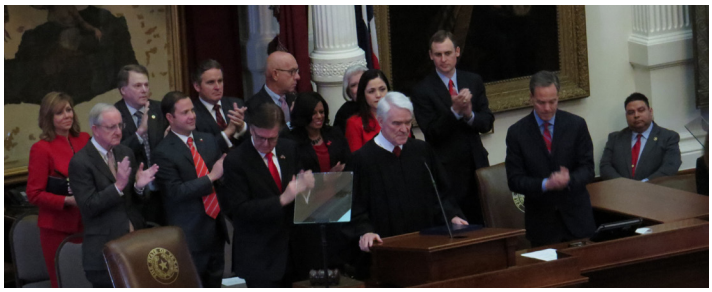
TXCOURTS

TEXAS JUDICIARY LEGISLATIVE UPDATE
TEXAS JUDICIAL COUNCIL

85th Legislature



Increasing Compliance with Court Costs and Fees

Addressing Mental Health

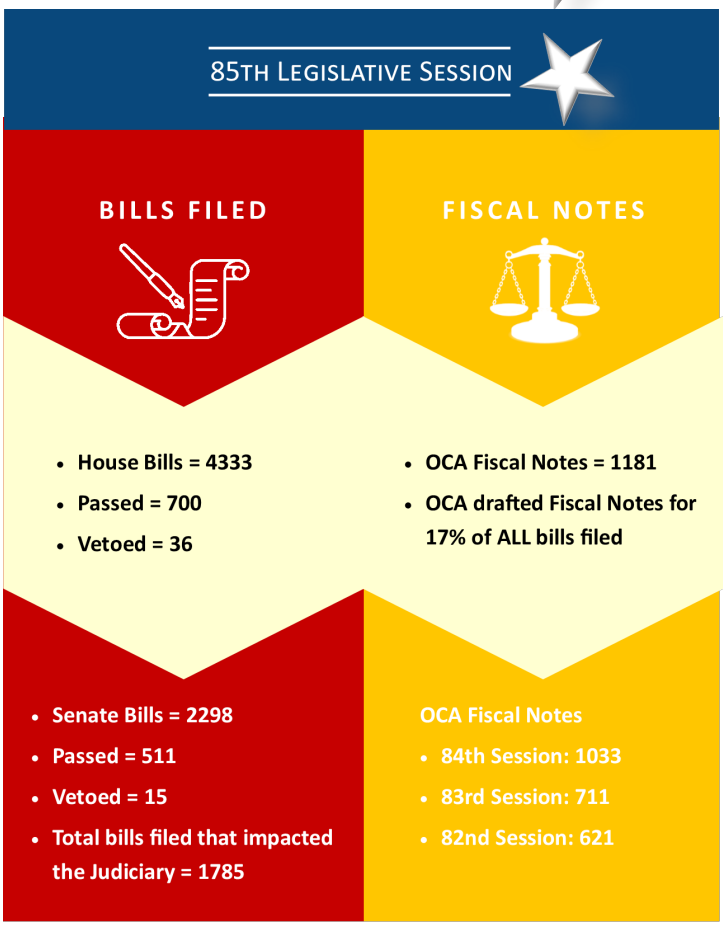
Strengthening Court Security

Improving the Guardianship System

Funding the Judiciary

JULY 2017

The 85th Legislative Session was one of the most active sessions for the Texas Judiciary in recent years. More than 1700 bills were filed that had a direct impact on the third branch of government. The Office of Court Administration also analyzed and drafted 1181 fiscal notes for the Legislative Budget Board. The Texas Judicial Council, the policy making body for the Judiciary, had a full legislative package and found success in multiple policy areas.



Increasing Compliance with Court Costs and Fees

In his 2017 State of the Judiciary speech, Texas Supreme Court Chief Justice Nathan L. Hecht discussed what is commonly known as "debtors' prisons," the practice of jailing criminal defendants for being unable to pay their fines and court costs. He said debtors' prisons are not only illegal under the United States Constitution, they also keep people "from jobs, hurts their families, makes them dependent on society and costs taxpayers money." The Legislature agreed and passed **SB 1913.** The bill makes statutory changes to improve the assessment and collection of criminal court costs including:

- Requiring judges handling cases in open court to ask about a defendant's ability to pay when imposing the sentence and to use existing tools of installment plans, community service, full or partial waiver, or any combination of those, if a defendant has an inability to pay in full;
- Expanding community service options a judge may impose;
- Increasing the minimum amount of credit for jail or community service from $50 to $100 for each day; and
- Prohibits the posting of a monetary bail in a fine-only offense unless the defendant fails to appear and the judge finds that the defendant can post bail.

Addressing Mental Health

More than 20 percent of the inmate population in Texas needs mental health services. With that sobering statistic in mind, the Judicial Council made several legislative recommendations to improve the administration of justice for those suffering from or affected by mental illness. While several bills were filed that addressed mental health, the Judicial Council's recommendations passed both chambers in **SB 1326** and **SB 292**. The bills make several statutory changes including:

SB 1326

- Revises the process of gathering and assessing information about an arrestee who may have a mental illness in the magistration process;
- Streamlines the competency restoration process; and
- Authorizes counties to establish jail-based competency restoration programs.

SB 292 – Jail Diversion Grant Programs

- The grant program was created for the purpose of reducing recidivism, arrest, and incarceration of individuals with mental illness. The program is funded by matching funds from the state and counties.

Strengthening Court Security

On the night of November 6, 2015, Travis County District Judge Julie Kocurek was shot in her driveway, shortly after returning home with her family from a football game. Judge Kocurek was hospitalized for several months recovering from injuries from the attempted assassination before she returned to the bench on February 29, 2016. One of the three individuals connected with the shooting had a probation revocation proceeding pending in Judge Kocurek's court at the time of the shooting. While this horrible event was not the first court security incident to occur in Texas, it reminded the judiciary of the importance of ensuring that judges and court personnel are protected. The Legislature enacted several court security changes recommended by the Judicial Council in **SB 42** – *The Judge Julie Kocurek Judicial and Courthouse Security Act of 2017*. The changes include:

- Establishing a Director of Security and Emergency Preparedness at OCA;
- Requiring municipal judges and local administrative judges to establish court security committees;
- Certification of court security personnel;
- Changes to statutes impacting judges' personal security and privacy; and
- Clarifying that law enforcement has authority to protect threatened judges when necessary.

Improving the Guardianship System

During the 84th Legislative session, lawmakers made several improvements to the guardianship system in our state and the 85th Legislature continued to build on that work. With the senior population in Texas expected to triple by 2050, the Judicial Council made recommendations to the Legislature to protect some of our most vulnerable citizens. SB 1096 and SB 36 contain those recommendations. They include:

SB 1096

- Requires all guardians other than attorneys, corporate fiduciaries, and certified guardians, to receive training, undergo a criminal history background check and register with the Judicial Branch Certification Commission (JBCC); and
- Authorizes the creation of a statewide guardianship registry available for query by law enforcement.

SB 36

- Expands Judicial Branch Certification Commission's authority to regulate guardianship programs.
- OCA anticipates less than 30 programs will be registered with the commission.

The 85th Legislative session resulted in a number of other new laws of interest to the judiciary. The following report briefly summarizes new legislation directly impacting the Texas court system, judges, clerks, and other judicial actors. No attempt is made to cover substantive areas of the law in detail. We hope the report will be a useful resource for the judicial and legal community and all those interested in the administration of justice.

David Slayton
Executive Director, Texas Judicial Council
Administrative Director, Office of Court Administration

