

## 2017 Legislative Preview

Juvenile Law Conference  
February 26 - March 1, 2017

Riley N. Shaw  
Tarrant County Criminal District Attorney's Office

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## The Numbers (2-22-2017)

■ House Bills:	2252	Total 2015: 4304
■ Senate Bills:	1004	Total 2015: 2136
■ TOTAL:	3256	Total 2015: 6440

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## General Issues

- Raise the Age
- Sex Offender Registration
- Juvenile Records and Confidentiality
- Consolidation of TJJD Facilities
- DFPS/CPS/Foster Care System
- Multi-system Youth

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# SENATE BILLS

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## **SB 6 – Bathroom Bill**

- LGC 250.008, 271.909. H&SC Chapter 769. State and local government – if have multi-occupant bathrooms (locker rooms, changing rooms, showers), must limit to use by biological sex, with exception for accompanied children under 8 y/o. Applies to buildings owned or leased, includes schools and almost certainly applies to juvenile probation departments.

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## **SB 424 – 14 y/o and TJJJ or Post-Adjudication**

- TFC 54.04(o)(4) – Cannot commit any child under 14y/o to TJJJ. No exceptions.
- TFC 54.0411(c-1). Prohibits committing children under 14 y/o to Post-Adjudication UNLESS, after screening with a validated risk assessment tool, finding that child is “at-risk” or has significant needs that cannot be met outside of residential setting AND no reasonable placement is available.

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**SB 566 and HB 1274 –  
Parole in TDCJ**

- Creates 1/2 time parole eligibility for persons convicted or adjudicated for offense committed when younger than 18 y/o.
- Creates a youthful offender parole process that requires the Board to consider age-related factors when considering eligibility.
- Designed to give a meaningful opportunity for parole earlier in life.

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**SB 652/653/571/and HB1615/2218 – TJJJ  
Employees**

- SB 652 and 653. Bills that can negatively affect TJJJ retirement related to bad and/or criminal behavior by the employee.
- SB 571 and HB 1615. Bills that create a career ladder for State employees who make less than \$75,000 per year.
- HB 2218 – Affecting who is eligible to participate in supplemental retirement as a custodial officer, etc.

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**SB 843 – Crime Victims**

- This bill seeks to protect from disclosure victim information that is in the possession of the Texas AG's Office. New CCP Art. 56.65.

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**SB 910/HB 1908**

- Raises the age to purchase tobacco and E-cigs to age 21.

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**SB 941/HB 122/HB 676/HB 1015 Raise the Age**

- Raises age of criminal responsibility to 18 (all bills).
- Effective 9-1-2018 (HB122 and 1015) or 9-1-2017 (SB 941 and HB676). Expected to change to 9-1-2019 in final bills.
- Creates Advisory Committee to monitor implementation (HB122). Expected to end up in all bills.
- Raises age for probation supervision up to 19<sup>th</sup> birthday for indeterminate and up to 20<sup>th</sup> birthday for determinate – plus TJJD jurisdiction extended up to 20<sup>th</sup> birthday (all bills)
- Minimum age for a Class C raised to age 12
  - Rebuttable presumption below age 12 (HB1015 only)

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**SB 966 – MIP/MIC**

- ABC 106.04 and 106.05 are amended to exempt a minor who reports a sexual assault from prosecution for MIP or MIC (possession or consumption of alcohol by minor).

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# HOUSE BILLS

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## HB 72 – Victim/Offender Mediation

- CCP 56.21-26, 102.0179 and TFC 54.035, 58.003
- Sets up pretrial victim/offender mediation in both adult and juvenile court
- Allows for sealing if mediation successful and charges dismissed

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## HB 176 – Parental Consent Searches at School

- Allows for Parental Consent Searches at School
  - EC 37.0013
- Cannot be assisted by local PD, but ISD-PD and security can help
- May not be expelled, but can go to Boot Camp, SATP, or JJAEP with parental consent – EXCEPTION for UCW – can be expelled.
- Juvenile Court can give DFAJ – can dismiss with prejudice upon successful completion, can seal records.

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### **HB 211 – UIL and TJJD**

- Ed. Code 33.0833 – Basically requires UIL to provide opportunities for students in TJJD to participate in UIL activities – covers everything from athletics to music to debate.

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### **HB 249 and 287 – Abuse and Neglect Investigations**

- Limits Abuse and Neglect investigation at TJJD and County level to actions involving abuse as defined by TFC 261.001, rather than violations that “may cause emotional harm or physical injury”.
- Removes “neglect” for failure to follow individual treatment plans, etc.

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### **HB 548 – Criminal History and Applications for Employment**

- Labor Code 52.082 –
  - Employer cannot ask criminal history questions until after a conditional offer of employment has been made or an interview has been offered
  - Cannot consider criminal history that occurred more than 7 years prior

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**HB 637 – Local Committee on Children’s  
Mental Health**

- County level participants include:
  - County Judge or Commissioner
  - Juvenile Judge or Magistrate
  - FBO representative
  - Sheriff/LEA
  - DA/CA
  - Private Hospital, Public Hospital
  - DFPS/CPS
  - MHMR
  - Juvenile Probation
  - Public Health

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**HB 637 – Local Committee on Children’s  
Mental Health**

- Mission:
  - Identify children at TJJD with MI and reduce number of commitments
  - Improve Indigent Defense for MI
  - Address MI at investigative level
  - Divert MI kids from TJJD
  - Improve Community Safety
  - Reduce population of kids aging out and going to TDCJ

DHS MAY NOT DISTRIBUTE STATE FUNDS TO LOCAL MHMR UNLESS  
PLAN FOR THIS SUBMITTED BY 1-1-2019.

