



88th Legislative Session 2023

CDCAT LEGISLATION BOOK

Prepared by: CDCAT Legislation Committees



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Hon. Patti Henry, Chambers County District Clerk, CDCAT President.

Hon. Julie Smith, Potter County Clerk, County Clerk Legislative Chair, CDCAT Vice President.

Hon. Sharena Gilliland, Parker County District Clerk, District Clerk Legislative Chair.

Hon. Joyce Hudman, Brazoria County Clerk, County Clerk Legislative Co-Chair.

Hon. Heather Hawthorne, Chambers County Clerk, Election Legislative Chair.

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CIVIL LIABILITY

HB 567

House Author: Bowers, et. al.

Effective Date: 9/1/23

Senate Sponsor: Miles, et al.

Relating to discrimination based on hair texture or protective hairstyle associated with race.

Summary: This bill affects the Education Code, Labor Code, Property Code, but for our purposes we will focus on the **Labor Code, Chapter 21 is amended by adding Section 21.1095** to prevent racial discrimination based on hair texture or protective hairstyle. Protective hairstyle includes braids, locks, and twists commonly or historically associated with race.

An employer commits an unlawful employment practice if they adopt or enforce a dress or grooming policy that discriminates against hair texture or protective hairstyle commonly or historically associated with race.

HB 609

House Author: Vasut, et. al.

Effective Date: 9/1/23

Senate Sponsor: Middleton, et al.

Relating to the liability of a business owner or operator arising from the exposure of an individual to a pandemic disease.

Summary: **Amends Civil Practice and Remedies Code by adding Subsection (k)** to state that a business owner or operator that does not require employees or contractors of the business to be vaccinated against a pandemic disease is not liable for injury or death caused by the exposure of an individual to the pandemic disease through an employee or contractor of the business.

SB 943

Senate Author: Kolkhorst, et. al.

Effective Date: 9/1/23

House Sponsor: Hunter

Relating to publication of notices by a governmental entity on the Internet websites of a newspaper and the Texas Press Association.

Summary: **Amends Government Code, Chapter 2051 adding Section 2051.054** if the Texas Press Association maintains an Internet website as a statewide repository of notices. A newspaper that publishes a notice shall, at no additional cost to the governmental entity placing the notice; publish the notice on newspapers internet website that are clearly designated for notices and accessible to the public at no cost and deliver the notice to the Texas Press Association for them to publish on their website.

ELECTED OFFICIALS

SB 994**Senate Author: Schwertner, et. al.****Effective Date: 9/1/23****House Sponsor: Burrows**

Relating to the declaration of a candidate's ineligibility based on failure to pay a filing fee or submit a petition in lieu of a filing fee.

Summary: **Amends Election Code, Section 145.003(b) (f) and adding Subsection (f-1)** allows the secretary of state to declare a candidate ineligible if the candidate is ineligible under Subsection (f) (3) – the candidate fails to pay the filing fee or submit a petition in lieu of a filing fee. The candidate may not be declared ineligible under Subsection (f) (3) after the 74th day preceding election day.

SB 1089**Senate Author: Parker, et. al.****Effective Date: 9/1/23****House Sponsor: Capriglione**

Relating to repealing the ability to declare certain unopposed candidates for office as elected.

Summary: **Amends Election Code, Section 2.051(a), 52.092(a), and repeals Section 2.056 and 124.003(e)** **which** allows an unopposed candidate to be announced elected without a vote.

SB 599**Senate Author: Birdwell, et. al.****Effective Date: 9/1/23****House Sponsor: Anderson, et. al.**

Relating to the carrying or possession of a handgun by a district or county clerk and the issuance of a handgun license to a district or county clerk.

Summary: **Amends Government Code, Section 411.1882(a) and 411.201(h)** district and county clerks are now allowed to carry a licensed handgun in the courthouse (Penal Code 46.03 includes the courthouse and our offices which now do not apply to licensed clerks). The department shall waive any fees required for the issuance of an original, duplicate, or renewed license.

COUNTY CLERKS

HB 907**Effective Date: 9/1/23****House Author: Moody****Senate Sponsor: Hinojosa**

Relating to persons authorized to conduct a marriage ceremony.

Summary: **Amends Family Code, Sections 2.202 (a) and (b)** the following persons are authorized to conduct a marriage ceremony:

1. a licensed or ordained Christian minister or priest;
2. a Jewish rabbi;
3. a person who is an officer of a religious organization and who is authorized by the organization to conduct a marriage ceremony; and
4. a current, former, or retired federal judge or state judge.

Note: This was simply a language reduction bill that reduced a long list of judges and uses the definition from Tax Code section 25.025 of state and federal judges. In Section 25.025(a-1)(3) a justice of the peace is defined as a state judge. Therefore, justices of the peace will still be able to perform weddings, as will all the judges previously listed in Family Code 2.202.

HB 1382**Effective Date: 9/1/23****House Author: Hernandez****Senate Sponsor: Bettencourt**

Relating to the public sale of real property taken in execution of a judgment.

Summary: **Amends Civil Practice and Remedies Code adding Subsections (a-1) and (a-2) and amending Subsection (b)** commissioner's court may authorize the officer charged with conducting a public sale of real property to conduct a public auction using online bidding and sale. The court may adopt rules governing online auctions. Any rules adopted take effect on the 90th day after the date the rules are published in the real property records of the county. This does not apply to a sale of real property conducted under Section 51.002, Property Code.

HB 3440**Effective Date: 9/1/23****House Author: Canales****Senate Sponsor: Hinojosa**

Relating to the governmental bodies required to post on the Internet agendas for meetings under the open meetings law.

Summary: **Amends Government Code, Section 551.056(b)** adds "an agenda of a meeting" to the notice requirements in this section.

Repeals Section 551.056(c) which outlines concurrent posting by governmental bodies.

HB 4183**Effective Date: 9/1/23****House Author: Price****Senate Sponsor: Sparks**

Relating to a waiver of the waiting period for a marriage ceremony.

Summary: **Amends Family Code, Section 2.204(c)** adds an associate judge appointed under Chapter 201 and Chapter 54A, Government Code, and a justice of the peace for a written waiver permitting the marriage ceremony to take place during the 72-hour waiting period after license issuance.

SB 62**Effective Date: 9/1/23****Senate Author: Zaffirini****House Sponsor: Guillen**

Relating to posting certain documents and information related to certain real property sales on a county's Internet website.

Summary: **Amends Property Code, Section 51.002(f-1)** mandates a county to prominently post a notice of sale filed with the county clerk on the counties Internet website where the county posts other auction information. The county must post the date, time, and location of the sale on the same website page on which the notice is posted.

SB 801**Effective Date: 9/1/23****Senate Author: Hughes, et. al.****House Sponsor: Longoria**

Relating to an instrument that names a trust as a party.

Summary: **Amends Property Code, Chapter 114 adding Section 114.087** the trustee of a trust is considered for all purposes to be the named party to an instrument that names the trust as a party to the instrument in any capacity, unless the trust is a legal entity under state law. This is effective as of the effective date of the original instrument. The trustee of a trust that is the named party may be, but is not required to be, identified by a correction instrument.

COURTS

HB 103**House Author: Murr, et al.****Effective Date: 9/1/23****Senate Sponsor: Sparks**

Relating to the appointment of a retired or former judge as a visiting judge in certain counties.

Summary: **Amends Government Code Section 26.012** to require a visiting judge assigned to probate, guardianship, and mental health matters to have served as an active judge for at least 48 months in a statutory probate court.

Amends Government Code Section 26.020 to define “former constitutional county judge” as served for at least 96 months in a constitutional county court or 48 months in a constitutional county court and who is a licensed attorney in this state. **GC Section 26.023 and 26.024 adds** a “former constitutional county judge” as defined in 26.020 to the list of appointees.

HB 393**House Author: Goldman, et al.****Effective Date: 9/1/23****Senate Sponsor: Paxton**

Relating to restitution payments for the support of a child whose parent or guardian is a victim of intoxication manslaughter.

Summary: **Amends Code of Criminal Procedure, Chapter 42 by adding Article 42.0375** to require mandatory restitution for the child whose parent or guardian was a victim of intoxication manslaughter. The court shall determine an amount to be paid and order the convicted defendant to pay monthly restitution to a child under the age of 19, until the child reaches 18 years of age or has graduated from high school, whichever is later. If the defendant is unable to pay because they are incarcerated, the defendant shall begin payments no later than the first anniversary of the defendant’s release. The amount of restitution paid shall be deducted from any civil judgment against the defendant. Enforcement may be enforced by the attorney general, or by a person named in the order to receive the restitution, in the same manner as a judgment in a civil action. (This is not retroactive).