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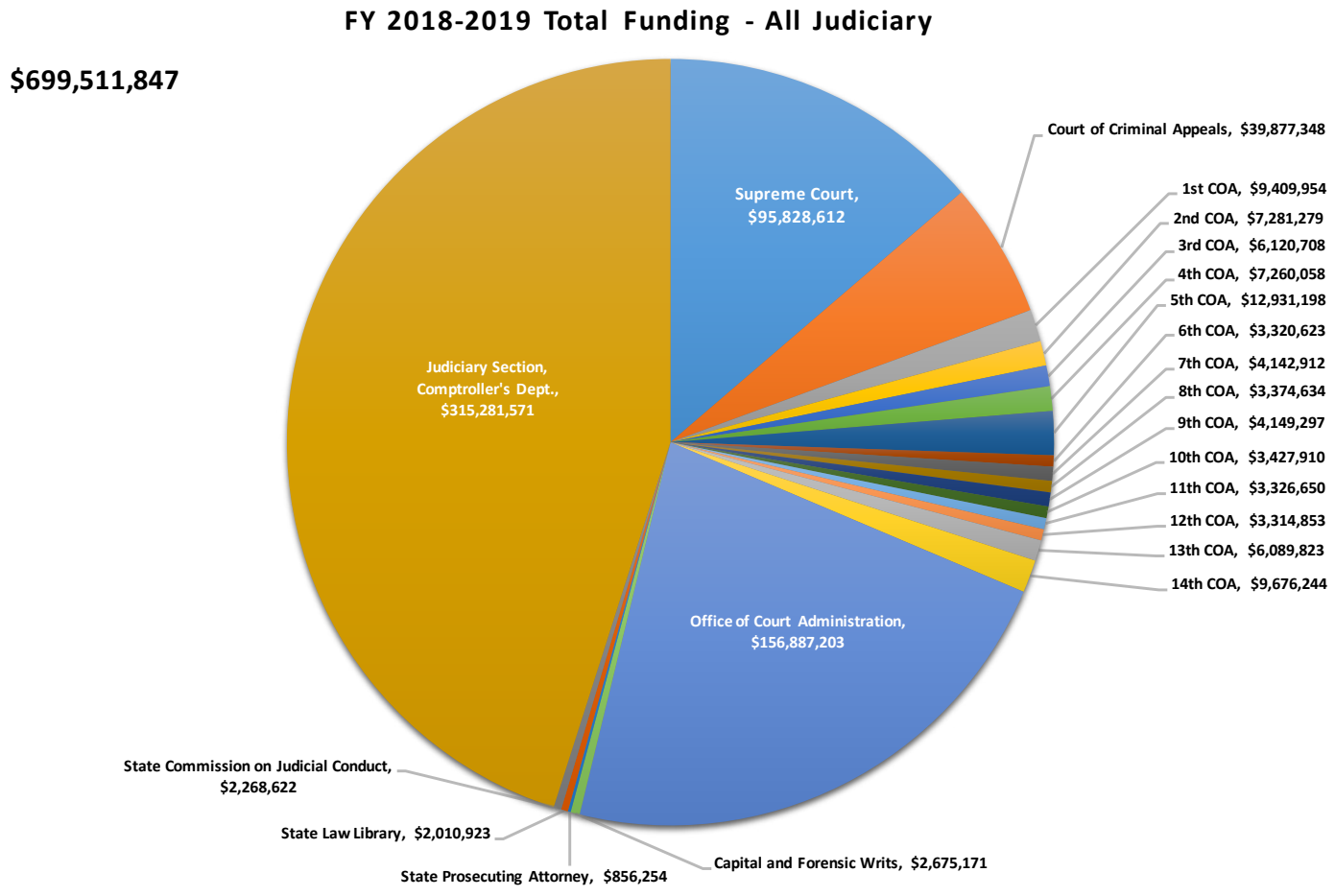
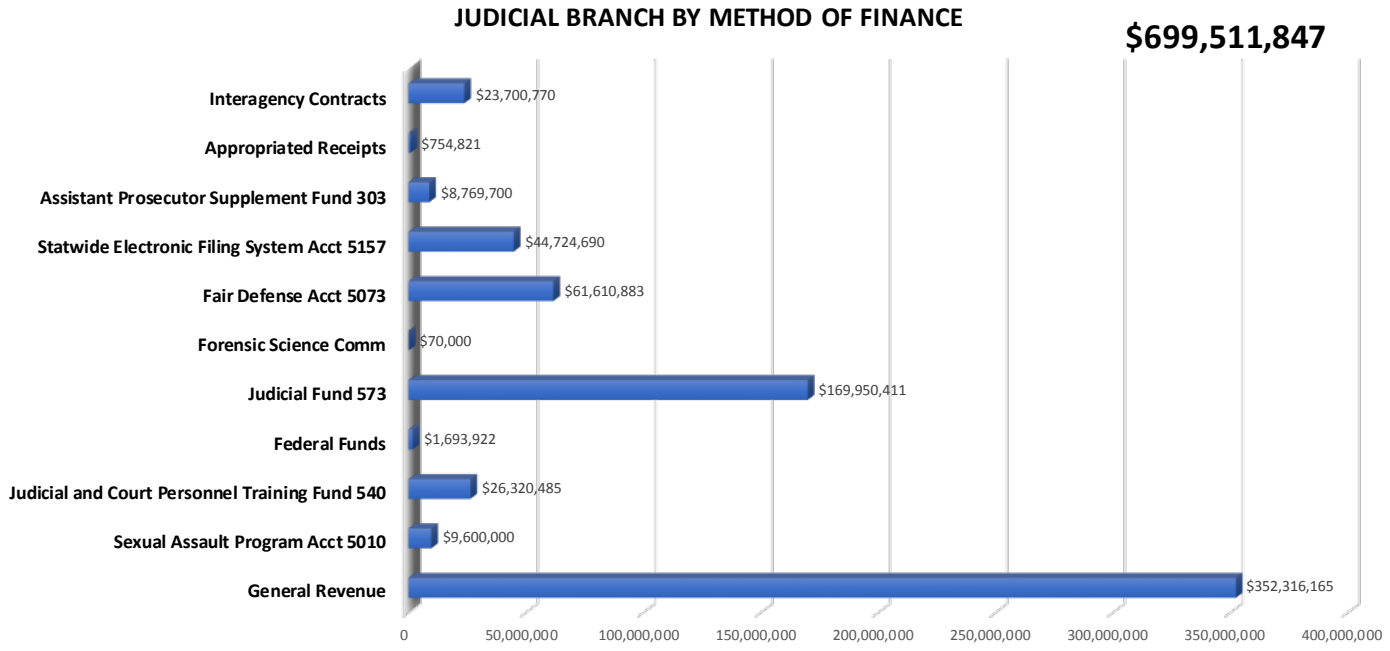
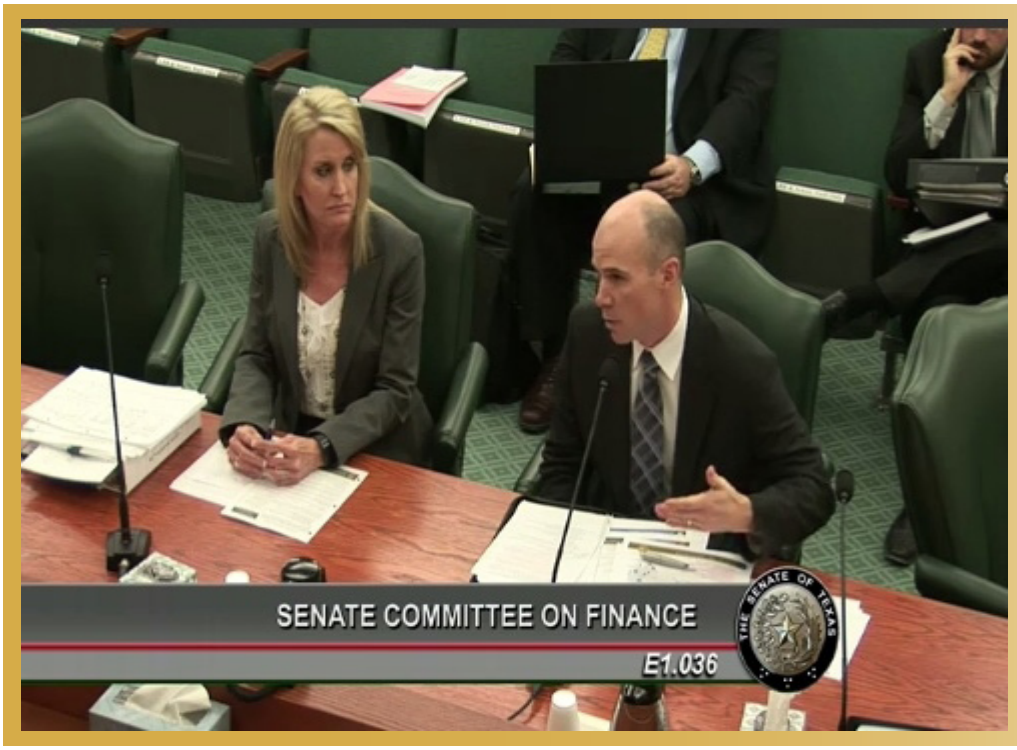
Funding the Judiciary

The Texas Judicial Branch courts and agencies collectively submitted a total biennial budget request of $656.8 million in all funds, which included a 4% reduction from the 2016 – 2017 budget. Exceptional Item requests totaled $252.7 million.

The Conference Committee Report for Senate Bill 1 (CCR SB1) approved by the 85th Legislature appropriated a total of $699.5 million to the Judicial Branch courts and agencies. This figure includes the contingency riders, excludes employee benefits and includes interagency contract funding. This funding level is an additional $17.3 million or 2.5% higher than baseline budgets for 2016-2017. CCR SB1 provides a total of 1,476.9 FTEs, a slight drop from the 2016-2017 levels. The entire budget for the third branch of government makes up 0.4% of the state budget of Texas.

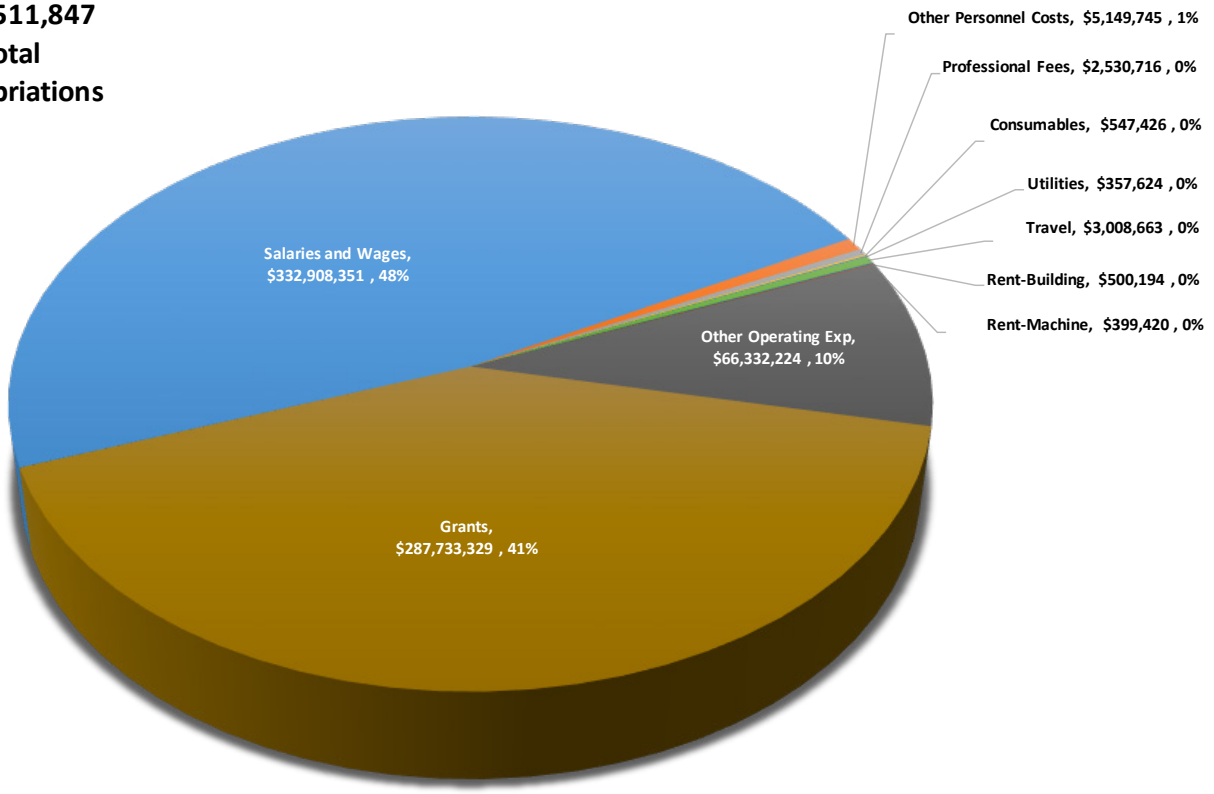



JUDICIAL BRANCH BY METHOD OF FINANCE
$699,511,847
Interagency Contracts
$23,700,770
Appropriated Receipts
$754,821
Assistant Prosecutor Supplement Fund 303
$8,769,700
Statwide Electronic Filing System Acct 5157
$44,724,690
Fair Defense Acct 5073
$61,610,883
Forensic Science Comm
$70,000
Judicial Fund 573
$169,950,411
Federal Funds
$1,693,922
Judicial and Court Personnel Training Fund 540
$26,320,485
Sexual Assault Program Acct 5010
$9,600,000
General Revenue
$352,316,165
0
50,000,000
100,000,000
150,000,000
200,000,000
250,000,000
300,000,000
350,000,000
400,000,000


SENATE COMMITTEE ON FINANCE
E1.036

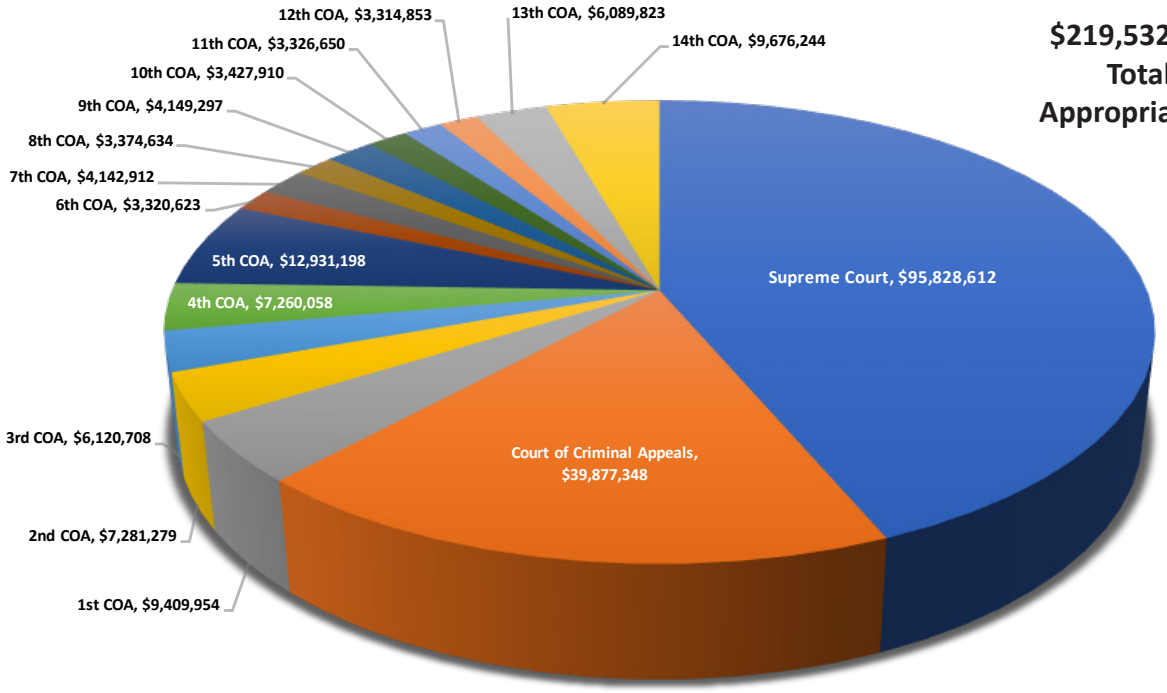
FY 2018-2019 Objects of Expense - All Judiciary