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**HB 677 – Sealing of D/S Probation**

- TFC 58.003(b). Permissive sealing of D/S Probation at age 19 if child has successfully completed probation and was not transferred to adult probation.

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**HB 678 – D/S Plea Hearings**

- TFC 54.10(f). Allows a Juvenile Court Referee to hear an agreed Determinate Sentence Plea!

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**HB 679 – Limitation on Use of Physical or Mechanical Restraints in Court**

- TFC 54.12. Prohibits use of physical or mechanical restraints in Juvenile Court UNLESS:
  - Necessary to prevent physical injury OR there is a history of disruptive behavior in Court and this is the LEAST restrictive method
  - Defense Counsel has a right to be heard
  - Findings of fact are required

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**HB 1125 – Class Cs**

- Prohibits jailing someone for failure to pay fine or costs in JP or Municipal Court for fine only offenses. CCP 45.0465.

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**HB 1204 – Alternative to Adjudication for Child under 12**

- TFC 53.01(b-1), 53.011 – if under 12, case gets referred to Community Resource Coordination Group – and they and the prosecutor decide whether to divert the child
- Requires assessments, service plans and/or systems of care and monitoring for up to six months

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**HB 1521 – Multi-system Youth**

- TFC 58.0052 – Requires TJJD and DFPS to share information in order to:
  - Coordinate services
  - Enhance rehabilitation
  - Improve or maintain community safety.

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**HB 1522 – Task Force on Parent Engagement and Education Programs**

- Government Code 531.431 – Creates a Task Force on Parent Engagement and (Parent) Education Programs
  - Includes HHSC, DFPS, TWC, TEA, TDCJ, TJJD, County Juvenile Board or Probation Employee, Faith-based Organization, and a person who has experienced challenges meant to be addressed by a parent engagement or education program

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### **HB 1915 – Guns at School**

- Limits the prohibition on bringing guns to school by limiting it to property owned by the ISD or school (and, of course, school buses). PC 46.03(a).

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### **HB 1949 - JROTC**

- Allows sending a kid to JROTC in lieu of JJAEP in certain counties:
  - EC new subchapter (A-1) to Chapter 37
  - It's a Pilot Program
  - applies only to a student enrolled in a high school:
    - located in a municipality that has more than 20 percent of the population 18 to 24 years of age who have not graduated from high school, according to the most recent American Community Survey five-year estimates compiled by the United States Census Bureau.

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### **HB 2003 – Handguns at the Courthouse**

- Amends PC 46.03, by adding (b-1), to allow County Clerks and deputy CCs to carry a handgun at the courthouse if have concealed carry license.

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**HB 2030 – Offense Reports  
from LEAs**

- CCP 2.1396 - Each peace officer who “contributes” information to report must sign it.

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**HB 2200 – Medical Marihuana**

- H&SC 481.121 – Creates an affirmative defense to POM – any amount.

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**HB 2245 – Pepper Spray, Tasers and Stun  
Guns**

- Regarding at-school use of the above devices, Ed. Code 37.0815 is amended to require that:
  - OC spray, a Taser, or a stun gun may be used only after other methods of intervention with less potential for harm have been used unsuccessfully, including verbal commands and reasonable physical force.
  - OC spray may be used only during a riot or when three or more students pose an imminent risk of causing bodily injury to another student, a peace officer, or another person.
  - A Taser or stun gun may be used only to prevent loss of life or subdue a student who possesses a weapon.

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**HB 2245 – Pepper Spray, Tasers and Stun Guns**

- Ed. Code 37.0815 is amended to require that:
  - OC spray, a Taser, or a stun gun may not be used as a form of punishment or to protect property.
  - To the greatest extent feasible in circumstances in which the use of OC spray is permitted under this section, a foam or gel form of OC spray shall be used to lessen the risk of unintended exposure of other students and persons to the OC spray.

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**HB 2398 – Possession of a Controlled Substance**

- Makes PCS under one gram a Class A Misdemeanor.

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**HB 2441 – Open Courts**

- TFC 54.08 amended to require Courtroom to be open to the public UNLESS:
  - There exists a reasonable and substantial basis for believing that public access to the proceeding could harm the child, endanger the child's right to a fair trial, or endanger a victim of the conduct of the child;
  - The potential for harm to the child or a victim outweighs the benefits of public access to the proceeding; and

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### HB 2441 – Open Courts

- ...and, the harm can be remedied only by excluding the public from the proceeding.
- Motion must be in writing and served not later than the third day before the date of the proceeding.
- Court must conduct an evidentiary hearing in open court and must make written findings of fact and conclusions of law
- Any party or member of the public has standing to appeal – and appeal is immediate and creates a stay

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### Legislative Council

- Juvenile Records Advisory Committee bill re-writing Chapter 58 of the Texas Family Code.
- Juvenile Sex Offender Advisory Committee bill re-writing S/O Registration Rules in CCP.
- Drivers License Bill – Elizabeth Henneke

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To look up any of these bills, go to [www.capitol.state.tx.us](http://www.capitol.state.tx.us)

If you have any question, send an email to me:  
[rshaw@tarrantcountytx.gov](mailto:rshaw@tarrantcountytx.gov)

THANK YOU!

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