HB 841**House Author: Ordaz, et al.****Effective Date: 9/1/23****Senate Sponsor: Middleton, et. al.**

Relating to certain judicial statistics and related information gathered by the Texas Judicial Council.

Summary: **Amends Government Code, Section 71.035(a)** to include case-level information on the amount and character of the business transacted by courts. (This enables the OCA to create a database to collect case-level information from all courts).

HB 1182**House Author: Harless****Effective Date: 9/1/23****Senate Sponsor: Whitmire**

Relating to judicial statistics and other pertinent information gathered by the Texas Judicial Council and certain populous counties.

Summary: This bill expands on HB 841, to include case-level information on the amount and character of the business transacted by courts specific to counties with a population of at least one million.

Amends Government Code, Section 71.035(a) adding Subsections (a-1), (a-2), and (a-3) to read as follows:

(a) The council shall gather judicial statistics and other pertinent information, including for each trial court in this state monthly court activity statistics and case-level information on the amount and character of the business transacted by the court, from the several state judges and other court officials of this state.

The monthly information gathered by the council for each trial court in a county with a population of at least one million must include, but is not limited to:

- (1) the number of cases assigned to the court;
- (2) the case clearance rate for the court;
- (3) the number of cases disposed by the court;
- (4) the number of jury panels empaneled for the court;
- (5) the number of orders of continuance for an attorney before the court or by the court;
- (6) the number of pleas accepted by the court;
- (7) the number of cases tried by the judge of the court.

(a-3) In a county with a population greater than one million, a court official for each court in the county shall submit to the appropriate county official for publication on the county 's public Internet website a copy of each monthly report required under Subsections (a) and (a-1) within the time required by Subsection (a-2). The county shall publish the information for each court on the county 's Internet website in a searchable format.

HB 2384**House Author: Leach, et. al.****Effective Date: 9/1/23****Senate Sponsor: Hughes, et. al.**

Relating to court administration, including the knowledge, efficiency, training, and transparency requirements for candidates for or holders of judicial offices.

Summary: The bill reflects changes to judge's election requirements and judge's case reporting requirements. We address the case reporting requirements that will be required by clerks.

Amends Government Code, Section 72.083 existing law limited this to district courts, but this change opens it to all courts; new reporting requirement that defines "clearance rate" as the number of cases disposed by a court divided by the number of cases added to the docket or the court. The OCA shall annually report the following:

1. the courts clearance rate;
 2. the average time a case is before the court from filing to disposition; and
 3. the age of the court's active pending caseload.
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HB 4333**House Author: Garcia, et. al.****Effective Date: 9/1/23****Senate Sponsor: Menendez**

Relating to the extension of a family violence pretrial diversion pilot program in Bexar County.

Summary: **Amends Government Code, Section 509.018(e)** extends the program to expire September 1, 2027.

SB 372**Senate Author: Huffman, et. al.****Effective Date: 9/1/23****House Sponsor: Leach, et. al.**

Relating to creating a criminal offense for the unauthorized disclosure of non-public judicial opinions and judicial work.

Summary: **Amends Government Code, Section 21 adding Section 21.013** creates a criminal offense to release confidential and non-public judicial work products without the written consent of the justice or judge for whom the work product is prepared. This applies to the judges as well as court staff attorneys, court clerks, or law clerks. An offense under this section is a Class A misdemeanor.

Definitions:

1. Judicial work product – any written, electronic, or oral material prepared, or communications made in the course of an adjudicatory proceeding before a court determining legal rights, powers, duties, or privileges. The term includes all drafts of opinions or orders and memoranda of law.
 2. Non-public judicial work product – any written or electronic judicial work product other than documents filed with the clerk of a court for release to the public; or any oral statement relating to judicial work product made in a closed session of a court or in judicial chambers.
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SB 1045**Senate Author: Huffman, et. al.****Effective Date: 9/1/23****House Sponsor: Murr, et. al.**

Relating to the creation of the Fifteenth Court of Appeals with jurisdiction over certain civil cases, the compensation of the justices of that court, and the jurisdiction of the courts of appeals in this state.

Summary: **Amends Government Code, Section 22.201(a) adding Subsection (p)** creates the Fifteenth Court of Appeals in the City of Austin. The Fifteenth Court of Appeals District is composed of all counties in this state.

Amends Government Code, Section 2001.038(f), 2001.176(c), Occupations Code, Section 2301.751(a), Utilities Code, Section 39.001 a Travis County district court may request transfers to the Fifteenth Court of Appeals District.

Amends Code of Criminal Procedures, Article 4.03 and 44.25 to state it does not have jurisdiction in criminal actions. (Other substantive changes as to the courts creation not relative to clerks).

COUNTY & DISTRICT CLERKS

HB 616**House Author: Vasut, et. al.****Effective Date: 9/1/23****Senate Sponsor: Zaffirini**

Relating to continuing education instruction for district clerks on impaneling petit and grand juries.

Summary: **Amends Government Code, Section 51.605 by adding Subsection (e)** to state as part of the 20 hours of initial instructions and of continuing education courses prescribed, a district clerk must complete one hour of instruction on impaneling petit and grand juries.

HB 767**House Author: Harless, et. al.****Effective Date: 5/19/23****Senate Sponsor: Kolkhorst**

Relating to the entry into the Texas Crime Information Center of certain information regarding conditions of bond for stalking offenses.

Summary: **Amends Code of Criminal Procedure, Article 17.50** to include stalking crimes to be reported for TCIC bond conditions.

HB 1195**House Author: Holland****Effective Date: 5/19/23****Senate Sponsor: Hall**

Relating to the authority of certain county and district clerks to obtain and retain information that identifies a person filing a document or requesting services.

Summary: **Amends Local Government Code, Section 191.010(b)** to remove the population bracket which allows the county clerk that offers electronic filing of documents in the real property records of the county to require a person presenting a document in person for filing in the real property records to present a photo identification to the clerks and that the clerk may make a copy or record the information.

Amends Section 191.011(b) and (d) and adding Subsection (b-1) to remove the population bracket which allows a county or district clerk that offers electronic filing or recording of document or other instruments may require an individual to present photo identification and copy or record the identification. A clerk requesting the photo id. may refuse to accept the document if the individual refuses to provide the photo id...

Note: This law does not include any retention schedule for the photo id's, meaning if you choose to retain the id's, there is no instruction on how or for how long you keep them so you will need to create procedures.

HB 1221**Effective Date: 9/1/23****House Author: Metcalf****Senate Sponsor: Zaffirini**

Relating to authorizing the comptroller to release a reported owner's unclaimed property to the owner's crime victim in certain circumstances and payment by the Texas Department of Criminal Justice of certain amounts owed by an inmate.

Summary: **Amended Government Code, Chapter 493 adding Section 493.035** outlines the process of the department filing a claim for unclaimed property on behalf of a victim of a criminal offense. Subsection (c) requires the department to act if it has received notification from the court under Section 501.014(e) (the judgment) and confirm with the county the amount of outstanding restitution owed.

Amends Code of Criminal Procedure adding Subsection (x) the county shall accept a restitution payment received from the department and forward the payment to the victim or other person eligible for restitution, including the compensation to victims of crime fund. The county shall return to the department any amount in excess of the balance owed to the victim.

HB 3956**Effective Date: 9/1/23****House Author: Smith, et. al.****Senate Sponsor: Creighton**

Relating to the creation of DNA records for a person arrested for a felony offense and the expunction of DNA records in certain circumstances.

Summary: This bill amends and adds new subsections to the **Code of Criminal Procedures** to obtain DNA on all Felonies and Class A and B Misdemeanors; places the burden to collect the DNA on the arresting agency. In the case of an expunction, the clerk must notify the arresting agency. Amendments to follow are only those that directly affect clerks.

Amends Article 55.02(c) to direct the clerk to send the certified copy of the order of expunction to the director of the Department of Public Safety, Crime Records Service of the department.

Amends Government Code, Sections 411.1471 (a), (b), and (e) includes all Felony and Class A and B Misdemeanors. In the event of an acquittal, dismissal or finding of determination that the defendant is actually innocent of a crime in which the defendant was sentenced, the court (meaning clerk) shall promptly notify DPS and then notify the defendant and the defendant's attorney that DPS has been notified.

SB 869

Senate Author: West

Effective Date: 9/1/23

House Sponsor: Smithee

Relating to suits affecting the parent-child relationship, including the payment and enforcement of support ordered in a suit affecting the parent-child relationship.

Summary: **Amends Estates Code, Section 122.201** limits an assignment of property or an interest in property under Subsection (a) by a child support obligor does not take effect to the extent the assigned property or interest in property could be applied to satisfy a support obligation of the obligor that has been determined by a certified child support payment or confirmed in a judgment provided by Section 157.263, Family Code.