$699,511,847 Total Appropriations

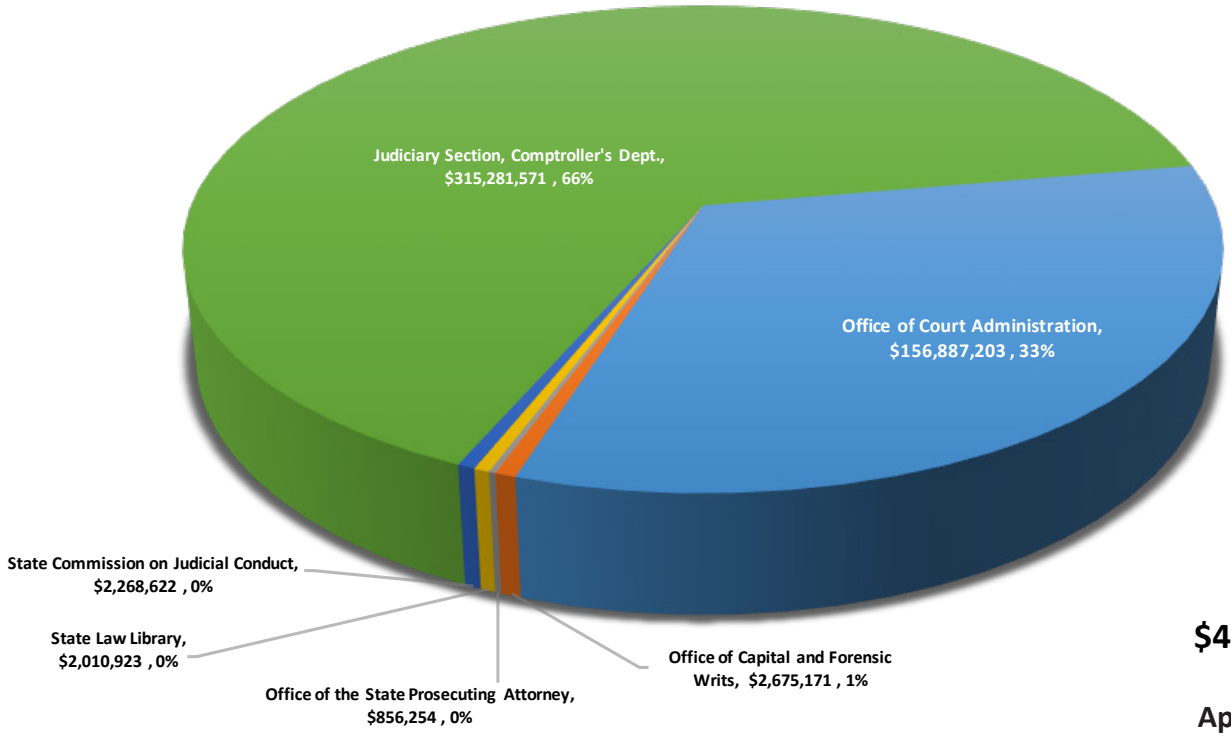


FY 2018-2019 Total Funding - Appellate Courts

$219,532,103 Total Appropriations



FY 2018-2019 Total Funding - Judicial Agencies excluding the Appellate Courts



$479,979,744
Total Appropriations

METHOD OF FINANCE	2016-2017	2018-2019	INCREASE/(DECREASE)
General Revenue	$366,823,824	$352,316,165	($14,507,659)
Fair Defense Account	$67,018,330	$61,610,883	($5,407,447)
Judicial Fund 573	$139,354,542	$169,950,411	$30,595,869
Judicial and Court Personnel Training Fund 540	$19,566,009	$26,320,485	$6,754,477
Sexual Assault Prgm Fund 5010	$10,000,000	$9,600,000	($400,000)
E-Filing Acct 5157	$45,512,708	$44,724,690	($1,121,018)
Asst Prosecutor Supp Fund 303	$8,769,700	$8,769,700	$0
Federal Funds	$3,295,726	$1,693,922	($1,601,804)
Interagency Contracts	$21,074,377	$23,700,770	$2,626,393
Appropriated Receipts	$847,515	$754,821	($92,694)
Forensic Science Commission Acct	$0	$70,000	$70,000
TOTAL	**$682,262,731**	**$699,511,847**	**$17,249,116**

Administration of the Courts

HB 3391— Effective 9/1/17 (impact on pending cases not specified).

Creates an optional pre-trial diversion program for public safety employees charged with a criminal offense, similar to the diversion program already in place for veterans; allows the imposition of reasonable fees to cover the costs of the program. *See* Gov't Code §§ 129.001-.007, 103.02714-.02715; Code Crim. Proc. art. 59.062(f), 102.0178(g).

SB 42—Effective 9/1/17 (compliance deadlines vary).

Requires the Office of Court Administration to establish a judicial security division to provide guidance to court personnel and to establish best practices, and to cooperate with the Commission on Law Enforcement in the creation of model curriculum and the implementation of an associated officer certification program. *See* Gov't Code §§ 72.015-.016; Occ. Code § 1701.267. *See also* Courthouse Security and Judicial Privacy.

SB 43—Effective 9/1/17 (date of applicability to expiring licenses varies by profession).

Streamlines Judicial Branch Certification Commission enforcement procedures so disciplinary cases appear before the Commission only once, instead of twice under current law. Creates procedures for the reissuance of certain revoked or withheld licenses. Revises the calculation of fees associated with the untimely renewal of licensure and restricts renewal of licenses expired for one year or longer.

SB 1893—Effective 6/15/17.

Creates two new administrative judicial regions, with one new region in northeast Texas and one near Houston; realigns existing regions; requires the presiding judge of each region to submit monthly reports regarding any business transacted and requires the Judicial Council to collect that information and compile pertinent statistics. *See* Gov't Code §§ 71.038, 74.042, 74.254.

SB 1911—Effective 9/1/17 (compliance required "as soon as practicable").

Requires the Office of Court Administration to identify and make certain self-help legal resources available through the Internet and requires the clerk of every court in the state to post the link to those resources on the court's website, if any. Authorizes the commissioners courts of multiple counties to collectively establish, maintain, and operate a library. *See* Gov't Code § 51.808; Loc. Gov't Code §§ 323.021, 323.023(b).

Appellate Courts

HB 7—Effective 5/31/17 (compliance deadline not stated).

Requires the Supreme Court to promulgate rules governing certain cases arising under chapter 263 of the Family Code. *See* Fam. Code § 263.4055. *See also* Family Law.

HB 45—Effective 9/1/17 (rules must be promulgated by 1/1/18).

Requires the Supreme Court to adopt rules of evidence and procedure to implement statutory restrictions on the granting of comity to a foreign judgment or an arbitration award involving a marriage relationship or a parent-child relationship. *See* Gov't Code §§ 22.0041, 22.022.

HB 214—Effective 9/1/17 (compliance contingent on funding).

Requires the Supreme Court and the Court of Criminal Appeals, to the extent funding is appropriated for the purpose, to make a video recording of each oral argument and public meeting and to post the recordings on the court's website. *See* Gov't Code § 22.303.

SB 1096 —Effective 9/1/17 (compliance deadlines vary).

Requires the Supreme Court to establish a guardianship registration program and to promulgate associated rules. *See, inter alia*, Gov't Code §§ 155.151, 155.203-209. *See also* Guardianship.

HB 1761—Effective 9/1/17 (applies to interlocutory orders rendered on or after that date).

Eliminates enumerated categories of jurisdiction over interlocutory orders and final judgments, instead allowing the Court to review any appealable order or judgment that presents a question of law important to the jurisdiction of the state, unless the decision of the court of appeals is made final by statute. *See* Gov't Code §§ 22.001, 22.007.

HB 2776—Effective 9/1/17 (rules must be promulgated by 5/1/18).

Requires the Supreme Court to promulgate rules clarifying the right of an appellant to supersede a judgment or order and prohibiting counter-supersedeas unless the lawsuit concerns a matter that was the basis of a contested case in an administrative enforcement action. *See* Gov't Code § 22.004(i); Civ. Prac. & Rem. Code § 6.001(b); Tex. R. App. P. 24.2(a)(3).

SB 36—Effective 9/1/17 (compliance required "as soon as practicable").

Requires the Supreme Court to promulgate rules to ensure compliance with new guardianship registration requirements and to establish procedures governing the transfer of guardianship in the event a guardianship program fails to maintain its registration. *See* Gov't Code § 155.153(b). *See also* Guardianship.

SB 42—Effective 9/1/17 (compliance deadline for grant program not stated).

Requires the Court of Criminal Appeals to grant funds to professional associations and other entities to provide security training. *See* Gov't Code § 56.003. *See also* Courthouse Security and Judicial Privacy.

SB 1233 / **HB 1480**—Effective 9/1/17 (applicability to existing orders varies by type of case).

Expands the mandamus jurisdiction of the courts of appeals to allow the issuance of a writ against a judge of a statutory county court, a statutory probate court, or an associate judge of a district or county court appointed by a judge under Chapter 201 of the Family Code. *See* Gov't Code § 22.221.

Associate Judges and Magistrates

HB 3165—Effective 9/1/17 (applies to arrests made and pleas entered on or after that date).

Allows an arrested person to appear before a magistrate remotely by videoconference, authorizing the magistrate to inform the arrested person of his or her rights during that appearance. Requires the court to record the appearance by court reporter or by electronic recording and to provide a copy of any electronic recording upon payment of reasonable costs of reproduction; prohibits the assessment of that cost against indigent defendants. Addresses the release of a person arrested in a county other than the county that issued the arrest warrant, requiring a magistrate to release the arrested person on personal bond without sureties or other security on the 11th day after the date that person is committed to jail, unless a proper office of the county where the offense is alleged to have been committed demands and takes charge of the arrested person. Requires that magistrate to forward the personal bond to the sheriff of the county where the offense is alleged to have been committed or to the court that issued the warrant. *See* Code Crim. Proc. art. 15.17, 15.21, 27.18.

SB 1329—Effective 9/1/17 (see other dates below).

Allows an associate judge to hear an adoption suit involving a child in DFPS custody; clarifies procedures and timeline governing right to *de novo* review of hearings. *See* Fam. Code §§ 201.007, 201.204(d). *See also* Family Law.

Commissions, Committees, and Task Forces

SB 36—Effective 9/1/17 (adoption of standards required "as soon as practicable").

Requires the Judicial Branch Certification Commission to adopt registration and operational standards for guardianship programs not contracted with the Health and Human Services Commission. *See* Gov't Code §§ 155.151-154. *See also* Guardianship.

SB 47—Effective 9/1/17 (with report due 1/1/19).

Requires the Office of Court Administration to study county procedures and to prepare a report on the maintenance, retention, and public availability of records of misdemeanors punishable by fine only.

SB 292—Effective 9/1/17 (authorizes grant awards beginning with 2017-18 fiscal year).

Requires the Health and Human Services Commission to create a program to provide grants to county-based community collaboratives seeking to reduce recidivism, arrest, and incarceration of individuals with mental illness. *See* Gov't Code §§ 531.0993, 531.09935.

SB 1124—Effective 9/1/17 (compliance required "as soon as practicable").

Transfers the administrative attachment of the Texas Forensic Science Commission from Sam Houston State University to the Office of Court Administration, which would provide administrative support to the Commission as necessary; does not invest the Office of Court Administration with any substantive authority or responsibility over the duties of the Commission. *See* Code Crim. Proc. art. 38.01, § 9.

