


LEGISLATIVE UPDATES 86TH SESSION (2019)

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JUVENILE RECORDS LEGISLATION

Probation, Court, and Prosecutor Records

Records and info in records may be provided only to:

- Judge, probation officers, staff/consultants of juvenile court
- Juvenile Justice Agency
- Public or private agency providing supervision/having custody of child under juvenile court order
- With permission of juvenile court, any person with legitimate interest in work of court



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Probation, Court, and Prosecutor Records

- Person or entity to whom child referred for services, including assistance in transitioning to community after release or discharge from a juvenile facility (no written confidentiality agreement needed)
- Attorney representing child's parent in a Title 3 proceeding
- Attorney representing child
- Prosecuting attorney (juvenile court prosecutor – 51.02 definition)
- Anyone receiving info under this may not disclose unless otherwise authorized by law



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Facility Records

Records and info in records may be provided only to:

- Professional staff/consultants of facility
- Judge, probation officers, staff/consultants of juvenile court
- Attorney for Child
- Governmental agency if disclosure required by law
- TDCJ and TJJD for statistical purposes
- With permission of juvenile court, any person with legitimate interest in work of court



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Facility Records

- Person or entity to whom child referred for services, including assistance in transitioning to community after release or discharge from a juvenile facility (no written confidentiality agreement needed)
- Prosecuting attorney (juvenile court prosecutor – 51.02)
- Parent/guardian/custodian child will reside with after release
- Governmental agency or court if record necessary for administrative or legal proceeding and personally identifiable information about child is redacted
- Anyone receiving confidential information under this section may not disclose unless authorized by law



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Sealing Without Application – CINS Only

If only referred for CINS, entitled to sealing if:

- 18 years old
- Has records relating to the conduct filed with the court clerk
- No adult felony conviction or any pending adult charges



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Sealing Without Application – Not True

- Juvenile court, on its own motion and without hearing, shall immediately order sealing if enters a finding that the allegations are not true

Judge: State your name.

Me: Not Guilty

Judge: What?

Me: I had it legally changed.

Judge: You're Not Guilty?

Me: *moonwalks outta there*



Sealing With Application

- Regardless of eligibility for sealing without application, juvenile may apply for sealing
- No court/filing fee
- No attorney required
- Application must include information in statute



Sealing With Application

- Court may seal if:
 - 17 years old or under 17 but at least 1 year since discharge on all matters
 - No pending delinquent conduct or adult charges
 - No adult felony conviction
 - Never certified; no DS
 - Not currently required to register as sex offender
 - If committed to TJJD, has been discharged



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Sealing Order

- Court clerk must send copies to all entities listed in the order
- May do so by any reasonable method, including certified mail, regular mail, or email



Destruction – No PC

- If either intake or the prosecutor finds no probable cause for conduct for which a child is taken into custody or referred to juvenile court without being taken into custody, the court shall order the records destroyed