District clerks - If this applies, the child support obligee may enforce the child support obligation as to the assigned property or interest in property by a lien or by any other remedy provided by law.

Note: (e) unless the personal representative of a decedent's estate has notice of the claim, they are not liable for transferring property pursuant to the assignment.

SB 1180

Senate Author: Perry

Effective Date: 5/24/23

House Sponsor: King K.

Relating to civil actions by a civilly committed individual.

Summary: Authorizes the court to conduct a hearing on a motion by the court, party, or clerk challenging affidavits of inability to pay filed by a civilly committed individual.

COURT COSTS & FEES

HB 1989

House Author: Cook

Effective Date: 9/1/23

Senate Sponsor: Parker

Relating to the fees assessed by a district clerk for copies of certain court documents.

Summary: **Amends Government Code, Section 51.318(e) and adds Subsection (f)** the district clerk may not charge a fee for a copy of any criminal history documentation, regardless of whether the document is certified, to the following agencies:

1. United States Immigration and Customs Enforcement;
2. United States Citizenship and Immigration Services; or
3. A criminal justice agency that requests the document for a criminal justice purpose, including a request to determine an individual's eligibility to purchase a firearm (Section 411.082).

HB 2251

House Author: Raymond

Effective Date: 9/1/23

Senate Sponsor: Zaffirini

Relating to computerized fee records in criminal cases.

Summary: **Amends Code of Criminal Procedure, Article 103.009 adding Subsection (e)** an officer that has been provided a computerized case and financial management system by the county shall maintain the information in the system and the produce a hard-copy form for purposes of satisfying the requirements of Article 103.001. Article 103.001 outlines the information required on a bill of cost.

HB 3603

House Author: Anderson, et. al.

Effective Date: 12/1/23

Senate Sponsor: Whitmire

Relating to the payment of restitution by a person released on parole or to mandatory supervision.

Summary: **Amends Government Code, Section 508.322(c), (d), (e), and (f) adding Subsections (c-1) and (c-2) RELEASE RESTITUTION FUND.** Read as follows:

(c) When a parole panel orders the payment of restitution from a releasee as provided by Article 42.037(h), Code of Criminal Procedure, the department shall:

- (1) collect the payment for disbursement to the victim;
- (2) deposit the payment in the releasee restitution fund; and
- (3) transmit the payment to the clerk of the court that entered the order of restitution as

soon as practicable for the clerk to remit the payment to the victim.

(c-1) The department shall include the releasee's name and other relevant identifying information, the cause number, and the payment amount when transmitting a payment to the clerk of the court under Subsection (c) (3).

(c-2) On receipt of a payment transmitted to the clerk of the court under Subsection (c) (3), the clerk shall process and account for the payment in the same manner as if the payment had been made directly to the clerk.

(d), (e), and (f) all have the "department" replaced with "clerk of the court" in outlining the requirement to attempt to contact the victim by certified mail to the last known address and if no contact after five years, the money is considered abandoned and shall be reported to the state as unclaimed property. Effective December 1, 2023.

HB 4250**Effective Date: 9/1/23****House Author: Lalani****Senate Sponsor: Miles**

Relating to the right of the clerk of a court to deduct from the amount of the excess proceeds from an ad valorem tax sale of property the cost of postage for sending to the former owner of the property notice of the owner's right to claim the proceeds.

Summary: **Amends Tax Code, Section 34.03 adding Subsection (d)** read as follows:

The clerk may deduct from the amount of the excess proceeds the cost of postage for sending to the former owner of the property a notice under Subsection (a) (1).

SB 380**Effective Date: 5/23/23****Senate Author: Zaffirini****House Sponsor: Moody**

Relating to payment of certain court costs associated with interpreters.

Summary: **Amends Government Code, Section 57.002(g), (h), and (i)** if a party files a statement of inability to afford payment of court costs under Rule 145, Texas Rules of Civil Procedure, they are not required to pay an interpreter unless the statement has been contested and the court has ordered the party to pay costs pursuant to Rule 145.

Each county auditor, in consultation with the district and county clerks shall submit to the OCA information on the money the county spent during the preceding fiscal year to provide court-ordered interpretation services in civil and criminal proceedings. The information must include:

1. The number of interpreters appointed;
 2. The number of interpreters appointed for parties or witnesses who are indigent;
 3. The amount of money the county spent to provide court-ordered interpretation services; and
 4. For civil proceedings, whether a party to the proceeding filed a statement of inability to afford payment of court costs under Rule 145, TRCP, applicable to the appointment of an interpreter.
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SB 1612**Effective Date: 1/1/24****Senate Author: Zaffirini****House Sponsor: Orr, et. al.**

Relating to court administration and costs; increasing certain court costs; authorizing fees.

Summary: This is the clean-up bill for SB 41 but also includes transfer language. This analysis will be broken down by subject matter.

TRANSFERS

Amends Estates Code, Section 33.101 Transfer to other County in which Venue is Proper, **Section 33.102** Transfer for Want of Venue, **Section 33.103** Transfer for Convenience. Replaces the transmittal requirements with the court clerk to transmit a transfer in accordance with the procedures provided by Section 33.105 (through eFile). No documents need to be certified. Effective September 1, 2023.

Amends Estates Code, Chapter 33 adding Section 33.105 Transfer of Probate Proceeding Record and **Section 1023.006** Transfer of Record Section 33.105(a) Outlines the transfer method requiring it be eFiled and the following information sent:

1. A transfer certificate and index of transferred documents;
2. A copy of each final order;
3. A copy of the order of transfer signed by the transferring court;
4. A copy of the original papers filed in the transferring court, including a copy of any will
5. A copy of the transfer certificate and index of transferred documents from each previous transfer; and
6. A bill of costs accrued in the transferring court.

The clerk will use the transfer certificate and index of transferred document form the OCA created. The clerk shall keep a copy of documents transferred under Subsection (a).

The transferee (receiving) clerk shall accept the documents if all elements are met in lines 1-6. They will docket the proceeding and notify through eFile, all parties to the proceeding, the clerk of the transferring clerk and, if appropriate, the transferring court's local registry that the proceeding has been docketed and an employer affected by the order electronically or by first class mail, Section 33.105(b)-(d).

The clerk shall only file mark or stamp the transfer certificate and index of transferred documents and shall not file mark the other documents. Both clerks may issue certified and non-certified copies of the records they hold but shall include the transfer certificate with each document produced. Subsections (d)-(f).

Note concerning the Will: Although the language did not make it into this version of the bill, the Travis County probate judge had asked for the bill language to be amended and clerks to mail the original Will to the transferring clerk by certified or third-party courier at the requesting parties' expense, however, that change was not incorporated. Effective September 1, 2023.

Amends Estates Code, Section 1023.007 Transfer Effective. Adds that the guardianship does not take effect until the clerk of the court to which the proceeding is transferred accepts and docket the case record under Section 1023.006. The remainder of the Section was deleted. Effective September 1, 2023. (Duplicate of HB 3474).

Amends Family Code, Section 155.207(a), (b), and (e) Transfer of Court Files. Clean-up language that opens this section up to all transfers, removing the words "in the county". The rest is nonsubstantive changes. Effective September 1, 2023.

Amends Government Code, Section 51.3071(a) adding Subsections (f) and (g) Transfer of Cases. Expands the statute to include the transfer from a district court to a "constitutional or statutory county court or another district court". Further language adds both clerks may produce certified or uncertified copies of documents and must include a copy of the transfer certificate and index of transferred documents with each document produced. Clarifies that this statute applies to transfers both in the same or different counties. Effective September 1, 2023.

Amends Government Code, Section 51.403(a) adding Subsections (d) and (e) Transfer of Cases. Expands the statute to include the transfer from a county court to a district court “or a statutory county court or a county court of another county”. Further language adds both clerks may produce certified or uncertified copies of documents and must include a copy of the transfer certificate and index of transferred documents with each document produced. Clarifies that this statute applies to transfers both in the same or different counties. Effective September 1, 2023.

Amends Government Code, Section 72.037(a) Sections 33.105 and 1023.006 Estates Code are added to the statute requiring the OCA to develop the form.

JUVENILE

Amends Family Code, Section 51.072(l) and 61.002, repeals the requirement that if the child’s family is financially unable to pay for the program placement fees, reasonable attorney’s fees, reimburse the county, requiring payment of deferred prosecution supervision fees. (In other words, the county, not the family, is financially responsible for any services the juvenile court requires). Effective September 1, 2023.

FEES – Effective 1/1/24

Amends Family Code, Section 110.002(a) adding Subsection (d) filing fees under this code have been raised from \$15 to **\$80**. Those being:

1. A suit or motion for modification;
2. A motion for enforcement;
3. A notice of application for judicial writ of withholding;
4. A petition for license suspension;
5. A motion to revoke a stay of license suspension; or
6. A motion for contempt.