SCR 57

Asks the Lieutenant Governor and Speaker of the House to appoint a joint interim committee to propose a formula to calculate judicial salaries.

HB 1066—Effective 6/15/17 (applies to any judgment, regardless of date rendered).

Eliminates a requirement that a judgment creditor must show the debtor's property cannot be attached or levied by ordinary legal process to seek injunctive relief or other judicial assistance in reaching that property to satisfy the judgment. *See* Civ. Prac. & Rem. Code § 31.002(a).

HB 1463—Effective 9/1/17 (applicability to pending claims is unclear).

Revises procedures governing certain disability discrimination claims brought under section 121.003 of the Human Resources Code, requiring the claimant to provide written notice of the alleged violations at least 60 days before making a settlement demand or filing suit. Allows respondent to avoid liability by correcting the alleged violations during that time. *See* Hum. Res. Code § 121.0041.

HB 1774—Effective 9/1/17 (applicability to pending claims and suits varies).

Revises procedures governing first-party insurance claims arising from loss of or damage to property, requiring 60-day pre-suit notice of any possible claims. Changes the method for calculating the attorney's fees recoverable by a claimant, making fee recovery a function of the alleged damages and the damages awarded by the factfinder. Prohibits recovery of any attorney's fees if the claimant fails to provide the required pre-suit notice, if the claimant's legal representation results from barratry, or if the damages awarded are less than 20% of the damages alleged. Limits personal liability of insurance agents by allowing the insurer to accept liability for the acts or omissions of its agents. *See* Ins. Code ch. 542A.

HB 1995—Effective 9/1/17 (applies to actions commenced on or after that date).

Amends the Texas Uniform Trade Secrets Act by revising several definitions and refining the elements of misappropriation claims; allows a court to seal records or exclude a party from proceedings if necessary to protect trade secrets. *See* Civ. Prac. & Rem. Code §§ 134A.002-06.

HB 2359—Effective 9/1/17 (applicability to pending suits is unclear).

Adds five categories to the list of activities that, if knowingly tolerated without reasonable attempt at abatement, may constitute nuisance. Allows the court to appoint a receiver to manage a vacant lot or abandoned building once the court finds nuisance. *See* Civ. Prac. & Rem. Code §§ 125.0015(a), 125.46(a).

HB 3107—Effective 9/1/17 (applies to requests received on or after that date).

Revises provisions governing public information requests, clarifying response timelines and circumstances under which requests may be considered withdrawn or combined. Provides that requests need not be completed if a previous request by the same requestor remains unpaid and has not been withdrawn. Allows a requestor to file a complaint with the Attorney General if the requester has filed a complaint with the district or county attorney and the district or county attorney has not brought an action. *See* Gov't Code §§ 552.221, 552.261, 552.275, 552.3215.

HB 3879—Effective 9/1/17 (applies to appeals taken on or after that date).

Allows an owner of a multifamily residential property to be represented by the owner's authorized agent, who need not be an attorney, in an appeal of an eviction suit for nonpayment of rent in a county or district court. *See* Prop. Code § 24.011(b).

SB 499—Effective 9/1/17 (applies to partitions actions commenced on or after that date).

Adopts the Uniform Partition of Heirs' Property Act to revise procedures governing the requested partition of real property that has become jointly owned as a result of intestate succession or family gift. *See* Prop. Code ch. 23A.

SB 807—Effective 9/1/17 (applies to contracts executed on or after that date).

Amends chapter 272 of the Business and Commerce Code, which renders voidable certain venue and choice-of-law contract provisions, to make the chapter applicable to any construction contract concerning real property

Civil Suits and Civil Procedure - continued

located in Texas and to certain collateral contracts; outlines circumstances to which the chapter does not apply. *See* Bus. & Com. Code § 272.001-002.

SB 944—Effective 6/1/17 (applies to all suits involving foreign judgments, regardless of date).
Adopts the Uniform Foreign-Country Money Judgments Recognition Act to establish procedures for the recognition, interpretation, and enforcement of judgments rendered by the courts and tribunals of foreign nations. *See* Civ. Prac. & Rem. Code ch. 36A.

Clerks

HB 681—Effective 9/1/17 (applies to all records on or after that date, regardless of date of offense).
Renders confidential all records, files, and information associated with the conviction or deferred dismissal of a fine-only misdemeanor on the fifth anniversary of the date of conviction or dismissal, unless the offense is sexual in nature. Prohibits disclosure to public after that date. Provides a list of state and federal officials allowed access to the records. *See* Code Crim. Proc. art. 45.2812, 45.0218.

SB 1304 —Effective 9/1/17 (applies to records created at any time).
Outlines new procedures governing the creation, storage, and disclosure of juvenile records. *See* Code Crim. Proc. art. 62.007(e); Fam. Code ch. 58. *See also* Juvenile Justice.

HB 2207—Effective 9/1/17 (applies to wills deposited on or after that date).
Clarifies the circumstances under which a will may be deposited with a county clerk; sets forth the clerk's obligations with respect to the will. *See* Estates Code §§ 252.001-.002, 252.2015.

HB 3423—Effective 9/1/17 (applies to sales occurring on or after that date).
Requires the clerk, upon receiving notice of the sale of certain public school land, to record the notice in official records at no charge. *See* Nat. Res. Code §§ 51.056-66; Prop. Code § 12.0011(e).

Costs, Fees, Fines and Collections

HB 555 —Effective 6/12/17 (applies to licenses issued on or after 1/1/19).
Allows the issuance of a marriage license without a fee only where the applicant completes a premarital education course, provides the resulting completion certificate to the court clerk, and submits satisfactory proof of Texas residency. Allows a county clerk to collect an additional $100 filing fee when neither applicant provides satisfactory proof of residency. *See* Fam. Code § 2.009; Health & Safety Code § 194.0011(a); Loc. Gov't Code § 118.011.

HB 1646—Effective 9/1/17.
Allows a county clerk to waive all fees for an assumed name certificate or a statement of abandonment of use of an assumed name if the registrant is a military veteran as defined by section 55.001 of the Occupations Code. *See* Bus. & Com. Code § 71.155(a-1).

HB 2065—Effective 9/1/17.

Requires any municipality or county that retains a fine from the enforcement of certain commercial motor vehicle safety standards to file an annual report with the comptroller detailing the fines collected and any actual expenses incurred. *See* Transp. Code § 644.102(f-1).

HB 3167—Effective 6/1/17.

Revises the population threshold for counties subject to the Collection Improvement Program requirements; as amended, the program applies to any county or municipality with a population of 100,000 or more. *See* Code Crim. Proc. art. 103.0033(b).

HB 3389—Effective 9/1/17 (applies to delinquency suits filed on or after that date).

Requires, in delinquency suits to which a chancery master is appointed, the district clerk to collect fees taxed as costs of suit and to award those fees to the master, regardless of the disposition of the suit. *See* Tax Code § 33.73(c).

SB 42—Effective 9/1/17.

Requires the collection of a $5 fee at the filing of any civil action or proceeding requiring a fee, with the funds collected to be used to improve security; prohibits the addition of any service fee to this fee. *See* Gov't Code § 51.971. *See also* Courthouse Security and Judicial Privacy.

SB 527—Effective 9/1/17.

Allows a court to order a defendant to pay all or part of the cost of legal services at any time during the defendant's confinement, placement on community supervision, or period of deferred adjudication, if the court determines the defendant has the financial resources necessary to pay for all or part of those services; allows the court to amend an order as necessary in light of changed circumstances. *See* Code Crim. Proc. art. 26.05(g-1).

SB 1559—Effective 9/1/17 (applies to proceedings pending or commenced on or after that date).

Prohibits the county clerk from collecting guardianship filing and service fees from the estate of any ward or proposed ward that has become incapacitated in the line of duty as an emergency responder or while in active service as a member of the armed forces of the United States in a combat zone. *See* Estates Code §§ 1053.053-.054.

SB 1913—Effective 9/1/17 (applicability to pending cases varies by provision).

Revises procedures governing imposition of costs, fines, and fees associated with criminal proceedings,[1] significantly increasing judicial discretion over alternatives to payment:

- Requires citations, complaints, and other notices to include information regarding payment alternatives for those unable to pay the full amount.
- Allows imposition of a bail bond requirement in a fine-only misdemeanor case only if the defendant fails to make the initial appearance and the judge finds the defendant has sufficient resources to post that bond and the bond is necessary to secure appearance.
- Requires the court to notify a defendant before issuing an arrest warrant for failure to appear at the initial court setting.
- Requires the judge to ask, in open court, whether the defendant has sufficient resources or income to immediately pay all or part of the fine and costs.
- Provides a presumption of indigence for homeless children, unaccompanied alien children, and children in the conservatorship of the Department of Family and Protective Services.
- Allows the court, upon a determination that the defendant does not have sufficient resources or income to immediately pay in full, to specify a payment plan, to order discharge by confinement or the performance of

1 Identical and similar provisions appear in HB 351.

community service, and/or to waive all fines and costs.

- Increases, from $50 per day to $100 per day, the credit provided to defendants who satisfy payment through confinement or community service; expands the categories of work and other programs that may satisfy a community service requirement.
- Requires a court, before issuing a *capias pro fine*, to hold a hearing on the defendant's failure to pay; allows issuance if the defendant fails to appear, if the court determines the failure to pay has been willful, or if the court otherwise determines the *capias pro fine* should issue based on the evidence presented at the hearing.
- Requires the court to recall the *capias pro fine* if the defendant voluntarily appears to resolve the matter and pays any amount owed.

SB 2053—Effective 6/15/17.

Removes the fund related to abused children's counseling and the fund related to comprehensive rehabilitation from the accounts and funds eligible for allocations from consolidated court costs; increases the minimum percentage to be allocated to the fair defense account to 17.8448%. *See* Loc. Gov't Code § 133.102(e).

County Courts and District Courts

HB 431—Effective 5/29/17.

Clarifies the authority of the county judge to appoint a qualified person to serve as temporary justice during an absence of the justice of the peace, allowing an appointment on the judge's own motion or at the request of the justice of the peace. *See* Gov't Code § 27.055(b).

HB 4032—Effective 9/1/17 (applies to expenses incurred on or after that date).

Allows the commissioners court to approve the reimbursement of court reporter expenses that exceed the annual maximum otherwise dictated by statute. *See* Gov't Code § 52.055(d-1).

HB 4104—Effective 9/1/17.

Requires eligible counties to determine the number of positions to be included in a court administrator system and the maximum compensation associated with each position; makes the existence of the system contingent on inclusion in the county budget as approved by the commissioners. *See* Loc. Gov't Code § 111.096; Gov't Code § 75.401.

HB 4147—Effective 9/1/17 (applies to all judgments, regardless of date).

Clarifies that, in counties without a statutory county court at law, the constitutional county court has jurisdiction over an appeal from a judgment or conviction in a municipal court of record—indicates that this provision is intended to reinforce, rather than revise, existing law. *See* Gov't Code § 30.00014(a).

SB 40—Effective 9/1/17 (compliance deadlines vary).

Increases the bond required of certain judges presiding over guardianship and probate proceedings, with the requisite amount varying based on county population and type of court. Revises procedures and obligations associated with the bond. Allows the county to obtain insurance in lieu of the required bond. *See* Gov't Code §§ 25.0006, 26.001.

County Courts and District Courts - continued

SB 988—Effective 5/10/17.

Clarifies that an existing provision requiring the county judge to preside over a meeting of the commissioners court does not apply if the county judge is participating by videoconference. *See* Loc. Gov't Code § 551.127.

SB 1016—Effective 9/1/17.

Allows county commissioners to authorize and fund the appointment of a court investigator to assist with probate matters at any constitutional county court or statutory court, other than a probate court, that exercises original probate jurisdiction. Clarifies that the appointment of investigators for probate courts is governed by existing law. *See* Estates Code § 1054.156.