HB 1760 FC 58.258 09/01/19



Prevention and Intervention Records

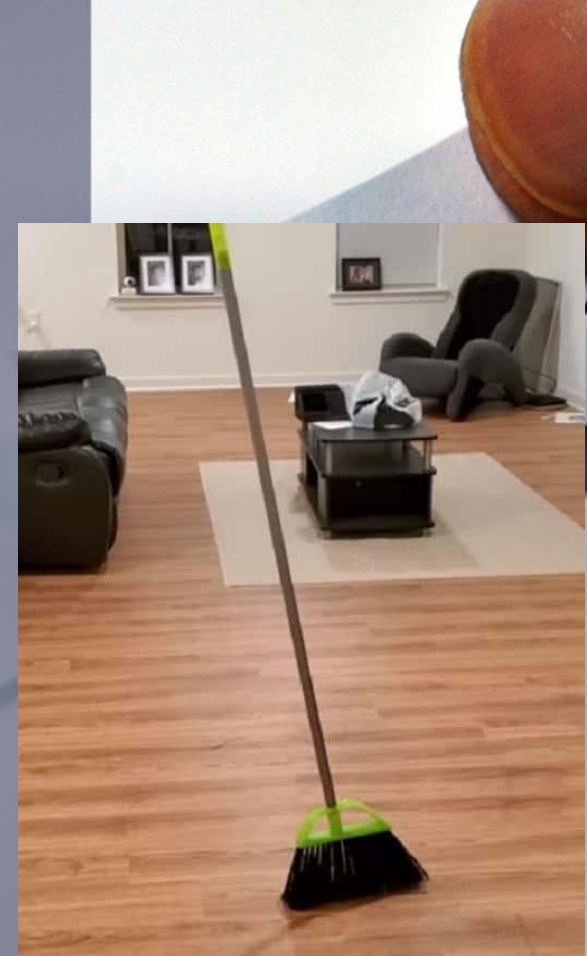
- Records related to a youth provided prevention and intervention services are confidential
- May be inspected or copied only by individual or entity to whom youth is referred for services
- Individual/Entity receiving information may disclose only as authorized by law




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Clean Up

- 58.003(c-3) – repealed...again
- 58.0052 – duplicate (b-1) renumbered to (b-3)
- 58.007(j) repealed – moved to 58.008 in 2017 but wasn't repealed
- 58.008 – reference to (d) changed to (c); typo from 2017
- 58.009(a)(2) – grammar clean up
- 58.009(f) – DFPS can have identifiable information under terms of agreement
- 58.252 – reference to Ch. 61 CCP changed to Ch. 67 (Gang Database)





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OTHER JUVENILE JUSTICE LEGISLATION

Judicial Guidance

- Supreme Court, in conjunction with Permanent Judicial Commission for Children, Youth, and Families, to provide guidance to judges who preside over juvenile cases to establish greater uniformity in:
 - Placement of children with severe mental health issues;
 - Release from detention
 - Certification
 - Child's appearance in court, including use of restraints and clothing worn during proceeding
 - Commitment to TJJD
- Supreme Court to adopt rules



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Dual Status Youth

- Juvenile court may transfer case
 - To district or statutory county court in another county
 - That is exercising jurisdiction under Title 5, Subtitle E, but only with consent
 - Transfer okay even if court isn't juvenile court or alternative juvenile court
- Judge in Title 5 case may refer
 - Any aspect of Title 3 case
 - To appropriate Title 5, Subtitle E associate judge if AJ consents
 - Scope of AJ's authority is subject to limitations in referral order



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DRESS CODE VIOLATION

Name: Nick Garcia

Teacher: Powers

Set: lunch Grade: _____

Date Nov 22

Violation:

truxedo

EDUCATION/DISCIPLINE LEGISLATION

School District Peace Officer, SRO, Security Personnel

- Shall perform law enforcement duties for district
- May not have duties involving routine student discipline or administrative tasks or contact with students unrelated to the law enforcement duties
- Not prohibited from informal contact with students unrelated to assigned duties or incident involving student behavior or law enforcement

SB 1707 37.081, EC 06/10/19



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Harassment of School Employee

- Applies to offense in Penal Code 42.07(a)(1), (2), (3), or (7)
- Must take place on or within 300 ft. of school property or while attending school event
- Must be removed and placed in DAEP



Coursework While Suspended

- School districts must provide suspended students coursework in the foundation curriculum that would be missed while suspended
- At least one method for delivery should not involve use of the Internet



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Terroristic Threat – Expulsion

- If student expelled for felony terroristic threat offenses, juvenile court, juvenile board, or board's designee shall:
 - order student placed on probation to attend JJAEP as a condition of probation
 - order student given deferred prosecution to attend JJAEP as condition of deferred prosecution
- 22.07(c-1), (d), and (e)



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Transitioning from Juvenile Justice Back to Classroom

- Purpose is to help JJ youth reenter public school setting
- Written notice of release, with assessment of academic growth and results of assessments
- Personalized transition plan with recommendations for counseling, behavior management, academic assistance, mental health services and regular reviews of student progress