A motion to transfer has been repealed. There is now no fee for a motion to transfer in any code.

Adds Subsection (d) – fees collected under this section are to be remitted and allocated as provided by Chapters 133 and 135, Local Government Code, as applicable. (Meaning that the \$80 will be split between the state = \$45 and the county = \$35). Effective 1/1/24.

Amends Family Code, Section 110.005(a) the fee for filing a transferred case has been raised from \$45 to **\$80** and allocated as provided by Chapters 133 and 135, Local Government Code, as applicable. Effective 1/1/24.

Copy Fees - the following statutes govern copy fees and are amended - Government Code, Section 51.318(b) (7) and (9) (district clerk fees); Local Government Code, Section 118.011(a) (3) and (4) (county clerk fees other than court fees); Local Government Code, Section 118.052 (1), (2), and (3) (county clerk civil, probate, other fees). The fees for a certified copy, non-certified copy, and the preparation of the clerk’s record of transfer.

1. certificate and seal/ for the clerk’s certificate \$5
2. for each page or part of a page:
 - (a) printed on paper \$1
 - (b) that is a paper document converted to electronic format \$1
 - (c) that is an electronic copy of an electronic document:
 - (i) for a document up to 10 pages in length \$1 and
 - (ii) for each page or part of a page over 10 pages \$0.10.

Amends Local Government Code, Section 118.131(a) this reasonable fee for services by the offices of the sheriff and constables has been amended to replace “services” with “service of process, including service of writs.

Amends Local Government Code, Sections 133.151(a) (2) and (a-1) (state consolidated fees) and **135.101(a) (2)** (local consolidated fees) removes the ability to charge a fee for an appeal by a county or district clerk and adds a **motion to reinstate**.

Clerks Records Management Fee – Amends Local Government Code, Section 134.101(b)(2) (felonies); **134.102(b)(2)** (A or B misdemeanors); **134.155** (allocation definition); **135.101(b)(4)** (new civil), **(c)(2)** (subsequent civil); **135.102(b)(4)** (new probate), **(c)(2)** (subsequent probate). Replacing the word county with **clerks**.

Effective September 1, 2023, the following laws are repealed:

1. Article 26.057, Code of Criminal Procedure – juvenile court appointed attorney fees (a case transferred before 9/1/23 is governed by the laws in effect on the date the case was transferred).
2. Section 33.103(c), Estates Code – transmittal of original probate file.
3. Sections 51.10(e), (k), and (l), Family Code – juvenile court fees.
4. Section 53.03(d), Family Code – juvenile court fees.
5. Section 54.0404(b), Family Code – juvenile court fees.
6. Section 54.06, Family Code – judgment for child support in juvenile cases (an order for assignment of child support rendered before 9/1/23 is governed by the laws in effect on the date the order was rendered).
7. Section 54.061, Family Code – probation fees for juveniles.
8. Section 56.01(l), Family Code – appeal costs for juveniles.

The imposition of a fee or cost by a juvenile court before September 1, 2023, is governed by the law in effect on the date the fee or cost was imposed, and the former law is continued in effect for that purpose.

Effective January 1, 2024, Section 291.008, Local Government Code is repealed – the county and district clerks shall collect a \$1 fee for filing any document not subject to a filing fee.

SB 1730

Senate Author: Zaffirini, et. al.

Effective Date: 9/1/23

House Sponsor: Cole

Relating to the processing of United States passport applications by a district court clerk; authorizing fees.

Summary: **Amends Government Code, Sections 51.3031(a) and (b)** a district clerk may sell money orders to applicants for payment purposes. A district clerk may collect reasonable fees to sell money orders set by the commissioner’s court of the county.

ELECTIONS

HB 246**House Author: Swanson****Effective Date: 9/1/23****Senate Sponsor: Bettencourt**

Relating to establishing a pilot program for recording ballot counting activity.

Requires the secretary of state to establish a pilot program requiring a county to use a video recording device to record all areas containing voted ballots. Six counties will be selected of different population brackets to participate. The requirement to conduct the pilot program will expire on Jan. 1, 2025.

HB 315**House Author: Cortez****Effective Date: 9/1/23****Senate Sponsor: Zaffirini**

Relating to a statement by the secretary of state regarding the furnishing of certain personal information on an application for a ballot to be voted by mail.

Requires the secretary of state to prescribe a statement to be included with the application of a ballot to be voted by mail explaining why it is important for an applicant to include their phone number on the application and how it will benefit the early voting clerk.

HB 1217**House Author: Swanson****Effective Date: 9/1/23****Senate Sponsor: Kolkhorst**

Relating to the administration of and procedures relating to early voting by personal appearance.

The bill standardizes statewide early voting hours by personal appearance and provides for the use of Chapter 19 funds for voter registrars' counties with a population of 55,000 or less to defray the costs of keeping their offices open during polling places hours during the early voting period.

HB 1299**House Author: Noble****Effective Date: 9/1/23****Senate Sponsor: Paxton**

Relating to the signature required on a carrier envelope for a ballot voted by mail, changing the elements of a criminal offense.

Requires the signature on a carrier envelope for a ballot voted by mail made by a voter or a person who assists the voter with mailing the envelope, to be made using ink. The bill prohibits the use of photocopied or electronic signatures on the envelope.

HB 1631**House Author: Paul****Effective Date: 9/1/23****Senate Sponsor: Middleton**

Relating to hours of service by an election watcher.

Allows election watchers to choose the number of hours they will serve at a precinct polling place.

HB 1632**House Author: Paul****Effective Date: 9/1/23****Senate Sponsor: Middleton**

Relating to standardized training for election officers.

Requires the secretary of state to develop and make available a standardized training program on their website, free of charge, that requires passage of an examination at the end of the training program. The secretary of state shall develop standardized training for members of an early voting ballot board; signature verification committee; member of a counting station; county election officials; presiding or alternate judges; and election clerks. The training program is not a prerequisite to eligibility for service in an election.

HB 1848**House Author: Ayala****Effective Date: 9/1/23****Senate Sponsor: Hall**

Relating to a study by the secretary of state on the feasibility of central counting stations complying with federal standards for facilities that contain sensitive information.

The secretary of state shall conduct a study to consider the feasibility of conforming each central counting station with the Sensitive Compartmented Information Facilities (SCIF) standards promulgated by the federal government. The bill's provisions expire Dec. 1, 2024.

HB 2800**House Author: Rogers****Effective Date: 9/1/23****Senate Sponsor: Paxton**

Relating to meetings of a county election board.

A meeting of the county election board shall be held in person and open to the public. The county clerk shall post notice of the meeting not later than 48 hours before each election board meeting on the county's Internet website, if the county maintains a website.

HB 3159**House Author: Leach****Effective Date: 9/1/23****Senate Sponsor: Hughes**

Relating to the use of an accessible absentee mail system by certain voters.

Creates an accessible electronic absentee ballot system eligible for early voting by mail if the person is disabled or confined because of childbirth. The secretary of state will adopt standards for the approval of the system and establish the rules and procedures for implementing the accessible absentee mail system.

HB 4559**House Author: Darby****Effective Date: 9/1/23****Senate Sponsor: Huffman**

Relating to the application of statutes that classify political subdivisions according to population.

The purpose of the bill is to update population brackets with the new census data contained in the 2020 federal census so that statutes using population brackets continue to apply to political subdivisions for which the brackets were intended.

SB 825**Senate Author: Bettencourt****Effective Date: 9/1/23****House Sponsor: Cunningham**

Relating to the deadline for submitting certain recount petitions.

A petition for an initial recount must be submitted by 5 p.m. of the third business day after the canvassing authority completes its canvass of the original election returns. If the deadline for submitting the petition falls on a weekend or state holiday, the deadline is extended to 10 a.m. on the next regular business day.

The deadline for submitting a recount petition is 2 p.m. of the second day after the date of the local canvass.

SB 1052**Senate Author: Springer****Effective Date: 9/1/23****House Sponsor: Gonzalez**

Relating to the compensation of an election judge or clerk.

A judge or a clerk may not be paid for more than two hours of work before the polls open.

SB 1089**Senate Author: Parker****Effective Date: 9/1/23****House Sponsor: Capriglione**

Relating to repealing the ability to declare certain unopposed candidates for office as elected.

Repeals the ability to declare unopposed candidates elected to office. Uncontested candidates are to be listed on the ballot.

SB 1599**Senate Author: Hughes****Effective Date: 9/1/23****House Sponsor: Bucy**

Relating to ballots voted by mail.

