effective 9/1/07.

Requires justices of the peace, in counties with population of 100,000 or more, to file personal financial statement with county clerk, making justices of the peace subject to the same income disclosure requirements as other county officials. *See* Ch. 159, Loc. Gov't Code.

### **SB 237** – Effective 9/1/07.

Requires the supreme court to adopt rules governing electronic filing of documents in civil cases in justice of the peace courts. *See* § 22.004, Gov't Code. *See also* **Technology**.

### **SB 397** – Effective 9/1/07.

Authorizes municipal judges, retired judges, and clerks to administer oaths and provide a certificate of the fact and removes the limitation

applying the authority only to matters pertaining to a duty of the court. *See* § 602.002, Gov't Code.

**SB 618** – Effective 9/1/07.

Increases the upper jurisdictional limit of the justice court and the small claims court from \$5,000 to \$10,000. Specifies that a corporation need not be represented by an attorney in justice court. *See* §§ 26.042, 27.031, 28.003 Gov't Code.

**SB 1083** – Effective 9/1/07.

Authorizes judge, at the time defendant requests driving safety course or motorcycle operator training course dismissal, to require defendant to pay certain fees and, using TexasOnline, request Department of Public Safety (“DPS”) to provide judge with defendant’s driving record. Requires the DPS to provide copy of defendant’s driving record on request to judge as soon as practicable and using TexasOnline. Requires custodian of municipal or county treasury who receives fees collected under this subsection to keep record of fees and, without deduction or proration, forward fees to comptroller of public accounts, with and in manner required for other fees and costs received in connection with criminal cases. *See* Article 45.0511(c-1), Code of Crim. Proc.

**SB 1412** – Bill Effective 9/1/07. (*Fees effective 1/1/08.*) Increases the civil case filing fee in justice court from \$15 to \$25 and in small claims court from \$10 to \$25. *See* § 101.141(b), Gov't Code; § 118.121, Local Gov't Code. *See also* **Court Costs and Filing Fees.**

**SB 1413** – Effective 9/1/07.

Permits appeals from civil cases in justice court only where the judgment or amount in controversy exceeds \$250. Formerly, the amount was \$20. *See* § 26.042, Gov't Code; § 51.002, Civ. Prac. & Rem. Code.

**SB 1416** – Effective 9/1/07.

Permits appeals from small claims court cases only where the amount in controversy exceeds \$250. *See* § 28.052, Gov't Code.

## Open Records

**HB 41** – Effective 9/1/07.

Provides that residence address of certain federal and state judges and their spouses may be omitted from ad valorem tax appraisal records and certain voter registration records. *See* § 25.025, Tax Code; various sections of the Elec. Code. *See also* **Court Security and Facilities.**

**HB 587** – Effective 9/1/07.

Specifies that a subpoena or summons relating to a grand jury proceeding be kept secret for as long as necessary in order to prevent the unauthorized disclosure of a matter before the grand jury. *See* Arts. 20.02, 20.22, 33.07, Code of Crim. Proc. and § 12.04, Prop. Code. *See also* **Court Clerks.**

**HB 842** – Effective 9/1/07.

Requires residence address information be removed from a personal financial statement filed with the Texas Ethics Commission by a judge or a justice before making the statement available to the public. *See* § 572.032, Gov't Code. *See also* **Court Security and Facilities.**

**HB 1237** – Effective 9/1/07.

Provides that licensed attorney may choose to restrict public access to certain information contained in records of the state bar, including attorney’s home address, home telephone number, email address, social security number, and date of birth. *See* § 552, Gov't Code.

**HB 1497** – Effective 9/1/07.

Provides certain conditions under the Public Information Act by which a written inquiry communication to which a requestor does not respond constitutes withdrawal of requestor’s information request. *See* §552.222, Gov't Code.

**HB 2061** – Effective 3/28/07.

Provides that a county or district clerk is not liable under § 552.352, Gov't Code, for the disclosure of a social security number contained in a document filed with the county or district clerk. Requires, upon written request of an individual, the redaction, from documents specified by the individual, of all but the last

four numbers of a social security number unless another law requires the full social security number to be maintained on the document. Requires clerks to accept documents for filing even if they contain social security numbers and does not require the clerk to confirm that a document preparer actually redacted a social security number from a document. *See* § 552.147, Gov't Code; § 11.008, Prop. Code. ***See also Court Clerks.***

**HB 2564** – Effective 9/1/07.

Allows a governmental body to set a limit on the amount of time it will spend copying or providing information under the Public Information Act (“PIA”) for inspection at no charge. Allows a governmental body to charge requestors for time spent in excess of the limit in complying with a request under the PIA. *See* § 552.275 Gov't Code. ***See also Court Clerks.***

**SB 74** – Effective 9/1/07.

Establishes an address confidentiality program administered through the Office of the Attorney General to protect the identity of victims of family violence, sexual assault, and stalking; also establishes a procedure whereby a victim of family violence may choose a pseudonym to be used instead of the victim's name in all public files and records concerning the offense. *See* Art. 56.81 through 56.93 and Art. 57B, Code of Crim. Proc.; §§82.007, 84.0021, and 221.018, Election Code; Art. 56.54, Code of Crim. Proc.; §18.0051, Election Code.