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Homeless or Foster Youth

- The fact that a youth is homeless or in foster care must be taken into consideration when making disciplinary decisions
 - Suspension
 - DAEP
 - Expulsion
 - JJAEP




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Out of School Suspension for Homeless Youth

- Public school may not place student who is homeless in out-of-school suspension, unless, while on campus or school-sponsored activity commits:
 - Unlawfully carrying a weapon, prohibited weapon,
 - Assault, aggravated assault, sexual assault, aggravated sexual assault
 - Alcohol or controlled substance: marijuana, controlled substance, dangerous drug
- Campus behavior coordinator required to identify alternatives to out of school suspension.



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LEGISLATION IMPACTING OFFENSES

Marijuana/Hemp

- Hemp: Cannabis plant and any part of it, including seeds of plant and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers with a THC concentration of not more than .3% on a dry weight basis
- Marijuana: Does not include hemp



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Marijuana/Hemp

- Probable Cause Issues
 - Can't distinguish marijuana and hemp based on smell and appearance
- Beyond a Reasonable Doubt Issues
 - Testing either not available or expensive
- Not specific to Texas

HB 1325 121.001 Ag Code and 481.002 HSC 09/01/19



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Texas Researchers Say They Found A Way To Help Cops ID Pot With 100% Accuracy – Using Lasers

Texas AgriLife researchers have come up with a new testing method.

ANDREW WEBER, KUT | FEBRUARY 12, 2020, 7:57 AM

Share



JULIA REIHS / KUT

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Tobacco Age

- Legal age to buy or possess cigarettes, e-cigarettes, and tobacco products now 21
- Exception is at 18 with military ID
- Grandfather clause: everyone was 18 on 8/31/19 is still legal to buy/possess



Weapons

- Club no longer included in UCW statute
- Knuckles no longer a prohibited weapon

HB 446 46.01 and 46.05 PC 09/01/19



Taking Weapon from Officer


- Removes intent to harm officer, investigator, employee, official, or third person as an element of the offense



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Disaster/Evacuated Area

- Added enhancements for certain offenses:
 - Arson
 - Burglary of a vehicle
 - Criminal trespass
 - Burglary of Coin Operated Machine



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Disaster/Evacuated Area

- Non-applicability to UCW and Places Weapons Prohibited when there is a mandatory evacuation or declaration of disaster



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Lauren's Law

- Enhanced to capital murder if the person commits murder and:
 - murders an individual 10 years of age or older but younger than 15 years of age
- No death penalty

SB 719 19.03 PC & 37.071 CCP 09/01/19



False Report

- Now an offense to make a false statement material to a criminal investigation to a jailer or corrections officer

SB 405 37.08 PC 09/01/19



Revenge Porn

- Prior version found unconstitutional
- Adds a requirement that the person committing the offense has an intent to harm
- Both criminal and civil liability



Unsolicited Pics

- Knowingly electronically transmit material that depicts
 - A person engaging in sex conduct or intimate parts exposed
 - Covered genital of a male that are in a discernibly turgid state AND
 - The person did not request or consent to the content being sent
- Class C misdemeanor

HB 2789 21.19 PC 09/01/19



Indecent Assault

- Without the other person's consent and with the intent to arouse or gratify the sexual desire of any person, the person:
 - (1) touches the anus, breast, or any part of the genitals of another person;
 - (2) touches another person with the anus, breast, or any part of the genitals of any person;
 - (3) exposes or attempts to expose another person's genitals, pubic area, anus, buttocks, or female areola;or
 - (4) causes another person to contact the blood, seminal fluid, vaginal fluid, saliva, urine, or feces of any person.
- Class A Misdemeanor



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DWI/BWI

- Judge may grant deferred adjudication for first time DWI or BWI if BAC less than .15 and person did not have CDL or learner's permit
- If granted a deferred for DWI or BWI, it can still be used as a conviction for enhancement purposes
- Important to know – still no deferred prosecution for juveniles – 53.03