Requires an election officer to maintain a register of mail-in-ballots returned at the polling place by a person who wants to vote in person by canceling application for a ballot to be voted by mail. The bill gives the opportunity to correct defects in mail-in ballot applications and revises the deadlines by which the jacket envelopes containing mail-in ballots must be delivered to the early voting ballot board. Changes the way a voter can access the mail-in tracker ballot tool. A voter is required to provide their date of birth versus their voter registration address.

SB 1661**Senate Author: Hughes****Effective Date: 9/1/23****House Sponsor: Smith**

Relating to a ballot scan system used in a central counting station.

Revises provisions included in SB 1 by Hughes passed in the 87th Legislature, 2nd Called Session, that prohibits counties from using reusable storage devices, i.e., USB flash drives, certified by the secretary of state, and requires the usage, once written, cannot be modified. Concerns were raised as to the lack of availability of the voting technology and potential costs. The bill addresses these concerns by revising requirements relating to ballot scan systems used in central counting stations.

JURY

HB 2015

House Author: Leach

Effective Date: 9/1/23

Senate Sponsor: Zaffirini

Relating to the exemption from jury service for persons over a certain age.

Summary: **Amends Government Code, Section 62.106(a), 62.107(c), 62.108(a), (b), (c), and (e);** increases the age exemption from 70 years old to 75 years old.

HB 3474

House Author: Leach, et al.

Effective Date: 9/1/23

Senate Sponsor: Hughes, et. al.

Relating to the operation and administration of and practice and procedure related to proceedings in the judicial branch of state government, including the service of process and delivery of documents related to the proceedings, the administration of oaths, and the management of the Texas Indigent Defense Commission, and the composition of certain juvenile boards; establishing a civil penalty; increasing certain court costs; authorizing fees.

Summary: This is the courts omnibus bill which covers many topics that have been broken down by subject matter.

NEW/AMENDED JUDICIAL DISTRICTS

There are many counties that have added courts. Those courts and the duties assigned to each clerk can be found in the bill.

NEW OCA DATABASE

Amends Government Code, Chapter 72 adding Section 72.039 requires the OCA to create a District Court Caseload Analysis required once every two years. The definition of a judicial officer in this statute means a district judge or an associate judge, master, magistrate, or referee who conducts proceedings for district courts.

The information collected includes the preceding five state fiscal years and will include:

1. number of cases filed in each district court;
2. clearance rate for each district court – clearance rate is defined as the number of cases disposed divided by the number of cases added to the dockets.
3. number of estimated full-time equivalent judicial officers serving the district courts in the county in the preceding state fiscal year;
4. number of full-time equivalent judicial officers needed to serve the district courts in the county based on the most recent weighted caseload analysis;
5. calendar year for creation of the most recently created district court in the county; and
6. any other relevant information identified by the director.

Not later than October 1 of each even-numbered year, the office shall report the results of the analysis conducted under Subsection (b) to the governor, the lieutenant governor, and each member of the legislature.

GRAND JURIES

Amends Code of Criminal Procedure Article 19A.052, 19A.053, adds the district clerk as well as the sheriff to summons qualified jurors for grand jury and summons additional jurors if needed.

Amends Code of Criminal Procedure Article 19A.101 (a)(7) and adding (b) amends the conviction disqualification to read “has **never** been convicted of a misdemeanor theft or a felony”.

(b) requires creation of a list of persons who were disqualified from serving based on their citizenship or indictment or conviction for misdemeanor theft or a felony and send a copy of the list to the secretary of state and the prosecuting attorney. (The same list you must prepare for petit juries regarding these disqualifications).

Effective September 1, 2023, any grand jurors summoned before this date will follow the form law in effect for that purpose.

JURORS AND JURY SERVICE

Amends Government Code, Section 61.001(a) and 61.0015(a) increases the first day of jury service from \$6 to **\$20** with a new reimbursement rate from the state of **\$14**.

Increases the attendance rate (after the first day) from \$40 to **\$58** with a daily reimbursement rate increase from \$34 to **\$52** under Section 61.001(a)(2).

Amends Government Code, Sections 61.003(a) and (b) (a) “Each person who reports for jury service shall be provided the opportunity, either through a written form or electronically, to direct the county treasurer or a designated county employee to donate all, a specific amount designated by the person, or the entire amount divided among the funds, programs, and county entities listed in this subsection of the person’s daily reimbursement under this chapter to:” (b) The treasurer shall collect any information provided under Subsection (a) directing the county treasurer to donate reimbursement of a person who reports for jury service.

Amends Government Code, Section 62.001. Jury Source: Reconstitution of Jury Wheel (a) and (b) (a) (2)(B) repeals (7) and adds (8). (For reference in section 62.102 Jury Qualifications, (7) refers to “has not served as a petit juror for six days” and (8) “has not been convicted of misdemeanor thief or a felony). (b) adds new sections 62.113, 62.114, and 62.115.

Amends Government Code, Section 62.0111(b)(5) amends an electronic plan for summoning jurors, replacing jury summons questionnaire with **juror questionnaire** under Section 62.0132.

Amends Government Code, Section 62.012(b), 62.013, 62.013(a) and (b), 62.014(a), 62.0145, 62.0146, 62.015(b), 62.016(d), 62.017(d), 62.0175(d), 62.411(a), 62.412(c).

Adds “the clerk” in addition to the sheriff or constable for summoning jurors in all courts.

The following amendments separate the jury summons from the jury questionnaire for clerks who have adopted an electronic jury plan to manage this information through their county websites.

Amends Government Code, Section 62.0131(b) and (c) Form of Written Jury Summons.

This section of the code allows a clerk to post certain information on their website instead of requiring all of it on the jury summons.

Expands on the form of written jury summons model to include:

(1) the option to provide the electronic address of the court's Internet website where the exemptions and restrictions are posted.

(3) notice of the contempt action to which the person summoned for jury service is subject to under Section 62.0141 for failure to comply with the jury summons; and

(4) the option to:

(A) include in the jury summons the juror questionnaire required by Section 62.0132;

(B) provide the electronic address of the court's Internet website from which the juror questionnaire may be easily printed; or

(C) in counties in which the district and criminal district judges adopted a plan for an electronic jury selection method under Section 62.011, provide the electronic address of the court's Internet website for the prospective juror to access and complete the juror questionnaire.

(c) allows a written summons to be in **post card format**, specifically stating "must be 3-1/2 by 5 inches or larger in size.

Amends Government Code, Section 62.0132(c) and (d) Juror Questionnaire. Written jury summons replaced by "juror questionnaire" through ought statutes and adds (6) to collect email addresses from jurors.

Amends Government Code, Section 62.106(a), 62.107(c), 62.108(a), (b), (c), and (e), raises the over 70 exemptions to **over 75**. This applies only to an exemption from jury service for a person who is summoned to appear for service on or after September 1, 2023. An exemption from jury service for a person who is summoned to appear for service before September 1, 2023, is covered by the law in effect when the person was summoned, and that law is continued in effect for that purpose.

Amends Government Code, Section 62.109(c) Exemption for Physical or Mental Impairment or Inability to Comprehend English. Changes the requirement of the clerk to report only the **permanently exempted** to the voter registrar.

Amends Government Code, Chapter 62 adding Section 62.115 Compilation of List of Convicted Persons.

This new section requires clerks to maintain a list of the name and address of each person disqualified from jury service because the person was convicted of a misdemeanor theft or a felony and makes the disqualification permanent. The clerk may remove this person from the jury wheel. On the third business day of each month, the clerk shall send to the secretary of state a copy of the list of persons disqualified because of this disqualification. (Note: this was third party language added late in the session; we all know we can report electronically to the state through TEAM.

A person is exempt from this section if the person:

(1) was placed on deferred adjudication and received a dismissal and discharge in accordance with Article 42A.111, Code of Criminal Procedure;

(2) was placed on community supervision and the period of community supervision was terminated early under Article 42A.701, Code of Criminal Procedure; or

(3) was pardoned or has had the person's civil rights restored.

TRANSFER OF CASES AND PROCEEDINGS_(duplicate of SB 1612 transfer section)

Amends Estates Code, Section 33.101 Transfer to other County in which Venue is Proper, **Section 33.102** Transfer for Want of Venue, **Section 33.103** Transfer for Convenience. Replaces the transmittal requirements with the court clerk to transmit a transfer in accordance with the procedures provided by Section 33.105 (through eFile). No documents need to be certified.

Repealed Section 33.103(c) referring to the transmittal of the original file and certified copy index. All effective September 1, 2023.

Amends Estates Code, Chapter 33 adding Section 33.105 Transfer of Probate Proceeding Record and **Section 1023.006** Transfer of Record. Outlines the transfer method requiring it be eFiled and the following information sent:

1. A transfer certificate and index of transferred documents;
2. A copy of each final order;
3. A copy of the order of transfer signed by the transferring court;
4. A copy of the original papers filed in the transferring court, including a copy of any Will;
5. A copy of the transfer certificate and index of transferred documents from each previous transfer; and
6. A bill of costs accrued in the transferring court.