SB 1329—Effective 9/1/17.

Gives County Criminal Court No. 4 of Denton County jurisdiction over mental health; eliminates Walker County's concurrent district and county court jurisdiction over family law. Requires the judges of the 244th, 271st, 358th, and 446th district courts and the judges of the county courts at law in Wise County to appoint bailiffs. Revises bailiff eligibility requirements in certain other courts.

Courthouse Security and Judicial Privacy

HB 776—Effective 6/15/17 (applies to all statements, regardless of filing date).

Requires the Texas Ethics Commission to remove the telephone number and the names of any dependent children from any personal financial statements before making those statements available to the public or posting such statements to the Commission's website. *See* Gov't Code § 572.032(a-1).

SB 42—Effective 9/1/17 (compliance deadlines vary).

Requires the presiding judge of a municipality to create a court security committee to establish policies and procedures necessary to provide adequate security; requires each local administrative judge to establish a similar committee. Requires the collection of a $5 fee at the filing of any civil action or proceeding requiring a fee, with the funds collected to be used to improve security; prohibits the addition of any service fee to this fee. Requires the Court of Criminal Appeals to grant funds to professional associations and other entities to provide training. Requires the Office of Court Administration to establish a judicial security division to provide guidance and to establish best practices. Requires a person to obtain a court security certification issued by the Texas Commission on Law Enforcement before serving as a court security officer. Establishes procedures for redacting certain personal identifying and/or contact information from financial statements, voter lists, drivers' licenses, property deeds, appraisal records, and any records made available under the public information statute.

SB 510—Effective 5/27/17.

Adds current and former employees of federal and state judges to the list of property owners whose appraisal records must remain confidential and available only for official use. *See* Tax Code § 25.025.

HB 29—Effective 9/1/17 (applicability to pending cases varies).

Extensively revises substantive and procedural provisions governing trafficking and sexual offenses.[2] Provides that a "fee," for the purposes of a prostitution-related transaction, includes the exchange of money or any other benefit. Provides that a defendant need not have known the age of the victim to have committed certain sexual offenses against a child. Clarifies the court's authority to issue subpoenas, search warrants, and other court orders with respect to criminal investigations into online service providers. Expands the scope of civil remedies related to racketeering and human trafficking. Revises the elements of the sex offender registration form and increases public access to certain registration information. *See, inter alia*, Civ. Prac. & Rem. Code §§ 140A.051-.064; Code Crim. Proc. art. 24A.0015, 62.001(5), 62.005(b), 62.051(c), 62.101(a); Penal Code §§ 20A.02(b) 1.02(b)21.11(a) 22.011(a) 22.021(a) 43.01-.05.

HB 34—Effective 9/1/17 (applicability to pending cases varies).

Implements recommendations of the Timothy Cole Exoneration Review Commission. Requires prosecutor's offices to track testimony and to record custodial interrogations related to certain felonies. Requires the state to make certain disclosures to a defendant before trial if it intends to introduce statements made by the defendant to a fellow inmate. Addresses the admissibility of confessions, line-up identifications, and prior offenses committed by certain witnesses. *See, inter alia*, Code Crim. Proc. art. 2.023, 2.32, 38.075, 38.20, 38.22, 39.14.

HB 62—Effective 9/1/17 (applies to conduct occurring on or after that date).

Prohibits use of a portable wireless communication device to read, write, or send a text-based communication while operating a moving vehicle that is not stopped; classifies the offense as a misdemeanor punishable by a fine of $25-99 for a first-time offense, a misdemeanor punishable by a fine of $100-200 if the offender has been previously convicted of the same offense, or a class A misdemeanor if the offense results in death or serious bodily injury of another person. Outlines certain exceptions and exemptions. *See* Transp. Code § 545.4251.

HB 162—Effective 9/1/17 (applicability to pending cases unclear).

Revises the requirements of community supervision for defendants convicted of certain offenses against animals. *See* Code Crim. Proc. art. 42A.511.

HB 238—Effective 9/1/17 (applies to offenses committed on or after that date).

Adds individuals convicted of solicitation offenses under 43.02(b) of the Penal Code to the list of offenders required to submit a DNA sample for inclusion in Federal Bureau of Investigation's DNA database. *See* Gov't Code § 411.1471(a).

HB 322—Effective 9/1/17 (applicability to pending cases varies).

Establishes procedures by which persons successfully completing a veterans treatment program may obtain a expunction of arrest records and orders of non-disclosure of certain other records; prohibits the collection of certain fees otherwise authorized by statute. *See* Code Crim. Proc. art. 55.01-.02, 102.006(b); Gov't Code §§ 124.001(b), 411.0728.

HB 337—Effective 9/1/17 (applies to confinement and discharge occurring on or after that date).

Suspends an individual's eligibility for certain medical assistance benefits while confined in a county jail; allows, but does not require, the county to notify the Health and Human Services Commission and the Social Security Administration of the confinement and subsequent discharge; provides for the reinstatement of any remaining benefits upon discharge. *See* Hum. Res. Code § 32.0266; Loc. Gov't Code §§ 351.046-.047.

2 Other bills addressing sexual and trafficking offenses include HB 1808, HB 2529, HB 2552.

HB 557—Effective 9/1/17 (applicability to pending petitions and existing records varies).

Allows an attorney for the state to request expunction under article 55.02 of the Code of Criminal Procedure. Establishes concurrent expunction jurisdiction among the municipal courts, justice courts, and districts courts, but limits municipal and justice courts to expunction orders addressing misdemeanors punishable only by fine. Authorizes the imposition of a $100 fee for the filing of certain *ex parte* expunction petitions. *See* Code Crim. Proc. art. 55.01-.02, 102.006; Gov't Code §§ 27.31, 30.00005, 103.02101.

HB 1266—Effective 9/1/17 (applies to all cases pending on or after that date).

Requires a trial court to grant a continuance of a hearing or trial on oral or written motion of the state or the defendant if the trial court sets a hearing or trial without providing at least three business days' notice; provides that the requirement does not apply during the period between the commencement of the trial and final judgment. *See* Code Crim. Proc. art. 29.035.

HB 1442—Effective 9/1/17 (applicability to existing convictions and pending pleadings is unclear).

Requires the court, pending the disposition of a motion for new trial or the resolution of the defendant's appeal of a misdemeanor conviction, to order the release of a defendant after the completion of any sentence of confinement imposed for the conviction. Allows the court to require personal bond; prohibits the imposition of any conditions with the personal bond and the requirement of any other form of bond or security. *See* Code of Crim. Proc. art. 44.04(i).

HB 1507—Effective 9/1/17 (applies to plea, placement, and discharge adjudicated on or after 1/1/18).

Requires the court, before accepting a plea of guilty or nolo contendere, to inform the defendant that satisfactory completion of any term of community supervision, along with all the conditions thereof, may result in release from the penalties and disabilities resulting from the charged offense. Requires a judge, before placing a defendant on community supervision to inform the defendant of that possibility in writing on a form prescribed by the Office of Court Administration. Clarifies that failure to substantially comply with the notice requirement at entry of the plea will not serve as grounds to set aside the conviction, plea, or sentence. *See* Code Crim. Proc. art. 26.13(6), 42A.058, 42A.701.

HB 3016—Effective 9/1/17 (applies to discharge after that date, regardless of date of offense).

Revises nondisclosure procedures set forth in chapter 411 of the Government Code, allowing a defendant convicted of a state jail felony for possession of certain controlled substances to petition the court for an order of nondisclosure. Eliminates requirements that a person must have served a period of confinement to be eligible. Establishes separate procedures governing nondisclosure for persons placed on community supervision following conviction of certain intoxication offenses and other misdemeanors. Requires judges placing defendants on deferred-adjudication community supervision for certain offenses to make an affirmative finding of fact as to whether it is in the best interest of justice that the defendant receive an automatic order of disclosure upon successful completion of the placement. *See* Code of Crim. Proc. art. 42A.105; Gov't Code §§ 411.0716, 411.072-.074.

HB 3069—Effective 9/1/17 (applies to persons entering a veterans program on or after that date).

Extends eligibility for veterans treatment court programs to any serviceman or servicewoman arrested for, charged with, convicted of, or placed on deferred adjudication community supervision for any misdemeanor or felony. Allows a veteran, two years after successful completion of the program, to petition for an order of nondisclosure of criminal history record information if the veteran has never been previously convicted of certain sexual offenses and is not convicted of any felony offense between the date on which the person successfully completed the program and the second anniversary of that date. *See* Gov't Code §§ 124.001-.003, 411.0727.

HB 3130—Effective 9/1/17 (applies to sentences received on or after 1/1/19).

Establishes an educational and vocational training pilot program for state-jail felony defendants, allowing certain judges, when imposing punishment for eligible defendants, to suspend the imposition of the sentence and place the defendant on community supervision with the condition that the defendant submit to an initial term of confinement for 90 days and then participate in the pilot program. Requires the Texas Department of Criminal Justice to promulgate eligibility criteria, to identify sites for the program, and to develop and implement the program. *See* Code Crim. Proc. art. 42A.562; Gov't Code §§ 507.007.

HB 3147—Effective 9/1/17 (applies to all records, regardless of date of arrest).

Addresses expunction procedures for records related to arrests caused by mistaken identity, clarifying applicability to arrests resulting from clerical errors and to instances in which the person requesting the expunction was not the person arrested. *See* Code of Crim. Proc. art. 55.01(d), 55.02(b).

HB 3165—Effective 9/1/17 (applies to arrests made and pleas entered on or after that date).

Allows an arrested person to appear before a magistrate remotely by videoconference, authorizing the magistrate to inform the arrested person of his or her rights during that appearance. Requires the court to record the appearance by court reporter or by electronic recording and to provide a copy of any electronic recording upon payment of reasonable costs of reproduction; prohibits the assessment of that cost against indigent defendants. Addresses the release of a person arrested in a county other than the county that issued the arrest warrant, requiring a magistrate to release the arrested person on personal bond without sureties or other security on the 11th day after the date that person is committed to jail, unless a proper office of the county where the offense is alleged to have been committed demands and takes charge of the arrested person. Requires that magistrate to forward the personal bond to the sheriff of the county where the offense is alleged to have been committed or to the court that issued the warrant. *See* Code Crim. Proc. art. 15.17, 15.21, 27.18.

HB 3872—Effective 6/15/17 (applicable to prior cases where statutory criteria satisfied).

Provides habeas relief from convictions based in part on DNA evidence tested by certain laboratories audited by the Texas Forensic Science Commission, allowing relief where the convicted person shows DNA evidence presented at trial was tested by a laboratory that subsequently ceased DNA testing after an audit revealed faulting testing practices, if that evidence was tested during the period involving faulty testing practices. Requires the person seeking habeas relief to show, by a preponderance of the evidence, that he or she would not have been convicted if the DNA evidence had not been presented at trial. Stipulates that, as a matter of law, this issue could not have been raised in previous applications for relief. *See* Code Crim. Proc. §§ 11.0731, 64.01(b).

SB 179—Effective 9/1/17 (applies to conduct occurring on or after that date).

Expands the scope of certain criminal offenses to reach the bullying of minors. Allows the victim of cyberbullying or the parent of such a victim to seek injunctive relief against the perpetrator or a parent of the perpetrator; authorizes temporary or permanent relief, as appropriate, and appears to authorize *ex parte* emergency relief without a showing of likely irreparable harm. Requires the Supreme Court to promulgate forms plaintiffs can use to seek relief in English or in Spanish. *See, inter alia*, Civ. Prac. & Rem. Code ch. 129A; Penal Code § 42.07(c).

SB 256—Effective 5/19/17.