**SB 244** – Effective 09/1/07.

Authorizes district and appellate courts to seal search warrant affidavit when compelling state interest exists for doing so, for 31 days after the execution of the search warrant (with one 30 day extension). Provides that an order sealing a search warrant affidavit may not prohibit disclosure of information related to warrant or affect right of defendant to discover contents of affidavit. *See* Art. 18.011, Code of Crim. Proc.

**SB 699** – Effective 9/1/07.

Requires each party in a civil action or their attorney to include in the initial pleadings the last three numbers of each party's driver's license number and the last three numbers of

each party's social security number; requires an abstract of judgment of include the same information. *See* §30.014, Civil Prac. & Rem. Code; Amends 52.003, Prop. Code.

**Probate, Guardianships and Mental Health**

**HB 342** – Effective 6/15/07.

Provides that court in which guardianship proceeding is filed and venue is proper may delay further action if another guardianship proceeding is subsequently filed in a foreign jurisdiction and venue in the foreign court is proper. Requires court to determine whether venue is more suitable in that court or the foreign court and to resume or transfer the proceeding, depending on court's venue determination. *See* § 894, Prob. Code.

**HB 391** – Effective 9/1/07 (except emergency intervention application provision effective 6/15/07.)

Imposes additional requirements on clerks when application for sale of real property is filed. Requires clerk to inform interested persons of right to oppose the sale and also to immediately inform judge if an opposition to the sale is filed within certain time period. Requires clerk to notify applicant and any opponents if court sets a hearing. Also deletes requirement that social security number be included in application for emergency funeral funds. *See* §§ 111, 112, 345, 345A, Prob. Code. ***See also Court Clerks.***

**HB 417** – Effective 9/1/07.

Makes several changes in procedures for guardianship proceedings, including terms of and compensation for guardians ad litem and attorneys ad litem, court initiation of guardianship proceedings, required findings regarding the ward's right to vote and right to operate a motor vehicle, and hearings on applications for the sale of real estate. *See* §§ 645-695, 759-761, 823-855B, Prob. Code.

**HB 518** – Effective 9/1/07.

Authorizes peace officer to detain person for 48 hours without warrant if circumstances lead

officer to conclude there is reasonable cause to believe person is mentally ill and that mental illness creates substantial risk of imminent serious harm to the mentally ill person or others. Provides that this 48-hour period includes any time patient spends waiting in the facility for medical care before receiving the preliminary examination. Authorizes person to be detained until 12 p.m., rather than 4 p.m., on the first succeeding business day if the 48-hour period ends on a Saturday, Sunday, legal holiday, or before 4 p.m. on the first succeeding business day. Authorizes person to be detained only until 4 p.m. on the day the 48-hour period ends if the 48-hour period ends at a different time. Deletes existing text providing that the period does not include any time during which the person is actually receiving necessary medical care in the facility's emergency room or emergency care in another area of the facility. Requires a physician to examine the person as soon as possible within 12, rather than 24, hours after the time the person is apprehended by the peace officer or transported for emergency detention by the person's guardian. *See* §§ 573.021(b) and (c), 574.021(d), Health and Safety Code.

**HB 585** – Effective 6/15/07.

Authorizes probate court to exercise jurisdiction in guardianship proceeding involving disabled adult for whom another court obtained continuing, exclusive jurisdiction in suit affecting the parent-child relationship when the person was a child. *See* §§606, 682A, Prob. Code.

**HB 1709** – Effective 9/1/07.

Authorizes a court with evidence that a personal representative bond or guardian bond is insufficient to order that the guardian or personal representative provide new bond. Authorizes personal representative to request hearing on order. *See* §§205, 206, 713, 714, Prob. Code.

**HB 2967** – Effective 10/1/07.

Requires statutory probate court judges to execute \$500,000 bond to cover performance of their duties. Permits, in lieu of bond, counties to purchase insurance in the amount of \$500,000 to cover losses caused by statutory probate court judges' gross negligence. Requires

commissioners courts to pay the premium for the bond or insurance out of county's general funds. *See* §25.00231, Gov't Code.