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Assault

- Third degree felony if person assaulted is pregnant



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Fraudulent Destruction, Removal, or Concealment of Writing

- If alter, destroy, conceal, etc. a writing, offense level is determined by difference in price
- Matches theft offense levels

HB 427 32.47 PC 09/01/19



Fraudulent Use/Possession of Credit/Debit Cards

- With intent to harm or defraud another, obtain, possess, transfer, or use:
 - Counterfeit CC or DC
 - Number and Expiration Date without consent
 - Data stored on digital imprint w/out consent
- Level increases based on number
 - SJF if less than 5
 - F3 if 5 – 9
 - F2 if 10 – 49
 - F1 if 50+



Mail Theft

- A person intentionally appropriates mail from another's mailbox or premises without their effective consent and with the intent to deprive that person of their mail
- Class A if less than 10 addressees; SJF if 10 to 29; F3 if 30+
- If contained identifying information and intent was to facilitate offense of fraudulent use or possession of identifying information, is SJF if less than 10, F3 if 10-19, F2, if 20-49, and F1 if 50+; enhanced by one level (except F1) if committed against disabled or elderly, it is enhanced to next level



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Intent to Defraud

- Not required to prove intent to defraud a particular person in CC or DC abuse or fraudulent use or possession of identifying information cases
- Sufficient to prove general intent to defraud any person/entity in statute
- Venue for CC/DC abuse may be in any county where offense committed or county of residence for any person whose CC/DC was unlawfully possessed/used by defendant



Organized Criminal Activity

- Adds unlawful interception, use, or disclosure of wire, oral, or electronic communications [PC 16.02] to list of underlying offenses that can result in Engaging in Organized Criminal Activity charge



Rachel's Law

- Allows family violence incidents that occur in multiple counties to be prosecuted together as Continuous Violence Against the Family under 25.11, Penal Code



Melissa's Law

- Modifies sexual assault to add F1 if person is someone actor prohibited from engaging in sexual intercourse with under 25.02 PC
- No Romeo-Juliet affirmative defense to sexual assault if person is someone actor prohibited in engaging in sexual intercourse with under 25.02 PC



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Lavinia Masters Act

- Revises timelines for possession and analysis of rape kits
- Requires audit and imposes deadlines for analysis of untested kits
- Amends preservation deadlines in certain instances
- Extends the statute of limitations for some offenses

HB 8 12.01 CCP 09/01/19



Molly Jane's Law

- Certain information in sex offense must be entered into the Violent Criminal Apprehension Program Database (ViCAP) administered by the FBI.
 - Suspect name and DOB
 - Specific offense being investigated
 - Description of manner in which offense was committed, including pattern of conduct in multiple offenses, if any
- Entered info exempt from disclosure under Texas PIA




Improper Contact With Victim

- Was a crime for an incarcerated person to contact victim or family members of victims under age 17, without consent
- Now, if the victim was older than 17 years old, director of the correctional facility will have to receive consent for the contact from the victim. *TPC 38.111(a)*



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HUMAN TRAFFICKING

Human Trafficking Task Force Recommendations

- New offenses: Online Promotion of Prostitution and Aggravated Online Promotion of Prostitution
- AG can contract with a university to assist in statewide collection and analysis of data
- Sex trafficking prevention and victim treatment programs statute added in Ch. 50 HSC



Human Trafficking Data Collection

- Law enforcement and prosecutors must report human trafficking cases to the AG
- Must include offense and brief description, type of trafficking, age/gender/race or ethnicity of suspect(s), date/time/location of offense, and disposition and information regarding victims' service program to which victim referred
- AG shall enter into a contract with a university that provides for the university's assistance in the collection and analysis of information received.