The clerk will use the transfer certificate form the OCA created. The clerk shall keep a copy of documents transferred under Subsection (a).

The transferred (receiving) clerk shall accept the documents if all elements are met in lines 1-6. They will docket the proceeding and notify through eFile, all parties to the proceeding, the clerk of the transferring clerk and, if appropriate, the transferring court's local registry that the proceeding has been docketed and an employer affected by the order electronically or by first class mail.

The clerk shall only file mark the transfer certificate and shall not file mark the other documents. Both clerks may issue certified and non-certified copies of the records they hold but shall include the transfer certificate with each document produced.

Note concerning the Will: Although the language did not make it into this version of the bill, the Travis County probate judge had asked for the bill language to be amended to have clerks mail the original Will to the transferring clerk by certified or third-party courier at the requesting parties' expense, however that change was not incorporated. Effective September 1, 2023.

Amends Estates Code, Section 1023.007 Transfer Effective. Adds that the guardianship does not take effect until the clerk of the court to which the proceeding is transferred accepts and docket the case record under Section 1023.006. All other provisions of this Section have been repealed. Effective September 1, 2023. (Duplicate of SB 1612).

Amends Family Code, Section 155.207(a), (b), and (e) Transfer of Court Files. Clean-up language that opens this section up to all transfers, removing the words "in the county". The rest is nonsubstantive changes. Effective September 1, 2023.

Amends Government Code, Section 51.3071(a) adding Subsections (f) and (g) Transfer of Cases. Expands the statute to include the transfer from a district court to a “constitutional or statutory county court or another district court”. Further language adds both clerks may produce certified or uncertified copies of documents and must include a copy of the transfer certificate and index of transferred documents with each document produced. Clarifies that this statute applies to transfers both in the same or different counties. Effective September 1, 2023.

Amends Government Code, Section 51.403(a) adding Subsections (d) and (e) Transfer of Cases. Expands the statute to include the transfer from a county court to a district court “or a statutory county court or a county court of another county”. Further language adds both clerks may produce certified or uncertified copies of documents and must include a copy of the transfer certificate and index of transferred documents with each document produced. Clarifies that this statute applies to transfers both in the same or different counties. Effective September 1, 2023.

Amends Government Code, Section 72.037(a) Sections 33.105 and 1023.006 Estates Code are added to the statute requiring the OCA to develop the form.

CRIMINAL PROCEDURE

Amends Code of Criminal Procedure, Article 18.01(d) and 18.0215(b) adding a statutory county court to the courts able to issue search warrants.

Amends Code of Criminal Procedure, Article 55.02, Section 2a(a) a person entitled to an order of expunction under Article 55.01(d) may file an application with the state prosecutor of felonies in the county in which the person resides or the offense was alleged to have occurred.

APPELLATE RECORD

Amends Civil Practice and Remedies Code, Chapter 51 adding Section 51.018 Appendix in Lieu of Clerk’s Record. Not later than the 10th day after the date that a party files a notice of appeal for a civil suit, the party may notify the trial court and the court of appeals that the party will file an appendix that replaces the clerk’s record for the appeal. The party must file the appendix with the parties’ appellate brief. The appendix must contain a file-stamped copy of each document. This appendix becomes part of the appellate record. A court clerk may not prepare or file a clerk’s record or assess a fee for preparing a clerk’s record if a party files an appendix in accordance with this section.

DELIVERY OF DOCUMENTS

Amends Government Code, Section 80.001, 80.002(b) Delivery of Notice, Order, or Document.

(b) In addition to any other delivery method required or authorized by law or supreme court rule, a statutory county court, district court, or appellate court shall deliver through the electronic filing system established under Section 72.031 to all parties in each case in which the use of the electronic filing system is required or authorized all court order the court enters for the case.

Note: HB 525 stated Orders shall be delivered by electronic means or eFile. That language was not included in the omnibus bill in error. The author informed us he will amend next session to include electronic delivery as an option.

Amends Civil Practice and Remedies Code, Chapter 30 adding Section 30.0035 Personal Service of Process During Legislative Proceeding Prohibited. A person may not serve citation or other civil process in person on a member, officer, or employee of the senate or house of representatives during any legislative proceeding. A court shall quash any service made in violation of this section. The supreme court shall revoke the certification of a process server who violates this section.

FAMILY

HB 730**House Author: Frank, et al.****Effective Date: 9/1/23****Senate Sponsor: Hughes, et. al.**

Relating to policies and procedures regarding certain suits affecting the parent-child relationship, investigations by the Department of Family and Protective Services, and parental child safety placements.

Summary: **Amends Family Code, Section 261.301 by adding Subsection (1)** to state, before the 60th day after the date an investigation is closed, the department may reopen a closed investigation and change the departments finding only for good cause shown.

Amends Section 261.303 by adding Subsections (f), (g), and (h) to state, a hearing may not be ex parte unless the court has probable cause to believe there is no time, consistent with the health or safety of the child, for a full hearing. Parties to the suit shall be provided with a copy of the order upon request.

Impact to clerk - Section 262.206 is reenacted and amended to state, a court that holds an ex parte hearing shall prepare and keep a record of the hearing in the form of an audio or video recording or a court reporter transcription. A party to the suit shall be provided with a copy of the record upon request. The department shall provide notice of the ex parte hearing if the department received notice that a parent who is a party is represented by an attorney.

(The remainder of the bill is directed to the Department of Family and Protective Services).

HB 1423**House Author: Campos, et. al.****Effective Date: 9/1/23****Senate Sponsor: Bettencourt**

Relating to the expiration of a protective order when the subject of the protective order is confined or imprisoned.

Summary: **Amends Family Code, Section 85.025 adding Subsection (d)** as soon as practicable after the release of a person who is the subject of a protective order from confinement, the Department of Public Safety shall update the statewide law enforcement information system maintained by the department to reflect the date that the order will expire following the person's release.

Amends Family Code, Section 85.026 adding Subsection (d) each protective order issued must specify when the order expires and must provide notice of any extensions that may apply to a person who is the subject of the order, because of any confinement or imprisonment of that person.

HB 3698**Effective Date: 9/1/23****House Author: Campos, et. al.****Senate Sponsor: Bettencourt**

Relating to expanding access to the protective order registry and the inclusion of certain information regarding a person who is the subject of a protective order in that registry.

Summary: **Amends Government Code, Section 72.154(a)** adds the registry must be searchable by
(3) any known common misspellings of the name of a person who is the subject of the protective order;
(4) any known aliases of a person who is the subject of the protective order.

Amends Government Code, Section 72.155 adds a magistrate to the list of authorized people that can access the registry.

SB 578**Effective Date: 9/1/23****Senate Author: Zaffirini, et. al.****al.****House Sponsor: Thompson S., et.**

Relating to the confidentiality of certain personal information of an applicant for or a person protected by a protective order.

Summary: **Amends Family Code, Section 82.011** adds the county of residence to the list of information an applicant can request to be protected.

Amends Family Code, Section 85.007 adds the county of residence to the list of information a person or member of the family or household of a person protected by an order, may exclude from a protective order. It also adds the address and telephone number for the place of employment and child-care facility.

SB 870**Effective Date: 9/1/23****Senate Author: West****House Sponsor: Smithee**

Relating to Certain Title IV-D cases and other cases with respect to child support or Title IV-D agency services and to practices and procedures for the operation of the Title IV-D agency.

Summary: Clerk to give IV-D a copy of the termination order.

Amends Family Code, Section 82.011 adds the county of residence to the list of information an applicant can request to be protected.

Amends Family Code, Section 85.007 adds the county of residence to the list of information a person or member of the family or household of a person protected by an order, may exclude from a protective order. It also adds the address and telephone number for the place of employment and child-care facility.

JUVENILE

HB 3186

House Author: Leach, et al.

Effective Date: 9/1/23

Senate Sponsor: Zaffirini, et. al.

Relating to youth diversion strategies and procedures for children accused of certain fine-only offenses in municipal and justice courts and related criminal justice matters, authorizing fees.

Summary: **Amends Code of Criminal Procedure, Chapter 45 adding Subchapter E** commissioner's court may create a youth diversion program that applies to misdemeanors punishable by fine only in justice or municipal courts. The court can create the program, set out a written plan, designate a youth diversion coordinator, and collect fees to reimburse the county for its expenses. Justice and municipal courts collect the fees, but everything is approved through commissioner's court. (All the details are laid out in this 28-page bill.)

HB 266

House Author: Swanson, et. al.

Effective Date: 9/1/23

Senate Sponsor: Zaffirini, et. al.

Relating to the required filing and use of an affidavit containing the contact information of certain persons in a guardianship proceeding.