Expands eligibility for the Address Confidentiality Program to include persons obtaining a protective order as a result of family violence, sexual assault, human trafficking, or stalking. *See* Code Crim. Proc. art. 56.83.

SB 291—Effective 9/1/17 (applies to writs rendered on or after that date).

Reforms the procedures governing writs of attachment used to confine a witness to ensure the witness will remain available to testify. Allows issuance of most writs only after the subject of the proposed writ is provided with representation and a hearing, and only if the court finds issuance will serve the best interest of justice. Requires, after 24 hours of confinement pursuant to a writ, a second hearing regarding the necessity of continued confinement; affords court discretion to hold subsequent hearings in the interest of justice. Imposes certain reporting obligations, requiring courts to report each writ of attachment to the Texas Judicial Council within 30 days of issuance. *See* Code of Crim. Proc. art. 2.212 & ch. 24.

SB 631—Effective 9/1/17.

Where no related criminal action is pending, or upon consent of the attorney prosecuting the related action, allows the hearing to determine the immediate right to possession of stolen property to be held in the county in which the stolen property is located or the county from which the property was allegedly stolen. *See* Code Crim. Proc. art. 47.01-.02.

SB 966—Effective 9/1/17 (applies to offenses committed on or after that date).

Creates a defense to the prosecution of the criminal offenses of consumption of alcohol by a minor and possession of alcohol by a minor, making the offenses inapplicable to a minor who reports a sexual assault to certain officials or health care providers. Makes the defense available only to offenses committed at the time of the reported assault. Prohibits use of the defense by the person that committed the assault. *See* Alco. Bev. Code §§ 106.04(f)-(h), 106.05(e)-(g).

SB 1203—Effective 9/1/17 (applies to subpoenas, warrants, and orders issued on or after that date).

Clarifies the court's authority to issue subpoenas, search warrants, and other court orders regarding online service providers and related to certain criminal investigations; requires online service providers to take all steps necessary to preserve records and potential evidence. *See* Code Crim. Proc. art. 24A.01-.003.

SB 1250—Effective 9/1/17 (applies to proceedings commencing on or after that date).

Adds the offense of injury to a child, elderly individual, or disabled individual to the list of prosecutions during which each party may offer evidence of all relevant facts and circumstances that would assist the trier of fact in determining whether the actor committed such an offense, if the alleged offense was committed against certain family members. *See* Code Crim. Proc. art. 38.071(a)(1); Penal Code § 22.04.

SB 1253—Effective 9/1/17 (applies to interrogations occurring on or after 3/1/18).

Requires law enforcement agencies to make a complete, contemporaneous electronic recording of custodial interrogations occurring at a detention facility if the subject of the interrogation is suspected of a felony or certain violent or sexual misdemeanors. Renders any statements made by the subject inadmissible unless law enforcement complies with the recording requirement or good cause rendered recording infeasible. *See* Code Crim. Proc. art. 2.32, 38.22(9).

SB 1584—Effective 9/1/17 (applies to defendants placed on community supervision on or after that date).

Requires any conditions of community supervision to be based on the results of a risk and needs assessment conducted using an instrument validated that purpose. Instructs the judge, for each condition, to impose the least restrictive condition necessary to achieve the purpose for which that condition is imposed, requiring the judge to consider the extent to which each condition might affect the defendant's work, education, community service, and financial obligations. Restricts the use of state-funded substance abuse treatment programs to defendants for whom an evaluation indicates the extent of the dependency and the appropriate type and level of treatment. *See* Code Crim. Proc. art. 42A.301(a), (c).

Elections

HB 25—Effective 1/1/20.

Eliminates straight-party voting; requires the Secretary of State to promulgate rules and procedures to minimize the burden of implementing this change. *See* Elec. Code § 31.012.

HB 2157—Effective 9/1/17 (applies to applications filed on or after that date).

Requires a candidate's application for a place on the ballot to be signed and sworn before a notary public. Requires that the affidavit of the circulator of a petition for a place on the ballot be executed before a notary public. *See* Elec. Code §§ 141.031, 141.065.

HB 3903—Effective 6/15/17.

Relaxes restrictions on certain political contributions made by judges and judicial candidates. *See* Elec. Code §§ 253.1611.

SB 44—Effective 5/23/17.

Requires a candidate for a place on the Supreme Court or Court of Criminal Appeals, if paying the filing fee, to file a petition including 50 signatures from each court of appeals district. Requires certain candidates for judicial office in a county with a population of more than 1.5 million, if paying the filing fee, to file a petition including 250 signatures; prohibits the collection of signatures on the grounds of a county courthouse or courthouse annex. *See* Elec. Code §§ 141.032, 141.034, 172.021.

Family Law

HB 4—Effective 5/31/17 (revised criteria and metrics apply to existing assistance agreements).

Revises eligibility requirements and calculation metrics for the Department of Family and Protective Services' disbursement of financial support to kinship caregivers, making eligibility a function of household income and the federal poverty level. Imposes civil and criminal liability on individuals that knowingly make or cause to be made any false statements during the application process. *See* Fam. Code §§ 264.755-.7551.

HB 7—Effective 5/31/17 (applicability of some provisions depends on filing dates and hearing dates).

Revises procedures governing suits to terminate parental rights and suits to intervene in the parent-child relationship. Limits the court's authority to enter findings of fact, prohibiting the use of homeschooling, reasonable disciplinary measures, economic status, vaccination history, and certain other family circumstances as justification for terminating the relationship. Increases the opportunities for a parent to testify and to request continuance of hearings and filing deadlines. Strengthens the procedural protections afforded to foster parents and grandparents. Imposes new obligations on court-appointed guardians ad litem. Allows the entry of temporary *ex parte* orders to protect a child from abuse or neglect. Provides for the automatic dismissal of certain cases pending for more than a year. *See, inter alia*, Fam. Code ch. 262, 263; Hum. Res. Code ch. 42.

HB 1043—Effective 6/1/17.

Allows a person with statutory authority to consent to medical, dental, psychological, or surgical treatment for a child to petition a court for permission to entire into an agreement regarding childcare and to seek a temporary court order regarding that care. *See* Fam. Code §§ 35.001-.007.

HB 1410—Effective 9/1/17 (applies to original suits filed on or after that date).

Clarifies that a foster parent may only intervene in a suit affecting the parent-child relationship if the foster parent would have standing to file an original suit pursuant to section 102.003(a)(12) of the Family Code. *See* Fam. Code § 102.004.

HB 1501—Effective 9/1/17 (applies to suits filed on or after that date).

Revises the procedures governing child custody evaluations, allowing the evaluator increased access to certain records, requiring an interview of a child only if that child is at least four years of age, and making the evaluation of the residential home environment discretionary instead of mandatory. *See* Fam. Code ch. 107.

HB 2048—Effective 9/1/17 (applies to suits filed on or after that date).

Allows an associate judge to hear and render an order on any matter to be decided in connection with Title IV-D services, including suits affecting the parent-child relationship and suits for modification under Chapter 156 of the Family Code, in addition to all matters allowed under current law. Provides that an agreed child support review order is considered confirmed by operation of law on the expiration of the third day after filing, regardless of whether the order is signed by the court. *See* Fam. Code §§ 201.104, 231.118, 233.024.

HB 2703—Effective 9/1/17.

Requires the court, no later than the seventh day after the appointment of a receiver in a suit for dissolution of a marriage, to render findings of fact and conclusions of law in support of that appointment, and to include findings supporting any decision not to require the issuance of a bond between the spouses. *See* Fam. Code § 6.502(c).

HB 2927—Effective 5/29/17 (applicability varies by date and contents of order).

Clarifies that an associate judge may sign a default order, a temporary order, or a final order without prejudicing the right to *de novo* hearing before the referring court. Allows the associate judge to render a final order including a waiver of that right, with the order serving as the final order of the referring court and becoming final for the purposes of appellate review on the date the order is signed by the associate judge. *See* Fam. Code §§ 201.007, 201.013(b), 201.014(a), 201.016(c).

SB 77—Effective 9/1/17 (applies to suits filed on or after that date).

Allows the court to terminate the parent-child relationship if the court finds by clear and convincing evidence that the parent has been convicted of the sexual assault of the other parent or that the parent has been placed on community supervision, including deferred adjudication community supervision, or another functionally equivalent form of community supervision or probation, for being criminally responsible for the sexual assault of the other parent of the child under Penal Code section 22.011 or 22.021, or under a substantially similar state or federal law. Authorizes the court to order such a parent, even after the termination of rights, to pay child support. *See* Fam. Code §§ 154.001(a-1), 161.001(b)(1).

SB 257—Effective 9/1/17 (applies to protective orders rendered on or after that date).

Limits the respondent on a protective order with an effective period of more than two years to one subsequent motion for review of the order; clarifies that the subsequent motion may not be filed earlier than the first anniversary of the date of the order disposing of the previous motion for review. Provides that the review restriction does not apply to orders issued pursuant to chapter 7A of the Code of Criminal Procedure, which provides protection for victims of sexual assault, sexual abuse, stalking, and trafficking. Repeals article 7A.07(c), which allows the automatic extension of certain protective orders. *See* Fam. Code § 85.025.

SB 495—Effective 9/1/17 (applies to suits filed or pending on or after that date).

In the context of custody and access disputes, revises an existing rebuttable presumption to allow the court to presume that it is not in the best interest of a child for a parent to have unsupervised visitation with the child if credible evidence is presented of a history or pattern of past or present child neglect or abuse or family violence by the parent or any person who resides in the parent's household or who is permitted by that parent to have unsupervised access to the child. Allows a court to decline to enter judgment on a mediated settlement agreement if the court finds the agreement would permit certain persons subject to registration under chapter 62 of the Code of Criminal Procedure to reside in the household or otherwise have unsupervised access to the child. *See* Fam. Code §§ 153.004, 153.0071(e-1).

SB 712—Effective 9/1/17 (applies to protective order applications filed on or after that date).

Allows a court to render a protective order for a period that exceeds two years if the court finds the subject of the protective order has committed a felony involving family violence against the applicant or a member of the applicant's family or household, regardless of whether the person has been charged with or convicted of the felony. *See* Fam. Code § 85.025(a-1).

SB 738—Effective 9/1/17 (applies to suits filed on or after that date, but contingent on funding).

Revises section 262.203(a) of the Family Code to provide that a court entering a temporary order in a child protection suit need only transfer the case to a court with continuing, exclusive jurisdiction if the court finds that the transfer is necessary for the convenience of the parties and in the best interest of the child. Authorizes the court entering a temporary order to order the case transferred away from the court of continuing exclusive jurisdiction; outlines procedures for that transfer. *See* Fam. Code §§ 155.201(d), 155.204(i), 262.203(a).

SB 999—Effective 9/1/17 (applies to suits filed on or after that date).

Requires a governmental entity filing an original SAPCR after taking possession of a child without a court order to file an affidavit stating that, based on personal knowledge, one of a number of delineated circumstances was present and that (1) continuation of the child in the home would have been contrary to the child's welfare, (2) there was no time for a full adversarial hearing, and (3) reasonable efforts, consistent with the circumstances, were made to prevent or eliminate the need for removal. Outlines circumstances under which a court is exempt from the requirement to order the return of a child at the initial hearing. Eliminates the requirement that a person taking a child into possession without a court order ask the court to appoint an attorney ad litem. Revises procedures governing hearings in a suit filed by a governmental entity requesting possession of a child who has not yet been taken into possession, making the procedures more consistent with those governing a full adversarial hearing regarding a child already taken into possession. *See* Fam. Code ch. 262.

SB 1237—Effective 9/1/17 (applicability varies by date and contents of order).