Misrepresenting Child as Family at Port of Entry

- Was already federal violation
- Now a state law violation
- Many children are trafficked this way




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Additional Tools for Prosecution

- Defines Coercion to include forcing person to become intoxicated or withholding alcohol or controlled substance
- Makes Aggravated Promotion of Prosecution a Registerable Offense
- Promotion of Prostitution now F3 instead of SJF, F2 if prior conviction, F1 if person under 18
- Agg Promotion of Prostitution and Compelling Prostitution now F1, regardless of age of person
- Coercion added as a way to commit Compelling Prostitution



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GOVERNMENT-RELATED LEGISLATION

Public Information Act

- Restores transparency to PIA after two Supreme Court decisions
- Contracting information, including information between governmental entity and vendor, contractor, or potential vendor or contractor, is public and must be disclosed unless exception applies
- Certain contracts must require contractor to retain certain information



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Public Information Act

- First holistic update of PIA since 1998
- Highlights include:
 - Written request to be made by delivering request to PIO or designee by mail, email, hand-delivery, or other method approved by governmental entity like fax or through website
 - AG to develop a request form
 - Procedure for ensuring governmental employee forwards public information on private device
 - Government employee does not have personal or property right to public information employee created or received while acting in official capacity



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Public Information Act

- Closes loophole in PIA
- Exception to disclosure does not apply to parade, concert, or other entertainment event paid for using public funds (whole or part)
- Contract cannot include language prohibiting disclosure

HB 81

Ch. 552 GC

5-14-19



McAllen HOLIDAY PARADE
MOVIES ON PARADE
LIVE IN CONCERT
ENRIQUE IGLESIAS
Saturday, December 5th at the
McAllen Veterans Memorial Stadium.

Tickets go On Sale Saturday November 21st at 10:00AM
Purchase your tickets at ticketmaster.com or the McAllen Convention Center. For more details visit www.mcallenholidayparade.com

Concert is brought to you by
LA PLAZA MALL
A SHERIFF MALL
Kraft Heinz H-E-B

Open Meeting Act: Walking Quorum

Offense if member

- Knowingly engages in at least one communication among a series of communications that each occur outside of a meeting authorized by this chapter and that concern an issue within the jurisdiction of the governmental body in which the members engaging in the individual communications constitute fewer than a quorum of the members but the members engaging in the series of communications constitute a quorum of the members and
- Knew at the time the member engaged in the communication that the series of communication:
 - Involved or would involve a quorum and
 - Would constitute a deliberation once a quorum of members engaged in the series of communications.



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OMA & PIA – Emergency/Catastrophe

- One hour notice (instead of two) for Open Meeting Act required if there is emergency or urgent public necessity
- Provisions of PIA can be suspended in event of a catastrophe



Alert for Missing Adults

MISSING



D'Lisa Kelley was last seen Friday night (3/07/2014) in Dallas, Texas in the 2700 block of Prosperity Boulevard. Kelley was walking to a wake for her best friend, who was recently killed in a car wreck, but she never made it there. A neighbor told the family they saw Kelley walking down the street while talking on the phone with someone, and she appeared to be arguing. A short time later, Kelley's sister received a phone call from Kelley, who could be heard screaming in the background, telling someone to "Stop! Stop! Get off of me! Stop!" and an unknown male in the background saying "Shut up," "Stop screaming," "You don't listen,". Shortly after that call she received a text from Kelley's phone reading "I'm going to call you in a minute". No one has seen or heard from Kelley since. Kelley is the mother of a young child and is two months pregnant. Kelley is about 5'6" tall, 120 lbs, with brown eyes and long brown hair that she was wearing in a bun. She was last seen wearing a black long-sleeved sweater, leopard print tights and a denim vest. Anyone having information, please call 911 or the Dallas Police Department at (214) 671-4268.

 facebook.com/missingcases  @MissingCases

HB 1769 Ch. 411 subch. Q, GC 9-1-19

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Camo Alert for Missing Military

- Missing person alert for veterans with mental health issues
- 5 year pilot program

HB 833 Ch. 411 subch. Q, GC 9-1-19



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CONTACT INFORMATION

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Marijuana/Hemp



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