Summary: **Amends the Estates Code, Chapter 1101 by adding Section 1101.003** to require the filer to file an affidavit with the court that states the name, address, telephone number, email address, and other contract information, if known, by the applicant for each person entitled to notice under Section 1051.104(a). The affidavit is privileged and confidential and not to be released to the public, only to the guardian. (There are no instructions for anyone to provide a form for this affidavit).

HB 785

House Author: Swanson

Effective Date: 9/1/23

Senate Sponsor: Zaffirini, et. al.

Relating to the delivery of certain notices or other communications in connection with guardianship proceedings.

Summary: **Amends Estates Code, Chapter 1002 by adding Section 1002.0265** to define “qualified delivery method” to mean:

1. Hand delivery by courier, with courier’s proof of delivery receipt;
2. Certified or registered mail, return receipt requested, with return receipt; or
3. A private delivery service designated as a designated delivery service by the United States Secretary of the Treasury under Section 7502(f)(2), Internal Revenue Code of 1986, with proof of delivery receipt.

Amends Estates Code Sections 1023.004(c), 1051.052, 1051.055(a) and (b), 1051.056, 1051.104(a) and (b), 1051.153(b), 1057.002(b), 1053.001(a), 1153.003(b) and (c), 1156.052(c), 1162.003, 1162.006(b), 1202.054(b-2), 1203.052(a-1) and (b); to replace notice with new definition.

Relating to access to and use of certain criminal history record

Summary: Updates various statutes related to criminal background check requirements relating to access and use of information. Requires the Clerk of the county having venue for guardianship appointment to obtain fingerprint-based criminal history for proposed guardians if:

The liquid assets of the estate of a ward exceed \$50,000

or

The proposed guardian is **NOT** a resident of Texas

The Commission (JBCC) will provide name-based criminal history of the proposed guardian as follows:

The liquid assets of the estate of a ward are \$50,000 or less

and

The proposed guardian is a resident of Texas

Amends Government Code Sec. 155.205 as follows:

DUTY TO OBTAIN CRIMINAL HISTORY RECORD INFORMATION. (a) In accordance with Subsection (c) and the rules adopted by the supreme court under Section 155.203, the commission shall obtain criminal history record information that is maintained by the Department of Public Safety. The clerk shall obtain in accordance with Subsection (b) criminal history record information from [or] the Federal Bureau of Investigation identification division relating to an individual seeking appointment as a guardian or temporary guardian.

(b) The clerk ~~[commission]~~ shall obtain[=

~~[(1)]~~ fingerprint-based criminal history record information of a proposed guardian if:

~~(1) [(A)]~~ the liquid assets of the estate of a ward exceed \$50,000; or

~~(2) [(B)]~~ the proposed guardian is not a resident of this state.

(c) The commission shall obtain[=or

~~[(2)]~~ name-based criminal history record information of a proposed guardian, including any criminal history record information under the current name and all former names of the proposed guardian, if:

~~(1) [(A)]~~ the liquid assets of the estate of a ward are \$50,000 or less; and

~~(2) [(B)]~~ the proposed guardian is a resident of this state.

(d) Each proposed guardian described by Subsection (b) shall file with the commission proof of having submitted to a fingerprint-based criminal history search.

Due to the prompt effectiveness of this bill the immediate next steps are:

- Clerk to request access to appropriate authorizations with DPS and FBI
- JBCC has provided a “work around” for proposed Guardians to arrange for an **FBI Personal Review** by using the following link <https://www.edo.cjis.gov>. Email from JBCC read as follows “If the **FBI Personal Review** option is utilized, all proposed guardians must be re-fingerprinted when an ORI number is assigned to the county. The ORI number is what creates the county’s subscription in the FACT Clearinghouse where the background check results are stored, and ensures the county receives any future event information after the proposed guardian has been fingerprinted”.
- The bill authorizes the Clerk to charge a \$10.00 fee. Clerk will need to set up fee in CMS and e-File.

Confidentiality & Mandatory Destruction

- The Clerk SHALL destroy the criminal history record information after it is used for the purposes authorized by this section.
- A person commits a Class A offense if the person releases or discloses any information received under this section without proper authorization.

Additional information for fingerprint-based background checks conducted by the County Clerk:

- Conducted if the value of the liquid assets of the proposed ward's estates exceeds \$50,000 or if an applicant resides outside the State of Texas
- Upon receipt of the guardianship registration information, the county will instruct the proposed guardian on how to meet the fingerprint background requirement.
- The background check must be delivered to the court at least 10 days before the hearing date, meaning sufficient time should be allowed for processing.

This applies to Temporary and Permanent Guardianship applications. Guardians are still required to take the Guardianship training.

SB 728

Effective: 9/1/23

Senate Sponsor: Huffman, et. al.

House Sponsor: Leach

Relating to the reporting of mental health and intellectual disability information with respect to certain children for purposes of a federal firearm background check.

Summary: Expands NICS reporting to include persons at least 16 years old ordered to inpatient mental health services, acquitted for lack of mental responsibility, or determined to have an intellectual disability for long-term placement in a residential facility, or determined to be incompetent to stand trial. Clerk to provide copy of order to DPS if requested. Clerk to provide copy of order to FBI/NICS if requested.

Amends Government Code, Section 411.052(a)(1), (2) and (3) to include in the definition of "federal prohibited person information" an individual who is at least 16 years of age and replaces "mental retardation" with "an intellectual disability". It further defines the conditions under which a child at least 16 years of age must be found for the statute to apply. Also includes an incapacitated adult person that the court appointed a guardian under Title 3, Estates Code, on determination that the person lacks the mental capacity.

Amends Government Code, Section 411.0521(a) is a repeat of the above information. Adding Subsection (c-1) states on request of the department, the clerk of the court shall forward a signed court order to the department for an audit of records provided to the FBI for use in the National Instant Criminal Background Check System (NICS). If the record is incomplete the department shall notify the clerk asking them to forward any additional information. (You can only report what you have).

Amends Family Code, Section 58.007 expands the scope of this section not applying to a record related to a child that is required to be provided to the FBI for use with the NICS or DPS.

SB 944**Effective Date: 9/1/23****House Sponsor: Kolkhorst****Senate Sponsor: Lambert**

Relating to the commitment order for individuals with intellectual disabilities who are committed to state supported living centers.

Summary: **Amends Health and Safety Code, Chapter 593 adding Section 593.0511** this chapter allows long-term placement without interdisciplinary team recommendation if the court determines beyond a reasonable doubt that the proposed resident meets the requirements for commitment to a residential care facility under Section 593.052.

Amends 593.052(a) to add a resident may not be committed unless a petition to the court to issue a commitment order by the guardian of the proposed resident or, if the proposed resident is a minor, the parent of the proposed resident or the current interdisciplinary team report and recommendations, if applicable, show (all the reasons already in statute).

SB 1373**Effective Date: 5/24/23****Senate Author: Hughes****House Sponsor: Smithee**

Relating to decedents' estates and the delivery of certain notices or other communication in connection with those estates or multiple-party accounts.

Summary: **Amends Estates Code, Chapter 22 adding Section 22.0295** to define "qualified delivery method" to mean:

1. Hand delivery by courier, with courier's proof of delivery receipt.
2. Certified or registered mail, return receipt requested, with return receipt; or
3. A private delivery service designated as a designated delivery service by the United States Secretary of the Treasury under Section 7502(f)(2), Internal Revenue Code of 1986, with proof of delivery receipt.

Amends heading on Estates Code Sec. 51.052 to add "or PRIVATE DELIVERY".

Amends Estates Code 51.052(b), (c), (d), (e), (f), and (g), 51.055, 51.056, 51.103(b) & 56.002(b) to include "qualified delivery method."

Amends Estates Code 51.056 to add "qualified delivery method" for service on personal representative or receiver.

Amends Estates Code 56.002(b) to add "qualified delivery method" for resident agents to utilize.

Amends Estates Code 202.005 to add additional contents to Application for Proceeding to Declare Heirship.

Amends Estates Code 202.051 by adding "qualified delivery method".

Amends Estates Code 202.056 to change age requirement on waiver of service of citation to distributees as follows:

- (a) A distributee who is 16 years of age or older may waive citation required by this subchapter to be served on the distributee.
- (b) A parent, managing conservator, guardian, attorney ad litem, or guardian ad litem of a distributee who is younger than 16 years of age may:
 - (1) waive citation required by this subchapter to be served on the distributee;

Amends Estates Code 202.203 to include “qualified delivery method”.

Amends Estates Code 258.002 by adding Subsections (d) and (e) to read as follows:

- (d) An heir who is 16 years of age or older may waive citation required by this section to be served on the heir.
- (e) The parent, managing conservator, guardian, attorney ad litem, or guardian ad litem of an heir who is younger than 16 years of age may waive citation required by this section to be served on the heir.