**HB 3787** – Effective 6/15/07.

Exempts estate of decedent killed in combat while in active military service from filing fees and administrative fees associated with probating an estate. *See* §11A, Prob. Code. *See also Court Costs and Filing Fees.*

**SB 291** – Effective 9/1/07.

Requires Department of Aging and Disability Services ("DADS") to perform criminal background checks for persons employed by DADS as guardians and to submit the background checks to the Guardianship Certification Board ("GCB") and the county clerk. Also requires DADS to submit to GCB a list of names, along with identifiable information and the county of employment or prospective employment, of all persons employed or seeking employment, as a guardian by DADS. *See* § 411.1386, Gov't Code and §§ 697A, 698, Prob. Code. *See also Court Clerks; Court Costs and Filing Fees.*

**SB 406** – Effective 9/1/07.

Addresses procedures for hearing a motion for recusal of a statutory probate judge. Also addresses tertiary recusal motions filed against statutory probate court judges and includes third or subsequent motions filed against any judge, not just the judge against whom the previous motions were filed. *See* §§ 25.00255, 25.00256, Gov't Code.

**SB 505** – Effective 4/25/07.

Authorizes Guardianship Certification Board ("GCB") to obtain criminal history information from Department of Public Safety on applicants and holders of a certificate issued by GCB. *See* § 411.1406, Gov't Code.

**SB 506** – Effective 4/25/07.

Authorizes Guardianship Certification Board to establish qualifications for provisional certification and issue provisional certificates to individuals that do not meet qualifications for guardianship certification. Authorizes supreme court to adopt rules for provisional certification.

Permits provisionally-certified individuals to provide guardianship services. *See* § 111.016, 111.0421, Gov't Code.

**SB 507** – Effective 9/1/07.

Authorizes reimbursement of members of Guardianship Certification Board (“GCB”) for travel and other expenses incurred in performance of GCB duties. *See* § 111.011, Gov't Code.

**SB 593** – Effective 9/1/07.

Requires personal representative of decedent's estate, within a certain time period of an order admitting a will to probate, to give notice to each beneficiary named in will whose identity is known or, through reasonable diligence, can be ascertained, and to file affidavit with court listing beneficiaries notified. *See* § 128A, Prob. Code.

**SB 778** – Effective 9/1/07.

Authorizes judges with probate jurisdiction to receive applications for emergency mental health detentions from physicians by video teleconferencing and to conduct hearings via video teleconferencing. Additionally, requires that secure, confidential attorney-client discussions be supported by video teleconferencing technology. *See* §§ 573.012, 574.203, Health & Safety Code. *See also Technology.*

**SB 821** – Effective 6/15/07.

Authorizes payment of associate probate court judges from excess contributions remitted to the contributions fund under §51.704, Gov't Code, upon the recommendation of the statutory probate court judges and subject to approval of the county commissioners court. *See* § 25.00213, Gov't Code. *See also Associate Judges; Judicial Compensation and Retirement.*

state governmental entities in judicial branch to fund technology programs approved by the Judicial Committee on Information Technology. Also allows OCA to give preference to state and local entities in the judicial branch in transferring surplus computer equipment. *See* §§ 72.021, 2175.307, Gov't Code.

**HB 1788** – Effective 9/1/07.

Modifies state reports regarding use of information resources. Requires Department of Information Resources (“DIR”) to report: (1) certain information about TexasOnline in its biennial statewide information resources report; (2) efforts toward better computer accessibility for the disabled; and (3) amounts of Internet-based training used in state government. Requires DIR, Legislative Budget Board, and Texas Buildings and Procurement Commission to prepare report to state leadership on data systems. Also requires each state agency to provide state leadership detailed Information Resources Deployment Review each odd-numbered year. Instructs DIR to specify standard hardware configurations for agency purchases. *See* Ch. 54, Gov't Code.

**SB 237** – Effective 9/1/07.

Requires supreme court to adopt rules governing electronic filing of documents in civil cases in justice of the peace courts. *See* § 22.004, Gov't Code.

**SB 778** – Effective 9/1/07.

Allows judge with probate jurisdiction to receive applications for emergency mental health detentions from a physician by video teleconferencing and to provide for hearings to be conducted by video teleconferencing, within certain constraints. Also requires that secured, confidential attorney-client discussion be supported by video teleconferencing technology. *See* §§ 573.012 and 574.203, Health & Safety Code.

**Technology**

**HB 368** – Effective 9/1/07.

Authorizes Office of Court Administration (“OCA”) to award grant of money to local or