Removes deadline for the court to render temporary orders pending appeal in a suit for dissolution of marriage, making such an order equitable in nature and affording the court broad discretion to offer relief, with the order subject only to mandamus review. Requires additional findings of fact regarding the division of the estate and regarding the frivolous filing of suits for modification. Provides that a temporary order enjoining a party from molesting or disturbing a child need not identify any specific risk of injury and may be rendered without any bond or affidavit that might otherwise be required by law, with such an order subject only to mandamus review. Clarifies that appeals from child custody orders are subject to the accelerated timeline set forth in the Rules of Civil Procedure and Rules of Appellate Procedure. *See* Fam. Code §§ 6.709, 6.711(a), 9.007(c), 109.001-.003, 152.314, 153.258, 154.130, 156.005.

SB 1242—Effective 9/1/17 (applies to applications filed on or after that date).

Establishes procedures by which a court can maintain the confidentiality of the mailing address of an applicant for a protective order. *See* Fam. Code §§ 82.011, 85.007.

SB 1571—Effective 9/1/17.

Establishes procedures governing the release of a child taken into possession by law enforcement under 262.104 of the Family Code, which authorizes emergency removal without a court order. See Code Crim. Proc. art. 2.273.

SB 1705—Effective 9/1/17 (applies to an application for a marriage license filed on or after that date).

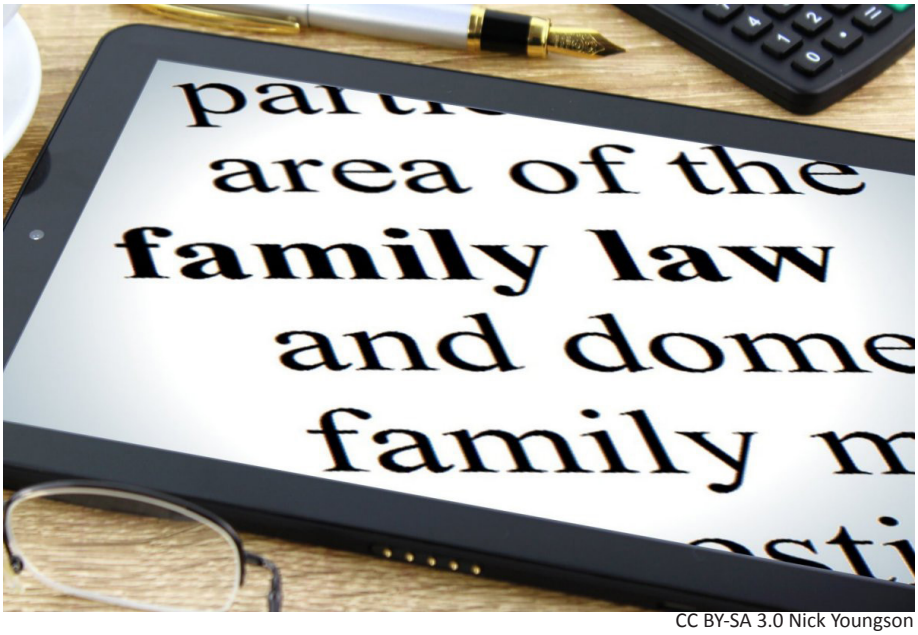
Eliminates provisions requiring parental consent or a court order authorizing the marriage of a minor; instead requires any person under 18 years of age to obtain a court order removing the disabilities of minority status for general purposes. Renders void any marriage if either party to the marriage is younger than 18 years of age and has failed to obtain the requisite order. *See* Fam. Code § 2.003.

SB 1758—Effective 9/1/17 (applicability varies by date of suit and age of child).

Revises procedures governing permanency hearings for children in the conservatorship of DFPS and receiving transitional living services, requiring court to ask all parties about Native American heritage, to review permanency progress reports, and to make certain delineated determinations. Requires DFPS to conduct an annual independent living skills assessment for children aged 14 years or older in DFPS conservatorship. *See* Fam. Code §§ 107.002(b-1), 107.003(b), 263.306(a-1), 263.4041, 263.5031, 264.121.

SB 1965—Effective 9/1/17 (applies to child support lien notice issued on or after that date).

Allows the court to use teleconferencing, videoconferencing, or other electronic means to conduct release hearings for individuals confined for contempt for failure to pay child support. Allows child support liens to attach to the proceeds derived from the sale of oil or gas production from any oil or gas well located in the state and requires any such proceeds payments to be withheld without interest once the lien attaches. *See* Fam. Code §§ 157.105(a-1), 156.163(d-1), 157.317(a).



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SB 36—Effective 9/1/17 (compliance deadlines vary).

Requires guardianship programs not contracted with the Health and Human Services Commission to maintain registration with the Judicial Branch Certification Commission and to obtain professional certification for any direct supervisors of individuals providing guardianship services to a ward. *See* Estates Code § 1104.359; Gov't Code ch. 155.

SB 39—Effective 9/1/17 (applicability to guardianships and proceedings varies by provision).

Revises procedures governing guardianships for incapacitated persons and adults with disabilities. Allows a court, on its own motion, to remove an independent executor if the executor fails to timely file the affidavit or certificates required by section 308.004 of the Estates Code. Clarifies the notice requirements associated with the *sua sponte* removal of a guardian for good cause. Revises the rights and responsibilities of the attorney in fact and the procedures for removal of an attorney in fact. Allows a court, after providing certain notices and a hearing (if requested), to transfer guardianship proceedings to another county if the ward is residing in the county to which the transfer is made. Establishes mandatory disclosure language to be included in supported decision-making agreements for adults with disabilities; addresses possible conflicts of interest arising from those agreements. *See* Estates Code ch. 751, 752, 753, §§ 1055.003, 1101.002, 1357.052-.056.

SB 511—Effective 9/1/17 (applies to declarations executed on or after that date).

Addresses written declarations to designate a guardian before the need arises, clarifying that if the declaration does not expressly disqualify any individual from serving as guardian of the declarant's person or estate, the declaration must be signed by the declarant but may be acknowledged by a notary public instead of witnessed as would otherwise be required by statute. *See* Estates Code §§ 1104.203-.204.

SB 1096—Effective 9/1/17 (compliance deadlines vary).

Requires the Supreme Court to establish a mandatory guardianship registration program and to promulgate rules regarding training and background checks for most guardians. Requires the Office of Court Administration to establish and maintain a registration database. Requires law enforcement to check the database and notify the court with jurisdiction over a guardianship within one business day of the arrest or detention of a ward. *See, inter alia*, Gov't Code §§ 155.151-.209.

SB 1709—Effective 6/15/17 (applies to all guardianships, regardless of creation date).

Revises a guardian's duty to inform relatives of certain developments involving the ward, providing that a guardian owes no duty to any relative against whom a protective order has been issued to protect the ward, who has been found by a court or other state agency to have abused, neglected, or exploited the ward, or who has not elected in writing to receive information about the ward. Requires the guardian, by September 1, 2019, to notify eligible relatives that they must elect in writing to receive any further notices. *See* Estates Code §§ 1051.103-.104, 1051.056.

SB 1710—Effective 9/1/17 (application to pending letters and applications varies).

Prohibits a court from requiring the appointment of a new guardian before considering a ward's application for modification or complete restoration if the prior guardian resigns, is removed, or has died. Clarifies that the physician's letter required for modification or restoration is not required to appoint a court investigator or guardian ad litem to investigate a modification or restoration requested by the ward by informal letter. Requires the court to reply by certified mail within 30 days of receipt such a letter. *See* Estates Code §§ 1202.051, 1202.054.

Jury Service and Grand Jury Service

HB 1103—Effective 5/29/17.

Requires the removal of suspense voters from lists supplied by county voter registrars to the Secretary of State for jury wheel consolidation purposes—prior law made removal discretionary. *See* Gov't Code § 62.001.

SB 46—Effective 9/1/17.

Allows a judge, before polling a jury, to assign each juror an identification number to use in place of the juror's name. *See* Code Crim. Proc. art. 37.05.

SB 259—Effective 9/1/17 (applies to summons sent on or after that date).

Allows the court to include with a jury summons, in lieu of a copy of the summons questionnaire, instructions on how to access the questionnaire online if the county judges have adopted a plan for electronic jury selection pursuant to section 62.011 of the Government Code. *See* Gov't Code §§ 62.0132(b) and (d).

SB 1298—Effective 9/1/17 (applies to grand juries impaneled on or after that date).

Allows the district judge to direct the selection and summons of whatever number of prospective grand jurors the judge considers necessary for the case, eliminating the limit of 125 prospective grand jurors. Modifies the qualifications for grand jury service, requiring a juror to be at least 18 years of age, a citizen of the United States, and a resident of the county in which the grand jury is sitting, regardless of voter registration. *See* Code Crim. Proc. art. 19.01, 1908.

Justice Courts and Municipal Courts

HB 799—Effective 9/1/17.

Allows a justice of the peace or county judge to request an inquest by an official from another county when a death occurs in the county but the appropriate local official is not available; prohibits compensation for the service, other than any mileage incurred. *See* Gov't Code § 27.0545.

HB 1264—Effective 9/1/17.

Revises the circumstances under which contiguous municipalities may share jurisdiction over certain criminal offenses, introducing new geographic parameters to expand the permissible scope of concurrent jurisdiction. *See* Code Crim. Proc. art. 4.14(f), 13.045; Gov't Code § 29.003(h).

HB 3272—Effective 9/1/17 (applies to DPS determinations made on or after that date).

Updates and refines procedures governing the revocation or suspension of a driver's license or personal identification certificate; allows the municipal court or justice court to hold certain hearings via telephone or videoconference. *See* Transp. Code §§ 521.292, 521.294, 512.300, 521.314.

SB 42—Effective 9/1/17 (compliance required "as soon as practicable").

Requires the presiding judge of a municipality to create a court security committee to establish policies and procedures necessary to provide adequate security; requires each local administrative judge to establish a similar committee. *See* Gov't Code §§ 29.014, 30.00007. *See also* Courthouse Security and Judicial Privacy.

SB 239—Effective 9/1/17.

Establishes the right of the parent of a deceased child to view the child's body before a justice of the peace or medical examiner assumes control over the body. *See* Code Crim. Proc. art. 49.52.

Justice Courts and Municipal Courts - continued

SB 920—Effective 9/1/17 (applies to applications for writs filed on or after that date).

Revises procedures governing the authority of a justice of the peace to issue a writ authorizing a person to enter a residence or former residence to retrieve personal property, expanding the list of retrievable property to include copies of electronic records containing legal or financial documents and authorizing the justice of the peace to issue an *ex parte* writ under certain circumstances. *See* Prop. Code §§ 4A.001-004.

Juvenile Justice

HB 678—Effective 9/1/17 (applies to conduct occurring on or after that date).

Allows a referee or associate judge, when the state and a child who is subject to a determinate sentence agree to the disposition of the case, wholly or partly, to hold a hearing to allow the child to enter a plea or stipulation of evidence; requires the referee or associate judge to make and transfer written findings and recommendations to the juvenile court judge, who may accept or reject the plea or stipulation. *See* Fam. Code § 54.10(e)-(f).

HB 1204—Effective 9/1/17 (applies to conduct occurring on or after that date).

Requires the preliminary investigator to refer children under twelve accused of certain non-violent offenses to community service providers as an alternative to adjudication. Requires a probation officer to create and coordinate a service plan or system of care with the consent of the child and the child's parent, guardian, or custodian. Requires each juvenile board to develop associated policies, and requires the Office of Court Administration to conduct a related study. *See* Fam. Code §§ 53.01, 53.011.

HB 2059—Effective 9/1/17 (applies to arrests made and convictions entered at any time).

Allows any person arrested for only one alcohol-related offense while a minor, but not convicted of the offense, to seek an expunction order from the court that presided over the charges; outlines the requirements of the application and requires the court to enter the order if it finds those requirements satisfied. *See* Alco. Bev. Code §§ 106.12(d)-(f).

SB 1304—Effective 9/1/17 (applies to records created at any time).