Amends Estates Code 305.001 & 305.053 to add definition of “Declaration” that can be used the same as an Oath under certain circumstances. Also provides form/language for Declaration.

Amends Estates Code 305.055 to add “Declaration” to be filed with Clerk.

Amends Estates Code Section 356.105(a) to read as follows:

- (a) A successful bid or contract for the sale of estate personal property shall be reported to the court.

Amends Estates Code Sections 362.005(b) and (c) to read as follows: (b) citation issued under Subsection (a) must: (2) be given to each heir or distributee of the decedent by a qualified delivery method unless the court by written order directs another method of service to be given.

Amends Estates Code Section 551.005(b), Estates Code, is amended to read as follows:

- (b) The clerk of a court that orders an executor or administrator to pay funds to the comptroller under Section 551.001 shall provide to the comptroller, by a qualified delivery method or e-mail, a certified copy of the court order not later than the fifth day after the date the order is issued.

Bill Summary - Sections 51.052(b), (c), (d), (e), (f), and (g), 51.055(a), 51.056, 51.103(b), 56.002(b), 113.251(c), 202.051, 202.203, 305.001, 305.002, 305.003, 305.051, 305.052, 305.053, 305.055, 308.002(d), 308.051(a), 308.053(c) and (d), 308.054(a), 356.654(b), 361.052(b), 362.005(b) and (c), 403.056(a), 404.0035(a), 452.006(a), 501.003(b), 505.005(a), 505.101(a), and 551.005(b), Estates Code, as amended by this Act, apply only to an action filed or proceeding commenced on or after the effective date of this Act.

The amendments of this Act to Sections 101.052, 202.005, 202.151(b) and (c), 251.053, 356.105(a), 453.003(a), 453.006, 453.007, and 453.009, Estates Code, are intended to clarify rather than change existing law. Section 113.001, Estates Code, as amended by this Act, applies to an account established before, on, or after the effective date of this Act.

Section 113.251(c), Estates Code, as amended by this Act, applies only to multiple-party accounts created or existing on or after the effective date of this Act.

Section 202.056, Estates Code, as amended by this Act, applies only to a proceeding to declare heirship commenced on or after the effective date of this Act. A proceeding to declare heirship commenced before that

date is governed by the law in effect on the date the proceeding was commenced, and the former law is continued in effect for that purpose.

Section 202.151(d), Estates Code, as added by this Act, applies only to a proceeding to declare heirship commenced on or after the effective date of this Act. A proceeding to declare heirship commenced before that date is governed by the law in effect on the date the proceeding was commenced, and the former law is continued in effect for that purpose.

Sections 258.002(d) and (e), Estates Code, as added by this Act, apply only to an application for the probate of a will filed on or after the effective date of this Act. An application for the probate of a will filed before that date is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

Section 304.003, Estates Code, as amended by this Act, applies only to an application for letters testamentary or for letters of administration filed on or after the effective date of this Act. An application for letters testamentary or for letters of administration filed before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

Amends Estates Code, Sections 51.052, 51.055(a), 51.056, 51.103(b), 56.002(b), 101.052, 113.251(c), 202.051, 202.151, 202.203, 202.256, 251.053, 258.002, 304.003, 305.001, 305.002, 305.003, Subchapter B (heading), Chapter 305, 305.051, 305.052, 305.053, 305.055, 308.002(d), 308.051(a), 308.053 (c) and (d), 308.054(a), 356.105(a), 356.654(b), 361.052(b), 362.005(b) and (c), 403.056(a), 404.0035(a), 452.006(a), 453.003(a), 453.006, 453.007, 453.009 (heading change), 453.009(b), 501.003(b), 505.005(a), 505.101(a), 551.005(b)

SB 1457

Senate Author: Zaffirini, et. al.

Effective Date: 9/1/23

House Sponsor: Thompson

Relating to guardianships and the delivery of certain notices or other communications in connection with guardianship proceedings.

Summary: **Amends Estates Code, Chapter 1002 by adding Section 1002.0265** to read as follows:

Sec. 1002.0265. QUALIFIED DELIVERY METHOD. "Qualified delivery method" means delivery by:

- (1) hand delivery by courier, with courier's proof of delivery receipt;
- (2) certified or registered mail, return receipt requested, with return receipt; or
- (3) a private delivery service designated as a designated delivery service by the United States Secretary of the Treasury under Section 7502(f)(2), Internal Revenue Code of 1986, with proof of delivery receipt.

Amends Estates Code Section 1051.052 to read as follows:

Sec. 1051.052. SERVICE BY MAIL OR QUALIFIED DELIVERY METHOD

Amends Estates Code Sections 1051.055(a) and (b) to read as follows:

(a) If a party is represented by an attorney of record in a guardianship proceeding, including a proposed ward who has been personally served with notice of the proceeding and is represented by an attorney ad litem, a citation or notice required to be served on the party shall be served instead on that attorney.

Amends Estates Code Section 1051.056 to read as follows:

Sec. 1051.056. SERVICE ON GUARDIAN OR RECEIVER. Unless this title expressly provides for another method of service, the county clerk who issues a citation or notice required to be served on a guardian or receiver shall serve the citation or notice by sending the original citation or notice by a qualified delivery method.

Amends Estates Code Section 1051.104 (a) to add “qualified delivery method”.

Amends Estates Code Section 1051.104 (b) (1) as follows: The applicant shall file with the court:

(1) a copy of any notice required by Subsection (a) and the return receipts or other proofs of delivery of the notice; and

Amends Estates Code Section 1104.103 by amending Subsections (a) and (b) and adding Subsection (a-1) to read as follows:

(a) The surviving parent of an adult individual who is an incapacitated person may, if the parent is the guardian of the person or estate of the adult individual, by will or written declaration appoint an eligible person to serve as guardian of the person or estate, as applicable, of the adult individual:

(1) after the parent dies;

(2) in the event the parent resigns as guardian of the person or estate; or

(3) in the event of the parent's incapacity.

(a-1) If the surviving parent is both the guardian of the person and estate of the adult individual, the surviving parent may by will or written declaration appoint different eligible persons to serve as guardian of the person and guardian of the estate.

(b) After the surviving parent dies or resigns as guardian, or if the court finds the surviving parent has become an incapacitated person after being appointed the adult individual's guardian, the court shall appoint the person or persons designated in the will or declaration to serve as guardian of the person, guardian of the estate, or both, in preference to any other person otherwise entitled to serve as guardian under this title, unless the court finds that the person designated to serve as guardian:

(1) is disqualified;

(2) is deceased;

(3) refuses to serve; or

(4) would not serve the adult individual's best interests.

Amends Estates Code Section 1105.002(a) to read as follows: (a) Except as provided by Subsection (b), a guardian is considered to have qualified when the guardian has:

(1) taken and filed the oath, or made and filed the declaration, required under Section 1105.051;

(2) given the required bond;

(3) ~~[filed the bond with the clerk; and~~

[(4)] obtained the judge's approval of the bond; and

(4) filed the bond with the clerk.

Amends Estates Code Subchapter B, Chapter 1151 by adding Section 1151.0525 in reference to access and management of Ward's Funds by Guardian of Person.

Amends Estates Code to repeal Section 1104.103(c).

Bill Summary - (a) The changes in law made by this Act to the following provisions of the Estates Code apply only to an action filed or a guardianship proceeding commenced on or after the effective date of this Act:

- (1) Sections 1023.004(c), 1051.153(b), 1057.002(b), 1153.001(a), 1153.005(a), 1156.052(c), 1162.006(b), 1202.054(b-2), and 1353.004;
 - (2) Sections 1051.052(b), (c), (d), (e), (f), and (h);
 - (3) Sections 1051.055(a) and (b);
 - (4) Sections 1051.056 and 1162.003;
 - (5) Sections 1051.104(a) and (b);
 - (6) Sections 1153.003(b) and (c); and
 - (7) Sections 1203.052(a-1) and (b).
- (b) Sections 1105.002(a), 1106.001(a), 1106.005, and 1155.002(a), Estates Code, as amended by this Act, and Section 1151.0525, Estates Code, as added by this Act, apply to a guardianship created before, on, or after the effective date of this Act.
- (c) Sections 1351.001(a), 1351.052, 1352.052(a), and 1352.102, Estates Code, as amended by this Act, apply only to an application for a court order filed on or after the effective date of this Act. An application for a court order filed before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose. (d) Sections 1355.001(a) and 1355.002(a) and (b), Estates Code, as amended by this Act, apply only to a payment made by a debtor on or after the effective date of this Act. A payment made by a debtor before the effective date of this Act is governed by the law in effect on the date the payment was made, and the former law is continued in effect for that purpose.

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