Revises the circumstances under which law enforcement may photograph or fingerprint a child and outlines new procedures governing the creation, storage, and disclosure of these records. Makes certain juvenile defendants eligible for sealing of records upon turning 19 years of age, with some juveniles eligible for automatic sealing and others eligible to apply for an order sealing the records. Repeals contrary procedures. *See* Code Crim. Proc. art. 62.007(e); Fam. Code ch. 58.

SB 1548—Effective 9/1/17.

Allows a juvenile board or probation department to provide post-discharge services, including counseling, mentoring, educational, and vocational services, for up to six months following discharge from probation, regardless of age at discharge. *See* Hum. Res. Code § 142.007.

HB 1787—Effective 9/1/17 (applies to declarations executed on or after that date).

Provides that a declaration for mental health treatment may be signed by the principal and acknowledged before a notary public—current law requires the declaration to be signed by the principal in the presence of two or more subscribing witnesses. *See* Estates Code §§ 137.003(a), 137.011.

SB 1326—Effective 9/1/17 (applies to defendants accused of offenses committed on or after that date).

Establishes procedures to facilitate the early identification and treatment of pre-trial detainees with mental illness or intellectual disability:

- Requires a sheriff or custodial agent with custody of a person suspected of a Class B or higher offense to transmit any information indicating the person might have a mental illness or an intellectual disability to a magistrate within 12 hours of receipt; requires the magistrate to evaluate the information and, upon finding reasonable cause to believe the suspect has a mental illness or an intellectual disability, to order an assessment by a local mental health authority, a local intellectual and developmental disability authority, or another qualified expert.
- Requires any written mental health assessment ordered by a judge to be provided to the magistrate within 96 hours if the suspect is in custody or within 30 days if the suspect has been released.
- Authorizes the magistrate, in the event a suspect fails or refuses to submit to the assessment as ordered, to order the person to submit to an examination in a jail or another appropriate place of confinement for a reasonable period not to exceed 72 hours.
- Requires the magistrate, upon a determination that a defendant charged with a Class B misdemeanor or higher is incompetent to stand trial, to order the defendant to participate in a jail-based competency restoration program or to seek treatment at an in-patient mental health facility or residential care facility. Allows the magistrate to order out-patient treatment for a period of up to 60 days where the defendant is not a danger to others and may be safely treated in that manner.
- Provides that a magistrate must release from custody, notwithstanding a locally adopted bond schedule or other standing order, defendants not charged with a violent offense or previously convicted of a violent offense determined to have a mental illness or an intellectual disability if the assessment reveals appropriate treatment is available in the community and release will reasonably ensure the defendant's appearance in court and the safety of the community and the victim of the alleged defense.
- Allows the magistrate to use the results of the assessment to refer the defendant to a specialty court, as appropriate.
- Addresses the availability of prescribed medications for suspects and defendants in custody.
- Requires each magistrate to report the number of mental health assessments to the Office of Court Administration (OCA).
- Requires the specialty courts to report cases and outcomes to OCA.

See Code of Crim. Proc. art. 15.17, art. 16.22, ch. 46B.

SB 1576—Effective 9/1/17 (applicability varies by provision).

Revises various sections of code to address the commitment of certain sex offenders. As pertains to the courts, requires certain appearances and hearings related to commitment, upon motion by the state attorney, to be conducted by closed-circuit video teleconferencing; instructs the court to make and preserve a recording. Prohibits a magistrate from releasing on personal bond an otherwise eligible defendant who, at the time of the commission of the charged offense, was civilly committed as a violent sex offender. Expands the scope of certain criminal offenses and enhancements to reach civil commitment facilities and individuals committed to those facilities. Makes it an offense for any person to provide or intend to provide alcohol, controlled substances, dangerous drugs, or deadly weapons to a person in the custody of a civil commitment facility, or to possess a deadly weapon while in a civil commitment facility. *See* Code of Crim. Proc. art. 17.03(b-1); Health & Safety Code ch. 841; Penal Code §§ 22.01(b-1), 22.11(a), 38.11, 46.035(b).

Mental Health - continued

SB 1849—Effective 9/1/17 (compliance deadlines vary).

Known as the Sandra Bland Act, requires law enforcement agencies to make a good-faith effort to divert persons suffering a mental health crisis or the effects of substance abuse to appropriate treatment centers.[3] Requires each county to develop and publicize a plan to efficiently use resources to attempt to divert appropriate persons from jails or other detention centers and to develop or expand community collaboratives where possible. Requires various agencies to promulgate rules regarding jailer training, confinement safety standards, incident investigations, and minimum medical treatment standards for persons in confinement. Requires the sheriff of each county to file a monthly report outlining any serious health or safety incidents. Addresses racial profiling by law enforcement. *See, inter alia*, Code of Crim. Proc. art. 16.23; Gov't Code §§ 511.019-021, 539.002, 539.0051.

New Courts

SB 1329—Effective 9/1/17 (see other dates below).

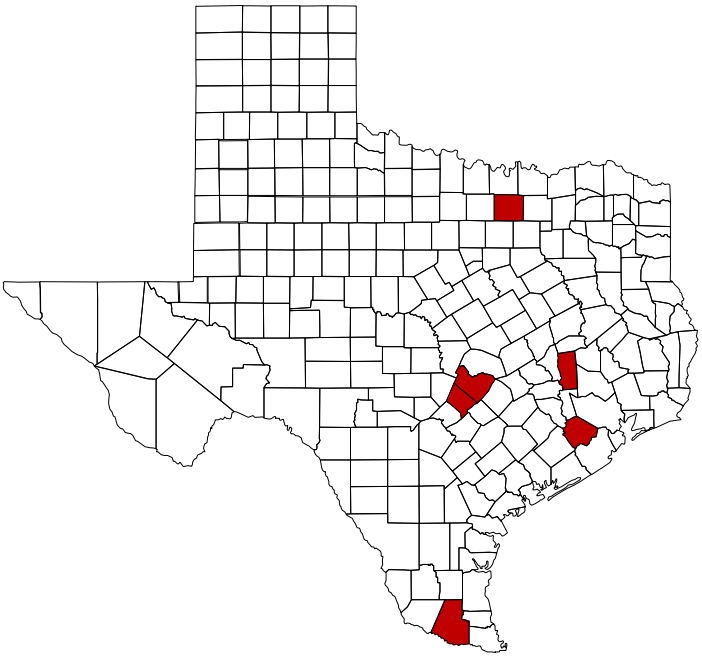
Creates the following district courts:

- the 453rd District, composed of Hays County, on 9/1/18,
- the 458th District, composed of Fort Bend County, on 9/1/17,
- the 459th District, composed of Travis County, with preference for civil matters, on 10/1/17,
- the 460th District, composed of Travis County, with preference for criminal matters, on 10/1/19,
- the 462nd District, composed of Denton County, on 1/1/19, and
- the 464th District, composed of Hidalgo County, on 1/1/19.

Creates the following county courts at law:

- the County Court at Law No. 6 of Fort Bend County on 1/1/18,
- the County Court at Law No. 1 of Grimes County, on 1/10/17, and
- the County Court at Law No. 3 of Hays County on 10/1/18.

See Gov't Code §§ 24.597, 24.6002-.6008, 25.0811, 25.0951-.0952, 25.0171.



3 Also includes several of the same procedural protections included in SB 1326

HB 1814—Effective 9/1/17 (applies to applications filed on or after that date).

Requires certain probate applications to include the last three digits of each applicant's driver's license number and social security number and the last three digits of the testator's or decedent's driver's license number and social security number. *See* Estates Code §§ 256.052(a), 257.051(a), 301.052(a).

HB 1877—Effective 9/1/17 (applies to estates of decedents that pass away on or after that date).

Allows the court, on its own motion or on motion of any interested person, and after an independent executor has been notified of a hearing for the purpose, to impose a fine not to exceed $1,000 if the court finds the executor misrepresented in certain affidavits that all eligible beneficiaries received a verified, full, and detailed inventory and appraisement. Makes the executor and/or the executor's sureties liable for the fine and for any damages caused by the misrepresentation. *See* Estates Code § 309.0575.

HB 2271—Effective 9/1/17 (applicability to applications and proceedings varies by provision).

Revises procedures for identifying next of kin for probate proceedings; expands the applicable definition of child to include equitable adoption. Clarifies the effect of divorce on certain trusts and survivorship agreements. Creates a private cause of action against a financial institution that holds the escrow account of a deceased attorney and fails to timely disburse and close the account, authorizing injunctive relief plus the recovery of damages and attorney's fees. Clarifies the accrual of class membership for the purposes of class gifts governed by section 255.151 of the Estates Code. Eliminates provisions allowing certain notifications to be made by publication and prohibiting the closing of an estate until all state inheritance taxes and all interests and properties passing through the representative's possession have been paid. *See* Estates Code §§ 33.001, 112.103, 113.252, 123.056, 23.151, 202.057, 205.001, 255.401, 255.451, 256.003, 257.051, 257.054, 359.001-.002, 405.0015; Prop. Code § 112.011.

SB 617—Effective 9/1/17 (applies only to conduct occurring on or after that date, but to all trusts).

Allows the reformation of a trust to correct drafting error only if there is clear and convincing evidence of the error; affords the court discretion to modify or reform a trust to qualify a distributee for certain governmental benefits or in other delineated circumstances. Provides that a trustee's right to decant over an objection does not limit a beneficiary's right to sue for breach of trust. Clarifies scope of trustee's authority to delegate certain powers to attorneys, accountants, brokers, and other agents, and requires written documentation of each delegation of authority. *See, inter alia*, Prop. Code §§ 112.038, 112.054, 112.074, 113.018

SB 1193—Effective 9/1/17 (applies to all fiduciaries, regardless of date of appointment).

Adopts the Revised Uniform Fiduciary Access to Digital Assets Act to govern the management of digital assets and electronic communication by estate administrators and other fiduciaries. Allows instructions for the disclosure, disposition, and distribution of the assets to be incorporated into a will, trust, or other document. Establishes procedures by which a court must adjudicate conflicting or unclear instructions and provides for the disposition of assets in the absence of any instructions. Clarifies that all duties the law imposes on a fiduciary managing tangible property apply equally to management of digital assets. Establishes the rights and responsibilities of server hosts and other custodians, affording custodians civil immunity for acts or omissions undertaken in a good-faith attempt to comply with the statute. *See* Estates Code ch. 2001.

SB 2150—Effective 9/1/17 (applies to deed executed on or after that date).

Revises procedures governing the transfer of real property interests subject to a transfer-on-death deed when a designated beneficiary fails to survive the transferring party by at least 120 hours, providing that the interest will pass as though the deed were a devise, unless otherwise specified in the transfer-on-death deed. *See* Estates Code §§ 114.103(a), 114.151.

Vetoed Legislation

HB 2783

The bill would have expanded the court's discretion to award costs and reasonable attorney's fees under the public information statute.

SB 667

The bill would have established a statewide guardianship compliance program to provide resources and assistance to courts, consistent with the recommendations of the Judicial Council and the Supreme Court of Texas. SB 667 overwhelmingly passed in the Senate and the House, but funding was removed from the budget via line-item veto, and the bill itself was vetoed shortly thereafter.

SB 813

The bill would have created a new cause of action allowing the recovery of damages, attorney's fees, and court costs from a state agency that pursued a regulatory action found frivolous, unreasonable, or without foundation and that could not demonstrate good cause for the action.

SB 1444

The bill would have revised procedures governing the *de novo* hearing of orders rendered by an associate judge, requiring the referring court to give precedence to the *de novo* review and authorizing mandamus relief where the referring court failed to hold a timely *de novo* hearing.

SB 1912

The bill would have revised certain procedures governing the civil commitment of persons with mental illness and intellectual disability and would have allowed the courts, with the permission of the governing commissioners court, to establish a mental health public defender office to provide representation.

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